

1. **CALL TO ORDER:**

- a. Roll Call/Pledge of Allegiance

2. **CONSENT AGENDA:** All matters listed within the Consent Agenda have been distributed to each member of the Kennewick Planning Commission for reading and study. They are considered routine and will be enacted by the one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Agenda and placed on the regular agenda by request.

- a. Approval of the Minutes dated September 16, 2019
- b. Approval of Agenda
- c. Motion to enter Staff Report(s) into Record

3. **PUBLIC HEARING:**

- a. Zoning Ordinance Amendment (ZOA) # 19-07/AMD-2019-02719, proposing to amend Kennewick Municipal Code (KMC) Section 18.09 – Definitions and 18.12 – Zone Districts and Standards to regulate Syringe Exchange Programs in the City of Kennewick. Applicant is City of Kennewick.

4. **VISITORS NOT ON AGENDA:**

5. **OLD BUSINESS:**

- a. City Council Action Updates

6. **NEW BUSINESS:**

7. **REPORTS, COMMENTS, OR DISCUSSION OF COMMISSIONERS AND STAFF:**

8. **ADJOURNMENT:**

**KENNEWICK PLANNING COMMISSION
SEPTEMBER 16, 2019
MEETING MINUTES**

CALL TO ORDER

Vice Chairman Morris called the meeting to order at 6:30 p.m.

Commissioner Stolle led the Pledge of Allegiance.

Recorder Melinda Didier called the roll and found the following:

Present: Commissioners Clark Stolle, Thomas Helgeson, Anthony Moore, and Vice Chairman Victor Morris.

Excused: Commissioner Rob Rettig, James Hempstead, and Chairman Eduardo Pacheco.

Unexcused: None

Staff Present: Greg McCormick, AICP Planning Director; Steve Donovan, AICP Planner, Melinda Didier, Community Planning Administrative Assistant/Recorder

CONSENT AGENDA

- a. Approval of Agenda
- b. Approval of the August 19th and August 26th, 2019 Meeting Minutes
- c. Motion to enter Staff Reports into the Record

Commissioner Helgeson moved to accept the consent agenda. Commissioner Moore seconded the motion. The motion carried unanimously.

PUBLIC HEARINGS

Vice Chairman Morris opened the public hearing at 6:33 p.m. for Zoning Ordinance Amendment (ZOA) No. 19-04 proposing to amend Kennewick Municipal Code (KMC) Subsection 17.04.010(1) by reducing the acreage requirement from 20 acres to 10 acres in regard to plat exemptions. Applicant is Knutzen Engineering, 5401 Ridgeline Drive, Ste. 160, Kennewick, WA 99338.

Mr. Donovan gave a brief overview of the staff report, and presented a Power Point of the staff report; Staff recommends that the Planning Commission concur with the Findings and Conditions of Staff Report ZOA 19-04, and recommend to City Council APPROVAL of the request. Mr. Donovan noted that in the staff report was an extra motion, both are the same wording, Planning Commissioners can disregard one of them.

Planning Commission questions included: Commissioner Moore asked how long has the RCW has been in place; Mr. Donovan said we have had our exemption since at least 2007, have had exemption clause on books for longer, not sure exactly when. Commissioner Moore asked about KSD minimum land requirement for a school, a 27-acre parcel divided into 2 -13 acre lots for a future elementary school, isn't minimum of 30 acres to develop a school. Mr.

McCormick said the applicant can address that question; land area for middle school 30 acres, all parcels have to be minimum of 10 acres, elementary schools are usually 12-15 acres, middle schools 30 acres, high schools about 60 acres.

Testimony of Applicant/Applicant's Representative:

Paul Knutzen/Applicant's Representative
Knutzen Engineering
5401 Ridgeline Dr. Ste. 160
Kennewick 99338

30 acres is for middle school site; elementary for 15 acres, high schools about 60 acres; how this came about is school district looking at adding land to their books for development of schools; trying to strategically find future sites to add and hold for future schools as different areas develop; 27-acre site that land owner owns, difficult and expensive to develop, allowing this change will help create the parcels to site schools, worked with city staff to come up with median acreage for plat exemption purposes; 15 total properties in city that can be plat exempted right now; this helps free up and bring Kennewick into line of what the other cities are doing.

