City of Kelso
Planning Commission
Staff Report
January 10, 2017

To:	**Planning Commission**
From:	**Tammy Baraconi**
Date:	**January 10, 2017**
Subject:	**2017 Updates to the City of Kelso Zoning Code and Land Use Map**

Description

In 2016, staff began the process of updating and rearranging the Zoning, Building, Subdivision, Environment, and Project Permitting Codes. The primary focus of this update is to unify all of these development regulations into one title, The Unified Development Code.

Along the way various areas where cleaned up and streamlined for an easier to use document. The title page of the document, for editorial purposes summarizes changes in each of the sections. The document presented also reflects recent changes to the Building Code. Future revisions to this code will address needed changes in the Subdivision Code and the Critical Areas Ordinance.

In addition to the reconfiguration of the code, changes have been made to reflect the adopted West Kelso Sub Area Plan, rezone requests, zoning changes called for in the Comprehensive Plan update, and a two (2) lot expansion of the Adult Oriented Business Overlay. (Text: Exhibit A, Map: Exhibit B)

Public Notification

Notice of this public hearing was published in The Daily News on December 27, 2016. As of the writing of this staff report no written comments have been received.

Public Comment

Approximately 5,000 notices were mailed to residents at all known addresses with the Kelso City limits as well as areas of the County completely surrounded by Kelso City limits. (Exhibit C)

Environmental Review

Environmental review will be conducted between the first and second reading of the proposed changes by the Kelso City Council.

Recommendation

If Approve

Make the motion to give the City of Kelso Unified Development Code and Land Use Map updates a POSITIVE recommendation to the City Council subject to the following change(s):

If Deny

Make the motion to give the City of Kelso City of Kelso Unified Development Code and Land Use Map updates a NEGATIVE recommendation to the City Council for the following reason(s):

If Table

Make the motion to TABLE the City of Kelso City of Kelso Unified Development Code and Land Use Map updates for the following reason(s):

Exhibit A:	City of Kelso Unified Development Code
Exhibit B:	City of Kelso Zoning Map proposed changes
Exhibit C:	Public Notice

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City of Kelso, Washington Municipal Code
Proposed Title 17 Unified Development Code
Public Hearing Review Draft
January 5, 2017

Chapters:

17.02 Administration of the Unified Development Code **{Minor editorial revisions only.}**

17.06 Definitions **{Numerous deletions and revisions, no substantive policy changes.}**

17.10 Permit Processing **{Minor editorial revisions only.}**

17.14 Environmental Review **{Minor editorial revisions only.}**

17.18 Zoning **{Changes to the Table of Permitted Uses and Footnotes.}**

17.22 Development Standards **{Numerous revisions.}**

17.26 Environmentally Sensitive Areas **{On hold, will be further revised next year.}**

17.30 Shorelines **{No revisions.}**

17.34 Subdivisions **{On hold, will be revised in conjunction with Chapter 17.26.}**

17.38 Master Planned Residential Developments **{Minor editorial revisions only.}**

17.42 {open}

17.46 **Historic Preservation** **{Previous provisions reinstated with minor revisions.}**

17.50 Building Codes **{Includes revisions recently approved by the City Council.}**

17.54 Code Enforcement **{No substantive revisions.}**

17.58 Nonconforming Buildings, Structures, and Uses **{Chapter revised.}**

17.62 {open}

17.66 Comprehensive Plan and Development Regulation Amendments **{Minor editorial revisions only.}**

This document has been through numerous revisions. The provisions highlighted in underline and strikeout format are changes that have been made since June 2016.
NOTE: THE CROSS REFERENCES, NUMBERING, AND FORMATTING, THROUGHOUT THE DOCUMENT WILL BE UPDATED IN A FUTURE DRAFT.

Exhibit A

Chapter 17.02 Administration of the Uniform Development Code

Sections:

17.02.010 Introduction;
17.02.020 Administrative Interpretations;
17.02.030 Reasonable Use Exception;
~~**17.02.040 No Abrogation;**~~
17.02.050 Fees;
17.02.060 Performance Bonds;
17.02.070 Liability; and
17.02.080 Severability.

17.02.010 Introduction. The City of Kelso has consolidated the primary regulations governing the use and development of land into a single unified development code. Kelso Municipal Code Title 17, also known as the Kelso Unified Development Code, includes a single set of definitions, procedures, and standards and is intended to be the principal source information for business and property owners, developers, residents, and interested citizens. ~~If you have questions about this document, please don't hesitate to contact the City of Kelso Department of Community Development.~~

A. The following is a brief summary of key planning roles in the City of Kelso:

1. The Kelso City Council is the legislative body of the City and is the only body which can adopt or amend an ordinance. The City Council shall make the final decisions on Class 4 permit applications. The City Council shall designate a City Manager and also make appointments to the Planning Commission;

2. The City Planning Commission is the planning advisory body to the City Council and shall make recommendations on Class 4 permit applications and on long range planning matters, and shall perform other duties as assigned by the City Council;

3. The City Manager is the chief administrative officer of the City and shall designate city staff and authorized representatives of the City to perform the duties identified in this Title;

4. ~~Typically t~~The Community Development Director, or such other person ~~his or her designees, will be~~ authorized by the Director or City Manager shall~~to~~ make decisions on Class 1 and Class 2 permit applications, ~~to~~ administer the provisions of this Title,

~~to~~ oversee the implementation of all planning requirements and activities in the City, and to interpret the provisions of this Code.

5. The City Hearing Examiner ~~is hired by City Manager and~~ is authorized to make decisions on Class 3 permit applications, to hear appeals of decisions on Class 1 and 2 applications, and to perform other duties as assigned by the City Manager and the City Council; and

6. The City Attorney will advise the Mayor and City Council, Planning Commission, and city staff regarding the legal interpretations, applications, and the enforcement of this Title. In addition, the City Attorney may initiate code enforcement actions on behalf of the City.

B. Unless otherwise provided by the City Manager, the Community Development Director or his/her designees, are hereby authorized to perform, the following duties:

1. Establish and maintain such application forms and administrative procedures as may be necessary to implement this Title;

2. Interpret ordinances, codes, and requirements and determine the applicability of this Title to proposed projects and development activities;

3. Prepare and upon approval by the City Council, implement a fee schedule for all land use, development, and building permit activities.

4. ~~Establish and maintain~~ Implement standards for urban ~~the~~ design and the construction of public works or improvements in the City;

5. Serve as the SEPA Responsible Official;

6. Review and approve land use, shoreline, building permit, and related permits in accordance with the provisions of this Title;

7. Inspect and examine any structure or tract of land and to order in writing the remediation of any condition found to exist in violation of any provision of the Kelso Municipal Code;

8. Enforce City ordinances, codes, and regulations including the approval of compliance plans, the imposition of fines for violations, the issuance of stop work orders, and/or the imposition of penalties;

9. Manage the activities of city staff and consultants involved in planning and land use activities; and

10. Represent the City in working with other local, county, state, and federal planning and natural resource management agencies.

17.02.020 Administrative Interpretations. Wherever the requirements of this Title are at variance with the requirements of any other lawfully adopted rules, regulations ordinances, deed restrictions or covenants to which the City is party, the City shall make an administrative code interpretation and/or take appropriate legislative action to provide clear direction.

A. The City Manager, or his/her designee, is hereby authorized to make such administrative interpretations as may be necessary to implement this Title, to promote the streamlined implementation of the Comprehensive Plan, provide for efficient development reviews, remove inequities among property owners, resolve conflicting requirements, clarify provisions, correct cross references, provide for the efficient delivery of city services, to protect the public health, safety, and welfare, and/or to avoid unnecessary hardships.

B. Any person may submit a written request to the City for a formal interpretation of the provisions of this Title or those codes referenced by this Title. The request shall identify the specific provision(s) in question and shall include relevant background information and supporting documentation. The request shall be processed in accordance with the applicable provisions of Title 17.

C. No private property shall be taken for a public purpose without just compensation in accordance with the provisions of the Washington State and US Constitutions.

17.02.030 Reasonable Use Exception. In the event that the strict and literal interpretation of this Title serves to deny a property owner all reasonable use of their property, the property owner may apply for a reasonable use exception and may request the minimal relief necessary to enable the reasonable use of their property. The request shall be processed in accordance with the applicable provisions of Title 17.

A. The criteria for the review and approval of reasonable use exceptions shall include:

1. The application of the standards and provisions of this Title would deny all reasonable economic use of the property;

2. There are no other practical alternatives to the proposed action that would have less impact;

3. The inability to derive reasonable economic use of the property is not the result of subdivision or other actions by the Applicant;

4. No other reasonable economic use has less adverse impact(s);

5. The proposal protects and mitigates impacts to the functions and values of critical areas to the greatest extent feasible, consistent with the best available science;

6. The proposal does not pose a threat to the public health, safety, or welfare on or off the development proposal site; and

7. The proposal is consistent with other applicable regulations and standards.

B. Burden of Proof. The burden of proof shall be on the Applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

~~**17.02.040 No Abrogation.** The provisions of this Title shall not abrogate easements, covenants, or other restrictions of record imposed on properties in the city.~~

17.02.050 Fees. Fees and charges for administering the provisions of this Title shall be set by action of the City Council.

17.02.060 Performance Bonds. After reviewing any application for a land use or a zoning matter, the City may provide for the posting of bonds to ensure continued compliance with any conditions imposed, including the construction of improvements, the adherence to city standards, and/or maintenance, repair or replacement of such improvements. The bond shall be in a form acceptable to the City Attorney. In the event a condition occurs warranting the use of bond, the City may act under such bond or may perform the work required at city expense, which expense in excess of the amount paid under the bond, shall be a lien against the property, enforceable, as would be a judgment thereon.

17.02.070 Liability. The granting of approval or the issuance of a permit for any structure or use shall not constitute a representation, guarantee, or warranty of any kind or nature by the City or any official of the City, on the practicality, feasibility, or safety of any structure or proposed use and shall create no liability upon or cause of action against such public body, official, or employee for any damage that may result there from.

A. None of the provisions of this Title are intended to create a cause of action or provide the basis for a claim against the City, its officials, or employees for the performance or failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

B. This Title shall not be construed to hold the City, or any officer or employee thereof, responsible for any damages to persons or property by reason of the certification, inspection or non-inspection of any building, equipment or property as herein authorized.

17.02.080 Severability. If any provision of this Title, or its application to any person or legal entity, is held to be invalid, the remainder of this title or the application of this Title or the application of the provision to other persons or entities or circumstances shall not be affected.

Chapter17.06 Definitions

Sections:

17.06.010 Introduction;
17.06.020 Interpretations; and
17.06.030 Definitions.

17.06.010 Introduction. Certain terms and words used in this Title may have special meaning as defined in this Chapter.

17.06.020 Interpretations.

A. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural and the plural the singular; "shall" is always mandatory and "should" or "may" indicates a use of discretion in making a decision.

B. Any word not specifically defined in this Chapter shall have the meaning as defined by and determined by the City in accordance with the provisions of:

1. Webster's Dictionary;

2. The Revised Code of Washington;

3. The Washington Administrative Code;

4. North American Industrial Classification System (NAICS), 2002 Edition or as subsequently updated; and

5. Administrative Code Interpretations by the City.

C. Any question or uncertainty about the meaning of a word used in this Title shall be resolved by an administrative code interpretation.

17.06.030 Definitions.

A. The following words and phrases are hereby defined as follows unless otherwise determined by the City through an administrative code interpretation:

1. "Accessory dwelling unit" means separate living quarters contained within or detached from a single-family dwelling on a single lot, containing eight hundred square feet of floor area or less, excluding any garage area or accessory buildings and sharing a single driveway with the primary dwelling; provided, no recreational vehicle shall be an accessory dwelling unit.

2. "Accessory use, building or structure" means a building, part of a building or structure, or a use which is subordinate to the operation or enjoyment of a lawful use and the use of which is incidental to that of the main building, structure or use on the same lot, as determined by the City.

3. "Adult family home" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services and are licensed by the Washington State Department of Social and Health Services.

~~4. "Alcoholism/substance abuse treatment facility" means a private place or establishment, other than a hospital, licensed by the state and operated primarily for the inpatient treatment of alcoholism and other substance abuse problems. May include outpatient treatment.~~

4. "Airport" refers to the Southwest Washington Regional Airport as defined in the Airport Master Plan approved by the City.

5. "Area of shallow flooding" means an area designated AO or AH zone on the Flood Insurance Rate Map (FIRM). AO zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard base flood elevations.

6. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. These areas are always designated on Flood Insurance Rate Maps by the letters A or V.

7. "Assisted living facility" means any home or other institution, however named, which is licensed by the Washington State Department of Social and Health Services and is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services such as housekeeping, meals, laundry and activities, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents. "Assisted living facility" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the Department of Housing and Urban Development ~~any group residential program that provides personal care and support services to people who need help with daily living activities as a result of physical or~~

~~cognitive disability. Assisted living communities usually offer help with bathing, dressing, meals and housekeeping~~.

8. "Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals.

~~8.~~9. "Atterberg limits" means the moisture content of a soil when it changes from one physical condition to another, as determined by the Atterberg method of soil sample testing. The test has to do with the plasticity of soil, or the percentage of water content at which a soil flows.

~~9.~~10. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "one-hundred-year flood"). These areas are designated on Flood Insurance Rate Maps by the letters A or V and shall be determined using a fully developed watershed and the city's engineering department's criteria for a one-hundred-year storm.

~~10. "Base station" shall mean and refer to the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this section or any equipment associated with a tower.~~

~~a. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.~~

~~b. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).~~

~~c. The term includes any structure other than a tower that, at the time an eligible facilities modification application is filed with the City under this Section, supports or houses equipment described in paragraphs (i) - (ii) above, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.~~

~~d. The term does not include any structure that, at the time a completed eligible facilities modification application is filed with the City under this section, does not support or house equipment described in paragraphs a and b above.~~

11. "Bed and breakfast" means a lodging where guest rooms are provided to guests by a resident operator for a fee by prearrangement on a daily or short-term, temporary basis. A breakfast and/or light snacks may be served to those renting rooms in the bed and breakfast. No cooking facilities are provided in the individual rooms.

12. "Boarding house" means a building with not more than five guest rooms where lodging and meals are provided for compensation for not more than ten persons, but shall not include congregate care facilities, ~~rest homes~~ or convalescent care facilities, or adult family homes.

~~13. "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.~~

~~14.~~13. "Brewery" or "winery" means an establishment primarily engaged in the production and distribution of beer, ale, or other malt beverages, or wine, and which may include accessory uses such as a tasting room and retail sales of promotional products. This classification allows a brewery/winery to sell beer/wine at retail and/or act as wholesaler for beer/wine of its own production for off-site consumption with appropriate state licenses. ~~The tasting room and retail area can be no larger than seven hundred fifty square feet combined. One-day promotional events may be held on site up to four times per year.~~ The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

14. "Brewpub" means a restaurant, tavern, bar or nightclub that manufactures up to one thousand five hundred barrels of fermented malt beverages per year on premises for either consumption on premises or by hand-capped or sealed containers in quantities up to one-half barrel or fifteen and one-half gallons sold directly to the consumer. Wholesaling shall be permitted only as otherwise permitted in the zoning district. All aspects of production, service and sales of alcohol beverages must have the appropriate Washington State permits. A brewpub is not allowed in conjunction with a restaurant that has a drive-up facility.

15. "Building" is a structure built and installed in accordance with the provisions of the International Building Code as adopted by the City.

15. "Building height" means the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building.

~~16. "Building line" means the perimeter of that portion of a building or structure nearest a property line but excluding open steps, terraces, cornices, decks less than thirty inches high, and other ornamental features projecting from the walls of the building or structure.~~

17. "Church", see religious facility.

~~"Caliper" means a measurement of a tree's diameter, in particular deciduous trees. Caliper of a tree trunk shall be taken six inches above the ground up to and including four-inch caliper size, and twelve inches above the ground for larger tree sizes.~~

~~18. "Child day care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under Chapter 170-295 WAC.~~

~~19.~~18. "Closed record appeal~~hearing~~" means an administrative hearing, conducted by the City following an open record hearing conducted on a ~~quasi-judicial~~project permit application. The hearing is on the record with only arguments related to matters of record allowed, except the City has the discretion to allow supplementation of the record upon a showing of good cause.

~~20. "Collocation" shall mean and refer to the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.~~

~~21. "Conceal" or "Concealment" shall mean and refer to eligible support structures and transmission facilities designed to look like some feature other than a wireless tower or base station.~~

20. ~~22.~~ "Community center" means a location where members of a community may gather for group activities, social support, public information, and other purposes. They may sometimes be open for the whole community or for a specialized group within the greater community.

~~22. "Cultural institution" means a building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts, or items of scientific interest~~

22. "Cumulative substantial damage" means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent of the market value of the structure before the damage occurred.

23. "Day care center-child" means a child care provider, licensed by the Washington State Department of Early Learning, that regularly provides child care and early learning services ~~state licensed entity regularly providing care~~ for a group of ~~thirteen or more~~ children for periods of less than twenty-four hours.

~~A day care center is not located in a private family residence unless the portion of the residence to which the children have access is used exclusively for the children during the hours the center is open or is separate from the usual quarters of the family.~~

24. Day ~~C~~care, ~~F~~family ~~P~~provider~~Home . "Family home day care"~~ means a child care provider who regularly provides early childhood education and early learning services

for not more than 12 children in the provider's home in the living quarters for periods less than 24 hours.

~~25. Day care, mini-center . "Mini-center day care" means a child care provider, licensed by the Washington State Department of Early Learning, that regularly provides child day care and early learning services for not more than 12 children, for periods of less than 24 hours, state licensed entity providing care during part of the twenty-four-hour day period for twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through twelve children in the family abode of such person or persons.~~

~~26. "Deemed approved" shall mean and refer to an eligible facilities modification application that has been deemed approved upon the City's failure to act, and has become effective, as provided pursuant the FCC Eligible Facilities Request Rules.~~

~~27.~~25. "Development" means the activity or purpose for which land or structures or a combination of land and structures are designed, arranged, occupied or maintained together with any associated site improvements. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any clearing, grading, leveling, paving or excavation. "Development" also means any existing or proposed configuration of land, structures and site improvements, and the use thereof.

28. "Dwelling, multifamily" means a building arranged or designed to be occupied by more than four families, such as an apartment house or flat, but not including a trailer park.

29. "Dwelling unit" means a building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy.

~~30. "Eligible facilities modification application" or "application" shall, unless the context clearly requires otherwise, mean and refer to a written document submitted to the City pursuant to the Chapter governing wireless communication facilities for review and approval of a proposed facilities modification.~~

~~31. "Eligible facilities modification" shall mean and refer to any proposed facilities modification that has been determined pursuant to the Chapter governing wireless communication facilities which does not result in a substantial change in the physical dimensions of an eligible support structure.~~

~~32. "Eligible facilities modification permit" or "permit" shall, unless the context clearly requires otherwise, mean and refer to a written document issued by the City pursuant to the Chapter governing wireless communication facilities approving an eligible facilities modification application.~~

~~33. "Eligible support structure" shall mean and refer to any existing tower or base station as defined in this Title.~~

31. "Emergency shelter" means a congregate facility providing housing to shelter families and individuals offered on an emergency basis for a period not to exceed ninety days continuously. Shelters may offer meals, lodging and associated services on site, aimed at helping people move towards self-sufficiency.

~~34. "Existing" shall, for purpose of the Chapter governing wireless communication facilities and as applied to a tower or base station, mean and refer to a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process of the City, or under another State, county or local regulatory review process; provided that, a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.~~

~~35. "FCC Eligible Facilities Request Rules" shall mean and refer to 47 C.F.R. Part 1 (PART 1 — PRACTICE AND PROCEDURE), Subpart CC § 1.40001 as established pursuant to its Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, or as may be thereafter amended.~~

~~36. "Factory-built home" means any building designed to be used as a dwelling that is constructed primarily in a factory in compliance with the standards of the International Building Code, does not contain a permanent chassis, and is transported to the site for assembly and installation on a permanent foundation. Such dwellings must have the insignia of approval of the Washington State Department of Labor and Industries, in accordance with Chapter 43.22 RCW.~~

~~37.~~32. "Family" means an individual, or two or more persons related by blood, marriage or adoption, or a group of not more than six persons, excluding servants, who are not related by blood, marriage or adoption living together in a dwelling unit. For the purposes of this definition, persons with handicaps or otherwise protected by the Federal Fair Housing Act (42 USC 3601 et seq.) shall not be counted as unrelated persons.

~~38. "Family home — foster" means a dwelling unit in which foster care is provided on a twenty-four-hour basis for not more than six unrelated children, or expectant mothers or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother or disabled person is placed as part of the family, and the dwelling unit is governed by the state foster care home licensing provisions and conducted in accordance with state requirements.~~

39. "Flood fringe" means the area adjoining the floodway which would be covered by floodwater during a base flood.

40. "Floodplain" means the boundaries shown on the Federal Emergency Management Act (FEMA) maps, mandated by the Floodplain Management Act as defined in Chapter 35.63 RCW as it now exists or is from now on amended. Generally, it is the land area susceptible to being inundated by water from the base flood.

41. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

42. "Footprint" means the area at the ground plane of a building, structure, or other element, bounded by the outside of the exterior walls and including stairs, porches, decks, upper story overhangs, canopies, and other appurtenances over three feet in height above the grade, except not including roof overhangs.

~~43. "Formula take-out food restaurant" means a restaurant or establishment that (A) is contractually required to offer standardized menus, ingredients and interior or exterior design, and (B) serves or delivers its food or beverages in disposable containers.~~

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

46. "Grade" (adjacent ground elevation) is the computed average of the lowest and the highest points of elevation of the original surface of the ground, or existing paving or sidewalk within the area between the building and property line, or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

47. "Group training home" means a facility equipped, supervised, managed, and operated on a full-time basis by any person, association, or corporation on a nonprofit basis for the full-time care, treatment, training, and maintenance of persons with developmental disabilities, and approved under this chapter and the standards under the rules adopted by Department of Social and Health Services.

~~47. an ADSA-licensed adult family home or boarding home contracted and certified by ADSA to provide residential services and support to adults with developmental disabilities. "ADSA" means the Aging and Disability Services Administration, an administration within the Washington State Department of Social and Health Services.~~

~~48.~~47. "Halfway house" means a home for juvenile delinquents, adult offenders, or those leaving correctional institutions providing residentially oriented facilities which allow rehabilitation or social adjustment for persons who are in need for supervision or assistance in becoming socially reoriented but not in need of institutional care. Such facility provides a reintroduction of residents into a normal community life by providing a stable living situation rather than incarceration or a reintroduction without home, job or social reinforcement.

~~49.~~48. "Hazardous waste" means and includes all dangerous and extremely hazardous waste as specified in RCW 70.105.010.

~~50.~~49. "Hazardous waste storage" means the holding of dangerous waste for a temporary period. Accumulation of hazardous waste is not storage as long as the accumulation is in compliance with applicable requirements of WAC 173-303-200 and 173-303-201.

~~51.~~50. "Hazardous waste treatment" means the physical, chemical, or biological processing of hazardous waste to make such wastes nonhazardous or less hazardous, safer for transport, amenable for energy or material resource recovery, amenable for storage or reduced in volume.

~~52.~~51. "Home business" means an activity conducted for financial gain or profit within a dwelling unit, which is clearly incidental and secondary to the primary use of the dwelling unit as a residential structure.

~~53. "Hotel/motel/inn" means a building or group of buildings containing guest rooms, where, for compensation, lodging is provided for transient visitors. Hotels, motels and inns typically provide such things as restaurants, meeting rooms and/or other auxiliary facilities and services. A hotel, motel or inn is not a bed and breakfast lodging as defined and regulated elsewhere in this Title.~~

54. "Impervious surface" means surface area that does not allow for water infiltration, or has a runoff coefficient of 0.90 or more (e.g., nonpermeable pavement, solid rock, roofs, foundations, underground tanks and vaults, and similar areas).

55. "Kennel" means a building, enclosure or portion of any premises in or at which dogs, cats or other domesticated animals are boarded or kept for hire, or in or at which dogs, cats or other domesticated animals are kept or maintained by any person than the owner thereof.~~, or in or at which six or more cats or four or more dogs over the age of four months are kept or maintained.~~ This definition shall include boarding kennels, but not pet shops, animal hospitals or zoos.

56. "Manufactured home" means a single-family dwelling required to be built in accordance with regulations adopted under the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq).

~~57. a structure, built to conform to national standards embodied in the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq., administered by the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is twelve body feet or more in width or thirty-six body feet or more in length, or when erected on the site is eight hundred sixty-four or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation as defined within the International Residential Code (IRC), connected to the required utilities, and includes mandatory plumbing, heating, air conditioning and electrical systems contained therein. A manufactured home displays a certificate from the United States Department of Housing and Urban Development.~~

~~58.~~57. Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. For the purposes of this title, "cannabis" or "marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

58. "Marijuana-cooperative" means a group of more than one, but no more than four qualified medical marijuana patients and/or designated providers who share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative.

59. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include usable marijuana.

~~59.~~60. ~~"Processor, marijuana""~~ Marijuana-processor" means a person licensed by the Washington State Liquor and Cannabis Board to process marijuana into usable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

~~60. "Produce or production, marijuana" means to manufacture, plant, grow or harvest cannabis or marijuana.~~

61. ~~"Producer, marijuana""~~ Marijuana-producer" ~~–~~means a person licensed by the Washington State Liquor and Cannabis Board to ~~produce~~plant, grow, harvest, and sell marijuana at wholesale to marijuana processors and other marijuana producers.

~~61.~~62. ~~Retail outlet – marijuana"~~ "Marijuana-retailer" means a location licensed by the Washington State Liquor and Cannabis Board for the retail sale of usable marijuana and marijuana and marijuana-infused products.

~~62. "Retailer, marijuana" means a person licensed by the Washington State Liquor and Cannabis Board to sell usable marijuana and marijuana-infused products in a retail outlet.~~

63. "Marijuana-state licensed facility" means a facility licensed by the Washington State Liquor and Cannabis Board to produce, process, or sell marijuana as well as state licensed cooperative.

~~63.~~64. "Marijuana, usable" means dried marijuana flowers. The term "usable marijuana" does not include marijuana-infused products.

~~64.~~65. "Microbrewery" or "microwinery" means the same as "brewery/winery" except for the following: a microbrewery shall have a capacity of not more than fifteen thousand barrels a year and a microwinery no more than three thousand cases of wine per year. Per RCW 66.24.244(3), a microbrewery may also sell beer produced by another microbrewery or a domestic brewery for on- and off-premises consumption from its premises as long as the other breweries' brands do not exceed twenty-five percent of the microbrewery's on-tap offering of its own brands.

~~65.~~66. "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the United States Department of Housing and Urban Development Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Act.

~~62. "Modular home" means a factory-assembled structure, meeting Washington State Uniform Building Code Standards designed primarily for use as a dwelling when connected to the required utilities that include plumbing, heating and electrical systems contained therein, does not contain its own running gear, and must be mounted on a permanent foundation. A modular home does not include a mobile home or manufactured home.~~

63.~~"Nonconforming building or structure" means a legally established building or structure that was constructed prior to adoption of the ordinance codified in this Title, or applicable amendments thereto, and that does not conform to present setback, lot coverage or other development requirements of this title.~~

~~"Nonconforming lot" means a lot that was lawfully created but does not conform to the current lot requirements of the zone in which it is located.~~

~~"Nonconforming use" means any preexisting structure or a legally established use of land that has been continued, but does not conform to the current regulations of the zone in which it is located as determined by this Title, or amendments thereto.~~

64. "Nuisance, public" means any use, activity or structure that materially interferes with or jeopardizes the health, safety, or the welfare of others or the quiet enjoyment and use of one's property ~~by endangering personal health or safety, offending human senses~~ and/or fail~~sing~~ to conform with the provisions, intent or standards of the district in which the use, activity or structure occurs.

65. "Nursing Home" means any home, place, institution or facility which provides convalescent or chronic care, or both, for a period in excess of 24 consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable to properly care for themselves. Such

facilities shall be licensed by the State of Washington as a nursing home in accordance with the provisions of RCW 18.51.

66. "Open record public hearing" means a hearing conducted by the City, that creates a record through testimony and the submission of evidence and information. An open record public hearing held before a decision is made on a project permit may also be known as an open record predecision hearing. An open record hearing held during an appeal may also be known as an open record appeal hearing if no open record predecision hearing was held.

~~65.~~67. "Ordinary high water mark" means the mark on all lakes, rivers, and streams that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation. If the ordinary high water line cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

~~66.~~68. "Personal services" means uses that offer specialized goods and services including barbershops, beauty shops, dry cleaning, tanning salons, tattoo parlors, clothing repair or tailoring and other similar establishments.

~~67.~~69. "Professional services" means uses such as accounting firms, credit bureaus, collection agencies, advertising agencies, contractor's offices, ambulance service companies, employment agencies, finance companies, insurance agents, income tax return preparers, investment counseling firms, lawyer's offices, or real estate companies.

~~68.~~70. "Proposed facilities modification" shall mean and refer to a proposal submitted by an applicant to modify an eligible support structure which the applicant asserts is subject to review under Section 6409 of the Spectrum Act, and involving:

a. Collocation of new transmission equipment;

b. Removal of transmission equipment; or

c. Replacement of transmission equipment.

~~69. "Protection zone" means the zone at grade level located directly below the canopy and within the drip line.~~

75. "Recreational vehicle" means a means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes.
~~vehicle, such as a motor home, travel trailer, recreational park model, truck/camper combination or camper trailer, that is designed for human habitation for recreational~~

~~or emergency purposes and that may be moved on public highways without any special permit for long, wide or heavy loads.~~

76. "Religious facility" means a facility in which the primary focus is religious worship. A religious facility may also include related activities including accessory uses in the main building or in separate buildings or structures, including Sunday school rooms and religious education classrooms, assembly rooms, a common kitchen, a library room or reading room, recreation hall and quarters on site for nuns and clergy, but excluding facilities for training of religious orders. A single family dwelling (parsonage) is included in this definition with its use for the pastor or caretaker.

77. "Residential treatment facility" means a facility for purposes of evaluation and treatment or evaluation and referral of any individual with a chemical dependency or mental disorder.

~~76. residential building that is licensed by the state to provide residential and domiciliary care to five or more individuals, or to provide rehabilitative treatment or services to individuals. Residential treatment facilities generally provide a limited-term living arrangement for their residents in a family-like setting. Such facilities also provide rehabilitative services other than basic living skills training, often intended to provide residents with the future ability to live independently. Such facilities may provide medical treatment as an integral part of a rehabilitative program.~~

78. "Retail sales~~ and services~~" means a location where products such as clothing, shoes, household goods, toys, office supplies etc. are displayed and the public is allowed to purchase items.

79. Retail sales ~~and services-~~ large scale" means a building where products are displayed and sold larger than 10,000 square feet.

80. "Right-of-way, public" means the property held by the city or other governmental jurisdiction for existing and/or future public access including land occupied or intended to be occupied by a street, crosswalk, pedestrian and bike paths, railroad, road, electric transmission line, oil or gas pipeline, levee or dike, water main, sanitary or storm sewer main, street trees or other special use. The usage of the term "right-of-way" for land division purposes shall mean that every right-of-way hereafter established and shown on a plat or map is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

81. "Roadside produce stand" means an establishment engaged in the retail sale of local fresh fruits and vegetables and having permanent or semi-permanent structures associated with such use.

82. Secure community transition facility means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i).

83. Setback, front

84. Setback, rear

85. Setback, side

86. "Sexually oriented business" means those businesses defined as follows:

a. "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image-producing machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

b. "Adult bookstore," "adult novelty store" or "adult video store" means a commercial establishment which has a significant or substantial portion of its interior business or advertising to the sale or rental, for any form of consideration, of any one or more of the following:

(1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(2) An establishment may have another significant or substantial portion of its stock-in-trade that does not involve the offering for sale or rental of materials depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities. Therefore, any establishment having twenty percent or more of its stock-in-trade or revenues that come from trading in material depicting or describing specified sexual activities or specified anatomical areas shall be categorized as an adult bookstore, an adult novelty store, or an adult video store.

c. "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment, whether or not alcoholic beverages are served, which features:

(1) Persons who appear nude or semi-nude;

(2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

d. "Adult motel" means a hotel, motel, or similar commercial establishment which:

(1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas~~, and which has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions~~; or

(2) Offers a sleeping room for rent for a period of time that is less than twenty hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty hours.

e. "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by the depiction or description of specified anatomical areas or specified sexual activities are regularly shown for any form of consideration.

f. "Adult theater" means a concert hall, theater, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear nude or semi-nude, or live performances which are characterized by exposure of specified anatomical areas or specified sexual activities.

g. "Nude or semi-nude model studio" means any place where a person who appears nude or semi-nude or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

h. "Specified anatomical areas" means and includes any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

i. Specified sexual activities" means and includes any of the following:

(1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; or

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

(3) Masturbation, actual or simulated; or

(4) Human genitals in a state of sexual stimulation, arousal or tumescence; or

(5) Excretory functions as part of or in connection with any of the activities set forth in subsections ~~1~~(1) through (4) of this definition.

84. "Short subdivision" means the process of dividing or redividing land into four or fewer lots, tracts, sites, parcels or divisions.

85. ~~"Sign" means any communication device, structure, placard or fixture that is visible from any public right-of-way or pedestrian path or sidewalk and is intended to aid in promoting the sale of products, goods, services or events or to identify a building using graphics, letters, figures, symbols, trademarks or written copy. Painted wall designs or patterns that do not represent a product, service or trademark or that do not identify the user are not considered signs; only that part of the design or pattern that cannot be distinguished from the sign shall be considered part of the sign~~. "Sign" means letters, figures, symbols, trademarks, or logos, with or without illumination, intended to identify any place, subject, person, firm, business, product, article, merchandise or point of sale. A sign also includes balloons attached to sign structures, products, streamers, spinners, pennants, flags, inflatables or similar devices intended to attract attention to a site or business, as well as architectural or structural forms, illuminated panels, spandrels, awnings and other structural or architectural features not common to classic vernacular or non-corporate regional architecture and that are intended to convey a brand, message or otherwise advertise a location or product, whether or not such features include text or graphics and whether or not they serve other practical purposes such as lighting, covering or enclosure of persons or products. A sign includes any device which streams, televises or otherwise conveys electronic visual messages, pictures, videos or images, with or without sound or odors. The different types of signs addressed in this chapter are defined as follows:

a. "Sign—freestanding" means a sign and its support~~ed by~~ structures, poles, or base ~~or supports that are placed on, or anchored in,~~standing on the ground and that are independent from any building or structure.

b. "Sign—freeway" means a sign situated within a radius of one thousand feet from a freeway entry/exit point, but not separated by a physical barrier from the entry/exit intersection. A freeway sign is primarily oriented to the passing motorist on the adjacent freeway., ~~and shall identify businesses such as regional shopping malls, eating, lodging or service station facilities that serve the traveling public.~~ No wall-mounted sign can be classified as a freeway sign.

c. "Sign—monument" is a free standing, low-profile sign which is attached to the ground by means of a wide base of solid appearance and the width of the sign is greater than the height of the sign.~~.~~ ~~Monument signs must be designed so as to be compatible with adjacent architecture and landscaping, and must be constructed with materials conductive to abutting structures and the surrounding area. They may not be constructed from fabric or banner material.~~

~~d. "Sign—political" means a sign related to nonpartisan elections, bond measures, initiatives, and similar matters and to the customary partisan politics. Political signs do not include permanent outdoor advertising structures or billboards.~~

d. "Sign-portable" means a free-standing sign that is readily moveable and not permanently affixed to the ground, including A-frame or sandwich board signs, pole signs mounted on weighted bases, and similar signs that are used on more than a temporary basis.

e. "Sign—projecting" means a sign that is affixed to a building or wall and projects perpendicular from the surface of such a building or wall face. Projecting signs include signs projecting directly from walls or hanging from ceilings or other support structures.

e. "Sign—sandwich board" or "A-frame sign" means a portable sign, typically in the shape of an inverted V, with two sign boards attached to each other at the top of the sign capable of standing without support or attachment.

~~e.~~f. "Sign—temporary" means any sign or advertising display located outside of a building constructed of cloth, wood, canvas, light fabric, paper or other light materials with or without frames intended to be displayed for a limited time only ~~as determined by the City,~~ and not permanently mounted.

~~f.~~g. "Sign—wall" is any permanent sign that is attached parallel to and extending not more than ten inches from the wall of a building. This includes painted, individual letter, and cabinet signs.

~~86. Significant tree" means any living woody perennial plant characterized by a main stem or trunk having many branches, including the following:~~

~~a. Evergreen tree ten inches in diameter or greater, measured four feet above existing grade; or~~

~~b. Deciduous tree twelve inches in diameter or greater, measured four feet above existing grade; or~~

~~c. All trees located within a required critical area buffer, as defined in Title 18.~~

~~87. "Site" for purposes of administering the regulations governing wireless communication facilities shall, for towers other than towers in the public rights-of-way, mean and refer to the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.~~

~~88. "Small cell facility" shall mean and refer to a personal wireless services facility that meets both of the following qualifications:~~

~~a. Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and~~

~~b. Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of equipment volume: electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.~~

~~89. "Small cell network" shall mean and refer to a collection of interrelated small cell facilities designed to deliver personal wireless services.~~

~~90.~~89. "Spectrum Act" shall mean and refer to the "Middle Class Tax Relief and Job Creation Act of 2012" (Public Law 112-96; codified at 47 U.S.C. § 1455(a)).

~~91.~~90. "Structure" means any manmade assemblage of materials extending above or below the surface of the earth and affixed or attached thereto.

~~92.~~91. "Structure height" means the highest point above grade of a structure other than a building, except as otherwise provided by this code.

~~93. "Tower" shall mean and refer to any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.~~

94. "Townhouse" means a form of attached housing comprised of a single building where dwelling units are separated by vertical fire walls. Each unit is located on its own individual legal lot of record, has its own independent access and its own front and rear yard.

95. "Transitional housing facility" means a congregate facility that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually twenty-four months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

96. ~~"Transmission Equipment" shall mean and refer to equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.~~

97. "Urban rest stop" means a facility that provides day use services rather than overnight stays and provides different kinds of facilities and services to assist those who may not have permanent housing, such as laundry facilities, cooking facilities, bathrooms, and showers.

~~98. "Usable cannabis or usable marijuana" means dried flowers of the Cannabis plant. The term "usable cannabis or usable marijuana" does not include marijuana-infused products or cannabis products.~~

~~99.~~98. "Wetland" or "wetlands" means area inundated or saturated by surface waters or groundwater of a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands, if allowed by the ~~county or~~ city.

~~100."Wetlands delineator" means a person who has received a degree from an accredited college or university in a field necessary to identify and evaluate a particular critical area, and/or a person who is professionally trained and/or certified in such field(s). Areas of technical expertise shall generally be: wetlands biology or ecology (for wetlands).~~

98. "Wireless base station" shall mean and refer to the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this section or any equipment associated with a tower.

a. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

b. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

c. The term includes any structure other than a tower that, at the time a wireless eligible facilities modification application is filed with the City under this Section, supports or houses equipment described in paragraphs (i) - (ii) above, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

d. The term does not include any structure that, at the time a completed wireless eligible facilities modification application is filed with the City under this section, does not support or house equipment described in paragraphs a and b above.

~~98.~~99. "Wireless communication facility" means an unstaffed facility for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, tower, or a support structure, antennas (e.g., omni-directional, panel/directional or parabolic) and related equipment.

100. "Wireless collocation" for the purposes of administering regulation of wireless communication facilities shall mean and refer to the mounting or installation of wireless transmission equipment on a wireless eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

~~99.~~101. "Wireless conceal" or "Concealment" for the purposes of administering the regulation of wireless communication facilities shall mean and refer to wireless eligible support structures and transmission facilities designed to look like some feature other than a wireless tower or wireless base station.

~~100."Wireless communication facility category 1" is a wireless communication facility that consists of antennas equal to or less than four feet in height with an area of not more than five hundred eighty square inches in the aggregate (e.g., fourteen-inch-diameter parabola or 2.6-foot by 1.5-foot panel) that is affixed to an existing structure that is not considered a component of the facility.~~

~~101.~~102. "Wireless communication facility category ~~2~~1" is ~~an attached~~ wireless communication facility that consists of antennas equal to or less than ten feet in height or up to one meter (39.37 inches) in diameter and with an area not more than thirty square feet in the aggregate that is affixed to an existing structure that is not considered a component of the facility.

~~102.~~103. "Wireless communication facility category ~~3~~2" is an attached wireless communication facility that consists of antennas greater ~~equal to or less~~ than ten ~~fifteen~~ feet in height, ~~or up to~~ one meter (39.37 inches) in diameter and with an area ~~not more than one hundred~~ greater than 30 square feet in the aggregate that is affixed to an existing structure or any size antenna or related equipment that is attached to a lattice tower or monopole. ~~that is not considered a component of the facility.~~

~~103."Wireless communication facility lattice tower" is a wireless communication support structure that consists of metal crossed strips or bars to support antennas and related equipment.~~

104.~~"Wireless communication facility monopole" is a wireless communication facility that consists of a support structure, the height of which shall not exceed one hundred twenty feet in height not including antennas.~~

105."Wireless eligible facilities modification application" or "application" shall, unless the context clearly requires otherwise, mean and refer to a written document submitted to the City pursuant to regulations governing wireless communication facilities for review and approval of a proposed facilities modification.

106."Wireless eligible facilities modification" shall mean and refer to any proposed facilities modification that has been determined pursuant to regulations governing wireless communication facilities which does not result in a substantial change in the physical dimensions of a wireless eligible support structure.

107."Wireless eligible facilities modification permit" or "permit" shall, unless the context clearly requires otherwise, mean and refer to a written document issued by

the City pursuant to regulations governing wireless communication facilities approving a wireless eligible facilities modification application.

108."Wireless eligible support structure" shall mean and refer to any existing wireless tower, or wireless base station that is in existence at the time the eligible facilities modification application is filed with the City.

99. "Wireless, existing" for the purposes of administering the regulation of wireless communications facilities shall, for purpose of regulations governing wireless communication facilities and as applied to a wireless tower or wireless base station, mean and refer to a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process of the City, or under another State, county or local regulatory review process; provided that, a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

100. "Wireless FCC Eligible Facilities Request Rules" shall mean and refer to 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Subpart CC § 1.40001 as established pursuant to its Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, or as may be thereafter amended.

101. "Wireless site" for purposes of administering the regulations governing wireless communication facilities shall, for towers other than towers in the public rights-of-way, mean and refer to the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other wireless eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other wireless transmission equipment already deployed on the ground.

102. "Wirelesss proposed facilities modification" shall mean and refer to a proposal submitted by an applicant to modify a wireless eligible support structure which the applicant asserts is subject to review under Section 6409 of the Spectrum Act, and involving:

a. Collocation of new transmission equipment;

b. Removal of transmission equipment; or

c. Replacement of transmission equipment.

103. Wireless small cell facility" shall mean and refer to a personal wireless services facility that meets both of the following qualifications:

a. Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

b. Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of

equipment volume: electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

~~102.~~104. "Wireless small cell network" shall mean and refer to a collection of interrelated small cell facilities designed to deliver personal wireless services.

~~103.~~105. "Wireless tower" or "Tower" shall mean and refer to any wireless communication support structure or any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated wireless site.

106. "Wireless transmission equipment" shall mean and refer to equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Chapter 17.10 Permit Processing

Sections:

17.10.010 Introduction;
17.10.020 Project Review Classifications;
17.10.030 Permit Classification Table;
17.10.040 Pre-application Conferences;
17.10.050 Procedures for Class 1 Review;
17.10.060 Procedures for Class 2 Review;
17.10.070 Procedures for Class 3 Review;
17.10.080 Procedures for Class 4 Review;
17.10.090 Completeness Review;
17.10.100 Notice of Application;
17.10.110 SEPA Threshold Determination;
17.10.120 Determination of Consistency;
17.10.130 Site Plan Review.
17.10.140 Permit Processing.
17.10.150 Notice of Decision;
17.10.160 Appeals;
17.10.170 Performance;
17.10.180 Public Notice Requirements; and
17.10.190 Variances.

17.10.010 Introduction. The purpose of this Chapter is to provide for effective and efficient review of land use and development applications with consistent procedures for similar projects, and to combine procedural and substantive environmental reviews with the review of project permit applications under other applicable requirements. This Chapter is intended to provide a framework within which the consistency of project permit applications with the City Comprehensive Plan and Development Regulations shall be determined.

17.10.020. Project Review Classifications. Four classes of review are established for the purposes of administering this Title. The permits included in each class, the public notice requirements, the hearing body, the decision maker, and appellate body are summarized ~~noted~~ in Table 17.10.03~~2~~0.

A. The City Manager or his/her designee is authorized to determine the classification of review for any permit or approval not identified on the following table.

B. It is the goal of the City to consolidate the permit processing for projects or development activities that require two or more permits or approvals. The City Manager or his/her designee shall determine the appropriate means of consolidating the processing of all permits and shall assign the highest-class review classification of the individual permits being sought to the consolidated permit application (with Class 4 being the highest

followed by Class 3, 2, and 1). This consolidation may include integrating public hearings, establishing unified comment periods, and/or concurrent reviews. The City Manager or his/her designee is authorized to make modifications to the procedural requirements of this Title in order to effectively consolidate project reviews.

1. Except for the appeal of a SEPA Determination of Significance, no more than one open record public hearing and no more than one closed record appeal may occur on a single permit application or master application.

2. A public meeting(s) may be held prior to ~~the~~an open record hearing. A public meeting may include, but is not limited to: a scoping meeting for the preparation of a draft environmental impact statement or presentation of a final ~~E~~environmental ~~I~~impact ~~S~~statement, an informational meeting, and/or or neighborhood meeting. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the project permit application file.

17.10.040 Pre-application Conferences. Prior to formal submittal of a Class 2, 3, or 4 permit applications, applicants are encouraged to request a pre-application conference with City Staff and representatives of appropriate public agencies. The date, time and place of such conferences shall be at the mutual agreement of the participants. Such conferences are intended as an informal discussion and review of possible applications to assist the applicant in discovery of appropriate city regulations, standards, application materials, and review processes that would be required of a project. A pre-application conference does not vest a proposed project permit application.

17.10.030 Permit Classification Table

	Types of Permit /Approval/Action	Public Notice	Hearing Body	Decision Maker	Appellate Body
Class 1 Review	-Boundary Line Adjustment -Building Permit -Certificate of Appropriateness -Certificate of Design Review -Certificate of Occupancy -Clearing and Grading Permit -Code Enforcement Action -Code Interpretation -Fence Permit -Forest Practices Act Permit -Shoreline Authorization -Short Plat Approval (4 lots or less) -SEPA Action (not requiring public notice) -Shoreline Letter of Exemption -Sign Permit -Site Plan Review -Special ~~Use~~Event Permit -Temporary Use Permit	None	None	City Manager or his/her designee	Hearing Examiner
Class 2 Review	-Critical Area Permit -Flood Plain Development Permit -SEPA Action (requiring public notice -Shoreline Substantial Development Permit -Variance (with Class 1 or 2 permit)	Yes	None	City Manager or his/her designee	Hearing Examiner
Class 3 Review	-Conditional Use Permit -Binding Site Plan -Preliminary ~~Long~~ Plat (5 or more lots) /Final Plat -Master Planned Development -Reasonable Use Exception -Shoreline Conditional Use Permit -~~Shoreline Substantial Development Permit~~ -Shoreline Variance -Variance (with Class 3 permit)	Yes	Hearing Examiner	Hearing Examiner/ City Council	Superior Court/ Shoreline Management Hearings Board

Class 4 Review	-Comprehensive Plan/Future Land Use Map Amendment -Development Regulation Amendment -Rezone -Shoreline Master Program Amendment	Yes	Planning Commission	City Council	Superior Court/ Growth Management Hearings Board

17.10.050. Procedures for Class 1 Review. Applications subject to a Class 1 review involve administrative action by the City Manager or his/her designee without public notice or an open record public hearing. The City Hearing Examiner shall conduct an open record public hearing for appeals of decisions on Class 1 permits unless otherwise noted in this Title.

A. Applications for Class 1 permits shall be processed by the City in accordance with the following general procedures unless the Applicant is otherwise notified in writing:

1. Completeness Review and Determination of Complete Application;

2. Determination of Consistency

   a. Site plan and downtown design review, as appropriate;

3. Issuance of a SEPA Threshold Determination, if required; and

4. Notification to the Applicant of approval or denial of the application.

17.10.060. Procedures for Class 2 Review. Applications subject to a Class 2 review involve administrative action by the City Manager or his/her designee following distribution of a public notice and the opportunity to submit written comments. The City Hearing Examiner shall conduct an open record public hearing for appeals of decisions on Class 2 permits unless otherwise noted in this Title.

A. Applications for Class 2 permits shall be processed by the City in accordance with the following general procedures unless the Applicant is otherwise notified in writing:

1. —Preliminary site visit/inspection by City Staff and/or pre-application meeting, if appropriate;

2. Completeness Review and Determination of Complete Application;

3. Determination of Consistency

   a. Site plan and downtown design review, as appropriate;

4. Issuance of a Notice of Application;

5. Issuance of a SEPA Threshold Determination, if required;

6. Review of public comments; and

7. Issuance of a Notice of Decision.

17.10.070. Procedures for Class 3 Review. The City Hearing Examiner shall conduct an open record public hearing before making a decision on Class 3 permit applications. The decision of the Hearing Examiner is subject to appeal in Superior Court or in the case of shoreline permits, to the Shoreline Management Hearings Board.

A. Applications for Class 3 permits shall be processed by the City in accordance with the following general procedures, unless the Applicant is otherwise notified in writing:

1. Preliminary site visit/inspection by City Staff and/or pre-application meeting, if appropriate;

2. Completeness Review and Determination of Complete Application

   a. Site plan and downtown design review, as appropriate;

3. Distribution of a Notice of Application;

4. Issuance of a SEPA Threshold Determination, if required;

5. Preparation of a staff report containing relevant information about the application and a Determination of Consistency. This report may also include a staff recommendation and shall be distributed to the public prior to the open record public hearing;

6. An open record public hearing shall be conducted by the Hearing Examiner, during which the Applicant shall be given the opportunity to present the proposed project and interested parties shall be allowed to make comments and submit written testimony; and

7. ~~7.~~ Hearing Examiner review of the record and issuance of a Notice of Decision.

~~7.~~8. Note: State law requires that final approval of plats involving 5 or more lots must be made by the City Council and cannot be delegated to the Hearing Examiner. City staff will review the application for final plat approval and make a recommendation to the City Council.

17.10.080 Procedures for Class 4 Review. Decisions on all Class 4 permit applications shall be made by the City Council following an open record public hearing conducted by the Planning Commission.

A. Applications for Class 4 permits shall be processed by the City in accordance with the following procedures, unless the Applicant is otherwise notified in writing:

1. Preliminary site visit/inspection by City Staff and/or pre-application meeting, if appropriate;

2. Completeness Review and Determination of Complete Application;

3. Distribution of a Notice of Application;

4. Issuance of a SEPA Threshold Determination, if required;

5. Preparation of a staff report and staff recommendation that shall be forwarded to the Planning Commission and be made available for public review prior to the open record public hearing;

6. Distribution of the proposed amendments to state agencies, as appropriate, for review and comment;

7. An open record public hearing shall be conducted by the Planning Commission, during which the Applicant shall be given the opportunity to present the proposed amendment, and interested parties shall be allowed to make comments and submit written testimony;

8. A review of the complete record by the Planning Commission and the adoption of a recommendation to the City Council;

9. The recommendation of the Planning Commission along with a complete copy of the record shall be provided to the City Council for review prior to their decision;

10. City Council review and action; and

11. Issuance of a Notice of Decision.

17.10.090. Completeness Review. All applications shall be submitted on such forms and in accordance with such procedures as may be prescribed by the City, provided that:

A. All applications shall be signed by the property owner or show owner consent of the application by the agent acting on the owner's behalf;

B. All applicable fees shall be submitted at the time of application unless otherwise specified;

C. A completed SEPA checklist shall be filed at the same time as an application for all permits, except when:

1. The City has determined the activity to be Categorically Exempt from the requirements of SEPA; or

2. The City and Applicant agree that an EIS is required; or

3. SEPA compliance for the proposed project has already been completed; or

4. SEPA compliance has been initiated by another agency.

D. Within 28 days of submittal, the City shall conduct a review of all application materials to determine if the application is complete and ready for processing. The City shall then make a Determination of Completeness and shall provide the Applicant with written notification which states:

1. That the application is complete and ready for processing or that the application is incomplete and what is necessary to make the application complete;

1. To the extent known by the City, other agencies that may also have jurisdiction over the application; and

2. To the extent known by the City, other permits or approvals that may be required.

E. Nothing in this Title shall limit the City from incorporating the Notice of Application and Determination of Completeness into one document.

