ORDINANCE NO. 14-3821

AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON AMENDING VARIOUS SECTIONS OF THE KELSO MUNICIPAL CODE RELATING TO LAND USE AND ZONING TO REGULATE MARIJUANA LAND USES, ESTABLISHING A NEW CHAPTER 17.45 OF THE KELSO MUNICIPAL CODE TO ADOPT ZONING RESTRICTIONS ON THE PRODUCTION, PROCESSING, AND RETAILING OF RECREATIONAL MARIJUANA, DESCRIBING THE LAND USE IMPACTS TRIGGERING SUCH RESTRICTIONS, IDENTIFYING THE PERMITTED ZONES FOR SUCH USES, ESTABLISHING SEPARATION AND DISTANCE REQUIREMENTS FOR SUCH USES AND ENFORCEMENT PROCEDURES FOR VIOLATIONS, AND FURTHER REPEALING THE MORATORIUM IN EFFECT ON SUCH USES

WHEREAS, since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug, based on the federal government's categorization of marijuana as having a "high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment;"

WHEREAS, while the production, processing, and retailing of marijuana remains in violation of the federal law, the City Council wishes to acknowledge the will of the Washington voters and the authority exercised by the state of Washington and the State Liquor Control Board to license such facilities, leaving all issues relating to the legality, licensing, siting and permitting of such facilities to be determined by the federal and state governments in the exercise of their lawful authority, as finally determined by a court of appropriate jurisdiction,

WHEREAS, the City Council finds that potential secondary impacts from the establishment of facilities for the growth, production, and processing of marijuana are not appropriate for any zoning designation within the City, and

WHEREAS on November 6, 2012 the voters of the State of Washington approved Initiative 502 relating to the recreational use of marijuana, and providing a framework under which marijuana producers, processors and retailers can become licensed by the State of Washington; and

WHEREAS Initiative 502 directed the Washington State Liquor Control Board "WSLCB" to develop rules and regulations to 1) Determine the number of producers, processors and retailers of marijuana by county; 2) Develop licensing and other regulatory measures; 3) Issue licenses to producers, processors, and retailers at locations which comply with the Initiative's distancing requirements prohibiting such uses within one thousand feet of schools and other designated

public facilities; and 4) Establish a process for the City to comment prior to the issuance of such licenses; and

WHEREAS, the WSLCB issued these final rules and regulations, which became effective on November 21, 2013; and

WHEREAS, RCW 69.51A.130 allows local jurisdictions to adopt zoning requirements, business license requirements, health and safety requirements, and impose business taxes on the production, processing or dispensing of marijuana or marijuana products; and

WHEREAS the City Council wishes to clarify that the manufacture, production, processing, retailing, possession, transportation, delivery, dispensing, application, or administration of marijuana must comply with all applicable City laws and that compliance with City laws does not constitute an exemption from compliance with applicable state and federal regulations; and

WHEREAS, the City Council adopted Ordinance 13-3803, imposing a moratorium on recreational marijuana land uses and medical marijuana collective gardens on July 16, 2013 and the moratorium was extended by Ordinance 13-3817.

WHEREAS, the Council has studied the land use and other secondary impacts of production, processing, and retailing of marijuana and has now drafted a zoning ordinance to address these impacts; and

WHEREAS the City Council finds that the health safety and welfare of the community is best served by excluding from certain zones any production, processing, selling, or delivery of marijuana; and

WHEREAS, Marijuana plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries.

WHEREAS, where marijuana plants have been grown outdoors in other states, local authorities have received a significant number of formal complaints of odor that may be detectable far beyond property boundaries.

WHEREAS, the strong smell of marijuana may create an attractive nuisance and security risk, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery.

WHEREAS, the SEPA Responsible Official issued a threshold decision for this draft ordinance on January 15, 2014, which was not appealed; and

WHEREAS, on February 11, 2014, the Planning Commission held a public hearing on the draft zoning ordinance; and

WHEREAS, the Planning Commission recommended approval of the draft zoning ordinance to the Council; and

WHEREAS, on March 4, 2014, the Council considered the draft zoning ordinance during its regular meeting; and

WHEREAS, the Council has decided to adopt zoning regulations related to marijuana land uses and to formally repeal the interim zoning ordinance related to the production, processing and retail sales of recreational marijuana and medical marijuana collective gardens;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. Repeal of Moratorium. The moratorium imposed under Ordinance No.13-3803 and renewed under Ordinance No. 13-3817, is hereby repealed in its entirety.

SECTION 2. Findings Adopted. The City Council adopts all of the 'whereas' sections of this Ordinance as findings in support of this ordinance. :

SECTION 3. KMC Section 17.08 Amended. Kelso Municipal Code Section 17.08 is hereby amended to include the definitions as set forth in Exhibit A, attached hereto and incorporated fully by this reference.

SECTION 4. KMC Section 17.15.020 Amended. Kelso Municipal Code Section 17.15.020 is hereby amended as set forth in Exhibit B, attached hereto and incorporated fully by this reference.

SECTION 5. KMC Section 17.30.040 Amended. Kelso Municipal Code Section 17.30.040 is hereby amended as set forth in Exhibit C, attached hereto and incorporated fully by this reference.

SECTION 6. KMC Title 17 Amended to Add New Chapter. A new Chapter to the Kelso Municipal Code, Chapter 17.45, Marijuana Related Land Uses, is hereby established as set forth in Exhibit D, attached hereto and fully incorporated by this reference.

SECTION 7. KMC Section 5.42.030 Amended to Change Name of Overlay Zone. Kelso Municipal Code Section 5.42.030 is hereby amended as follows:

5.42.030 Sexually oriented businesses—Permitted when.

For the reasons stated in Section 5.42.010, a person shall not use any property or premises for a sexually oriented business within the city except within the ~~sexually~~ adult oriented business overlay zone established by Chapter 17.50, and then only subject to all regulations and conditions enumerated in this chapter and Chapter 17.50.

SECTION 8. Corrections. Upon approval of the City Attorney, the City Clerk and code reviser are authorized to make necessary corrections to this ordinance, including without limitation the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

SECTION 9. Severability. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 10. Effective Date. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this 18th day of March _____, 2014.

MAYOR

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: March 22, 2014

Exhibit A

Chapter 17.08
DEFINITIONS

Sections:

17.08.010 Purpose.
17.08.020 Definitions.

17.08.010 Purpose.

For the purpose of this title, certain words and terms used herein, or which may be used, are defined below. Words not defined shall be known by their common meaning unless the context clearly indicates otherwise. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 6, 2003; Ord. 3075 § 2.1, 1987)

17.08.020 Definitions.

"Accessory building or structure" means a subordinate building or structure that is incidental to the principal structure on the same lot. Accessory dwelling units are not considered accessory buildings or structures.

"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.

"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.

"Administrative official" means the duly appointed city of Kelso community development director or the director's designee.

"Administrative uses" means those uses set forth and defined in the text and tables of this title and are generally thought to be compatible throughout the district. However, there may be some instances where such a use may be incompatible and site plan review by the administrative official and the opportunity for public comment is required in order to ensure compatibility with the intent and character of the district.

"Adult day care home" means a regular family abode of a person or persons providing personal care or special care for less than twenty-four hours to more than one but not more than six adults who are not related by blood or marriage to the person(s) providing the services.

"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..

"Agriculture" means all forms of crop-related activities, such as growing crops and processing crops as part of a farm, and animal husbandry, using best management practices. Incidental vegetable gardening, landscaping and keeping common pets are not defined as agriculture.

"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.

"Alley" means a public thoroughfare or way having a width of not more than twenty feet that affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

"Alteration(s)" means any change, addition or modification in construction or occupancy of a building, or any change, addition or modification to a site.

"Antique shop" means an establishment engaged in the sale of collectibles, relics or objects of an earlier period than the present.

"Apartment" means a dwelling unit in an apartment house as defined in this chapter.

"Apartment house" means a building containing five or more family dwelling units each of which, though independent of each other, is provided with joint services such as central heat, common hallways, common entrance or entrances to the building, janitor services, refuse disposal and similar services.

"Assisted living" means 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. The amount of help provided depends on individual needs.

"Attached structure" means any structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. For example, decks or stairways are attached structures when they are connected to another structure. A garage may be attached to another structure by sharing a wall or by a breezeway. Structures connected by an "I" beam or similar connections are not considered attached.

"Auto repair services" means the servicing of automobiles not owned by the property owner, for a fee, including mechanical servicing and body work. Auto repair services must take place within a building.

"Auto wrecking yard" means an area where the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts, exists. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"B"

"Bed and breakfast" means a lodging where five or fewer guest rooms are provided to guests by a resident operator for a fee by pre-arrangement 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.

"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 rest homes or convalescent homes.

"Boundary line adjustment" is the adjusting of boundary lines, between platted or nonplatted 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 dimensions to meet minimum requirements for width and area for a building site and may be accomplished in nonconforming situations when the degree of nonconformity is not increased. Boundary line adjustments may combine two or more platted or nonplatted lots, or both, into one lot.

"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 750 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.

"Brewpub" means a restaurant, tavern, bar or nightclub that manufactures up to 1,500 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 15.5 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.

"Buffer" means space, either landscaped or existing or natural vegetation, intended to reduce the impact of undesirable sights, sounds, or odors; provided, that an area that was logged or clear cut within five years of submittal may not be acceptable as a buffer. Buffers protecting critical areas shall be as defined in Chapter 18.20.

