

ORDINANCE O-4658

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS LICENSES AND REGULATIONS AND AMENDING TITLE 7 OF THE KIRKLAND MUNICIPAL CODE.

1 WHEREAS, the Washington State Legislature passed Engrossed
2 House Bill (EHB) 2005 (RCW 35.90) in 2017 which effects Kirkland
3 business licensing requirements; and
4

5 WHEREAS, the law required cities with business licenses to
6 establish a workgroup to create a model business license ordinance to
7 take effect by January 1, 2019, or be prohibited from enforcing city
8 general business license requirements until model ordinance provisions
9 are adopted; and
10

11 WHEREAS, the City participated in the workgroup to develop a
12 model business license ordinance; and
13

14 WHEREAS, the law required all cities with a business license
15 program to use the state's Business Licensing System (BLS) by 2022 or
16 FileLocal by 2020; and
17

18 WHEREAS, the City has determined that BLS offers the most
19 benefit for management of its business licensing program; and
20

21 WHEREAS, BLS has scheduled the City's conversion and
22 implementation for the fourth quarter of 2018.
23

24 WHEREAS, amendments to the Kirkland Municipal Code are
25 needed to meet EHB 2005 requirements.
26

27 NOW, THEREFORE, the City Council of the City of Kirkland do
28 ordain as follows:
29

30 Section 1. Kirkland Municipal Code Section 7.02.020 is amended
31 to read as follows.
32

33 **7.02.020 Policy and scope.**

34 All persons engaging in a business or occupation within the limits of the
35 city shall be subject to the provisions of this chapter, unless otherwise
36 indicated in this chapter.
37

38 Section 2. Kirkland Municipal Code Section 7.02.030 is amended
39 to read as follows.
40

41 **7.02.030 Definitions.**

42 Where used in this chapter, the following words and terms shall have
43 the meanings as defined in this section, unless, from the context, a more
44 limited or different meaning is clearly defined or apparent:

45 (a) "Business" includes all activities, occupations, pursuits, or
46 professions located and/or engaged within the city, with the object of

47 gain, benefit or advantage to the person engaging in the same, or to
48 any other person or class, directly or indirectly, and includes nonprofit
49 enterprises.

50 (b) "Business license" means that document issued by the city
51 licensing the transaction of the indicated business by the person whose
52 name appears thereon for the stated period.

53 (c) "Business licensing service" or "BLS" means the program within
54 the Washington State Department of Revenue providing business
55 licensing services to the city.

56 (d) "Engaging in business"

57 (1) The term "engaging in business" means commencing, conducting,
58 or continuing in any business within the city, whether or not an office
59 or physical location for the business lies within the city, and also the
60 exercise of corporate or franchise powers, as well as liquidating a
61 business when the liquidators thereof hold themselves out to the public
62 as conducting such business.

63 (2) This section sets forth examples of activities that constitute engaging
64 in business in the City, and establishes safe harbors for certain of those
65 activities so that a person who meets the criteria may engage in de
66 minimus business activities in the City without having to pay a business
67 license fee. The activities listed in this section are illustrative only and
68 are not intended to narrow the definition of "engaging in business" in
69 subsection (1). If an activity is not listed, whether it constitutes
70 engaging in business in the City shall be determined by considering all
71 the facts and circumstances and applicable law.

72 (3) Without being all inclusive, any one of the following activities
73 conducted within the City by a person, or its employee, agent,
74 representative, independent contractor, broker or another acting on its
75 behalf constitutes engaging in business and requires a person to register
76 and obtain a business license.

77 A. Owning, renting, leasing, maintaining, or having the right to use, or
78 using, tangible personal property, intangible personal property, or real
79 property permanently or temporarily located in the City including both
80 short-term and long-term rentals.

81 B. Owning, renting, leasing, using, or maintaining, an office, place of
82 business, or other establishment in the City.

83 C. Soliciting sales.

84 D. Making repairs or providing maintenance or service to real or tangible
85 personal property, including warranty work and property maintenance.

86 E. Providing technical assistance or service, including quality control,
87 product inspections, warranty work, or similar services on or in
88 connection with tangible personal property sold by the person or on its
89 behalf.

90 F. Installing, constructing, or supervising installation or construction of,
91 real or tangible personal property.

92 G. Soliciting, negotiating, or approving franchise, license, or other
93 similar agreements.

94 H. Collecting current or delinquent accounts.

95 I. Picking up and transporting tangible personal property, solid waste,
96 construction debris, or excavated materials.

97 J. Providing disinfecting and pest control services, employment and
98 labor pool services, home nursing care, janitorial services, appraising,
99 landscape architectural services, security system services, surveying,

100 and real estate services including the listing of homes and managing
101 real property.

102 K. Rendering professional services such as those provided by
103 accountants, architects, attorneys, auctioneers, consultants, engineers,
104 professional athletes, barbers, baseball clubs and other sports
105 organizations, chemists, consultants, psychologists, court reporters,
106 dentists, doctors, detectives, laboratory operators, teachers,
107 veterinarians.

108 L. Meeting with customers or potential customers, even when no sales
109 or orders are solicited at the meetings.

110 M. Training or recruiting agents, representatives, independent
111 contractors, brokers or others, domiciled or operating on a job in the
112 City, acting on its behalf, or for customers or potential customers.

113 N. Investigating, resolving, or otherwise assisting in resolving customer
114 complaints.

115 O. In-store stocking or manipulating products or goods, sold to and
116 owned by a customer, regardless of where sale and delivery of the
117 goods took place.

118 P. Delivering goods in vehicles owned, rented, leased, used, or
119 maintained by the person or another acting on its behalf.

120 The City expressly intends that engaging in business include any activity
121 sufficient to establish nexus for purposes of applying the license fee
122 under the law and the constitutions of the United States and the State
123 of Washington. Nexus is presumed to continue as long as the taxpayer
124 benefits from the activity that constituted the original nexus generating
125 contact or subsequent contacts.