F. The issuance of a Determination of a Complete Application shall not preclude the City from requesting additional information from the Applicant in order to complete the processing of an application.

G. If the City determines an application is not complete, or that additional information is necessary to complete the review of the application, and the Applicant fails to respond to the request from the City in the established time frames, the City shall notify the Applicant in writing that the application has lapsed and become void.

17.10.100 Notice of Application. Following the issuance of a Determination of a Complete Application, the City shall issue a Notice of Application for all Class 2, 3, and 4 permit applications.

A. Notices of Application shall include:

1. A description of the proposed action;

2. Identification of the permits and approvals that may be required and opportunities for public review and comment; and

3. SEPA actions taken or Preliminary SEPA Threshold Determinations, if any.

A. A preliminary SEPA Threshold Determination or Preliminary SEPA action may be included with Notice of Application if such preliminary actions have been made at the time the Notice of Application is issued. A preliminary SEPA Threshold Determination, or preliminary SEPA action, does not substitute, or in any way circumvent, the process for making a final SEPA Threshold Determination or in taking a SEPA action. Preliminary SEPA determinations are intended to encourage early public comment on project applications.

17.10.110 SEPA Threshold Determinations. A Threshold Determination is required for any proposal that is not categorically exempt within ninety days that an application and supporting documentation has been deemed complete. All Threshold Determinations shall result in a Determination of Non-significance (DNS), or a Determination of Significance (DS), provided that the City may also issue a Mitigated Determination of Non-Significance (MDNS) based on conditions attached to the proposal, or on changes to or clarifications of, the proposal made by the Applicant.

A. After submission of an environmental checklist and prior to a Threshold Determination, the City shall notify the Applicant if it is considering issuing a DS. As a result, the Applicant may clarify or change features of the proposal to mitigate the impacts which make the DS likely. If a proposal continues to have a probable significant adverse environmental impact, even with the mitigating measures, an EIS shall be prepared.

B. If a preliminary SEPA Threshold Determination was not made in conjunction with a Notice of Application, and no probable significant adverse impacts are anticipated, a Determination of Non-Significance shall be issued and a 15-day comment period may be required.

C. If a pre-decision open record public hearing is required; the SEPA Threshold Determination must be issued at least 15 days before the hearing.

D. If the City makes a SEPA Determination of Significance (DS) concurrently with the Notice of Application, the Notice of Application shall be combined with the Determination of Significance and Scoping Notice.

E. Whenever the City makes a Threshold Determination, it shall seek to include the public notice for the SEPA action with the Notice of Application or Notice of Decision for any associated land use application(s) or permits, provided that:

1. If no public notice is required for the permit or approval, the City shall give notice of the DNS or DS by publishing a notice in the City's Newspaper of Record;

2 Whenever the City issues a DS, all public notices shall state the scoping procedure for the required EIS; and

3. Whenever the City issues a DEIS (Draft EIS), or SEIS (Supplemental EIS), notice of the availability of those documents shall be given by at least 2 of the following methods:

    a. Indicating the availability of the DEIS or SEIS in any public notice required for an associated land use application or permit;

    b. Posting the property, for site-specific proposals;

    c. Publishing notice in the City's Newspaper of Record;

    d. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

    e. Notifying the news media; and/or

    f. Publishing notice in agency newsletters and/or sending notice to agency mailing lists.

F. Mitigation measures incorporated in the MDNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the City.

G. Nothing in this Section shall limit the authority of the City in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW.

17.10.120 Determination of Consistency. As part of all project and application reviews, the City shall determine if a proposed project or development activity is consistent with applicable City Development Regulations, and the Goals, Policies, and Objectives of the adopted Comprehensive Plan.

A. All multifamily development proposals, non-residential development proposals, and mixed-use development proposals shall be subject to a site plan review in accordance with the provisions of this Title unless waived in writing by the City.

17.10.130 Site Plan Review. The purpose of a site plan review is to help ensure that new development activities do not adversely affect the public health, safety and welfare of residents of Kelso, and that new development activities are compatible with existing patterns of development and the provisions of the Kelso Comprehensive Plan.

A. A site plan review shall be required for all proposed development activities in the Residential Mixed Density (RMD), Residential Multifamily (RMF), the commercial and industrial zones (NC, GC, RC, LI, and GI), and the Open Space (OPN) zones, unless waived in writing by the City.

1. In addition to a site plan review, proposed development activities located within the Downtown Design Overlay ~~Zone~~ must also comply with the City of Kelso Design Standards. ~~See KMC xxxxx for more details.~~

2. Development activities subject to a site plan review shall be determined by the City and shall include new construction, modifications to existing uses or structures that increase the size of the building or the intensity of the use, and/or changes of use.

3. The site plan review shall include the whole site including subsequent phases of development without regard to existing or proposed lot lines.

4. A site plan review permit is separate from and does not replace other required permits such as a conditional use permit or a shoreline substantial development permit. A site plan review may be combined and reviewed concurrently with other permits and approvals, as determined by the City.

5. The site plan review must be conducted prior to, or with the approval of the City concurrent with, the review of any required building permit or clearing and grading permit applications.

B. A site plan review application shall be submitted in a format prescribed by the City and may include, but is not limited to, the following on plans that are drawn to scale:

1. The location and dimension of the lot(s).

2. Existing topography and natural features.

3. Proposed grading and drainage facilities, including areas to be preserved or protected for the implementation of low impact development stormwater features in accord with the provisions of the Kelso Engineering Design Manual-.

4. The footprint of existing and proposed structures, proposed building heights, proposed building setbacks, and the proposed uses.

5. The location of existing and proposed roads, access plans, parking facilities, loading areas, curbs, drains, paving, hydrants, sign and light pole locations, walls, fences, walks, approaches, and proposed landscaping plans.

6. The location of existing and proposed water, storm, and sanitary sewer lines and facilities.

7. The nature, location, dimensions of environmentally sensitive areas, shorelines, or floodplain areas and their associated buffers, if any, on or adjacent to the site.

8. All required technical reports prepared by experts with demonstrated qualifications in the area(s) of concern.

9. Any additional information deemed necessary by the City.

C. The City may approve a proposed site plan in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

1. The project is consistent with the Kelso Comprehensive Plan and meets the requirements and intent of the Kelso Municipal Code, including the type of land use and the intensity/density of the proposed development.

2. The physical location, size, and placement of the development on the site and the location of the proposed uses within the project minimize impacts to any critical resource or flood plain area to the greatest extent possible or are compatible with the character and intended development pattern of the surrounding properties.

3. The project makes adequate provisions for water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection to ensure that the proposed project would not be detrimental to public health and safety.

4. Public access and circulation including non-motorized access, as appropriate, are adequate to and on the site,

5. Adequate setbacks and buffering have been provided. Any reduction to setbacks or buffer widths is the minimum necessary to allow for reasonable economic use of the lot and does not adversely impact the functional value of the critical resource area or adjoining land uses.

6. The physical location, size, and placement of proposed structures on the site and the location of proposed uses within the project are compatible with and relate harmoniously to the surrounding area.

7. The project adequately mitigates impacts identified through the SEPA review process, if required.

8. The project would not be detrimental to the public interest, health, safety, or general welfare.

D. Authorization of a Site Plan Review shall be valid for one (1) year after the effective date, and shall lapse at that time unless a building permit has been issued.

1. The City may extend the Site Plan Review if it finds that the facts on which the site plan review is approved have not changed substantially.

17.10.140 Permit Processing.

A. Applications determined to be complete and accepted for processing may be approved or disapproved by the City in accordance with the procedures in this Chapter, provided that:

1. The City may request additional information from the Applicant at any time, and may suspend the processing of an application(s) pending the receipt of requested information.

   a. Such requests shall be made in writing and shall identify the additional information required, the reason for the information, and the timeframes for submitting the additional information.

   b. If the Applicant does not respond to the request for additional information within one year, the application may be terminated.

B. The City may approve, approve subject to conditions, or deny an application based on the information included in the record.

1. In approving an application, the City may impose such conditions and safeguards as may be required to comply with the provisions of this Title and to protect the health, safety, and welfare. These conditions and safeguards may include, but are not limited to, the following:

   a. Measures identified during the environmental review process;

   b. Measures necessary to comply with the provisions of the Kelso Comprehensive Plan;

   c. Measures necessary to comply with provisions of the Kelso Municipal Code; and/or

   d. Measures necessary to ensure compatibility of the proposed development activity with neighboring land uses, and consistency with the intent and character of the zoning district. This may include, but is not limited to:

      (1) Increasing the required lot size, setback or yard dimensions;

      (2) Limiting the height of buildings or structures;

      (3) Controlling the number and location of vehicular access points;

      (4) Requiring the dedication of additional rights-of-way for future public street improvements identified in an adopted transportation plan;

      (5) Requiring the designation of public use easements and the recording of same;

(6) Increasing or decreasing the number of required off-street parking and/or loading spaces as well as designating the location, screening, drainage, surfacing or other improvement of a parking area;

(7) Limiting the number, size, height, shape, location and lighting of signs;

(8) Requiring view-obscuring fencing, landscaping or other facilities to protect adjacent or nearby properties;

(9) Requiring site reclamation upon discontinuance of use and/or expiration or revocation of the project permit;

(10) Limiting hours and size of operation; and

(11) Controlling the siting of the use and/or structures on the property.

2. The City may deny an application based on finding that the proposed action:

   a. Would have a probable, significant, adverse impact on the environment that cannot be reasonably mitigated;

   b. Is not consistent with the Goals and Policies of the Kelso Comprehensive Plan;

   c. Information required by the City in order to complete the processing was not provided in accordance with the provisions of this Title; or

   d. Does not comply with the provisions of the Kelso Municipal Code.

17.10.150 Notice of Decision. A Notice of Decision shall be issued for all Class 2, 3 and 4 permit applications. A Notice of Decision may not be issued until the expiration of the comment period on the Notice of Application.

A. Notices of Decision shall include:

   1. A description of the decision or actions taken;

   2. Any mitigation or conditions of approval required under applicable development regulations or under SEPA;

   3. If a SEPA threshold determination has not been issued previously, the Notice of Decision shall state this determination; and

   4. A description of applicable appeal procedures.

17.10.160 Appeals.

A. Standing to initiate an administrative appeal of Class 1 and 2 Reviews is limited to the Applicant or owner of the property in which the project permit is proposed, parties of record, affected agencies or tribes, or any person aggrieved by the final decision and who will suffer direct and substantial impacts from approval or denial of the project. The term "parties of record" for the purposes of this Title shall mean:

1. Any person who testified at the open record public hearing on the application; or

2. Any person who submitted written comments in response to the notice of application or environmental review; or

3. Any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters).

B. All appeals of interpretations or actions regarding Class 1 and 2 Reviews shall be filed in a format prescribed by the City along with the required fee, within 14 days of the date of the interpretation or action. If the deadline to file an appeal falls on a weekend or on a City Holiday, the deadline shall become the next business day. The City shall mail written notice to all parties of record to apprise them of all open and closed record public appeal hearings and shall place a public notice in the City's Newspaper of Record at least fourteen days before the open record appeal hearing.

1. The Notice of Appeal shall specify the claimed error(s) and issue(s) which the Appellate Body is asked to consider, and shall specifically state all grounds for such appeal. Issues or grounds of appeal which are not so identified need not be considered by the Appellate Body;

2. The Appellants and any Respondents to the Notice of Appeal shall have the opportunity to present oral and written arguments during open record appeal hearings. For all closed record appeals, the record shall be limited to information presented during the preceding open record hearing. Oral argument shall be confined to the established record and to any alleged errors in the decision;

3. Following an appeal hearing, the Appellate Body may affirm, reverse or modify the decision of record and shall adopt its own written findings and conclusions in support of its decision; and

4. The City may require an Applicant and/or the Appellant to reimburse the City for the cost of preparing materials to be used during open record public hearings or closed record appeals~~hearings~~ including but not limited to the cost of copying, taping, and/or transcribing a certified record of the proceedings.

C. Appeals of SEPA threshold Determinations or SEPA actions shall be combined with any appeals of associated applications or permits.

1. If the final decision incorporates the SEPA threshold determination subject to a fourteen-day comment period, a joint twenty-one-calendar-day appeal period shall be provided on both the project decision and the SEPA threshold determination.

D. All Class 3 and Class 4 land use decisions and the decisions of the Hearing Examiner on appeals of Class 1 and 2 permits may be appealed by a party with standing to file a land use petition in Washington State Superior Court, unless otherwise specified, in accordance with the provisions of Chapter 36.70C RCW-. Such petition must be filed within twenty-one days of issuance of the decision. This process shall be the exclusive means of judicial review except for local land use decisions reviewable by a quasi-judicial body created by state law, such as the shorelines hearings board.

1. Appeals of decisions of shoreline permits shall be heard by the Washington State Shorelines Hearings Board in accordance with the provisions of RCW 90.58.

2. Proposed amendments to the City's Shoreline Master Program must be approved by the Washington State Department of Ecology. Appeals of decisions on proposed amendments by the Department of Ecology shall be heard by the Washington State Growth Management Hearings Board in accordance with the provisions of RCW 90.58.

17.10.170 Performance.

A. Any action authorized under this Title shall be completed within two years from the date of approval, unless otherwise specified by the City. Failure to meet the time limit set shall void the approval; except that the City may authorize a time extension upon request, provided such extension request is filed in writing prior to the required completion date. Such extension request shall detail unique and special circumstances that prohibited the completion of the use authorized.

B. The City may revoke a project permit issued pursuant to this Title if it is ascertained that the application included any false information material to the project permit approval, or if it develops that the conditions and safeguards made a part of the terms under which the approval was granted have not been complied with or are not now being maintained.

1. If the City finds the conditions and safeguards made part of the terms under which the project permit was granted have not be complied with or are not being maintained, the City shall prescribe a reasonable time for correction, and if corrections are not made within the time limit, the permit may be suspended or revoked.

2. The suspension or revocation of a permit may be appealed to the City Hearing Examiner in order to show cause why such permit approval should not be suspended or revoked.

3. An application for a permit previously revoked under this Section cannot be submitted until all remedial actions required of the Applicant/Project Sponsor/ Property Owner have been completed and all fines, penalties, and fees paid.

C. Violation of such conditions and safeguards, when made part of the terms under which the project permit is granted, shall be considered a violation of this Title and may result in suspension or revocation of the permit and/or enforcement actions in accordance with the provisions of the Kelso Municipal Code.

17.10.180 Public Notice Requirements. For permit applications that require public notice the following provisions shall apply.

A. These public notice requirements shall apply to the following unless otherwise specified:

1. Notices of Application;

2. Notices of Decisions (Class 4 Review only);

3. Public Hearing notices;

4. SEPA Threshold Determinations; and

5. Notices of Appeals.

B. All public notices will be mailed at least fifteen days prior to the date of any required public hearing and/or comment period to the:

1. Applicant;

2. To the owners of all parcels within 300 feet of the boundaries of the parcel in question and any adjacent parcels under the ownership or control of the Project Sponsor;

3. Agencies with jurisdiction;

4. Parties who have provided oral or written testimony on the permit and requested to be on the mailing list;

5. Parties who have submitted written requests to receive notice; and

6. Parties of Record.

C. Public notices shall be published in the general newspaper of record at least fifteen days prior to the date of any public hearing and/or any public comment periods.

D. Copies of public notices shall also be posted or available for review at City Hall.

17.10.190 Variances. This Section shall govern the issuance of variances certain provisions of this Title.

A. A variance may be granted to the density, dimension, height, setback~~yard~~ and development standards provided that all other provisions of this Title can be met.

B. Under no circumstances shall the City grant a variance to allow a use not permissible under the terms of this Title in the zoning district involved, or any use expressly or by implication prohibited in the zoning district by the terms of this Title.

C. Variances may be approved by the City based on a finding that such variance will not be contrary to the public interest and the Comprehensive Plan or where literal enforcement of the provisions of this Title would result in undue hardship. A variance shall not be granted unless the City further finds that the Applicant has demonstrated all of the following:

1. That special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, do exist; and

2. That because of such special circumstances, strict application of this Title would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity under identical zoning district classification; and

3. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district classification in which the property is situated; and

4. That the special circumstances do not result from the actions of the Applicant; and

5. That the granting of a variance will be in harmony with the general purpose and intent of this Title, the specific zoning district, and the Comprehensive Plan.

Chapter 17.14
Environmental Review

Sections:

17.14.010 Introduction;
17.14.020 Substantive Authority;
17.14.030 Adoption of SEPA Rules;
17.14.040 Designation of SEPA Responsible Official;
17.14.050 Categorical Exemptions;
17.14.060 SEPA Checklist;
17.14.070 Threshold Determination; and
17.14.080 Preparation of EIS.

17.14.010 Introduction. The purpose of this Chapter is to highlight the environmental review requirements of the City~~ and to integrate the applicable provisions of the Washington State Growth Management Act~~ and the Washington State Environmental Policy Act.

17.14.020 Substantive Authority. The policies and goals set forth in this Chapter are supplementary to those in the existing authorization of the City.

A. The City designates and adopts by reference the following policies and documents as the basis for the City's exercise of authority pursuant to this section:

   1. The City of Kelso Comprehensive Plan as it now exists or is subsequently amended:

   2. The City of Kelso Shoreline Master Program as it now exists or is subsequently amended:

   3. The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:

      a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

      b. Assure for all people safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

      c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

      d. Preserve important historic, cultural and natural aspects of our national heritage;

e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

B. The City may attach conditions to a permit or approval for the proposal so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental documents prepared pursuant to this Chapter;

2. Such conditions are in writing;

3. The mitigation measures included in such conditions are reasonable and capable of being accomplished;

4. The City has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

5. Such conditions are based on one or more policies of the Comprehensive Plan and the provisions in this Title and cited in the permit, license, or other decision document.

C. The City may deny a permit or approval for a proposal on the basis of a SEPA review so long as:

1. A finding is made that approving the proposals would result in probable significant adverse environmental impacts that are identified in a final environmental impact statement (FEIS) or final supplemental environmental impact statement (FSEIS) prepared pursuant to this Chapter;

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in this Title and identified in writing in the decision document.

17.14.030 Adoption of SEPA Rules. The City adopts Chapter 197-11 of the Washington Administrative Code (WAC) by reference unless otherwise noted or modified by the provisions of this Title.

17.14.040 Designation of SEPA Responsible Official. For those proposed projects, development activities, or actions for which the City is the lead agency, the SEPA Responsible Official shall be the City Manager or his/her designee.

A. The designated SEPA Responsible Official shall make the SEPA Threshold Determination, supervise the scoping and preparation of any required EIS documents, and perform any other related functions assigned to the lead agency as identified in this Chapter or WAC 197-11. In addition, the SEPA Responsible Official may require the Applicant or Project Sponsor to prepare and submit such environmental documents as may be necessary to complete required environmental reviews.

17.14.050 Categorical Exemptions. All proposed projects or development activities are subject to the provisions of this Chapter and WAC 197-11 except those activities that are identified in WAC 197-11-800 as being categorically exempt from SEPA, provided that:

A. The following new construction activities are exempt from the provisions of this Chapter unless the site contains critical areas or otherwise does not meet the exemption criteria of WAC 197-11-800:

1. The construction or location of up to and including four (4) single family dwelling units;

2. The construction or location of up to and including four (4) multifamily dwelling units;

3. The construction of a barn, loafing shed, farm equipment storage building, produce storage, or packing structure, or similar agricultural structure, covering up to 10,000 square feet, provided that said structure is to be used by the property owner or his or her agent in the conduct of permitted farming on the property;

4. The construction of an office, school, commercial, recreational, service or storage ~~non-residential storage~~ building with up to 10,000 square feet of gross floor area and associated parking facilities designed for no more than 20 automobiles;

5. The construction of a parking lot not associated with a specific structure designed for up to twenty (20) automobiles; or

6. Any landfill or excavation of up to 500 cubic yards throughout the total lifetime of the fill or excavation.

B. Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility as exempted by WAC 197-11-800 (1) and (2) as modified in Section A above, as well as fencing and the construction of small structures and minor accessory facilities are also exempt from the provisions of this Chapter, unless the site contains critical areas.

C. The City's determination that a proposal is exempt shall be final and not subject to appeal. If a proposal is exempt, none of the procedural requirements of this Chapter shall

apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal.

C. If a proposal includes exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this Chapter, except that the City shall not give authorization for:

1. Any nonexempt action;

2. Any action that would have an adverse environmental impact; or
3. Any action that would limit the reasonable choice of alternatives.

17.040.060 SEPA Checklist. All applications for a permit, license, certificate, or other approval as required by the provisions of this Title shall include a completed SEPA Checklist in such form as provided by the City, unless the proposed action is determined by the City to be exempt.

A. For private proposals, the Applicant shall be responsible for completing the SEPA checklist and providing all required supporting documentation. For proposals sponsored by the City or another public agency, the agency or department initiating the proposal shall be responsible for completing the SEPA checklist and providing all required supporting documentation.

17.040.070 Threshold Determination. The SEPA Responsible Official shall review SEPA Checklists to determine if they are complete and ready for processing. If the checklist has not been adequately completed, the City shall notify the Applicant in writing and shall identify what additional information must be provided. If the Checklist has been adequately completed, the SEPA Responsible Official shall make a Threshold Determination and issue either a Determination of Non-Significance (DNS), a Mitigated Determination of Non-Significance (MDNS), or a Determination of Significance (DS).

A. An Applicant may request in writing early notice that a Determination of Significance may be likely.

1. The City shall notify the Applicant in writing if a Determination of Significance is likely and the concerns that may trigger the need for the preparation of an EIS.

2. The Applicant shall be given the opportunity to clarify or revise their proposal in order to lessen the potential adverse impacts.

B. If the City determines that the proposed action shall not have a probable, significant adverse impact on the environment, it shall issue a Determination of Non-Significance, and no further environmental review of the proposed action shall be required.

1. Upon issuance of the DNS the City may proceed with processing the application(s) associated with the proposed action.

C. If the City determines that the proposed action may have significant adverse impacts on the environment, but that they can be reasonably mitigated by measures to avoid, minimize, or compensate for the potential adverse impacts, it shall issue a Mitigated Determination of Non-Significance, and shall identify in writing the mitigating measures that shall be included as subsequent conditions of approval.

1. The issuance of an MDNS shall include public notice and a fifteen-day comment period. No permits or approvals associated with the proposed action shall be taken until the completion of this comment period.

2. Based on comments received the City may modify required mitigation measures, impose additional measures, or may rescind the Threshold Determination.

D. If the City determines that the proposed action is likely to have a probable, significant adverse impact on the environment, then it shall issue a determination of significance and the preparation of an environmental impact statement shall be required, in accordance with the provisions of this Title and WAC 197-11.

17.14.080 Preparation of EIS. The preparation and issuance of draft and final environmental impact statement (EIS) documents is the responsibility of the City. The City may elect to prepare EIS documents required for a proposed action with City Staff or the EIS documents may be prepared by a qualified consultant selected by the City in consultation with the proposed Project Sponsor. All costs associated with the preparation and issuance of an EIS document shall be the responsibility of the Applicant or Project Sponsor in accordance with the provisions of the City fee schedule and/or voluntary cost sharing agreement.

Chapter 17.18
Zoning

Sections:

17.18.010 Introduction;
17.18.020 Applicability;
17.18.030 Official Zoning Map;
17.18.040 Table of Permitted Uses; and
17.18.050 Footnotes.

17.18.010 Introduction.

A. The purpose of this Chapter is to establish controls to guide the use and development of property in accordance with the provisions of the Kelso Comprehensive Plan and state and federal laws, in order to:

1. Protect, preserve and promote the public health, safety and general welfare;

2. Respect private property rights;

3. Provide the economic and social advantages gained from a comprehensively planned use of land resources;

4. Facilitate adequate provisions for transportation, water, sewage, schools, parks and other public needs;

5. Promote the coordinated development and redevelopment of land, buildings and structures;

6. Avoid undue concentrations of population and to prevent overcrowding of land;

7. Provide adequate access, privacy, light and air for all buildings; and

8. Secure safety from fire and other hazards.

B. If there is any question about the status of a lot or the zoning designation, the City shall resolve the question through an administrative code interpretation or legislative action.

17.18.020 Applicability. No new building or structure shall be erected and no existing building or structure shall be moved, altered, added to, or enlarged, nor shall any land, building or structure be used, for any purpose or in any manner other than as permitted by this Title. The City shall issue no permit for the construction or alteration of any building or part thereof unless the plans, specifications and intended use of such building conform in all respects with the provisions of this Title.

17.18.030 Official Zoning Map. The City shall establish and maintain an Official Zoning Map consistent with the provisions of this Title and the Comprehensive Plan. The City Manager or his/her designee shall maintain and make available to the public the Official Zoning Map. The following zoning districts and overlay ~~zones~~ are hereby established and shall be depicted in accordance with the provisions of the Kelso Comprehensive Plan:

A. **Residential Single-Family 5 Zone.** The purpose of the Residential Single-Family 5 (RSF-5) zone is to maintain neighborhoods where existing development patterns and the availability of infrastructure support smaller lots and higher density single family residential development.

B. **Residential Single-Family 10 Zone.** The purpose of the Residential Single-Family 10 (RSF-10) zone is to promote the establishment of neighborhoods where existing development patterns, topography, or the limited availability of infrastructure warrant larger lots, and lower densities of single family residential development.

C. **Residential Multifamily Zone.** The purpose of the Residential Multifamily (RMF) zone is to provide areas for the highest density of residential development and to support mixed-use development.

D. **Residential Mixed Density Zone.** The purpose of the Residential Mixed Density (RMD) is to promote diverse housing options in new and existing neighborhoods, high quality design, reinvestment in existing buildings and properties, and the revitalization of existing residential neighborhoods.

E. **Neighborhood Commercial Zone.** The purpose of the Neighborhood Commercial (NC) zone is to provide areas for neighborhood-scale commercial and service activities which are compatible with the character of the surrounding residential neighborhood.

F. **General Commercial Zone.** The purpose of the General Commercial zone (GC) is to support business activities and mixed-use developments designed primarily to serve the local community.

G. **Regional Commercial Zone.** The purpose of the Regional Commercial (RC) zone is to accommodate larger-scale commercial retail stores, shopping centers, and freeway oriented commercial uses that are designed to serve the commercial needs of the city, the surrounding region, and travelers.

H. **Light Industrial Zone.** The purpose of the Light Industrial (LI) zone is to provide opportunities for industrial activities involving manufacturing, processing, assembling, repairing, servicing or storage of goods or products as well as professional services and mixed-use development in a business park setting.

I. **General Industrial Zone.** The purpose of the general industrial (GI) zone is to provide opportunities for industrial activities that require larger sites, access to the Columbia River, and/or a master planned industrial park.

J. Open Space Zone. The purpose of the open space (OPN) zone is to ensure that certain areas of the city be preserved for the most part in their undisturbed and/or natural state. Areas appropriate for the OPN zoning district are characterized by public and/or private land that is not suitable for or permanently protected from development. These areas may include, but are not limited to, forested areas; wetlands and associated buffers; creek, stream or river corridors; ravines; bluffs; landslide hazards and/or other geological hazardous areas; environmentally sensitive area tracts; dikes and other rights-of-way; dedicated open space; public parks; and conservation areas.

K. Airport Safety Overlay ~~Zone~~. The airport safety overlay ~~zone~~ is intended to regulate or control the various types of air space obstructions and other hazards that may interfere with the safety of aircraft operations near the Kelso-Longview Airport.

L. Downtown Design Review Overlay ~~Zone~~. The purpose of the downtown design overlay ~~zone~~ is to establish design guidelines to protect, maintain and enhance the unique characteristics and diversity of the downtown area of the city.

M. Adult Oriented Business Overlay ~~Zone~~. The purpose of the adult oriented business overlay is to regulate the location, permitting and operation of sexually oriented businesses and marijuana retail businesses in order to promote the health, safety and welfare of all city of Kelso citizens and in order to preserve and protect the quality of, and the quality of life in and around, all City of Kelso neighborhoods through effective land use planning and reasonable regulation in light of the findings adopted by the City Council and to regulate he display of adult materials by other commercial establishments.

N. West ~~Kelso~~Main Pedestrian Overlay ~~Zone~~. The purpose of this overlay ~~zone~~ is to facilitate the implementation of the West Kelso Sub-Area Plan by providing standards unique to designated areas in West Kelso that support a high quality pedestrian oriented design element along West Main Street. ~~and design standards to guide new multifamily development.~~

O. **West Kelso Overlay.** The purpose of this overlay is to facilitate the implementation of the West Kelso Sub-Area Plan by providing design standards unique to West Kelso to guide new multifamily development.

17.18.040 Table of Permitted Uses. Land uses and development activities may be permitted in accordance with the Table of Permitted Uses (Table 17.18.040), provided that:

A. Only those uses identified with a P (Permitted), C (Permitted only through the issuance of a Conditional Use Permit), or T (Permitted only through a Temporary Use Permit) may be approved. Those uses identified with an X or a blank cell are not permitted in that zone.

1. Uses not specifically listed in the Table of Permitted Uses, or any questions about the interpretation of this Table, shall be addressed through an administrative code interpretation utilizing the most recent edition of the *North American Industry Classification System (NAICS) Manual* as determined by the City and the intent of each zoning district.

a. In the event that more than one definition could apply to a use, the City will determine through an administrative code interpretation the most applicable definition.

~~1.~~2. Uses not specifically identified as permissible (P, C, or T), or authorized through an administrative code interpretation, may not be approved.

Table 17.18.040

	Residential Districts				Non-Residential Districts					
	RSF-5	RSF-10	RMD	RMF	NC	GC	RC	LI	GI	Open
Non-Residential Uses										
Airport								P(21)		
Aquaculture								P		
Arts and entertainment						P	P	P		
Athletic club/exercise facility					P	P	P	P		
Auditorium/meeting hall						P (5)	P	P		
Bed and breakfast inn	P	P	P	P	P	P	P	P		
Boat launch	C	C	C	C		C	C	C	C	C
Boat sales, services and storage							P	P		
Brewery/distillery/winery						P(23)	P(23)	P		
Card rooms						P (15)	P(15)	P(15)		
Cemetery/mausoleum										P
Church/religious facility	P	P	P	P		P (5)	P			
Commercial laundry								P		
Commercial moving/storage				C		C	C	P		
Commercial truck stop							P	P		
Community center	C	C	C	C		P (5)	P			C
Construction /landscaping								P		
Correction/detention/prison facility						C	C	C		
Day care	P(14)	P(14)	P(14)	P(14)	P(14)	P(14)	P(14)			
Dredge spoils storage								C	C	
Funeral home/mortuary						P (5)	P	P		
Government office						P	P	P		
Hazardous materials								P	P	
Health care facility						P	P	P		
Hospital							P	P		
Hotel/ motel						P	P			
Industrial facility-master planned								P	P	
Junk/ salvage yard								P		
Kennels								P (6)		
Laboratory								P		
Manufactured home sales								P		
Manufacturing and processing							C(25)	P		
Marijuana-state licensed facility	X	X	X	X	X	X	X	P(12)	X	X
Marine shipping facility								P	P	
Mining									P	
Parking facility						P	P	P		
Participant/spectator sports						P	P	P		P
Post office						C	C	C		
Professional/ technical services						P	P	P		
Public facility/park	P(17)	P (17)	P(17)	P(17)	P(17)	P(17)	P(17)	P(17)	P(17)	P(17)
Public works/utility buildings						P (17)	P(17)	P(17)		

Rail service/repair								P		
Recycling center								P		
Restaurants					P	P	P	P		
Retail sales/services					P(24)	P (5)	P	P	P	
Retail services/services-large scale							P			
Retail shopping mall							P			
RV park/campground							P			C
Schools	C	C	C	C		C	C	C		
Sexually oriented business								P(11)		
Social/ fraternal organization						P	P	P		
Tavern/pub						P	P	P		
Temporary use	T(20)	T (20)	T(20)	T(20)	T(20)	T (20)	T(20)	T(20)	T(20)	T(20)
Theater						P	P			
Transit facilities	P	P	P	P	P	P	P	P		
Vehicle sales and services					P (4)	P (4)	P	P		
Veterinarian clinic					P (6)	P (6)	P (6)	P (6)		
Warehouse								P		
Wholesale business							P	P		
Wireless communications, Category 1	P(16)	P (16)	P(16)	P(16)	P(16)	P (16)	P(16)	P(16)	P(16)	P(16)
Wireless communications, Category 2	C(16)	C (16)	C(16)	C(16)	C(16)	C (16)	C(16)	C(16)	C(16)	C(16)
Residential Type Uses										
Accessory dwelling unit	P (9)	P (9)	P (9)							
Assisted living facility	C(18)	C(18)	C(18)	C(18)						
Caretaker residence						P	P	P	P	P
Community garden	P	P	P	P						
Cottage housing			P							
Duplex	P		P	P						
Garage/yard sale	T(2)	T(2)	T(2)	T(2)						
Home business	P (8)	P (8)	P (8)	P (8)	P (8)	P (8)	P (8)			
Livestock and fowl	P(10)	P (10)	P(10)							
Mixed use-residential/commercial				P (3)	P (3)	P (3)	P (3)			
Mobile home				P(13)						
Multi-family (5+ units)			P	P		P(22)				
Nursing home/congregate care				C(18)		C(5,18)				
Residential treatment facility	C	C	C	C						
Single-family residence	P (7)	P (7)	P (7)	P(7)~~(1)~~	(1)	(1)	(1)			
Temporary homeless encampment	T(19)	T(19)	T(19)	T(19)		T(19)	T(19)	T(19)	T(19)	
Transitional facilities						C(5,18)				
Triplex and fourplex			P	P						

17.18.050 Footnotes.

A. The following footnotes can be found in the Table of Permitted Uses Table 17.18.040:

1. Existing residential uses are permitted and shall be considered conforming. No new single family residences are permitted in these zones. Standards applicable to the RSF-5 zoning district shall apply to existing single-family dwellings.

2. Garage/estate sales may be conducted on private residential properties without a Temporary Use Permit, subject to the following criteria. Any activities not meeting these criteria may be approved through a Temporary Use Permit.

   a. Sales shall last no longer than three consecutive days; and

   b. Sales are held at the site no more than four times in a calendar year; and

   c. Sales are conducted on the owner's property. Multiple-family sales are permitted if they are held on the property of one of the participants.

   d. All signs are removed immediately after the event.

3. Commercial/residential mixed use developments with commercial uses on the ground floor. Residential uses should be located above the ground floor.

4. Vehicle sales and services:

   a. In the Neighborhood Commercial (NC) Zone this u~~U~~se is restricted to minor auto repair services (lubrication and oil change, tune up). Any vehicles remaining on site for more than seventy-two hours shall be screened in accordance with outdoor storage development standards.

   ~~a.~~b. Commercial truck, trailer, and RV sales and services are not permitted in the Neighborhood Commercial (NC) and General Commercial (GC) zones.

5. Not permitted on the ground floor on Pacific Avenue South between Oak and Maple Streets.

   a. Retail sales with screened or unscreened outdoor storage is not permitted on the ground floor on Pacific Avenue South between Oak and Maple Streets.

6. All kennels and veterinarian clinics shall provide indoor sleeping areas only, in order to minimize nighttime noise impacts to neighboring properties.

7. Please see KMC 17.22.030 Single Family Residential Standards.

8. Only permitted in accordance with the provisions of KMC 17.22.050 Home Businesses.

9. Only permitted in accordance with the provisions of KMC 17.22.040 Accessory Buildings, Structures, Dwelling Units, and Uses.

10. Only permitted in accordance with the provisions of KMC 17.22.070 Domestic Animals, Livestock, and Fowl.

11. Only permitted in the Adult Oriented Business Overlay in accordance with the provisions of KMC 17.22.160 Adult Oriented Business Overlay.

12. Only permitted in accordance with the provisions of KMC 17.22.170 State Licensed Recreational Marijuana Production, Processing, and Retail Sales. ~~, provided that Retail Sales are only permitted in the Adult Oriented Business Overlay Zone~~.

13. Only permitted in accordance with the provisions of KMC 17.22.260 Mobile Homes, Recreational Vehicles (RV's), Trailers, and Tents.

14. Only permitted in accordance with the provisions of 17.22.250 Day Care.

15. Only permitted in accordance with the provisions of KMC 17.22.230 Card Rooms.~~;~~

16. Only permitted in accordance with the provisions of KMC 17.22.240 Wireless Communication Facilities.

17. Only permitted in accordance with the provisions of KMC 17.22.290 Public Facilities.

18. Only permitted in accordance with the provisions of KMC 17.22.270 Special Needs Housing.

19. Only permitted in accordance with the provisions of 17.22.280 Temporary Homeless Encampments.

20. Only permitted in accordance with the provisions of KMC 17.22.060 Temporary Uses.

21. Permitted uses at the airport shall include all building and structures essential to airport operations and may include aviation related business and industrial buildings, structures, and uses as well as any use specifically authorized through the ~~approved~~ Southwest Washington Regional Airport Master Plan as adopted by the City.~~for the airport~~.

22. Multifamily housing may be permitted in the General Commercial Zone in West Kelso outside of the West Main Pedestrian Overlay only, in accordance with the

provisions of the West Kelso Multifamily Design Standards and the West Kelso Sub-Area Plan.

~~23.~~15. ~~No roadside stand, building or structure shall be more than seven hundred fifty square feet in ground floor area.~~

23. Only microbreweries and microwineries may be permitted in the General Commercial (GC) and Regional Commercial Zones.

24. Retail sales and services in the Neighborhood Commercial (NC) Zone shall be limited to uses designed to primarily serve the immediate neighborhood, such as:

a. Convenience groceries;
b. Beauty parlors, salons, and related personal services;
c. Farmers market;
d. Fruit, vegetable, or flower stand;
e. Food carts;
f. Coffee shops and restaurants;
g. Exercise studios; and
h. Automobile service stations and mirror automobile services such as oil change, tune-ups, and lubrication.

~~24.~~25. Only in the vicinity of the I-5 and SR 432 interchange.

Chapter 17.22
Development Standards and Special Conditions

Sections:

17.22.010 Introduction;
17.22.020 Density, Dimension, Height, and Setback Requirements;
17.22.030 Single Family Residential Standards;
17.22.040 Accessory Buildings, Structures, Dwelling Units, and Uses;
17.22.050 Home Businesses;
17.22.060 Temporary Uses;
17.22.070 Domestic Animals and Livestock;
17.22.080 Fences, Hedges and Walls;
17.22.090 Clearing and Grading;
17.22.100 Landscaping;
17.22.110 Parking;
17.22.120 Stormwater Management;
17.22.130 {Open}
17.22.140 {Open}
17.22.150 Airport Overlay ~~District~~;
17.22.160 Adult Oriented Business Overlay ~~District~~;
17.22.170 State Licensed Marijuana Production, Processing, and Retail Sales;
17.22.180 Downtown Design Review Overlay ~~District~~;
17.22.190 West Main Pedestrian Overlay ~~District~~;
17.22.200 West Kelso Multifamily Design Standards;
17.22.210 Signs;
17.22.220 Drive-in Businesses;
17.22.230 Card Rooms;
17.22.240 Wireless Communication Facilities;
17.22.250 Day Care;
17.22.260 Mobile Homes, Recreational Vehicles (RV's), Trailers, and Tents;
17.22.270 Special Needs Facilities~~Housing~~;
17.22.280 Temporary Homeless Encampments;
17.22.290 Public Facilities; and
17.22.300 Performance Standards.

17.22.010 Introduction. The purpose of this Chapter is to highlight the special standards and conditions applicable to specific types or locations of development activities. This Chapter should be used in conjunction with the Table of Permitted Uses (Table 17.18.040). If you have any question about the applicability of these standards, please contact the City Department of Community Development~~Planning Department~~.

17.22.020 Density, Dimension, Height, and ~~Yard~~Setback Requirements.

A. Table 17.22.080 establishes the density, dimension, height, and ~~yard~~setback requirements for development in each zoning district.

Table 17.22.020 Density, Dimension, Height, and Setback~~Yard~~ Requirements

	Maximum Residential Density (du/acre)	Minimum Lot Width (feet)	Maximum Building Height (feet)	Setbacks				Maximum Lot Coverage With Impervious Surfaces
				Front (feet)	Side Street (feet)	Side (feet)	Rear (feet)	
RSF-5	8.7	25	35	20	~~5~~7	5	10	50%
RSF-10	4.3	25	35	20	~~5~~7	5	10	50%
RMD	17	25	35	20 ~~(1)~~	7~~(1)~~	5~~(1)~~	10~~(1)~~	75%
RMF	32.3	25	35 (4)	20 ~~(1)~~	7~~(1)~~	5~~(1)~~	10~~(1)~~	75~~70~~80%
NC	32.3	25	35 (4)	20	~~5~~7	5	10	85%
GC	32.3	25	60 (4)	(2)	(2)	(2)	(2)	~~80~~85% ~~(3)~~
RC	32.3	25	60 (4)	20	20	20	20	~~80~~85%
LI		25	35 (4)	20	20	20 (1)	20 (1)	85%
GI		25	35 (4)	20	20	20 (1)	20 (1)	85%
OPN			35	20	20	20	20	

Footnotes:

(1) {Open}~~The setbacks in the Residential Mixed Density and Residential Multifamily zones must comply with the standards for the RSF-5 zone unless a variance is approved through a Type 2 review of the site plan provided that required parking and recreation standards can be met and the applicable provisions of the West Kelso Overlay District.~~

(2) The setbacks in the General Commercial Zone shall be determined through the site review process provided that the applicable provisions of the West Kelso Overlay ~~District~~ and the Downtown Design Review Overlay ~~District~~ must be met.

(3) {Open}~~The lot coverage limitation in the General Commercial Zone shall be determined through the site review process provided that the applicable provisions of the West Kelso Overlay District and the Downtown Design Review Overlay District must be met.~~

~~(3)~~(4) The maximum building height may be increased by a variance through a Type 2 review of the site plan.

B. All required setbacks:

1. Must comply with the landscaping provisions of KMC 17.22.110;

2. May not include impervious or hardened surfaces except for approved driveways and sidewalks;

3. May include low impact development stormwater design features;

~~1.~~4.May include ~~U~~underground structures ~~are permitted in all setbacks~~ provided that they don't encroach on easements ~~on~~or neighboring properties. It is the responsibility of the property owner to ensure compliance with this provision and to maintain the underground structure;

~~2.~~5.May include ~~O~~overhead and underground utilities ~~are permitted in required setbacks~~; and

6. Shall maintain a clear sight triangle at the intersection of driveways or access roads and the street rights-of-way to assure traffic safety in accordance with the provisions of the Kelso Engineering and Design Manual.

7. Where existing front setbacks ~~front yards of housing units~~ directly abutting a lot are less than that required by Table 17.22.080, the front setback yard may be reduced to the average depth of the existing setbacks~~yards~~;

C. In applying the standards of Table 17.22.080 to the RSF zones the following standards apply:

1. ~~Where existing front yards of housing units directly abutting a lot are less than that required by Table 17.22.080, the front yard may be reduced to the average depth of the existing yards;~~

1. Accessory buildings shall have a minimum setback of five feet from the rear and side property lines. Detached garage facilities for single-family residences may have a zero-foot setback from an alley, provided access is obtained from the alley;

2. In no case shall the entrance to the garage be closer than twenty feet from the right-of-way;

Comment [GD1]: What about in the RMD zone?

3. In through lots, yards abutting both streets shall provide the required front setback. ~~yard.~~ Accessory buildings on through lots shall conform to the setbacks for principal buildings;

~~B. Please refer to the City's Stormwater Design Standards to determine the maximum lot coverage with impervious surfaces.~~

D. ~~For single-family development, a minimum of six hundred square feet per lot and for m~~Multifamily development, in the RMF zone must provide a minimum of three hundred square feet per unit ~~shall be available for the purposes of outdoor recreation of which no d~~ of usable open space for residents, including some or all of the following features:

1. Outdoor recreation area for children;

2. Private balconies;

3. Shared internal courtyards and/or rear yard space, with easy access to the space from adjacent units and site amenities to encourage use (i.e., seating areas, bbq grill, community gardening area, planters with sitting ledges);

4. Shared front porch area; and/or

5 Shared rooftop deck.
~~imension shall be less than ten feet, unless other standards are required in this Title.~~

~~C. All corner building sites located in use districts that require a front and side yard shall maintain a clear triangle at the intersection of the street rights-of-way to assure traffic safety.~~

~~D. All non-corner lots shall maintain a clear triangle at the intersection of driveways or access roads and the street rights-of-way to assure traffic safety.~~

~~D.~~E. The following projections are permitted into required setbacks~~yards~~:

1. Cornices, eaves, roof overhangs, trellises, beams, joists, and other similar roof projections may extend or project into required ~~yards~~setbacks according to the following chart:

   a. Front or rear setback~~yard~~: Maximum of five feet; and

   b. Side setback~~yard~~: Maximum of two feet.

2. Outside stairs, platforms or landing places, if unroofed and unenclosed, may extend into required setbacks~~yards~~ according to the following chart:

   a. Front and side setback~~yard~~: Maximum of four ~~three~~ feet;

   b. Rear setback~~yard~~: Maximum of four ~~five~~ feet.

3. Ramps or other devices necessary for access for the disabled and elderly, which meet Washington State Rules and Regulations for Barrier Free Design, are permitted in all required setbacks.

4. Uncovered, unenclosed pedestrian bridges, necessary for access and less than five feet in width, are permitted in required setbacks.

5. ~~Porches or balconies that are accessory to a residential use may project into required setbacks. Such porches and balconies shall be permitted within five feet of any lot line if they are thirty inches or greater above the adjacent grade.~~

~~Decks that are accessory to a residential use may project into required setbacks. Such decks may be attached to the principal building and shall be permitted up to any lot line if they abut a permitted fence or freestanding wall, and are at least three feet below the top of the fence or wall. The fence or wall shall be no higher than six feet above existing finish grade.~~

~~6. Underground structures are permitted in all setbacks.~~

~~7. Overhead and underground utilities are permitted in required yards.~~

~~E.~~F. **Height Limitations.** Buildings and structures shall comply with the maximum height limits as specified in Table 17.22.080 based on the zoning of the subject parcel, provided that:

~~1. The height of a building or structure shall be measured by the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building. Chimney and vents shall not be included in building height. Grade is the computed average of the lowest and the highest points of elevation of the original surface of the ground, or existing paving or sidewalk within the area between the building and property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.~~

2. The following may be permitted through a Class 1 Review provided that they are not otherwise prohibited by the Airport Hazard Overlay (APO) zone;

   a. One flagpole forty-five feet or less in height per parcel; and

   a. Utility poles fifty feet or less in height.

3. Building heights may be increased to a maximum of fifty feet for churches and schools through a Class 2 review where, in addition to other standards of this Title, the following are met:

   a. View opportunities from adjacent parcels are not substantially reduced and are not otherwise prohibited by the Airport Hazard Overlay (APO) zone; and

b. Fire flow available to the site is consistent with the minimum standards for the category and height of the structure as defined in the adopted fire code; and

c. No unstable slopes or soils are present on the building site.

4. ~~The height limits may be increased to eighty-five feet when structured parking is provided under the building;~~

5. ~~The maximum building or structure height may be increased through a Class 2 review, provided that:~~

   a. ~~View opportunities from adjacent parcels shall not be substantially reduced by the increased height and are not otherwise prohibited by the Airport Hazard Overlay (APO) zone;~~

   b. ~~View opportunities from adjacent parcels are not substantially reduced;~~

   c. ~~Fire flow available to the site is consistent with the minimum standards for the category and height of the structure as defined in the adopted fire code; and~~

   d. ~~No unstable slopes or soils are present on the building site.~~

6. ~~When adjacent to a RSF zoning district, the maximum building height shall be thirty-five feet for a distance of thirty feet from the parcel line abutting the RSF zone.~~

17.22.030 Single Family Residential Standards. Single-family dwellings shall be constructed consistent with the following standards:

A. Only one dwelling unit allowed per legal parcel, unless otherwise noted.

B. New manufactured housing conforming to the standards of 42 U.S.C. Sec. 5401-5403, as amended, shall be permitted in all zones where single family residences are permitted, provided that:

1. Homes shall be set upon a permanent foundation, as specified by the manufacturer, and that he space from the bottom of the home to the ground shall be enclosed by concrete or an approved concrete product which can be either load baring or decorative;

2. The new manufactured home shall comply with all local design standards applicable to all other homes in the neighborhood;

3. The new manufactured home shall be thermally equivalent to the state energy code; and

4. The new manufactured home meets all other requirements for a manufactured home as defined in RCW 35.63.160.

C. Zero lot line development for single-family dwellings may be permitted in the R-5 and RMD zone order to: promote efficient land use, permit a more energy efficient arrangement of structures, protect environmentally sensitive areas, promote low impact development, provide a variety of housing options, or provide more usable private or community open space. All zero lot line developments shall comply with the standards of Table 17.22.080, the provisions of this Title and the following requirements; provided, that where the standards included in this Title conflict with the standards established in other sections of this Title, the standards in this Title shall apply:

1. Dwelling Unit Setbacks.

   a. Interior Side ~~Yard~~ Setback Standard. The dwelling unit may be placed on one interior side property line (a zero setback). The setback standard from the other side property line shall be ten feet. No structures except for patios, pools, fences, walls and other similar elements are permitted within the required setback area.

2. Attached Units. Units using common wall construction may be allowed, provided the setback for the property lines opposite the common wall shall be ten feet for both lots.

3. Accessory Building Setback. Accessory buildings and structures shall observe the setback requirements for the main dwelling unit.

4. Platting Requirements. Each dwelling shall be located on its own individual platted lot. The plat shall show the zero lot lines and the related easements.

~~4.~~5. Openings Prohibited on the Zero Lot Line Side. In order to maintain privacy, there shall be no windows, doors, air conditioning units or any other type of openings in the wall along the zero lot line, except when such a wall abuts permanent open spaces or a public or private right-of-way.

6. Maintenance and Drainage Easements. A perpetual maintenance, eave overhang and drainage easement at least five feet wide shall be provided, if necessary, on the lot adjacent to the zero lot line property line, which, with the exception of walls and/or fences, shall be kept clear of structures. This easement shall be shown on the plat and incorporated into each deed transferring Title on the property. ~~The wall shall be maintained in its original color and treatment unless otherwise agreed to in writing by the two affected lot owners.~~ Eaves, but no other part of any structure, may protrude across a side lot line, and such protrusion shall not exceed eighteen inches. Water runoff from the dwelling placed on the lot is limited to the easement area.

17.22.040 Accessory Buildings, Structures, Dwelling Units, and Uses.

A, Accessory buildings and structures shall not occupy any lot independent of the main building or structure.

1. No trailer, bus, shipping container or railroad car may be stored, or converted to or used as a storage building, accessory building or for any other nonresidential use.

2. No detached accessory building or structure may occupy the front of any lot.

3. Accessory buildings and structures must comply with all setback requirements.

B. Not more than one accessory dwelling unit, may be allowed on a parcel. The following criteria shall apply:

1. The accessory apartment shall not exceed eight hundred square feet.

2. One additional paved, off-street parking space is required.

3. Adequate utility service shall be confirmed.

4. A restrictive covenant shall be recorded on the property to preclude the separate sale or division of the accessory dwelling unit from the single-family dwelling.