"Building" means any structure intended for support, shelter or enclosure of persons, animals, uses or property of any kind.

"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.

"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.

"Building, main" means the principal building on a lot or building site, designed or used to accommodate the primary use to which the premises are devoted; where a permissible use involves more than one structure designed or used for the primary purpose, as in the case of group houses, each such permissible building on one lot as defined by this title shall be construed as constituting a main building.

"Building official" means the person or persons or firm designated by the city to ensure compliance with appropriate municipal codes related to building permits, such as administration of the International Building Codes. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"C"

"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.

"Carport" means a covered shelter for one or more vehicles that is open on at least two sides.

"Caretaker's dwelling" means a residence located on the premises with a main nonresidential use and occupied only by a caretaker or guard employed on the premises, and his or her family. For the purposed of this definition, dwelling includes apartment, quarters, cottages, facilities and unit.

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

"Church" means an establishment, the principal purpose of which is religious worship, and for which the principal building or other structure contains the sanctuary or principal place of worship.

"Clinic" means a building or portion of a building in which health care services are provided for treatment of human or animal outpatients.

"Club/lodge" means any kind of group for members only and who meet for a specific purpose.

"Cluster development" means the arrangement or grouping of lots to increase densities on some portions of a property to preserve the remainder for open space or other amenities.

"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.

"Conditional uses" means those uses set forth and defined in the text and tables of this title and are generally thought to be incompatible throughout the district. However, compatibility with other uses in the district may be achieved if uses are properly sited and designed. Conditional uses may be permitted by the hearings examiner when it is determined, after holding a public hearing, that difficulties related to compatibility and/or the provisions of public services have been adequately resolved.

"Condominium" means two or more units where the interior space of which are individually owned; but the balance of the property (both land and/or building) is owned in common by the collective owners of the building.

"Convalescent or nursing homes" means permitting nursing, dietary and other personal services to convalescents, invalids or other persons incapable of providing for their own care, but excluding cases of mental illness and cases of contagious or communicable disease and excluding surgery or primary treatments which are customarily provided in sanitariums or hospitals.

"Covenant" means a private legal restriction or obligation in regard to the use of land contained in the deed to a property or otherwise formally recorded.

"Cultivation, Marijuana" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

"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. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3568 § 1, 2005; Ord. 3508 § 7, 2003)

"D"

"Day care center" means a state licensed entity regularly providing care for 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.

"Day Care, Family Home. "Family home day care" means an entity regularly providing care during part of the twenty-four hour day to six or fewer children in the family abode of the person(s) under whose direction the children are placed; or, a state licensed entity regularly providing care during part of the twenty-four hour day to between six and twelve children in the family abode of the person(s) under whose direction the children are placed.

"Day Care, Mini-Center." "Mini-center day care" means a 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.

"Dedication" means the deliberate appropriation of land or improvements by the owner for any general or public use. Through a dedication, the owner reserves to himself no rights other than those compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

"Deliver or Delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

-"Density" is a method of describing the intensity of development patterns typically measured in dwelling units per acre. Gross density includes the entire property, whereas net density refers to the land available for development (e.g., less roads and critical areas).

"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.

"Development rights" means the potential for the improvement of real property, measured in dwelling units or units of commercial or industrial space, existing because of the zoning classification of real property.

"Diameter breast height" means the diameter of a tree trunk measured at four feet above average grade.

"Domestic animal" means cats, dogs, rabbits and other small animals commonly kept as pets in the city.

"Drive-through business" means a business or portion of a business where customers may carry on business while seated in a motor vehicle. This definition shall include but not be limited to gas stations, car washes, and drive-in businesses and facilities such as restaurants or banks.

"Drought-resistant plants" means plant material that, once established, can survive with little or no water other than that from annual rainfall.

"Duplex" means a building that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.

"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 by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill.

"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.

"Dwelling, single-family" means a building arranged or designed to be occupied by not more than one family. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"E"

"Easement" means a private agreement between parties to allow the use of the real property of another for a specific purpose, such as access, utility lines, etc. An easement is itself a real property interest, but legal title to the underlying land is retained by the original owner for all other purposes.

"Education institution" means a school or educational or training institution that offers a program of college, professional, preparatory, high school, middle school, junior high school, elementary, or kindergarten instruction, or any combination thereof, or any other program of trade, technical or artistic instruction (excluding single-day programs of instruction), together with associated staff housing and/or conference facilities and other typical educational accessory uses.

A. "Private" education institutions are privately owned and operated.

B. "Public" education institutions are operated by the Kelso School District or any other public entity.

"EIS" means an environmental impact statement prepared to Chapter 43.21C RCW and Chapter 197-10 WAC and any amendments thereof.

"Elementary School" means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington State Superintendent of Public Instruction.

"Emergency shelter" means congregate facilities providing housing to shelter families and individuals offered on an emergency basis for a period not to exceed 90 days continuously. Shelters may offer meals, lodging and associated services on site, aimed at helping people move towards self-sufficiency.

"Entertainment facilities" includes but is not limited to movie theaters, arcades, recreation, bowling. Adult land uses and sexually oriented uses are not included.

"Establishment" means either of the following: (1) an institutional, business, commercial, or industrial activity that is the sole occupant of one or more buildings; (2) an institutional, business, commercial, or industrial activity that occupies a portion of a building that: (a) the activity is a logical and separate entity from the other activities within the building and not a department of the whole; and (b) the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

"Equipment" means nonautomobile mechanisms including:

"Equipment – Heavy Duty" means self-powered, self-propelled or towed mechanical devices, equipment and vehicles of a nature customarily used for commercial purposes such as tandem axle trucks, graders, backhoes, tractor trailers, cranes and lifts but excluding automobiles, recreational vehicles and boats and their trailers.

"Equipment Light" means handheld mechanical devices of a nature typically used for landscaping or other nonindustrial scale activities.

"Equipment Mechanical" means HVAC or other mechanisms that are fixed in a location for uses associated with structures.

"Equipment storage area" means a place where two or more items of heavy and/or light equipment are stored. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"F"

"Facade" means that exterior side of a building which faces, and is most nearly parallel to a public or private street (a building may have more than one facade). The facade shall include the entire building walls, including wall faces, parapets, fascia, windows, doors, canopies, and visible roof structures of one complete elevation.

"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.

"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.

"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 for 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.

"Farmer's market" means an open-air temporary grouping of vendors in a common location, usually selling produce, freshly prepared foods, handmade crafts or other unique, agriculturally related goods.

"Final plat" is a map or representation of a subdivision (excluding a short subdivision), showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications, meeting the requirements of the platting regulations of the city, and filed for record in the office of the auditor of Cowlitz County.

"Flag lot" means a lot of a panhandle configuration where the panhandle connects the main body of the lot to a road or street. A lot generally in the shape of a flag where access is typically by a narrow, private right-of-way or driveway.

"Floor area ratio" represents the gross floor area of all buildings or structures on a lot divided by the total lot area.

"Food vending cart" means a vending container equipped with wheels and used to serve food items, prepared remotely and stored within the cart for sale on a sidewalk to pedestrians. The cart may be outfitted to keep prepared food hot or cold.

"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.

"Formula take-out food restaurant" means a restaurant or establishment that (1) is contractually required to offer standardized menus, ingredients and interior or exterior design, and (2) serves or delivers its food or beverages in disposable containers.

"Fourplex" means a building containing four dwelling units, designed for occupancy by not more than four families living independently from each other.

"Frontage" means that distance where a property line is common with a street right-of-way line.

"Funeral home," "funeral chapel" or "mortuary" means a facility designed for preparing human remains for burial or cremation and/or for holding services related to the burial of human remains. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"G"

"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.

"Garage" means an accessory building or an accessory portion of a primary building designed or used primarily for the shelter or storage of automobiles, boats and/or any other vehicles.

"Garage/estate sale" means the sale of used household or personal goods on a residential parcel owned by the owner or occupant of the principal dwelling and/or other participants in the case of a multiple-residence sales event.

"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. On waterfront parcels as defined in the shoreline master program, the definition of grade from the shoreline master program shall be used (WAC 173-14-030(3)).

"Gross density" means the total number of dwelling units divided by the total project area, without subtracting areas devoted to open space, roadways, parks or similar public use and infrastructure areas.

"Group home" means 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. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"H"

"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.

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

"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.

"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.

"Health care facility" includes the terms "alcoholism/substance abuse treatment facility," "hospice care," "hospital," "psychiatric hospital," "convalescent or nursing home," "ambulatory surgical facility," and "sanitarium."

"Hospice care" means palliative care provided to a terminally ill person in a place of temporary or permanent residence that alleviates physical symptoms, including pain, as well as alleviating the emotional and spiritual discomfort associated with dying.

"Hospital" means an institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons and licensed by state law to provide facilities and services in surgery and obstetrics and general medical practice.

"Home occupation" means an accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services.

"Home occupation – Major" includes any occupation which is clearly secondary to the main use of the premises as a dwelling place, and does not change the character thereof or have any exterior evidence of such secondary use (e.g., outward physical appearance, outdoor storage of materials, supplies or vehicles, noise, electrical interference, lighting, vibrations) other than signing as permitted in the zoning district in which it is situated. Major home occupations may be conducted within the dwelling unit, attached garage, or accessory structure, by members of a family residing in the dwelling, and nonresident individuals, when authorized;

"Home occupation – Minor" are compatible with the neighborhoods in which they are located and cause no impact greater than that generally associated with a single residence. Bed and breakfast establishments that contain no more than two rooms shall be considered a minor home occupation.