126 ~~(e) "Engaging in business" means commencing, conducting or~~
127 ~~continuing in any business within the city, whether or not an office or~~
128 ~~physical location for the business lies within the city. "Engaging in~~
129 ~~business" includes the performance of work or services by contractors,~~
130 ~~consultants, representatives, agents or other persons within the city,~~
131 ~~even though the office location of the contractor, consultant,~~
132 ~~representative, agent or other person is not within the city limits; the~~
133 ~~exercise of corporate or franchise powers, as well as the liquidation of~~
134 ~~a business when the liquidators hold themselves out to the public as~~
135 ~~conducting such business; acting as a solicitor or canvasser; short-term~~
136 ~~and long-term rentals; and furnishing temporary employees and/or~~
137 ~~workers to other businesses. By way of illustration only and without~~
138 ~~being all-inclusive, a business with an office or physical location outside~~
139 ~~the city limits which sells or leases personal property to buyers or~~
140 ~~lessees in the city; accepts or executes a contract to perform~~
141 ~~construction or installation services contracts in the city; solicits sales in~~
142 ~~the city; or renders services to others in the city; is engaged in business~~
143 ~~in this city, irrespective of whether or not such business maintains a~~
144 ~~permanent place of business in the city.~~

145 ~~(d)(e) "Finance and administration director" or "director" means the~~
146 ~~city of Kirkland director of finance and administration or his/her~~
147 ~~designee.~~

148 ~~(e)(f) "Gross receipts" shall have its ordinary meaning and also means~~
149 ~~the value accruing from the business activity within the city or~~
150 ~~conducted from the city including compensation for the rendition of~~
151 ~~services (without any deduction for labor costs or the cost of materials~~
152 ~~used), sale of personal property (without any deduction for the cost of~~
153 ~~property sold), gains or dividends realized, rents, royalties,~~

154 contributions, fees and commissions, all without any deduction for any
155 expense, taxes, or losses.

156 ~~(f)~~(g) "Person" includes individual natural persons, any firm,
157 corporation, association, sole proprietor, club, partnership, trust,
158 receiver, administrator, executor, estate, company, independent
159 contractor, society, any officer, agent, personal representative, any
160 group of individuals acting as a unit, the United States or the state of
161 Washington or any instrumentality thereof, and includes the singular
162 and the plural.

163 ~~(g)~~(h) "City" means the city of Kirkland, Washington.

164 ~~(h)~~(i) "Year" means a calendar year, except where otherwise specified
165 or when permission is obtained from the director to use a different fiscal
166 year.

167 ~~(i)~~(j) "L&I" means the Washington State Department of Labor and
168 Industries.

169 ~~(j)~~(k) "Place of business" or "office" includes, but is not limited to, the
170 following: maintaining, occupying, or using a permanent building or
171 facility, premises or other fixed location as an office or location for
172 conducting business; residential units used for short-term or long-term
173 rentals or leases, or a location where the regular business of the person
174 is conducted and which is either owned by the person or over which the
175 person exercises legal dominion and control; or a location which
176 includes a business sign, mailing address, and permanent phone. A
177 vehicle such as a pickup, van, truck, boat or other motor vehicle will not
178 be considered a place of business for purposes of this chapter.

179 ~~(k)~~(l) "Casual or isolated sale" means a sale made by a person who is
180 not engaged in the business of selling the type of property involved.
181 Persons who hold themselves out to the public as making sales at retail
182 or wholesale are deemed to be engaged in business, and sales made by
183 them of the type of property which they hold themselves out as selling
184 are not casual or isolated sales even though such sales are not made
185 frequently.

186 ~~(l)~~(m) "Employee" means and includes each of the following persons
187 who are not required by the city to have his/her/its own separate city
188 of Kirkland business license:

189 (1) Any person who is on the business's payroll, and includes all full-
190 time, part-time, and temporary employees or workers; and

191 (2) Self-employed persons, sole proprietors, owners, managers, and
192 partners; and

193 (3) Any other person who performs work, services or labor at the
194 business, including an independent contractor who is not required to
195 have a separate city of Kirkland business license.

196 ~~(m)~~(n) "Contractor" means any person who, in the capacity of an
197 independent contractor, contracts with any business, property owner or
198 person to perform a particular job or jobs, whether the remuneration
199 received for performing the job or jobs is on a cost-plus basis, a flat sum
200 basis or a salary computed at so much per hour.

201 ~~(n)~~(o) "Subcontractor" means any person who in the capacity of an
202 independent contractor contracts with any contractor to perform a
203 particular trade or job, whether the remuneration received for
204 performing the job or jobs is on a cost-plus basis, a flat sum basis, or a
205 salary basis computed at so much per hour.

206 ~~(o)~~(p) "Residential unit" means either a detached dwelling unit or an
 207 attached or stacked dwelling unit, as those terms are defined in the
 208 city's Zoning Code.

209 ~~(p)~~(q) "Short-term rental" means the rental of a residential unit for
 210 less than thirty days. A short-term rental is not a bed and breakfast
 211 house or home occupation as defined in the Zoning Code for purposes
 212 of this chapter.

213 ~~(q)~~(r) "Long-term rental" means the rental or lease of a residential
 214 unit for a period of thirty days or more. A long-term rental is not a bed
 215 and breakfast house or home occupation as defined in the Zoning Code.

216
 217 Section 3. Kirkland Municipal Code Section 7.02.040 is amended
 218 to read as follows.

219
 220 **7.02.040 Business license required.**

221 (a) It is unlawful to engage in any business within the city without
 222 first having obtained a business license ("license") from the city and
 223 being the holder of a currently valid license to engage in such business
 224 or activity.