17.22.050 Home Businesses.

A The residents of a dwelling unit may conduct a business(es) in their home subject to the following provisions:

1. Uses identified in the Table of Permitted Uses as being permitted in a residential zone such as daycare, transitional housing, group homes, and bed and breakfast inns are not considered home businesses, and are not subject to the provisions of this Section.

2. A City of Kelso business license shall be obtained and maintained in good standing at all times.

3. Hours of operation shall occur between 7:00 a.m. and 10:00 p.m. unless otherwise authorized by the City.

4. Home business activities shall be conducted within the dwelling unit and/or inside the garage by members of the family residing in the dwelling only. No outside employees shall work on-site.

5. There shall be no outside storage of materials, supplies, or display of goods or equipment of any kind related to the home business.

6. No goods or merchandise shall be displayed such that they are visible from public rights-of-way or adjacent properties.

7. There shall be no business activities conducted outside of the residence or garage.

8. There shall be no exterior evidence of the home business, other than a permitted sign, that would cause the premises to differ from its residential appearance and character (e.g., outward physical appearance; lighting; the generation/emission of noise, fumes, or vibrations) as determined by the City using normal senses and from any lot line; create visible or audible interference in radio or television reception or cause fluctuations in line voltage outside the home occupation.

9. On-site retail sale of goods not produced, processed or fabricated on the premises is prohibited, unless:

    a. The sale of items is incidental to a permitted home occupation (e.g., a barber shop that sells hair-care products, etc.); or

    b. The sale of the items is through the internet and the products are distributed through the US Postal Service or private delivery service such as UPS or FEDEX.

10. Any need for any customer parking created by the home business shall be provided on site, provided that with the exception of existing driveways, no parking shall be allowed in setbacks or buffers.

11. No on-street parking of customers or commercial vehicles associated with the business is allowed.

12. No traffic shall be generated by a home business in greater volumes than normally expected in a residential neighborhood.

13. Only one sign is permitted to advertise a home business. The sign shall be no larger than two square feet in area, non-illuminated, and must be attached to the dwelling.

14. Windows may not be used to display commercial messages.

C. The following uses may be permitted as a home business in the city:

1. Beauty parlor, barber shop, or salon (one chair only);

2. Professional services such as accounting or business consulting;

3. Tutoring;

4. Music instruction;

5. Interior design;

6. Construction or assembly of products for sale off site;

7. Manufacturer's representative; and

8. Other business activities as determined by the City that meet all of the criteria of this Section.

C. Uses Not Permitted as Home Businesses. The following business activities may not be permitted as home businesses:

1. Second hand stores or junk yards;

2. Any use generating, storing, or utilizing hazardous waste;

3. Kennels;

4. Automotive servicing, maintenance, or repairs;

5. Restaurants/eating drinking establishments;

6. Storage of vehicles, boats, or equipment;

7. Adult-entertainment;

8. Marijuana production, processing, ~~or~~ sales or medical cooperatives; and

9. Other uses as determined by the City to not meet the criteria of this Section.

17.22.060 Temporary Uses. Temporary uses include limited duration activities on private property~~,~~ that may be permitted for a specific period of time through the issuance of a Temporary Use Permit. Limited duration activities on public property may be permitted through a Special Event Permit or a Right-of-Way Use Permit.

A. In addition to the temporary uses identified in the Table of Permitted Uses, ~~L~~limited duration activities on private property permitted through a temporary use permit may also include, but is not limited to: ~~including special, seasonal, or holiday events, such as~~:

1. Roadside stands;

2. Carnivals~~,~~ or festivals:~~, or street fairs;~~

2. Christmas tree sales;

3. Fireworks sales;

4. Farmer's markets (seasonal);

5. Outdoor concerts, ~~speeches,~~ or theatrical performances;

6. Parking lot/outdoor sales events;

7. Seasonal sale of agricultural products grown off premises;

8. Outdoor dining areas;

9. Temporary construction and sales offices; or

~~8.~~10. Other activities that involve the temporary alteration of a site, temporary changes in ingress and egress, or uses of a limited duration that would not adversely affect the public health and safety.

~~9. Fun run or bicycle race;~~

~~10. A temporary office in conjunction with a construction project; and~~

~~11. Temporary fund-raising and other civic activities.~~

~~No roadside stand, building or structure shall be more than seven hundred fifty square feet in ground floor area.~~

B. Approval Criteria.

1. The City may approve, approve with conditions, or deny a request for approval of a temporary use subject to compliance with all of the following criteria:

   a. The Applicant has proof of the property owner's permission to place the event on his/her property;

   b. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a threat to the public health, safety, or general welfare.

   c. The proposed site is adequate in size and shape with appropriate screening or landscaping to accommodate the temporary use without detriment to the use and enjoyment of other properties in the project vicinity.

   d. The project makes adequate provisions for access and circulation, water supply, storm drainage, sanitary sewage disposal, solid waste management, recycling, emergency services, and environmental protection as determined by the City.

   e. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the City.

C. Temporary Signs. The City may approve the display of temporary sign(s) for longer than 90 days through the issuance of a temporary use permit in accordance with the provisions of KMC 17.22.090 or a special use permit issued in accordance with the provisions of KMC 12.24.

17.22.070 Domestic Animals and Livestock.

A. Keeping domestic animals including cats, dogs, rabbits, and other small animals commonly kept as pets in the city, is allowed in accordance with the provisions of federal, state, and local laws, and public health and safety requirements. See Kelso Municipal Code Chapter 6 for more details.

B. Livestock and fowl may be kept by the occupants of a residential unit in the RSF-10 zone only in accordance with the following provisions:

1. Horses/cows/llamas/emus or similar animals (as determined by the City): Up to a total of two per lot, with a two-acre minimum lot size required (eighty-seven thousand one hundred twenty square feet);

2. Sheep/goats/ or similar animals (as determined by the City): Up to a total of four per lot, with a two-acre minimum lot size required (eighty-seven thousand one hundred twenty square feet);

3. Chickens/pigeons/geese/ducks/ or similar animals (as determined by the City): Up to a total of six per lot, provided that no more than two can be geese. No roosters are permitted.

4. All livestock, chickens, geese, and ducks shall be contained within the subject property at all times;

5. No coops, hutches, structures, pens, enclosures, or similar containment structures may be located within required front, side, or rear setbacks; and

6. All coops, hutches, structures, pens, enclosures, similar containment structures, or yards, and shall be kept in a clean and sanitary condition.

C. Fowl may be kept by the occupants of a residential unit in the RSF-5 Zone only in accordance with the following provisions:

1. Chickens/pigeons/geese/ducks/ or similar animals (as determined by the City): Up to a total of six per lot, provided that no more than two can be geese. No roosters are permitted.

2. All chickens, geese, or ducks shall be contained within the subject property at all times;

3. No coops, hutches, structures, pens, enclosures, or similar containment structures may be located within required front, side, or rear setbacks; and

4. All coops, hutches, structures, pens, enclosures, similar containment structures, or yards, and shall be kept in a clean and sanitary condition.

17.22.080 Fences, Hedges and Walls.

A. Fences, hedges and walls shall comply with the maximum height limits as specified in Table 17.22.080 based on the zoning of the subject parcel. provided that:~~:~~

1. No sight-obscuring fence, hedge or wall ~~over thirty-six inches higher than the grade of adjacent streets~~ shall be permitted on corner lots in accordance with the provisions for sight triangles in the Kelso Engineering and Design Manual~~in the yard area formed by a line from the lot corner at the street intersection along the front yard line fifteen feet and side yard line fifteen feet and a line connecting the two lot lines at the point fifteen feet from the intersection corner~~.

2. Height of fence, hedge or wall shall be measured from finished grade at the exterior side of the fence. No person may construct a berm upon which to build a fence, hedge or wall unless the total height of the berm plus the fence does not exceed the maximum height allowable for the fence if the berm were not present.

B. No fence, hedge or wall shall be allowed to contain barbed, razor or other types of wire designed to cause injury to persons or animals except within the LI and GI zones.

Table 17.22.080

Zone Class	Maximum Height Front Setback	Maximum Height Rear and Side Setback
RSF-10, -5	42"	6'
RMF	42"	6'/
RMD	42"	6'
NC	42"~~6~~'	6'
GC	6'	/8'
RC	6'	/8'
LI	8'	8'
GI	8'	8'
OPEN		6'

17.22.090 Clearing and Grading

A. The purpose of this provision includes but is not limited to promoting health, safety and welfare by regulating the preconstruction clearance of vegetation and trees in order to preserve and protect natural vegetation; wetlands, watercourses and wildlife habitat; minimize erosion and sedimentation; minimize adverse effects on ground and surface waters; enhance the appearance and character of the city; and to comply with state and federal regulations.

B. The following clearing and grading activities require City review and approval through the issuance of a clearing and grading permit, building permit, or other permit(s) issued by the City, unless specifically exempted:

1. Land disturbing activities which are commonly referred to as:

   a. Clearing (the act of vegetation removal from the land surface by mechanical or chemical means),

   b. Grubbing (the act of root vegetation removal from beneath the surface of the earth - usually in association with clearing),

   c. Excavation (the mechanical removal of earth material),

   d. Filling (deposition of earth material placed by artificial means),

   e. Grading (excavation or filling or combination thereof),

   f. Compaction (densification of earth material by artificial means, including that associated with stabilization of structures and road construction),

   g. Stockpiling (temporary deposition of earth material placed by artificial means), and

   h. Stabilizing (counteracting the actions of gravity, wind, or water).

C. The following activities do not require a permit from the City, unless they involve an environmentally sensitive area, jurisdictional shoreline are, or required buffer:

1. Routine vegetation management that does not involve the use of heavy equipment such as bulldozers or excavators;

2. Routine yardwork maintenance and gardening activities such as lawn mowing and gardening;

3. The removal of diseased, damaged, or unwanted trees from an existing yard or landscaped area;

4. The excavation of less than 50 cubic yards of material over the life of a project;

5. The placement of less than 50 cubic yards of fill of the life of a project;

6. The storage or stockpiling of less than 50 cubic yards of material such as fill, gravel, sand, beauty bark etc.

D. For the applicable clearing and grading standards please refer to the Kelso Engineering and Design Manual as well as the International Building Code as adopted by the City of Kelso.

17.22.100 Landscaping.

A. The purpose of this Section is to improve the aesthetic quality of the built environment, encourage the retention and protection of existing vegetation, reduce the impacts of development on environmentally sensitive areas and the natural environment, enhance the value of current and future development, and increase privacy for residential zones by:

1. Providing for onsite landscaping in all multifamily and non-residential developments;

2. Providing vegetated screening between single family residential areas and adjoining land uses;

3. Providing visual relief of parking areas in the multifamily, commercial, and industrial zones;

4. Encouraging the retention of existing vegetation, tree stands and significant trees by incorporating them into the site design; and

5. Incorporating native vegetation, ~~and~~ drought-resistant plant material, and low impact development stormwater features into landscaping ~~new landscape developments~~, as appropriate.

B. A landscaping plan shall be required for all proposed development activities, including new construction, the expansion of existing structures, subdivisions, binding site plans, and master plans in accordance with the provisions of this Section, provided that:

1. The construction of a single family residence, duplex, triplex, or fourplex is exempt from the provisions of this Section.

2. In the event of a conflict between the requirements of the City's Shoreline Master Program or the regulations to protect environmentally sensitive areas (critical areas), and the provisions of this Section, the City may waive or modify the provisions of this Section.

3. In the event of a conflict between the requirements of the Downtown Design Review Overlay~~ Zone~~, the West Main Pedestrian Overlay, or the West Kelso Multifamily Design Standards~~Overlay Zone~~, and the provisions of this Section, the City may waive or modify the provisions of this Section.

4. The landscaping requirements and standards for parking lots may be found in the Kelso Engineering Design Manual.

5. The City may approve alternative methods or standards provided that they meet or exceed the required standards and are consistent with the intent of this Section.

6. The City may approve variances from the standards in this Section in accordance with the provisions of this Title. ~~KMC xx Variances.~~

C. All landscaping plans shall conform to the following general provisions:

1. All plans must be prepared or approved by a landscape architect licensed by the state of Washington, a Washington certified nursery professional, or a Washington certified landscaper, unless waived by the City.

2. The landscaping plan shall be submitted in a format prescribed by the City and may include:

   a. Property lines, easements, rights-of-way, and setbacks, streets and utilities within the subject property;

   b. Environmentally sensitive areas, jurisdictional shoreline areas, and required buffers;

   c. Existing and proposed grades of at least five-foot intervals;

   d. Location of all existing and proposed buildings, structures and improvements within the property;

~~d.~~c. Existing and proposed stormwater management features including low impact development features;

~~e.~~f. Existing vegetation and significant trees to be retained:

~~f.~~ A plant list for all proposed new planting delineating quantities, ~~scientific and~~ common names and sizes. ~~Names of plants are to follow current edition of the Hortus Third, A Concise Dictionary of Plants Cultivated in the U.S. and Canada; and sizes of plants are to follow the current edition of the American Standard for Nursery Stock, American Association of Nurserymen (AAN).~~

g. A planting plan specifying:

(1) Tree protection strategies;

(2) Vegetation clearing strategies;

(3) Topsoil protection and reuse strategies;

(4) Native soil amendment strategies;

(5) Planting times and physical limits of construction~~; and~~

(6) Areas that require temporary or permanent irrigation; and

~~(6)~~(7) Low Impact Development facilities.

3. Significant trees and mature landscaping are encouraged to be retained. If not retained, they should be replaced.

a. The retention of significant trees may contribute to meeting the low impact development requirements in the Kelso Engineering Design Manual.

4. Areas not devoted to landscape required by this Chapter, parking, structures and other site improvements are encouraged to be planted or remain in existing vegetation.

5. New plant materials shall include native species or nonnative species that have adapted to the climatic conditions of western Washington as adopted by the City.

6. New plant materials shall consist of drought-resistant species, except where site conditions within the required landscape areas assure adequate moisture for growth.

7. When the width of any landscape strip is twenty feet or greater, the required trees shall be staggered in two or more rows.

8. Existing vegetation may be used to augment new plantings to meet the standards of this Chapter.

9. Grass may be used as a ground cover where existing or amended soil conditions assure adequate moisture for growth.

10. Stormwater facilities such as retention/detention ponds and swales should be landscaped with water tolerant, native plants.

11. Low impact development stormwater features may be located in required setbacks and landscaping areas and may contribute to meeting the landscaping requirements.

~~11.~~12. Irrigation systems shall be required in all new landscape areas to assure the proper establishment of and continued growth of landscaping, unless it can be demonstrated to the satisfaction of the City that irrigation is not required.

D. Performance Assurance.

1. All required landscaping shall be installed and inspected by the City prior to the issuance of the Certificate of Occupancy. The Washington landscape architect, Washington certified nursery professional or Washington certified landscaper shall submit a landscaping declaration to the City to verify installation in accordance with the approved plans.

2. The time limit for compliance may be extended to allow installation of landscaping during the next appropriate planting season as approved by the City provided that a performance assurance device, for a period of not more than one year, will adequately protect the interests of the City. The performance assurance device shall be for one hundred fifty percent of the cost of the work or improvements covered by the assurance device. In no case may the property owner delay performance for more than one year.

   a. If the required landscaping is not installed prior to completion of the approved development activity a Temporary Certificate of Occupancy shall be issued and the final Certificate of Occupancy shall not be issued until the required landscaping has been installed and inspected by the City.

3. The City may require that the Project Sponsor provide a performance bond or another form of financial guarantee to ensure that required landscaping is properly installed, will become established, and be adequately maintained for at least two years after planting. The form and type of the performance assurance device shall be determined by the City.

4. All required maintenance shall be maintained by the property owner on an ongoing basis. Failure to maintain landscaping may result in a code violation.

a. The property owner shall replace any unhealthy or dead plant materials in conformance with the approved planting plan.

b. Landscape areas shall be kept free of trash.

c. All plant material shall be managed by pruning so that plant growth does not conflict with public utilities, restrict pedestrian or vehicular access, or create a traffic hazard.

E. Landscaped Area Requirements. All development activities including new construction, the modification of existing structures, subdivisions, binding site plans, and master plans must provide at least the following amount of onsite landscaped areas (including required landscaping in parking lots), unless otherwise provided in this Section:

1. Residential Multifamily Zone (RMF): ~~2~~30% of the lot(s);

2. Commercial Zones (NC, GC, RC) (excluding the Downtown Design Review Overlay): ~~1~~20% of the lot(s); and

3. Industrial Zones (LI, GI):15% of the lot(s).

F. Onsite Landscaping Requirements. A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, unless otherwise specified above. The selection plantings shall be based on local climate, exposure, water availability, and drainage conditions, and non-native, invasive plants shall be prohibited.

1. Deciduous trees shall have a caliper size of 2 inches or greater, or be at least 10 feet tall at time of planting.

2. Evergreen trees shall be at least 6 feet tall at time of planting and have a low-branching habit with dense foliage.

3. Shrubs or perennials shall be planted from 2 gallon containers or larger, and be at least 12" tall at time of planting. Perennials may be planted from 1 gallon containers if 2 gallon containers are not available.

4. Plant groundcovers and bark mulch, chips, aggregate, or other non-plant ground covers are encouraged to be used around trees and shrubs in landscaped areas.

G. Perimeter Landscaping Buffer Requirements. In addition to the onsite landscaping requirements, all development activities including new construction, the modification of existing structures, subdivisions, binding site plans, and master plans in the Multifamily Residential Zone (RMF), the Commercial Zones (NC, GC, RC)(excluding the Downtown Design Review Overlay) and the Industrial Zones (LI and GI) shall also provide an additional landscaped buffer along any property lines abutting a Single Family Residential Zone (RSF-5/10 or RMD) in accordance with the following provisions:

1. A minimum width of 20 feet; and

2. The buffer shall contain at least one (1) evergreen tree and ten (10) shrubs which are predominantly evergreen, but may include some deciduous shrubs, distributed per 25 linear feet.

    a. The evergreen trees shall be at least six feet at the time of planting;

    b. Deciduous trees shall have a caliper of at least two inches at the time of planting;

    c. At least twenty percent of the trees shall be native species and drought-resistant; and

    d. Evergreen shrubs at least twenty-one inches in height at the time of planting, spaced no more than three feet on center, to achieve minimum four feet height at maturity.

17.22.110 Parking. Project Sponsors must make adequate provisions to meet the projected parking needs associated with all new development activities including the construction of new buildings, the expansion of existing buildings, changes of use, and/or changes to the terms and conditions of occupancy such as enlarging, moving or increasing capacity by creating or adding dwelling units, commercial or industrial floor space, or seating facilities.

A. General Requirements.

1. Driveways, parking areas, and walkways shall be designed in accordance with the provisions of the Kelso Engineering Design Manual and shall accommodate pedestrians, motor vehicles and bicycles used by occupants or visitors of a building or use.

    a. Please note that there are special parking requirements in the Downtown Design Review Overlay ~~Zone~~ (KMC 17.22.xxx), the West Main Pedestrian Overlay, and the West Kelso Multifamily Design Standards. ~~Overlay Zone (17.22.yyy).~~

2. No building permit shall be issued until the City has approved plans that demonstrates that all parking requirements can be met.

    a. No final Certificate of Occupancy shall be issued until all required parking is in place in accordance with City standards and the conditions of permit approval.

3. Existing parking deficits of legally established uses assigned to existing structures shall be allowed to continue even if a change of use occurs; provided, that in the judgment of the City the new use would not necessitate more parking spaces than the previous use.

4. Parking spaces serving residential dwelling units shall be located on the same lot with the building they serve, unless plans are submitted for off-site or shared parking are approved by the City.

5. All required parking in the NC, GC, and RC zones shall be provided on-site unless:

    a. A shared parking agreement has been approved by the City; or

    b. A voluntary in lieu of payment to provide the required parking in a public or cooperative parking facility has been approved by the City; and/or

    c. A determination has been made by the City that adequate on-street parking exists to reasonably serve the new development.

6. All parking in the LI and GI zones shall be provided on-site.

7. Parking Exceptions for Historic Structures. When a change in use within a historic structure would necessitate additional off-street parking, the additional off-street parking may be reduced or waived by the City, based on a finding that the reduction or waiver is necessary to preserve the historic character of the building or site. The Applicant shall be required to show the need for a reduction or waiver and shall be the minimum necessary.

B. Spaces Required.

1. All parking lots shall comply with the minimum requirements for handicapped parking spaces, as required by Washington state regulations related to barrier-free facilities.

2. New residential developments shall provide the following off-street parking in accordance with the provisions of this Section:

    a. Single family: 2 approved parking spaces per unit:

    b. Multifamily: 1.5 approved parking spaces per unit, provided that this may be reduced for projects of 20 or more units through a variance based on the results of a parking study documenting how parking requirements can be met onsite;

    c. Mixed-use: 1 approved parking space per unit; and

    d. Accessory dwelling unit: 1 approved parking space per unit.

3. For all non-residential uses or for special cases involving new residential developments, the required minimum parking amount shall be determined by the City. For determination by the City, the Applicant shall supply:

a. Documentation regarding actual parking demand for the proposed use; or

b. Technical studies relating the parking need for the proposed use; or

d. Required parking for the proposed use as determined by other comparable jurisdictions.

17.22.120 Stormwater Management.

A. The City is required to manage stormwater runoff in accordance with the provisions of federal and state law and a National Pollutant Discharge Elimination System Permit. As a result, the City has established a stormwater utility, adopted the Stormwater Manual for Western Washington prepared by the Washington State Department of Ecology, adopted local stormwater standards, and encourages the implementation of low impact design features.

1. For the applicable stormwater standards and requirements please refer to the Kelso Engineering Design Manual

17.22.130 {Open}

17.22.140 {Open}

17.22.150 Airport Safety Overlay.

A. Applicability. The boundaries of the Airport Overlay (AO) are shown on the Official Zoning Map.

1. The Southwest Washington Regional Airport Master Plan, as adopted by the City, is a resource document that may be helpful reference source when reviewing these standards. In the event of a conflict between these provisions and the Master Plan, these provisions shall prevail unless otherwise determined by the City.

2. The City may approve alternative methods that meet or exceed these standards that are consistent with the provisions of the Southwest Washington Regional Airport Master Plan, as adopted by the City.

B. The Airport Safety Overlay applies to the area adjacent to and surrounding the Southwest Washington Regional Airport with any and all additions thereto and extensions thereof, and established as within the boundaries of the zone described as:

1. Horizontal Surface. A horizontal plane one hundred sixty-seven feet above mean sea level, the perimeter of which is constructed by swinging arcs of ten thousand feet radii from the center of each end of the ultimate primary surface (five hundred feet by five thousand seven hundred thirty feet) and connecting the adjacent arcs by lines tangent to those arcs.

2. Conical Surface. A horizontal plane extending from one hundred sixty-seven feet above mean sea level at a slope of twenty to one a distance of four thousand feet, from the outer perimeter of the horizontal surface to an elevation of three hundred sixty-seven feet above mean sea level, the perimeter of which is constructed by swinging arcs of fourteen thousand feet radii from the center of each end of the ultimate primary surface (five hundred feet by five thousand seven hundred thirty feet) and connecting the adjacent arcs by lines tangent to those arcs.

3. Approach Surfaces. A horizontal plane longitudinally centered on the extended runway centerline commencing at the end of the primary surface of Runway End 11, and extending for a horizontal distance of five thousand one hundred feet at a slope of thirty-four to one to a final width of two thousand thirty feet at the interception of the horizontal surface; and a horizontal plane longitudinally centered on the extended runway centerline commencing at the end of the primary surface of Runway End 29, and extending for a horizontal distance of three thousand feet at a slope of twenty to one to a final width of one thousand feet at the interception of the horizontal surface.

4. Transitional Surfaces. These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of twenty to one from the sides of the primary surface and from the sides of the approach surfaces until intersecting the horizontal surface.

C. In the Airport Overlay the following shall be subject to special regulations or controls:

1. The height of structures and objects of natural growth;

2. Conditions or activities that may cause electronic interference with air navigation communication systems;

3. Lights that may interfere with the airport lighting system;

4. Conditions or activities that produce levels of smoke, dust or glare that would interfere with the safety of airport operations;

5. Conditions or activities that would create congregations of birds, which would create a hazard for operating aircraft.

D. Specifically, the following controls shall apply:

1. No building, pipe, chimney, steeple, stand, platform, pole, wire or erected manmade structures or object of natural growth, or obstruction of any kind or nature whatsoever, shall be built, placed, hung or permitted to grow or allowed to be built, placed or hung which shall at any point or part thereof exceed the height limits as determined by applying the geometry as set forth in the horizontal and conical approach and transitional surfaces as stated in ~~subsection B of~~ this section.

2. No searchlights, beacon lights or other glaring lights that can be seen from overhead shall be used, maintained or operated within one-half mile of the airport as measured in all compass directions from the respective outer edge of airport property.

3. No use shall locate within the airport zone that will generate electromagnetic radiation that will cause interference between overhead aircraft and the ground control tower.

4. Any land use or activity that produces smoke or haze to a degree that would interfere with normal aircraft operations shall not locate within the airport zone.

5. Any land use or activity that may produce bird strike hazards in the air spaces identified in ~~subsections B1 through 4 of~~ this Section is prohibited.

6. No structure or obstruction shall be rebuilt, repaired or replaced where such repairing, rebuilding or replacement constitutes a major or extensive alteration of any structure or obstruction, except in compliance with the provisions of this Title.

17.22.160 Adult Oriented Business Overlay. Sexually oriented businesses and marijuana retail businesses may only locate within the adult oriented business overlay.

A. Sexually Oriented Business Restrictions.

1. For the reasons stated in the recitals in the ordinance codified in this chapter, a person shall not use any property or premises for a sexually oriented business within the city except and only subject to all regulations, conditions, and within such geographical locations as are enumerated in the ordinance codified in this chapter.

2. No sexually oriented business shall locate within a distance of six hundred feet of an existing youth-oriented business or activity. Such distance shall be measured in a straight line from the nearest property line of the existing youth-oriented business to the nearest property line of the site upon which the proposed sexually oriented business proposes to locate.

3. Regulated Uses. The following sexually oriented businesses and marijuana retail businesses as defined in this Title are subject to the provisions and regulations contained in this Chapter:

   a. Adult arcade;

   b. Adult bookstore, adult novelty store or adult video store;

   c. Adult cabaret;

   d. Adult motion picture theater;

e. Adult theater;

f. Nude/semi-nude model studio;

g. Adult motels/hotels; and

h. Marijuana retailer.

4. Adult Bookstores Not Incorporating Arcade Uses—Requirements. Adult bookstores, adult novelty stores or adult video stores not including or incorporating into the business conduct those activities described in the definition of adult arcade may locate or continue to operate within commercial zones of the city, as well as the adult oriented business overlay; provided, however, such businesses locating within a commercial zone shall be subject to the following additional requirements: No building or structure used for an adult bookstore, adult novelty store or adult video store as defined in this title shall locate closer than one thousand two hundred feet from any other building or structure used for such purpose, nor shall such a business locate within six hundred feet of an existing church or school building, as measured in all compass directions from the exterior wall of the existing building to the closest property line of the subject building.

5. Building Facades. All sexually oriented business building facades, exteriors, and exits must be indistinguishable from surrounding buildings; illustrations depicting partially or totally nude males and/or females shall not be posted or painted on any exterior wall of a building used for a sexually oriented business, or on any door or apparatus attached to such building.

~~6. Signs for sexually oriented businesses shall be permitted as allowed in accordance with Chapter 17.62.~~

~~7.~~6.Parking and Lighting Regulations for Sexually Oriented Businesses. On-site parking shall be required and regulated in accordance with the general requirements of this Title. ~~Section 17.40.060,~~ and in addition shall meet the following requirements:

a. All on-site parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk until one hour past closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. An on-premises exterior lighting plan shall be presented to the ~~c~~City ~~building department~~ for approval prior to the operation of any sexually oriented business.

b. All parking must be visible from the fronting street. Access to the exterior rear of the building shall be denied to any persons other than employees and public officials during the performance of their respective duties and tasks by means of a fence, wall or other device as approved by the ~~c~~City ~~building department~~.

~~e.~~ Number of Permitted Uses per Structure. There shall be no more than one sexually oriented business operating in the same building, structure or portion thereof. ~~In addition, there shall be no other nonsexually oriented business operating in the same building, structure or portion thereof in which a sexually oriented business is currently operating.~~

~~8. Marijuana Retail Business Restrictions. In addition to the zoning restrictions set forth in this section, any marijuana retail business or land use shall further comply with Chapter 17.22.040 and all other applicable requirements of the Kelso Municipal Code.~~

17.22.170 State Licensed Marijuana Production, Processing, and Sales. ~~The purpose of this Section is to establish where marijuana producers, processors and retail outlets may locate in the city, and to describe the restrictions upon such uses.~~

A. The production, processing and retailing of marijuana remains illegal under federal law. The purpose of this chapter is solely to acknowledge the enactment by Washington voters of Initiative 502 and Initiative 692 and a state licensing procedure; and to permit, but only to the extent required by state law, marijuana producers, processors, and retailers to operate in designated zones of the city. No part of this Section is intended to or shall be deemed to conflict with federal law, in accordance with U.S. Department of Justice enforcement guidelines, including but not limited to the Controlled Substances Act, 21 USC Section 800 et seq. and the Uniform Controlled Substances Act (Chapter 69.50 RCW), nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. Nothing in this Section shall be construed to supersede Washington State law prohibiting the acquisition, possession, manufacture, sale or use of marijuana in any manner not authorized by Chapter 69.50 or 69.51A RCW. Nothing in this Section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this Section be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

B. Marijuana retail sales may only be permitted in the Adult Oriented Business Overlay.

~~B.~~C. No marijuana producer, processor or retailer may be located within one thousand feet, as measured by the shortest straight line distance from the property line of the licensed premises to the property line, of any of the following:

1. Elementary or secondary school;

2. Playground;

3. Recreation center or facility;

4. Child care center;

5. Public park;

6. Public transit center;

7. Library; or

8. Any game arcade (where admission is not restricted to persons age twenty-one or older).

~~C.~~D. No marijuana producer, processor or retail sales facility ~~-~~may locate within two hundred fifty feet, as measured by the shortest straight line distance from the property line of the licensed premises to the property line, of any of the following:

1. Any residential zone.

2. Any mobile home or RV park.

D. ~~No marijuana producer, processor or retail outlet may locate within any residential unit in the city and such uses are expressly prohibited in all zones except those specifically designated in this Section.~~ A valid, current license is required from the Washington State Liquor and Cannabis Board for operation of any recreational marijuana producer, processor or retail outlet.

E. A business license is required from the City for operation of any marijuana producer, processor or retailer.

F. All marijuana grow operations shall be located indoors. Outdoor grow operations are prohibited.

G. All signage and advertising for a recreational marijuana processor, producer or retailer shall comply with the applicable provisions of this code, the sign code, zoning code and WAC 314-55-155 (and all applicable rules for city, state, and federal regulations).

H. Security measures at all licensed premises shall comply with the requirements of WAC 314-55-083 (and all applicable rules for city, state and federal regulations).

I. All licensees and any agent, manager or employee thereof shall immediately report to the city police department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed and permitted premises, including, but not limited to, any unlawful resale of marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.

J. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign with a minimum height of fourteen inches and a minimum width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

WARNING:
The City of Kelso Police Department must be notified of all disorderly acts, conduct or disturbances and all unlawful activities which occur on or within the premises of this licensed establishment.

~~It shall not be a defense to a prosecution of a civil infraction under this section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed~~.

K. ~~The production, procession, and sales of marijuana for medical purposes shall only be permitted in state licensed facilities, medical cooperatives and collective gardens are expressly prohibited.~~

L. No use that constitutes or purports to be a marijuana producer, marijuana processor, marijuana retailer, or collective garden, as those terms are defined in this Title, that was engaged in that activity prior to the enactment of this Chapter shall be deemed to have been a legally established use under the provisions of the Kelso Municipal Code, and that use shall not be entitled to claim legal nonconforming status.

~~M. Violations of this chapter including the sign code or zoning code shall result in a Class 1 civil infraction as defined by RCW 7.80.120, with each day of violation being a separate infraction. The City may enforce this section pursuant to Chapter 7.80 RCW. For violations of WAC 314-55-155 and 314-55-525, the City may report the violation to the Washington State Liquor and Cannabis Board.~~

~~N. In addition to any other applicable remedy and/or penalty, any violation of this chapter is declared to be a public nuisance per se, and may be abated by the City under the applicable provisions of the Kelso Municipal Code or state law.~~

~~O. Nothing in this chapter shall be construed as a limitation on the City's authority to abate any violation which may exist from the cultivation of marijuana from any location, including from within a fully enclosed and secure building.~~

17.22.180 Downtown Design Review Overlay.

A. Applicability. The purpose of this overlay is to promote development activities that are consistent with the historic character of downtown Kelso. This includes design guidelines

for new construction and substantial alterations of existing structures as well as restriction on certain ground floor uses on Pacific Avenue between Oak and Maple Streets.

1. No permit or approval for the construction of any new building~~,~~ or the substantial alteration of the exterior appearance of any structure ~~or the installation of any sign~~ in the Downtown Design Guidelines Overlay shall be issued unless a Certificate of Design Review has been issued by the City. The substantial alteration of the exterior appearance of an existing structure includes the alteration, addition to or modification of the primary and/or secondary facade of the subject structure, which fundamentally alters the facade.

2. Minor alterations, emergency repairs, ordinary maintenance and repairs, interior remodeling or decorations are exempt from the requirements of this overlay.

3. The City of Kelso Design Review Handbook is a resource document that may be helpful reference source when reviewing these standards. In the event of a conflict between these provisions and the Design Manual, these provisions shall prevail unless otherwise determined by the City.

4. The City may approve alternative methods that meet or exceed these standards that are consistent with the provisions of the Design Review Handbook.

5. Project Sponsors are encouraged to schedule a pre-application meeting with Department of Community Development staff to discuss the applicability of these standards.

6. The decision of the City shall be binding on the applicant and compliance with such decision is mandatory.

B. Projects within the downtown design overlay shall be subject to the following design guidelines:

1. Civic Spaces.

a. Sidewalks shall be designed to function as public open spaces bordered by buildings, in addition to facilitating pedestrian movement. Buildings shall be designed to enhance the pedestrian experience through the use of such features as building articulation (i.e., variations in building materials, surface texture, windows, doors, porches and other facade features), landscaping, lighting and signage without encumbering the efficient movement and parking of vehicles. Where feasible, a project application should consider relocation of overhead utilities underground.

(1) Buildings shall enhance the pedestrian streetscape by being designed with interesting facades and providing overhead weather protection.

b. Development at street intersections shall enhance intersections in ways that extend beyond functional needs through the location of building entries and the incorporation of building details, street lighting, landscaping and signage which respect and conform to the character of existing structures at the intersection.

2. Buildings.

a. New construction shall preserve and continue the traditional block development pattern of the city by creating buildings that follow in scale and proportion the traditional modularity of existing block faces with buildings constructed to street property lines and main pedestrian access to the building is from the street. New development and redevelopment shall be designed with the same scale and proportions as would be found within the traditional block pattern with buildings constructed to the property line and with pedestrian access from the street.

b. New structures built between or among existing structures shall reflect the principles of design of the surrounding buildings in proportion, composition and detail. New buildings shall be designed to reflect turn of the century (1900) western commercial structures typical to Kelso. To accomplish these goals, building designs shall adhere to the following:

(1) Proportions of the facade shall be similar to those of historic turn of the century buildings;

(2) Existing cornice lines shall be continued;

(3) Storefronts shall be aligned; and

(4) Windows, storefronts and other openings shall be in the same proportions as those of adjacent buildings both on upper and ground floor levels.

c. In circumstances where there are no appropriate structures to establish a context, buildings shall incorporate the design elements found in turn of the century (1900) western commercial buildings typically constructed in Kelso. This may include the following features:

(1) Tripartite design, i.e. the building has a distinct base, middle, and top, as depicted in the Design Review Handbook;

(2) Buildings capped with a strong cornice line; and

~~(2)~~(3) Building detailing that is a central element to the overall design.

d. Designs that incorporate artificial or synthetic decorative detail to replicate historic precedent are discouraged, while designs that utilize traditional materials

and craftsmanship to create the same quality and detail as historic buildings are encouraged.

3. Architectural Elements and Materials.

a. Building design elements, details and massing shall create a well-proportioned and unified building form and exhibit an overall architectural concept. Buildings shall exhibit form and features identifying the functions within the building. In general, the roofline or top of the structure shall be clearly distinguished from its facade walls.

(1) Architectural features may include:

(a) Building articulation or modulation;

(b) Bay windows;

(c) Rooflines, particularly a strong cornice line to cap the building;

(d) Building entrances; or

(e) Building base.

(2) Architectural details may include the following:

(a) Treatment of masonry;

(b) Treatment of siding;

(c) Articulation of columns;

(d) Architectural lighting;

(e) Detailed grilles and railings; or

~~(a)~~(f) Special trim details and moldings.

b. The design of new buildings shall incorporate architectural features, elements and details to achieve a good human scale.

(1) The following are examples of building elements that may be used to achieve a better human scale:

1. Pedestrian weather protection in the form of canopies, awnings, arcades, marquees or other elements which are wide enough to protect at least one person;

2. Covered entrances;

3. Upper story setbacks;

4. Pedestrian lighting;

5. Multi-pane windows, glazed with transparent, not reflective glass;

6. Bay windows extending out from the building face that reflect an internal space such as a room or an alcove; or

7. Individual windows in upper stories that are approximately the size and proportion of a traditional window and are separated from adjacent windows by a vertical element.

c. Building exteriors shall be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

(1) Materials typical to the City of Kelso and turn of the century western commercial buildings include:

a. Brick;

b. Stone or other masonry material;

c. Wood siding; and stucco.

d. Buildings shall avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, they shall receive design treatment to increase pedestrian comfort and interest.

(1) The following are some examples of techniques for treating blank walls:

(a) Install a vertical trellis in front of a wall with climbing vines or plant materials;

(b) Set the wall back and provide a landscaped or raised planter bed in front of the wall, which includes materials that could grow to obscure or screen the wall's surface;

(c) Provide art, e.g. a mosaic, mural, decorative masonry pattern, sculpture, or relief, over a substantial portion of the blank wall surface;

(d) Employ different textures, colors, materials, moor modulations, or columns to break up the surface of the wall;

(e) Provide special lighting, a canopy, awning, horizontal trellis or other pedestrian oriented feature that breaks up the size of the blank wall's surface and adds visual interest.

e. ~~In addition to the sign standards outlined in Chapter 17.62, signage within the design guidelines overlay shall be patterned after the signage of the era as indicated in the design review handbook. If there is a contradiction between Chapter 17.62 and the Design Review Handbook, the handbook shall determine the required standard.~~

4. Parking and Access.

a. Entries shall be clearly identifiable and visible from the street.

(1) The following are some examples of techniques used to enhance the visibility of entrances:

(a) Differentiate the canopy or marquee over a building entrance from the canopy or other overhead weather protection along the street;

(b) Frame the entrance with unique but complimentary architectural details;

(c) Provide clear entries off the street, not just from parking lots; and/or

~~(a)~~(d) Clear paths using building and landscape elements to enhance building entries that are not on the street. A corner entrance element such as a trellis or pergola can serve as a gateway into the complex even though the actual building is not on the corner.

b. Siting shall minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety. Off-street parking areas on a commercial street front shall be minimized and where possible shall be located behind or under a building or in a shared parking facility.

c. Building sites shall locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front where possible. When elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they shall be situated and screened from view and shall not be located in the pedestrian right-of-way.

(1) The following examples illustrate considerations to address in locating and screening service areas and utilities:

(a) Locate the feature in a less visible location on the site;

(b) Screen it to be less visible-utility meters can be located behind a screen wall so that it is not visible from the building entrance;

(c) Use durable materials that complement the building;

(d) Incorporate landscaping to make the screen more effective; and

(e) Locate the opening to an area away from the sidewalk.

C. Please note that the certain land uses are not permitted on the ground floor of buildings on Pacific Avenue between Oak and Maple Streets. These restrictions are identified by a footnote under the General Commercial column in the Table of Permitted Uses. Please contact the City ~~Planning~~ Department of Community Development for more details.

17.22.190 West Main Pedestrian Overlay. The purpose of the West Main Pedestrian Overlay is to support high-quality pedestrian oriented design elements along West Main Street in the West Kelso Neighborhood. Active first floor non-residential uses are required along the street while allowing for a mix of uses on the upper floors. Pedestrian oriented design elements include transparent first floor storefronts, overhead weather protection, building width and articulation requirements, pedestrian amenities, reduced off-street parking requirements, and zero or minimal building setbacks. The intent of this zone is to require pedestrian-oriented design while allowing for creativity in the design of sites, buildings, and pedestrian space.

A. Applicability. The boundaries of the West Main Pedestrian Overlay (WMPO) are centered on West Main Street between Cowlitz Way West and 1st Avenue in West Kelso as shown on the Official Zoning Map.

1. The West Kelso Subarea Plan is a resource document that may be helpful reference source when reviewing these standards. In the event of a conflict between these provisions and the Subarea Plan, these provisions shall prevail unless otherwise determined by the City.

2. The City may approve alternative methods that meet or exceed these standards that are consistent with the provisions of the West Kelso Subarea Plan.

3. Project Sponsors are encouraged to schedule a pre-application meeting with Department of Community Development staff to discuss the applicability of these standards.

B. Design Review Required.

1. The construction of any new building, the substantial alteration of the exterior appearance of any structure, or the installation of any sign in the West Main Pedestrian Overlay must comply with the standards of this Section.

a. The substantial alteration of the exterior appearance of an existing structure includes the alteration, addition to or modification of the primary and/or secondary facade of the subject structure, which fundamentally alters the facade.

2. Minor alterations, emergency repairs, ordinary maintenance and repairs, interior remodeling or decorations as determined by the City, are exempt from the requirements of this pedestrian overlay ~~district~~.

C. Proposed developments within the West Main Pedestrian Overlay shall be subject to the following standards:

1. Civic Spaces.

a. Sidewalks shall be designed to function as public open spaces bordered by buildings, in addition to facilitating pedestrian movement. Buildings shall be designed to enhance the pedestrian experience through the use of such features as building articulation (i.e., variations in building materials, surface texture, windows, doors, porches and other facade features), landscaping, lighting and signage without encumbering the efficient movement and parking of vehicles. Where feasible, a project application should include relocation of overhead utilities underground.

b. Development at street intersections shall enhance intersections in ways that extend beyond functional needs through the location of building entries and the incorporation of building details, street lighting, landscaping and signage which respect and conform to the character of existing structures at the intersection.

2. Buildings.

a. New construction shall preserve and continue the traditional block development pattern of the city by creating buildings that follow in scale and proportion the traditional modularity of existing block faces with buildings constructed to street property lines and main pedestrian access to the building is from the street. New development and redevelopment shall be designed with the same scale and proportions as would be found within the traditional block pattern with buildings constructed to the property line and with pedestrian access from the street.

3. Architectural Elements and Materials.

a. Building design elements, details and massing shall create a well-proportioned and unified building form and exhibit an overall architectural concept. Buildings shall exhibit form and features identifying the functions within the building. In general, the roofline or top of the structure shall be clearly distinguished from its facade walls.

b. The design of new buildings shall incorporate architectural features, elements and details to achieve a good human scale.

c. Building exteriors shall be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

d. Buildings shall avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, they shall receive design treatment to increase pedestrian comfort and interest.

e. A minimum of 60% of the first floor shall be transparent between 30" and 12'.

f. Provide weather protection at least 5' deep along 80% of the façade facing the street.

g. The primary building entrance shall be from West Main Street or Catlin Street for those properties that do not have street frontage on West Main Street.

4. Parking and Access.

a. Entries shall be clearly identifiable and visible from the street.

b. Siting shall minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety. Off-street parking areas on a commercial street front shall be minimized and where possible shall be located behind or under a building.

c. Building sites shall locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front where possible. When elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they shall be situated and screened from view and shall not be located in the pedestrian right-of-way.

d. Off-Street Parking and Access. The off-street parking standards contained herein supersede the parking requirements in KMC 17.40.060 within the WMPOD.

(1) One space per residential unit shall be provided unless reduced by the City based on a site-specific parking analysis or other information to support approval of a parking reduction.

(2) Shared parking may be approved between any properties within or adjacent to the WMPOD. Project Sponsors must submit for City review and approval a written agreement between the parties documenting the amount, location, and term of the shared parking. If the shared parking agreement is terminated, additional parking must be provided and approved by the City within 30-days.

(3) The City may approve a shared parking reduction for on or off-site parking based on a site specific parking analysis demonstrating that the combined land uses can be accommodated with reduced off-street parking based on different peak periods of usage. There is no limit to the potential shared parking reduction.

(4) Parking Access. Where feasible access to parking lots shall be from side streets and not directly from West Main Street or Catlin Street within the WMPD. Shared access to abutting properties is encouraged.

(5) Parking shall be located behind the building. If not feasible to locate the parking behind the building the parking shall be located to the side of the building and shall be no wider than 65' at the street fronting on West Main Street. Parking lots may front on side streets if located behind a building that fronts on West Main Street or Catlin Street within the WMPD.

(6) Existing parking deficits of legally established uses assigned to existing structures shall be allowed to continue even if a change of use occurs; provided, that in the judgment of the City the new use would not necessitate more parking spaces than the previous use.

(7) Parking Exceptions for Historic Structures. When a change in use within a historic structure would necessitate additional off-street parking, the additional off-street parking may be reduced or waived through administrative review. The applicant shall be required to show the need for a reduction or waiver and shall be the minimum necessary.

(8) New parking spaces will not be required for additions to existing buildings that are less than twenty-five percent of the existing floor area and less than one thousand square feet. This exception to the parking requirement may be utilized only once per property and does not apply to additions or remodeling for the purpose of adding residential units.

17.22.200 West Kelso Overlay.

A. The following design standards shall apply to all new multifamily developments in the West Kelso Overlay.

1. The West Kelso Subarea Plan is a resource document that may be helpful reference source when reviewing these standards. In the event of a conflict between these provisions and the Subarea Plan, these provisions shall prevail unless otherwise determined by the City.

2. The City may approve alternative methods that meet or exceed these standards that are consistent with the provisions of the West Kelso Subarea Plan.

3. Project Sponsors are encouraged to schedule a pre-application meeting with Department of Community Development staff to discuss the applicability of these standards.

B. Site design.

1. Orient the building to the street or an internal courtyard that has direct physical access to the street:

   a. The main entry shall face the street or internal courtyard.

   b. Provide weather protection over building entries: 5' deep minimum for shared entries and 30" deep minimum for private entries.

   c. Provide transparent windows facing the street (at least 10% of the façade).

   d. Provide a paved walkway between the building entry and the street.

2. Place parking to the side or rear of the building (no more than 50% of street/block frontage to be parking or vehicular access)

3. Provide landscaping (shrubs and trees) to screen foundation walls, soften the view of the building, and provide a transition between the street and building

4. Provide at least 150 sf per residential unit of usable open space for residents, including some or all of the following features:

   a. Private balconies;

   b. Shared internal courtyards and/or rear yard space, with easy access to the space from adjacent units and site amenities to encourage use (i.e., seating areas, bbq grill, community gardening area, planters with sitting ledges);

   c. Shared front porch area; and/or

   d. Shared rooftop deck

5. Locate and design service elements, utility meters, and mechanical equipment to minimize negative visual, noise, odor, and physical impacts to the street environment, adjacent (on and off-site) residents or other uses, and pedestrian areas.

C. Building Design

1. Façade articulation: Include articulation features at intervals that relate to the location/size of individual units within the building (or no more than every 30 feet) to

break up the massing of the building and add visual interest and compatibility to the surrounding context. At least three of the following features shall be employed at intervals no greater than the unit interval or 30 feet (whichever is less).

a. Use of windows and/or entries;

b. Change in roofline (i.e., use of gables);

c. Change in building material, siding style, and/or window fenestration pattern;

d. Providing vertical building modulation of at least 12 inches in depth if tied to a change in roofline modulation or a change in building material, siding style, or color. Balconies may be used to qualify for this option if they are recessed or projected from the façade by at least 18 inches. Juliet balconies or other balconies that appear to be tacked on to the façade will not qualify for this option unless they employ high quality materials and effectively meet the intent of the standards;

e. Vertical elements such as a trellis with plants, green wall, art element;

f. Other design techniques that effectively break up the massing at no more than 30-foot intervals.

2. Window design. Buildings shall employ techniques to recess or project individual windows on the façade at least two inches from the façade or incorporate window trim at least four inches in width that features color that contrasts with the base building color.

17.22.210 Signs

A. Purpose. The purposes of this Section are to:

1. To protect the public health, safety and welfare;

2. To minimize adverse visual safety factors to travelers on public roadways and private areas open to public vehicular traffic;

3. To provide for the safe construction, location, erection and maintenance of signs;

4. To maintain or improve the aesthetic quality of the City's residential, commercial and industrial environments;

5. To encourage the effective use of signs as a means of communication in the city;

6. To protect property values;

7. To provide aesthetic benefits to business districts and the community at large through consistency in style, placement, and scale of signs with buildings, natural settings and other signs;

8. To maintain the City's ability to attract sources of beneficial economic development and growth;

9. To minimize possible adverse effects of signs on abutting or adjacent public and private properties;

10. To prevent the proliferation of signs and sign clutter;

11. To provide for constitutionally protected forms of free speech and to comply with state and federal laws and court decisions; and

~~b.~~

12. To provide for sign-related administration, permitting, fees payment, enforcement and appeal on a fair and consistent basis.

B. Applicability.

1. This Section applies to all signs ~~as defined in Section 17.06.020 (__),~~ within the City which are visible from any street, sidewalk, or public place, regardless of the type or nature.

2. This Section is not intended to, and shall not be interpreted to, restrict speech on the basis of its content, viewpoint, or message. Any classification of signs in this Section which purports to permit speech by reason of the type of sign, identity of the sign user or otherwise, shall be interpreted to allow commercial or non-commercial speech on the sign. No part of this Section shall be construed to favor commercial speech over non-commercial speech. To the extent that any provision of this Section is ambiguous, the term shall be interpreted not to regulate speech on the basis of the content of the message.

C. Sign Permit.

1. Permit Required. No person shall erect, alter, or relocate any sign requiring a permit under this Section without first submitting a sign permit application and receiving approval of the sign permit from the City, in accordance with the provisions of this Title. ~~Section ___ for Class 1 permits,~~ unless the sign is determined to be exempt and a permit is not required. ~~identified as exempt under Section ___.~~

   a. Some sign types may be regulated under other codes adopted by the City, which may contain additional permits that are subject to additional regulations.

   b. Signs for which permits are not required shall nonetheless comply with all applicable provisions of this Section.

