

ORDINANCE O-3293

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE BUSINESS IMPROVEMENT AREA CREATED BY ORDINANCE NO. 3128, ESTABLISHING THE RATES OF ASSESSMENT FOR ALL BENEFIT ASSESSMENT SUB-AREAS, LEVYING ASSESSMENTS FOR THE YEAR 1992 AND AMENDING SECTIONS 2 AND 3 OF ORDINANCE NO. 3128.

WHEREAS, the Kirkland Downtown Association contract administrator for the Business Improvement Area has recommended to the City Council certain adjustments and modifications to the rates for annual assessment within each benefit sub-area and the schedule for payments of same; and

WHEREAS, the Kirkland City Council on October 1, 1991 adopted Resolution No. R-3700 a Resolution declaring the intention of the City Council to consider said recommendation for adoption and establishing a date for public hearing on the proposed adjustments and modifications and amendments all as authorized by RCW 35.87A; and

WHEREAS, by Resolution No. R-3700 the City Council established November 5, 1991 as the date for said public hearing and notice thereof was given in the manner required by RCW 35.87A; and

WHEREAS, the City Council held such hearing at its regular council meeting of November 5, 1991; now, therefore

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. Section 2 of Ordinance No. 3128 is hereby amended to read as follows:

Section 2. Proposed Uses, Programs and Projects: The uses, programs and projects shall be those authorized by RCW 35.87A including decoration, beautification and other similar amenities of public places or areas; maintenance and cleaning of public areas; provision of security in common public areas; advertising and promotion of the area as a place to visit, shop and conduct business including implementation of tourist strategies and general trade promotional programs; a "METRO" approved transit or similar program designed [~~and-authorized-local-non-rail,~~

trolley-or-bus] to operate within or adjacent to the several areas of the Business Improvement Area; and to provide for professional management, planning or promotion for the area with respect to said proposed uses, programs and projects.

[1991-Budget:

1.---	Estimated-revenues	
	1991-assessments+-----	\$247,000
	1991-&-prior-year	
	assessments+-----	100,000
	Recovered-collection	
	costs+-----	74,400
	Total-estimated	
	assessments+-----	421,400
2.---	Expenditures	
A.---	Administration	
	expenses	
	1.---	
	City-admin-	
	expenses+-----	9,000
	2.---	
	Collection	
	expenses+-----	99,190
	3.---	
	Reserve-for	
	non-payment	
	of-assessments+-----	124,610
	4.---	
	Program-admin-	
	overhead-&	
	expenses-(KDA)+-----	55,850
B.---	Program-expenses+	
	1.---	
	Amenity-Programs	
	for-public-places+-----	35,400
	2.---	
	General-trade-&	
	marketing-promo-	
	tion-activities+-----	40,000
	3.---	
	Local-trolley	
	program+-----	42,350
	4.---	
	Program-contin-	
	gency-fund+-----	10,000
	5.---	
	Economic	
	Development+-----	5,000
	Total-Expenditures-----	\$421,400]

The annual budget for estimated cost or expenditures from the BIA fund for BIA administration, collection of assessments and program administration management, planning and operation shall be included each year within the overall annual City of Kirkland budget.

Section 2. Section 3 of Ordinance No. 3128 is hereby amended to read as follows:

Section 3. Assessments. Annual assessments shall be levied against each business within the Business Improvement Area as follows: For the purpose of levying annual assessments against the businesses operating within the Business Improvement Area, said area shall be subdivided into six (6) sub-areas all as described in Attachment A to this Ordinance No. 3231. Businesses shall be classified as either "retail", "retail/service", or "non-retail" as defined in subsection c. below.