225 (b) If a business is conducted from more than one premises in the
 226 city a separate registration and license shall be required for each
 227 premises within the city.

228 (c) If more than one business, as indicted with a separate UBI
 229 number, is conducted upon or from a single premises a separate
 230 registration and license shall be required for each separate business
 231 conducted, operated, engaged in or practiced.

232 (d) Persons or companies doing business in Kirkland must comply with
 233 this chapter regardless of the physical location of the business (i.e.,
 234 whether inside or outside Kirkland city limits).

235 (e) Limited Exemption from Multiple License Requirements. A
 236 business which holds a currently valid city of Kirkland general business
 237 license need not obtain an additional business license to conduct
 238 business at a second location so long as the second location is not
 239 rented, leased, subleased or owned by such business.

240
 241 Section 4. Kirkland Municipal Code Section 7.02.060 is amended
 242 to read as follows.

243
 244 **7.02.060 No license required in certain circumstances.**

245 (a) Employees. The requirement for a separate business license shall
 246 not apply to a person in respect to the person's employment in the
 247 capacity as an employee, as distinguished from, for example, that of an
 248 independent contractor. For purposes of this section, it shall be
 249 presumed that a person is not an employee of a business unless that
 250 business makes contributions to the state Employment Security
 251 Department on behalf of such person. The fact that the business makes
 252 industrial insurance contributions on behalf of such worker will not rebut
 253 this presumption.

254 (b) Farmers. No license or registration fee will be required for any
 255 farmer, gardener, or other person to sell, deliver, or peddle any fruits,
 256 vegetables, berries, eggs, or any farm produce or edibles raised,
 257 gathered, produced, or manufactured by such person; provided, that
 258 this exemption does not apply to any dairy product, meat, poultry, eel,

259 fish, mollusk, or shellfish (except as otherwise provided with regard to
 260 wild-caught salmon and crab under RCW 36.71.090).

261 (c) Real Estate Agents. For the purposes of this chapter, "real estate
 262 agent" means a person who is licensed under Chapter 18.85 RCW and
 263 whose license is being retained by a broker licensed as a broker under
 264 Chapter 18.85 RCW ("designated broker"). Due to the unique legal
 265 controls placed upon the real estate agent/broker relationship, a real
 266 estate agent whose license is retained by a designated broker holding a
 267 currently valid city of Kirkland business license is not required to have
 268 his/her own separate business license if all of the following are true:

269 (1) The real estate agent engages in no business in Kirkland other
 270 than the work with the designated broker; and

271 (2) The designated broker notifies the city in writing as part of each
 272 year's business license renewal of the name of each real estate agent
 273 that the city should consider to be the equivalent of an employee of the
 274 designated broker for the purposes of this chapter; and

275 (3) The designated broker includes the real estate agent in counting
 276 the number of employees to determine the revenue generating
 277 regulatory license fee (RGRL) to be paid for the designated broker's
 278 business license and includes the real estate agent's gross receipts in
 279 calculating the designated broker's gross receipts for the purposes of
 280 this chapter.

281 (d) If a person, or its employee, agent, representative, independent
 282 contractor, broker or another acting on the person's behalf, engages in
 283 no other activities in or with the City but the following, it need not
 284 register and obtain a business license.

285 (1) Meeting with suppliers of goods and services as a customer.
 286 (2) Meeting with government representatives in their official capacity,
 287 other than those performing contracting or purchasing functions.
 288 (3) Attending meetings, such as board meetings, retreats, seminars, and
 289 conferences, or other meetings wherein the person does not provide
 290 training in connection with tangible personal property sold by the person
 291 or on its behalf. This provision does not apply to any board of director
 292 member or attendee engaging in business such as a member of a board
 293 of directors who attends a board meeting.

294 (4) Renting tangible or intangible property as a customer when the
 295 property is not used in the City.

296 (5) Attending, but not participating in a "trade show" or "multiple vendor
 297 events". Persons participating at a trade show shall review the City's
 298 trade show or multiple vendor event ordinances.

299 (6) Conducting advertising through the mail.

300 (7) Soliciting sales by phone from a location outside the City.

301 (e) A seller located outside the City merely delivering goods into the City
 302 by means of common carrier is not required to register and obtain a
 303 business license, provided that it engages in no other business activities
 304 in the City. Such activities do not include those in subsection (d).

305 ~~(d)(f)~~ No license is required if a person engages in no activities within
 306 the city but the following:

307 ~~(1)~~—Mere delivery of goods;

308 ~~(2)~~(1) Activities that are within the term and scope of a city special
 309 event permit, pursuant to Chapter 19.24 or a community program
 310 activity as defined in Section 19.24.010 (e.g., vendors at a temporary
 311 booth who are included under an entity's special event or community

312 program permit, consistent with the term and activity for which the
 313 permit was issued);
 314 ~~(3)(2)~~ Activities that are within the term and scope of a city-operated
 315 and city-managed parks event that would otherwise be exempt if they
 316 were conducted pursuant to a special events permit;
 317 ~~(4)~~ Meeting with suppliers of goods and services as a customer;
 318 ~~(5)(3)~~ Attending meetings where the person does not provide training
 319 for a fee;
 320 ~~(6)~~ Renting personal property as a customer when the property is not
 321 used in the city;
 322 ~~(7)(4)~~ Sale of one's own residence;
 323 ~~(8)(5)~~ Employing a household employee or being a customer of a
 324 domestic worker (e.g., babysitters, nannies, health aides, maids, or yard
 325 workers); or
 326 ~~(9)(6)~~ Casual and isolated sales.
 327 ~~(e)(g)~~ No license or registration fee will be required for any judge or
 328 court commissioner of the Kirkland municipal court or for any person
 329 filing a judicial or hearing examiner position for the city of Kirkland.
 330 (h) Any person or business whose annual value of products, gross
 331 proceeds of sales, or gross income of the business in the city is equal to
 332 or less than \$12,000 and who does not maintain a place of business
 333 within the city, shall be exempt from the general business license
 334 requirements in this chapter. This exemption does not apply to
 335 regulatory license requirements or activities that require a specialized
 336 permit.