~~A. Application Submittals. A complete sign application shall consist of:~~

~~a. A complete sign permit application~~

~~b. A complete building permit application, if required under the City's Building Code; a complete right of way use application or special event permit application or temporary use permit if required under Chapter~~Section~~ ___.~~

~~c. A building application/site plan.~~

~~d. A description and sealed installation drawing of the sign that includes description, materials, size, weight, manner of construction and method of attachment and lighting.~~

~~e. Payment of appropriate sign permit fee and other required permit fees. .~~

D. Exemptions. The following signs are exempt from the permitting requirements of this Section. The City recommends consulting with the City Department of Community Development to confirm that a sign is exempt and a permit is not required before installing or displaying any of the following signs:

1. Changes to the face or copy of changeable copy signs, digital signs, and electronic messaging signs, provided such changes do not change the material appearance of the sign as originally permitted by the City;

2. Normal repair and maintenance of conforming and legal nonconforming signs;

   ~~A. Temporary signs on private or public property meeting the requirements of Section ___ (Temporary Signs)~~;

3. Legal notices, postings, or similar sign placed by or required by a governmental

agency carrying out its responsibility to protect the public health, safety, and general welfare;

~~B.~~4. Signs required by law, including the Americans with Disabilities Act;

~~C.~~5. Signs owned and maintained by a federal, state, or local government agency including but not limited to, street and highway signs, signs necessary to protect the public health and safety, directional and wayfinding signs, and/or public information signs;

~~D.~~6. Approved interpretative signs and historic markers;

~~4.~~7. Stone or cement plaques and cornerstones with engraved or cast text or symbols and permanently embedded in the building's foundation or masonry~~, provided that none of these exceed [four square feet] in area,~~ and signs integral to a historic site or building;

9. Building address numbers;

10. National flags, or flags of political subdivisions;

11. Privately maintained traffic control signs on private roads or property;

12. Signs necessary to the expression of constitutionally protected forms of free speech as determined by the City Attorney;

13. Newspaper and advertising circular dispensers located in the right-of-way (sidewalks) provided that they do not obstruct pedestrians, impede access to buildings, or adversely affect the public safety, and they are well maintained at all times;

14. Signs attached to benches or furniture that are less than one (1) square foot in area per bench;

15. Interior signs. Signs or displays located entirely inside of a building and located at least three (3) feet from transparent door or windows;

~~15.~~16. Signs in a City recreational facility approved through a facility use agreement or comparable instrument, as determined by the City; and

~~16.~~17. Non-visible signs. Signs and associated support structures not visible beyond the boundaries of the lot or parcel upon which they are located or from any public right-of-way.

~~D.~~E. Signs Prohibited in the City. No person shall erect, alter, maintain, or relocate any of the following signs in any zone in the City.

1. Signs that are dangerous or confusing to motorists on the public right of way, including any sign, which by coloring, lighting, shape, wording or location resemble or conflict with traffic control signs or devices or otherwise impedes the safe and efficient flow of traffic;

2. Signs that create a safety hazard for pedestrian or vehicular traffic;

3. Flashing signs;

4. Signs attached to or placed on a vehicle or trailer parked on public or private property, stored or displayed conspicuously in a manner to attract the attention of the public; provided however that signs that are permanently painted or wrapped on the surface of the vehicle, or adhesive vinyl film affixed to the interior or exterior surface of a vehicle window, or signs magnetically attached to motor vehicles or rolling stock that are actively used in the daily conduct of business are not prohibited so long as such vehicles are operable and parked in a lawful or authorized manner;

~~4.~~5.Permanent signs on vacant lots or~~,~~ parcels. ~~, or easements.~~ Signs may only be established as an accessory use to a principally permitted use;

~~5.~~6.Roof signs;

~~6.~~7.Awning signs;

~~7.~~8.Rotating, spinning, or motorized signs;

~~8.~~9.Inflatable signs;

~~4. Signs that are programmed and/or controlled off-site;~~

~~9.~~10. Signs attached to towers or wireless communication support towers, except as required by law;

~~10.~~11. Signs attached to benches or furniture that are greater than one (1) square foot in area per bench;

~~11.~~12. Signs attached to utility poles, fences, ~~poles~~ or trees;

~~12.~~13. Signs that are determined by the City Attorney to meet the judicial standards for obscenity; and

~~a.~~ 14. Abandoned signs.

F. Nonconforming signs. Legally installed signs that do not meet the provisions of this Section, shall be considered legal, non-conforming signs and may be continued provided that they are maintained in good repair in accordance with the following provisions. A nonconforming sign shall immediately lose its nonconforming designation if:

1. The sign is altered in structure or sign face area which tends to be or makes the sign less in compliance with the requirements of this Section than it was before the alteration; or

2. The sign is relocated; or

3. The sign is replaced; or

4. Any new sign is erected or placed in connection with the enterprise using the nonconforming sign; or

5. The sign face and/or sign structure is not maintained in good repair so as to cause the potential for public harm or injury to life or property.

G. Maintenance and Safety.

1. All signs and components thereof must be maintained in good repair and in a safe, neat, clean and attractive condition. Maintenance of a sign shall include periodic cleaning, replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the sign permit issued for its installation and provisions of this Section.

2. The provisions of this Section shall not be construed as relieving or limiting in any way the responsibility or liability of any person, business or organization erecting, owning or operating a sign within the City of Kelso for personal injury or property damage resulting from the placement of a sign, or resulting from the negligence or willful acts of such person, business or organization, its agents, employees, contractors or workmen in the construction, maintenance, repair or removal of any sign erected in accordance with a permit issued hereunder. Nor shall it be construed as imposing on the City or its officers or employees any responsibility or liability by reason of the approval or disapproval of any signs, materials or devices under the provisions of this Section.

3. No sign may be erected or displayed in a manner that may present a threat to public safety and required sight distances shall be maintained at all times.

H. Enforcement and Removal

1. Any violations of this Section such as the placement of prohibited signs on a property or the failure to maintain existing or new signage in good condition shall be subject to the code enforcement actions according to this Section and KMC 1.50 and 8.24.

2. In addition to the remedies in this Section and KMC 1.50, the City shall have the authority to require the repair, maintenance or removal of any sign or sign structure which has become dilapidated or represents a hazard to the safety, health or welfare of the public, at the cost of the sign and/or property owner.

~~1.~~3.Abandoned and illegal signs. Any abandoned or illegal sign, is hereby declared to be a danger to the health, safety, and welfare of the citizens of Kelso. Any sign that is partially or wholly obscured by the growth of vegetation or weeds or by the presence of debris or litter also presents a danger to the health, safety and welfare of the citizens.

~~3.~~4.Abandoned or illegal signs are hereby deemed to be a public nuisance and shall be removed by the property owner within ~~ten~~forty-five days after notice from the City. Any sign not removed following such notice may summarily be abated by the City in accordance with Chapters 1.50 and 8.24.

~~2.~~5.Legal, conforming structural supports for abandoned signs may remain, if installed with a blank sign face and supporting structures are maintained.

~~i.~~I. The following Table shall be used to determine whether a particular type of sign may be permitted in a given zoning district.

~~3.~~1.Only those signs identified with a P (Permitted~~), or T (Permitted for a limited period of time),~~ or a footnote (1), (2), (3), etc may be approved, provided that they comply with all provisions and the standards of this Section. Those uses identified with an X or a blank cell are not permitted in that zone.

Type of Sign/Zoning District	**RSF-5/10**	**RMD**	**RMF**	**NC**	**GC**	**RC**	**LI**	**GI**	**OPN**
Freestanding signs	(1)	(1)	(1)		P(2)	P	P	P	~~(4)~~
Freeway signs						P	P	P	~~(4)~~
Portable signs				P	P	P	P	P	
Projecting signs				P	P	P			~~(4)~~
Temporary signs	~~T~~P	~~T~~P	~~T~~P	~~T~~P	~~T~~P	~~T~~P	~~T~~P	~~T~~P	~~(4)~~
Wall signs	P	P	P	P	P	P	P	P	~~(4)~~

Footnotes:

1. Only on the site of schools, churches, or government offices in accordance with the provisions of this section.

2. Not allowed within the Downtown Design Review Overlay ~~District~~ or the West Main Street Pedestrian Overlay ~~Zone~~.

4. ~~Non-commercial signs may be permitted in the Open Space zone through a Class 1 permit based on a finding that the signage is consistent with the use of the property and is in the public interest.~~

J. General Standards applicable to all signs.

1. All signs shall comply with the standards specified in the tables and the written standards and regulations contained within this Section.

2. All signs shall provide evidence of compliance with this Section, the International Building Codes as adopted by the City, and all other applicable state and/or federal regulations concerning signs prior to installation and uses.

   ~~a. Any sign over six feet in height is also required to receive building permit approval.~~

3. All signs except for temporary signs recognized by this Section shall be permanently attached to the ground, to a building or another structure by direct attachment to a rigid wall, frame or structure.

4. The ~~S~~size of signs shall be determined by the City ~~measured~~ based upon a measurement of the area of the sign devoted to ~~advertising~~ copy or electronic message boards.

5. Where a numerical height limit is imposed by this Section, the height shall be measured from finished grade of the nearest public street to the top of the sign face or sign face enclosure.

6. Signs may not located in or extend into the public right-of-way unless specifically authorized ~~under Section ___ (Temporary signs), Section ___ (Projecting Signs)~~ or pursuant to a temporary use permit or special event permit.

7. No sign may be constructed or displayed in a manner that adversely affects the public safety or required sight distances, and ~~clear view~~sight triangles shall be maintained at all time.

8. Externally illuminated signs shall be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare. Light shielding shall ensure that the lamp or light source is not visible beyond the premises and shall further ensure that the light is contained within the sign face.

~~7.~~9. It is important to note that some signs may also be subject to the provisions of state and federal laws, such as the Scenic Vistas Act (RCW 47.42), the regulations of the Washington State Department of Transportation, and/or the regulations of the Washington State Liquor and Cannabis Control Board.

~~8.~~10. It shall be the responsibility of the Applicant to be knowledgeable of and comply with the provisions of applicable local, state, and federal standards.

~~9.~~11. The City may require documentation of compliance with applicable state and local standards.

~~10.~~12. All signs must be accessory to the primary use of a lot.

~~a.~~ K. Master Sign Plans. Property owners with multiple buildings, multiple tenants, mixed use developments, and/or master planned developments are encouraged to submit a master sign plan for City review and approval.

1. A sign permit is not required for new signs designed, constructed, and installed in accordance with an approved master sign plan.

L. Sign Standards.

1. Wall Signs.

a. General Standards.

(1) Wall signs must be attached or erected parallel to and not extending more than ten inches from the wall, façade, or face of any building to which it is attached and supported throughout its entire length with the exposed face of the sign parallel to the plane of the wall or facade.

(2) Wall signs may not extend above the parapet or eave line.

~~a.~~b. In the Single Family Residential Zones (RSF-5, RSF 10, and RMD).

~~3.~~(1) One non-illuminated wall sign, no larger than 2 square feet in area, may be attached to the front wall of a single family residence.

~~4.~~(2) One wall sign per street frontage, no larger than 32 square feet, may be attached to schools, churches, or government offices.

~~b.~~c. In the Multifamily, Commercial, and Industrial Zones (RMF, NC, GC, RC, LI, and GI).

~~i.~~(1) No more than two wall signs or one wall sign and one projecting sign per street frontage may be permitted.

(2) The total area of wall signs and projecting signs in the RMF and NC zone may not exceed 32 square feet per street frontage;

(3) The total area of wall signs and projecting signs in the GC, and RC zones, shall not exceed 250 square feet in area; and

(4) The total area of wall signs and projecting signs in the LI and GI zones, shall not exceed 350 square feet in area.

e. If more than one business is located in a building or on a site, a wall sign may be shared or each business may have a wall sign provided that the total size of all signs does not exceed the size limitation. For example, if there are five businesses in a building in the GC zone, the businesses could share a 250 square foot wall sign or each business could have a 50 square foot wall sign.

2. Projecting signs.

~~c.~~a. No more than one projecting sign may be permitted per street frontage.

c. Projecting signs may be two-sided and not exceed 32 square feet per side.

d. Projecting signs may encroach into the public right-of-way (sidewalks) up to four ~~three~~ feet if vertical clearance of eight feet ~~to ten feet~~ is maintained and provided that the sign is no closer than two feet from the edge of the road or curb. ~~, up to four feet if vertical clearance of ten to twelve feet is maintained and up to six feet if at least twelve feet of vertical clearance is maintained.~~

e. The area of a projecting sign must be subtracted from the area allowed for a wall sign. For instance, a business in the GC Zone may have up to 250 square feet of wall signs. If a business installs a projecting sign that is 8 square feet in size, that business may then only have 242 square feet of wall signage.

3. Freestanding and monument signs.

a. No more than one freestanding sign or one monument sign per street frontage may be permitted.

b. Free standing signs in the single family residential zones (RSF-5, RSF-10, RMD) are permitted only on the site of schools, churches, or government offices, provided that:

(1) The maximum height is 8 feet; and

(2) The freestanding sign may have two sides and the maximum area is 32 square feet per side.

c. Free standing signs in the RMF Zone may be permitted provided that:

(1) The maximum height is 8 feet; and

(2) The freestanding sign may have two sides and the maximum area is 32 square feet per side.

d. Free standing signs in the GC and RC Zones may be permitted provided that:

(1) The maximum height is ten feet plus the distance of the sign base from the nearest property line, but no higher than twenty feet;

(2) The freestanding sign may have two sides and the maximum area is 32 square feet per side; and

(3) May include electronically changeable messages or digital signs in accordance with the provisions of this Section.

e. Free standing signs in the LI and GI Zones may be permitted provided that:

(1) The maximum height is 35 feet;

(2) The freestanding sign may have two sides and the maximum area is 125 square feet per side;

(3) In the LI and GI zones the maximum height of freestanding signs is 35 feet; and

(4) May include electronically changeable messages or digital signs in accordance with the provisions of this Section.

f. Freestanding signs may not exceed the following size limitations:

(1) In the RMF zone a freestanding sign may have two sides and shall not exceed 32 square feet per side.

(2) In the NC, GC, and RC zones a freestanding sign may have two sides and shall not exceed 32 square feet per side.

(3) In the LI and GI zones a freestanding sign may have two sides and shall not exceed 125 square feet per side.

g. Monument signs may not exceed five feet in height, twenty feet in length, or 100 square feet in area per side.

h. If more than one business is located in a building or on a site a freestanding or monument sign may be shared provided that the total size of all signs does not exceed the size limitation. For example, if there are five businesses in a building in the GC zone, the businesses could share a 32 square foot freestanding sign.

4. Freeway signs.

a. Freeway signs may only be permitted on lots abutting Interstate 5 and must be located within a one-thousand-foot radius of the interstate entry/exit point.

b. Freeway signs may not exceed 100 feet in height.

c. Freeway signs may have two sides and may not exceed 125 square feet per side.

d. May include electronically changeable messages or digital signs in accordance with the provisions of this Section.

~~b.~~5.Digital ~~Electronic Message~~ Signs. A digital sign is not a separately allowed sign type. The purpose of this section is to regulate the manner in which digital sign technology can be applied to sign types that are otherwise allowed in this Section. It is not intended to allow more signs or larger signs than otherwise permitted in this Section.

a. All digital signs shall conform to the following standards:

(1) Maximum luminance: Fifty nits during nighttime hours;

(2) No motion except for the instantaneous change of messages; and

(3) A minimum hold between messages of at least eight seconds.

a. Programming. To ensure that EMC's are programmed and continue to operate according to local standards, EMC's shall be designed for local on-site control and programming. The applicant shall provide a written certificate from the sign manufacturer that the nighttime light intensity has been factory pre-set not to exceed allowable levels under this Section, and that this setting is protected from end-user modification by password-protected software or other method that ensures compliance.

M. Portable and temporary signs that meet the following criteria, as determined by the City, do not require a permit. Portable or temporary signs that do not meet the following criteria must receive a permit or be removed. Businesses are encouraged to consult with the Department of Community Development before they incur any expense to conform that their proposed sign meets the following criteria and that a permit is not required.

1. Portable signs.

a. Design and Materials: Must be designed with durable materials, otherwise they will be regulated as temporary signs. Portable signs must be designed to withstand wind and may include a heavy weighted base for pole-mounted signs, and a heavy weight suspended between the opposing faces of a sandwich board sign.

b. Size and Height. Sandwich board signs: Maximum of four (4) feet in height, maximum of three (3) feet in width. (Note: sandwich board sign height is measured in the flat standing position, rather than in open standing position.) Pole-mounted signs: Maximum of five (5) feet in height, two (2) feet in width.

c. Number: Not more than one (1) portable sign may be displayed per business, per tenant space.

d. Location: Must be located no further than ten (10) feet from the primary building of the business, or, if there is only one business or tenant space on the site, it may be located not farther than then (10) feet from the site's driveway entrance. No portable sign may be located on the City right-of-way (which includes the sidewalk), without a Street right-of-way use permit.

e. Display Hours: Portable signs, including temporary portable signs may be displayed during business or operating hours only.

f. Type: Portable signs may not be changeable copy signs or illuminated in any manner.

2. Temporary signs. Nothing in this Section shall preclude the City from approving temporary signs in conjunction with a special use or event permit.

~~a. Permit. No permit is required for temporary signs. The City may allow other signs with a Special Event Permit or Temporary Use Permit.~~

a. Materials. Temporary signs may only be made of non-durable materials, including but not limited to paper, corrugated board, flexible, bendable, or foldable plastics, foam core board, vinyl canvas or vinyl mesh products of less than 20 oz. fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers and signs painted or drawn with water soluble paints or chalks. Signs

made of any other material shall be considered permanent and subject to the permanent sign regulations of this Section.

b. Temporary signs may not be changeable copy signs or illuminated in any manner.

c. Public Safety. No temporary sign shall obstruct required sight distances or adversely affect public safety. Signs shall not be placed in a manner that obstructs pedestrians or impedes access to driveways, sidewalks or buildings.

d. City Property. Temporary signs on City-owned property, excluding the City right-of-way, are prohibited except in conjunction with an approved Special Event Permit.

e. City Right-of-Way. Temporary signs are prohibited in the roadway. Temporary freestanding signs on stakes are allowed within the right of way outside the roadway and are limited to four (4) square feet and three (3) feet in height. All other signs are prohibited unless allowed in conjunction with a Special Event Permit, Temporary Use Permit or a Right-of-Way Permit.

f. Signs on private property in RSF, RMD, and RMF zones.

i. ~~No more than one temporary window sign per residential unit, not to exceed four (4) feet is permitted.~~

(1) Temporary freestanding stake signs shall not exceed four (4) square feet in size and three (3) feet in height.

g. Signs on private property in NC, GC. RC, LI, and GI zones.

i. ~~Temporary window signs may not exceed twenty five percent (25%) of the window and are subject to the window sign requirements of Section __.~~

(1) Temporary freestanding stake signs are limited to four (4) square feet and five (5) feet in height. Temporary portable sandwich board signs are limited to 12 square feet in total area and five (5) feet in height. Portable sandwich board signs are allowed only during business hours and as an accessory use to a principally permitted use.

h. Removal. Temporary signs must be removed within ten days after the event or activity. In addition, temporary signs shall be removed if the sign is in need of repair, worn, dilapidated or creates a public nuisance.

~~a. Banners, streamers, strings of pennants, fabric signs, strings of lights, clusters of flags, wind-animated objects, balloons, search lights, and other similar devices of a carnival nature, or a group of temporary portable signs when displayed on~~

~~private property for nonresidential uses must be approved as part of a special event permit or temporary use permit and are limited as follows:~~

~~i. rigid material signs cannot exceed twenty square feet in area;~~

~~ii. fabric signs, wind-animated objects, balloons and temporary signs on vehicles cannot exceed fifty square feet in area.~~

~~iii. these types of signs shall be removed within thirty days of being permitted.~~

17.22.220 Drive-in Businesses.

A. Drive-in businesses shall provide adequate off-street queuing spaces to minimize traffic hazards, pedestrian-vehicle conflicts, and the disruption of the commercial area street front.

1. The Applicant shall provide documentation, subject to City review and approval, that the proposed drive-in facility will not constitute a traffic hazard, create a conflict with non-motorized vehicles, or otherwise adversely affect the public health and safety.

17.22.230 Card Rooms.

A. The location of any licensed gambling activity authorized by RCW 9.46.0282 as it now exists or is hereafter amended is prohibited within three thousand five hundred feet of the location of any other such gambling activity. Likewise, no such gambling activity shall be located on the same arterial street as any other such gambling activity. In addition to the foregoing, any establishment where such gambling activity is to be engaged in shall be subject to the issuance of a conditional use permit in accordance with established procedures.

17.22.240 Wireless Communication Facilities.

A. Applicability.

1. The provisions of this Section shall apply to all new wireless communication facilities as well as the expansion and/or modification of any existing facilities within the City, subject to the following exemptions:

(a) Satellite earth stations using antennae not more than 2 meters in diameter in commercial and industrial districts and direct-to-home satellite services using any size antenna in any district;

(b) Send-and-receive citizen band radio antennae operated by federally licensed amateur (ham) radio operators;

(c) Industrial, scientific and medical equipment as regulated by the FCC in 47 CFR Part 18; and

(d) Military and government radar antennae and associated communication towers used for navigational purposes as regulated by the FCC by 47 CFR Parts 97 and 95 respectively.

2. Unless specifically exempted, all wireless communications facilities must conform to the provisions governing Category 1 and Category 2 facilities as determined by the City.

~~a. New wireless communication facilities including, but not limited to Category 1, 2, and 3 facilities as well as new monopoles and lattice towers.~~

~~b. Modifications to wireless communication facilities that are not a substantial change; and~~

~~c. Modifications to wireless communication facilities is a substantial change.~~

~~2. Compliance with the provisions of this Section is mandatory. Any violation is subject to enforcement under the code enforcement provisions set forth in the Kelso Municipal Code 1.5.~~

~~3. The City Manager or his or her designee is authorized to make such administrative interpretations as may be necessary in order to implement this Section in a timely and reasonable manner and to comply with the provisions of federal laws and rules.~~

3. Reservation of Authority. Nothing herein is intended or shall operate to waive or limit the City's right to enforce, or condition approval on, compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

4. Interpretation. Interpretations of this Section shall be guided by Section 6409 of the Spectrum Act; the Wireless FCC Eligible Facilities Request Rules, the FCC's Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153.

B. New Category 1 wireless communication facilities are subject to the following standards:

~~1. New category 1 wireless communication facilities are subject to the following standards:~~

1. The facilities ~~use~~ shall be located on buildings or other structures.

2. The facilities may exceed the height restrictions of the underlying zone but shall be no more than ten feet taller than the existing structure on which the facility is located. ~~Antennas equal to or less than four feet in height and with an area of not more than five hundred eighty square inches in the aggregate (e.g., fourteen-inch diameter parabola or 2.6-foot by 1.5-foot panel) are exempt from the height limitation of the zone in which they are located. (For example, in some zones the maximum height of a building is thirty-five feet. A Category 1 facility can go up to thirty-nine feet and still be within the height limit.) Placement of a Category 1 facility on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.~~

3. The shelter or cabinet used to house ~~radio~~related electronics equipment must be concealed from view and/or camouflaged. This can be accomplished through landscaping or other screening. ~~and through~~ the use of compatible building materials, or painting or finishing in a manner that blends with the dominant color of the background except where otherwise required by the FAA or FCC.

~~(8) In single-family residential areas, a Category 1 wireless communication facility shall be separated from any other Category 1 facility 1 by a distance equal to or greater than five hundred linear feet.~~

~~(9) TA category 1 wireless communication facility shall be the same color as the existing building, pole or support structure on which they are to be located.~~

4. A building permit shall be required to construct a Category 1 wireless communication facility.

5. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof.

~~2. New category 2 wireless communication facilities are subject to the following standards:~~

~~a. A category 2 wireless communication facility antenna may be located on buildings and other structures.~~

~~b. The shelter or cabinet used to house radio electronics equipment must be concealed from view and/or camouflaged. This can be accomplished through landscaping, fencing or other architectural screening by using compatible building materials.~~

~~c. A category 2 wireless communication facility antenna shall comply with the height limitation specified for all zones, except omni-directional antennas may exceed the height limitation by twelve feet. The permitted antenna height includes the wireless communication support structure. Placement of a facility 2 antenna or~~

~~related components on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.~~

~~d. A category 2 wireless communication facility antenna and components shall be the same color as the existing building, pole or support structure on which they are to be located.~~

~~e. A building permit shall be required to construct a category 2 wireless communication facility.~~

~~f. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof.~~

C. The following minimum development standards apply to all Category 2 Wireless Communication Facilities, including towers. These standards are in addition to any development standards that apply in the underlying zoning district in which a Category 2 Wireless Communication Facility is located and any conditions of approval.

~~3. New category 3 wireless communication facilities are subject to the following standards:~~

~~a. The shelter or cabinet used to house radio electronics equipment must be concealed and/or camouflaged.~~

~~b. Facility category 3 shall comply with the height limitation specified for all zones, except as follows: Omni-directional antennas may exceed the height limitation by fifteen feet. Placement of a facility 3 antenna or related components on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.~~

~~c. A category 3 wireless communication antenna and components shall be the same color as the existing building, pole or support structure on which they are to be located.~~

1. A building permit shall be required to construct or modify a category 2~~3~~ wireless communication facility.

2. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof~~.~~ and may exceed the height restrictions of the underlying zone but shall be no more than ten feet taller than the existing structure on which the facility is located.

~~4. New wireless communication facility monopoles and lattice towers shall comply with the following performance standards:~~

3. The maximum height of a monopole or lattice tower is sixty feet for one carrier or one hundred twenty feet if two or more carriers are located on the monopole or lattice tower. ~~A permitted co-location monopole or lattice tower that does not have two or~~

~~more carriers located on it for a period of one year or more shall be modified to conform to the single carrier height of sixty feet.~~

4. Anti-climbing devices. All wireless towers and required fencing shall be equipped with appropriate anti-climbing devices.

5. Attachment to trees prohibited. It is prohibited to attach any wireless communications facility or portion thereof to any tree.

6. Signs. All wireless communications towers shall be identified with a non-illuminated sign not exceeding four square feet. The sign shall list the wireless service provider's name and emergency telephone number and shall be posted in a place visible to the general public.

7. Lighting. Wireless communications facilities shall not be illuminated except where required by the FAA, or the Washington Department of Transportation, Aeronautics Division.

8. Painting. Wireless communications facilities shall be painted or finished in a manner that blends with the dominant background, except where otherwise required by the FAA or Washington Department of Transportation, Aviation Division. The applicant and the operator of the facility shall have a continuing duty to maintain such paint or finish.

9. Setbacks. The following setback standards shall apply to wireless communications facilities:

   a. Accessory equipment structures and wireless communications support structures which are attached to existing buildings or other permanent structures shall comply with the setback requirements for the underlying district.

   b. Free-standing wireless towers located in any district shall be set back from any property line of an abutting residential use or district by a distance equal to the height of the wireless communications support structure, or 100 feet, whichever is greater.

   c. Setbacks for free-standing wireless towers shall be measured from the ground-level base of the structure.

   d. The setback in any zone may be reduced through a variance, if the applicant can demonstrate that:

      (1) Reduction in the setback increases the screening opportunities between the facility and abutting residential and other uses, for example, by placement behind tall trees, in tree groves, behind buildings or near other tall elements;

(2) The reduction in setback allowed is the minimum required to achieve increased visual screening of the facility from abutting residential uses.

9. Landscaping standards. Category 2 Wireless Communications Facilities shall be subject to the following landscaping and screening standards:

   a. The perimeter of the wireless tower and any guy wires and anchors shall be enclosed by a fence or wall per requirements contained in Chapter 17.22.100 Landscaping.

   b. Within the required setback, the applicant shall provide landscaping to include: at least one row of evergreen shrubs spaced not more than 5' apart and capable of growing to form a continuous hedge at least 5' high within 5 years of planting, and evergreen trees or shrubs, spaced not more than 15' apart or less than 4' high when planted.

   c. Maintenance of the landscaped area shall be the responsibility of the applicant and/or operator of the facility. Required landscaping must be maintained in a healthy condition. Trees and shrubs that die must be replaced with healthy materials of the same or similar species and same size to the extent practicable.

   d. The City may allow the use of landscaping and screening other than that described above if the applicant shows the proposed landscaping and screening will achieve at least the same degree of screening provided pursuant to those subsections when viewed from off-site public areas and residences.

10. Height standards. The following standards shall apply to wireless communications facilities:

   a. The height of a wireless communications facility shall include the tower and any attached antennae proposed at the time of application.

11. Screening. For new wireless towers and accessory equipment to be located in any district other than industrial districts, visual impacts must be mitigated to the greatest extent practicable by using stealth design, camouflage or screening, including but not limited to: fencing, landscaping, strategic placement adjacent to existing buildings or existing vegetation, placement of accessory equipment structures underground, and/or incorporation of wireless facilities into the architectural features of existing buildings or structures. Mitigation may also include design compatibility with key elements in the surrounding area, such as: use of brick or other material similar to that used in adjacent buildings or structures; visually blending of support structures with compatible architectural features such as flag poles, bell towers or cornices; or use of existing vegetation to camouflage support structures.

12. Colocation.

a. Freestanding wireless towers shall be designed for collocation of wireless facilities.

b. No freestanding wireless towers may be constructed within one mile of an existing freestanding wireless tower unless it is demonstrated to the satisfaction of the City that no existing tower can accommodate the additional wireless communication facility or that the location does not satisfy the operational requirements of the applicant.

c. The applicant shall provide evidence that applicant has provided notice to all other area wireless service providers to encourage colocation of additional antennas on the proposed structure.

~~a. The lot on which the monopole or lattice tower is to be constructed must be legally conforming.~~

~~b. The facility must be screened in accordance with Chapter 17.40.~~

~~c. Monopoles and lattice towers located in the Light Industrial (LI) zone must be set back a minimum of one hundred feet from any residentially zoned property. The minimum setback along I-5 and/or SR 432 is one hundred feet.~~

~~d. Antennas that extend above the wireless communication support structure shall not be calculated as part of the height of a monopole or lattice tower.~~

~~e. Colocation on an existing support structure is to be permitted. A facility 3 is the largest wireless communication facility allowed on a monopole or lattice tower.~~

~~f. The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the monopole or lattice tower must be concealed and/or camouflaged through landscaping, fencing, or other screening using compatible building materials and colors.~~

~~g. A building permit shall be required to construct a monopole or lattice tower.~~

~~h. Antennas may not extend more than fifteen feet above their supporting structure, monopole, lattice tower, building or other structure. Site location and development shall preserve the preexisting character of the site as much as possible. Wireless communication towers and accessory equipment (equipment shelters and cabinets) shall be integrated through location, design, and color to blend in with the existing site characteristics to the extent practical. Existing vegetation around the facility shall be preserved or improved upon to provide vegetative screening. In the RSF-E zone, a minimum of two-thirds of the height of the monopole or lattice tower must be screened by existing vegetation when possible. Additional screening may be required by the City to mitigate visual~~

~~impacts to adjacent properties or public rights-of-way as determined by site-specific conditions.~~

~~i. No equipment shall be operated above forty-five dBA as measured from the nearest property line on which the attached wireless communication facility is located.~~

~~C.~~D. Eligible Wireless Communication Facilities Modifications

1. The provisions of this Subsection D apply to the following modifications: any modification that does not meet the standards of this Section shall be processed as a new facility:

~~a. following provisions apply to:~~

a. The collocation of new transmission equipment;

b. The removal of transmission equipment; and

c. The replacement of transmission equipment that meets the criteria for not being a significant change.

2. Applicability - Relationship to other Rules and Regulations.

a. Sole and Exclusive Procedure. Except as may be otherwise provided in this Section, and not withstanding any other provisions in the Kelso Municipal Code, the provisions of this Section shall be the sole and exclusive procedure for review and approval of a proposed facilities modification which the applicant asserts is subject to review under Section 6409 of the Spectrum Act. To the extent that other provisions of the Kelso Municipal Code establish a parallel process for review and approval of a project permit application for a proposed facilities modification, the provisions of this Section shall control. In the event that any part of an application for project permit approval includes a proposed facilities modification, the proposed facilities modification portion of the application shall be reviewed under the provisions of this Section. In the event that an application for project permit approval includes a proposal to modify a wireless ~~an~~ eligible support structure, and the applicant does not assert in the application that the proposal is subject to review under Section 6409 of the Spectrum Act, such proposal shall not be subject to review under this ~~s~~Section E and ~~may~~ shall be subject to review under other applicable provisions of the 17.22.240 Kelso Municipal Code.

b. Non-conforming Structures. This Section shall not apply to a proposed facility modification to a wireless ~~an~~ eligible support structure that is not a legal conforming, or legal non-conforming, structure at the time a competed wireless eligible facilities modification application is filed with the City. To the extent that

the non-conforming structures and use provisions of the Kelso Municipal Code would operate to prohibit or condition approval of a proposed facilities modification application otherwise allowed under this Section, such provisions are superseded by the provisions of this section and shall not apply.

c. Replacement of a Wireless Eligible Support Structure. This Section shall not apply to a proposed facility modification to an eligible support structure that will involve replacement of the wireless tower or wireless base station.

d. First Deployment; Base Station. This Section shall not apply to a proposed facility modification to a structure, other than a tower, that does not, at the time of submittal of the application, already house or support wireless transmission equipment lawfully installed within or upon, or attached to, the structure.

e. ~~Interpretation. Interpretations of this Section shall be guided by Section 6409 of the Spectrum Act; the FCC Eligible Facilities Request Rules, the FCC's Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153.~~

f. ~~SEPA Review. Unless otherwise provided by law or regulation, decisions pertaining to an eligible facilities modification application are not subject to, and are exempt from, the requirements of RCW 43.21C.030(2)(c), if~~

~~The proposed facilities modification would not increase the height of the eeligible support structure by more than ten percent, or twenty feet, whichever is greater; or~~

~~The mounting of equipment that would involve adding an appurtenance to the body of the eeligible support structure would not protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater;* or~~

~~The authority to condition or deny an application pursuant to Chapter 43.21 RCW is preempted, or otherwise supplanted, by Section 6409 of the Spectrum Act.~~

~~b. Permit Classification. An eligible facilities modification permit shall be classified as an administrative permit subject to review and approval or denial by the approval authority.~~

3.~~Application Submittal Requirements; Determination of Completeness.~~

~~a. Purpose. This Section sets forth the submittal requirements for an eligible facilities modification application. The purpose of the submittal requirements is to ensure that the City has all information and documentation that is reasonable necessary to determine if the applicant's proposed facilities modification will substantially change the physical dimensions of an eligible support structure. The~~

~~submittal requirements are not intended to require the applicant to establish the need for the proposed modifications or to justify the business decision to propose such modifications.~~

~~b. Submittal Requirements. No eligible facilities modification application shall be deemed complete unless it is, in writing, accompanied by the applicable application and review fee, includes the required submittals, and is attested to by the authorized person submitting the application on behalf of the applicant, certifying the truth and accuracy of the information provided in the application. The application shall include the following submittals, unless waived by the approval authority:~~

~~(1) The following contact information for the Authorized Person:~~

~~Name;~~

~~(b) Title;~~

~~Mailing Address;~~

~~(d) Phone Number; and~~

~~(e) Electronic Mail Address.~~

~~(2) The legal and dba names, mailing address, Washington tax number, and contact phone number(s) of Applicant.~~

~~(3) If a corporation, the name and address of the registered agent of Applicant in the Washington State, and the state of incorporation of Applicant.~~

~~(4) If Applicant is an entity, other than a corporation, such as a partnership or limited liability company, the names and business addresses of the principals.~~

~~(5) An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.~~

~~(6) If the applicant is not the owner or person in control of the eligible support structure an attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facilities modification shall be required. If the eligible support structure is located in a public right of way, the applicant must also attest that applicant has authorization to install, maintain and operate transmission equipment in, under and above the public right of way.~~

~~(7) If the applicant proposes a modification involving collocation of transmission equipment or the replacement of transmission equipment, complete copies of~~

~~the underlying land use approvals for siting of the tower or base station proposed to be modified, establishing that, at the time of submittal of the application, such tower or base station constituted an eligible support structure shall be required.~~

~~(8) If the applicant proposes a modification that will result in an increase in height of the eligible support structure, record drawings, as-built plans, or the equivalent, showing the height of the eligible support structure, (a) as originally constructed and granted approval by the City or other applicable local zoning or similar regulatory authority, or (b) as of the most recent modification that received city, or other local zoning or regulatory approval, prior to the passage of the Spectrum Act, whichever height is greater, shall be required.~~

~~(9) If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing restrictions or requirements imposed by a reviewing official or decision-making body pursuant to authority granted under the Kelso Municipal Code, or an ordinance or a municipal code of another local government authority, a copy of the document (e.g., *CUP or SUP*) setting forth such pre-existing restrictions or requirements together with a certification that the proposed facilities modification conforms to such restrictions or requirements; provided that, such certification shall have no application to the extent the proposed facilities modification relates solely to an increase in height, increase in width, addition of cabinets, or new excavation, that does not result in a substantial change in the physical dimensions of the eligible support structure, shall be required.~~

~~(10) If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing concealment restrictions or requirements, or was constructed with concealment elements, the applicant shall set forth the facts and circumstances demonstrating that the proposed modification would not defeat the existing concealment elements of the eligible support structure. If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.~~

~~(11) If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification, shall be required.~~

~~(12) If the applicant proposes a modification to an eligible support structure that will (a) include any excavation, (b) would result in a protrusion from the edge of a tower that exceeds an existing protrusion of any transmission equipment attached to a tower, or (c) would protrude from the edge of a non-tower eligible support structure, a description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions, depicting the boundaries of the site in relation to the tower or base station proposed to be modified and depicting the proposed location, elevation and dimensions of the new or replacement transmission equipment, shall be required. The city may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site to determine if the proposed facilities modification would result in a substantial change in the physical dimensions of the eligible support structure.~~

~~(13) If the applicant proposes a modification to the eligible support structure that includes hardening through structural enhancement, a technical report by a qualified engineer accredited by the state of Washington, demonstrating that the structural enhancement is performed in connection with and is necessary to support the proposed collocation, removal, or replacement of transmission equipment and conforms to applicable code requirements shall be required. The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of necessity.~~

~~(14) If the applicant proposes a modification to a tower, a stamped report by a state of Washington registered professional engineer shall be required demonstrating that the tower with the proposed modifications will comply with applicable structural, electrical and safety codes, including by way of example, and not limitation, EIA/TIA-222-Revision G, published by the American National Standards Institute (as amended), allowable wind speed for the applicable zone in which the tower is located, and describing the general structural capacity of the tower with the proposed modifications, including:~~

~~(i) The number and type of antennas that can be accommodated;~~

~~(ii) The basis for the calculation of capacity; and~~

~~(iii) A written statement that the proposal complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standards.~~

~~The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of compliance.~~

~~(15) If the applicant proposes a modification to a base station a stamped report by a state of Washington registered professional engineer demonstrating that the base station, with the proposed modifications, will comply with applicable structural, electrical and safety codes shall be required.~~

~~(16) If the applicant proposes a modification requiring, alteration to the eligible support structure, excavation, installation of new equipment cabinets, or any other activities impacting or altering the land, existing structures, fencing, or landscaping on the site, a detailed site plan and drawings, shall be required showing the true north point, a graphic scale and, drawn to an appropriate decimal scale, indicating and depicting, (a) the location, elevation and dimensions of the existing eligible support structure, (b) the location, elevation and dimensions of the existing transmission equipment, (c) the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment, (d) the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each, (e) any proposed modification to the eligible support structure, (f) the location of existing structures on the site, including fencing, screening, trees, and other significant site features, and (g) the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.~~

~~(17) Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by 47 C.F.R. Part 1 (PART 1 — PRACTICE AND PROCEDURE), Section 1.1307, as amended, or, in the event than an FCC environmental assessment is not required, a statement that described the specific factors that obviate the requirement for an environmental assessment.~~

~~c. Waiver of Submittal Requirement. The City may waive, in writing, any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the substantial change criteria.~~

~~d. When Received. An eligible facilities modification application, and any supplemental submittals, shall be deemed received by the City upon the date such application, or supplemental submittal, is filed with the Department of Community Development. An application, and any supplemental submittals, must be filed in person during regular business hours of the City and must be accompanied by the applicable permit review fee(s). Any application received by the City without contemporaneous payment, or deposit, of the applicable permit review fees will be rejected.~~

E. Permitting

~~e. Completed Application; Determination; Tolling.~~

~~(1) Determination of Completeness. The City shall, within thirty (30) days of receipt of the application, review the application for completeness. An application is complete if it includes the applicable permit review fee(s) and contains all of the applicable submittal requirements set forth in this Section, unless waived in writing by the City. The determination of completeness shall not preclude the City from requesting additional information or studies either at the time of the determination of completeness or subsequently if new or additional information is required, or substantial changes in the proposed action occur, or the proposed facilities modification is modified by applicant, as determined by the City.~~

~~(2) Incomplete Application. The City shall notify the applicant within thirty (30) days of receipt of the application that the application is incomplete. Such notice shall clearly and specifically delineate all missing documents or information.~~

1. Tolling Timeframe for Review. The application review period begins to run when the application is received, and may be tolled when the approval authority determines that the application is incomplete and provides notice as set forth below. The application review period may also be tolled by mutual agreement of the approval authority and applicant. The timeframe for review is not tolled by a moratorium on the review of a wireless eligible facility modification applications.

2. To toll the timeframe for review for incompleteness, the approval authority must provide written notice to the applicant within thirty (30) days of the date of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to submittals set forth in this Section and any supplemental information requested by the City that is reasonably related to determining whether the proposed facilities modification will substantially change the physical dimension of an eligible support structure.

   a. The timeframe for review begins running again when the City is in receipt of applicant's supplemental submission in response to the approval authority's notice of incompleteness.

   b. Following a supplemental submission, the City shall have ten (10) days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this paragraph. Except as may be otherwise agreed to by the applicant and the approval authority, second or subsequent notices of

incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

c. A notice of incompleteness from the City will be deemed received by the Applicant upon the earlier of, personal service upon the authorized person, delivery by electronic mail to the authorized person (if such delivery is authorized for receipt of notice by the authorized person), or three (3) days from deposit of the notice in the United States Mail, postage prepaid, and in an envelope properly addressed to the authorized person using the address set forth in the application.

3. Modification of Application. In the event that after submittal of the application, or as a result of any subsequent submittals, applicant modifies the proposed facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period; provided that, applicant and the approval authority may, in the alternative, enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time that may be reasonably necessary for review of the modified application.

4. Review of Application.

   a. The City shall review a~~n~~ wireless eligible facilities modification application to determine if the proposed facilities modification is subject to this section, and if so, if the proposed facilities modification will result in a substantial change to the physical dimensions of an eligible support structure.

   b. Within sixty 60 days of the date on which the City receives a~~n~~ wireless eligible facilities modification application, less any time period that may be excluded under the tolling provisions of this section or a tolling agreement between the applicant and the approval authority, the City shall approve the application and contemporaneously issue an eligible facilities modification permit unless the approval authority determines that the application is not subject to this section, or the proposed facilities modification will substantially change the physical dimension of an eligible support structure.

   c. A ~~n~~ wireless eligible facilities application shall be approved, and a wireless ~~n~~ eligible facilities permit issued, upon determination by the approval authority that the proposed facilities modification is subject to this section and that it does not substantially change the physical dimensions of an eligible support structure. An eligible facilities application shall be denied upon determination by the approval authority that the proposed facilities modification is not subject to this section or will substantially change the physical dimensions of an eligible support structure. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria.

d. An application that has been deemed approved shall be and constitute the equivalent of a ~~n~~ wireless eligible facilities modification permit, except as may be otherwise determined by a court of competent jurisdiction, and shall be subject to generally applicable enforcement and compliance requirements in the same manner as an eligible facilities modification permit issued pursuant to this section.

(1) "Deemed approved" for the for the purposes of administering the regulation of wireless communications facilities shall mean and refer to a wireless eligible facilities modification application that has been deemed approved upon the City's failure to act, and has become effective, as provided pursuant the Wireless FCC Eligible Facilities Request Rules.

e. A denial of a ~~n~~ wireless eligible facilities modification application shall set forth in writing the reasons for the denial and shall be provided to the applicant.

~~f. Code Requirements. Any eligible facilities modification permit issued pursuant to this section, and any application that has been deemed approved, shall be and is conditioned upon compliance with any generally applicable building, structural, electrical, and safety codes and other laws codifying objective standards reasonably related to health and safety. Violation of any such applicable code or standard shall be deemed to be a violation of the eligible facilities modification or deemed approved application.~~

~~g. Term of Eligible Facilities Modification Permit. Ane eligible facilities modification permit issued pursuant to this section, and any deemed approve application, shall be valid for a term of 180 days from the date of issuance, or the date the application is deemed approved.~~

e. Notwithstanding any other provisions in the Kelso Municipal Code no administrative review is provided for review of a decision to condition, deny or approve an application. Applicant and the City retain any and all remedies that are available at law or in equity, including by way of example and not limitation, those remedies set forth in the Wireless FCC Eligible Facilities Request Rules and remedies available under the Land Use Petition Act. In the event no other time period is provided at law for bringing an action for a remedy, any action challenging a denial of an application or notice of a deemed approved remedy, shall be brought within thirty (30) days following the date of denial or following the date of notification of the deemed approved remedy.

F. Substantial Change Criteria. A proposed facilities modification will substantially change the physical dimensions of a~~n~~ wireless eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet,

whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;

a. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the wireless tower or wireless base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

c. For any wireless eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and wireless base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(1) it entails any excavation or deployment outside the current wireless site;

(2) it would defeat the concealment elements of the wireless eligible support structure; or

(3) it does not comply with conditions associated with the siting approval of the construction or modification of the wireless eligible support structure or wireless base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in this Section.

G. Non-Conforming Structure; Termination.

1. The provisions of this Subsection shall apply to any facilities modification constructed, installed, placed or erected pursuant to a ~~n~~ wireless eligible facilities modification permit, or pursuant to a deemed approved remedy, which facilities modification did not conform to zoning and/or development regulations, exclusive of this section, in effect at the time the completed eligible facilities modification application was filed.

2. Non-Conforming Structure Determination. A facilities modification to which this section applies is subject to termination as a non-conforming structure upon the following conditions:

   a. Final, Non-Appealable Decision. An appellate court, in a final and non-appealable decision, determines that § 6409(a)(1) of the Spectrum Act is unconstitutional or otherwise determined to be invalid or unenforceable; and

   b. Notice of Non-Conforming Structure Determination. The City provides written notice to the applicant that the City has determined that the facilities modification did not conform to zoning and/or development regulations, exclusive of this section, in effect at the time the completed wireless eligible facilities modification application was filed and that the facilities modification constitutes a non-conforming structure pursuant to the provisions hereof and must be made conforming or the facilities modification terminated.

   c. Conformance; Termination. Upon receipt of notice of the City's non-conforming structure determination, applicant shall abate the non-conformance by either, conforming the wireless site to the zoning and development regulations in effect at the time the completed wireless eligible facilities modification application was filed, or removing the facilities modification and returning the wireless site to the condition that existed prior to the construction, installation, placement or erection of the facilities modification. The time period for conformance shall be one (1) year from the date of the City's notice of the non-conforming structure determination.

   d. ~~Health and Safety Codes. Nothing in this section shall relieve the applicant from compliance with applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.~~

   ~~e. Administrative Appeal. The applicant, or its successors or assigns, may appeal the City's determination of non-conformance to the City Hearing Examiner by filing a notice of appeal~~the provisions of KMC 17.10. ~~within fourteen (14) calendar days of the date of the determination of non-conformance, excluding holidays.~~

G. Removal of Wireless Communications Facilities. Any antenna or tower that is not operated for wireless communications for a continuous period of 12 months, shall be removed by the owner of the property on which the tower or antenna is situated, or by the owner or lessee of the tower or antenna within 90 days of receipt of notice to remove from the City. If the antenna and/or tower is not removed within said 90 days, the City may remove the antenna or tower at the owner's expense. If there are two or more wireless communications providers collocated on a single tower, this provision shall not become effective until all ~~providers~~provider's cease using the wireless communication facility for a continuous period of 12 months.

17.22.250 Day Care.

A. Day care facilities~~centers~~ (all types) shall meet the following standards:

1. Within residential districts a sight-obscuring fence of at least four feet in height as approved by the City shall be provided to separate any outdoor play area from adjoining lots.

2. Structure(s) shall meet building, sanitation, health, traffic safety and fire code requirements.

3. A minimum of one off-street parking space shall be provided for each on-shift employee plus one space per twelve persons served.

4. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be provided. The City shall specifically consider the location and appearance of the proposed turnaround or access in determining compatibility with surrounding uses.

5. ~~A day care center shall not be located within three hundred feet of another day care center, except for any day care center that is an accessory use in a community service facility, as described in the following item 7.~~

~~6. No day care center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation, or is separate from the usual living quarters of the family.~~

7. A day care center, if sited on the premises of an operating community service facility, such as a private or public school, place of worship, community center or library, and associated with that activity, shall be considered accessory to the principal use of the property concerned.

17.22.260 Mobile Homes, Recreational Vehicles (RV's), Trailers, and Tents. Mobile homes, recreational vehicles (RV's), trailers, park models, automobiles, or tents may not be used for human habitation or dwelling purposes in the City, except as follows:

A. Mobile homes may be used for human habitation in manufactured/mobile home communities legally in existence prior to June 12, 2008 in accordance with the provisions of state law, including RCW 35A.21.312.

B. Tents or automobiles may not be used for human habitation or dwelling purposes.

C. Recreational vehicles may be used for human habitation in approved RV parks and in ~~manufactured/~~mobile home communities in accordance with the provisions of state law, including RCW 35A.21.312, provided that;

1. Each RV must contain at least one internal toilet and one internal shower, or the RV park or ~~manufactured/~~mobile home community must provide toilet and showers; and

2. Utility hookups must comply with all federal, state, and local standards.

D. RV's, trailers, and tents may be occupied on a temporary basis not to exceed 30 days, provided that:

1. Trailers and tents must be located in an approved campground in accordance with all terms and conditions of approval for the campground; and

2. RV's must be located in an approved RV park or campground with RV facilities in accordance with all terms and conditions of approval for the RV park or campground

E. RV's, trailers, and tents may be occupied on a temporary basis not to exceed seven days by visitors to a single family residence provided that:

1. The RV, trailer or tent is located in the driveway, or in the yard outside of required setbacks.

F. Recreation ~~and utility~~ vehicles may be parked in residential areas provided the following conditions are met:

1. Recreation ~~and utility~~ vehicles shall not intrude into the public right-of-way or obstruct sight visibility from adjacent driveways.

2. Recreational ~~and utility~~ vehicles shall not be parked in the front building setback unless there is not reasonable access to the building side or rear yards because of topography or other physical conditions on the site. When permitted not more than one recreational or utility vehicle shall be parked in the front setback

3. No more than three recreational ~~and utility~~ vehicles may be stored outside on any one lot or parcel.

4. Recreation~~al utility~~ vehicles shall be maintained in a clean, well-kept state which does not detract from the appearance of the surrounding area.

5. Recreation~~al and utility~~ vehicles equipped with liquefied petroleum gas containers shall meet the standards of the Interstate Commerce Commission. Valves or gas containers shall be closed when the vehicle is stored.

6. ~~At no time shall parked or stored recreational or utility vehicles be occupied or used as a permanent or temporary dwelling unit except that guests who travel with a recreational vehicle may reside in the vehicle on the host's premises on temporary basis not to exceed thirty days during any three-hundred-sixty-five-day period.~~

17.22.270 Special Needs Facilities.

A. Halfway houses, group training homes, adult family homes, assisted living facilities, residential treatment facilities, nursing homes, transitional housing, emergency shelters, and urban rest stops are subject to the following standards:

1. One off-street parking space is required for each on-shift, nonresidential employee in addition to the residential parking requirements. Residential driveways are acceptable access ways.

2. Access streets, parking and/or loading areas shall be sufficient to safely accommodate the number of estimated vehicle trips generated by the use.

3. No structured area for active play or play structures may be located in the front setback~~yard~~. In the event of double frontage or similar situations, the City shall determine which yard would have the least visual impact to the neighborhood.

4. The site shall conform to the lot size, building size, setback and lot coverage requirements of the zoning district.

5. Provide an off-street drop-off/pick-up area.

6. Comply with all business licensing requirements.

7. No structural or decorative alteration is permitted in a residential zone if that alteration changes the residential character of an existing residential structure or is incompatible with surrounding residences.

8. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be developed for review and approval by the city engineer.

9. The site must be landscaped in a manner compatible with adjacent residences in residential zones according to a plan approved by the community development department.