Testimony in favor:

None

Testimony neutral or against:

None

Staff final comments: None

Public Testimony for ZOA 19-04 closed at 6:45 p.m.

Vice Chairman Morris asked for a motion.

Commissioner Stolle moved to concur with the findings and conclusions in staff report ZOA 19-04 and forward a recommendation to City Council APPROVAL of the request; Commissioner Helgeson seconded the motion.

Planning Commission discussion included: None

The motion passed unanimously on a roll call vote.

Vice Chairman Morris opened the public hearing at 6:46 p.m. for Zoning Ordinance Amendment (ZOA) No. 19-05 proposing to amend Kennewick Municipal Code (KMC) Subsection 18.12.270(4) by allowing transportable units to be used for business activities in the Industrial, Heavy zoning district. Applicant is Michael Hillman, 2614 W. 32nd Court, Kennewick, WA 99337.

Mr. Donovan gave a brief overview of the staff report, and presented a Power Point of the staff report; Mr. Donovan passed out email letter from Jeff Divilbiss – entered into record as Exhibit 5. Planning Commission was given a few minutes to read the letter. Mr. Donovan spoke about

the extra motion in the staff report. Staff recommends that the Planning Commission concur with the Findings and Conditions of Staff Report ZOA 19-05, and recommend to City Council APPROVAL of the request.

Planning Commission questions included: Commissioner Helgeson asked if there are setbacks and appearance rules for this amendment; Mr. Donovan said yes, the same development standards as before, setback requirements, etc. Mr. McCormick said these transportable units will be looked at the same as a structure is, can't be used for storage must be as another form of structure, same as building, to provide some flexibility in building. Vice Chair Morris referenced the email letter from Jeff Divilbiss, Exhibit 5, are there any comments on concerns; Mr. Donovan said staff looked at business license compliance and other items, took the property owner some time to get things setup, everything is in compliance with regard to the business license, he has rectified code violations; Mr. McCormick said that's a side issue with the business license and not within the scope of the zoning code amendment.

Testimony of Applicant/Applicant's Representative:

Michael Hillman
2614 W. 32nd Ct
Kennewick 99337

The property is currently zoned lower level of zoning; Jeff Divilbiss has invested a lot of money in our economy and community; it makes sense to have more flexibility in structures in the Industrial zones. In favor of the proposal.

Testimony in favor:

None

Testimony neutral or against:

None

Staff final comments: None

Public Testimony for ZOA 19-05 closed at 6:57 p.m.

Vice Chairman Morris asked for a motion.

Commissioner Moore moved to concur with the findings and conclusions in staff report ZOA 19-05 and forward a recommendation to City Council APPROVAL of the request; Commissioner Helgeson seconded the motion.

Planning Commission discussion included: None

The motion passed unanimously on a roll call vote.

Vice Chairman Morris opened the public hearing at 6:58 p.m. for Zoning Ordinance Amendment (ZOA) No. 19-06 proposing to amend Kennewick Municipal Code (KMC) Chapter 18.66 – Flood Damage Prevention, to provide clarity to existing regulations and

to more closely align existing regulations with state model ordinance and federal regulations. Applicant is the City of Kennewick.

Mr. Donovan gave a brief overview of the staff report, and presented a Power Point of the staff report; Mr. McCormick said the he and Senior Planner Anthony Muai met with representatives from the Department of Ecology, who recommended the City make changes again and bring the City code more in line with the current State requirements; the required update to the Shoreline Master Plan is due in June of 2021, and Planning will start the process of updating the Shoreline Master Plan in 2020. Mr. McCormick said this zoning code amendment is a “housekeeping” item from the Department of Ecology, in advance of the SMP 2021 update.

Staff recommends that the Planning Commission concur with the Findings and Conditions of Staff Report ZOA 19-06, and recommend to City Council APPROVAL of the request.

Planning Commission questions included: Commissioner Helgeson commented that on page 8 of Exhibit A-2 on KMC Section 18.66.060(1)(d)(ii), asked staff to remove the comma after the word electrical and insert the word “and”.

Testimony in favor:

None

Testimony neutral or against:

None

Staff final comments: None

Public Testimony for ZOA 19-06 closed at 7:04 p.m.

Vice Chairman Morris asked for a motion.