337
 338 Section 5. Kirkland Municipal Code Section 7.02.070 is amended
 339 to read as follows.

340
 341 **7.02.070 Presumptions.**

342 The following presumptions shall be made in interpreting and applying
 343 this chapter, unless rebutted as provided in this chapter:

- 344 (a) It shall be presumed that an entity that has been issued a Unified
 345 Business Identifier Number ("UBI") by the state of Washington is a
 346 separate business that is required to have its own city of Kirkland
 347 business license.
 348 (b) It shall be presumed that an entity that has been issued a state
 349 industrial insurance account number, a state self-insurer number, or a
 350 state revenue tax reporting account number is a separate business that
 351 is required to have its own city of Kirkland business license.
 352 (c) It shall be presumed that average annual gross receipts of an
 353 entity are at least twenty thousand dollars per each employee who
 354 works for the entity in Kirkland except in the instances of short-term
 355 rentals and long-term rentals and leases of residential units. This
 356 presumption does not apply to businesses with one or fewer FTE's with
 357 gross receipts under \$12,000.
 358 (d) It shall be presumed that an owner, manager, and/or managing
 359 partner of a business that is more than sixty days late in paying any
 360 amount due under this chapter is willfully, knowingly and intentionally
 361 evading his or her legal duties under this chapter.

362
 363 Section 6. Kirkland Municipal Code Section 7.02.100 is amended
 364 to read as follows.

365 **7.02.100 Application for license.**

366 (a) Formal Application Required. Every person required to have a
 367 license must submit a business license application to the Business
 368 Licensing Service. The application must include all information required
 369 for each license requested and full fees due, including the handling fee
 370 required by RCW 19.02.075. The Business Licensing Service will ensure
 371 the application is complete before transmitting the information and
 372 appropriate fees to the city for review prior to issuance of a license.

373 ~~(a) Formal Application Required. Every person required to have a~~
 374 ~~license shall submit the city's application for business license form to the~~
 375 ~~finance and administration department. At the same time, the applicant~~
 376 ~~should deposit with the finance and administration department the total~~
 377 ~~amount due for the annual license. Alternatively, the applicant may~~
 378 ~~request city assistance in determining the amount due. An application~~
 379 ~~will not be considered complete until the city receives the total amount~~
 380 ~~due for the annual license.~~

381 (b) The application must include the address of the business; the
 382 name and address of the owner; an emergency notification name, and
 383 phone number; the nature of business conducted; the number of
 384 employees; and other information as may be requested by the director
 385 or required by the Business Licensing Service to complete processing of
 386 the application.

387 ~~(b) The applicant shall state the address or addresses of the business~~
 388 ~~or proposed business or businesses; the name and address of the owner~~
 389 ~~or applicant; an emergency notification name, phone number and~~
 390 ~~address; the type of business; the number of employees; and other~~
 391 ~~information as requested by the director.~~

392 ~~(c) If the applicant is a partnership, the application must be made by~~
 393 ~~one of the partners; if a corporation, by one of the officers thereof; if a~~
 394 ~~foreign corporation, partnership or nonresident individual, by the~~
 395 ~~resident agent or local manager of the corporation, partnership or~~
 396 ~~individual.~~

397 ~~(d)~~(c) Commencement of Business Activities. No person shall be
 398 entitled or authorized to engage in business within the city until such
 399 time as the director has approved the issuance of a business license
 400 pursuant to the terms of this chapter. The issuance of a receipt for the
 401 amount deposited with the application and/or the acceptance of a
 402 business license application by the city shall not be deemed to grant any
 403 right or privilege under this chapter, except as otherwise provided by
 404 law.

405 ~~(e) Burden on Applicant. The director is authorized, but not required,~~
 406 ~~to mail to persons engaging in business forms for applications for~~
 407 ~~licenses, but failure of the person to receive any such form shall not~~
 408 ~~excuse the person from making application for and obtaining the license~~
 409 ~~required by this chapter.~~

410
 411 Section 7. Kirkland Municipal Code Section 7.02.110 is amended
 412 to read as follows.

413 **7.02.110 Review of application.**

414 (a) The director, upon receipt of an applicant's information, shall cause
 415 an investigation and review of the application to be made by the proper
 416 city officials, and shall approve or deny issuance of the license within
 417 thirty days after.

418 ~~(a) The director, upon receipt of an application form, shall cause an~~
 419 ~~investigation and review of the application to be made by the proper~~
 420 ~~city officials, and shall issue or deny issuance of the license within thirty~~
 421 ~~days after the city receives a complete application.~~

422 (b) The proposed use of premises shall not be in violation of any city
 423 building, safety, fire, health or land use regulations as determined by
 424 the city department charged with the enforcement of said regulations.

425 (c) If a person required by the terms and provisions of this chapter to
 426 pay a license fee for any period fails or refuses to do so, he/she/it shall
 427 not be granted a license for the current period until the delinquent
 428 license fee, together with penalties, has been paid in full. Neither the
 429 applicant nor the proposed business shall be in default under the
 430 provisions of this chapter or indebted or obligated in any manner to the
 431 city, except for current taxes and other obligations not past due.