10. The following additional criteria shall govern the review and approval of a conditional use permit for transitional housing, emergency shelters and urban rest stops:

    a. Site Plan. A detailed site plan shall be submitted with the application. The City may increase the development standards of the Kelso Municipal Code as

necessary to ensure compatibility of the use with surrounding uses. The City shall take into consideration the neighborhood character and any adopted neighborhood plans.

b. Compliance with Building Code. Facilities must comply with all applicable standards, including International Building Code (IBC) standards for the number of residents or clients served. Adequate kitchens, bathrooms, lighting, safety features, and site access for emergency vehicles are required.

c. Separation. Facilities must be at least one-half mile from the same uses.

d. Drugs and Alcohol. Use of alcohol and controlled substances, except by prescription, is strictly prohibited at the premises.

e. Operations. Applicant must provide staffing and operating procedures adequate to the type of facility and adequate to address the secondary impacts of the facility.

17.22.280 Temporary Homeless Encampments.

A. Religious organizations may be permitted to host encampments for the homeless on a temporary basis in accordance with the provisions of RCW 36.01.290, provided that:

1. The City may impose conditions of approval necessary to protect the public health and safety;

2. Prospective applicants shall submit for City review and approval, plans that at a minimum address:

   a. The maximum number of occupants to be allowed in the encampment;

   b. Provisions for toilets, running water, and garbage collection that meet local health standards;

   c. Provisions for cooking facilities including food storage and dish washing;

   d. Provisions for tents or similar sleeping shelters; and

   e. Plans for the location of first aid equipment, fire extinguishers, designated smoking areas (if any), maintenance of necessary access, plans for keeping the site free of liter or garbage, and plans for prohibiting open flames.

3. Encampments shall be open for inspection by the City at all times, without prior notice, to determine compliance with the conditions of approval. This shall include, but is not limited to the Health Department, Fire Department, Police Department, and the Department of Community Development.

17.22.290 Public Facilities.

A. Public utility buildings, sewage pumping stations, electrical distribution substations and similar developments necessary for the operation of utilities shall comply with the following requirements:

1. All facilities should ~~Any unhoused installation on the ground, or housed installation that does not conform to the architectural requirements of this section, shall~~ be surrounded by sight-obscuring plantings;

2. An unhoused installation of a dangerous nature, such as an electrical distribution substation, shall be enclosed by a cyclone security fence at least six feet in height;

~~b. All buildings, installations and fences shall observe the yard requirements for buildings in the district in which they are located, except that in residential use districts, the side yards shall each be not less than twenty-five feet in width.~~

17.22.300 Performance Standards. The following performance standards apply to the principal and accessory uses, buildings and structures in addition to those that are specified for the particular use or district in which they are located.

A. Exterior Mechanical Equipment. Air conditioners, heating, cooling, ventilating, equipment, pumps, heaters and other similar mechanical equipment shall be visually screened from surrounding properties and streets and shall be so operated to not disturb the peace, quiet, and comfort of the neighboring land uses. Solar energy systems need not be screened.

B. All nonresidential uses shall conform to the performance standards of this Section. Any use, activity, or operation shall not violate existing state and federal environmental standards. It shall be the responsibility of the operator and/or the proprietor of any allowed use to provide such reasonable evidence and technical data as the City may require to demonstrate that the use or activity is or will be in compliance with the environmental performance standards. Failure of the City to require such information shall not be construed as relieving the operator and/or proprietor from compliance with the environmental performance standards of this code.

1. Noise.

a. No use in this district shall exceed the maximum environmental noise level, established by Chapter 173-60 WAC.

b. Noise levels of any sound source, when measured in the manner and locations prescribed in Chapter 173-60 WAC, shall not exceed the levels shown in the following table:

	EDNA of Receiving Property		
EDNA of Noise Source	**Class A**	**Class B**	**Class C**
Class A—Residential	55 dBA	57 dBA	60 dBA
Class B—Commercial	57 dBA	60 dBA	65 dBA
Class C—Industrial	60 dBA	65 dBA	70 dBA

c. Between the hours of 10:00 p.m. and 7:00 a.m., the noise limitations of the foregoing table shall be reduced by ten dBA for receiving property within Class A EDNAs.

d. At any hour of the day or night, the applicable noise limitations in subsections D1a and b of this section may be exceeded for any receiving property by no more than

(1) Five dBA for a total of fifteen minutes in any one-hour period; or

(2) Ten dBA for a total of five minutes in any one-hour period; or

(3) Fifteen dBA for a total of one and one-half minutes in any one-hour period.

2. Light and Glare. Exterior lighting for all uses and signs shall be directed downward and otherwise arranged, shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare onto any adjacent or nearby use or interfere with the safe operation of motor vehicles.

3. Ground Vibrations. No ground vibration other than that caused by highway vehicles or construction activity shall be permitted which is discernible, without instruments, at or beyond the property line for the use concerned.

4. Waste Storage and Disposal, Including Hazardous Waste. The storage or disposal of industrial waste shall be in compliance with the regulations and requirements of the Cowlitz County health district, the State Department of Ecology, and Chapter 70.105 RCW as amended, and this code.

5. Air Quality Emissions. No use in this district shall produce emissions of smoke, dust and/or odors beyond the property boundary that may unreasonably interfere with any other property owner's use and enjoyment of his/her property. In addition, all sources and emissions units are required to meet the emission and the ambient air quality standards specified in Chapter 173-400 WAC, and administered by the Southwest Washington Air Pollution Control Authority (SWAPCA), and shall apply to all air contaminants listed therein.

6. Ground and Soil Contamination. Materials used or produced in any manufacturing process shall be handled in such a manner as to prevent ground or soil pollution which destroys or endangers the support of natural vegetation or which may contaminate underground aquifers, or other natural drainage systems.

7. Electrical Interference. Provisions must be made for necessary shielding or other preventive measures against interference caused by mechanical, electrical, or nuclear equipment uses or processes with electrical apparatus in nearby buildings or use areas.

8. Fire and Explosive Hazards. The manufacture, use, processing or storage of flammable liquids or materials, liquids or gases that produce flammable or explosive vapors or gases shall be permitted in accordance with the regulations of the adopted International Fire Code and the International Building Code. A hazardous materials impact analysis, conforming to the requirements of the Cowlitz 2 Fire District, shall be required to determine potential off-site impacts and mitigation precautions.

Chapter 17.26 Environmentally Sensitive Areas

Sections:

17.26.010 Introduction;
17.26.020 Applicability;
17.26.030 General Provisions;
17.26.040 Environmentally Sensitive or Critical Areas Reports;
17.26.050 Wetlands;
17.26.060 Fish and Wildlife Habitat Conservation Areas;
17.26.070 Frequently Flooded Areas;
17.26.080 Geologic Hazard Areas; and
17.26.090 Critical Aquifer Recharge Areas.

17.26.010 Introduction. The purpose of this Chapter is to identify and protect environmentally sensitive areas, also known as critical areas, and to supplement the City's development regulations by providing additional land use controls without violating the constitutional rights of property owners.

A. This Chapter is intended to meet the requirements of:

1. The Washington State Growth Management Act, RCW 36.70A; and

2. The Washington State Shoreline Management Act, RCW 90.58.

B. In the event of conflicts between this Chapter and the Chapter implementing the City's Shoreline Master Program, the provisions of the updated Shoreline Regulations shall prevail.

17.26.020 Applicability. All development activities including new uses of land and buildings and changes of use must comply with all provisions of this Chapter and this Title as well as all applicable provisions of local, state, and federal law, unless specifically exempted.

A. Environmentally sensitive areas, or critical areas, subject to the provisions of this Chapter shall consist of:

1. Wetlands;

2. Geologically Hazardous Areas;

3. Fish and Wildlife Habitat Conservation Areas;

4. Frequently Flooded Areas; and

5. Critical Aquifer Recharge Areas.

B. It is important to note that the shoreline areas within 200' of the ordinary high water mark of the rivers and streams in the City and their associated wetlands are under the jurisdiction of the Washington State Shoreline Management Act and in addition to the requirements of this Chapter, proposed development activities involving these areas must also comply with the provisions of the City of Kelso Shoreline Master Program, as approved by the Washington State Department of Ecology, and the implementing regulations in Chapter 17.30.

1. The rivers and streams in the City of Kelso under the jurisdiction of the Washington State Shoreline Manage Act include:

a. Columbia River;

b. Cowlitz River;

c. Coweeman River; and

d. Owl Creek.

2. Please contact the Department of Community Development for a map highlighting the shoreline areas under the jurisdiction of the Shoreline Management Act and for more information about the Kelso Shoreline Master Program.

C. Exemptions. The following activities may be determined by the City to be exempt from the provisions of this Chapter:

1. Maintenance, operation, reconstruction of existing public and private roads, streets, driveways, utility lines, and existing structures; provided, that reconstruction of any such facilities does not extend outside the previously disturbed area;

2. Installation, construction, or replacement of utility lines in improved City right-of-way, not including electric substations;

3. The removal or control of noxious weeds by non-mechanical means;

4. Maintenance of previously approved ground cover or other vegetation in a critical area or buffer area provided, that no further disturbance is created;

5. Minimal site investigative work required by a city, state, or federal agency, or any other applicant such as surveys, soil logs, percolation tests, and other related activities; provided impacts on environmentally critical areas are minimized and disturbed areas are restored to the pre-existing level of function and value within one year after tests are concluded;

6. Passive recreational uses such as sport fishing, scientific or educational review, or similar minimum impact, non-development activities;

7. Maintenance of intentionally created artificial wetlands or surface water systems including irrigation and drainage ditches, grass-lined swales and canals, detention facilities and landscape or ornamental amenities. Wetlands, streams, lakes, or ponds created as mitigation for approved land use activities or that provide critical habitat are not exempt and shall be regulated according to the mitigation plan;

D. It shall be the responsibility of Property Owners and the sponsors of proposed development activities to know the location of environmentally sensitive areas and jurisdictional shoreline areas on and near their property and to comply with the provisions of this Chapter at all times.

1. Property Owners and Project Sponsors that may be proposing development activities in proximity of environmentally sensitive areas are strongly encouraged to schedule an appointment with City Staff to discuss the applicability of these regulations prior to preparing and submitting land use applications to the City.

2. The City shall maintain public maps that may assist in the identification of environmentally sensitive areas. However, it shall be the responsibility of the Property Owner or Project Sponsor to identify and map all environmentally sensitive areas on their property.

a. The presence of a critical area and/or its associated buffer on a parcel triggers the requirements of these regulations, regardless of whether or not a critical area or buffer is depicted on an official map.

17.26.030 General Provisions.

A. Mitigation Sequencing. Property Owners or Project Sponsors shall, when designing proposed development activities that may potentially affect environmentally sensitive areas, use the following measures, listed in priority order, to avoid, minimize, and/or mitigate adverse impacts:

1. Avoiding the adverse impact altogether by not taking a certain action or parts of an action or moving the proposed action;

2. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts;

3. Rectifying the adverse impact by repairing, rehabilitating or restoring the affected environment;

4. Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action;

5. Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments; and/or

6. Monitoring the impact and taking appropriate corrective measures.

B. Application Requirements. Project Sponsors are strongly encouraged to schedule an appointment and meet with City Staff to discuss development plans before application materials are prepared and submitted.

1. It shall be the responsibility of Property Owners and the Sponsors of proposed development activities to identify all environmentally sensitive areas and jurisdictional shoreline areas on their property and within 300 feet of their property lines on all application materials including required environmental checklists.

2. All land use applications submitted to the City involving environmentally sensitive areas must include a SEPA Checklist.

3. Any required environmentally sensitive area reports.

4. Application materials for all associated permits and approvals, as may be required by the City.

C. Overlapping Buffer Requirements. In the event that more than one buffer applies to a proposed development, the buffer affording the highest level of protection as determined by the City should apply where the buffers overlap, unless specifically authorized by the City.

D. Emergency Measures to Protect the Public Health and Safety. Nothing in this Title shall prevent a public agency or a private property owner from taking emergency actions necessary to protect persons and property from immediate or urgent threats to the public health and safety.

1. Emergency measures should be limited to reasonable measures necessary to protect the public health and safety from the immediate or urgent threat.

2. The City, and other state and federal agencies, such as the Washington State Department of Fish and Wildlife, should be contacted as soon as practical after the emergency action to determine if any additional measures are required and what if any permits may be required.

3. Remediation may be required after the fact to restore the site to pre-emergency conditions. Once the immediate threat has been addressed, any adverse impacts on

critical areas should be minimized and mitigated according to the provisions of this Chapter.

4. Property owners are advised that the failure to take appropriate preventative measures, the failure to secure required permits in advance, the failure to meet conditions of approval including the maintenance of erosion control measures, and/or the failure to act in a timely manner may not constitute an emergency and may result in the imposition of civil penalties and/or remediation measures.

E. Performance Bonds. In an effort to ensure the successful installation, operation, and maintenance of compensatory mitigation measures or other requirements under this Title, the City may require a performance bond(s) or comparable financial guarantee.

1. The performance bond or guarantee may be up to 150% of the estimated cost of the required improvement.

2. The duration and form of the financial guarantee shall be determined by the City in consultation with the City Attorney.

17.26.040 Environmentally Sensitive or Critical Areas Reports

A. All proposed development activities that may impact environmentally sensitive areas or their buffers, shall include a critical areas report prepared in accordance with the provisions of this Chapter, unless this requirement is waived in writing by the City.

1. The cost of preparing any required environmentally sensitive areas report(s) shall be borne by the Applicant.

2. Environmentally sensitive areas reports shall be prepared by a qualified professional(s) as determined by the City.

3. The cost of a professional peer review of any required environmentally sensitive areas report, if required by the City, shall be borne by the Applicant.

4. Individual environmentally sensitive areas reports may be combined with other required environmentally sensitive areas or shoreline reports, in a format approved by the City.

B. Environmentally sensitive areas reports shall be prepared in a format approved by the City and should include:

1. An identification of the critical areas and documentation of their location;

2. An assessment of the existing function and values of the critical area;

3. Documentation of the methodology used to identify and assess the critical areas and the standards utilized to prepare proposed mitigation sequencing measures;

4. Other potential impacts on the identified critical areas;

5. Proposed measures, utilizing the following mitigation sequencing listed in priority order, to avoid, minimize, and/or mitigate potential adverse impacts:

    a. Avoiding the adverse impact altogether by not taking a certain action or parts of an action or moving the proposed action;

    b. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts;

    c. Rectifying the adverse impact by repairing, rehabilitating or restoring the affected environment;

    d. Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action;

    e. Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments; and/or

    f. Monitoring the impact and taking appropriate corrective measures.

6. Identification of proposed buffers and areas not suitable for development;

7. The critical area's expected functions and values after mitigation;

8. Provisions for monitoring the mitigation area as reasonably necessary to determine whether stated objectives have been accomplished. A contingency plan shall be included in the event the stated objectives are not accomplished;

9. Proposed restoration plans in the event that the critical areas had been previously altered without authorization.

10. Additional information or provisions as may be required by 17.26.050 through 17.26.100.

C. Mitigation shall be provided on-site, except where on-site mitigation is not scientifically feasible, economical, or practical due to physical features of the property. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on-site:

    1. When mitigation cannot be provided on-site, mitigation shall be provided in the immediate vicinity of the permitted activity on property owned or controlled by the

applicant where such mitigation is practical and beneficial to the critical area and associated resources. Where possible, this means within the same hydrologic unit as the location of the proposed project; and

2. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu fee program, or advance mitigation.

17.26.050 Wetlands

A. Identification of wetlands and delineation of their boundaries pursuant to these regulations shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas both within the City and within the shoreline jurisdiction, per RCW 90.58, meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of these regulations. Wetland delineations are valid for five (5) years; after such date the City shall determine whether a revision or additional assessment is necessary.

B. Wetland Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06007), or as revised. The descriptions of wetland categories according to the Rating System are as follows:

1. Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

2. Category II. Category II wetlands are: (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).

3. Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

C. Development Limitations—Alterations of Wetlands. Alteration of all wetlands shall be fully mitigated and not be allowed unless mitigation sequencing has been followed. Regulated development shall conform with and be governed by the following:

1. Alteration of Category I wetlands is prohibited unless the alteration would improve habitat to threatened or endangered species occupying the habitat. This improvement of both functions and values must be demonstrated within the wetland critical areas report and the mitigation plan. A qualified expert may use best professional judgment to design a plan to allow such alterations to Category I wetlands.

2. Alteration of Category II wetlands may be allowed only when it is demonstrated by a qualified expert through a wetlands site assessment that any of the following criteria are met:

   a. Public benefit will accrue through the alteration, and no reasonable and practical alternative to the alteration exists through on-site design or through acquisition of additional area; or

   b. The alteration would enhance or maintain the existing wetland function and value, or the alteration would create a higher value or less common wetland type, which would improve the function or value of the wetland as indicated within the wetland critical areas report and the mitigation plan.

3. Alteration of Category III wetlands may be allowed only when it is demonstrated through a wetlands site evaluation that any of the following criteria are met:

   a. Public benefit will accrue through the alteration and absence of reasonable practicable alternative.

   b. No reasonable and practical alternative to the alteration exists through onsite design.

   c. The impacts are fully mitigated.

4. Alteration of Category IV wetlands may be allowed if feasible alternatives cannot be identified during the site plan review process, state and federal regulatory agencies concur with allowing the alteration, and impacts are fully mitigated.

5. Activities Allowed in Wetlands. The activities listed below may be allowed in wetlands, and do not require submission of a critical areas report, except where such

activities would result in a reduction or loss of the functions and values of a wetland or wetland buffer. These activities include:

a. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.

b. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

c. Enhancement of a wetland through the removal of nonnative, invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation using hand-held equipment with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

d. Educational and scientific research activities that do not degrade the critical area.

D. Wetland Buffers. Wetland buffers shall be designated in accordance the following:

1. Buffers are required for all wetlands. Wetland buffer widths are established in Table 1-A of this Section.

2. Buffer widths shall be measured perpendicular to the delineated boundaries of the regulated wetland and extend the required distance.

3. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community, or the buffer should be widened to ensure that adequate functions of the buffer are provided.

4. If an applicant chooses not to apply the mitigation measures in Table 1-B, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

5. The authorization of variable buffer widths intended to protect the functions of the wetland shall be based on a wetland assessment conducted by a qualified wetland

professional, to evaluate the impact of current and proposed land use on the wetland. Wetland functions include but are not limited to flood control functions, ground and surface water aquifer recharge functions, and sediment retention and pollution control functions (refer to Subsection E of this Section for buffer averaging).

6. Wetland buffer widths intended to protect fish and wildlife habitat shall be based on Table 1-A.

7. Buffer widths can be reduced below the minimums when site-specific, abrupt topographical changes such as cliffs, or human-made features such as levees, dikes, railroads, or streets, indicate that extending the buffer beyond such features will not improve wetland protection.

Table 1-A Wetland Buffer Requirements

Wetland Category	Buffer width if wetland scores:			
	3-4 habitat points	**5 habitat points**	**6-7 habitat points**	**8-9 habitat points**
Category I: Based on total score	75 ft	Add 30 ft	Add 90 ft	Add 150 ft
Category I: Bogs and Wetlands of High Conservation Value	190 ft			
Category I: Forested	75 ft	Add 30 ft	Add 90 ft	Add 150 ft
Category II	75 ft	Add 30 ft	Add 90 ft	Add 150 ft
Category III	75 ft	Add 45 ft	Add 105 ft	Add 165 ft
Category IV	40 t			

8. Buffer widths in Table 1-A require the mitigation measures below in Table 1-B, where applicable.

Table 1-B Required Measures to Minimize Impacts to Wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	• Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-ft heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use low-intensity development techniques (per PSAT publication on LID techniques)
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense native vegetation to delineate buffer edge and to discourage disturbance • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	• Use best management practices to control dust
Disruption of corridors or connections	• Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

E. Wetland Buffer Width Averaging. Buffer widths may be modified by averaging buffer widths or by enhancing buffer quality as set forth herein:

1. Buffer width averaging shall be allowed only where:

d. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area.

e. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.

f. The total area of the buffer after averaging is equal to the area required without averaging.

ii. The buffer at its narrowest point is never less than either three-quarters of the required width or seventy-five (75) feet for Categories I and II, fifty (50) feet for Category III, and twenty-five (25) feet for Category IV, whichever is greater.

2. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.

c. The total buffer area after averaging is equal to the area required without averaging.

iii. The buffer at its narrowest point is never less than either three-quarters of the required width or seventy-five (75) feet for Categories I and II, fifty (50) feet for Category III, and twenty-five (25) feet for Category IV, whichever is greater.

3. ~~Notwithstanding the reductions permitted in Subsections E.1.a and b of this Section, b~~Buffer widths shall not be reduced by more than twenty-five percent of the required buffer or to less than twenty-five (25) feet, whichever is wider.

4. The minimum buffer width stated in Table 1-A of this Section may be required to be increased by up to twenty-five percent when the qualified wetland professional determines, based upon a site-specific wetland analysis, that impacts on the wetland from a proposed development can be mitigated only by a greater buffer width. The standard wetland buffer width shall be increased:

a. When the adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

b. When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or

c. When the minimum buffer for a wetland extends into an area with a slope of greater than fifteen percent, the buffer shall be the greater of:

(1) The minimum buffer for that particular wetland; or

(2) Twenty-five (25) feet beyond the point where the slope becomes fifteen (15) percent or less.

5. Required buffers shall not prevent all reasonable use of property. A reasonable use exception may be granted provided that the applicant meets the criteria in this Title.

F. Activities Allowed in a Wetland Buffer Zone. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Title, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Passive Recreation Development Activity. Passive recreation facilities (such as constructed walkways, trails, and viewing platforms) designed and in accordance with an approved critical area assessment, including:

a. Walkways and trails; provided, that those pathways are generally parallel to the perimeter of the wetland, are located in the outer 25 percent of the buffer area, are constructed with a surface that does not interfere with the soil permeability, and the surface of which is no more than five (5) feet wide. The design and construction of walkways and trails shall avoid impacts to established native woody vegetation. Raised boardwalks utilizing non-treated pilings are acceptable;

b. Wildlife viewing structures less than 200 square feet.

2. Stormwater Management Facilities. Stormwater management facilities are not allowed in buffers of Category I or II wetlands. Stormwater management facilities, limited to stormwater dispersion outfalls and bio-swales, may be allowed within the outer twenty-five (25) percent of the buffer of Category III or IV wetlands provided that:

a. No other location is feasible; and

b. The location of such facilities will not degrade the functions or values of the wetland.

3. Utility Transmission Facilities. Utility facilities which carry liquid petroleum products or any other hazardous substance as defined in Chapter 173-303 WAC may be permitted within wetland buffers only when demonstrated by a qualified professional that the design, location, and monitoring of the proposed facility will not cause adverse effects to the buffer or wetland.

4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

5. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

G. Mitigation Standards.

1. All adverse impacts to wetlands and buffers as identified in the wetlands critical areas report shall be specified in a mitigation plan consistent with Kelso development standards, be prepared by a qualified expert, and be consistent with the standards outlined in Table 2.

Table 2. Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I: Bog, Natural Heritage site	Not considered possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

~~c.~~b. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

3. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in the order of priority:

   a. Avoid the impact altogether by not taking a certain action or parts of an action.

   b. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

   c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

d. Reduce or eliminate the impact over time by preservation and maintenance operations.

e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.

f. Monitor the required compensation and take remedial or corrective measures when necessary.

4. Requirements for Compensatory Mitigation:

a. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009).

b. Mitigation ratios shall be consistent with the ratios in Table 2.

c. As an alternative to the ratios in Table 2, the Credit/Debit method may be used. To more fully protect functions and values, the City may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report," (Ecology Publication #1006-011, Olympia, WA, March 2012), or as revised.

d. The area where the mitigation occurred and any associated buffer shall be located in a critical area tract or a conservation easement.

e. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not attained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals in the mitigation plan are achieved.

5. Wetland mitigation actions shall not result in a net loss of wetland areas except when the following criteria are met:

a. The lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determined by a site specific function assessment; or

b. The loss of wetland area provides minimal functions as determined by a site specific function assessment, and other replacement habitats provide greater benefits to the functioning of the watershed, such as riparian habitat restoration and enhancement.

6. Mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland functions as those lost except when:

   a. The lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment plan or protocol; or

   b. Out-of-kind replacement will best meet formally identified regional goals such as replacement of historically diminished wetland types.

7. Mitigation Preference. Mitigation actions that require compensation by replacing, enhancing or substitution, shall occur in the following order of preference:

   a. Restoration (re-establishment and rehabilitation) of wetlands:

      (1) The goal of re-establishment is returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

      (2) The goal of rehabilitation is repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

   b. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. Establishment results in a gain in wetland acres. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.

      If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the approval authority may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland scientist that:

(1) The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;

(2) The proposed mitigation site does not contain invasive plants or noxious weeds or that such vegetation will be completely eradicated at the site;

(3) Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and

(2) The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

c. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Applicants proposing to enhance wetlands or associated buffers shall demonstrate:

(1) How the proposed enhancement will increase the wetland's/buffer's functions;

(2) How this increase in function will adequately compensate for the impacts; and

(3) How all other existing wetland functions at the mitigation site will be protected.

d. Preservation. Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, provided that a minimum of 1:1 acreage replacement is provided by re-establishment or creation. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being altered and the quality of the wetlands being preserved.

Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

(1) The area proposed for preservation is of high quality. The following features may be indicative of high-quality sites:

(a) Category I or II wetland rating (using the wetland rating system for Western Washington)

(b) Rare wetland type (for example, bogs, mature forested wetlands, estuarine wetlands)

(c) The presence of habitat for priority or locally important wildlife species.

(d) Priority sites in an adopted watershed plan.

(2) Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA listed species.

(3) There is no net loss of habitat functions within the watershed or basin.

(4) Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.

(5) Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by a land trust.

(6) The impact area is small (generally <½ acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

8. All mitigation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

9. Wetland Mitigation Banks.

a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

(1) The bank is certified under state rules;

(2) The City determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

(3) The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.

c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument.

In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

10. When an applicant proposes to alter or eliminate a regulated wetland, the applicant shall be required to replace or enhance the function and value of the wetland. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Versions 1), Ecology Publication #06-06-11b, Olympia, WA, March 2006 or as revised.

H. Critical areas reports for wetlands shall also include:

1. Narrative. The report narrative must include all of the following:

a. The name and contact information of the applicant;

b. The name, qualifications, and contact information of the primary author(s) of the wetland critical area report;

c. Location information (legal description, parcel number and address);

d. Site characteristics, including topography, total acreage, delineated wetland acreage, other water bodies, vegetation, soil types, etc.;

e. Identification and characterization of all critical areas, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 300 feet of the project boundaries using the best available information;

f. Identification of the wetland's rating as defined in these regulations;

g. Analysis of functions and values of existing wetlands and buffers, including flood control, water quality, aquifer recharge, fish and wildlife habitat, and hydrologic characteristics;

h. A complete description of the proposed project and its potential impacts, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey, and any impacts due to hydroperiod alterations;

i. Discussion of project alternatives, including any feasible options for total avoidance of impacts to wetland areas and buffers;

j. A wetland buffer width recommendation and rationale for all wetlands on or adjacent to the site, if different from buffers required in these regulations;

k. If mitigation for wetland impacts is proposed, a description and analysis of that mitigation; and

l. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

2. Vicinity map drawn to scale and including a north arrow, public roads, and other known landmarks in the vicinity.

3. National Wetlands Inventory Map (U.S. Fish and Wildlife Service) and/or a Cowlitz County wetland inventory map identifying wetlands on or adjacent to the site.

4. Site map drawn to a usable scale, one inch equals one hundred feet or better, and including a north arrow and all of the following requirements:

   a. Site boundary/property lines and dimensions;

   b. Wetland boundaries based upon a qualified wetland professional's delineation, and depicting sample points and differing wetland types if any;

   c. Recommended wetland buffer boundary;
   d. Buffers for off-site critical areas that extend onto the project site;

   e. Internal property lines such as rights-of-way, easements, etc.;

   f. Existing physical features of the site, including buildings and other structures, fences, roads, utilities, parking lots, etc.;

   g. The location of the development proposal, including grading and clearing limits; and

   h. Topographical variations.

5. An on-site wetland delineation report, including data sheets, prepared by a qualified expert. The wetland boundaries shall be staked and flagged. The report shall include:

   a. A description of the methodologies used to conduct the wetland delineations and ratings, including references;

   b. Photos documenting that the wetland boundaries have been staked and flagged; and

   c. Wetland rating forms, including a description of and score for each function, per Wetland Ratings Section (Section 2.B) of these regulations; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and estimates for entire wetland area

including off-site portions, if field delineation of the off-site portion is infeasible); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlets/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;

6. Documentation of any other field work performed on the site, e.g., baseline hydrologic data, etc.

7. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:

   a. Maps (to scale) depicting delineated and surveyed wetland and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; and areas of proposed impacts to wetlands and/or buffers (include square footage estimates).

   b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas.

17.26.060 Fish and Wildlife Habitat Conservation Areas

A. Designation of Critical Fish and Wildlife Habitat Conservation Areas. Critical fish and wildlife habitat conservation areas are designated according to the classifications in the following table:

Classifications WAC 365-190-130	Description
(1) Areas with which state designated endangered, threatened, or sensitive species have a primary association. Example: Coweeman River	Areas which, if significantly altered, may reduce the likelihood that the species will reproduce over the long term. Habitats associated with these species are those identified by the Washington Department of Fish and Wildlife's Habitat and Species Maps, as amended. These habitats are designated as critical areas, where endangered, threatened, and sensitive species are verified to have a primary association.
(2) Species and habitats of local importance	Habitat: Unique or significant habitats which regionally rare wildlife species depend upon and that have high wildlife concentrations, including: 1. Caves,

Classifications WAC 365-190-130	Description
	2. Talus slopes, 3. Snag rich areas (outside forest practices). Species: Wildlife species which require protective measures for their continued existence due to their population status or sensitivity to habitat alterations or are highly valued by the local citizens. Species meeting the above criteria but not depending upon a habitat of local importance (as listed above) to meet criteria habitat needs are those documented, verified, and mapped in Cowlitz County.
(3) Smelt spawning areas.	The entire length of the Cowlitz River adjacent to the city of Kelso is smelt spawning territory.
(4) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat.	Naturally occurring ponds with a surface area of less than twenty acres but greater than one acre. Naturally occurring ponds do not include ponds deliberately created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds (of less than three years' duration), and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.
(5) Waters of the state.	Waters of the state shall be those defined in WAC 222-16-030, Forest Practices Board, Definitions, with the following revisions: (a) Type S Water – all waters, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands. (b) Type F Water – means segments of natural waters, which are not classified as Type S Water and have fish, wildlife, or human use. These are segments of natural water and periodically inundated areas of their associated wetlands. (c) Type Np Water – means all segments of natural waters within defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. (d) Type Ns Water – means all segments of natural waters within defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion

Classifications WAC 365-190-130	Description
	of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an aboveground channel system to Type S, F, or N Waters.
(6) Lakes, ponds, streams, and rivers planted with game fish by a governmental agency or tribal entity.	The Cowlitz River is planted with game fish by governmental agencies.
(7) State natural area preserves and natural resource conservation areas.	Currently, there are no natural resource conservation areas within the City of Kelso.
(8) Unintentionally created ponds.	Ponds with a surface area of less than twenty (20) acres, but greater than one (1) acre.

B. Development Performance Standards. Development or regulated activity shall conform to and be governed by the following items in this Section. Mitigation plans including most current, accurate, and complete scientific and technical information available should be developed by a qualified fish and wildlife biologist.

1. When impacts to critical fish and wildlife habitat cannot be avoided, the performance standards contained in this Section shall be used to develop plans submitted for regulated activities.

2. Locate buildings and structures in a manner that preserves the habitat or minimizes adverse impacts.

3. Consolidate habitat and vegetated open space in contiguous blocks, and where possible locate habitat contiguous to other habitat, open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas.

4. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers.

5. Emphasize heterogeneity and structural diversity of vegetation in landscaping.

6. Remove and/or control any noxious or undesirable species of plants.

7. Preserve trees to the extent possible, preferably in consolidated areas.

8. Preserve and introduce native plant species which serve as food, shelter from climatic extremes and predators, and structure and cover for reproduction and rearing of young for critical wildlife.

9. Preserve the natural hydraulic and ecological functions of drainage systems.

10. Preserve critical fish and wildlife habitat areas through maintenance of stable channels;
    adequate flow levels; and management of stormwater runoff, erosion, and sedimentation.

11. Manage access to critical fish and wildlife habitat areas to protect species that are sensitive to human disturbance.

12. Maintain or enhance water quality through control of runoff and use of best management practices.

C. A Habitat Management Plan (HMP) shall be required as follows. Habitat management plans will be sent to the Washington State Department of Fish and Wildlife and other state and federal agencies with jurisdiction for comment with the SEPA checklist.

1. A habitat management plan shall be required if the regulated activity is within two hundred fifty feet of a Classification 1 habitat area, or identified within one thousand feet of a point location (nests, dens, etc.) for a Classification 1 habitat area.

2. Habitat Protection for Classification 2. Protection for these habitat areas shall be through the development performance standards listed above.

3. Habitat Protection for Classifications 4, 5, and 6. Protection for these habitat areas shall be required through the Shoreline Management Act, the Federal Clean Water Act, and the State Hydraulic Code and/or best management practices. Within Classification 5, Type 1, 2, and 3 waters are regulated streams, as defined in WAC 222-16-030, Forest Practices Board, Definitions.

4. The stream typing system as provided in WAC 222-16-030 as hereafter amended shall be utilized for stream classification. The Department of Natural Resources stream classification maps shall be used to determine classification unless the critical areas report provides a basis for reclassification. The City may consult with the Department of Natural Resources and Washington Department of Fish and Wildlife to gain concurrence on any change in classification.

C. At a minimum, a habitat management plan shall typically contain the following information. Technical justification shall be provided where the qualified expert does not deem any information applicable.

1. A description of state or federally designated endangered, threatened or sensitive fish or wildlife species, or species of local importance, on-site or adjacent to the subject property within a distance typical of the normal range of the species.

2. A description of the critical wildlife habitat for the identified species known or expected to be located on-site or immediately adjacent to the subject property.

3. A site plan that clearly identifies and delineates critical fish and wildlife habitats found on-site or immediately adjacent to the subject property.

4. An evaluation of the project's effects on critical fish and wildlife habitat both on and adjacent to the subject property.

5. A summary of any federal, state, or local management recommendations that have been developed for the critical fish or wildlife species or habitats located at the site.

6. A statement of measures proposed to preserve existing habitats and restore area degraded as a result of proposed activities.

7. A description of proposed measures that mitigate the impacts of the project.

8. An evaluation of ongoing management practices which will protect critical fish and wildlife habitat after the project site has been fully developed, including proposed monitoring and maintenance programs of the subject property.

17.26.070 Frequently Flooded Critical Areas

A. Introduction. It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life;

2. To minimize expenditure of public money and costly flood-control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruption;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard;

6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard;

7. To ensure that potential buyers are notified that property is in an area of special flood hazard;

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

9. To implement the Washington State Flood Control Zone Permit Program pursuant to the requirements of RCW 86.16.060 and Chapter 508-60 WAC; and

10. To fully implement the Flood Damage Prevention Program requirements of the Department of Housing and Urban Development's (HUD) Federal Flood Insurance Program.

B. In order to accomplish its purpose, this chapter includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

4. Controlling filling, grading, dredging and other development which may increase flood damage; and

5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

C. This Section shall apply to all areas of special flood hazard within the city.

1. The areas of special flood hazard identified by the Federal Insurance Administration and recognized by the State Department of Ecology (DOE) in a scientific and engineering report entitled "Flood Insurance Study for the City of Kelso, Washington," dated December 16, 2015, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter.

   a. All lands identified by the City, as within the one-hundred-year floodplain are designated as frequently flooded areas.

2. No structure or land within the areas of special flood hazard shall hereafter be constructed, located, extended, converted, altered or divided without full compliance with the terms of this chapter and other applicable regulations. Any violation or failure to comply with the terms of this chapter shall constitute a misdemeanor making the violator subject to the penalties prescribed for other misdemeanors in the city. A conviction under this code does not relieve the violator from compliance with provisions of this chapter.

3. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

D. A floodplain development permit and/or a critical area permit shall be obtained before construction or development begins within any area of special flood hazard. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the lowest habitable floor (including basements) of all structures;

2. Elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in this;

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

5. Documentation that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required. A permit may be issued on the condition that the specified state or federal permits are subsequently obtained.

E. Under limited circumstances a variance to the provisions of this Section may be approved by the City, provided that:

1. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. Variances shall only be issued upon:

   a. A showing of good and sufficient cause;

   b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

4. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

6. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, and complies with the provisions of this Title.

7. In addition to satisfying the general requirements for a variance in Chapter xxxxxx, requests for a variance from the provisions of this Section must address:

   a. The danger that materials may be swept into other lands to the injury of others;

   b. The danger to life and property due to flooding or erosion damage;

   c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

   d. The importance of the services provided by the proposed facility to the community;

   e. The necessity to the facility of a waterfront location, where applicable;

   f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

   g. The compatibility of the proposed use with existing and anticipated development;

   h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

k. The cost of providing governmental services during the afterflood including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

F. In all areas of special flood hazard the following standards are required.

1. Anchoring.

   a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

   b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but not be limited to, use of over-the-top or frame ties to ground anchors or other techniques as described in the Federal Emergency Management's guidebook entitled, "Manufactured Home Installation in Flood Hazard Areas."

   c. An alternative method of anchoring may involve a system designed to withstand a wind force of ninety miles per hour or greater. Certification must be provided by a registered professional engineer or architect.

2. Construction materials and methods.

   a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

   b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Utilities.

   a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

   b. Water wells shall be located on high ground that is not in the floodway (WAC 173-160-171);

c. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

d. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

e. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during the conditions of flooding.

4. Subdivision and mobile home park proposals.

a. All subdivision and mobile home park proposals shall be consistent with the need to minimize flood damage.

b. All subdivision and mobile home park proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

c. All subdivision and mobile home park proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed development which contain at least fifty lots or five acres (whichever is less).

5. Review of building permits.

a. Where elevation data is not available either from the Flood Insurance Study or from another authoritative source (Section 18.12.150), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

G. In all areas of special flood hazard where base flood elevation data has been, the following provisions are required.

1. Residential construction.

   a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two feet or more above the base flood elevation (BFE).

   b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

      1. A minimum of two openings which have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

      2. The bottom of all openings shall be no higher than one foot above grade;

      3. Openings may be equipped with screens, louvers or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

2. AE and A1-30 zones with base flood elevations but no floodways.

   a. In areas with base flood elevations, but where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development, including infill, shall be permitted within zones AE and A1-30 on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

3. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest habitable floor, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

   b. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

   b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

   c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for

meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans;

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor;

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).

4. Standards for shallow flooding areas (AO zones). Shallow flooding areas appear on FIRMs as AO zones. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

   a. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade to the structure, two feet or more above the depth number specified in feet on the community's FIRM, or at least three and a half feet above the highest adjacent grade to the structure if no depth number is specified;

   b. New construction and substantial improvements of nonresidential structures within AO zones shall either:

      (1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, two feet or more above the depth number specified on the FIRM, or at least three and a half feet above the highest adjacent grade to the structure if no depth number is specified; or

      (2) Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.

   c. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures

5. Manufactured homes. All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet or more above the base flood elevation and is

securely anchored to an adequately anchored foundation system. This section applies to all manufactured homes:

a. In existing manufactured home parks or subdivisions;

b. In expansions to existing manufactured home parks or subdivisions;

c. In new manufactured home parks or subdivisions; and

d. Outside of a manufactured home park or subdivision.

6. Recreational vehicles. Recreational vehicles placed on sites are required to either:

a. Be on the site for fewer than one hundred eighty consecutive days;

b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.

7. Accessory structures.

a. Accessory structures shall not be used for human habitation.

b. Accessory structures shall be designed to have low flood damage potential.

c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

d. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

e. Service facilities such as electrical and heating equipment shall be elevated above the base flood level or floodproofed.

8. Critical facility. Construction of new critical facilities shall be, to the extent possible, located outside of the limits of the special flood hazard area (SFHA) (one-hundred-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above the base flood elevation (BFE) or to the height of the five-hundred-year flood, whichever is higher. Access to and from the critical facility shall be protected to the height utilized above floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the BSE shall be provided to all critical facilities to the extent possible. (Ord. 3627 § 1, 2006)

9. Floodways. Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

   a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

   b. Construction or reconstruction of residential structures is prohibited within designated floodways (WAC 173-158-070), except for:

      (1) Repairs, reconstruction or improvements to structures which do not increase the ground floor area; and

      (2) Repairs, reconstruction or improvements to the structure, provided the cost of such repairs, reconstruction or improvements do not exceed fifty percent of the market value of the structure, either (a) before the repair, reconstruction or improvement is started; or (b) if the structure has been damaged and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, shall not be included in the fifty percent market value determination procedure.

17.26.80 ologic Hazard Areas

A. For all regulated activities proposed within designated landslide, erosion, seismic and mine hazard areas, a geotechnical assessment or an erosion hazard assessment prepared by a qualified expert shall be submitted and coordinated with International Building Code requirements.

B. If the geotechnical assessment indicates an inability of the site to accommodate the proposed activity without special measures or precautions as determined by a qualified expert, the City may require a geotechnical report.

C. The following define the different types of geologic hazard areas:

2. Erosion Hazard Areas. Erosion hazard areas are those areas identified by the presence of soils that are recognized as having a severe erosion hazard by the Natural Resources Conservation Service, Cowlitz Area, Washington.

3. Landslide Hazard Areas. Landslide hazard areas are those areas meeting any of the following criteria:

d. Areas of historic failure, such as areas designated as quaternary slumps, earthflows, mudflows, or landslides;

e. Any area with the following:

(1) Steep hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, that has or exhibits evidence of springs or groundwater seepage;

(2) Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint systems, and fault planes;

(3) Slopes having gradients greater than eighty percent and subject to rock fall during seismic shaking;

(4) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;

(5) Areas located in a canyon, on an active alluvial fan, or that are presently subject to inundation by debris flows or catastrophic flooding;

(6) Areas identified as being medium or high probability of slope instability based on Washington State Department of Natural Resources soils based stability model or the most current map adopted by the city and filed with the city clerk;

(7) Areas identified as being medium or high probability of slope instability based on field visits along with reasonable assumption of city ~~planning~~ staff or other qualified experts with localized knowledge of present site conditions.

4. Seismic Hazard Areas. For the purposes of this classification, a seismic hazard area is any area indicated by a zone 2B or higher rating as defined by the Seismic Risk Map of the United States, adopted by the Washington State Legislature and defined in the International Building Code (IBC/IRC).

5. Mine Hazard Areas. For the purposes of this classification mine hazard areas are:

   a. Abandoned mines and/or workings where locations are known.

   b. Abandoned mines and/or workings where exact locations are unknown, but based upon the best available information there is good cause to believe it is within an area that may be reasonably delineated.

6. Volcanic Hazard Areas. For the purposes of this classification, all volcanic mudflow hazard areas shall be identified as the five-hundred-year floodplain areas identified in FEMA maps.

D. Development within geologic hazard areas shall meet the following requirements:

1. Development Standards for Landslide Hazard Areas and Erosion Hazard Areas. Any allowed or regulated activity on areas identified as landslide or erosion hazards or their buffers shall conform to the following standards:

   a. Buffers.

      (1) An undisturbed fifty-foot buffer, as measured on the surface, is required from the top, toe, and along all sides of any existing landslide or eroded area, within a critical area;

      (2) Based on the results of the geotechnical assessment, the director may increase or decrease the buffer or require additional areas including buffers as indicated; and

      (3) The buffer shall be clearly staked before and during any construction or clearing.

   b. General Design Guidelines.

      (1) Structures should be clustered where possible to reduce disturbance and removal of vegetation;

      (2) Foundations should conform to the natural contours of the slope; and

(3) Roads, walkways, and parking areas should be designed to parallel the natural contours of the site.

c. Grading.

(1) Clearing, grading, and other construction activities shall not aggravate or result in slope instability or surface sloughing;

(2) Undergrowth shall be retained to the maximum extent feasible; (3) No dead vegetation (slash), fill, or other foreign material shall be placed within a landslide or erosion hazard area, other than that approved for bank stabilization or if such fill is consistent with authorized activities specified in a geotechnical report; and

(3) Minimize ground disturbance to the maximum extent feasible by not allowing clearing from May 1st to October 1st of every year.

d. Erosion Control.

(1) There shall be minimum disturbance of trees and vegetation in order to reduce erosion and maintain existing stability of hazard areas;

(2) Vegetation removal on the slopes of banks between the ordinary high water mark and the top of the banks shall be minimized because of the potential for erosion;

(3) Vegetation and organic soil material shall be removed from fill site prior to the placement of fill;

(4) Thinning of limbs of individual trees is preferred over tree removal as a means to provide a view corridor; and

(5) Vegetative cover or engineered ground covers shall be placed on any disturbed surface to the extent feasible.

e. Drainage.

(1) Surface drainage, including downspouts, shall not be directed across the face of a hazard area. If drainage must be discharged from the top of a hazard area to its toe, it shall be collected above the top and directed to the toe by tight line drain, and provided with an energy-dissipating device at the toe for discharge to a swale or other acceptable natural drainage areas; and

(2) Stormwater retention and detention systems, including percolation systems utilizing buried pipe, require a geotechnical assessment that indicates such a

system shall not affect slope stability and require the systems to be designed by a licensed civil engineer. The licensed civil engineer shall also certify that the systems are installed as designed.

f. Sewage Disposal System Drainfields. For the purpose of landslide or hazard areas, the sewage disposal drainfields shall be located outside of the hazard area buffer, unless otherwise justified by a qualified geotechnical engineer. The septic system drainfield must be in compliance with all local government health regulations.

2. Development Standards—Seismic Hazard Areas. All development within areas that meet the classification for seismic hazard areas shall comply with the International Building Code. A critical areas permit is not required by these regulations for seismic hazards.

3. Development Standards—Mine Hazard Areas. Development adjacent to a mine hazard area is prohibited unless the applicant can demonstrate the development will be safe. If a proposal is located adjacent to a mine hazard area, a geotechnical assessment may be required.

4. Development Standards—Volcanic Hazard Areas. Development shall comply with existing Federal Emergency Management Agency regulations for floodplain management. A critical areas permit is not required by these regulations for development in a volcanic hazard area.

E. Geotechnical assessments and reports.

1. A geotechnical assessment shall typically include at a minimum the following:

a. A discussion of the surface and subsurface geologic conditions of the site;

b. A site plan of the area delineating all areas of the site subject to landslide hazards based on mapping and criteria; and

c. A contour map of the proposed site, at a reasonable scale (not smaller than one inch equals two hundred feet) which clearly delineates slopes for ranges between fifteen and twenty-nine percent and thirty percent and greater, and includes figures for area coverage of each slope category on the site. If any springs or seeps are present, their location should be indicated on the map.

d. Evaluation of the ability of the site to accommodate the proposed activity.

2. The erosion hazard assessment of streams and hillsides shall typically include, at a minimum, the following:

a. An overview of existing channel characteristics and stream hydraulics at the subject property;

b. An assessment of the probability for stream induced erosion to occur on the subject property and the estimated extent of the property that would be affected;

c. A site map of the property, drawn to scale, delineating the relationship of the stream to the property, and existing erosion areas and/or potential erosion areas, and the proposed development, including structural dimensions;

d. A cross-section map, drawn to scale and at five-foot contour intervals from the edge of the river's surface to the furthest landward boundary of the property, and including the proposed development; and

e. Evaluation of the ability of the site to accommodate the proposed activity.

3. In addition to the basic critical area report requirements, a critical area report for an erosion hazard or landslide hazard area associated with hillsides shall include the following information at a minimum:

a. The report shall include a copy of the site plan for the proposal showing:

(1) The height of slope, slope gradient, and cross section of the project area;

(2) The location of springs, seeps, or other surface expressions of groundwater on or within two hundred feet of the project area or that have potential to be affected by the proposal. A distance of two hundred feet is suggested so that geological features that might affect the proposal are included in the critical area report. It may be necessary to include features further than two hundred feet from the project area in some instances, such as a series of related geological features that extend more than two hundred feet; and

(3) The location and description of surface water runoff.

b. A geotechnical analysis including:

(1) A description of the extent and type of vegetative cover;

(2) An estimate of load capacity including surface and groundwater conditions, public and private sewage disposal systems, fills and excavations and all structural development;

(3) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

(4) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one-hundred-year storm event;

(5) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;

(6) A study of slope stability including an analysis of proposed angles of cut and fill and site grading;

(7) Recommendations for building limitations, structural foundations, and an estimate of foundation settlement; and

ii. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

c. Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the locally adopted stormwater management regulations.

f. Drainage Plan. The report shall include a drainage plan for the collection, transport, treatment, discharge and/or recycle of water prepared in accordance with the locally adopted surface water management plan. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area.

g. Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan and/or other means for maintaining long-term soil stability.

h. Monitoring Surface Waters. If the City determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the critical area report shall include a plan to monitor the surface water discharge from the site.

(1) The monitoring plan shall include a recommended schedule for submitting monitoring reports to the Ceity of Kelso.

4. The geotechnical report shall typically include at a minimum the following. Technical justification shall be provided where the qualified expert does not deem any information applicable.

b. Site Geology Information Required.

(2) Topographic Data. Contour map of proposed site at a scale of one inch equals two hundred feet, which clearly delineates the slopes between fifteen and twenty-nine percent and thirty percent and greater, including figures for area coverage of each slope category on the site.

(2) Subsurface Data. Boring logs and exploratory methods, soil and rock stratigraphy, groundwater levels including seasonal changes.

(3) Site History. Description of any prior grading, soil instability, or slope failure.

(4) Seismic Hazard. Data concerning the vulnerability of the site to seismic events.

b. Geotechnical Engineering Information Required.

(1) Slope stability studies and opinion of slope stability;

(2) Proposed angles of cut and fill slopes and site grading requirements;

(3) Structural foundation requirements and estimated foundation settlements;

(4) Soil compaction criteria;

(5) Proposed surface and subsurface drainage;

(6) Lateral earth pressures;

(7) Erosion vulnerability of site;

(8) Suitability for fill;

(9) Laboratory data and soil index properties for soil samples; and

(10) Building limitations.

c. Site Evaluation. Evaluation of the ability of the site to accommodate the proposed activity.

d. Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed activity and surrounding site conditions are unchanged, said report may be utilized and a new assessment may not be required.

17.26.90 itical Aquifer Recharge Areas

A. Classification—Critical Aquifer Recharge Areas

1. For the purposes of this classification, the critical aquifer recharge areas are determined by the combined effects of soil types and hydrogeology. (Critical Aquifer Recharge Map, Cowlitz-Wahkiakum Council of Governments, 1993).

2. High Susceptibility. Areas, identified on the aquifer recharge map, with a very high susceptibility to contamination of the underlying aquifer due to high soil permeability and high water table.

B. Regulated Activities. The following activities are regulated in critical aquifer recharge areas:

1. Aboveground and Underground Storage Tanks and Vaults. Aboveground or underground storage tanks or vaults for the storage of hazardous substances or dangerous wastes as defined in WAC 173-303, Dangerous Waste Regulations, or any other substances, solids, or liquids in quantities identified by the county health department, consistent with WAC 173-303, as a risk to groundwater quality shall conform to the Uniform Fire Code, WAC 173-360, and underground storage tank regulations.

2. Utility Transmission Facilities. Utility facilities that carry liquid petroleum products or any other hazardous substance as defined in WAC 173-303.

3. Land Divisions. Subdivisions, short subdivisions and other divisions of land will be evaluated for their impact on groundwater quality within the aquifer recharge areas. The following measures may be required:

   a. An analysis of the potential contaminate loading;

   b. Alternative site designs, phased development and/or groundwater quality monitoring;

   c. Open spaces within development proposals; and/or

   d. Community/public water systems and community drainfields.