"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. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"I"

"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).

"Improvements" means structures, works or components thereof, including but not limited to streets, curbs, sidewalks, water and sanitary sewer systems, levee and drainage systems, street light systems, landscaping and electric, gas, telephone and television lines and cables and appurtenant equipment.

"Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

"J"

"Junk or salvage yard" means any area where junk or salvage is bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled. This definition shall also include auto or other vehicle or machinery wrecking or dismantling activities. This definition shall not include the processing of used, discarded or salvaged materials as part of a manufacturing operation located on the same property, and

contractors' storage yards. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"K"

"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.

"Kiosk" means a small structure with one or more open sides that is used to vend merchandise (as newspapers) or services (as film developing).

"Kitchen" means any room or part of a room that is designed, built, used or intended to be used for cooking or preparation of food, including the term "kitchenette," but not including a bar or butler's pantry. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"L"

"Landscaping" means the placement, preservation, and the replacement of trees, shrubs, plants and other vegetative materials in accordance with an approved landscaping plan meeting the requirements set forth in this title for open space and planting requirements.

"Level of service (LOS)" means a quantitative standard for transportation facilities describing operational conditions. Level of service may be described for intersections (signalized or unsignalized) or street segments (between signalized intersections).

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

"Livestock" for the purposes of this title, "livestock" means horses, cows, llamas, sheep, goats, chickens, and pigeons.

"Lot area" means the total horizontal area within the lot lines, excluding any area seaward of the line of the ordinary high water mark, and excluding private streets and lot area in panhandles or flag lots narrower than thirty feet.

"Lot, corner" means a lot bounded on adjoining sides by streets.

"Lot coverage" means that portion of the total lot area covered by buildings, structures, and other impervious surfaces such as sidewalks and driveways.

"Lot depth" means the perpendicular distance measured from the midpoint of the front lot line to the rear lot line or, if necessary, to the extension of the rear lot line.

"Lot frontage" means the lot or parcel side where it adjoins a street, boulevard or access way.

"Lot, interior" means any lot other than a corner lot.

"Lot lines" means the property lines bounding the lot.

_"Lot, through" means a lot having frontage on two streets that do not intersect at a lot line.

"Lot line, front" means a lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front lot line. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length.

"Lot line, rear" means a lot line that is opposite a front lot line. A triangular lot has two side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all lot lines that are most nearly opposite the front lot line.

"Lot line, side" means a lot line that is neither a front or rear lot line.

"Lot line, side street" means a lot line that is neither a front or rear lot line and abuts a street.

"Lot width" means the horizontal distance measured at the building setback line between the two opposite side lot lines. Average lot width shall be the average of the front and rear lot lines. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"M"

"Manufactured home" means 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 and 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.

"Manufactured home, new" means a manufactured home that has not been previously occupied. The most commonly accepted definition of a "new manufactured home" also recognizes manufactured homes used as model homes as new.

"Manufactured home site" means a parcel of land within a manufactured home subdivision park or lot of record, for the accommodation of one manufactured home, its accessory buildings or structures and

accessory equipment for the exclusive use of the occupants. In the case of a manufactured home park, the boundaries of a manufactured home site are established on the approved plot plan. In the case of a manufactured home subdivision, the boundaries of the manufactured home site are the platted lot lines as established by the recorded subdivision. In the case of a lot of record, means a lot shown on an officially recorded plat or short plat or parcel of land officially recorded or registered as a unit of property and is described by metes and bounds, and lawfully established on the date of recording of the instrument first referencing the lot.

"Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater the 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 Ordinance, "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.

"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 useable marijuana.

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

"Medical clinic" means a building or portion of a building containing offices or facilities for providing medical, dental, or psychiatric services for outpatients only.

"Meeting hall" means a building, public or private, used for large gatherings of people.

"Microbrewery" or "microwinery" means the same as "brewery/winery" except for the following: a microbrewery shall have a capacity of not more than 15,000 barrels a year and a microwinery no more than 3,000 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 25 percent of the microbrewery's on-tap offering of its own brands.

"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.

"Modular home" means a factory-assembled structure, meeting Washington State Uniform Building Code Standards, and Title 14 of this code, 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.

"Mortuary". See "funeral home," "funeral chapel" or "mortuary."

"Motel" means a building or group of buildings that contain individual sleeping quarters or dwelling units which are occupied, or intended to be occupied, for compensation. Motels typically do not provide such things as restaurants, meeting rooms, and/or other auxiliary facilities and services. This definition includes auto cabins, auto courts, tourist courts, and motor hotels, but does not include hotels.

"Museum" means a building devoted to the care, study and display of objects of lasting historic interest. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"N"

"Native species" means tree, shrub, or ground cover plant species that occur or live naturally in the Columbia River region.

"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 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 regulations of the zone in which it is located as determined by this title, or amendments thereto.

"Nuisance" means any use, activity or structure that interferes with the enjoyment and use of one's property by endangering personal health or safety, offending human senses and/or failing to conform with the provisions, intent or standards of the district in which the use, activity or structure occurs. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"O"

"Office" means a room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.

"Off-street parking" means all off-street areas designed, used, required or intended to be used for the parking of motor vehicles. See Chapter 17.40 KMC for parking standards.

"On-street parking" means parking in the street right-of-way, typically in parking lanes or bays. Parking may be parallel or angled in relation to the edge of the right-of-way or curb.

"Open space" means land and/or water area that is predominantly undeveloped, and is set aside to serve the purposes of providing park and recreation opportunities, conserving critical areas and character. Open space excludes tidelands, shorelands, yards required by this title, areas occupied by dwellings, impervious surfaces not incidental to open space purposes, individual lots or land regulated under provisions of Chapter 16.20, and areas that were clear cut or extensively logged within five years of submittal.

"Ordinary high water mark" means the mark on all lakes, streams and tidal water 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.

"Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

"Outdoor storage" means the outdoor storage of goods for more than seventy-two hours. Outdoor storage includes, but is not limited to, sales or storage yards for automobiles, trailers, moving equipment boats, construction equipment and materials, items used for manufacture, and auto wrecking yards. Temporary outdoor sales displays less than one hundred square feet in ground area per business establishment parking lots, moorage areas in marinas, and outdoor sales and storage areas of commercial nurseries are not defined as outdoor storage.

"Overlay district" means a geographic area that constitutes a mapped district superimposed over the underlying zone on the official zoning map. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"Owner" means the owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the office of the county assessor. "Owner" also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the city a copy of a deed or contract of sale showing date, book, and page of recording.

"P"

"Park and ride lot" means an area intended to accommodate parked vehicles during normal commuting hours where commuters park their vehicles and continue travel to another destination.

"Park and ride lot, shared-use" means a parking lot that was originally developed for a limited, nonresidential use, such as a church or theater, and serves the same function as a park and ride lot. A shared-use park and ride lot requires no expansion of existing parking area or number of spaces or any other development beyond maintenance, signage and striping normally conducted for this purpose.

"Parking lot" means an area intended to accommodate parked vehicles and is not accessory to a single-family residence.

"Parking space" means a space within a parking lot, exclusive of access drives, used to park a vehicle and having access to a public street.

"Passive recreational facilities or uses" means recreational facilities or uses that do not involve or allow motorized vehicles such as trails and wildlife and nature preserves.

"Pawnshop" means establishments who lend money on goods deposited until redeemed.

"Pedestrian orientation" means that the location and access to structures, site configuration and elements, types of uses permitted at street level, building front design, and location of signs are based on the needs of persons on foot.

"Permitted uses" means those uses set forth and defined in the text and tables of this title and are permitted on any site in a zoning district provided district standards are met. In some cases a permitted use may require review by the administrative official.

"Performance bond" means a form of security executed by a surety company authorized to transact business in the state of Washington, securing to the city the satisfactory completion of required improvements and fulfilling the requirements of this chapter.

"Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision of agency or any other legal or commercial entity.

"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.

"Pet shop" means establishments engaged in the retail sale of pets, pet food, supplies and the grooming of pets and other small animals.

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

"Political signs" means signs about nonpartisan elections, bond measures, initiatives, and similar matters and the customary, partisan politics. Political signs do not include permanent outdoor advertising structures or billboards, which are regulated by the other sections of this chapter, despite whether political advertising is carried on such outdoor advertising structures or billboards.

"Process, Marijuana" means to handle or process cannabis in preparation for medical use.

"Processer, Marijuana" means a person licensed by the State Liquor Control Board to process marijuana into useable 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.

"Producer, Marijuana" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

"Produce or Production, Marijuana" means to manufacture, plant, grown or harvest cannabis or marijuana.

"Produce stand" means a temporary building, structure, or land area used for the sale of fresh whole fruits, vegetables, grains, seeds, and/or nuts. A produce stand may include, as incidental and accessory to the principal use, some limited nonfood items, and these products shall consist of no more than 15 percent of the gross sales area. A temporary building or structure shall not be permanently affixed to the ground and shall be readily removable in its entirety.

"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.

"Protection zone" means the zone at grade level located directly below the canopy and within the drip line. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

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

"Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

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

"Q"

(Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"R"

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

"Recreation facilities, active" refers to a mix of uses in a neighborhood park that may include facilities or facility types such as athletic fields, buildings or structures for recreational activities, concessions, community garden, courses or courts, children's play area, dog play area, or a bike path.