432 (d) Qualifications of Applicants. The director may deny issuance (or
 433 renewal) of a business license or permit when the licensee, officer or
 434 partner thereof, or another person with a legal interest in the license:

435 (1) Knowingly causes, aids, abets, or conspires with another to cause
 436 any person to violate any of the laws or regulations of this state or the
 437 city which may affect or relate to the licensed business;

438 (2) Has obtained a license or permit by fraud, misrepresentation,
 439 concealment, or through inadvertence or mistake;

440 (3) Is convicted of, forfeits bond upon, or pleads guilty to any offenses
 441 related to the operation of the licensed business or had a license
 442 revoked or suspended by the city or another jurisdiction;

443 (4) Makes a misrepresentation or fails to disclose a material fact to
 444 the city related to any of the obligations set forth in this chapter;

445 (5) Violates any building, safety, fire or health regulation on the
 446 premises in which the business is located after receiving warning from
 447 the city to refrain from such violations; or

448 (6) Is in violation of a zoning regulation or any other regulation of the
 449 city.

450 (e) If an application is denied, any person aggrieved may request
 451 director review as provided in this chapter.

452
 453 Section 8. Kirkland Municipal Code Section 7.02.160 is amended
 454 to read as follows.

455
 456 **7.02.160 Revenue generating regulatory license fee (RGRL).**

457 (a) General. In addition to the basic license fee, the highest applicable
 458 RGRL in this section shall be paid for the annual license issued under
 459 this chapter.

460 (1) A business with less than twelve thousand dollars of average
 461 annual gross receipts shall be exempt from any RGRL.

462 (2) A business located within the city limits of Kirkland with ten or
 463 fewer employees or FTEs shall be exempt from the RGRL for the first
 464 year of business operation only. Businesses exempt from the RGRL
 465 under this subsection shall still be required to pay the basic license fee

466 under Section 7.02.120 and register the number of employees and FTEs
467 under this chapter.

468 (3) For the purposes of this section and in determining the applicable
469 RGRL, the term "employee" means and includes each of the following
470 persons who are not required by the city to have his/her/its own
471 separate city of Kirkland business license:

472 (A) Any person who is on the business's payroll, and includes all full-
473 time, part-time, and temporary employees or workers; and

474 (B) Self-employed persons, sole proprietors, owners, managers, and
475 partners; and

476 (C) Any other person who performs work, services or labor at the
477 business, including an independent contractor who is not required to
478 have a separate city of Kirkland business license.

479 (4) An entity that is entirely exempt from paying the basic license fee
480 shall be exempt from any RGRL.

481 (5) An entity with some activities or functions that are exempt from
482 the basic license fee and some that are not exempt shall pay an RGRL
483 based on the number of its employees that are involved in the functions
484 or activities that are not exempt.

485 (b) Amount of RGRL.

486 (1) Revenue Generating Regulatory License (RGRL) Fee Method.
487 Except as otherwise provided by this chapter, every person engaging in
488 business within the city shall pay an RGRL based upon the number of
489 employee hours worked in Kirkland during the previous year. Annual
490 employee hours are calculated based on the sum of the four quarterly
491 reports submitted to the Washington State Department of Labor and
492 Industries for the previous year. It will be the responsibility of the
493 employer to determine the number of hours worked within the city from
494 these reports. Businesses that did not file quarterly reports with the
495 Washington State Department of Labor and Industries shall determine
496 the number of hours worked within the city and demonstrate, if
497 required, to the satisfaction of the finance and administration director
498 or his/her authorized agent, that the number of employee hours worked
499 is correct.

500 (2) The annual license fee (base fee and RGRL) shall be calculated by
501 adding the base fee of one hundred dollars per business license to the
502 full-time-equivalent employees that worked in Kirkland multiplied by one
503 hundred and five dollars. The approved tax rate per full-time employee
504 is \$0.054688 (which represents a RGRL multiplier of \$0.054688 per
505 employee hour worked), as may be adjusted herein. Employers without
506 a full year history would need to estimate the number of employee hours
507 that will be worked in the current calendar year.

508 (3) If a business has more than one location in Kirkland, the annual
509 business license fee calculation must include a base fee for each location
510 and the RGRL for annual employee hours at all locations.

511 (c) Alternative FTE Method. A business may choose to calculate its
512 annual license fee by adding the one-hundred-dollar base fee to the
513 RGRL based on multiplying one hundred and five dollars by the number
514 of its employees. The number of employees shall be based on the sum
515 of the employees in the four quarterly reports submitted to the
516 Washington State Department of Labor and Industries for the previous
517 year divided by four. It will be the responsibility of the employer to
518 determine the number of employees working within the city from these
519 reports. Businesses that did not file quarterly reports with the

520 Washington State Department of Labor and Industries shall determine
521 the number of employees working in the city and demonstrate, if
522 required, to the satisfaction of the finance and administration director
523 or his/her authorized agent, that the number of employees is correct.
524 Employers without a full year history would need to estimate the number
525 of employees that will work in the city for the current calendar year.

526 (1) Once the FTE methodology has been selected, it must be used for
527 future renewals.

528 (2) Businesses with more than one location must use the same
529 method of calculation for all locations.

530 (3) For businesses with employees who work less than one thousand,
531 nine hundred twenty hours per year (the work hour figure used by the
532 Washington Department of Labor and Industries) the total number of
533 hours worked by all such employees during the four quarters of the
534 previous year shall be added together and divided by one thousand,
535 nine hundred twenty to determine the FTE equivalency.

536 (4) It will be the responsibility of the business to determine the total
537 number of FTEs (or equivalency) and demonstrate, if required, to the
538 satisfaction of the finance and administration director or his/her
539 authorized agent that the calculation is accurate.

540 (d) The license fee for a business required to be licensed under this
541 chapter and not located within the city's corporate limits shall be
542 calculated by adding the one-hundred-dollar base fee and the RGRL
543 based upon the number of employee hours worked within the city, but
544 in no event shall the license fee be less than the minimum fee set forth
545 in this chapter. If the number of employee hours worked is not known
546 at the time of renewal, the business shall estimate the maximum
547 number of employee hours they anticipate using in Kirkland during the
548 year.