C. Hydrogeologic Testing and Site Evaluation.

1. Hydrogeologic testing and site evaluation may be required for any regulated activity. If federal or state regulations require hydrogeologic testing, the City may waive the requirement for additional testing; provided, the City has adequate factual information to evaluate the proposal.

2. Development that may negatively impact the quality of critical aquifer recharge areas shall be prohibited unless the hydrogeologic testing and site evaluation satisfactorily demonstrate that significant adverse impacts will be mitigated.

~~D.~~E. If hydrogeologic testing and site evaluation are required, they shall be conducted by a qualified expert and typically include at least the following. Technical justification shall be provided where the qualified expert does not deem any information applicable.

1. A characterization of the site and its relationship to the aquifer and evaluation of the ability of the site to accommodate the proposed activity.

2. A discussion of the effects of the proposed project on groundwater quality and quantity.

3. Recommendations on appropriate mitigation, if any, to assure that there shall be no significant degradation of groundwater quality or quantity.

4. In addition, the testing and evaluation must include, but not be limited to, an analysis of:

   a. Geologic setting and soils information of site and surrounding area.

   b. Water quality data, including pH, temperature, conductivity, nitrates, and bacteria.

   c. Location and depth to perched water tables.

   d. Recharge potential of facility site (permeability/transmissivity).

   e. Local groundwater flow, direction and gradient.

   f. Surface water locations within one thousand feet of the site.

17.30 Shorelines

Section 17.30.010 Introduction.

A. In 2016 the Washington State Department of Ecology approved an updated Shoreline Master Program for the City of Kelso in accordance with the provisions of RCW 90.58. This updated Master Program governs all new development activities and uses within 200 feet of the ordinary high water mark and associated wetlands of the following bodies of water:

1. Columbia River;
2. Cowlitz River;
3. Coweeman River; and
4. Owl Creek.

B. Please refer to the Updated Kelso Shoreline Master Program for the goals, policies, and regulations that govern the use and development of jurisdictional shoreline areas in the City.

1. Also please note that this Master Program which includes regulations applicable to jurisdictional shoreline areas may only be amended in accordance with the provisions of RCW 90.58 which includes a requirement that all amendments must be approved by the Department of Ecology.

Chapter 17.34 Subdivisions

Comment [GD2]: This stills needs a lot of work. We will hold this for 2017 and in the interim will look for good small town models.

Sections:

17.34.010 Introduction;
17.34.020 Applicability;
17.34.030 Plat Design Standards;
17.34.040 Geologic Hazards;
17.34.050 Required Improvements;
17.34.060 Preliminary Plat Review and Approval;
17.34.070 Final Plat Approval;
17.34.080 Short Plats;
17.34.090 Binding Site Plan; and
17.34.100 Alteration and Vacation of Approved Subdivisions and Binding Site Plans.

17.34.10 Introduction. The purpose of this Chapter is:

A. To protect the public health, safety, and general welfare;

B. To prevent the overcrowding of land and the over congestion of streets while allowing for appropriate density of development and use of the land;

C. To provide for adequate light and air;

D. To ensure adequate provision of water, sewerage, park and recreation areas, streets, sidewalks and other public requirements;

E. To provide for proper ingress and egress;

F. To require uniform monumenting of subdivisions and conveyance of land by accurate legal description;

G. To provide for conservation of valuable resources and to direct development to areas suitable for development;

H. To adopt uniform and comprehensive standards and procedures applicable throughout the city relating to the subdivision of land;

I. To provide for the orderly growth of the city in conformance with the Kelso Comprehensive Plan and applicable ordinances;

J. To encourage energy conservation and the use of alternative resources, especially solar energy, in subdivision design and development;

K. To provide incentives for and flexibility in subdivision design to encourage imaginative, energy efficient but functional developments within specific guidelines; and

L. To reduce public service costs and energy demands of development.

17.34.020 Applicability.

A. The regulations contained in this Chapter shall apply to the division or redivision of land within the city for the purpose of sale, lease or transfer of ownership, whether immediate or future, unless otherwise clearly provided.

B. The regulations in this Chapter shall not apply to:

1. Cemeteries and other burial plots while used for that purpose;

2. Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;

3. Divisions made by testamentary provisions, or the laws of descent;

4. Divisions of land into lots or tracts classified for industrial or commercial use when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

5. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

b. A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

c. Divisions of land into lots or tracts if: (a) Such division is the result of subjecting a portion of a parcel or tract of land to either chapter 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land; (b) the improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one or more condominiums or owned by an association or other legal entity

in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest; (c) a city, town, or county has approved the binding site plan for all such land; (d) such approved binding site plan is recorded in the county or counties in which such land is located; and (e) the binding site plan contains thereon the following statement: "All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein." The binding site plan may, but need not, depict or describe the boundaries of the lots or tracts resulting from subjecting a portion of the land to either chapter 64.32 or 64.34 RCW. A site plan shall be deemed to have been approved if the site plan was approved by a city, town, or county: (i) In connection with the final approval of a subdivision plat or planned unit development with respect to all of such land; or (ii) in connection with the issuance of building permits or final certificates of occupancy with respect to all of such land; or (iii) if not approved pursuant to (i) and (ii) of this subsection (7)(e), then pursuant to such other procedures as such city, town, or county may have established for the approval of a binding site plan;

d. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures; and

e. A division of land into lots or tracts of less than three acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.

C. No person shall sell, lease or transfer the ownership of or offer for sale, lease or transfer of ownership any real property that is subject to this Chapter without prior approval and recording of the final plat and full compliance with this Chapter.

1. Any person, firm, corporation, or association or any agent of any person, firm, corporation, or association who violates any provision of this Title relating to the sale, offer for sale, lease, or transfer of any lot, tract or parcel of land shall be guilty of a gross misdemeanor and each sale, offer for sale, lease or transfer of each separate lot, tract, or parcel of land in violation of any provision of this Chapter shall be deemed a separate and distinct offense.

2. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations; to prevent unlawful construction; to recover damages; to restrain, correct or abate a violation; and to prevent illegal occupancy of a building or premises.

17.34.030 Plat Design Standards.

~~B.~~A. The requirements of this Chapter shall be followed in the development of all subdivisions, and shall be considered minimum standards. In addition to standards contained in this Title, all subdivision plats shall comply with the following:

1. The Kelso Comprehensive Plan and all plans, documents, and maps that have been adopted by reference to be used in support of the implementation of this Plan.

2. Approved sub-area plans, including but not limited to the West Kelso Sub-Area Plan.

3. The Kelso Shoreline Master Program.

4. Kelso Engineering Design Manual;

5. Any other applicable local, state, or federal laws and regulations.

B. Natural Feature Preservation and Critical Area Protection.

1. Plats shall be designed to preserve and enhance natural features and resources, including natural contours, watercourses, marshes, scenic points, large trees, natural groves, rock formations and sensitive areas; to be compatible with aesthetic values of the area; and to reflect natural limitations inherent in the property.

2. Any plat that includes a critical area shall comply with the provisions of Chapter 18.20.

3. Any plat that includes shoreline areas under the jurisdiction of the Washington Shoreline Management Act, shall comply with the provisions of the Kelso Shoreline Master Program;

4. So that plat design reflects natural limitations and hazards inherent in the property, the following documents shall be used in the design and review of plats for determining areas most appropriate for roads, building foundations, utilities and nondevelopment (open space):

   a. "Soil Survey for the Cowlitz Area, Washington" (Soil Conservation Service, 1974) and 1979 update (Appendix "C"); and

   b. "Slope Stability of the Longview-Kelso Urban Area" with map (Allen J. Fiksdal, geologist, Division of Geology and Earth Resources, Washington Department of Natural Resources, 1973); and

   c. "Digital Landslide Inventory for the Cowlitz County Urban Corridor—Kelso to Woodland" (Karl W. Wegman, Washington Division of Geology and Earth Resources, Washington Department of Natural Resources, 2005).

5. Geotechnical review shall be required for all proposed development within the Wegman study area east of Interstate 5 regardless of slope. Portions of plat areas with slopes between eight percent and thirty percent shall show how impacts related to slope are to be mitigated in the plat design. No development shall be allowed on areas with slopes greater than thirty percent.

6. As slopes increase and as soils exhibit moderate to severe limitations for urban development, as documented by qualified geologists, soils scientists or engineers, the density of development should decrease. Thus plats ~~sh~~could provide for larger lot sizes, fewer roads, ~~and~~or clustering of development on more appropriate building sites.

7. Areas documented to be hazardous or potentially hazardous for development in geologic reports, shall be designated as open space, including unimproved park land.

8. Areas that the City determines to be unsuitable for development due to flood hazards, poor drainage, rock formations or other features likely to be harmful to the safety and welfare of future residents and adjacent landowners shall be designed as open space, unless protective improvements assuring maintenance of the public safety and welfare and acceptable to the City can be developed.

9.

C. Monuments and Property Markers.

   1. Monuments shall be placed at all subdivision boundary angle points, points of curvature in streets, and such intermediate points required by the City in accordance with the Kelso Engineering Design Manual.

2. The boundary points of all blocks within the subdivision shall be marked by a galvanized iron pipe not less than one and one-half inches in diameter and thirty-six inches in length and firmly driven into the ground.

3. All corners of all lots shall be marked by a reinforcement bar or iron pin not less than five-eighths inch in diameter and thirty-six inches in length, firmly driven into the ground.

4. Brass tacks shall be cemented in the curb to identify the location of all lot lines as extended to the curb and of all sewer and water laterals to each lot. The brass tacks shall have a minimum head size of one-half inch in diameter and at the locations of sewer and water laterals shall be stamped with an "S" for sewer and a "W" for water.

D. Block Design.

1. Street and rights-of-way shall be designed in accordance with the Kelso Engineering Design Manual.

2. Lots and blocks intended for commercial and industrial use shall be designed specifically for such purposes, with adequate space provided for off-street parking, loading and delivery. In order to assist review of the proposed development, the City may require a preliminary site plan that includes additional elements such as:

   a. The placement of buildings and other structures, including fences and signs, showing the proposed uses;

   b. Internal circulation system;

   c. Off-street parking areas;

   d. Pedestrian circulation; and

   e. Open spaces.

E. Subdivision and Street Naming.

1. The City shall reserve the right to name subdivisions and streets.

2. Subdivision names shall not duplicate or too closely approximate phonetically the name of any other subdivision within the Kelso-Longview ~~urban~~ area, except that in the case of successive subdivisions of a phased development, plats may be differentiated in name by sequential numbering or by direction (north, south, etc.).

3. Street names shall not duplicate or too closely approximate phonetically the name of any other street within the Kelso-Longview urban area. Extensions of existing streets shall maintain the existing street name. Streets having the same name except for

"Court," "Lane," or other suffix shall be deemed duplicative and not permitted. Names of new streets running on a line with an existing street but separated by a park or barrier shall duplicate the name of the existing street. Street names shall be consistent with the requirements of this Title. ~~Chapter 15.16.~~

F. Lot Design.

1. Lots shall meet the minimum dimensional requirements of the zoning district in which the property is located.

2. All proposed lots must be designed so that the subsequent use and development of the lot can be accomplished in full compliance with the provisions of this Title, particularly the regulations governing the protection of critical areas, and a reasonable use exception will not be required.

3. All lots shall be provided direct access by means of minimum frontage on a public street right-of-way connecting to a developed public street.

4. Lots and streets shall be designed so that no residential property has direct driveway access to an arterial. Direct driveway access to minor arterials and collectors shall be minimized.

5. Lots shall be laid out to provide drainage away from all buildings, and individual lot drainage shall be coordinated with the storm drainage pattern for the area. Drainage shall be designed to avoid concentration of stormwater from one lot to an adjacent lot.

6. Individual lot size may fall below the minimum allowed provided the average lot size of all proposed lots is within the allowable range. Under no circumstances shall any lot be less than ninety percent of the minimum required size.

G. Required Improvements.

1. Drainage system.

   a. A drainage system connecting to drainage ways or storm sewers outside the subdivision and satisfactory to the City shall be required in all subdivisions.

   b. Drainage systems shall be designed consistent with the provisions of the Stormwater Management Manual for Western Washington published by the Washington State Department of Ecology as adopted by the City. Please refer to the Kelso Engineering Design Manual for more details.

   c. Calculations of the drainage system capacity shall be submitted to the City for review and approval.

2. Landscaping

a. The subdivider shall be responsible for insuring that, prior to issuance of an occupancy permit for a lot, the utility/planting strip abutting the curb adjacent to the lot is seeded in grass or sodded. Seeding or sodding shall be conducted in accordance with the Kelso Engineering Design Manual. The subdivider shall be liable to the city for incomplete grass seeding or sodding at the cost of sodding as estimated by the city engineer. These provisions do not apply to utility strips located outside the sidewalk under the integral curb and sidewalk option for local streets serving single-family residential areas.

b. Fences and hedges or landscaped buffer strips shall be installed to separate any proposed subdivision bordering a commercial or industrial zoning district or uses in conformance with the landscaping provisions outline in Section 17.40.050.

c. Residential subdivisions abutting major arterials shall include a buffer strip a minimum of ten feet wide along the property line abutting the arterial. Hedges or trees shall be planted in the buffer strip of a height that will become a solid, effective sight screen within three years.

d. Fencing may be required to limit access to critical areas located within the proposed subdivision that represent a hazard to public safety.

4. Streets, curbs, and sidewalks.

a. Streets, curbs and sidewalks, including improvements to existing streets, curbs and sidewalks as may be required by the City, shall be designed and constructed for the entire subdivision by the subdivider in accordance with the Kelso Engineering Design Manual. The subdivider shall determine the location of all driveway entrances and indicate curb indentations in the detailed construction plans.

5. Utility installation.

a. All distribution laterals and primary and secondary lines and wires serving the subdivision, including those providing electric, street lighting, telephone and cable television service, shall be placed underground. All utilities shall be installed to the property line of each and every lot prior to acceptance of improvements. The subdivider shall make necessary arrangements with utility providers or other appropriate persons for underground installations. This requirement does not apply to surface mounted transformers, switching facilities, connection boxes, meter cabinets, temporary utility facilities used during construction, high capacity transmission lines, electric utility substations, cable television amplifiers, telephone pedestals, cross-connect terminals, repeaters, warning signs or traffic-control equipment.

b. Sanitary sewers and water lines shall be installed to serve all subdivisions by extension of existing city sewer and water lines. They shall be designed and sized in accordance with the Kelso Engineering Design Manual and shall be of sufficient capacity to accommodate the ultimate development density of all intended phases and adjacent area.

c. Timing for installation of lines, pipes, cables, hydrants and service connections for sanitary sewer, storm sewer, water, electric, gas, telephone and television, and fire protection service shall be after grading in the rights-of-way is complete and before any street base material is applied.

d. Utility installations shall be in accordance with the standard utility location plans, the Kelso Engineering Design Manual, and other requirements of the City.

6. Street light system.

a. A complete street lighting system, including conduits, wiring, concrete bases, poles, junction boxes, meter base, service cabinets and luminaries, shall be installed by the subdivider throughout the subdivision. Work shall be in accordance with the Kelso Engineering Design Manual ~~(KEDM)~~. The subdivider's contractor shall submit plans and manufacturer's technical information to the city engineer for approval of all specifications and materials used in the system.

C. Park Dedications. Approval of all subdivisions that provide for residential use of land shall be contingent upon the dedication of land to the City for the purpose of providing park and recreational land primarily for use by residents of such subdivision, provided that:

a. The proposed area for dedication shall be located either within the boundaries of the property described in the subdivision or adjacent to an existing or proposed city park site within one-half mile of the proposed subdivision.

b. The proposed area for dedication shall have characteristics and location which make it suitable for future inclusion in the city park system as determined by the City.

c. The proposed area for dedication or portion thereof may also contain valuable or sensitive environmental features, preservation of which is consistent with the city's comprehensive plan and/or parks and recreation plan.

d. At least .01632 acres of improved park shall be provided for each residential dwelling unit. The actual amount of land dedicated may exceed this in order to comply with all provisions of this Title including the protection of environmentally sensitive areas, to mitigate potential adverse impacts, to promote compatible land uses, and to protect the public health and safety.

e. The proposed area for dedication shall be improved by the Developer to City standards as a neighborhood or community park, as appropriate.

f. The City and the Developer may execute an agreement for a voluntary payment in lieu of a dedication of land, that meets or exceeds the requirements of this Title. Such an agreement shall be in the form of a development agreement and/or recorded in a format prescribed by the City.

g. All lots within the subdivision for which dedication is required shall have legal and convenient access to the proposed area at the time of final plat approval.

17.34.040 Geologic Hazards.

A. The Kelso-Longview area is mapped into five slope stability zones or classification areas on a system of most to least probable stability by "Slope Stability of the Longview-Kelso Urban Area" with map (Allen J. Fiksdal, geologist, Division of Geology and Earth Resources, Washington Department of Natural Resources, 1973). Geologic report requirements shall reflect the Fiksdal classifications of the area to be developed and the soil survey findings, as follows:

1. Class 1 areas (areas believed to be stable): No geologic report is required, except that:

   a. If a development site has natural slopes greater than sixty percent or if cut slopes greater than sixty percent are proposed, an on-site visual geologic investigation shall be required with findings presented in a brief report conforming to Section 16.30.050;

   b. Notwithstanding Class 1 designation by Fiksdal, a geologic feasibility report conforming to Section 16.30.060 shall be required for sites where soils have "moderate" or "severe limitations for urban development" as identified in the soil survey and Table II-1 of the comprehensive plan.

2. Class 2 areas (areas probably stable under normal conditions, may become unstable if modified by development activities): A geologic feasibility report conforming to Section 16.30.060 shall be required:

   a. For sites having slopes greater than thirty percent;

   b. For sites where substantial cuts or fills are planned; and

   c. For sites where soils have "moderate" or "severe limitations for urban development" as identified in the soil survey and Table II-1 of the comprehensive plan.

3. Class 3 areas (areas of poor natural stability): A detailed engineering and geologic report conforming to Section 16.30.070 shall be required.

4. Class 4 areas (areas of ancient landslide debris): A detailed engineering and geologic report conforming to Section 16.30.070 shall be required.

5. Class 5 areas (areas of historical or recently active landslides): A detailed engineering and geologic report conforming to Section 16.30.070 shall be required.

B. Contents of geologic reports shall be as specified in Sections 16.30.050, 16.30.060 and 16.30.070. Preparation of brief reports of on-site investigation may be by a professional engineering geologist, soils scientist or civil engineer. Preparation of geologic feasibility reports and of detailed engineering and geologic reports shall be by a professional engineering geologist.

C. Mapping.

1. The map accompanying the Fiksdal report shall be the controlling document in determining a proposed subdivision's location by slope stability classification area; however, environmental overlay maps of the Cowlitz Wahkiakum Governmental Conference, showing the Fiksdal classifications to scale, may be used instead of the Fiksdal map. Determination of location by classification area shall be made by the City and shall be conclusive.

2. Soil maps contained in the soil survey shall be controlling in determining limitations for urban development by soil type. Determination of location by soil type shall be made by the City and shall be conclusive.

D. This section applies to those portions of Class I areas mapped by Fiksdal specified in Section 16.30.010A1. Contents of the brief report of on-site investigation shall be as follows:

1. Signature of professional geologist, soils scientist or civil engineer responsible for the investigation;

2. Index map showing the sites studied and the regional setting;

3. A statement of conclusions regarding the geologic suitability of the site(s) for the subdivision design and construction being proposed;

4. Recommendations for changes to subdivision design or other mitigating measures, if warranted;

5. Recommendations for further study, if warranted;

6. If the structural relationships are complex and difficult to describe, a geologic sketch map of the site and/or geologic structure section.

E. This section applies to those Class 1 and Class 2 areas mapped by Fiksdal as specified in Sections 16.30.010A2 and B. Contents of the geologic feasibility report shall be as follows:

1. Signature of the professional engineering geologist responsible for the report;

2. An index map showing the sites studied and regional setting of the study area;

3. A statement regarding methods of study and approximate time in the field. Methods of study may include but are not limited to field traverses and inspection, test pits or trenches, drill holes, aerial photo analyses, laboratory tests, and research of previously published or unpublished work;

4. Soils test information, including soil loading, soil shear and Atterberg limits;

5. A statement of conclusions regarding the interrelated effects of the proposed subdivision design and construction upon identified or potential geologic hazards;

6. Recommendations for changes in subdivision design or other mitigating measures, if warranted, including non-development of hazard areas;

7. Recommendations for further study, if warranted;

8. If the structural relationships are complex and difficult to describe, a geologic sketch map of the site and/or geological structure section.

F. This section applies to Class 3, 4 and 5 areas mapped by Fiksdal as specified in Sections 16.30.010C, D and E. Contents of the detailed engineering and geologic report shall be as follows:

1. Signature of the professional engineering geologist responsible for the report;

2. An index map showing the regional setting of the study area;

3. A statement regarding methods of study and approximate time spent in the field. Methods of study may include but are not limited to field traverses and inspection, test pits or trenches, drill holes, aerial photo analysis, laboratory tests and research of previously published or unpublished work;

4. Brief description of natural materials and subsurface and surficial features recognized or inferred within the subject area. The description should emphasize features of special significance, such as features indicating subsidence or settlement, creep, slump and slide masses in bedrock or surficial deposits, active faults and their recent effects and accelerated erosion;

5. An original geologic map of the site and as much of the surrounding area as practicable. The base map should be the same as that used for the preliminary plat, with contour intervals. Companion maps at a smaller scale may be prepared to emphasize special features or hazards. Test holes and other specific sources of subsurface information should be indicated on the map(s). The geologic map should reveal clearly areas to be avoided, if any, and areas of little apparent hazard;

6. One or more geologic structure sections to show actual or probable subsurface relations, clearly labeled as to which relations are conjectural;

7. Conclusions regarding the interrelated effects of the proposed subdivision design and construction upon identified or potential geologic hazards. The conclusions should state whether it is basically reasonable to develop the subject area and should address the lateral stability of earth materials, features in adjacent properties that could cause problems, and probable stability or problems of proposed cuts and fills;

8. Recommendations shall be given regarding the following factors, where appropriate:

    a. Cuts. Repositioning of proposed cuts, reduction of cut slopes, development of compound cut slopes, buttressing, protection against erosion, handling of seepage, setbacks for structures above cuts.

    b. Fills. Suitability of existing natural materials for fill, positioning of fill masses, provision for under drainage, buttressing, erosion protection.

    c. Other. Areas to remain as open space, removal or buttressing of existing slide masses, position of structures with regard to faults or other features, need for further study.

17.34.050 Required Improvements.

A. It shall be the responsibility of the subdivider to construct and install permanent and interim improvements required by this Chapter or otherwise required by the City within the boundaries of the approved preliminary plat, with the expense of making such improvements to be borne solely by the applicant; however, the City may form a local improvement district when an improvement will serve a wider area than the subdivision alone.

B. Construction, repair, expansion or other improvement of any off-site infrastructure required by City as a condition of preliminary plat approval shall be the sole responsibility of the applicant unless otherwise stipulated by City.

C. No final plat shall be approved by the City until all improvements required of the subdivider have been completed to the satisfaction of the City or sufficient financial guarantees as required by the City to insure full performance have been executed.

1. Improvements shall be inspected by the City at the start, during, and at completion of construction and installation. The person, firm or contractor actually performing the work shall notify the City in accordance with the Kelso Engineering Design Manual.

2. Prior to acceptance of any improvements, the subdivider shall submit as-built drawings in accordance with the Kelso Engineering Design Manual.

3. No building permit shall be issued prior to final plat approval and satisfactory completion of improvements, unless specifically authorized by the City. ~~However, in the case of improvements deferred through plat bonding or other security, in the case of construction of a model home or public or quasi-public building, and at the discretion of the City, a building permit may be issued when minor work remains on improvements.~~

D. The amount of any bond or other security posted or submitted shall be at least one hundred twenty-five percent of the cost of completion of improvements as approved by the City. In the event of interim improvements, the amount shall include the cost of their completion, maintenance, and removal as approved by the City. The subdivider shall provide cost estimates to the City, but the amounts approved by the City shall be conclusive.

1. Any plat performance bond or agreement posted or secured under this Chapter shall be binding upon the subdivider, his/her heirs, successors and assigns.

2. The period in which improvements must be completed shall be specified in the plat performance bond or agreement. That period shall not exceed eighteen months from date of final plat approval; however, extensions may be granted. Requests for extensions shall be made to the City and shall include an application, a narrative justifying the extension, extension of the security set forth in this Chapter and a fee. The City shall determine whether sufficient progress has been made and good faith indicated to warrant an extension.

3. Any plat performance bond or financial guarantee shall include provisions to reimburse the City for any costs associated with inspections, and/or the administration of the bond/guarantee.

E. Any plat performance bond or agreement shall provide that in the event the specified improvements are not completed within the time limit, the City may declare the bond or agreement to be in default, may complete the work to city specifications, and may recover the full cost thereof from the subdivider, surety company, bank or cosigner of the security. If the amount of the plat performance bond or other security is less than the cost incurred by the City, the subdivider shall be liable to the City for the difference. If the amount is greater than the cost incurred by the City, the City shall release the remainder. In the case of any suit or action to enforce provisions of this chapter, the subdivider shall pay to the City all costs incidental to litigation, including reasonable attorney's fees.

F. All required improvements shall be maintained and assured by the subdivider in accordance with the terms and conditions of approval and the provisions of this Title and the Kelso Engineering Design Manual.

1. The subdivider shall be responsible for maintenance of interim improvements, and, at the time deemed appropriate by the City, for their removal. If interim improvements are not adequately maintained and, at the appropriate time, removed, the City may invoke any bond or other security posted by the subdivider, may cause the work to be done, and may recover the full cost thereof from the subdivider, surety company, bank or cosigner, or may seek other remedy.

17.34.060 Preliminary Plat Review and Approval.

A. The preliminary plat shall conform to, and it shall be the applicant's burden to demonstrate consistency with the following:

1. The general goals, policies, objectives and land use map of the comprehensive plan;

2. Kelso parks, trails, and open space plans;

3. Municipal airport development plan;

4. Kelso capital improvements program;

5. Kelso Municipal Code;

6. Kelso Shoreline Master Program; and

7. Other plans and programs as the Ceity may adopt.;

B. The City shall determine whether appropriate provisions are made for, but not limited to, public health, safety and general welfare; open spaces, parks and playgrounds; school grounds; drainage ways and facilities; streets, alleys, sidewalks and other public ways; water supplies; and sanitary and solid waste disposal. The burden of proof shall lie with the applicant. If the City finds that such appropriate provisions are not made, the proposed plat shall not be approved. As provided in RCW 58.17.110, the City may require dedication of land to any public body as a condition of approval.

C. The City shall inquire into the public use and interest proposed to be served by the subdivision and dedications to the public, and shall determine whether the public interest will be served by the subdivision proposed dedications to the public. The burden of proof shall lie with the applicant. If the City finds that the public use and interest will not be served, the proposed plat shall not be approved.

D. The City shall consider the physical characteristics of the proposed subdivision site and may disapprove the plat because of any identified or suspected natural limitations,

including but not limited to slope, soil stability, flood hazard, inundation, swamp conditions, drainage conditions and location in or proximity to environmentally sensitive areas as described in Chapter 18.04. The burden of proving that disruption of areas identified or suspected of being environmentally sensitive will not endanger the public health, safety or welfare shall lie with the applicant.

E. No plat of any area that lies wholly or in part in an irrigation district organized under Chapter 87.03 RCW shall receive favorable recommendation or be approved unless there is provided an irrigation easement for each parcel of land in such district. Such easement shall be evidenced on the face of the final plat.

~~F. As a condition of approval the City shall not require a subdivider to procure from adjacent property owners a release from damages against the City. In accordance with RCW 58.17.165, an exception to this rule shall apply to the construction, drainage and maintenance of dedicated streets.~~

G. The City shall consider the effects of a proposed subdivision on adjacent properties and on off-site or city-wide public facilities and services, such as existing parks, recreation facilities, schools, streets, transit facilities, drainage ways and storm sewers. In order that the subdivider bears a fair share of the cost of repair or improvement of these affected properties, facilities and services, the City may require construction, repair, expansion, improvement or other provision of off-site improvements by the applicant. Such requirements may include but shall not be limited to dedication of land for right-of-way, resurfacing a street that provides access to a subdivision or replacement of inadequately sized off-site utilities whose capacity will be affected by the development.

I. The City may condition the approval of a preliminary plat to in order to promote the public interest, safety, health and welfare. Conditions of approval shall be listed on the face of the final plat.

~~J. The City shall consider the relationship between the preliminary plat and the master plan. In order to provide for future needs and a coordinated relationship between the preliminary plat site and tentative development in adjoining areas, the Hearing Examiner may use the master plan to establish appropriate modifications to the preliminary plat, recommended conditions of approval, dedications and off-site improvements.~~

K. Subdividers shall have five years from date of preliminary plat approval to submit to the City a final plat application meeting all requirements of this Title. Failure to submit a final plat within the five-year period shall result in expiration of preliminary plat approval; however, a subdivider who files a written request with the City at least thirty days before the expiration of the five-year period may be granted up to a one-year extension upon a showing that the subdivider has attempted in good faith to submit the final plat within the five-year period. Good faith shall be interpreted as having made substantial progress in making improvements required under preliminary plat approval. Disapproval of a request for extension shall mean expiration of preliminary plat approval.

L. Approval of a preliminary plat by the City constitutes an approval of the proposed subdivision's design, relationship with adjoining property, and improvements to be provided. Engineering, construction and installation of improvements and final platting detail shall be subject to approval by the City. Additionally, approval of a preliminary plat shall not guarantee approval or constitute acceptance of the final plat, rather, it shall be deemed to authorize the subdivider to proceed with preparation of the final plat in conformance with the approved preliminary plat and conditions set thereon, and upon the City's approval of detailed construction plans, to proceed with construction and installation of the required improvements.

17.34.070 Final Plat Approval.

A. After approval of the preliminary plat and prior to the beginning of construction and installation of improvements or performance bonding or other assurance in lieu thereof, the subdivider's shall submit to the City detailed construction plans for all required improvements and applications for necessary permits. Upon the City approval of the construction plans and prior to submission of the final plat, the subdivider shall proceed to construct and install required improvements to completion, unless the performance bonding or other option set forth in this Title is accepted.

B. After the construction and installation of all required improvements and the satisfaction of all conditions of preliminary plat approval, the subdivider shall submit a final plat for review and approval by the City. The final plat shall:

1. Be drawn to City specifications and contain all information required by the City.

2. Conform to the preliminary plat approved by the City and to any conditions that may have been part of the approval.

   a. Minor deviations from the approved preliminary plat may be approved by the City based on a finding that such deviations are in the public interest.

3. Include, in a format prescribed by the City, all formal, irrevocable offers of dedication to the public and space for the acknowledgments, endorsements, and certifications, as well as any voluntary payments or performance bonds that may be required.

C. The original hard copy drawing of the final plat shall be accompanied by such materials as may be required by the City. This may include:

1. At least two copies of the final plat on mylar material;

2. A minimum of ten paper copies of the final plat;

3. A copy of any restrictive covenants proposed by the subdivider;

4 A title report issued by a title insurance company showing all parties whose consent is necessary and their interest in the premises and listing all encumbrances;

5. As-built plans of such required improvements as have been completed

6. A complete survey and field and computation notes;

7. If required improvements have not been completed, a plat performance bond or other security, as may be required by the City;

8. Payment of all required fees and charges. This may include, but is not limited to:

   a. Payment of the inspection fees required;

   b. Payment of a fee covering the cost of all street signs required by the City, which signs shall be installed by the applicant per Section 3.21(b) of the Kelso Engineering Design Manual.

9. All dedications, acknowledgements, and endorsements that may be required by the City:

E. Final plat approval by the City shall be based on a finding that:

1. The final plat conforms to the approved preliminary plat and conditions set thereon;

2. The public use and interest will be served by the subdivision and the final plat meets the requirements of Chapter 58.17 RCW and of this Title;

3. Improvements have been completed or properly guaranteed to be completed;

4. The dedications, certifications, acknowledgments and signatures required by the City have been duly stated and obtained;

5. All required fees and payments have been paid;

6. Proposed covenants are in satisfactory form and ready for recording with the final plat;

7. Any other supplementary materials required by the City has been satisfactorily completed.

F. The subdivider shall file an original drawing of the final plat suitable for recording with the County Auditor and shall provide such copies as may be required by the City.

1. Any final plat not filed for recording within thirty days after City approval shall be null and void. To be reactivated, the plat must be resubmitted as a new application for final plat approval.

G. Alterations or vacations of approved, recorded subdivisions shall be processed pursuant to Chapter 17.34.110 and the provisions of Chapter 58.17 RCW.

17.34.080 Short Plats. Any division of land for lease, rent, sale or transfer into four or fewer lots, may be processed as a short plat in accordance with the provisions of this Title.

A. Applications for preliminary and final short plat approval shall be on forms prescribed by the City. In designing short plats the Applicant shall ensure:

1. That an approved sewage disposal system is available to each lot;

2. That an adequate domestic and fire protection supply of potable water is available to each lot;

3. That cul-de-sacs, dead-end streets, rights-of-way, and road bed widths of dedicated streets shall all be in compliance with this Title and the provisions of the Kelso Engineering Design Manual;

4. That all new streets, including illumination (where appropriate), shall be constructed in accordance with the provisions of the Kelso Engineering Design Manual, and street names be clearly shown on the face of the final short plat;

5. Adequate provisions for sidewalks and other features have been made to assure safe walking conditions for students who walk to and from school;

6. Adequate provisions have been made for parking and landscaping;

7. That each block is assigned a label and each lot a number. House addresses will be assigned by City Staff;

8. That all utilities available to the area are available to each lot in the proposed subdivision. All short subdivisions proposing to locate within two hundred feet of city sewer and water lines shall be required to use said public systems. No utility hook-up shall be furnished to any dwelling or structure prior to final short plat approval;

9. That a survey by a land surveyor registered in the state of Washington has been completed and accompanies the final short plat submittal;

10. The short plat design complies with the regulations protecting environmentally sensitive areas and the City's Shoreline Master Program, provided that:

a. No lots are created that are unbuildable or that would require a reasonable use exception; and

b. Tracts may be created to preserve open space, parks, and/or to protect environmentally sensitive areas and their buffers.

11. That the proposed short plat is in compliance with all applicable standards contained in the Kelso Municipal Code.

C. The applicant shall have five years from the date of a preliminary short plat approval to submit to the City a final short plat. Failure to submit a final short plat within the five-year period shall result in expiration of the preliminary short plat approval. This time limitation shall be extended for one additional year if the applicant files a written request for such extension at least thirty days prior to the expiration thereof; provided, in the judgment of the City, the applicant has demonstrated a good faith attempt to comply with the original time restriction. If such extension is not granted, the preliminary short plat approval shall expire at the end of the fifth year.

D. Lands contained within the final short plat (including the original parcel from which the newly created lots were segregated) may not be further divided in any manner within a period of five years without complying with the subdivision ordinance as set forth in Chapters 16.04 through 16.40.

17.34.090 Binding Site Plan. Any land designated for the sale or lease of commercial or industrial designated lands, or for lease of lands where no residential structure other than manufactured homes or travel trailers are permitted, shall, upon receipt of a binding site plan application by the City, be considered for exemption from the standard long-plat and short-plat subdivision requirements; provided, that such lands meet and conform to the procedures and requirements of this Section.

A. Application for a binding site improvement plan shall be made on such forms and shall include such copies as may be prescribed by the City.

1. The preliminary plan shall be a neat and accurate drawing by a land surveyor on reproducible material, with contour lines documenting the topography, and documenting natural features, drawn at a scale and in a format prescribed by the City;

2. The preliminary plan shall include a vicinity map showing the location of the site and its relationship to the surrounding area;

3. The preliminary plan shall identify the location and dimensions of all existing and proposed streets, roads, sidewalks, improvements, utilities, environmentally sensitive areas, shorelines, buffers, and open spaces;

B. Prior to final approval of any binding site improvement plan, the City shall find that the following improvements are adequate to service the anticipated uses throughout the proposed site:

1. Landscaping;

2. Parking;

3. Water supply (potable, plus firefighting flow level);

4. Sewage disposal;

5. Storm drainage improvements;

6. Fire hydrants;

7. Sidewalk access to all anticipated uses within the site;

8. Street and parking lot lighting and landscaping;

9. Provision for all appropriate deed, dedication, and/or easements;

10. Location of all permanent monuments on all exterior tract corners.

C. Prior to issuance of any building permit for construction within an approved binding site improvement plan:

1. That portion of the plan for which the building permit is requested must be legally described and receive a certificate of segregation ~~from the City~~; and

2. All required improvements needed to adequately service that portion of the plan for which the building permit will be issued shall be installed or bonded one hundred fifty percent of the estimated cost.

D. Alteration or vacation of an approved and recorded binding site plan shall be accomplished in accordance with the provisions of Section 17.34.110.

17.34.110 Alteration and Vacation of Approved Subdivisions and Binding Site Plans.

A. Any person may submit for City review and approval an application to vacate a subdivision or binding site plan, or portion thereof, or any area designated for public use, in accordance with the provisions of this Section and RCW 58.17.212, provided that:

1. The Application shall state the reasons for the proposed vacation and shall contain the signatures of all parties that have an ownership interest in the portion of the subdivision to be vacated;

2. If the proposed vacation would affect any covenants or would alter the terms and conditions of plat approval, an agreement signed by all parties shall be submitted documenting agreement to the proposed termination or alteration of the covenants and conditions of approval;

3. The proposed vacation streets and roads must comply with the provisions of state law, including but not limited to RCW 35.79.030, 35.79.035, and 36.87.130; and

4. The proposed alteration will be processed by the City in the same manner as a new application for a short plat or long plat.

B. Any person may submit for City review and approval an application to alter a subdivision or binding site plan, or portion thereof, or any area designated for public use, in accordance with the provisions of this Section and RCW 58.17.215, provided that:

1. The Application shall state the reasons for the proposed vacation and shall contain the signatures of the majority of the parties that have an ownership interest in the portion of the subdivision to be altered;

2. If the proposed vacation would affect any covenants or would alter the terms and conditions of plat approval, an agreement signed by all parties shall be submitted documenting agreement to the proposed termination or alteration of the covenants and conditions of approval;

3. If the land within the proposed alteration is a part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts; and

4. The proposed alteration will be processed by the City in the same manner as a new application for a short plat or long plat.

Chapter 17.38
Master Planned Developments

Sections:

17.38.010 Introduction.
17.38.020 Administration.
17.38.030 Additional Uses and Alternative Development Standards.
17.38.040 Approval Criteria.
17.38.050 Approved Master Planned Development.
17.38.060 Development Agreement(s).
17.38.070 Modifications to Approved Master Plans.

17.38.010 Introduction. The purpose of a Master Planned Development is to promote attractive and efficient developments that incorporate a variety of uses, densities and/or dwelling types, provide for economy of shared services and facilities, economically utilize the land, resources, and amenities, and provide flexibility in design and building placement.

A. A Master Planned Development is intended to:

1. Allow flexibility in development standards and permitted uses while ensuring compatibility with neighboring uses;

2. Facilitate the efficient use of land and provide for a comprehensive review of integrated development projects;

3. Provide needed services and facilities in an orderly, fiscally responsible manner;

4. Promote economic development, job creation and diversification and affordable housing;

5. Increase economic feasibility by fostering efficient arrangement of land use, buildings, transportation systems, open space and utilities;

6. Preserve or enhance natural amenities, features, Shorelines and Critical Areas in the development of a particular site;

7. Identify significant environmental impacts and ensure appropriate mitigation;

8. Encourage environmentally sustainable development;

9. Provide certainty regarding the character, timing and conditions for planned residential, commercial, industrial and mixed use developments, included phased developments, and vest such projects through a public review process;

10. Create vibrant mixed-use neighborhoods, with a balance of housing, employment, commercial and recreational opportunities; and,

11. Promote consistency with the goals, policies and objectives of the Kelso Comprehensive Plan.

B. A Master Planned Development may take the form of a residential, commercial, industrial, or mixed-use development. Each is intended to accommodate and facilitate larger-scale development designed to accomplish integrated and flexible site planning. A mixed-use Master Planned Development may be permitted in any zoning district subject to specific findings that the site and master concept plan are compatible with the Comprehensive Plan.

C. Applicants for Master Planned Development will be encouraged to utilize unique and innovative facilities that encourage the efficient and economical use of the land; promote a sound system for traffic and pedestrian circulation; promote open space and use of natural and/or developed amenities; and provide an architecturally attractive, durable, and energy efficient development.

17.38.020 Administration. As an alternative to subdividing and/or developing parcel(s) pursuant to the other provisions of the Kelso Municipal Code, an Applicant may request, subject to City approval, that the City process its development applications in accordance with the provisions of this Chapter.

A. An application for Master Planned Development shall include the following information:

1. Planning History. A summary of all previous known land use decisions affecting the applicant's property and a list of all outstanding conditions of approval with respect to such prior land use decisions.

2. Existing Property Information. An application for a Master Plan Development shall contain the following information on and adjacent to the site, presented in narrative, tabular, and/or graphic formats:

a. Vicinity map that identifies surrounding uses within 500 feet of the site boundary.

b. Legal description for the proposed Master Planned Development together with a title report disclosing all lien holders and owners of record.

c. Zoning map that identifies base and overlay zoning designations for the site and surrounding property uses within 500 feet of the site boundary.

d. Site description including the following information provided in narrative, tabular, and/or graphic formats:

(1) Topography and natural resources including 100-year floodplain; wetlands,

rivers, streams, or other critical areas; the natural hydrology, and natural hazards such as steep slopes greater than 15%, and unstable, impermeable, or weak soils.

(2) Inventory of cultural, historic, and/or archaeological resources on the site, if any.

(3) Existing buildings, if any, including use, location, size, and date of construction.

(4) Existing on-site transportation systems including streets, sidewalks, and bike paths, if any.

(5) Location and size of existing public and private utilities on the site including water, sanitary sewer, stormwater retention/treatment facilities, and electrical, telephone, and data transmission lines.

(6) Location of public and private easements.

(7) A description of the type, design, and characteristics of the surrounding properties for purposes of assessing the proposed Master Planned Development effects.

3. SEPA Checklist. A completed SEPA checklist for the proposed Master Planned Development shall be submitted, provided that the City may require that additional technical studies and/or an environmental impact statement be completed.

   a. The Applicant may also request, subject to City review and approval, that the Master Planned Development be processed as a Planned Action in accordance with the provisions of the Kelso Municipal Code and the Washington State Environmental Policy Act.

4. Technical Studies. Technical Studies may be required by the City when potential adverse impacts are identified and may include, but is not limited to the following:

   a. A Traffic Impact Analysis sufficient to assess access to the site and within the site, on-street parking impacts and limitations and necessary traffic-related improvements;

   b. Drainage Study;

   c. Geotechnical Analysis;

   d. Noise Analysis;

e. Other analysis of potentially significant issues as identified during the SEPA environmental checklist review.

5. Site Plan. The application shall include a conceptual site plan which includes the following elements:

a. Project boundaries.

b. Primary uses and ancillary uses.

c. Existing and proposed structures.

d. Gross floor area of development.

e. Maximum building heights.

f. Minimum building setbacks.

g. Maximum lot coverage.

h. Any other development standards proposed to be modified from the underlying zoning district requirements.

i. The proposed circulation system of arterial and collector streets, including if known, the approximate general location of local streets, private streets, off-street parking, service and loading areas, and major points of access to public rights-of-way, with notations of proposed public or private ownership as appropriate.

j. The proposed location of new and/or expanded public and private utility infrastructure.

k. Site-screening, landscaping and street trees.

l. The location and nature of all required stormwater improvements including low impact development features.

f. A Master Planned Development incorporating commercial or industrial facilities must provide a buffer or site design along the perimeter of the Master Planned Development, which shall reasonably transition the Master Planned Development to any adjacent properties zoned or used for residential purposes.

g. Aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, and shadow impacts.

h. Site features as appropriate to mitigate traffic, environmental, geotechnical, and other impacts as identified in technical studies required by this Chapter.

i. Shoreline and Critical Areas where applicable.

17.38.030 Additional Uses and Alternative Development Standards. Proposed Master Planned Developments shall comply with all applicable use restrictions and development standards of the zoning district in which it is located, except as specifically approved the City.

A. The City may approve additional uses and alternative development standards based on a finding that they are consistent with the City's Comprehensive Plan and the intent of the zoning district, are in the public interest, and will not adversely affect the public health and safety.

17.38.040 Approval Criteria.

A. The City may approve a Master Planned Development based on a finding that:

1. The application demonstrates the economic and efficient use of land and provides for an integrated and consistent development plan for the site.

2. The Applicant has identified development standards and uses that are consistent with the master plan and designed in a manner that is compatible with adjacent land uses after consideration of applicable mitigation and site design.

3. Consideration has been given to "low impact development" stormwater concepts.

4. There will be adequate infrastructure capacity available by the time each phase of development is completed.

5. The Master Planned Development contains design, landscaping, parking/traffic management, and use mixture and location that limit or mitigate conflicts between the Master Planned Development and adjacent uses.

6. All potential significant off-site impacts including noise, shading, glare, and traffic have been identified and mitigation incorporated to the extent reasonable and practical.

7. The project is designed and includes appropriate consideration of open spaces and transportation corridors, designs of street and public open space amenities, and results in the functional and visual appearance of one integrated project.

8. The proposed development will not adversely affect the public health, safety, or welfare.

9. The public benefits of approving the Master Planned Development outweigh the effect of modification of standards to the underlying zoning district.

10. The proposed development is designed to be consistent with the provisions of the Shoreline Master Program and Critical Areas Ordinance.

17.38.050 Approved Master Planned Development. The approved Master Planned Development shall specify all terms and conditions of approval and shall specify permitted uses, development standards, and phased implementation plans.

17.38.060 Development Agreement(s). The City and Applicant may execute, in accordance with the provisions of State law, a development agreement(s) to implement the provisions of the approved Master Planned Development and related permits and approvals. This agreement shall be binding on all property owners within the Master Planned Development and their successors and shall require that development of the subject property be consistent with and implement the provisions of the approved Master Planned Development.

A. This Development Agreement may specify:

1. The terms and conditions of approval.

2. The terms and conditions of any vested rights of the approved Master Planned Development.

3. The phasing plans for implementation.

17.38.070 Modification to Master Plans. Proposed modifications to an approved Master Plan shall be submitted in writing for the City review. Modifications that do not substantially change the nature or level of use or that do not require a new environmental review, may be considered minor amendments and shall be subject to a Class 2 Review. Modifications that result in a substantial change of use, that substantially change the nature or level of activity, or that require the need for additional environmental review, shall be considered a major modification and shall be subject to a Class 3 Review.

Chapter 17.46 Historic Preservation

Sections:

17.46.010 Purpose.
17.46.020 Historic Preservation Commission.
17.46.030 Kelso Register of Historic Places.~~Criteria for determination.~~
~~**17.46.040 Register—Designation.**~~
~~**17.46.050 Register—Removal of properties.**~~
~~**17.46.060 Register—Effects of listing.**~~
~~**17.46.070 Review of changes to register—Exemptions.**~~
~~**15.46.080 Review process—Certificate issuance waiver.**~~
~~**17.46.090 Commission Review.**~~
~~**17.46.100 Review process—Appeal.**~~
~~**17.46.110 Relationship to zoning.**~~
17.46.040 Special Valuation for Historic Properties.
~~**17.46.120 Special valuation—Time lines.**~~
~~**17.46.130 Special valuation—Procedure.**~~
~~**17.46.140 Special valuation—Criteria.**~~
~~**17.46.150 Special valuation—Property renew.**~~
~~**17.46.160 Special valuation—Rehabilitation and maintenance.**~~
~~**17.46.170 Special valuation—Agreement.**~~
~~**17.46.180 Special valuation—Appeals.**~~

17.46.010 Purpose.

A. The purpose of this Chapter is to provide for the identification, evaluation and protection of historic resources within Kelso and preserve and rehabilitate eligible historic properties within the city for future generations ~~through special valuation, a property tax incentive, as provided in Chapter 84.26 RCW~~ in order to:

1. Safeguard the heritage of Kelso as represented by those buildings, districts, objects, sites and structures which reflect significant elements of the city's history;

2. Foster civic and neighborhood pride in the beauty and accomplishments of the past, and a sense of identity based on the city's history;

3. Stabilize or improve the aesthetic and economic vitality and values of such sites, improvements and objects;

4. Assist, encourage and provide incentives to private owners for preservation, restoration, redevelopment and use of outstanding historic buildings, districts, objects, sites and structures;

5. Promote and facilitate the early identification and resolution of conflicts between preservation of historic resources and alternative land uses; and

6. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

17.46.020 Historic Preservation Commission.

A. There is established the Kelso Historic Preservation Commission, consisting of seven members~~, as provided in Section 15.40.050~~. Members of the Historic Preservation Commission shall be appointed by the Mayor and approved by the City Council and shall be residents of the city, except as provided below.~~in Section 15.40.050 (B).~~

1. This shall not preclude the City from entering into an inter-local agreement with Longview and/or Cowlitz County to establish a single local review board to carry out the purposes of RCW 84.26.

B. All members of the Commission must have a demonstrated interest and competence in historic preservation and possess qualities of impartiality and broad judgment.

1. The Commission shall always include at least three professionals who have experience in identifying, evaluating and protecting historic resources and are selected from among the disciplines of history, architecture, architectural history, historic preservation, planning, cultural anthropology, archaeology, cultural geography, American studies, law and real estate. The Commission action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the professional positions, unless the Commission action is related to meeting certified local government (CLG) responsibilities cited in the certification agreement between the City ~~mayor~~ and the State Historic Preservation Officer. Furthermore, exception to the residency requirement of Commission members may be granted by the Mayor and City Council in order to obtain representatives from these disciplines.

2. In making appointments, the Mayor and City Council may consider names submitted from any source, provided that the City ~~but the Mayor and City council~~ shall notify history and city development related organizations of vacancies so that names of interested and qualified individuals may be submitted by such organizations for consideration along with names from any other source.

3. Appointments shall be made for a four~~three~~-year term, provided that appointments can be made for a one, two, or three-year term in order to establish and maintain a rotation so that no more than two terms expire in a given year. Should a vacancy occur, the appointment will be for the balance of the term, unless otherwise approved by the Mayor and City Council.

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C. All members of the Commission shall serve without compensation.

D. The Commission shall establish and adopt its own rules of procedure, and shall select from among its membership a chairperson and such other officers as may be necessary to conduct the Commission's business.

E. The major responsibility of the Historic Preservation Commission is to identify and actively encourage the conservation of Kelso's historic resources by initiating and maintaining a register of historic places and reviewing proposed changes to register properties; to raise community awareness of the city's history and historic resources; and to serve as the city's primary resource in matters of history, historic planning and preservation. In carrying out these responsibilities, the Historic Preservation Commission shall engage in the following:

1. Conduct and maintain a comprehensive inventory of historic resources.~~ within the boundaries of the city and known as the Kelso Historic Inventory; publicize and periodically update inventory results. Properties listed on the inventory shall be recorded on official zoning records with an "HI" (for historic inventory designation). This designation shall not change or modify the underlying zone classification.~~

2. Initiate and maintain the Kelso Register of Historic Places~~. This official register shall be com piled~~ of buildings, structures, sites, objects and districts identified by the commission as having historic significance worthy of recognition by the City and encouragement of efforts by owners to maintain, rehabilitate and preserve properties.

3. Review nominations to the Kelso Register of Historic Places~~ according to criteria in Section 15.40.110~~ and adopt standards in its rules to be used to guide this review.

4. Review proposals to construct, change, alter, modify, remodel, move, demolish and significantly affect properties or districts on the Kelso Register of Historic Places~~register as provided in Sections 15.40.150 through 15.40.190~~; and adopt standards in its rules to be used to guide this review and the issuance of a Certificate of Appropriateness or waiver.

5. Provide for the review either by the Commission or its staff of ~~all~~ applications for approvals, permits, environmental assessments or impact statements, and other similar documents pertaining to identified historic resources or adjacent properties.