Commissioner Helgeson moved to concur with the findings and conclusions in staff report ZOA 19-0 and forward a recommendation to City Council APPROVAL of the request as modified by staff; Commissioner Stolle seconded the motion.

Planning Commission discussion included: None

The motion was approved on a unanimous roll call vote.

VISITORS NOT ON AGENDA:

None

OLD BUSINESS:

- a. **City Council Action Updates –** The rezone for Carlton Cadwell for the Tri-City Court Club, went to City Council at last meeting and was approved.

NEW BUSINESS:

- a. None

REPORTS, COMMENTS, OR DISCUSSION OF COMMISSIONERS AND STAFF:

Vice Chairman Morris will be absent for both October 2019 Planning Commission meetings.

ADJOURNMENT:

The meeting was adjourned at 7:07 p.m.

Staff Report
Syringe Exchange Programs
Amendments to Title 18

Date: October 15, 2019

To: City of Kennewick Planning Commission

From: City Attorney's Office, Lisa Beaton, City Attorney

BACKGROUND

In the Spring of this year a non-profit syringe exchange program began to occupy a building owned by Ideal Options in Kennewick. At that time the City did not have any zoning regulations in place to regulate this type of use. The syringe exchange program has since moved to another location in Kennewick and is operated out of a van. Syringe exchange programs are lawful as determined by the State Supreme Court in the 1992 case *Spokane County Health District v. Brockett*, 120 Wash.2d 140 (1992). Syringe exchange programs are an approved method of “harm reduction” and as such are supported by a Department of Health state grant program. Per RCW 71.24.590 the City has limited authority to regulate needle exchanges to mitigate the potential public health and safety issues related to this type of use. The City can define “syringe exchange” in its land use code, it can determine which zones to permit syringe exchange, and it can prohibit “safe injection” sites or programs. The City can require distance restrictions, limit the hours of operation, require proper storage and disposal, as well as prohibit the exchange of syringes with minors.

PROPOSAL

- KMC 18.09.2055 Defines “Syringe Exchange Program” using the definition from the State Department of Health.
- KMC 18.12.010 B.1 Adding a new category to the table and identifying Commercial Community, Commercial Regional and Commercial General as the zones where syringe exchanges can be located; identifies the review process as staff review and cross references KMC 18.12.245 for the specific regulations for this use.
- KMC 18.12.245 Adds a new section to KMC 18.12 titled “Syringe Exchange Programs”
 - Imposes distance restrictions from residential zones, schools, parks, public facilities and other syringe exchange programs.
 - It prohibits distribution to minors and requires business hours to be limited to daytime.
 - It requires proper storage and disposal of syringes, as well as requires the owner to keep the premises and public right of ways free of used needles, debris, and garbage.

- It requires the program to operate on a one-for-one plus basis providing 10 extra syringes regardless of the amount brought in with a limit of no more than 100 new syringes provided per visit.
- It requires new syringes that are distributed to have an identifiable unified color or mark to identify the source as being that specific Syringe Exchange Program.

FINDINGS

1. The proposed revisions to the KMC will provide staff a means to implement conditions to mitigate some of the potential negative public health and safety impacts of this type of land use.
2. Proposed revisions have been sent to the Washington State Department of Commerce for review as required under RCW 36.70A.106 on August 14, 2019. Acknowledgement that Kennewick was granted expedited review and met the Growth Management Act notice to state agency requirements in 36.70A.106 was received on August 28, 2019.
3. A Determination of Non-Significance was issued for proposed amendments to KMC 18.09 and KMC 18.12. The appeal period expired on September 18, 2019.
4. Notice of the public hearing on the proposed amendments was published in the Tri-City Herald on October 6, 2019.

CONCLUSION

The City has the authority to regulate this land use to mitigate the potential public health and safety issues related to this use. Through adoption of the proposed amendments to Title 18, the City will have the tools to properly regulate this use to mitigate the potential risks.

RECOMMENDATION

Staff recommends that the Planning Commission concur with the proposed changes, findings and conclusions and recommend approval to City Council.