549 (e) Businesses doing business in the city that have no employees
550 physically working within the city shall pay the minimum license fee
551 required under this chapter.

552 (f) The minimum fee for any license issued under this chapter shall
553 be two hundred and five dollars (a base fee of one hundred dollars and
554 an RGRL of one hundred and five dollars), as may be adjusted herein.

555 (g) Payment made by draft or check shall not be deemed a payment
556 of the fee unless and until the same has been honored in the usual
557 course of business, nor shall acceptance of any such check or draft
558 operate as a quittance or discharge of the fee unless and until the check
559 or draft is honored. The Business Licensing Service will address any
560 dishonored payment submitted through its processes. Any person who
561 submits a business license fee payment by check directly to the city
562 pursuant to the provisions of this chapter shall be assessed an NSF fee
563 set by the finance and administration director if the check is returned
564 unpaid by a bank or other financial institution for insufficient funds in
565 the account or for any other reason.

566 (h) If any person required by the terms and provisions of this chapter
567 to pay a license fee for any period fails or refuses to do so, he or she
568 shall not be granted a license for the current period until the delinquent
569 license fee, together with penalties, has been paid in full. Any license
570 fee due and unpaid under this chapter and any penalties thereon shall
571 constitute a debt to the city and may be collected in court proceedings
572 in the same manner as any other debt in like amount, which remedy
573 shall be in addition to all other existing remedies.

574 (i) If no higher RGRL applies under this section, then the minimum
575 RGRL shall be one hundred and five dollars.

576
577 Section 9. Kirkland Municipal Code Section 7.02.180 is amended
578 to read as follows.

579
580 **7.02.180 License period, renewal and terms.**

581 (a) A business license will expire on the date established by the
582 Business Licensing Service, and must be renewed on or before that date.
583 The term and respective fee of the license may be prorated to
584 synchronize the expiration date with the date established by the
585 Business Licensing Service.

586 ~~(a) A business license will expire on the last day of the twelfth month~~
587 ~~after it is issued ("license year"). Each licensee shall be responsible for~~
588 ~~renewal of the license for each license year. A business shall submit its~~
589 ~~application for renewal at least fifteen calendar days prior to the~~
590 ~~expiration of its license.~~

591 (b) Display of License. A license granted under this chapter shall be
592 posted in a conspicuous place in the place of business of the licensee.
593 No person shall allow any license to be posted, displayed, or used after
594 its expiration, suspension, or revocation, or if it is not a valid license for
595 the premises where displayed.

596 (c) A business licensee's account information is governed by RCW
597 19.02.115 concerning its disclosure.

598 ~~(c) The business name, address and application form of each licensed~~
599 ~~business is for the purposes of Chapter 42.17 RCW a public record,~~
600 ~~subject to request for public record disclosure.~~

601 (d) Change of Location. A licensee must notify the Business Licensing
602 Service of a change in location. The change may require reapplication
603 for a new license, and approval by the city before commencing business
604 at the new location, as provided for in this chapter.

605 ~~(d) Change of Location. A licensee must notify the city of a change in~~
606 ~~location and obtain a new business license unless the city will issue a~~
607 ~~replacement license. The replacement license will be issued free of~~
608 ~~charge if the licensee demonstrates, to the satisfaction of the director,~~
609 ~~that the business can be legally conducted at the new location and that~~
610 ~~no changes are being made other than that the existing business is~~
611 ~~moving to the new location.~~

612 (e) Payment made by draft or check shall not be deemed a payment
613 of the fee unless and until the same has been honored in the usual
614 course of business, nor shall acceptance of any such check or draft
615 operate as a quittance or discharge of the amounts due unless and until
616 the check or draft is honored.

617
618 Section 10. Kirkland Municipal Code Section 7.02.190 is
619 amended to read as follows.

620
621 **7.02.190 Penalty for late payment.**

622 (a) A business that fails to renew its license by the expiration date will
623 be assessed the late renewal penalty authorized by RCW 19.02.085.

624 (a) A business that fails to renew its license on time shall pay a penalty
 625 in addition to the amount charged for the annual license as follows:
 626 (1) Up to twenty-nine days late, a penalty of twenty-five dollars or ten
 627 percent of the amount for the license, whichever is greater;
 628 (2) Between thirty and fifty-nine days late, a penalty of fifty dollars or
 629 fifty percent of the amount for the license, whichever is greater;
 630 (3) Sixty or more days late, a penalty of one hundred dollars or one
 631 hundred percent of the amount for the license, whichever is greater;
 632 (4) The director is authorized, but not obligated, to waive all or a
 633 portion of the penalties provided herein in the event that the director
 634 determines that the late payment was the result of excusable neglect or
 635 extreme hardship.

636 (b) A business license that remains delinquent for at least 120 days
 637 after the expiration date will be cancelled. After cancellation, a business
 638 must reapply for a business license as provided in this chapter in order
 639 to continue business in the city.

640 (c)(b) Late Application. A business that fails to obtain a license before
 641 first commencing business in Kirkland shall pay a penalty directly to the
 642 city according to the schedule in this subsection (a) of this section. The
 643 penalty is in addition to the amount charged for the annual license for
 644 all years the business has been in operation or to the greatest extent
 645 allowed by law; provided, that the number of days late shall mean the
 646 number of days between the commencement of business and the date
 647 the city receives a complete application.

648 (1) Up to twenty-nine days late, a penalty of twenty-five dollars or ten
 649 percent of the amount for the license, whichever is greater;
 650 (2) Between thirty and fifty-nine days late, a penalty of fifty dollars or
 651 fifty percent of the amount for the license, whichever is greater;
 652 (3) Sixty or more days late, a penalty of one hundred dollars or one
 653 hundred percent of the amount for the license, whichever is greater;
 654 (4) The director is authorized, but not obligated, to waive all or a
 655 portion of the penalties provided herein in the event that the director
 656 determines that the late payment was the result of excusable neglect or
 657 extreme hardship.