6. Conduct all commission meetings in compliance with Chapter 42.30 RCW, Open Public Meetings Act, to provide for adequate public participation and adopt standards in its rules to guide this action.

7. Participate in, promote and conduct public information, educational and interpretive programs pertaining to historic resources.

8. Establish liaison support, communication and cooperation with federal, state and other local government entities which will further historic preservation objectives, including public education, within Kelso.

9. Review and comment to the City Council on land use, housing and redevelopment, municipal improvement and other types of planning and programs undertaken by any agency of the City, other neighboring communities, the county, the state or federal governments, as they relate to historic resources of Kelso.

10. Advise the City Council generally on matters of Kelso history and historic preservation.

11. Perform other related functions assigned to the Commission by the City Council.

12. Provide information to the public on methods of maintaining and rehabilitating historic properties. ~~This may take the form of pamphlets, newsletters, workshops or similar activities.~~

13. Officially recognize excellence in the rehabilitation of historic buildings, structures, sites and districts, and new construction in historic areas; and encourage appropriate measures for such recognition.

14. Be informed about and provide information to the public and city departments on incentives for preservation of historic resources including legislation, regulations and codes which encourage the use and adaptive reuse of historic properties.

15. Participate in the process of recommending properties ~~Submit nominations~~ to the State and National Registers of Historic Places.

16. Investigate and report to the City Council on the use of various federal, state, local or private funding sources available to promote historic resource preservation in Kelso.

17. Serve as the local review board for special valuation and:

    a. Make determination concerning the eligibility of historic properties for special valuation;

    b. Verify that the improvements are consistent with the Washington State Advisory Council's Standards for Rehabilitation and Maintenance;

c. Enter into agreements with property owners for the duration of the special valuation period as required under WAC 254-20-070(2);

d. Approve or deny applications for special valuation;

e. Monitor the property for continued compliance with the agreement and statutory eligibility requirements during the ten-year special valuation period; and

f. Adopt bylaws and/or administrative rules and comply with all other local review board responsibilities identified in Chapter 84.26 RCW.

17.46.030 Kelso Register of Historic Places~~—Criteria for determination~~.

A. Any building, structure, site, object or district may be designated for inclusion in the Kelso Register of Historic Places if it is significantly associated with the history, architecture, archaeology, engineering or cultural heritage of the community; if it has integrity; is at least fifty years old, or is of lesser age and has exceptional importance; and if it falls in at least one of the following categories:

1. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history;

2. Embodies the distinctive architectural characteristics of a type, period, style or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction;

3. Is an outstanding work of a designer, builder or architect who has made a substantial contribution to the art;

4. Exemplifies or reflects special elements of the city's cultural, special, economic, political, aesthetic, engineering or architectural history;

5. Is associated with the lives of persons significant in national, state or local history;

6. Has yielded or may be likely to yield important archaeological information related to history or prehistory;

7. Is a building or structure removed from its original location but which is significant primarily for architectural value, or which is the only surviving structure significantly associated with an historic person or event;

8. Is a birthplace or grave of an historical figure of outstanding importance and is the only surviving structure or site associated with that person;

9. Is a cemetery which derives its primary significance from age, from distinctive design features, or from association with historic events or cultural patterns;

10. Is a reconstructed building that has been executed in an historically accurate manner on the original site; and

11. Is a creative and unique example of folk architecture and design created by persons not formally trained in the architectural or design professions, and which does not fit into formal architectural or historical categories.

~~17.46.040 Register Designation.~~

B. Any person may nominate a building, structure, site, object or district for inclusion in the Kelso Register of Historic Places. ~~Members of the Historic Preservation Commission or the commission as a whole may generate nominations.~~ In its designation decision, the Commission shall consider the Kelso Historic Inventory and the Kelso Comprehensive Plan.

1. In the case of individual properties, the designation shall include the UTM reference and all features – interior and exterior – and outbuildings which contribute to its designation.

2. In the case of districts, the designation shall include description of the boundaries of the district; the characteristics of the district which justifies its designation; and a list of all properties including features, structures, sites and objects which contribute to the designation of the district.

3. The Historic Preservation Commission shall consider the merits of the nomination in accordance with the provisions of this Chapter.~~, according to the criteria in Section 15.40.110 and according to the nomination review standards established in rules, at a public meeting. Adequate notice will be given to the public, the owner(s) and the authors of the nomination, if different, and lessees, if any, of the subject property prior to the public meeting according to standards for public meetings established in rules and in compliance with Chapter 42.30 RCW, Open Public Meetings Act. Such notice shall include publication in a newspaper of general circulation in Kelso, and posting of the property.~~ If the Commission finds that the nominated property is eligible for the Kelso Register of Historic Places, the Commission shall make recommendation to the City Council that the property be listed in the register with owner's consent. Only properties with owner's consent shall be listed. The public, property owner(s) and the authors of the nomination, if different, and lessees, if any, shall be notified of the listing.

~~6. Properties listed on the Kelso Register of Historic Places shall be recorded on official zoning records with an "HR" (for Historic Register) designation. This designation shall not change or modify the underlying zone classification.~~

C. ~~17.46.050 Register—Removal of properties.~~ In the event that any property is no longer deemed appropriate for designation to the Kelso Register of Historic Places, the Commission may initiate removal from such designation by the same procedure as provided for in establishing the designation~~, Section 15.40.120~~.

1. A property may be removed from the Kelso Register without the owner's consent.

~~17.46.060 Register—Effects of listing.~~

D. Listing on the Kelso Register of Historic Places is an honorary designation denoting significant association with the historic, archaeological, engineering or cultural heritage of the community. ~~Properties are listed individually or as contributing properties to an historic district.~~

1. Prior to the commencement of any work on a register property, excluding ordinary repair and maintenance and emergency measures as defined in this Chapter. ~~defined in Section 15.40.030 (17),~~ the owner must request and receive a Certificate of Appropriateness from the Commission for the proposed work. Violation of this rule shall be grounds for the Commission to review the property for removal from the register.

2. Prior to whole or partial demolition of a register property, the owner must request and receive a waiver of a Certificate of Appropriateness.

3. Once Kelso is certified as a certified local government (CLG), only properties listed on the Kelso Register of Historic Places may be eligible for a special tax valuation on their rehabilitation ~~(Sections 15.40.230 through 15.40.260)~~.

~~17.46.070 Review of changes to register—Exemptions.~~

E. No person shall change the use, construct any new building or structure, or reconstruct, alter, restore, remodel, repair, move or demolish any existing property on the Kelso Register of Historic Places without review by the Commission and without receipt of a Certificate of Appropriateness, or in the case of demolition, a waiver, as a result of the review. The review shall apply to all features of the property, interior and exterior, that contribute to its designation and are listed on the nomination form. ~~Information required by the Commission to review the proposed changes are established in rules.~~

1. The following activities ~~do~~may not require a Certificate of Appropriateness or review by the Commission, as determined by the City:

a. Ordinary repair and maintenance, which includes painting; or

b. Emergency measures.

~~E. **15.46.080 Review process—Certificate issuance waiver.** The City Staff shall report any application for a permit to work on a designated Kelso Register property or in a Kelso Register historic district to the Commission. If the activity is not exempt from review, the City shall notify the applicant of the review requirements. The City shall not issue any such permit until a Certificate of Appropriateness or a waiver is received from the Commission but shall work with the Commission in considering building and fire code requirements.~~

~~**17.46.090 Commission Review.**~~

2. The owner or his/her agent (architect, contractor, lessee, etc.) shall apply to the City for a review of proposed changes on a Kelso Register property or within a Kelso Register historic district and request a Certificate of Appropriateness or, in the case of demolition, a waiver. Each application for review of proposed changes shall be accompanied by such information as is required by the City ~~Commission established in its rules~~ for the proper review of the proposed project. ~~The Commission shall meet with the applicant and review the proposed work according to the design review criteria established in the rules. Unless legally required, there shall be no notice, posting, or publication requirements for action on the application, but all such actions shall be made at regular meetings of the Commission. The Commission shall complete its review and make its recommendations within thirty days of the date of receipt of the application. If the Commission is unable to process the request, the Commission may ask for an extension of time.~~ The Commission's decisions ~~recommendations~~ shall be in writing and shall state the findings of fact and reasons relied upon in reaching its decision. ~~Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. If the owner agrees to the Commission's recommendations, a Certificate of Appropriateness shall be awarded by the Commission according to standards established in the Commission's rules. The Commission's recommendations and, if awarded, the Certificate of Appropriateness shall be transmitted to the building or zoning official. If a Certificate of Appropriateness is awarded, the building or zoning official may then issue the permit.~~

~~A waiver of the Certificate of Appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated Kelso Register property or in a Kelso Register historic district. The owner or his/her agent shall apply to the Commission for a review of the proposed demolition and request a waiver. The applicant shall meet with the Commission in an attempt to find alternatives to demolition. These negotiations may last no longer than forty-five days from the initial meeting of the Commission, unless either party requests an extension. If no request for an extension is made and no alternative to demolition has been agreed to, the Commission shall act and advise the official in charge of issuing a demolition permit of the approval or denial of the waiver of a Certificate of Appropriateness. Conditions in the case of granting a demolition permit may include allowing the Commission up to forty-five additional days to develop alternatives to demolition. When issuing a~~

~~waiver, the board may require the owner to mitigate the loss of the Kelso Register property by means determined by the Commission at the meeting. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. After the property is demolished, the Commission shall initiate removal of the property from the register.~~

~~**17.46.100 Review process - Appeal.** The Commission's decision regarding a waiver of a Certificate of Appropriateness may be appealed to the City Council within ten days. The appeal must state the grounds upon which the appeal is based. The appeal shall be reviewed by the Council only on the records of the Commission. Appeal of Council's decision regarding a waiver of a Certificate of Appropriateness may be appealed to Superior Court.~~

3. Upon issuance of the Certificate of Appropriateness or, in the case of demolition, a waiver, the City shall attach the certificate or waiver to the building permit and any other city permits or approvals as a condition of approval.

4. ~~**17.46.110 Relationship to zoning.**~~ Properties designated on ~~to~~ the Kelso Register of Historic Places shall be subject to the provisions set forth in this ~~c~~Chapter, as well as the bulk, use, setback and other controls of the zoning district in which they are located. Nothing contained herein shall be construed to be repealing, modifying or waiving any zoning provisions.

F. The Historic Preservation Commission may issue a Certificate of Appropriateness based on a written finding the proposed actions comply with the current version Secretary of the Interior's Standards for Rehabilitation 36 CFR Part 67, including:

1. The property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

17.46.040 Special Valuation for Historic Properties. The purpose of this Section is to implement special tax valuation for rehabilitation of historic properties under which the assessed value of eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation, in accordance with the provisions of RCW 84.26.

A. The class of historic property eligible to apply for special valuation in the city includes all properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until Kelso becomes a certified local government (CLG). Once a CLG, the class of property eligible to apply for special valuation in Kelso includes properties listed on the Kelso Register of Historic Places or properties certified as contributing to a Kelso Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

B. The following rehabilitation and maintenance standards shall be used by the City, in accordance with the provisions of the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-20-100, as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified:

1. Rehabilitation.

a. Every reasonable effort shall be made to provide a compatible use for an historic property which requires minimal alteration of the building, structure, or site and its environment, or to use an historic property for its originally intended purpose.

b. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

c. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

d. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

e. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

f. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

g. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

h. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

i. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

j. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

2. Maintenance.

a. Buildings and structures shall not be allowed to deteriorate beyond the point where routine maintenance and repair will return them to good condition.

b. Buildings shall be kept in a safe and habitable condition at all times. Structural defects and hazards shall be corrected. Any condition which constitutes a fire hazard shall be eliminated.

c. Buildings shall be protected against ongoing water damage due to defective roofing, flashing, glazing, caulking, or other causes. Moisture condensation resulting from inadequate heat or ventilation shall be eliminated if present at levels sufficient to promote rot or decay of building materials.

d. Deteriorated exterior architectural features and any broken or missing doors and windows shall be repaired or replaced.

e. Painted exterior surfaces shall be maintained and repainted as necessary to prevent a deteriorated appearance or damage to the substrate. Exterior masonry surfaces shall be tuck pointed where required to maintain the mortar in sound condition. Finished tuck pointing shall match the original mortar joint in hardness and appearance.

C. The owner of an historic property desiring special valuation shall apply to the County Assessor not later than October 1 of the calendar year preceding the assessment year for which special valuation is sought.

1. The owner shall be required to pay only such fees as are necessary to process and record documents pursuant to chapter **84.26** RCW.

2. Applications shall include a legal description of the historic property. The owner shall also provide comprehensive exterior and interior photographs of the historic property before and after rehabilitation, architectural plans or other legible drawings depicting the completed rehabilitation work, and a notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed.

3. For properties located within historic districts, the application shall also a statement from the Secretary of the Interior or the appropriate local official, as specified in local administrative rules, or by the local government, indicating that the property is a certified historic structure.

4. Property owners applying for special valuation shall provide such information as may be required by the City to document the actual cost of the rehabilitation project and the period of time during which the rehabilitation took place.

D. Following receipt of an application for special valuation from the County Assessor, the Historic Preservation Commission shall, in accordance with the provisions of RCW 84.26 and this Chapter, determine if the property meets the following criteria:

1. The property is historic property;

2. The property is included within a class of historic property determined eligible for special valuation by the local legislative authority under an ordinance or administrative rule;

3. The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) within twenty-four months prior to the date of application; and

4. The property has not been altered in any way which adversely affects those elements which qualify it as historically significant.

E. If the Historic Preservation Commission finds that the property satisfies all four of the above requirements, then the City shall enter into an agreement with the owner which, at a minimum, includes the provisions set forth in WAC 254-20-120. Upon execution of said agreement, the Historic Preservation Commission shall approve the application.

1. If the local review board determines that the property does not meet all of the requirements for special valuation, then it shall deny the application.

2. An application for special valuation shall be approved or denied by the Historic Preservation Commission before December 31 of the calendar year in which the application is made. The Commission shall certify its decision in writing and state the facts upon which the approval or denial is based.

3. If the application is approved, the City shall forward a copy of the agreement, the application, and supporting documentation as required by WAC 254-20-090(4) to the County Assessor for recording and shall notify the State Review Board that the property has been approved for special valuation.

4. Once an application for special valuation has been approved, the City will monitor the properties for continued compliance with the agreements throughout the ten-year special valuation period.

5. If the City determines, that properties are disqualified from special valuation either because of:

~~b.~~a. The owner's failure to comply with the terms of the agreement; or

~~c.~~b. Because of a loss of historic value resulting from physical changes to the building or site.

Then the City shall notify the owner, County Assessor and State Review Board in writing and state the facts supporting its findings.

Chapter 17.50 Building and Construction

Sections:

17.50.010 Introduction;
17.50.020 Applicability;
17.50.030 International Building Code Adopted;
17.50.040 International Residential Code Adopted;
17.50.050 International Existing Building Code Adopted;
17.50.060 Washington State Historic Building Code Adopted;
17.50.070 International Mechanical Code Adopted;
17.50.080 National Fuel Gas Code (NFPA 54) Adopted;
17.50.090 Liquefied Petroleum Gas Code (NFPA 58) Adopted;
17.50.100 International Fuel Gas Code Adopted;
17.50.110 International Fire Code Adopted;
17.50.120 Uniform Plumbing Code Adopted;
17.50.130 Washington State Energy Code Adopted;
17.50.140 Washington State Ventilation and Indoor Air Quality Code Adopted;
17.50.150 Uniform Code for the Abatement of Dangerous Buildings Adopted;
17.50.160 Uniform Housing Code Adopted;
17.50.170 International Property Maintenance Code Adopted;
17.50.180 Building Numbering System;
17.50.190 Moving Buildings; and
17.50.200 Swimming Pools.

17.50.010 Introduction. The purpose of this Chapter is to identify the provisions of the International Building Codes and amendments that have been adopted by the City as well as to establish local regulations necessary to govern building and construction.

17.50.20 Applicability.

A. It shall be a violation of this Chapter ~~gross misdemeanor~~ for any person, organization, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this chapter~~.~~ or to fail to comply with any stop work order or other order of the City's Building Official.

B. Except as otherwise provided, any violation of the provisions of this Chapter shall constitute a civil violation subject to the penalties and abatement processes set forth in Chapter 1.40 KMC.

C. In addition to or as an alternative to any other penalty provided for in this Chapter, any person, organization, firm, or corporation who violates any provisions of this Chapter shall be guilty of a misdemeanor punishable as provided for in RCW 9A.20.021.

D. Every day or portion thereof during which any violation of this Chapter occurs or continues shall constitute a separate offense.

~~1. Offenses shall be processed in accordance with the provisions of KMC 1.40 General Penalty and KMC 1.50 Code Enforcement.~~

17.50.30 International Building Code Adopted. The 2015 Edition of the International Building Code, as adopted and hereafter amended by the State Building Code Council in Chapter 51-50 WAC, as published by the International Code Council, is hereby adopted, together with the following amendments:

Section 111.3.1 Bonding

The City ~~building official~~ is authorized to require that a performance bond be posted ~~with the City~~ in an amount equal to 150% of the incomplete work as determined by the design professional. The bond shall be refundable upon inspection, final approval and request in writing for the refund. ~~It shall be the duty of the applicant to request the refund.~~

Section 113.1.1 Hearing Examiner

In lieu of a Board of Appeals, a Hearing Examiner, as authorized in Title 2 of the Kelso Municipal Code, is authorized to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code.

Appendix G, "Flood-Resistant Construction"; and

Appendix H, "Signs," except amend H101.2(1), Signs exempt from permit. Painted nonilluminated signs not connected to or painted directly on a structure; and

Appendix I, "Patio Covers"; and

Appendix J, "Grading," as amended; and

Appendix E, "Supplementary Accessibility Requirements."

Section J 102.1 Additions to Definitions.

"Professional Inspections" – is the inspection required by this code to be performed by the civil engineer, soils engineer or engineering geologist. Such inspections include that performed by persons supervised by such engineers or geologists and shall be sufficient to form an opinion relating to the conduct of the work.

"Soils Engineer" – is an engineer experienced and knowledgeable in the practice of soils engineering (geotechnical engineering).

"Soil Engineering" or "Geotechnical Engineering" – is the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earthen materials and the inspection or testing of their construction.

Section J 103.2 Additions to Exempted Work.

8. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1 1/2 units horizontal (66.7% slope).

9. A fill less than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 cubic meters) on any one lot and does not obstruct a drainage course.

Section J 104.2 Additions to Site Plan Requirements.

All sites should be designed to the extent feasible to limit disturbance, preserve vegetation, preserve top soils, and preserve areas of existing infiltration.

Section J 104.5 Grading Designation.

Grading in excess of 5,000 cubic yards (3,825 cubic meters) shall be performed in accordance with the approved grading plan prepared by civil engineer, licensed to practice in the State of Washington, and shall be designated as "engineered grading." Grading involving less than 5,000 cubic yards (3,825 cubic meters) shall be designated "regular grading," unless the permittee chooses to have the grading performed as "engineered grading," or the building official determines that special conditions or unusual hazards exist, in which case grading shall conform to the requirements for engineered grading.

Section J 104.6 Engineering Grading Requirements.

Application for a grading permit shall be accompanied by two sets of plans and specifications, and supporting data consisting of a soils engineering report and engineering geology report. The plans and specifications shall be prepared and signed by an individual licensed by the State to prepare such plans or specifications when required by the City~~Building Official~~.

Specifications shall contain information covering construction and material requirements.

Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give location of the work, the name and address of the owner, and the person by whom they were prepared.

The plans shall include the following information:

1. General vicinity of the proposed site.

2. Property limits and accurate contours of existing ground and details of terrain and area drainage.

3. Limiting dimensions, elevations or finish contours to be achieved by the grading, and proposed drainage channels and related construction.

1. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as part of, the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains.

2. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners that are within 15 feet (4,572 mm) of the property or that may be affected by the proposed grading operations.

3. Recommendations included in the soils engineering report and the engineering geology report shall be incorporated in the grading plans or specifications. When approved by the building official, specific recommendations contained in the soils engineering report and the engineering geology report, which are applicable to grading, may be included by reference.

7. The dates of the soils engineering and engineering geology reports, together with the names, addresses and phone numbers of the firms or individuals who prepared the reports.

Section J 104.7 Soils Engineering Report.

The soils engineering report required by Section J 104.6 shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, including buttress fills, when necessary, and opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes.

Section J 104.8 Engineering Geology Report.

The engineering geology report required by Section J 104.6 shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors.

Section J 104.9 Regular Grading Requirements.

Each application for a grading permit shall be accompanied by a plan in sufficient clarity to indicate the nature and extent of the work. The plans shall give the location of the work, the name of the owner and the name of the person who prepared the plan. The plan shall have the following information:

~~1.~~11. General vicinity of the proposed site.

~~2.~~12. Limiting dimensions and depth of cut and fill.

3. Location of any buildings or structure where work is to be performed, and the location of any buildings or structures within 15 feet (4,572 mm) of the proposed grading.

Section J 104.10 Issuance.

The provisions of Section 105 are applicable to grading permits. The ~~building official~~City may require that grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

The City ~~building official~~ may require professional inspection and testing by the soils engineer.

When the City ~~building official~~ has cause to believe that geologic factors might be involved, the grading will be required to conform to engineered grading.
~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.040 International Residential Code Adopted. The 2012 Edition of the International Residential Code (IRC), as adopted and hereafter amended by the State Building Code Council in Chapter 51-51 WAC, as published by the International Code Council, excluding Chapter 11, "Energy Efficiency," and Chapters 34 through 43, "Electrical," are not adopted. "Mechanical" and "Fuel Gas" are adopted together with the following:

Appendix E, "Manufactured Housing Used as Dwellings"; and

Appendix G, "Swimming Pools, Spas and Hot Tubs"; and

Appendix H, "Patio Covers"; and

Table R301.2(1) Climatic and Geographic Design Criteria established:

Table R301.2(1) Climatic and Geographic Design Criteria

Roof Snow Load:	25 psf
Wind Speed:	IRC Section 301.2
Seismic Design Category:	D1
Subject to Damage from Weathering:	Moderate
Frost Line Depth:	6 inches
Subject to Damage from Termite:	Slight to Moderate
Subject to Damage from Decay:	Slight to Moderate
Winter Design Temperature:	20 Degrees F
Ice Shield Underlayment Required:	N/A
Air Freezing Index:	N/A
Mean Annual Temperature:	50 Degrees F

17.50.050 International Existing Building Code Adopted. The 2015 Edition of the International Existing Building Code, as published by the International Code Council, is hereby adopted~~. (Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.060 Washington State Historic Building Code Adopted. The Washington State Historic Building Code, as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapter 51-19 WAC, is adopted. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.070 International Mechanical Code Adopted. The 2015 Edition of the International Mechanical Code, as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapter 51-42 WAC, as published by the International Code Council, is adopted with Appendix A, "Chimney Connector Pass-Throughs." ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.080 National Fuel Gas Code (NFPA 54) Adopted. The National Fuel Gas Code, as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapter 51-52 WAC, as published by NFPA, is adopted. ~~(Ord. 3802 § 1 (Exh. A), 2013~~)

17.50.090 Liquefied Petroleum Gas Code (NFPA 58) Adopted. The Liquefied Petroleum Gas Code, as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapter 51-52 WAC, as published by NFPA, is adopted. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.100 International Fuel Gas Code Adopted. The 2015 Edition of the International Fuel Gas Code (IFGC), as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapter 51-52 WAC, as published by the International Code Council, is adopted. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.110 International Fire Code Adopted. The 2015 Edition of the International Fire Code, as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapter 51-54 WAC, as published by the International Code Council, is adopted. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

~~**17.50.120 IFC referenced codes and standards.**~~

A. The codes and standards referenced in this code shall be those that are listed in IFC Chapter 45 and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.120 Uniform Plumbing Code Adopted. The 2015 Edition of the Uniform Plumbing Code (UPC), as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapters 51-56 and 51-57 WAC, as published by the International Association of Plumbing and Mechanical Officials (IAPMO), is adopted with Appendices A, "Recommended Rules for Sizing the Water Supply System"; B, "Explanatory Notes on Combination Waste and Vent System"; and I, "Installation Standards." Chapter 12, "Fuel Piping"; Chapter 15, "Firestop Protection"; and those requirements of the Uniform Plumbing Code relating to venting and combustion air of fuel fired appliances as found in Chapter 5 and those portions of the code addressing building sewers are not adopted. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.130 Washington State Energy Code Adopted. The 2015 Washington State Energy Code, as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapter 51-11 WAC, is adopted. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.140 Washington State Ventilation and Indoor Air Quality Code Adopted. The Washington State Ventilation and Indoor Air Quality Code, as adopted ~~and hereafter amended~~ by the State Building Code Council in Chapter 51-13 WAC, is adopted. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.150 Uniform Code for the Abatement of Dangerous Buildings Adopted. Chapter 3, "Definitions"; Chapter 8, "Performance of Work of Repair or Demolition"; and Chapter 9, "Recovery of Cost of Repair or Demolition" of the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings as published by the International Conference of Building Officials are adopted, with the following amendments:

CHAPTER 3 DEFINITIONS

SECTION 301

GENERAL

For the purposes of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Construction Administrative Code, International Property Maintenance Code or the Uniform Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used.

BUILDING CODE is the International Building Code and/or the International Residential Code promulgated by the International Code Council, as adopted by this jurisdiction.

DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of the International Property Maintenance Code and/or Section 302 of this code, as adopted by this jurisdiction.

HOUSING CODE is the International Property Maintenance Code promulgated by the International Code Council and/or the Uniform Housing Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

CHAPTER 8 PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

SECTION 801

GENERAL

801.1 Procedure.

When any work of repair or demolition is to be done pursuant to this code, the building official shall issue an order therefor to the director of public works and the work shall be accomplished by city personnel or by private contract under the direction of said director. Plans and specifications therefor may be prepared by the building official, or the building official may employ such architectural and engineering assistance on a contract basis as may be deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

801.2 Costs.

The costs of such work shall be paid from the community cleanup fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.

SECTION 802 COMMUNITY CLEANUP FUND.

802.1 General.

There may be established a fund designated as the "Community Cleanup Fund" to be approved in the annual budget ordinance. The Community Cleanup Fund Payments may be used at the discretion of the City Manager, or his designee, for the purpose defraying costs and expenses that may be incurred by this jurisdiction in doing, or causing to be done, the necessary work or repair or demolition of dangerous buildings. Said fund shall be the same as referenced in KMC Chapter 15, Section 1502.1.

802.2 Maintenance of Fund.

The City Council~~legislative body~~ may at any time transfer to the community cleanup fund, out of any money in the general fund of the city, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the community cleanup fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be ~~paid to the director of finance of the City of Kelso, who shall~~ credited ~~the same~~ to the community cleanup fund.

CHAPTER 9 RECOVERY OF COST OF REPAIR OR DEMOLITION

SECTION 901 ACCOUNT OF EXPENSE, FILING OF REPORT

The City ~~building official~~ shall keep an itemized account of the expense ~~incurred by this jurisdiction~~ in the repair or demolition of any building done pursuant to the provisions of this code. Upon the completion of the work of repair or demolition, ~~said building official shall prepare and file with the clerk of the City of Kelso~~ a report shall be prepared specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to this code.

SECTION 912 REPAYMENT OF COMMUNITY CLEANUP FUND

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be credited ~~paid to the finance director of the City of Kelso, who shall credit the same~~ to the community cleanup fund.
~~(Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.160 Uniform Housing Code Adopted. Chapter 10, "Substandard Buildings"; Chapter 13, "Procedures for Conduct of Hearing Appeals"; Chapter 15, "Performance of Work of Repair or Demolition"; and Chapter 16, "Recovery of Cost of Repair or Demolition" of the 1997 Edition of the Uniform Housing Code as published by the International Conference of Building Officials are hereby adopted with the following amendments:

CHAPTER 10 SUBSTANDARD BUILDINGS

SECTION 1001 DEFINITION

1001.1 General.

Any building or portion thereof that is determined to be an unsafe building in accordance with the Construction Administrative Code, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard buildings.

CHAPTER 15 PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

SECTION 1501 GENERAL

1501.1 Procedure.

When any work of repair or demolition is to be done pursuant to this code, the building official shall cause the work to be accomplished by city personnel or by private contract under the direction of the building official. Plans and specifications therefor may be prepared by the building official, or the building official may employ such architectural and engineering assistance on a contract basis as may be deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

1501.2 Costs.

The costs of such work shall be paid from the community cleanup fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.

SECTION 1502 COMMUNITY CLEANUP FUND

1502.1 General.

There may be established a fund designated as the "Community Cleanup Fund". ~~to be approved in the annual budget ordinance.~~ The Community Cleanup Fund Payments may be used at the discretion of the City Manager, or his designee, for the purpose defraying costs and expenses that may be incurred by this jurisdiction in doing, or causing to be done, the necessary work or repair or demolition of dangerous buildings. ~~Said fund shall be the same as referenced in KMC Chapter 8, Section 802.2.~~

1502.2 Maintenance of Fund.

The City Council ~~legislative body~~ may at any time transfer to the community cleanup fund, out of any money in the general fund of the city, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the community cleanup fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided ~~for shall be paid to the director of finance of the City of Kelso, who~~ shall be credited ~~the same~~ to the community cleanup fund.

CHAPTER 16 RECOVERY OF COST OF REPAIR OR DEMOLITION

SECTION 1601 ACCOUNT OF EXPENSE, FILING OF REPORT

The City ~~building official~~ shall keep an itemized account of the expenses incurred ~~by this jurisdiction~~ in the repair or demolition of any building done pursuant to the provisions of this code. Upon the completion of the work of repair or demolition~~,~~ ~~said building official shall prepare and file with the clerk of the City of Kelso~~ a report shall be prepared specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to this code.

SECTION 1612 REPAYMENT OF COMMUNITY CLEANUP FUND

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the ~~finance director of the~~ City of Kelso and ~~, who~~ shall ~~-~~be credited to ~~the same to~~ the community cleanup fund. ~~(Ord. 3802 § 1 (Exh. A), 2013)~~

~~**15.03.150 Documents to be filed and available for public inspection.**~~
~~The codes, appendices, and standards set forth in this chapter shall be on file in the department of community development and a copy made available for use and examination by the public, pursuant to RCW 35A.12.140. (Ord. 3802 § 1 (Exh. A), 2013)~~

~~**15.03.160 Violation—Penalty.**~~
~~It shall be a gross misdemeanor for any person, organization, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this chapter. Every day or portion thereof during which any violation of this chapter occurs or continues shall constitute a separate offense. (Ord. 3802 § 1 (Exh. A), 2013)~~

~~**15.03.170 Fees.**~~
~~Permit fees, except electrical permit fees, shall be assigned by means of a resolution duly passed by the Kelso city council. (Ord. 3802 § 1 (Exh. A), 2013)~~

~~**15.03.180 Plan review fees.**~~
~~When submitted documents are required by the administrative chapter of each code, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee for International Residential Code permits shall be sixty-five percent of the building permit fee and for International Building Code permits shall be seventy percent of the building permit fee as established by resolution of the city council. The plan review fees specified in this section are separate fees from the permit fees and in addition to permit fees. (Ord. 3802 § 1 (Exh. A), 2013)~~

17.50.170 International Property Maintenance Code Adopted~~—Purpose.~~ The 2015 International Property Code, as adopted ~~and hereafter amended~~ by the State Building Code Council is adopted together with the following amendments: ~~in Chapter 51-11 WAC, is adopted. That a certain document, one copy of which is on file in the office of the city clerk of the city of Kelso, being marked and designated as the International Property Maintenance Code, 2015 Edition, as published by the International Code Council, be and is hereby adopted as the property maintenance code of the city of Kelso, in the state of Washington, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the office of the city of Kelso are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in Section 15.04.020. (Ord. 3849 § 2 (Exh. B), 2015)~~

~~**17.50.190 Amendments to International Property Maintenance Code.**~~
~~The following sections of the International Property Maintenance Code, 2015 Edition, as adopted in Section 15.04.010 are hereby amended as follows:~~
~~Section 101.1, Title, is amended to read as follows:~~

> ~~101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Kelso, hereinafter referred to as "this code."~~

Section 101.3, Intent, is amended to read as follows:

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be declared a public nuisance and shall be abated by repair, rehabilitation, vacation, demolition or removal as to provide a minimum level of health, welfare and safety as required herein. This code is an exercise of the City's police power, and it shall be liberally construed to effect this purpose.

Section 102.1, General, is amended to read as follows:

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern. When conflicts occur between this code and the Kelso Municipal Code, the Kelso Municipal Code requirements shall govern.

Section 102.3, Application of other codes, is amended to read as follows:

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, the National Electrical Code and other applicable codes as adopted by this jurisdiction. Nothing in this code shall be construed to cancel, modify or set aside any provision of KMC Title 17, Planning and Zoning.

Section 103.1, General, is amended to read as follows:

103.1 General. This code shall be administered by the City Manager or his/her designee ~~Community Development Department~~ and the executive official in charge thereof shall be known as the code official.

Sections 103.2, Appointment; 103.3, Deputies; and 103.4, Liability, are deleted.

Section 103.5, Fees, is amended to read as follows:

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as set by resolution of the City Council.

Section 107.2, Form, is amended to read as follows:

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with Chapter 8.24 KMC and 1.50.

Section 107.3, Method of service, is amended to read as follows:

107.3 Method of service. Notice and orders shall be served in accordance with Chapter 8.24 KMC and 1.50.

Section 107.5, Penalties, is amended to read as follows:

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in KMC 8.24, KMC 15.03 and KMC 1.50.

Section 109.6, Hearing, is amended to read as follows:

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the hearings examiner, be afforded a hearing as described in this code.

Section 111.1, Application for appeal, is amended to read as follows:

111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal in accordance with Chapter 8.24 KMC.

Sections 111.2, Membership of board; 111.3, Notice of meeting; 111.4, Open hearing; 111.5, Postponed hearing; 111.6, Board decision; 111.7, Court review; and 111.8, Stays of enforcement, are deleted.

Section 201.3, Terms defined in other codes, is amended to read as follows:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Fire Code, KMC Title 17 – Planning and Zoning, International Plumbing Code, International Mechanical Code, International Residential Code, the National Electrical Code or other applicable codes as adopted by this jurisdiction, such terms shall have the meanings ascribed to them as stated in those codes.

Section 201.5, Parts, is amended to read as follows:

201.5 Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit," "story," "structure" or "vehicle" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

Section 202. The following definitions are hereby added or amended to read as follows:

ATTRACTIVE NUISANCE. All premises within the city which cause the circumstance and/or condition that would reasonably attract any person and such circumstance and/or condition which may constitute a danger to the person(s). Attractive nuisances include,

but are not limited to, unused or abandoned refrigerators, freezers or other such large appliances or equipment or any parts thereof; any structurally unsound or unsafe fence or building edifice; any unsecured or abandoned excavation pit, well, cistern, storage tank or shaft; any collection of scrap lumber, trash, vegetation or other similar items; or unattended machinery or equipment, unsecured, abandoned or vacant buildings, open and unattended vehicles or vehicle trunks, or other similar unguarded conditions or situations that would injure or cause injury to any person(s).

CAR COVER. A cover that is specifically manufactured and commercially retailed for the purpose of covering a vehicle. This cover can be a cover designed for the specific vehicle or type of vehicle or may be designed for a generic vehicle. The cover must be completely opaque, conceal the vehicle entirely and be securely fastened at all times. Generic tarps are not a permitted car cover.

DIRT AND FILTH. Dirt and filth means and includes, but is not limited to, floor, sidewalk, street and other surface sweepings; discards from vacuum cleaners; soot; ashes; matter removed from gutters and downspouts; accumulations of dust, residue from fire other than soot and ashes; hair from humans and animals; and all other discarded, unused and seemingly worthless goods and commodities not otherwise described in this chapter.

DRIVEWAY. The driveway is the permitted surfaced roadway leading from the public right-of-way to a legal parking space.

GARBAGE. Waste and residue from the preparation, cooking and dispensing of food, and from the handling, storage and sale of food and food products including, but not limited to, discarded food wrappings and containers, paper, plastic and metal products used or intended for use in connection with the storage, sale, preparation or "clean-up" relating to food items; egg shells; used coffee grounds; used tea bags; meat trimmings; entrails of animals, poultry or fish; offal; medical wastes including bandages, syringes, medicines, plaster or other casts; and decomposed putrid material; whether such items are alone or in combination with other materials.

GRAFFITI. The writing, painting, or drawing of any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person unless that person has given permission to the perpetrator for such conduct.

ILLICIT DISCHARGE. Any direct or indirect discharge to the stormwater drainage system that is not composed entirely of stormwater.

INOPERABLE VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

JUNK. Scrapped, broken, or neglected items and materials. Junk includes items such as plastic, cloth, glass, rags, paper or metals that can be converted into usable articles or

stock, or articles that have outlived their usefulness in their original form. Examples of "junk" include, but are not limited to, empty bottles and jars; empty metal, plastic or paper products; discarded engine or motor parts; automobile and truck parts of all descriptions; used tires, wheels and inner tubes; discarded batteries; cardboard; discarded and/or pre-used building materials; discarded and/or pre-used electrical and plumbing materials; broken pieces of concrete; discarded, broken, or neglected electrical, gas or hand-operated appliances; previously used packing materials; discarded, broken, or neglected household goods and furnishing; or any household item located outdoors that is designed for indoor use; as well as parts and pieces of any of the foregoing.

JUNK VEHICLES. Any vehicle meeting at least three (3) of the following requirements: (a) Is three years old or older; (b) Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, or missing wheels, tires, motor, or transmission; (c) Is apparently inoperable; or (d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

LANDOWNER. A legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

LITTER. Tangible personal property which has been unlawfully scattered and/or abandoned in a public place, typically outdoors, as a form of solid waste – material which, if thrown or deposited, creates a danger to public health, safety and welfare. Litter is further defined as either hazardous, reusable, recyclable, non-hazardous, or non-usable material. Litter includes, but is not limited to, polystyrene foam, plastics, cigarette butts, candy and gum wrappers, paper towels, food wastes, chip bags, aluminum and steel beer/soda cans, leather, rubber, clothing, textiles, wood, glass, metal, abandoned tires, vehicle parts, or other such debris that has fallen onto a public right-of-way as a result of negligent litter; litter from trash-hauling vehicles, unsecured loads, or construction sites.

PLANTING, PARKING STRIP. The area of the right-of-way between the constructed curb or edge of the roadway and the adjoining property line, exclusive of any improved sidewalk or any established pedestrian path.

PUBLICLY VISIBLE OR PUBLIC VIEW. Anything that can be seen by a person with normal vision from any sidewalk, street, alley or other public place, or from any building situated on an adjoining property.

PUBLIC NUISANCE. A nuisance consists of doing an unlawful act, or omitting to perform a duty, or permitting an action or condition to occur or exist which intrudes, annoys, injures or endangers the comfort, repose, health or safety of others, is unreasonably offensive to the senses, or which interferes with or disrupts a neighbor's or citizen's ability to freely use or enjoy their properties or public property adjacent to where the nuisance occurs. Such nuisances include, but are not limited to, the following:

1.~~A.~~ Unsecured attractive nuisances;

2.~~B.~~ Conditions or acts which annoy, injure, or endanger the comfort, repose, health, or safety of others;

3.~~C.~~ Conditions or acts which are offensive to the senses;

4.~~D.~~ Conditions or acts which interfere with, obstruct, or tend to obstruct or render dangerous for passage any stream, public park, parkway, square, sidewalk, street, or highway and other rights-of-way in the city;

5.~~E.~~ Illicit discharges into the municipal storm drainage system;

6.~~F.~~ Unauthorized interference with, damage to, or polluting of designated habitat areas, publicly owned restoration sites, streams, creeks, lakes, wetlands, or tributaries and similar areas thereto;

4. Conditions or acts which obstruct the free use of property so as to essentially interfere with the comfortable enjoyment of life and property;

8. Conditions or acts which lead to blight and contribute to the deterioration of the neighborhood or adjoining property;

9.~~I.~~ The improper parking or storage of vehicles on any residential lots which impedes the use of yard areas for light, air circulation, recreation, and landscaping;

10.~~J.~~ Those acts or omissions defined in RCW 7.48.140 and 9.66.010.

PREMISES. Any building, lot, parcel, alley, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks, parking strips and street.

PUBLIC RIGHT-OF-WAY OR RIGHT-OF-WAY. "Right-of-way" means all real property owned or held by the city in fee, or by way of easement, or dedicated to the public and located within the city, and used or intended for use as a street, alley, sidewalk, public way or easement for public or private utilities, whether developed or undeveloped.

SPECIAL INTEREST VEHICLE and/or HISTORIC AUTOMOBILE. Any vehicle as defined above, at least 30 years old on the date of any attempt by Code Official, or a motor vehicle which meets any of the following definitions: (a) A make of motor vehicle which is no longer manufactured; or, (b) A make or model of motor vehicle produced in limited or token quantities; or, (c) A make or model of motor vehicle in the special interest market which has appreciated in value during the past year.

TRASH AND WASTE. Trash and waste means, but is not limited to ashes; leaves; branches and trimmings from trees, shrubs and hedges; discarded Christmas trees; excrement and undigested residue of food eliminated by humans, animals, fish and birds;

lawn, yard, garden, shrub and tree trimmings; garbage, junk and filth; discarded clothing of all descriptions; decayed or decaying materials of all kinds and descriptions; and insect-infested materials of all kinds and descriptions; whether such items are alone or in combination with other materials.

VEHICLE. A vehicle includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including but not limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles, campers, travel trailers, boat trailers, utility trailers, or other similar devices capable of moving or being moved on public right-of-way, and shall also include parts of vehicles.

WATERCRAFT. A watercraft means any boat, vessel, or other craft used for navigation on or through water. (Does not include kayaks or canoes).

WEEDS. Weeds shall be defined as those plants designated as Class A, B, and C Noxious weeds by the state noxious weed control board, including but not limited to all grasses, dandelions, morning glory, uncontrolled berry bushes, and other weeds, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

YARD. Any open space on a lot or lots.

Section 302.1, Sanitation, is amended to read as follows:

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition free of junk, garbage, trash, rubbish, filth and waste.

Section 302.3, Sidewalks and driveways, is amended to read as follows:

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking and/or planting strips, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from encumbrances and hazardous conditions as specified, but not limited to those in Chapter 12.12 KMC.

Section 302.4, Weeds, is amended to read as follows:

302.4 Weeds, grass or vegetation. All premises and exterior property including any unimproved portion of any street or alley to the center thereof, and the portion of any improved street within the area known as the parking strip, bordering on any such lot or lots, land or lands, shall be maintained free from weeds or plant growth in excess of 12 inches or in a state of having gone to seed. All noxious weeds shall be prohibited. All grasses in excess of 12 inches in height shall also be prohibited subject to applicable zoning requirements. Weeds shall be defined as those plants designated as Class A, B, and C Noxious weeds by the state noxious weed control board, including but not limited

to all grasses, dandelions, morning glory, uncontrolled berry bushes, and other weeds, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens not in violation of KMC 17.40.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

Section 302.8, Motor Vehicles, is amended to read as follows:

302.8 Motor vehicles/vehicles/watercraft. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle, vehicle, watercraft or parts thereof shall be parked, kept or stored on any premises, and no vehicle or watercraft shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. Such vehicles shall be declared to be public nuisances which shall be abated and removed as specified in this code; provided that this section shall not apply to the following:

1. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed auto wrecker or licensed vehicle dealer and is fenced according to the provisions of RCW 46.80.130;

2. Any historic automobile, special interest vehicle or inoperable vehicle that is in the process of being restored; provided that all such vehicles and parts thereof which are not licensed or not operable shall be stored or parked within a building in a lawful manner where they are not publicly visible; or parked in a parking area and screened in accordance with KMC Chapter 17.40; or

3. A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes or is "screened" where it is not publicly visible in accordance with KMC Chapter 17.40. This work shall be performed in compliance with Section 302.12 and in accordance with applicable zoning regulations.

Section 302.10, Vehicles and/or machinery parts, is added to read as follows:

302.10 Vehicles and/or machinery parts. Except where permitted and licensed as a wrecking yard, all premises within the city shall be maintained free of the existence and maintenance of a storage area, junkyard or dumping ground for the wrecking or dismantling of automobiles, trucks, trailers, house trailers, boats, tractors or other

vehicles or machinery of any kind, or for the storing or leaving of worn out, wrecked, inoperative or abandoned automobiles, trucks, trailers, house trailers, boats, tractors or other vehicles or machinery of any kind or of any major parts thereof.

Section 302.11, Vehicle parking/storage, is added to read as follows:

302.11 Vehicle parking/storage. Limitations on the parking of vehicles, boats, trailers, commercial and heavy commercial equipment.

302.11.1 Vehicles. Motor vehicles, or other vehicles not covered in this section, shall be parked or stored only within parking areas as defined in Chapter 17.40 KMC and shall not be parked or stored within property setbacks.

302.11.2 Recreational vehicles, boats, trailers. Recreational vehicles, boats, and trailers shall be parked or stored on an approved parking surface, shall not be parked or stored in required property setbacks and shall be in conformance with Chapter 17.40 KMC.

302.11.3 Machinery and equipment. Machinery and equipment shall be parked, kept or stored on an approved parking surface, shall not be parked or stored in required property setbacks and shall be in conformance with Chapter 17.40 KMC.

302.11.4 Truck tractors, semi-trailers and commercial equipment. Truck tractors, as defined in RCW 46.04.655, and semi-trailers, as defined in RCW 46.04.530, or commercial equipment, shall not be parked or stored in residentially zoned areas, on residential property in other zones, or on sites that have not been permitted, improved and approved for such use. This requirement shall not apply when equipment is used in conjunction with a permitted or allowed project. These vehicles shall be parked or stored on an approved surface outside of required property setbacks.

Section 302.12, Vehicle and equipment repair on residential premises, is added to read as follows:

302.12 Vehicle and equipment repair on residential premises. Servicing, repairing, assembling, modifying, restoring, or otherwise working on any vehicle on any residential premises shall be subject to the following:

302.12.1 Work shall be limited to the repair and maintenance of vehicles, equipment, or other conveyance currently registered as specified in the Washington Vehicle Code to the occupant or a member of the occupant's family.

302.12.2 Work is limited to the approved parking surface or garage or approved accessory structure; at no time can repairs be made on the lawn, sidewalk, planting strip or the street.

302.12.3 Only minor repairs such as an oil change, tire repair, small parts change, or minor routine maintenance may be performed outside of a garage or approved accessory

structure and only then on an approved parking surface. The associated vehicle(s) in which such minor repairs exceed seven (7) days shall be moved inside of a building that meets applicable code and zoning requirements or be properly "screened" from public view and parked on an approved surface outside of property setbacks.

302.12.4 Work which creates a nuisance shall not be permitted.

Section 302.13, Dangerous fences and structures, is added to read as follows:

302.13 Dangerous fences and structures. All premises within the city shall be maintained free of any fence or other structure which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition.

Section 302.14, Dangerous trees, is added to read as follows:

302.14 Dangerous trees. All premises within the city shall be maintained free of any dead, diseased, infested or dying tree that constitutes a danger to street trees, streets, alleys or sidewalks.

Section 302.15, Obscured public facilities, is added to read as follows:

302.15 Obscured public facilities. All premises within the city shall be maintained free of any object blocking, vine or climbing plants growing into, onto or over any street, tree growing within a public right-of-way or any public hydrant, utility meter, pole, street light, utility device, street sign or public facility or device; or the existence of any uncontrolled, uncultivated or untended shrub, vine or plant growing on, around or nearby any hydrant, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto.

302.15.1 Overhanging trees and shrubs. Every property owner having any tree or shrub overhanging any street, alley or right-of-way within the city shall prune the branches so that such branches shall not interfere with the unobstructed use of the street, alley, sidewalk or right-of-way or obstruct the view of any street intersection. Trees and shrubs overhanging the street and alley shall be pruned to allow a minimum 14-foot clearance above the entire surface of the street or alley. Trees and shrubs overhanging the sidewalk and/or right-of-way shall be pruned to allow a minimum 8-foot clearance above the entire sidewalk surface and/or right-of-way to the adjoining property line. No person shall, without a written permit of the city manager or his/her designee cut, prune, rake, climb, injure or remove any living tree in any public right-of-way, park, planting/parking strip or other public place in the city in accordance with KMC 17.40 and 15.05.

Section 302.16, Privies, vaults, cesspools, etc., is added to read as follows:

302.16 Privies, vaults, cesspools, etc. All premises within the city shall be maintained free of any privies, vaults, cesspools, sumps, pits, trenches or like places which create a dangerous condition or are not securely protected from flies and rats, or which are foul or malodorous.

Section 302.17, Hedges, is added to read as follows:

302.17 Hedges. The existence on any real property within the city of a hedge in violation of Chapter 17.40 KMC is a public nuisance.

Section 302.18, Fences, is added to read as follows:

302.18 Fences. The existence on any real property within the city of a fence in violation of Chapter 17.40 KMC is a public nuisance.

Section 302.19, Outdoor wood storage, is added to read as follows:

302.19 Outdoor wood storage. Outdoor wood and firewood shall be neatly stacked not to exceed six (6) feet in height, shall be adequately supported so as not to pose a hazard to person or property, and shall not be placed in any setback or other restricted area on the property in which it is being stored.

Section 302.20, Attractive nuisance, is added to read as follows:

302.20 Attractive nuisance. All premises within the city shall be maintained free of any accessible attractive nuisance.

Section 302.21, Accumulation of dangerous materials, is added to read as follows:

302.21 Accumulation of dangerous materials. All premises within the city shall be maintained free of the existence of any accumulation of materials, substances or objects in a location when the same endangers property, health, safety or constitutes a fire hazard.

Section 302.22, Open storage of materials and furnishings, is added to read as follows:

302.22 Open storage of materials and furnishings. No person shall openly store or keep any equipment, materials or furnishings; or any item that creates an unsightly condition or one that promotes urban blight or public nuisance. This may include, but is not limited to, indoor furniture, household appliances, auto parts, shopping carts or building materials.
Exception: Building materials neatly stacked and stored for no less than sixty (60) days for a construction project permitted with the city. The material must be weather protected, shall not be placed within property setbacks or placed in such a manner that would create a danger to property, health and/or safety.

Section 302.23, Nuisance premises, is added to read as follows:

302.23 Nuisance premises. All premises within the city shall be maintained free of any structure allowing or maintaining prostitution, or where there is the use, sale, manufacturing or distributing of any illegal narcotics or controlled substance, or at which there is a pattern of criminal activity.

Section 302.24, Alley/Public right-of-way maintenance, is added to read as follows:

302.24 Alley/Public right-of-way maintenance. The owner, lessee, occupant or agent thereof, or any person having the care or charge of any property that has alley access or an alley right-of-way easement, shall be responsible for maintaining that portion of the alley that fronts said property up to and including one-half of the apparent alley centerline, and shall keep said alley or alley easement maintained in a clean, safe and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health, safety or welfare. Public right-of-way maintenance shall also include utility easements or parking and/or planting strips. Such blighting problems shall include, but are not limited to: overgrown trees, shrubs, vegetation, weeds and/or grasses; garbage; junk; rubbish; dirt and filth; litter; trash; and waste. This definition shall also include, but not be limited to, such items as couches, loveseats, chairs, mattresses, and other similar household furniture. Such items, if placed in any city alleyway or alley easement, shall be considered a public nuisance and abated within the time established by the city in accordance with Section 106.

~~Section 302.25, Garage sales, is added to read as follows:~~

~~302.25 Garage sales. Sales of secondhand merchandise, conducted from residences, and designated as "garage sales," "estate sales," "yard sales," and/or "moving sales" are allowed without a permit provided they are conducted under the following requirements:~~
~~(a) Shall be in conformance with KMC 5.03, KMC 17.62, KMC 17.15;~~
~~(b) Garage sale displays, signs and merchandise must be removed after/between sales events.~~

Section 303.1, Swimming pools, is amended to read as follows:

303.1 Swimming pools, spas, and ponds. Swimming pools, spas, hot tubs and/or ponds shall be maintained in a clean and sanitary condition in good repair and shall comply with the provisions of the International Residential Code, Appendix G. Except for regulated wetlands and City-approved structures related to storm drainage systems, all premises within the city shall be maintained free of the existence of all stagnant, pooled water in which mosquitoes, flies or other insects may multiply.