CITY OF KENNEWICK
ORDINANCE NO. 5839

AN ORDINANCE RELATING TO ZONING DEFINITIONS AND ADDING A
NEW SECTION 18.09.2055 TO THE KENNEWICK MUNICIPAL CODE

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

Section 1. There is hereby added a new Section 18.09.2055 to the Kennewick Municipal Code,
to read as follows:

18.09.2055: Syringe Exchange Program:

Syringe Exchange Program is a Non-Profit Program that provides sterile syringe access,
disposal of used syringes and/or exchange to Intravenous Drug Users (IDU's), while also
referring and linking IDU's to HIV and viral hepatitis prevention services, substance abuse
treatment, medical and mental health care.

(Ord. 5839 Sec. 1, 2019)

Section 2. This ordinance shall be in full force and effect five days from and after its passage,
approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this
5th day of November, 2019, and signed in authentication of its passage this 5th day of November,
2019.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5839 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 6th day of
November, 2019.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION_____

CITY OF KENNEWICK
ORDINANCE NO. 5840

AN ORDINANCE RELATING TO A SYRINGE EXCHANGE PROGRAM
AND NON-RESIDENTIAL USES AND AMENDING SECTION 18.12.010 B.1
AND ADDING A NEW SECTION 18.12.045 TO THE KENNEWICK
MUNICIPAL CODE

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

Section 1. Section 18.12.010 B.1 of the Kennewick Municipal Code, be, and the same hereby is,
amended to add the Syringe Exchange Program to the Nonresidential Use Table to read as
follows:

18.12.010 B.1: - Table of Non-Residential Uses.

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

Nonresidential Uses	RS	RL	RM	RH	RMH	RTP	UMU	CN	CO	CBD	CC	CR	CAR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS
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Syringe Exchange Program (See Title 18.12.245)											I	I		I									

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([Ord. 5840 Sec. 1, 2019](#); [Ord. 5748 Sec. 2, 2018](#); [Ord. 5712 Sec. 3, 2017](#); Ord. 5670 Sec. 1, 2016; Ord. 5572 Sec. 1, 2014; Ord. 5542 Sec. 2,
2014; Ord. 5462 Sec. 4, 2012; Ord. 5434 Sec. 5, 2011; Ord. 5309 Sec. 10, 2010; Ord. 5262 Sec. 3, 2009; Ord. 5244 Sec. 3, 2008; Ord. 5204 Sec.
7, 2007; Ord. 5180 Sec. 1, 2007)

Section 2. There is hereby added a new Section 18.12.245 to the Kennewick Municipal Code, to
read as follows:

18.12.245 Syringe Exchange Program :

(1) Syringe Exchange Programs as defined by 18.09.2055, is recognized as being a
use which may prove detrimental in certain circumstances to surrounding neighborhoods and
thereby the following regulations are imposed.

(2) No Syringe Exchange Program, shall be located

(a) Within 500 feet of any residential or urban mixed use zone;

(b) Within 500 feet of any public or private school, or any trade or vocational
school that on a regular basis has at least one student under the age of 18;

(c) Within 500 feet of any park or any public facility or institution;

(d) Within 1,000 feet of another syringe exchange program;

- (3) No person owning, operating or managing a syringe exchange program or their employee or agent or volunteer shall invite, allow or permit any person under the age of 18 to enter or remain on the premises of a Syringe Exchange Program or participate in a Syringe Exchange Program.
- (4) The Business hours for a Syringe Exchange Program shall be limited to daytime hours.
- (5) The Syringe Exchange Program shall comply with State statutes and regulations regarding proper storage, handling and disposal of biohazard/sharps.
- (6) The Garbage containers on the premises must be secure and screened from view of the public.
- (7) The Syringe Exchange Program shall keep the facility, premises, abutting sidewalk and right of way free from all used needles, syringes, debris and garbage.
- (8) No person owning, operating or managing a syringe exchange program or their employee or volunteer shall invite, allow or permit any onsite injection either in the facility or on the premises.
- (9) The Syringe Exchange Program shall operate on a "One for One Plus" basis providing 10 extra syringes regardless of the number of syringes brought in by a participant but in no event shall a participant be given more than 100 syringes per visit.
- (10) The syringes and needles that are distributed to a program participant shall have an identifiable unified color or mark to identify the source as being the Syringe Exchange Program.

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(Ord. 5840 Sec. 2, 2019)

Section 3. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 5th day of November, 2019, and signed in authentication of its passage this 5th day of November, 2019.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

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in the office of the City Clerk of the City of
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Approved as to Form:

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TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____