658
 659 Section 11. Kirkland Municipal Code Section 7.02.200 is
 660 amended to read as follows.

661
 662 **7.02.200 Debt owed to city.**

663 (a) Any amount due and unpaid under this chapter and any city-
 664 assessed penalty thereon shall constitute a debt to the city and may be
 665 collected in the same manner as any other debt, including through code
 666 enforcement and court proceedings, and these remedies shall be in
 667 addition to all other existing remedies. Interest shall accrue on amounts
 668 owed to the city under this chapter at the same rate as provided for
 669 superior court judgments.

670 (b) Issuance of a business license does not forgive amounts owed to
 671 the city or penalties thereon.

672 Section 12. Kirkland Municipal Code Section 7.02.210 is
673 amended to read as follows.

674
675 **7.02.210 Transfer or sale of business—New license required.**
676 A city business license is personal to the licensee and is nontransferable
677 ~~except as provided in this chapter.~~ Upon the sale or transfer of a
678 business, the license issued to the prior owner or transferor shall
679 automatically expire on the date of such sale or transfer. The new owner
680 must obtain a new business license. ~~; provided, that the director may~~
681 ~~waive the provisions of this section if the business demonstrates, to the~~
682 ~~satisfaction of the director, that the change in the entity is not a change~~
683 ~~in ownership~~

684
685 Section 13. Kirkland Municipal Code Section 7.08.020 is
686 amended to read as follows.

687
688 **7.08.020 Permit and license required.**
689 No person, firm or corporation shall operate, or cause to be operated,
690 any ambulance in the city without first securing current, valid licenses
691 as required by RCW Chapter 18.73. This licensing requirement is in
692 addition to any city business licensing that may be required under
693 Chapter 7.02 KMC.

694
695 Section 14. Kirkland Municipal Code Section 7.12.020 is
696 amended to read as follows.

697
698 **7.12.020 License fees.**
699 The licenses and respective fees provided for in this chapter are all in
700 addition to any business license and business license fees that may be
701 required under Chapter 7.02 KMC.

702 (a) Amusement Devices. Any distributor, owner or operator of an
703 amusement device shall pay a license fee of fifty dollars per machine
704 per year, payable annually in advance to the director of finance and
705 administration. ~~at the time of issuance or renewal of the distributor's,~~
706 ~~owner's or operator's business license.~~

707 (b) Every distributor, owner or operator of cigarette vending machines
708 doing business as such within the city shall pay an annual license fee in
709 the sum of fifty dollars for a master license payable annually in advance
710 to the director of finance and administration. Also, any distributor,
711 owner, operator or user of such cigarette vending machines shall pay
712 an additional sum of ten dollars per machine per year, payable annually
713 in advance to the director of finance and administration. ~~Payment shall~~
714 ~~be made at the time of issuance or renewal of the distributor's, owner's~~
715 ~~or operator's business license.~~

716 It is further required that each cigarette vending machine in the city
717 shall be equipped with an electric lock or device to be operated by the
718 owner and/or employees only.

719 (c) Juke Box or Record Player.
720 (1) Every "distributor" (as defined in Section 7.12.010(c)) shall pay to
721 the city an annual master license fee of one hundred dollars per year

722 payable in advance; ~~at the time of issuance or renewal of the~~
 723 ~~distributor's, owner's or operator's business license.~~

724 (2) Every "operator" (as defined in Section 7.12.010(e)) shall pay to
 725 the city an annual machine license fee of twenty-five dollars per machine
 726 per year payable in advance; ~~at the time of issuance or renewal of the~~
 727 ~~distributor's, owner's or operator's business license.~~

728 (3) Every "owner and operator" (as defined in Section 7.12.010(f))
 729 shall pay to the city an annual machine license fee of twenty-five dollars
 730 per year, in advance ~~at the time of issuance or renewal of the~~
 731 ~~distributor's, owner's or operator's business license.~~

732
 733 Section 15. Kirkland Municipal Code Section 7.12.050 is
 734 amended to read as follows.

735
 736 **7.12.050 Terms and rates of licenses.**

737 Licenses ~~and fees issued required~~ under this chapter shall be applied for
 738 with, and issued directly by the finance director, as a regulatory process
 739 separate from the city business license that is handled through the
 740 Business Licensing Service with the applicant's business license and shall
 741 renew and expire at the same time as the applicant's business license.
 742 In the event an applicant for a license under this chapter already has a
 743 city business license, the initial term of the license under this chapter
 744 shall expire at the same time as the business license expires, as
 745 established by the Business Licensing Service.

746
 747 Section 16. Kirkland Municipal Code Section 7.16.010 is
 748 amended to read as follows.

749
 750 **7.16.010 Closing out sale license required.**

751 It is unlawful for any person to advertise or conduct any auction, sales
 752 of distressed goods, removal or closing out sale without first filing with
 753 the city clerk the inventory hereinafter provided for and obtaining from
 754 him a license for such sale or auction, to be known as a "closing out sale
 755 license." This license is in addition to a city business license that may be
 756 required under Chapter 7.02 KMC.

757
 758 Section 17. Kirkland Municipal Code Section 7.20.020 is
 759 amended to read as follows.

760
 761 **7.20.020 License required.**

762 It is unlawful for any person to conduct, manage or operate a cabaret
 763 unless such person is the holder of a valid and current license from the
 764 city to do so, obtained as provided in this chapter. The cabaret license
 765 and other licenses provided for in this chapter are all in addition to a
 766 business license that may be required under Chapter 7.02 KMC.

767
 768 Section 18. Kirkland Municipal Code Section 7.20.070 is
 769 amended to read as follows.