Section 303.2, Enclosures, is amended to read as follows:

303.2 Enclosures. See the International Residential Code, Appendix G, Section AG105, Barrier Requirements.

Section 304.2, Protective treatment, is amended to read as follows:

304.2 Protective treatment. All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. Tarp use for weather protection may not exceed 30 days. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Section 304.3, Premises identification, is amended to read as follows:

304.3 Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be a minimum of 3 inches high and shall not be sight obscured.

Section 304.7, Roofs and drainage, is amended to read as follows:

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Tarp use for weather protection may not exceed 30 days. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Section 304.14, Insect screens, is deleted.

Section 308.1, Accumulation of rubbish or garbage, is amended to read as follows:

308.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish, junk, trash, filth, waste or garbage.

Section 308.2, Disposal of rubbish, is amended to read as follows:

308.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish, junk, trash, filth, waste or garbage in a clean and sanitary manner by placing such rubbish, junk, trash, filth, waste or garbage in approved containers as provided for in Chapter 8.04 KMC, or by taking it to an approved disposal facility.

308.2.1 Rubbish/garbage storage facilities. The owner of every occupied premises shall maintain approved covered containers for rubbish, junk, trash, filth, waste or garbage, and the owner of the premises shall be responsible for the removal of rubbish, junk, trash, filth, waste or garbage from the premises.

308.2.2 Dangerous and/or discarded appliances. Except when stored within a building, as defined in Section R202 of the International Residential Code, refrigerators, household appliances, and similar equipment shall not be discarded, abandoned or stored on any premises within the City.

Section 308.3, Disposal of garbage, is amended to read as follows:

308.3 Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage container as provided for in Chapter 8.04 KMC or by taking it to an approved disposal facility.

308.3.1 Containers. The operator of every establishment producing garbage shall maintain, and at all times cause to be utilized, approved containers as set forth in Chapter 8.04 KMC.

308.3.2 Undumped garbage or rubbish containers. All premises within the city shall be maintained free of the existence of any garbage or rubbish containers or any can, bag, box or other device, which is filled to 50 percent or more of its capacity with garbage, trash, rubbish, waste, dirt or filth, and which has remained upon such premises for more than 14 successive days.

Section 308.4, Containers—Within the public right-of-way, is added to read as follows:

308.4 Containers—within the public right-of-way. No residential or commercial solid waste or recycling cart shall be placed along a public street, alley or right-of-way, on a public sidewalk, or on other public property any sooner than 24 hours before the time of collection. All residential and commercial solid waste and recycling carts placed in the public right-of-way for collection shall be removed from those public areas within 24 hours of the time of collection, except when such established day for collection falls on a designated holiday in which case collection will be conducted on the next succeeding workday, and the containers shall be removed and replaced to their appropriate storage location by the morning following collection.

Section 308.5, Rubbish and garbage exceptions, is added to read as follows:

307.5 Rubbish and garbage exceptions. The following shall not be a violation of this section.

1.~~A.~~ Compost piles less than four feet in height and six feet in diameter at ground level, and 30 feet or more from any dwelling, and four feet or more from adjoining properties.

2.~~B.~~ Storm debris within 30 days following a storm event.

3.~~C.~~ Construction residue and debris during and for 14 days following completion of work.

4.~~D.~~ Fallen leaves, tree needles, tree fruit and similar vegetation, during the months of October through April, inclusive.

5.~~E.~~ The accumulation and temporary storage, in containers designated for such purposes, of "recyclable" materials pursuant to a program of recycling adopted by the city; provided, however, that such containers must not be publicly visible or they must be made available to the city's garbage or "recycle contractor" within 14 days after having been filled to 50 percent or more of their capacity.

6.~~F.~~ Uncultivated, uncut or untended weeds, grass, bushes or other vegetation not constituting a health or fire hazard, existing in a natural state on undeveloped, agricultural, industrially zoned, "open space" or "green belt" areas.

Section 505.1, General, is amended to read as follows:

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Uniform Plumbing Code.

Section 505.4, Water heating facilities, is amended to read as follows:

505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C) nor shall the temperature be set higher than the maximum allowed by federal, state or local law. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

Section 507.1, General, is amended to read as follows:

507.1 General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

1.~~A.~~ It is a violation for any person to break, damage, destroy, uncover, deface or tamper with any structure or facility which is part of the stormwater runoff and erosion control system.

2.~~B.~~ It is a violation for any person who is responsible to do so, to fail to maintain stormwater runoff and/or erosion control facilities and structures as required by this chapter and 13.09 KMC. Each calendar day that a violation occurs constitutes a separate offense. In addition, the City may institute injunctive, mandamus, or other appropriate action or proceedings for the enforcement of this chapter.

Section 602.2, Residential occupancies, is amended to read as follows:

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used as a means to provide required heating.

Section 602.3, Heat supply, is amended to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68° F (20° C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in KMC 15.03.030.

Section 602.4, Occupiable work spaces, is amended to read as follows:

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65 °F (18° C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

Section 604.2, Service, is amended to read as follows:

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code. Dwelling units shall be served by a three-wire, 120/240 volt, single phase electrical service having a rating of not less than 60 amperes.

Section 606.1, General, is amended to read as follows:

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A 17.1 and the L&I Elevator rules. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, or the certificate shall be available for public inspection in the office of the building operator. The inspection and tests shall be performed at not less than the periodical intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

Section 702.3, Locked doors, is amended to read as follows:

702.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code.

Section 704.2, Smoke alarms, is amended to read as follows:

704.2 Smoke alarms. Single- or multiple-station smoke alarms shall be installed and maintained in Group R occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

2. In each room used for sleeping purposes.

3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single- or multiple-station smoke alarms shall be installed in other groups in accordance with the International Fire Code.

Section 704.4, Interconnection, is amended to read as follows:

704.4 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R and in dwellings not regulated as Group R

occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exception:

1. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

Chapter 8, Referenced Standards.

References to the electric code shall mean the National Electric Code as adopted by the State of Washington. ~~(Ord. 3849 § 2 (Exh. B), 2015)~~

~~**15.04.030 Severability.**~~
~~If any one or more section, subsections or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect. (Ord. 3849 § 2 (Exh. B), 2015)~~

17.50.180 **Building Numbering System.** The City shall establish and maintain a system for assigning street names and building numbers.

A. ~~For the purpose of numbering all buildings in the city, the city is divided into districts, as follows: All that portion of the city lying east of the Cowlitz River and south of Allen Street shall be known as "South Kelso"; all that portion of the city lying north of Allen Street and east of the Cowlitz River shall be known as "North Kelso"; all that portion of the city lying west of the Cowlitz River and south of Main Street shall be known as "West Kelso, South"; and all that portion of the city lying west of the Cowlitz River and north of Main Street shall be known as "West Kelso, North."~~

~~B. All residences and business buildings in the city shall be numbered by the owner or owners thereof in the following manner, to wit: Numbers shall run one hundred to the block beginning at Allen Street for streets running north and south on the east side of the Cowlitz River, and at Main Street on the west side thereof, and at Front Street for streets running east and west on the east side of the Cowlitz River, and at First Street for streets running east and west on the west side of the Cowlitz River; odd numbers shall be on the east side of the streets running north and south and even numbers on the west side thereof, and on streets running east and west, odd numbers shall be on the north side of the street and even numbers on the south side thereof. All house and building numbers on streets south of Allen Street on the east side of the Cowlitz River shall be prefixed "South"; all house and building numbers on streets north of Allen Street on the east side of the Cowlitz River shall be prefixed "North"; all house and building numbers on the~~

~~west side of the Cowlitz River, south of Main Street shall be prefixed "West" and "South," and those north of Main Street shall be prefixed "West" and "North."~~

~~C. All numbers used in numbering buildings in the city shall be made of durable and legible quality, shall be at least three inches in height and no more than twelve inches in height and shall otherwise conform to the specifications shown on the street numbering plat of the city, as determined by the City.~~

~~The street numbering plat of the city, heretofore made and adopted by the City Council as the official street numbering plat of the city, and the specifications adopted by the City Council, are the official street numbering plat and specifications of the city.~~

17.50.190 Moving

A. No person, firm or corporation shall move any building over, upon or along any street or alley in the city until a permit(s) ~~shall~~ have been issued, provided that: ~~therefor as provided in this Section.~~

1. The City shall, in the permit(s) issued under this Section, prescribe the mode of removal of such building or buildings and the street or alleys over which the removal may be made, and the removal shall at all times be subject to the control and direction of the City;

2. The Route and timing of the removal may be limited through a right-of-way use or other permit issued by the City;

3. The City may require evidence that all permits and approvals necessary to successfully move and relocate a building have been secured;

4. Additional permits may be required from other jurisdictions; and

~~1.~~5. The Project Sponsor shall be responsible for all costs and claims associated with the moving of a building.

17.50.200 Swimming Pools

A. No person, firm or corporation shall construct a public or semipublic swimming pool nor make changes in any public or semipublic swimming pool already built, or any appurtenances thereof, until the plans and specifications thereof shall first have been submitted to and received the approval of the Washington State Department of Health.

B. Permanent swimming pools having a water depth of twelve inches or more shall meet the following standards:

1. A building permit is required.

2. Shall be surrounded by a fence at least six feet in height. Such fence shall be at least five feet from the edge of the pool. All gates shall be fitted with safety latches on the pool side of the fence only, and such latches shall be at least five feet above the ground.

3. Structures housing filter or heating equipment shall be located in conformity with the regulations pertaining to accessory buildings within which use district the swimming pool is located.

4. All electrical equipment and connections shall be attached and enclosed in a manner consistent with the currently adopted version of the National Electrical Code.

5. Private pools shall not be located forward of the front of any residence.

C. All types of equipment and materials shall be approved by the City.

1. Filter. Where a private swimming pool will have a filter, it shall be equipped with a pressure sand filter, or an approved equal. The filter system shall have sufficient capacity to provide a complete turnover of the pool water in eighteen hours or less, when operated at a rate not to exceed five gallons per minute per square foot of filter area.

2. Recirculating Pump. The recirculating pump shall have sufficient capacity to backwash the filter at a rate of at least ten gallons per minute per square foot of filter area, when operating against the total head of the system. Pump motor shall not be operated at an overload which exceeds the service factor.

3. Hair and Lint Strainer. Pool pumps shall be equipped on the inlet side with an approved type hair and lint strainer. The basket of the strainer shall be noncorrosive and have an open screen surface of at least four times the cross sectional area of the inlet pipe, and shall be installed in an accessible location.

4. Filter Tanks. Filter tanks shall be fabricated to ASME specifications for noncode pressure vessels and shall be built for a minimum of fifty pounds pressure, with a safety factor of four. The filter under-drain shall have an effective distribution area of at least twenty-five percent of the cross sectional area of tank. Tanks placed underground shall be steel plate at least three-sixteenths of an inch in thickness with an approved noncorrosive exterior coating. Tanks shall be supported in a manner satisfactory to the administrative authority.

5. Filter Media Specifications.

   a. Filter sand shall be a hard, uniformly graded silica material with effective particle sizes between 0.45 and 0.55 millimeters in diameter with uniformity coefficient of 1.45 to 1.69. There shall be no limestone or clay present.

b. Filter sand shall be no less than nineteen inches in depth with a freeboard of no less than nine inches or more than twelve inches.

c. There shall be no less than four grades of rock which shall be clean, noncrushed, rounded, noncalcareous materials.

d. The total depth of the rock-supporting bed shall be no less than fifteen inches, and each grade shall be two inches or greater in depth. Each layer of rock shall be leveled to prevent intermixing of adjacent grades.

e. The top layer shall vary in size between one-eighth inch and one-quarter inch. The next layer shall vary in size between one-quarter inch and one-half inch. The next layer shall vary in size between one-half inch and three-quarters inch. The bottom layer shall vary in size between one inch and one and one-half inches.

6. Operating Instructions. Every filter system shall be provided with operating instructions.

7. Filter System Equipment. The filter system shall be equipped with the following:

   a. A pressure gauge on the influent piping;

   b. A pressure gauge on the effluent piping;

   c. A valve to release air at the top of each filter;

   d. A backwash sight glass where the backwash discharge outlet to the receptor is not visible from the backwash control valve. Sight glass shall be installed adjacent to the backwash control valve.

8. Vacuum Fitting. The vacuum fitting shall be located in the vertical wall section of the pool proper and opening into the pool in an accessible position below the waterline, not less than fourteen inches to centerline of pipe below the top of the finished pool.

9. Size of Piping. Peel piping shall be sized to permit the rated flows for filtering and backwashing without exceeding the maximum head at which the pump will provide such flows.

10. Recirculation. In general, the water velocity in the pool piping system shall not exceed ten feet per second. An outlet shall be placed at the deepest point in every pool for recirculation, and for emptying pool. Pool recirculating piping passing through concrete wall structures shall be copper tubing with a minimum wall thickness of Type "L," or brass of I.P.S. or other approved material.

11. Valves. Fullway gate valves shall be installed to insure proper functioning of the filtration and piping system.

a. A valve shall be installed on the main suction line located in an accessible place, or in a masonry pit outside the walls of the pool, when the pump is located below the overflow rim of the pool.

b. Valves up to and including two inches in size, shall be brass. Sizes over two inches may have cast-iron or brass bodies. All working parts of valves shall be of noncorrosive material. Combination valves may be installed when approved by the building inspector.

D. Gaseous chlorinators.

1. Devices for a private swimming pool for feeding gaseous chlorine shall meet with the requirements of the department of the county or state having jurisdiction and shall be approved by an agency acceptable to the City.

2. Each gaseous chlorinator for a private swimming pool shall meet the following minimum requirements:

a. Injector-operation type;

b. Vacuum or semi-vacuum operation type. (Pressure feed machines will not be accepted);

c. The chlorine feed shall be in water solution;

d. Machines shall be equipped with pressure and vacuum relief vents;

e. Arrangements shall be made for reading the rate of chlorine feed in pounds per twenty-four hours;

f. Chlorinators shall be constructed to automatically shut off the gas in case of vacuum failure;

g. Each chlorinator shall be provided with a water pressure gauge;

h. Each chlorine cylinder shall be provided with a gas pressure gauge;

i. The water supply line shall be provided with a control valve and strainer;

j. Backflow protection shall be provided when the water supply is connected to the potable water service;

k. Where the water pressure is less than forty PSI in the water supply, a booster pump connected to the pool piping shall be provided in lieu thereof.

E. Water heating equipment.

1. Swimming pool water heating equipment shall conform to the design, construction and installation requirements for domestic water heaters and in addition, the following shall be required:

   a. An approved permanent bypass or antisiphon device shall be installed to provide a positive means of retaining the water in the heater when the pump is not in operation.
   b. When the heater is installed in a pit, the pit shall be provided with approved drainage facilities.

F. Water supply.

1. Unless an approved type of filling system is installed, any water supply which in the judgment of the building inspector may be used to fill the pool, shall be equipped with backflow protection. No over-the-rim fill spout will be accepted unless located under a diving board, or properly guarded.

G. Tests.

~~3.~~13. All pool piping shall be inspected and approved before being covered or concealed. When the entire pool piping or circulating system is completed, it shall be tested and proved tight to the satisfaction of the City~~building inspector~~, under a water pressure of not less than fifty PSI.

H. Wastewater disposal.

1. General Requirements. No direct connection shall be made between any storm drain, sewer, drainage system, seepage pit, underground leaching pit or subsoil drainage line, and any line connected to a swimming pool.

2. Seepage Pit. Where wastewater disposal cannot be made by other approved means, a seepage pit shall be installed. Seepage pit shall have a capacity of at least ten times the backwash capacity in gallons per minute per unit. When used for purposes of other than backwash disposal, the size of such seepage pit shall be proportionally increased to the satisfaction of the building inspector. No wastewater, other than that from a swimming pool or its deck area, shall discharge into such seepage pit.

3. Sewer or Storm Drain. Wastewater may be discharged to a public sewer or storm drain only when such permission has been obtained in writing from the property authority so to do. A copy of such permission stating the maximum size of the waste line between the receptor and the sewer or storm drain, shall accompany an application for a permit made to the building inspector.

4. Approved Receptor. Wastewater from any filter, gravity overflow gutter, overflow pool emptying line or similar apparatus or appurtenances, shall discharge into an approved type receptor, except for surface irrigation. The flood rim of each such receptor shall be at least six inches above the flood level of the adjacent ground. Receptors may be cast iron, concrete or other approved materials.

5. Traps and Vents. Each receptor, when connected to any part of a sanitary drainage system, shall be properly trapped and vented.

6. Air Gap. Except as provided in subsection G of this section, the discharge outlet from any pool or filter, shall be protected from backflow by an air gap of at least one inch above the flood rim of the receptor.

7. Entering Receptor Below Rim. No gravity overflow gutter drain, overflow drain, backwash discharge drain or pool emptying line shall enter any receptor below the rim, unless the pool piping at its deepest point, the bottom of the filters, and the bottom of the gravity overflow gutter drain trough or overflow outlet, are at least six inches above the rim of the receptor. Where a pump is used, it must discharge into a receptor as required in subsection F of this section.

I. Drain and waste piping.

1. Minimum Fall. Drainage piping serving gravity overflow gutter drains and deck drains shall be installed with a minimum fall of one-quarter inch per foot.

2. Sizes. Drainage piping to which individual gravity overflow gutter outlets are connected shall be sized according to the following table:

Number of Outlets	Size of Drain (in inches)
1 to 12	3
13 to 30	4

3. Materials. Drainage piping may be of approved nonmetallic material if installed at least two feet beyond the outside of the pool structure and not less than one foot below the surface of the ground.

4. Tests. All gravity overflow gutter drains shall be tested and inspected and proved before concealing or covering, by plugging all outlets and completely filling the system with water to the highest point.

5. Gutter Drainage Fittings. Gravity overflow gutter drainage fittings shall be of an approved type not less than two inches IPS and provided with a strainer securely attached thereto. The open area of the strainer shall be equivalent to or greater than the cross-sectional area of a two-inch pipe.

J. Final inspection.

1. All swimming pool installations must be completed. Swimming pools shall have the bottoms and sides constructed of smooth nonabsorbent materials, free from cracks and be so constructed as to be properly drained through one or more grated openings. The pool shall be completely filled with water and in operation before final inspection.

Chapter 17.54 Code Enforcement

Sections:

17.54.010 Introduction;
17.54.020 Suspension, Revocation, and Denial of Permits;
17.54.030 Unfit Buildings, Dwellings, and Structures;
17.54.040 Critical Area Violations; ~~and~~
17.54.050 Shoreline Violations~~.~~;
17.54.060 Violations of Sexually Oriented Business Regulations; and
17.54.070 Violations of State Licensed Marijuana Production, Processing, and Sales Regulations.

17.50.010 Introduction.

A. It is a violation of this Title for any person, firm, or corporation to:

1. Initiate or maintain or cause to be initiated or maintained the use of any building, structure, land or property within the city without first obtaining permits or authorizations required for the use by this Title.

2. Use, construct, locate, demolish or cause to be used, constructed, located or demolished any structure, land or property within the city in any manner that is not permitted by the terms of any permit or authorization issued.

3. Fail to comply with the terms and conditions of approval of permits issued by the City including conditions recorded on the face of a plat or notices recorded on a deed or title.

4. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this Title.

5. Misrepresent any material fact in any application, plans or other information submitted to obtain any land use permits or authorizations.

6. Fail to comply with the requirements of this Title.

~~6.~~7. Fail to comply with any stop work or compliance order issued pursuant to this Title.

B. Enforcement of violations of this Title shall be conducted in accordance with the procedures established with KMC Chapter 1.50.

C. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any provisions of this Title shall be deemed guilty of a civil violation or misdemeanor.

1. Each day that a violation is permitted to exist shall constitute a separate offense.

2. Offenses shall be processed in accordance with the provisions of KMC 1.40 General Penalty and KMC 1.50 Code Enforcement.

17.54.020 Suspension, Revocation, and Denial of Permits.

A. The City may suspend, revoke, or modify any permit issued by the City whenever:

1. The permit holder has committed a violation in the course of performing activities subject to that permit;

2. The permit holder has interfered with the authorized representatives of the City in the performance of his or her duties related to that permit;

3. The permit was issued in error or on the basis of materially incorrect information supplied to the City;

4. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or canceled;

5. For a permit or approval that is subject to sensitive area review, the applicant has failed to disclose a change of circumstances on the development proposal site which materially affects an applicant's ability to meet the permit or approval conditions, or which makes inaccurate the sensitive area study that was the basis for establishing permit or approval conditions. Such suspension, revocation, or modification shall be carried out through the notice and order provisions of this Chapter and shall be effective upon the compliance date established by the notice and order. Such suspension, revocation, or modification may be appealed to the Hearing Examiner using the appeal provisions of this Chapter;

B. ~~Notwithstanding any other provision of this Chapter, t~~The City may immediately suspend operations under any permit issued under this Title by issuing a stop work order.

~~C. The City may deny a permit when, with regard to the site or project for which the permit is submitted:~~

~~1. Any person owning the property or submitting the development proposal has been found in violation of any ordinance, resolution, regulation, or public rule of the City that regulates or protects the public health, safety and welfare, or the use and development of land and water; and/or~~

~~D. Any person owning the property or submitting the development proposal has been found in violation and remains in violation of the conditions of any permit, notice and order, or~~

~~stop work order issued pursuant to any such ordinance, resolution, regulation, or public rule.~~

D. In order to further the remedial purposes of this Chapter, such suspension or denial may continue until the violation is cured by restoration, accepted as complete by the City, and by payment of any civil penalty imposed for the violation, except that permits or approvals shall be granted to the extent necessary to accomplish any required restoration or cure.

17.54.030 Unfit Buildings, Dwellings, and Structures

A. Chapter 35.80 RCW, Unfit Dwellings, Buildings and Structures, as it currently exists or is hereinafter amended, is hereby adopted.

B. The City Manager and his/her designee is designated as the City's "improvement officer," and shall have the full scope of authority granted to that official under Chapter 35.80 RCW. The City's Hearings Examiner is designated as the City's "appeals commission," and shall have the full scope of authority granted to that commission under Chapter 35.80 RCW.

C. If after a preliminary investigation of any dwelling, building, structure or premises, the improvement officer finds that it is unfit for human habitation or other use, the improvement officer may issue a complaint conforming to the provisions of RCW 35.80.030, stating in what respects such dwelling, building, structure or premises is unfit for human habitation or other use. In determining whether a dwelling, building, structure or premises should be repaired or demolished, the improvement officer shall be guided by the Kelso Municipal Code and such other codes adopted pursuant to the Kelso Municipal Code as the improvement officer deems applicable, in particular the most recent edition of the International Property Maintenance Code.

D. Complaints issued under this Section shall be served on the parties and posted on the subject property pursuant to RCW 35.80.030, and shall also be filed with the Cowlitz County Auditor. All complaints or other documents posted on the subject property shall remain in place until the complaint has been resolved. For purposes of service, such complaints or other documents are deemed effective on the day of posting.

1. Not less than 10 days nor more than 30 days after serving a complaint, the improvement officer shall hold a hearing conforming to the provisions of RCW 35.80.030, at which all parties in interest shall be given the right to appear in person, to bring witnesses, and to give testimony regarding the complaint. At any time prior to or at the time of the hearing, any party may file an answer to the complaint. The improvement officer shall adopt procedural rules governing the procedure of such hearing, which shall be available for public inspection at the City Clerk's office.

2. Within 10 days of the complaint hearing, the improvement officer shall issue a determination, findings of fact, and order stating the improvement officer's

determination as to whether the subject dwelling, building, structure or premises is unfit for human habitation or other use, the findings of fact supporting the determination, and an order specifying the actions necessary to address any unfitness and a deadline for completing the actions. The determination, findings of fact, and order shall be served and posted as set forth in this Section and KMC 1.50, and if no appeal is filed within the deadline specified, a copy of the determination, findings of fact, and order shall be filed with the Cowlitz County Auditor.

3. Within 30 days of service of a determination, findings of fact, and order, any party may file an appeal to the appeals commission. Such an appeal shall be governed by the City of Kelso Hearings Examiner's procedural rules, except that the appeals commission shall conduct a hearing on the appeal and issue a ruling within 60 days from the date the appeal is filed; and if the appeals commission issues any oral findings of fact, the ruling shall contain a transcript of such findings in addition to any findings issued at the time of the ruling. The ruling shall be served and posted as set forth in this Section and KMC Chapter 1.50 and if no appeal is filed within the deadline specified, a copy of the ruling shall be filed with the Cowlitz County Auditor.

4. Any person affected by a determination, findings of fact, and order issued by the improvement officer, who has brought an appeal before the appeals commission pursuant to this Section and KMC Chapter 1.50 may, within 30 days after the appeals commission's ruling has been served and posted pursuant to this Section and KMC Chapter 1.50 petition the Cowlitz County Superior Court for an injunction restraining the improvement officer from carrying out the provisions of the determination, findings of fact, and order. In all such proceedings, the court is authorized to affirm, reverse or modify the order, and such trial shall be heard de novo.

5. If a party, following exhaustion of the party's rights to appeal, fails to comply with the determination, findings of fact, and order, the improvement officer may direct or cause the subject dwelling, building, structure or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished pursuant to Chapter 35.80 RCW.

6. The cost of any action taken by the improvement officer under this Section and KMC Chapter 1.50 shall be assessed against the subject property pursuant to Chapter 35.80 RCW. Upon certification by the City that the assessment amount is due and owing, the Cowlitz County Treasurer shall enter the amount of such assessment upon the tax rolls against the subject property pursuant to the provisions of RCW 35.80.030.

17.54.040 Critical Area Violations.

A. The compliance provisions for critical areas are intended to protect critical areas and the general public from harm, to recognize the principles of Chapter 36.70A RCW (the Growth Management Act), and to further the remedial purposes of this Chapter. To achieve this, a person responsible for a code violation will not only be required to restore

damaged critical areas, insofar as that is possible and beneficial, but will also be required to pay a civil penalty for the redress of ecological, recreational, and economic values lost or damaged due to their unlawful action.

B. The provisions of this Section are in addition to, and not in lieu of, any other penalty, sanction, or right of action provided by law for other related violations.

C. Where feasible, the owner of the land on which the violation occurred shall be named as a party to the notice and order. In addition to any other person who may be liable for a violation, and subject to the exceptions provided in this Chapter, the owner shall be jointly and severally liable for the restoration of a site and payment of any civil penalties imposed.

D. Violation of critical area provisions of this code means:

1. The violation of any provision of Chapter 18.20 KMC, Critical Area Ordinance, or of the administrative rules promulgated thereunder;

2. The failure to obtain a permit required for work in a critical area; or

3. The failure to comply with the conditions of any permit, approval, terms and conditions of any sensitive area tract or setback area, easement, covenant, plat restriction or binding assurance, or any notice and order, stop work order, mitigation plan, contract or agreement issued or concluded pursuant to the above-mentioned provisions.

E. Any person in violation of Chapter 18.20 KMC, Critical Area Ordinance, may be subject to civil penalties, costs, and fees as follows:

1. According to the civil penalty schedule under KMC 1.50; provided, that the exact amount of the penalty per violation shall be determined by the City based on the physical extent and severity of the violation; or

2. The greater of:

a. An amount determined to be equivalent to the economic benefit that the person responsible for a code violation derives from the violation, measured as the total of:

- The resulting increase in market value of the property;

- The value received by the person responsible for a violation; and

- The savings of construction costs realized by the person responsible for a code violation as a result of performing any act in violation of Chapter 18.20 KMC, Critical Area Ordinance; or

F. In addition to the other remedies available under this Chapter and those authorized by law, upon issuance of a notice and order or stop work order the City shall charge the costs of pursuing code compliance and abatement incurred to correct a code violation to the person responsible for a code violation. These charges include:

1. Reasonable Legal Fees and Costs. For purposes of this Section, "reasonable legal fees and costs" shall include, but are not limited to, legal personnel costs, both direct and related, incurred to enforce the provisions of this Chapter as may be allowed by law;

2. Administrative Personnel Costs. For purposes of this Section, "administrative personnel costs" shall include, but are not limited to, administrative employee costs, both direct and related, incurred to enforce the provisions of this Chapter;

3. Abatement Costs. The city shall keep an itemized account of costs incurred by the City in the abatement of a violation under this Chapter. Upon completion of any abatement work, the City shall prepare a report specifying a legal description of the real property where the abatement work occurred, the work done for each property, the itemized costs of the work, and interest accrued; and

4. Actual expenses and costs of the City in preparing notices, specifications and contracts; in accomplishing or contracting and inspecting the work; and the costs of any required printing, mailing, or court filing fees.

G. Such costs are due and payable 30 days from mailing of the invoice unless otherwise stated in a written agreement with the City. The City reserves the right to collect interest at the statutory set rate on any outstanding balance not paid within 30 days.

1. All costs assessed by the City in pursuing code compliance and/or abatement create a joint and several personal obligation in all persons responsible for a violation.

2. In addition to, or in lieu of, any other state or local provision for the recovery of costs, the City may, after abating a violation pursuant to this Chapter, file and/or record with the Cowlitz County Auditor to claim a lien against the real property for the assessed costs identified in this Chapter if the violation was reasonably related to the real property, in accordance with any lien provisions authorized by state law.

3. Any lien filed shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for state and county taxes, with which it shall share priority. The City may cause a claim for lien to be filed and/or recorded within 90 days from the later of the date that the monetary penalty is due or the date the work is completed or the nuisance abated. The claim of lien shall contain sufficient information regarding the notice and order, a description of the property to be charged with the lien, the owner of record, and the total of the lien. Any such claim of lien may be amended from time to time to reflect

changed conditions. Any such lien shall bind the affected property for the period as provided for by state law.

17.54.050 Shoreline Violations.

For violations of the City of Kelso Shoreline Master Program see KMC Chapter 17.30~~xxxx.~~

17.54.060 Violations of Sexually Oriented Business Regulations.

A. Violation—Penalty. Any person violating ~~any provision(s) of~~ Chapter 17.22.160 Adult Oriented Business Overlay or related provisions in this Title, ~~this chapter~~ shall be guilty of a misdemeanor. Any person convicted of such a violation shall be punished by a fine of not more than one thousand dollars or a jail term of not more than one year, or both. Each such person is guilty of a separate misdemeanor for each and every day which any violation of this chapter is committed, continued or permitted by any such person and said person shall be punished accordingly.

1. Public Nuisance—Injunctions. Any sexually oriented businesses and ~~marijuana retail businesses in~~ violation of this Title~~chapter~~ shall be deemed a public nuisance, which, in addition to all other remedies, may be abated by injunctive relief.

17.54.070 Violations of State Licensed Marijuana Production, Processing, and Sales Regulations.

A. Violations of this Chapter 17.22.170 State Licensed Marijuana Production, Processing, and Sales or related provisions in this Title, including the sign code or zoning code, shall result in a Class 1 civil infraction as defined by RCW 7.80.120, with each day of violation being a separate infraction. The City may enforce this section pursuant to Chapter 7.80 RCW. For violations of WAC 314-55-155 and 314-55-525, the City may report the violation to the Washington State Liquor and Cannabis Board.

1. In addition to any other applicable remedy and/or penalty, any violation of this Chapter is declared to be a public nuisance per se, and may be abated by the City under the applicable provisions of the Kelso Municipal Code or state law.

2. Nothing in this Chapter shall be construed as a limitation on the City's authority to abate any violation which may exist from the cultivation of marijuana from any location, including from within a fully enclosed and secure building.

B. It shall not be a defense to a prosecution of a civil infraction under this section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

Chapter 17.58
Nonconforming Buildings, Structures, Lots, and Uses

17.58.010 Introduction;
17.58.020 Illegal Buildings, Structures, Lots, and Uses Not Permitted;
17.58.030 Nonconforming Buildings and Structures;
17.58.040 Nonconforming Uses;
17.58.050 Nonconforming Lots; and
17.58.060 Sale of a Nonconforming Building, Structure, Lot, or Use.

17.58.010 Introduction. This Chapter provides for the regulation of buildings, structures, lots, and uses that do not comply with the provisions of this Title and specifies the circumstances, conditions, and/or procedures under which these nonconformities may be permitted to continue and expand.

17.58.020 Illegal Buildings, Structures, Lots, and Uses Not Permitted. Structures, lots, site improvements, uses, and/or development activities which were not legally established or conducted, as determined by the City, must fully conform and comply with the procedural and substantive provisions of this Title or be abated; provided, that:

A. The burden of documenting that any nonconformity is a legal nonconformity shall, in all cases, be upon the owner of such nonconformity and not upon the City.

B. If the City Manager or his/her designee cannot conclusively determine that the nonconformity was lawfully established and in continuous use or operation, then the matter may be referred to the Hearing Examiner for review. The Hearing Examiner shall be authorized to render a decision as to whether the nonconforming use or structure was lawfully established and in continuous operation, and review it for compliance with this Chapter.

17.58.030 Nonconforming Buildings and Structures. Buildings and structures that were legally established, but do not comply with current regulations may be continued subject to the following provisions:

A. Nothing in this Chapter shall be construed to restrict normal structural repair and maintenance of a nonconforming structure, including the replacement of walls, fixtures and plumbing; provided that the degree of nonconformity is not increased.

B. Legal nonconforming structures may be remodeled, improved, and/or expanded; provided, that the proposed activities do not increase the degree of nonconformity.

C. Nonconforming buildings or structures shall not be relocated on the same site unless the move results in bringing the building or structure into closer conformance with the provisions of this Chapter.

D. In the event a nonconforming building or structure in square footage or valuation is less than fifty percent destroyed by any cause, nothing in this Chapter shall prevent the securing of a building permit within one year from the date of destruction for the restoration of the building or structure. The determination of the percentage of destruction shall rest with the City. The determination shall be based upon the actual cost of repairing the portion of the building or structure destroyed in relation to the estimated replacement cost of the entire building or structure.

1. Any nonconforming building or structure destroyed more than fifty percent in square footage or valuation may be reconstructed, provided it meets all of the regulations of this Title.

17.58.040 Nonconforming Uses.

A. A nonconforming use of a building, structure, or land shall not be extended or enlarged, unless otherwise provided in this Title.

B. A nonconforming use shall be discontinued and may not be reinstated if use has been vacated or discontinued and not reestablished within 12 months as determined by the City. When a nonconforming use becomes discontinued or succeeded by a conforming use, it shall be deemed that such use has ceased to exist and thus loses its status as a legal nonconforming use. Any subsequent use shall conform to the provisions of the zoning district in which it is located.

1. The City shall have the discretion to extend the time limitation due to special circumstances beyond the control of the owner or occupant of the nonconforming use or nonconforming structure. Examples of special circumstances include but are not limited to disputes over insurance settlements in the case of fire or other casualty, delay in transferring title due to probate proceedings, litigation that impacts continuation of a nonconforming use or nonconforming structure, labor strikes, war, and acts of God.

17.58.050 Nonconforming Lots.

A. A legal nonconforming lot which does not meet the minimum lot size requirements for the zoning district in which it is located may be developed; provided, that:

1. It meets all other requirements of this Title and/or has obtained a variance; or

2. A reasonable use exception has been obtained in accordance with the provisions of this Title.

B. If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record prior to the date of adoption of the ordinance codified in this title, and if all or part of the lots do not meet the requirements established for lot

width and area, the lots involved shall be considered to be an undivided parcel for the purposes of this Title, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title.

17.58.060 Sale of a Nonconforming Building, Structure, Lot, or Use. Property classified as nonconforming may be transferred or sold without that fact alone affecting the right to continue the nonconforming use or use of a nonconforming structure.

~~Chapter 17.58~~
~~Nonconforming Buildings, Structures, and Uses~~

~~**17.58.010 Introduction;**~~
~~**17.58.020 Discontinuance, Abandonment or Destruction of a Nonconformity;**~~
~~**17.58.030 Nonconforming Lots;**~~
~~**17.58.040 Nonconforming Structures, Not Involving a Nonconforming Use; and**~~
~~**17.58.050 Enlargement, Reconstruction, Alteration or Expansion of Nonconformity.**~~

~~17.58.010 Introduction.~~

~~B. Within the zoning districts established by this Title or amendments that may later be adopted, there may exist lots, structures and uses of land and structures that were lawful before the zoning ordinance codified in this Title was initially adopted, amended or readopted, but which would be prohibited, regulated or restricted under the terms of the future amendment.~~

~~B. Failure of a structure or use to meet one or more of the current requirements of this Title renders the structure or use nonconforming only to the extent that it does not meet the applicable provision(s). For this purpose, this Chapter separates nonconforming situations into three main categories:~~

~~1. Nonconforming lots;~~

~~2. Nonconforming structures, not involving a nonconforming use; and~~

~~3. Nonconforming uses of structures or land.~~

~~C. To avoid undue hardship, nothing in this Title shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction or use was lawfully begun and diligently carried on according to the terms of approval issued, prior to the effective date of adoption, amendment or readoption of the ordinance codified herein. Actual construction shall mean materials placed in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building or structure has been substantially begun preparatory to rebuilding, such demolition or~~

~~removal shall be deemed to be actual construction; provided, that work shall be diligently carried on until completion of the building involved.~~

~~D. The ownership of property classified as nonconforming may be transferred without that fact alone affecting the right to continue the nonconforming use or structure.~~

~~E. The owner of any nonconforming lot, use or structure shall be responsible for providing substantial evidence that such lot, use or structure was legally established. When a nonconforming use is involved, the property owner shall also provide substantial evidence that the use has been in continuous use or operation. The City may, upon request, assist the property owner in locating public records that pertain to the legal status of the nonconformity.~~

~~1. If the City Manager or his/her designee cannot conclusively determine that the nonconformity was lawfully established and in continuous use or operation, then the matter may be referred to the Hearing Examiner for review. The Hearing Examiner shall be authorized to render a decision as to whether the nonconforming use or structure was lawfully established and in continuous operation, and review it for compliance with this Chapter.~~

~~17.58.20 Discontinuance, Abandonment or Destruction of a Nonconformity.~~

~~A. If a lawfully established structure is nonconforming by reason of not meeting current building area, height, setback or other development standards of this Title, and it is destroyed to the extent that restoration costs would exceed fifty percent of the market value of the building immediately prior to such occurrence (using the most recent ICBO construction tables), it shall be considered completely destroyed and shall be required to meet all applicable building area, height, setback and other development standards of this title upon restoration, unless an administrative adjustment or variance is granted according to Chapter 17.140.~~

~~1. If the nonconforming structure also contains a nonconforming use, and it is destroyed to the extent that restoration costs would exceed fifty percent of the market value of the structure immediately prior to such occurrence (using the most recent ICBO construction tables), it shall only be reestablished when approved in accordance with Section 17.154.050.~~

~~B. If a nonconforming use of a structure or land is succeeded by another use, it shall be presumed that the prior nonconforming use has ceased to exist and thus lost its status as a nonconforming use.~~

~~C. Discontinuance or abandonment of a nonconforming use for more than twelve consecutive months shall create a presumption of intent to abandon, and result in termination of the use's legal nonconforming status and the right to continue such nonconforming use.~~

D. The City may extend the time frame for reestablishment or reconstruction of a nonconforming use of a structure or land beyond the twelve-month time limit; provided, that the owner or authorized agent can document that the reestablishment or reconstruction has not commenced due to pending insurance or court settlement directly related to the damage or destruction. The extension shall not exceed one year, and building permits shall be applied for prior to the expiration of the extension.

17.58.30 Nonconforming Lots.

A. In any zoning district, any permitted use or structure and customary accessory buildings may be erected on any legal lot of record. This provision shall apply even though such lot fails to meet the current requirements for area or width, or both, that are generally applicable in the district; provided, that setback dimensions and other requirements not involving area or width of the lot shall conform to the regulations for the zoning district in which such lot is situated.

B. Lots may become nonconforming as the result of the adoption or changes in this Title, but nonconforming lots shall not be created through the grant of a development authorization, or other permit under Kelso Municipal Code, except that lots dedicated for public utility facilities may be exempted from the lot size requirements of this Title by the administrative official. Existing nonconforming lots shall only be altered or reconfigured in such a way as to achieve or increase conformity with the zoning district's lot size and dimensional requirements.

17.58.40 Nonconforming Structures, Not Involving a Nonconforming Use.

A. A legally established structure nonconforming only by reason of not meeting current building area, height, setback or other development standards of this Title may be continued, remodeled, repaired, or enlarged upon approval by the City; provided, that any enlargement meets the current development standards of this Title and the structure does not contain a nonconforming use.

B. When the enlargement does not meet the development standards of this Title, relief may be requested in the form of an administrative adjustment or variance, as appropriate under Chapter 17.140.

17.58.060 Enlargement, Reconstruction, Alteration or Expansion of a Nonconformity. If a lawfully established nonconforming use of land or structures exists, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

f. Any such nonconforming use may be expanded or extended throughout any parts of a structure without a nonconforming use alteration permit; provided, that no such use shall be enlarged to occupy any land outside such structure except as may be authorized in accordance with this Section.

B. No existing nonconforming use of a structure or land shall be enlarged, extended, constructed, reconstructed, moved or altered except in changing the use of the structure or land to a use that is permitted in the zoning district in which it is located, or except as provided in subsection C or D of this section.

C. When a legally nonconforming residential structure is nonconforming only to the extent that the lot contains more dwellings than currently permitted in the zoning district and it is not in an approved mobile/manufactured home park, the replacement thereof may be authorized through Class review.

1. If the dwelling is also nonconforming due to insufficient building setbacks, it must meet the required setbacks when it is replaced, unless authorized otherwise through the administrative adjustment or variance process.

D. The City may consider applications for the enlargement, reconstruction, alteration or expansion of a nonconforming use within a structure or lot and may grant relief based on a finding of all of the following:

1. That the enlargement, reconstruction, alteration or expansion requested would not be contrary to the public health, safety or welfare;

2. That the use or structure does not and is not likely to significantly depress the value of nearby properties;

3. That the use or structure was lawful at the time of its inception;

4. That the significance of the hardship to the applicant is more compelling than, and reasonably overbalances, the benefit the public would derive from denial of the relief requested;

5. That no useful purpose would be served by strict application of the provisions or requirements of this title with which the use or structure does not conform;

6. That the proposed enlargement, reconstruction, alteration or expansion on the property is compatible with the character of the neighborhood, and does not jeopardize the future development or use of the area in compliance with this title and the comprehensive plan;

7. That the nonconforming structure will comply with all applicable development standards and codes to the extent feasible.

E. The City shall process such requests under the procedures for a Class 2 review.

F. Required site improvements, parking and signage shall be subject to the specific provisions of this Title.

~~G. Nothing in this Section shall be construed to restrict normal repair and maintenance activities including replacement of walls, fixtures and plumbing.~~

Chapter 17.66
Comprehensive Plan and Development Regulation Amendments

Sections:

17.66.010 Comprehensive Plan and Development Regulation Amendments; and
17.66.020 Rezones.

17.66.010 Comprehensive Plan and Development Regulation Amendments. The purpose of this Chapter is to establish the criteria for evaluating proposed amendments to the City of Kelso Comprehensive Plan and Development Regulations. Amendments to the Comprehensive Plan may involve changes to the Goals, Policies, and Objectives, the Future Land Use Map, the written text, or to supporting documents, including capital facilities plans. Amendments to the Development Regulations may include changes to the Table of Permitted Uses, Processing Procedures, and Development Standards. Amendments will be reviewed in accordance with the provisions of this Chapter, state law, the goals and policies of the City of Kelso Comprehensive Plan, and inter-local agreements. Nothing in this Chapter shall be construed to limit the legislative authority of the City Council to consider and adopt amendments and revisions to the City of Kelso Comprehensive Plan or Development Regulations.

~~B.~~A. The City Staff and Planning Commission shall consider the following criteria when making a recommendation to the City Council on whether or not to approve an amendment to the Comprehensive Plan or Development Regulations:

1. Conditions in the community or in the vicinity of the proposed amendment have markedly changed, and under those changed conditions, a plan amendment is within the public interest.

2. The proposal corrects an inconsistency within the Comprehensive Plan, clarifies the Plan, and is consistent with other provisions of the Plan.

3. The proposal is necessary to preserve, protect, or enhance the public health, safety and welfare.

4. The proposal will result in long-term benefits to the community as a whole and is in the public interest.

5. The proposed amendment is consistent with the findings and recommendations of sub-area plans, special studies, or reports conducted, accepted, or approved by the City.

6. The amendment is necessary to comply with the provisions of state or federal laws.

7. The proposed amendment is consistent with approved capital facilities plans, including water and sewer plans, and will not adversely affect the ability to provide

City services in a cost effective manner.

8. The proposed amendment will not have an adverse financial impact on the City or unduly interfere with the ability to provide City services.

17.66.020 Rezones. The purpose of this Section is to establish the criteria for the review and approval of proposed revisions to the Official Zoning Map or a rezone request.

i. The City Staff and Planning Commission shall consider the following criteria when making a recommendation to the City Council on whether or not to approve a revision to the Official Zoning Map or a rezone request:

   1. Suitability of the property in question for uses permitted under the proposed zoning;

   2. The extent to which the proposed amendment(s) are in compliance with the Goals and Policies and the Future Land Use Map in the Comprehensive Plan;

   3. The adequacy of public facilities, such as sewer, water and other required public services;

   4. The compatibility of the proposed map amendment change and associated use with neighboring land uses; and

   5. The public need or benefit of the proposed change.

ii. The following shall be used to determine if a proposed rezone is consistent with the provisions of the Future Land Use Map and the Comprehensive Plan.

   1. Higher Density Residential Future Land Use Designation: ~~Residential Single Family 5 (RSF-5),~~ Residential Multifamily (RMF), Residential Mixed Density (RMD), or Neighborhood Commercial (NC) zones;

   2. Low Density Residential Future Land Use Designation: Residential Single Family 5 (RSF 5). Residential Single Family 10 (RSF-10) or Neighborhood Commercial (NC) zones;

   3. Commercial Future Land Use Designation: General Commercial (GC) or Regional Commercial (RC) zones;

   4. Industrial Future Land Use Designation: Light Industrial (LI) or General Industrial (GI) zones; and

   5. Open Space Future Land Use Designation: Open Space zone.

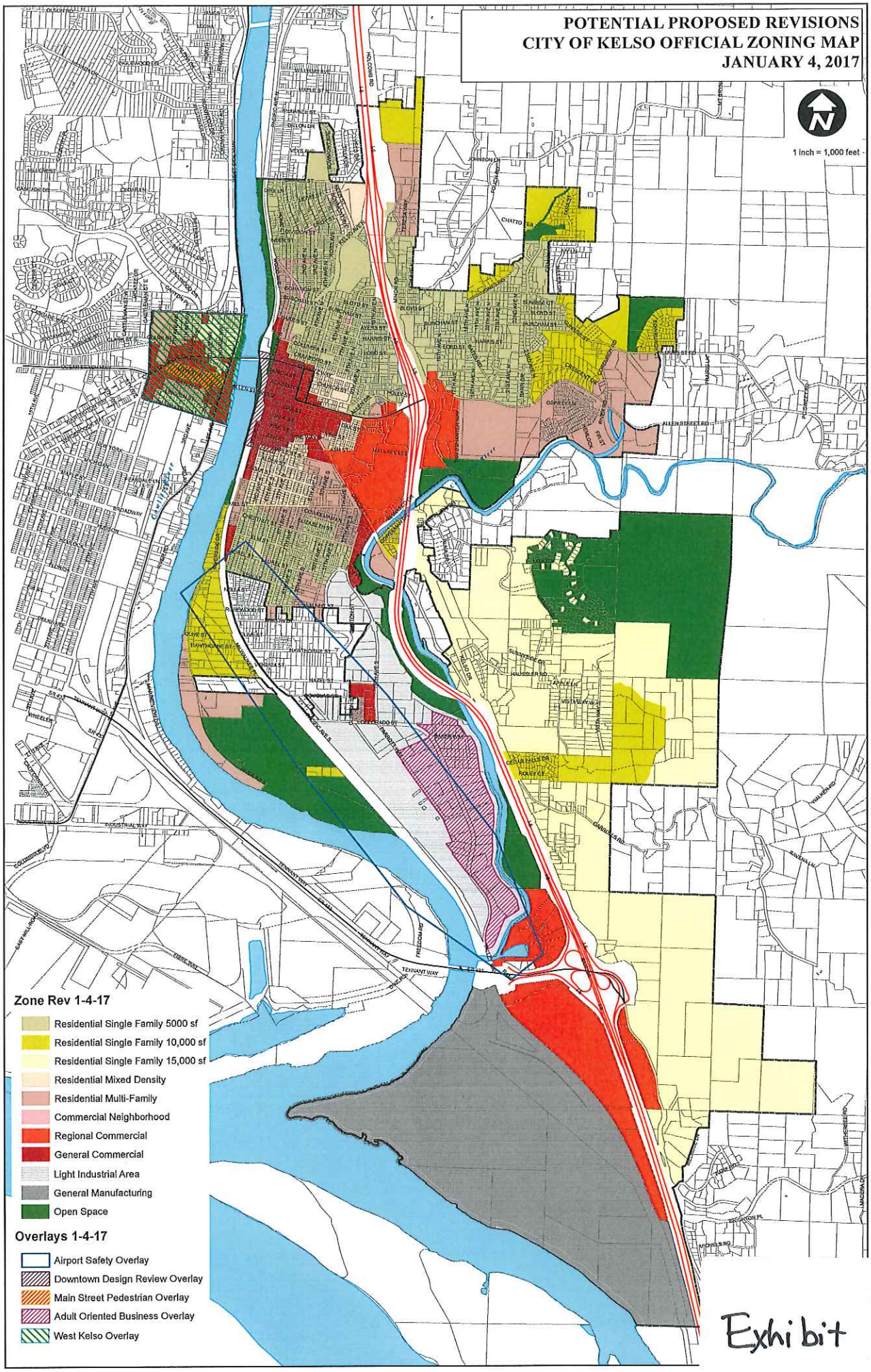
POTENTIAL PROPOSED REVISIONS
CITY OF KELSO OFFICIAL ZONING MAP
JANUARY 4, 2017
1 inch = 1,000 feet
Zone Rev 1-4-17
Residential Single Family 5000 sf
Residential Single Family 10,000 sf
Residential Single Family 15,000 sf
Residential Mixed Density
Residential Multi-Family
Commercial Neighborhood
Regional Commercial
General Commercial
Light Industrial Area
General Manufacturing
Open Space
Overlays 1-4-17
Airport Safety Overlay
Downtown Design Review Overlay
Main Street Pedestrian Overlay
Adult Oriented Business Overlay
West Kelso Overlay

Exhibit B

The City of Kelso is pleased to announce a public hearing with the Planning Commission to take testimony on updates to the following public documents.

1. Comprehensive Plan Future Land Use Map: allows for a new mixed residential use, rezone requests, and an adjustment to the Adult Oriented Business Overlay to allow for consideration of recreational marijuana sales.

2. Zoning Map. Zoning Map needs to be consistent with the Future Land Use Map.

3. Creation of the Uniform Development Code (UDC) and Zoning Code modifications. The UDC will allow all development regulations to be held under one title in the Municipal Code, making it more user friendly. Individual sections of the code will be updated for the purposes of clarity and streamlining.

DATE, TIME and PLACE: January 10, 2017 at 6 PM
Kelso City Hall, Council Chambers
203 S. Pacific
Kelso, WA

Anyone interested may appear and be heard. The decision of the City Council will be mailed to all those who submit comments, testify at the hearing or request the decision in writing. Any aggrieved party of record can file an appeal with Cowlitz County Superior Court.

*****Written public comment can be accepted until 4:30 PM on January 9, 2017*****

Exhibit C