"Recreational facilities, passive" refers to a mix of uses in a neighborhood park, undeveloped land or minimally improved lands such as landscaped areas, natural area or sensitive areas, ornamental gardens, nonlandscaped green space, stairways, decorative fountains, picnic areas, water bodies, or trails without recreational staffing.

"Recreational vehicle" means a 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.

"Recycling center" means a collection point for small refuse items, including, but not limited to, bottles and newspapers, located either in a container or a small structure.

"Religious facility" means a facility in which the primary focus is religious worship. A religious facility may also include related activities including religious education, counseling, assembly rooms, kitchen, and a rectory or parsonage.

"Replat" means the division of a lot(s) or parcel(s) of land that is already a part of an existing subdivision. The term "replat" shall be regarded as synonymous with the terms "resubdivison" and "resegregation."

"Residential treatment facility" means a 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.

"Retail" means the selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

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

"Retail outlet - Marijuana" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana and marijuana-infused products.

"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, 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.

"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. No roadside stand, building or structure shall be more than 750 square feet in ground floor area. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"S"

"Sanitarium" or "sanatorium" means a health station or retreat or other place where resident patients are kept, and which specializes in giving clinical, temporary and emergency services of a medical or surgical nature to patients and injured persons and is licensed by state agencies under provision of law to provide facilities and services in surgery, obstetrics and general medical practice, as distinguished from treatment of mental and nervous disorders.

"Screen" means a system of vegetation located within the perimeter landscape to provide varying degrees of visual separation between land uses and site development.

"Second-hand/consignment store" means an establishment engaged in the retail sale of used clothing, sports equipment, appliances and other merchandise.

"Secondary School" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.

"Self-service storage facility" means an establishment containing separate storage spaces that are leased or rented as individual units for the storage of household or business goods.

"Setback" means the minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way, to the nearest vertical wall or other element of a building or structure as defined in this chapter.

"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 I1 through 4 of this definition.

"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. The different types of signs addressed in this chapter are defined as follows:

"Sign - Billboard" means an off-premises freestanding sign.

"Sign - "Business" means a freestanding sign that is intended to provide for the advertising and identification of multiple businesses located on a single parcel.

"Sign - Directional" means a sign that contains specific directional information and whose primary purpose is directional.

"Sign - Electric" means any sign that is illuminated by an artificial light source either internally or outside of the sign.

"Sign - Fascia" means a sign attached or erected parallel to and not extending more than eighteen inches from the facade 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. Signs on awnings or exterior windows and murals that include copy will be regulated as wall signs.

"Sign - Flashing" means any sign that, by movement or by other method or manner of illumination, flashes on or off, winks, blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off or that rotates or turns. This definition does include electronic reader board signs and barber poles.

"Sign - For sale/lease/rent" means a sign advertising the availability of real property for lease, rent or sale.

"Sign - Freestanding" means a sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or structure.

"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.

"Sign - Message board" means a sign with manual or electronic changing type that can display letters and numbers to depict a message. Message board signs must include the time and temperature in their display.

"Sign - Monument" is a sign not attached to a building, not more than five feet in height or twenty feet in length, which is attached to the ground by means of a wide base of solid appearance. 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.

"Sign - Off-premises" means any sign that advertises an establishment, merchandise, services, goods or entertainment that is sold, produced, manufactured or furnished at a location other than on the property on which the sign is located and that does not relate strictly to the lawful use of the premises on which it is located. Lawful use is defined as a sign which indicates the business transacted, services rendered, goods sold or produced on the premises, name of the business and/or name of the person, firm or corporation occupying the premises.

"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.

"Sign - Projecting" means a sign that is affixed to a building or wall and projects horizontally from the surface of such a building or wall face further than eighteen inches.

"Sign - Rooftop" means any sign that is located on a roof of a building or structure.

"Sign - Rotating" means any sign that spins, rotates, moves up and down or otherwise moves in any other fashion to give an illusion of movement, not including barber poles.

"Sign - Sandwich board" 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; also known as a sandwich board or A-frame sign. Each board shall be considered a separate sign face for purposes of determining allowable area of sign.

"Sign - Special service" means a guide sign located within the public right-of-way that provides road users with business identification and directional information for services and for eligible attractions.

"Sign - Temporary" means any sign or advertising display 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 planning director, and not permanently mounted.

"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, cabinet signs and signs attached to a mansard roof (if constructed at an angle of seventy-five degrees or more from horizontal). No more than two wall signs are permitted per building face, and in combination with all other permitted signs shall not exceed ten percent of wall area.

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

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

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

3. All trees located within a required critical area buffer as defined in Title 18.

"Stormwater management" means the collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, ground water, and/or runoff, together with applicable managerial measures.

"Street" means a public way that provides vehicular circulation or primary access to abutting properties, inclusive of arterials, collector streets and local streets and exclusive of alleys. Physically, a street is the improved and maintained portion of a right-of-way that is designated for vehicular use.

"Street-facing facade/wall" means all the wall planes of a structure as seen from one side or view that are at an angle of 45 degrees or less from a street lot line.

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

"Structure height" means the highest point above grade of a structure other than a building, except as otherwise provided by this code. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"T".

"Tent" means any structure, enclosure or shelter constructed of canvas, plastic or other pliable material supported in any manner except by air or the contents it protects.

"Temporary use" means a use of property intended for a limited period of time and does not involve the construction or alteration of any permanent structure.

"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.

"Transitional housing facility" means a project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 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.

"Tree canopy" means the total area of the tree or trees where the leaves and outermost branches extend, also known as the "drip line."

"Tree stand" means at least five or more existing trees forming a continuous canopy, each having a six-inch diameter or greater, measured four feet above existing grade. Trees may be evergreen or deciduous varieties. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"Triplex" means a building containing three dwelling units, designed for occupancy by not more than three families living independently from each other.

"U"

"Use" means the purpose which land, buildings, or structures now serve or for which such are occupied, arranged, designed, or intended.

"Use, change of" means the change of a use within the classified use of any structure, portion thereof or premises which is permitted in a particular zoning district. A change within the same category of permitted uses (for example, a change from one restaurant to another, or a change from one retail store to another) shall not be considered to be a change of use. A change in use from a vacant structure to an occupied structure shall be considered a change of use, unless the use is a resumption of a prior use. For the purposes of this section, the prior use includes the last occupied use of the vacant structure; provided, that such vacancy has occurred for a duration of less than twelve consecutive months.

"Use, primary" means the purpose for which land or a building is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

"Use, secondary" means a minor or secondary function for which a lot, building or structure is used in conjunction with, but subordinate and incidental to, its primary use.

"Useable 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.

"Utility services" means electric substations, gas metering stations, sewer lift stations, telephone and communications relay or switching stations, municipal/public water works (including pumping stations and reservoirs), power booster or conversion plants, and similar utility facilities, all with their necessary buildings, apparatus or appurtenances thereto. For purposes of this title, "utility services" does not include local transmission and collection lines, pipes, conductors, or utilities located underground. Utility services are not subject to the minimum lot size requirements of the zoning district in which they are located (except as required for domestic water, sewage disposal and soil percolation rates); provided, that they meet all other requirements of the zoning district in which they are located. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"V"

"Variance" means a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property that are not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

"Veterinarian clinic" means a building or portion of a building used for animal health care. A veterinarian clinic may include the incidental boarding of animals undergoing treatment.

"View" means the ability to observe an expanse of open space, including the Cowlitz or Columbia River corridor or the cityscape, from the ground floor level of an existing residence. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"W"

"Wholesale trade" means establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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

"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.

"Wireless communication facility category 2" 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.

"Wireless communication facility category 3" is an attached wireless communication facility that consists of antennas equal to or less than fifteen feet in height or up to one meter (39.37 inches) in diameter and with an area not more than one hundred square feet in the aggregate that is affixed to an existing structure that is not considered a component of the facility.

"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.

"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. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"X"

Reserved. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"Y"

"Yard" means an open space on a lot or parcel that is required by this title to be unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

"Yard, front" means an open space extending from a building to the front lot line.

"Yard, rear" means an open space extending from a building to the rear lot line.

"Yard, side" means an open space extending from a building to the side lot line. When a parcel has two or more front yards, the remaining yards are to be considered side yards.

"Youth-oriented business or activity" means a business utilizing a permanent building or facility where children under the age of eighteen years are invited onto the business premises in conjunction with such business activity and at least fifty percent of the business revenue is generated from their patronage. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

"Z"

"Zero lot line" means a form of residential development in which individual dwelling units are placed on separately platted lots with a zero setback to one property line. They may be attached to each other but not necessarily.

"Zone" means one of the classifications of permitted uses into which the land area of the city is divided.

"Zoning map" means the official map that identifies and delineates boundaries of the city's zoning classifications. (Ord. 3745 § 1 (Att. A), 2011; Ord. 3699 § 1 (Att. B), 2009; Ord. 3508 § 7, 2003)

Exhibit B

Chapter 17.15
PERMITTED, ADMINISTRATIVE AND CONDITIONAL USES

Sections:

17.15.010 Designations.
17.15.015 Similar Uses
17.15.020 Land Use Table
17.15.030 Footnotes.
17.15.040 Use Performance Standards

17.15.010 Designations.

A. Type I uses listed in Table 17.15 shall be reviewed in accordance with the review process described with Section 17.10.035, Title 18B, and the applicable standards of this title.