770
 771 **7.20.070 License issuance.**

772 Application for, along with payment of fees for the Cabaret licenses
 773 provided for in this chapter shall be made to, and issued directly by the
 774 city, separate from the business license process under Chapter 7.02

775 KMC administered through the Business Licensing Service, with the
 776 applicant's business license and shall renew and expire at the same time
 777 as the applicant's business license. In the event an applicant for a
 778 cabaret license already has a city business license, the initial term of the
 779 cabaret license shall expire at the same time as the business license as
 780 established by the Business Licensing Service.

781
 782 Section 19. Kirkland Municipal Code Section 7.26.020 is
 783 amended to read as follows.

784
 785 **7.26.020 License required.**

786 The licenses and related fees required by this chapter are in addition to
 787 a business license that may be required under Chapter 7.02 KMC.

788 (a) It is unlawful for any person to conduct, manage or operate an
 789 erotic performance establishment unless such person is the holder of a
 790 valid and subsisting license from the city to do so, obtained in the
 791 manner provided in this chapter.

792 (b) It is unlawful for any performer, employee or manager to
 793 knowingly work in or about, or to knowingly perform any service or
 794 entertainment directly related to the operation of an unlicensed erotic
 795 performance establishment.

796 (c) It is unlawful for any manager to work in an erotic performance
 797 establishment unless such person is the holder of a valid and subsisting
 798 license from the city to do so.

799
 800 Section 20. Kirkland Municipal Code Section 7.32.040 is
 801 amended to read as follows.

802
 803 **7.32.040 Massage parlor or public bathhouse—License**
 804 **required—Fee.**

805 (a) It is unlawful to conduct, operate or maintain a massage parlor or
 806 public bathhouse unless such establishment or premises is licensed by
 807 the city. The licenses and related fees required by this chapter is in
 808 addition to the business license that may be required under Chapter
 809 7.02 KMC. The application, issuance, renewal, and revocation of such
 810 licenses shall be governed by Sections 7.20.030, 7.20.040 and 7.20.080
 811 of this title.

812 (b) The fee for a massage parlor license or public bathhouse shall be
 813 and is hereby fixed in the sum of seventy-five dollars per year.

814
 815 Section 21. Kirkland Municipal Code Section 7.36.030 is
 816 amended to read as follows.

817
 818 **7.36.030 License required—Application.**

819 Every person, firm or corporation before commencing to carry on, open,
 820 conduct or operate a pawnbroker, secondhand dealer or coin dealer
 821 business shall obtain a license to do so. The licenses and related fees
 822 required by this chapter are in addition to a business license that may
 823 be required under Chapter 7.02.KMC. The issuance of such a license
 824 shall be governed by Sections 7.20.040 and 7.20.080.

825
 826 Section 22. Kirkland Municipal Code Section 7.52.020 is
 827 amended to read as follows.

828 **7.52.020 License—Required.**

829 It is unlawful to conduct, manage, operate or sponsor a celebration as
830 herein defined without first obtaining from the city a valid and subsisting
831 celebration license. The license and fees required by this chapter are in
832 addition to a business license that may be required under Chapter 7.02
833 KMC.

834
835 Section 23. If any provision of this ordinance or its application
836 to any person or circumstance is held invalid, the remainder of the
837 ordinance or the application of the provision to other persons or
838 circumstances is not affected.

839
840 Section 24. This ordinance shall be in force and effect November
841 29, 2018, after its passage by the Kirkland City Council and publication
842 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary
843 form attached to the original of this ordinance and by this reference
844 approved by the City Council.

845
846 Passed by majority vote of the Kirkland City Council in open
847 meeting this 4th day of September, 2018.

848
849 Signed in authentication thereof this 4th day of September, 2018.


Amy Walen, Mayor

Attest:


Kathi Anderson, City Clerk

Published 09/10/18

Approved as to Form:


Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. O-4658

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS LICENSES AND REGULATIONS AND AMENDING TITLE 7 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends the policy and scope of business licenses and regulations.

SECTION 2. Amends the definitions related to business licenses and regulations.

SECTION 3. Amends the requirements of a business license.

SECTION 4. Amends the circumstances when no business license is required.

SECTION 5. Amends the presumptions made for interpreting and applying the Business Licenses and Regulations chapter.

SECTION 6. Amends the application for a business license.

SECTION 7. Amends the review process for a business license.

SECTION 8. Amends the process of dishonored payments in the payment of the revenue generating regulatory license fee.

SECTION 9. Amends the license period, renewal and terms for a business license.

SECTION 10. Amends the penalty for late payment for a business license.

SECTION 11. Amends collection of any unpaid debt owed to the city for a business license fee.

SECTION 12. Clarifies that a new business license is required upon the transfer or sale of a business.

SECTION 13. Amends the permit and license requirements for the operation of an ambulance in the City.

SECTION 14. Amends the licensing and respective fees related to amusement devices.

SECTION 15. Amends the terms and rates of licenses related to amusement devices.

SECTION 16. Amends licensing requirements for a closing out sale.

SECTION 17. Amends licensing requirements for cabarets.

SECTION 18. Amends the conditions for issuance of a cabaret license.

SECTION 19. Amends license requirements for erotic performance establishments.

SECTION 20. Amends the license requirements and fees for massage parlors and public bathhouses.

SECTION 21. Amends the application and licensing requirements for pawnbrokers and secondhand dealers.

SECTION 22. Amends the license requirements for a celebration license.

SECTION 23. Provides a severability clause for the ordinance.

SECTION 24. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as November 29, 2018, after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 4th day of September, 2018.

I certify that the foregoing is a summary of Ordinance O-4658 approved by the Kirkland City Council for summary publication.



Kathi Anderson, City Clerk

Publication Date 09/10/18