B. The Type II and Type III uses listed in Table 17.15, and all matters directly related thereto shall be reviewed in accordance with the review process described in Section 17.10.040, Title 18B, and the applicable standards of this title to ensure:
   1. Consistency with the city comprehensive plan goals, objectives, policies and development criteria;
   2. The intent, character and development standards appropriate to the zoning district within which it is to be located;
   3. Compatibility with other uses; and
   4. Other relevant requirements of state or county law.

C. If a proposed use is to be situated on property within the jurisdictional boundaries of the Kelso Critical Areas Ordinance/Shoreline Master Program, it shall be subject to the permits and procedural requirements thereof in addition to all applicable standards of this title. If a conflict exists between the standards of the Kelso Critical Areas Ordinance/Shoreline Master Program and this title, the more restrictive provisions shall apply.

17.15.015 Similar Uses.

A. When a proposed use is not classified within any of the categories of Table 17.15, but appears to be similar in character and consistent with the purpose of the zoning district, the matter may be referred to the administrative official to determine whether or not the unclassified use is similar to a use currently listed as a Type I, II or III use for the zoning district.

B. Similar use requests may be initiated by written application and accompanying fee, or directly by the Administrative official. Each request shall set forth the specific basis for the request and its compliance with subsection D. below.

C. The administrative official may consult with any interested, affected or concerned agencies or persons before making a similar use determination.

D. The administrative official shall not approve a similar use determination request unless evidence is presented to demonstrate that the proposed use will comply with the purpose, intent, goals, objectives and policies of the Comprehensive Plan and the zoning district in which it is proposed to be located. The administrative official shall state the reasons upon which the determination is based.

E. If the administrative official finds that the proposed use is similar, he shall also establish whether the proposed use shall be processed as a Type I, II or III use according to Chapter 17.10. If a proposed

use is not determined to be similar, it shall not be considered an allowable use. Similar use determinations may be appealed to the Hearing Examiner as provided in Chapter 17.10 and Title 18B.

17.15.020 Land Use Table.

The following Table 17.15 indicates those uses which may be permitted through Type I, II or III review in the various zoning districts defined in this title. In addition to Table 17.15, reference to the individual zoning districts and, where indicated, the regulatory notes of Section 17.15.030 (footnotes) and definitions of Chapter 17.08, is necessary in order to determine if any specific requirements apply to the listed use.

A. If no symbol appears in the box at the intersection of the column and row, the land use is not allowed in that district.

B. Use classifications are listed on the vertical axis and City of Kelso zoning districts are shown on the horizontal access.

C. If a number appears next to the review classification symbol at the intersection of the column and row than that use is subject to special standards listed as footnotes following Table 17.15 in Section 17.15.030.

D. If a letter appears adjacent to the use classification that land use is subject to performance standards listed in Section 17.15.040. These standards are in addition to other applicable standards of the Kelso Municipal Code.

Table 17.15

Table 17.15 Allowable Land Uses	Residential Single-Family	Residential Multi-family	Open Space	Commercial - Town Center	Commercial - West Kelso	Commercial Neighborhood Service Center	Commercial Specialty Retail & Services	Commercial - Major Retail	Industrial Light Manufacturing	Industrial General Manufacturing
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
RESIDENTIAL										
Single-family Residence (A)(L)	I	I [1]		I [1]	I [1]	I [1]	I [1]	I [1]		
Duplex (L)	I [2]	I [3]		I	I					
Multiple-family dwellings, including rooming & boarding houses, triplexes, 4 plexes, condominiums, apartment houses and apartment courts		I		I [4]	I [4]	I [4]	I [4]	I [4]		
Day Care Family home*	I	I								
Day Care Mini-center*		I								
Day Care-Adult*	II	II								
Adult Family home	II	II		I [1]	I [1]	I [1]	I [1]	I [1]		
Expansion and/or reconstruction of a residence	I	I	III							

Mobile Home Parks & Subdivisions (B)		II								
Livestock* (R)	I_{16}									
Accessory Apartment* (T)	II									
Temp Mfg Home for Aged Relative (U)	II									
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
AMUSEMENT AND RECREATION										
Recreation Facilities, Active*	II	II	III_{18}	I_5	I	I	I	I	II	II
Recreation Facilities, Passive*	I	I	I							
Participant sports and recreation—indoor				III 5	I	I / II_7	I	I	II	
Participant sports and recreation—outdoor			III_{18}		II		II	I		
Trails			I							
Wildlife and Nature Preserves			I							
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
COMMUNITY SERVICES										
Art Galleries, Non-commercial	II	II								
Auditoriums, clubhouses, meeting halls				II_5	I		I	I		
Community Centers	II	II		II_5	I	I	I	I	I	I
Educational, cultural, or governmental	II	II		II	I	III	I	I	II	I
Health Care Facilities*	III	III		II	I	I_7	I	I		
Clinics walk in*				II	II	I	I	I		
Hospital	III	III				III				
Marinas, boardwalks, public piers				I	I		I	I		
Museums	III	III		II	II					
Assisted Living Home*	II	II				II				
Post Office				I						
Religious Facilities	II	II		II_5	II	II_7	II	II	II	II
Social and fraternal clubs and lodges		II_6		II	II					
Group Home*	II	II								
Halfway House*	II	II		II_5						
Day Care Center*	II	II		I_5	II	II	II	II	II	
Transitional Housing*	II	II		II_5						
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
MANUFACTURING										
Agriculture* including agricultural processing									II	I
Fabrication, manufacture, assembly, processing, packaging, repair, servicing of goods.									I_9	I_9
Any principally permitted use whose operations are predominantly out-of-doors rather than completely enclosed within a building									II	I
Aquaculture			II							
Commercial Indoor Storage									I	I
Commercial moving and freight terminals									II	I
Computer and electronic equipment and products									I	I
Food Products									I	I
Furniture and Fixtures									I	I
Junk or Salvage Yards										I

Laboratories for scientific research, testing and experimental development that can be performed with minimal adverse impact on, and pose no special hazard to, the environment and the community									I	I
Marijuana Producer, Processor									I_{20}	I_{20}
Mechanical, automotive, trucking, agricultural/forestry and contractors' or builders' equipment and supplies									I	I
Marine oriented commercial and industrial activities.									II_{10}	II_{10}
Micro Brewery*				$II_{5,7}$			II	II	II	II
Printing and Publishing									I	I
Recycling centers						II	II		I	I
Sales of items manufactured on-site									II	II
Skating rink - indoor								II	III	III
Vehicle towing and storage services									II	II
Vocational Schools									I	I
Winery/brewery									I	I
Wood Products									I	I
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
RETAIL TRADE AND SERVICE										
Automobile sales—new or used					I		I	I	II	
Bed and Breakfast*	II	II		II_1	I	I	I	I		
Brew/Pub				I	I	I	I	I		
Cart vendors				I	II	II	II	I	I	II
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
Cemeteries, Mausoleums and Columbaria	III	III								
Convenience stores including gasoline sales and/or a car wash facility					II	II	I			
Crematorium	III	III								
Entertainment (e.g., theaters, video game arcades, etc., except adult motion picture theaters and other uses as described in Chapter 17.30.040, ~~Sexually~~ Adult Oriented Business (~~SA~~OB) Overlay Zone) ~~(O)~~				I_7	I	II	I	I		
Farmer's Market				I_{17}	I_{17}	I_{17}	I_{17}	I_{17}		
Fitness Center/Sports Club				II	II	II	I	I	II	
Formula take-out food restaurant with drive-through					I		I	I		
Formula take-out food restaurant **without** drive-through				I_7	I		I	I		
Hotels, Motels, Inns*				I_7	I		I	I		
Home Occupation, Major* (G, H)	II	II								
Home Occupation, Minor* (F, H)	I	I								
Kennels* (V)					II		II	II	II	
Minor Vessel Repair Shop						I	I		I	I
Mixed Commercial/Residential		III		$I_{4,7}$	I_4	I_4	I_4	I_4		
Mortuaries, Funeral Homes and Funeral Chapels	III	III		$II_{5,7}$	II		II			
Personal services*				$I_{5,7}$	I	I	I	I		
Pet Shop*				I	I	I	I	I		

Professional Offices		III		I_7	I	I	I	I	II_8	I_8
Restaurants				I_7	I		I	I	II_{11}	II_{11}
Retail sales Marijuana									I_{20}	I_{20}
Retail sales and services **with** drive-through businesses* (I)					I		I	I	II	
Retail sales and services **without** drive-through businesses				$I_{7,12}$	I	I_7	I	I		
Retail Sales & Services with screened outdoor storage				$II_{5,7}$	II		II	II	I	I
Roadside Stands				I_{17}	I_{17}	I_{17}	I_{17}	I_{17}		
RV sales, storage and repair									I	I
Second Hand/Consignment Stores				$I_{7,12}$	I	I_7	I	I		
Sexually Oriented Business* (E)										
Small engine repair						I	I		I	
Taverns				I_7	I		I	I		
Uses which service the automobile (e.g., gasoline service station, car wash, minor/major vehicle repair shops)					II	I_{13}	I	I	I	
Veterinarian clinics* (V)						I_7	II	II		
Caretaker Residence (K)									I	I
Temporary Uses (S)	I_{17}	I_{17}	I_{17}	I_{17}	I_{17}	I_{17}	I_{17}	I_{17}	I_{17}	I_{17}
Wholesale Sales with Limited Retail Sales							II	II	II	
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
TRANSPORTATION										
Park and ride lots*					II	II	I	II		
Park and ride lots, Shared Use*	II	II							II	I
Parking as principal use				II	I		I	I	II	I
Transit Facilities				I_{14}						
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
UTILITIES										
Public and private utility buildings and structures (L)	II	II	II	II	II	II	II	II	II	II
Communication Antennas, Cat 1 (N)	I	I	I	I	I	I	I	I	I	I
Communication Antennas, Cat 2 (O)	II		II	I	I	I	I	I	I	I
Communication Antennas, Cat 3 (P)			II		II		II	II	I	I
Communication Towers and Monopoles (Q)			II_{19}		II_{19}		II_{19}	II_{19}	II_{19}	II_{19}
	RSF	**RMF**	**OPN**	**CTC**	**CWK**	**CNH**	**CSR**	**CMR**	**ILM**	**IGM**
WHOLESALE TRADE-STORAGE										
Self-service storage facilities; provided, that no outside storage is visible from adjoining properties and public rights-of-way						III			I	
Warehousing (wholesale, bulk retail and trade)								III		

I = Type I Permitted Use
II = Type II Administrative Use
III = Type III Conditional Use
* = Defined Term
Letters and numbers refer to footnotes and regulatory notes within sections 17.15.030 and 17.15.040.

Table 17.15.030 Footnotes

The following numbers correspond to the numbers identified at the intersection of land use and use district lines in Table 17.15.

1. Only existing residential uses are permitted. Standards applicable to the RSF-5 zoning district shall apply to such single-family dwellings.
2. Only existing duplex dwelling units are permitted.
3. Only one duplex unit allowed per legal parcel.
4. Commercial/residential mixed use developments; provided, that the residential units are located above the ground floor.
5. Not permitted on the ground floor on Pacific Avenue South between Oak and Maple Street.
6. Social and fraternal clubs and lodges the principal activity of which is a service customarily carried on as a business is not permitted.
7. Building footprints not exceeding five thousand square feet are permitted; provided, that facilities shall screen all outdoor storage except for outdoor storage for agricultural produce sales, or landscaping retail sales. Buildings of a footprint greater than five thousand square feet, but less than ten thousand square feet may be allowed through administrative review.
8. Use is limited to a shared-use in the same structure as a permitted use.
9. Such goods or products include:
    a. Mechanical, automotive, marine, trucking, agricultural/forestry and contractors' or builders' equipment and supplies
    b. Winery/brewery
    c. Printing and publishing
    d. Wood products
    e. Furniture and fixtures
    f. Computer and electronic equipment and products
    g. Food products
10. Water dependent uses shall be confined to the designated Shoreline areas.
11. Food service is allowed as an administrative use for the convenience of employees and clearly subordinate to the primary use of the property. In reviewing the administrative use application for a food service use, the following standards shall apply:
    a. The use is limited in size so that it functions as a service intended for the convenience of employees;
    b. The use is located in the interior of the site and is fully screened from public streets;
    c. No additional parking shall be allowed;
    d. No additional signage is authorized;
12. In the Downtown Design Overlay District (DDO), retail use up to five-thousand-square-foot building footprint is permitted and between five-thousand-square-foot and fifteen-thousand-square-foot building footprint per building may be permitted through administrative review.
13. Use 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.
14. All public transportation stations shall be located at the city of Kelso multi-modal transportation facility.
15. Limited to no more than one sale for each quarter of the year and no sales event shall last more than two consecutive days.
16. Allowed in the RSF-15 zone only.
17. Requires a Temporary Use permit.
18. Active recreation facilities shall only be considered for location in designated city parks as listed in the adopted Park Plan.
19. Height up to a maximum 75', depending on coverage objectives.

20. Marijuana retail businesses are only permitted within the Adult Oriented Business Overlay Zone within these zones in accordance with KMC 17.45.040, and are further limited and regulated as provided in Chapter 17.45.

17.15.040 Regulatory Notes

The following regulatory notes apply to the corresponding uses listed in Table 17.15:

A. Single-family dwellings shall be constructed consistent with the following standards:
   1. Only one dwelling unit allowed per legal parcel.
   2. Shall have a width of not less than 14 feet at the narrowest point of the first story (excluding architecturally designed entrance ways);
   3. Trailers, recreational vehicles or tents may not be used for human habitation or dwelling purposes
   4. Attached garages shall be placed in the rear of the lot if at all possible.

B. Mobile Home Parks and Subdivisions are subject to following standards.
   1. The minimum site requirements for expansion of existing and proposed mobile home subdivisions are as follows:
      a. Minimum zoning area: Three acres;
      b. Density: As determined by the underlying zoning density requirement;
   2. No building or structure in a mobile home park or subdivision shall exceed the building height restrictions set forth for single-family residential dwelling units.
   3. Every mobile home park and subdivision locating within the city shall be connected to city sanitary sewers. This standard applies to any expansion of existing parks or subdivisions and to all proposed mobile home parks and subdivisions.
   4. Every mobile home park and subdivision, and/or expansion of the same, locating within the city shall be connected to the city water supply system.
   5. Every mobile home park and subdivision, and/or expansion of the same, locating within the city shall supply the necessary public power utilities to each and every unit proposed therein. Such utilities shall be placed underground except in those situations where this could be proven to be dangerous to humans and animals.
   6. All mobile home parks and subdivisions, and/or expansion of the same, shall submit, along with accompanying site development plans, proof of compliance with provisions for flood hazard protection as set forth in KMC 18.12.210 through18.12.310.
   7. Not less than ten percent of the total gross buildable area of the park or subdivision shall be designed and maintained as a recreational area for the occupants of the park or subdivision. The location of the recreation area will be in a safe and secure area of the park or subdivision and separated from passing automobile traffic by a cyclone fence not less than four feet in height as measured from ground level.
   8. Setbacks in all mobile home parks and subdivisions shall be as follows:
      a. Mobile home parks:
         i. Front setback: Ten feet from front property line;
         ii. Side setback: Five feet, including carports, garages and accessory buildings;
         iii. Rear setback: Ten feet from rear property line.
      b. Mobile home subdivisions:
         i. Front setback: Twenty-five feet from front property line or fifty-five feet from street centerline, whichever is greater;
         ii. Side setback: Five feet from each side property line;
         iii. Rear setback: Fifteen feet from rear property line.
      c. All setbacks shall be measured from the nearest corner or wall to the appropriate property or site line.

9. Permanent structures located within any mobile home space shall be used for storage only, have a maximum area of thirty-five square feet, and shall be located not less than six feet from any mobile home.
10. All mobile home park and subdivision streets and rights-of-way shall conform to the standards set forth in Title 16 of this code.
11. Access driveways shall be provided to each mobile home space and shall have a minimum width established by the city engineer;
    a. No access driveway or curb cut providing ingress or egress to a mobile home park or subdivision shall be located closer than fifty feet from any public street intersection, as measured from the street right-of-way lines at the nearest side of the intersection;
    b. Access drives and walkways within the park or subdivision shall be hard surfaced according to the specifications established by the city engineer.

C. Halfway houses, Group homes and Transitional housing 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 yard. In the event of double frontage or similar situations, the director or designee 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 zone according to a plan approved by the community development department.

D. Day Care 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 review authority 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 subsection g of this section.
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 is associated with that activity, shall be considered accessory to the principal use of the property concerned.

E. Sexually Oriented Businesses are only permitted in accordance with the provisions of KMC 17.30.

F. Minor home occupations shall meet all of the following criteria:
   1. Minor home occupations are limited to those of a service character, but may include limited retail sales directly related to the home occupation.
   2. Minor home occupations shall be conducted within the dwelling unit and/or attached garage by members of the family residing in the dwelling only.
   3. There shall be no outside storage of materials, supplies, or display of goods or equipment of any kind related to the minor home occupation, except for one commercial vehicle as it pertains to the home occupation.
   4. Any need for any customer parking created by the home occupation shall be provided off street, in a location other than the required front yard setback.
   5. No on street parking of commercial vehicles is allowed and adequate driveway parking space or abutting on street parking shall be required to accommodate peak traffic expectancy.
   6. With the exception of existing driveways, no parking shall be allowed in setbacks or buffers.
   7. Hours of operation shall occur between 7:00 a.m. and 10:00 p.m.
   8. There shall be no exterior evidence of the home occupation other than a permitted sign, that would cause the premises to differ from its residential character (e.g., outward physical appearance; lighting; the generation/emission of noise, fumes, or vibrations as determined by the administrative official 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; or on average increase vehicular traffic by more than two additional vehicles at any given time).

G. Major home occupations shall meet the following requirements:
   1. Major home occupations may include services, small-scale retail sales of products, mail order businesses and storage of materials associated therewith.
   2. Major home occupations shall be conducted by members of a family residing in the dwelling, except the administrative official may authorize the family to employ a limited number of non-resident individuals to assist with the home occupation on case by case basis.
   3. A major home occupation may be conducted within the dwelling unit, attached garage, or a detached garage only. The outward appearance shall be secondary and subordinate to the primary use of the property and the purpose of the zoning district. There shall be no exterior evidence of the home occupation other than a permitted sign, that would cause the premises to differ from its residential character: (e.g., lighting; the generation/emission of noise, fumes, or vibrations as determined by the administrative official 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; or on average increase vehicular traffic by more than two additional vehicles at any given time).
   4. There shall be no outside storage of materials, supplies, or display of goods or equipment of any kind related to the home occupation, except one commercial vehicle as it pertains to the home occupation and employee parking.
   5. Any need for customer or employee parking created by the home occupation shall be provided off street, in a location other than the required front yard setback.
   6. No on street parking of commercial vehicles is allowed and adequate driveway parking space or abutting on street parking shall be required to accommodate peak traffic expectancy.
   7. With the exception of existing driveways, no parking shall be allowed in setbacks or buffers.
   8. Hours of operation shall occur between 7:00 a.m. and 10:00 p.m.

H. Uses not permitted as home occupations. The following uses, by the nature of their operation or investment, have a pronounced tendency, once started, to increase beyond the limits permitted for home occupations, interfere with or impair the use and value of adjoining properties, or violate the restriction of no exterior evidence (e.g., outward physical appearance; outside storage of materials, supplies or vehicles; generate noise, dust, fumes, odors, electrical interference, vibrations, excessive traffic, etc.). Therefore, the uses listed below shall not be permitted as home occupations:

1. Beauty salons and barber shops with more than one chair;
2. Gift, craft, second hand stores;
3. Kennel;
4. Large item repair, including stoves, refrigerators, washers and dryers, etc.;
5. Towing services;
6. Trucking businesses or storage, except for the parking or storage of one commercial vehicle used solely by the owner/operator residing on the premises;
7. Veterinary clinic.
8. Cabinet making, woodworking or carpentry shops;
9. Antique shops;
10. Health salons, spas, gymnasiums, martial arts schools, dance studios, aerobic exercise studios;
11. Machine and sheet metal shops;
12. Motor vehicle, trailer or boat maintenance, repair, detailing, paint, and body shops;
13. Taxidermist;
14. Upholstering
15. Taxi Services

I. Drive-in business require a minimum number of off-street queuing spaces to minimize traffic hazards, pedestrian-vehicle conflicts, and the disruption of the commercial area street front.

1. Drive-in businesses shall provide queuing spaces according to the following requirements:
   a. Banks with drive-in facilities shall provide a minimum of five queuing spaces per lane when the number of lanes does not exceed two.
   b. Banks with three or more drive-in lanes shall provide a minimum of three queuing spaces per lane.
   c. Car washes shall provide a minimum of six queuing spaces.
2. If the drive-in bank or car wash is located along either a principal arterial, a minor arterial or along a street with only one lane for moving traffic in each direction, the city engineer shall determine whether additional queuing spaces are necessary or whether access should be restricted.
3. The city engineer shall establish the minimum number of queuing spaces needed for similar uses that are not listed above, using the quantities of subsection G1 as a guide

J. 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. If the installation is housed in a building, the building shall conform architecturally with surrounding buildings or the type of buildings that are likely to develop in the use district;
2. Any un-housed installation on the ground, or housed installation that does not conform to the architectural requirements of subsection J(1) of this section, shall be surrounded by sight-obscuring plantings;
3. An un-housed 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;

4. 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.

K. Caretakers' and/or owners, operators residences are limited to one per parcel and are only permitted where there is a principal use on the subject parcel.

L. Accessory buildings and structures shall not occupy any lot independent of the main building or structure. No permits will be issued for detached accessory buildings or structures unless a permit is also issued at the same time for the main building on the lot. No manufactured home, mobile home, 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 No detached accessory building or structure may occupy the front of any lot.

M. Social Card Rooms: 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.

N. Wireless Communication Facility Category 1 is subject to the following standards:
   1. The use shall be located on buildings or other structures. The Facility Category 1 may be located on buildings and structures that contain mixed uses.
   2. 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 Facility I can go up to thirty-nine feet and still be within the height limit.) Placement of a Facility Category 1 antenna or related components 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 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.
   4. In single-family residential areas, a Facility I shall be separated from any other Facility I by a distance equal to or greater than five hundred linear feet.
   5. The Facility Category 1 antenna and components shall be the same color as the existing building, pole or support structure on which it is to be located.
   6. A building permit shall be required to construct a Facility I.
   7. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof.

O. Wireless Communication Facility Category 2 is subject to the following standards:
   1. The Facility Category 2 antenna may be located on buildings and other structures.
   2. 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.
   3. A Facility Category 2 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 II antenna or related components on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.
   4. The Facility Category 2 antenna and components shall be the same color as the existing building, pole or support structure on which it is to be located.
   5. A building permit shall be required to construct a Facility 2.

6. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof.
7. Category 2 facilities may be allowed in Residential zones through Type II review on buildings on lots used for non-residential purposes.

P. Wireless Communication Facility Category 3 is subject to the following standards:
1. The shelter or cabinet used to house radio electronics equipment must be concealed and/or camouflaged.
2. 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.
3. The Facility Category 3 antenna and components shall be the same color as the existing building, pole or support structure on which it is to be located.
4. A building permit shall be required to construct a Facility Category 3.
5. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof.

Q. Wireless Communication Facility Monopoles and Lattice Towers shall comply with the following performance standards:
1. 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.
2. The lot on which the monopole or lattice tower is to be constructed must be legally conforming.
3. The facility must be screened in accordance with KMC 17.40
4. Monopoles and lattice towers located in the light manufacturing (ILM) 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.
5. Antennas that extend above the wireless communications support structure shall not be calculated as part of the height of a monopole or lattice tower.
6. Co-location 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.
7. 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.
8. A building permit shall be required to construct a monopole or lattice tower. (Ord. 3533 § 9, 2004)
9. 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 pre-existing 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 community development director to mitigate visual impacts to adjacent properties or public rights-of-way as determined by site-specific conditions.
10. 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.

R. Livestock are allowed within the RSF-15 zone subject to the following densities and standards:

1. Horses: One per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of two horses per lot; or
2. Cows: One per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of two cows per lot; or
3. Llamas: Two per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of four llamas per lot; or
4. Sheep: Four per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of eight sheep per lot; or
5. Goats: Four per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of eight goats per lot; or
6. Chickens: One rooster/six hens per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of one rooster/six hens per lot; or
7. Pigeons: Twelve pigeons per twenty-one thousand seven hundred eighty square feet of lot area to a maximum of twenty-four pigeons per lot;
8. There must be a minimum distance of not less than forty feet between a building for human habitation and a structure housing livestock or poultry;
9. Livestock and poultry shall not be located any closer than one hundred feet from any residential building on an adjacent lot and no less than 50 feet from the property line of an adjacent vacant parcel capable of development. Confined feeding areas or structures to house livestock or poultry shall not be located closer than two hundred feet to any pre-existing residence on adjacent properties;

S. Temporary Uses.
   1. There are two (2) types of temporary uses, seasonal and emergencies:
      a. Seasonal uses are directed towards a special event or holiday such as:
         i. Carnivals
         ii. Christmas Tree Sales
         iii. Farmer's Markets
         iv. Festival or Street Fairs
         v. Parking Lot/Outdoor Sales Events
         vi. Seasonal sale of agricultural products grown off-premise
         vii. A temporary sales office or mobile home in conjunction with a construction project;and
         viii.Temporary fund-raising and other civic activities in commercial zoning districts
      b. Emergency uses are occasioned by an unforeseen event, such as fire, windstorm or flood including:
         i. A mobile home, recreational vehicle or other temporary structure for a residential purpose in a residential zone, or;
         ii. A mobile office or other temporary structure for a business purpose in a commercial or industrial zone;
   2. Nothing within this section is intended to circumvent the strict application of those permitted uses within the underlying zoning districts. Time limits shall be strictly enforced.
   3. All temporary uses addressed in this section shall be located on private property and not in the public rights-of-way.
   4. Approval Criteria.
      a. Seasonal and special events. The administrative official shall approve, approve with conditions or deny a request for approval of a special event subject to compliance with all of the following criteria:
         i. The event occurs for no longer than 45 days in a calendar year on the approved event site;
         ii. The event is permitted in the underlying zoning district or within the approved event site;
         iii. The applicant has proof of the property owner's permission to place the event on his/her property;

iv. There will be no parking utilized by the customers and employees of the temporary event which is needed by the property owner to meet his/her minimum parking requirements;
v. The event does not interfere with adequate vision clearance, and shall not obstruct pedestrian access on public rights-of-way;
vi. Conditions as may be required by the building official and/or Fire Marshal to determine compliance with minimum building, fire and life safety codes; and
vii. Adequate provisions for trash disposal and sanitary facilities shall be provided.

b. Unforeseen emergencies. The administrative official shall approve, approve with conditions or deny a request of an unforeseen/emergency situation(s) subject to compliance with of all of the following criteria:
i. The need for the use is the direct result of a casualty loss such as fire, windstorm, flood or other severe damage by the elements of a pre-existing structure or facility previously occupied by the applicant on the premises for which the permit is sought;
ii. There exists adequate and safe vehicular ingress and egress when combined with the other uses of the property;
iii. There exists adequate parking for the temporary use;
iv. The use will pose no hazard to pedestrians in the area of the use;
v. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect adjoining uses;
vi. The use can be adequately served by sewer or septic system and water, if applicable; and
vii. The length of time that the temporary building will be used is the maximum needed to address the hardship but no longer than one year. With the exception that a temporary use approval may be renewed once by the Administrative Official for a period not to exceed one year.

4. The regulations in this section shall not apply to:
a. Garage/estate sales conducted on private residential properties subject to the following criteria:
i. Sales last no longer than three (3) consecutive days; and
ii. Sales are held no more than four (4) times in a calendar year; and
iii. 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.
iv. No garage sale signage is allowed within the public right-of-way. Signs on private property must have the written permission of the property owner.

b. On-site construction office during the period of construction, but no longer than six months. A single six month extension may be granted upon written request, provided the applicant shows good cause for granting the extension. The approved extension shall be the minimum necessary to achieve completion of the project.

T. Not more than one accessory apartment, as defined, may be allowed on a parcel. The following criteria shall apply:
1. The accessory apartment shall be located within an owner-occupied, site-built single-family dwelling or its accessory garage within 50 feet of the primary residence.
2. The accessory apartment shall not exceed 800 square feet and shall be reviewed to ensure compatibility with surrounding uses.
3. One additional paved, off-street parking space is required.
4. The accessory apartment shall share access with the primary dwelling.
5. Adequate utility service shall be confirmed.
6. A restrictive covenant shall be recorded on the property to preclude the separate sale or division of the accessory apartment from the single-family dwelling.

U. The following criteria shall govern the review and approval of a temporary manufactured home, or park model (defined in 17.08.140), for occupancy by an aged, infirmed or incapacitated relative or by one or more relatives (by blood or marriage) engaged in care giving for the aged, infirmed or incapacitated person:
   1. Such temporary home shall only be considered on residential properties of two acres or greater.
   2. Such home shall be for temporary placement for a period of one year, subject to review prior to renewal by the Administrative Official;
   3. The aged, infirmed or incapacitated person must be related by blood or marriage to the caregiver;
   4. The property must be owned by either the caregiver or the aged, infirmed or incapacitated relative;
   5. Such temporary permit shall be issued only for the purpose of providing one temporary housing unit on the same lot as the existing residence, in reasonably close proximity to each other, with the intent of sharing utility systems and to minimize negative effects on adjacent uses;
   6. If more than one residence already exists on the property, the Reviewing Official shall not issue a permit for a temporary unit under this section;
   7. Seventy-five (75) years of age is considered aged for purposes of this section. Individuals less than 75 years of age shall be required to furnish a written statement by a licensed medical doctor or osteopath, indicating that the patient is not physically or mentally capable of independent living and is dependent on a relative being close by for personal physical care assistance;
   8. The caregiver shall be physically capable of providing the needed personal physical care;
   9. Financial hardships, taking care of the property and other convenience arrangements not relating to age or infirmity shall not be considered grounds for which a permit can be issued;
   10. Sewage disposal shall be by connection to the existing sanitary sewer outlet located on the property. No additional side-sewer connections to the collector line shall be permitted, unless required otherwise by the City Engineer.
   11. The temporary unit shall conform to setback requirements of Kelso Municipal Code, and shall not be permitted within the 100-year floodplain or other critical area;
   12. Temporary manufactured homes shall meet the following siting requirements:
      a. Have permanent steps or inclined planes affixed to all entrances;
      b. Maintain a minimum eighteen inch crawl space under the entire unit;
      c. Have permanent skirting or sidewalls installed to enclose all areas between the lower edge of the outside walls and the ground;
      d. Be placed and anchored per the manufacturer's installation instructions or per the design of a professional engineer or architect licensed in Washington {WAC 296-150M-610 (1) (C)};
   13. If the placement of the temporary home would violate the provisions of any deed restriction or subdivision covenant for the property, the application shall be returned or denied without prejudice until the covenant issue is resolved;
   14. No additional road approaches, access roads or accessory structures to serve the temporary residence shall be permitted, unless determined to be acceptable by the City Engineer, as appropriate. The temporary unit shall be located within one hundred feet of the existing residence on the property unless this would conflict with subsection (11) above, or if other bonafide physical site constraints would prohibit compliance;
   15. A covenant, to which the City is a party, shall be recorded with the County Auditor stating that the temporary dwelling and any related improvements do not vest the property with any right to subdivide or convert the temporary dwelling to a permanent dwelling, except in conformance with the Kelso Municipal Code;
   16. The temporary unit shall be removed within 90 days if the temporary unit is no longer occupied by the person(s) for which the permit was issued, or the permit has expired and was not renewed.

V. All kennels (as described in Section 17.08.120) and veterinarian clinics (as described in Section 17.08.230) shall be provided with indoor sleeping areas, in order to minimize nighttime noise impacts to neighboring properties.

Exhibit C

17.30.040 ~~Sexually~~ Adult oriented business overlay.

A. The purpose of the ~~sexually~~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 the display of adult materials by other commercial establishments.

B. There is hereby created an ~~sexually~~adult oriented business overlay zone within such geographic areas of the city as is identified on the official city zoning map of the city. Sexually oriented businesses and marijuana retail businesses may only locate within the ~~sexually~~adult oriented business overlay zone.

C. 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.

D. Marijuana Retail Business Restrictions.

In addition to the zoning restrictions set forth in this Chapter, any marijuana retail business or land use shall further comply with KMC 17.45 and all other applicable requirements of the Kelso Municipal Code.

E. 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:

1. Adult arcade;

2. Adult bookstore, adult novelty store or adult video store;

3. Adult cabaret;

4. Adult motion picture theater;

5. Adult theater;

6. Nude/semi-nude model studio;

7. Adult motels/hotels.

8. Marijuana Retailer

F. 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 sexually oriented business overlay zone; 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 chapter 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.

G. 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.

H. Signs for sexually oriented businesses shall be permitted as allowed in accordance with Chapter 17.62.

I. Parking and Lighting Regulations for sexually oriented businesses. On-site parking shall be required and regulated in accordance with Section 17.40.060, and in addition shall meet the following requirements:

1. 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 city building department for approval prior to the operation of any sexually oriented business.

2. 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 city building department.

J. 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.

K. Violation—Penalty. Any person violating any provision(s) of 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.

L. Public Nuisance—Injunctions. Any sexually oriented businesses and marijuana retail businesses in violation of this chapter shall be deemed a public nuisance, which, in addition to all other remedies, may be abated by injunctive relief.

Exhibit D

Chapter 17.45
MARIJUANA RELATED LAND USES

Sections:

17.45.010 Purpose.
17.45.020 Location Criteria for Marijuana Land Uses.
17.45.030 Business License.
17.45.040 Recreational Marijuana Land Uses Allowed in Identified Zones.
17.45.050 Signs and Advertising.
17.45.060 Security Requirements.
17.45.070 Report of Disturbances and Unlawful Activity.
17.45.080 No Non-conforming Uses.
17.45.090 Enforcement.

17.45.010 Purpose.

A. The purpose of this Ordinance is to establish where recreational marijuana producers, processors and retail outlets may locate in the City, and to describe the restrictions upon such uses.

B. The production, processing and retailing of marijuana remains illegal under federal law. The purposes 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, retailers, to operate in designated zones of the City. No part of this Ordinance 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 U.S.C. Section 800 *et seq.,* 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 Ordinance 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 69.51A RCW or chapter 69.50 RCW. Nothing in this Ordinance 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 Ordinance be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

17.45.020 Location Criteria for Recreational Marijuana Land Uses.

A. No recreational marijuana producer, processor or retail outlet may located within one thousand (1,000) feet 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.

The distances described above shall be computed by direct measurement as follows: The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of the above listed facility or facilities.

B. No recreational marijuana producer, processor or retail outlet may locate within two hundred and fifty (250) feet of any of the following;
    1. Any residential zone.
    2. Any mobile home or RV park.

C. The distances described in sections A and B above shall be computed by direct measurement as follows: The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of the above listed facility or facilities.

D. No recreational 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 17.45.040.

17.45.030 Business License.

A. A valid, current license is required from the Washington State Liquor Control Board for operation of any recreational marijuana, producer, processor or retail outlet.
B. A business license is required from the City for operation of any recreational marijuana producer, processor or retail outlet.

17.45.040 Recreational Marijuana Land Uses Allowed in Identified Zones.

A. Recreational marijuana production is a permitted use for those properties in the ILM (Industrial Light Manufacturing and the IGM (Industrial General Manufacturing) zoning districts, subject to compliance with this chapter and all other applicable requirements of the Kelso Municipal Code.

B. Recreational marijuana processing is a permitted use in the ILM (Industrial Light Manufacturing) and the IGM (Industrial General Manufacturing) zoning districts, subject to compliance with this chapter and all other applicable requirements of the Kelso Municipal Code.

C. Recreational marijuana retail outlets or retail uses are a permitted use in the Adult Oriented Business Overlay zoning district, subject to compliance with this chapter, Chapter 17.30.040, and all other applicable requirements of the Kelso Municipal Code.

D. All marijuana grow operations shall be located indoors. Outdoor grow operations are prohibited.

17.45.050 Signs and Advertising.

A. All signage and advertising for a recreational marijuana processor, producer or retail outlet shall comply with the applicable provisions of the Code, the Sign Code, Zoning Code and WAC 314-55-155 (and all applicable rules for city, state, and federal regulations).

17.45.060 Security Requirements. 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).

17.45.070 Report of Disturbances and Unlawful Activity.

A. 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.

B. 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 (14) inches and a minimum width of eleven (11) inches with each letter to be a minimum of one-half (1/2) 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.

C. 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.

17.45.080. No Non-conforming Uses.

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 Chapter, 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 non-conforming status.

17.45.090. Enforcement.

A. Violations of the Section 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 RCW 7.80. For violations of WAC 314-55-155 and 314-55-525, the City may report the violation to the State Liquor Control Board.

B. In addition to any other applicable remedy and/or penalty, any violation of this section 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

C. 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.