Business Improvement Area annual assessments shall be calculated by applying the following rates against the gross floor area square footage of each business in the area: (floor area square footage to be determined from the records of the Kirkland Fire Department).

a. Assessment Rates per Square Foot

<u>Assessment Rate/ Area</u>	<u>Sq. Ft.</u>	<u>Minimum Assessmt.</u>	<u>Maximum Assessmt.</u>
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Area 1

Retail	.45	\$225	\$3,000
Ret.Srvc.	.30	150	3,000
Non-Ret.	.25	125	3,000

Area 2

Retail	.15	\$ 75	\$3,000
Ret.Srvc.	.10	50	3,000
Non-Ret.	.10	50	3,000

Area 3

Retail	.30	\$150	\$3,000
Ret. Srvc.	.10	50	3,000
Non-Ret.	.10	50	3,000

Area 4

Retail	.10	\$ 50	\$3,000
Ret. Srvc.	.10	50	3,000
Non-Ret.	.10	50	3,000

Area 5

Retail	.10	\$ 50	\$3,000
Ret. Srvc.	.10	50	3,000
Non-Ret.	.10	50	3,000

Area 6

Retail	.10	\$ 50	\$3,000
Ret. Srvc.	.10	50	3,000
Non-Ret.	.10	50	3,000

b. Special Provisions for Outdoor Vendors. Outdoor vendors permitted to operate within the Business Improvement Area shall pay the minimum retail assessment prorated for the period of time operation is authorized by street or other outdoor vendors permit, provided that said assessment amount shall be not less than \$50.00. Payment of the annual assessment under this special provision shall be made at the time of application or renewal for Kirkland business license.

For the purposes of this subsection "outdoor vendor" means a business conducted from a "vendor's mobile cart" or other temporary facility located either within a public right-of-way pursuant to City use permit or upon private property with the permission of the occupying owner or tenant.

c. "Retail" as used in this Petition, means those business establishments whose activities fall within either definition set forth in Section 5.10.790 (restaurant or tavern) or Section 5.10.795 (retail establishment), Ordinance 2740, the Zoning Ordinance; provided that the following business establishments shall not be included in "retail" but as "retail/service":

Laundry, Cleaning and Garment Services
 Photographic Studios
 Beauty Shops
 Barber Shops
 Shoe Repair Shops
 Computer and Data Processing Services
 Reupholstery and Furniture Repair Shops
 Locksmiths

All other businesses shall be classified as "non-retail".

d. All organizations which the Internal Revenue Service has determined as charitable organizations and are qualified for charitable contributions under the United States Internal Revenue Code (26 USC 170(c)) shall be exempt from paying BIA assessments.

e. The total annual assessment is estimated to be [~~\$247,000~~]\$185,000.

f. Assessments shall be billed on an annual basis at least thirty (30) days prior to the assessment due date and may at the option of the assessed business be paid in four (4) equal quarterly installments with the first installment due on or before January 10th, the second installment on or before April 10th, the third installment on or before July 10th, the fourth installment due on or before October 10th, in each year, provided that if any quarterly installment is not timely paid, then the entire amount of the annual assessment shall become immediately past due and delinquent. Past due and delinquent assessments shall be subject to interest at the rate of twelve percent (12%) per annum (1% per month) beginning with the month in which the assessment or quarterly assessment installment was originally due. Interest on delinquent assessments shall be compounded annually. All costs or expense incurred by the Business Improvement Area for collection of past due or delinquent assessments or assessment installments, including costs of suit and attorneys fees, shall be added to the amount of the delinquent or past due balance and become an obligation of the assessment payor.

g. A business, except for outdoor vendors, which after January 1, 1991 first commences operation within the Business Improvement Area shall for the calendar year during which it commences business, be assessed on a prorated, quarterly basis with the first quarterly installment due on the 10th day of the first month of the first quarter following the commencement of business within the Business Improvement Area. Any unpaid pro rata assessment shall be past due if not paid within sixty (60) days of said date. In all subsequent years, such business shall be assessed at one hundred percent (100%) of the then current assessment rate.

h. Any business that moves out of the Business Improvement Area or ceases doing business within the Business Improvement Area, whose assessment obligation is not at such time past due or delinquent, may upon written request signed by the business owner, have the balance of the annual assessment payment which has not yet become due, be abated. If such business has prepaid an assessment installment for any quarter which commences following the date of business cessation within the Business

Improvement Area, the owner of such business may request a refund of such prepaid quarterly installment.

i. Disputes. Any assessment payor aggrieved by the amount of an assessment or a delinquency charge may on request obtain a meeting with the Director of Administration and Finance and if not satisfied, the assessment payor may appeal the matter to the City Manager who shall review the information submitted on appeal by both the assessment payor and the Director of Administration and Finance. Any decision of the City Manager shall be in writing and given to both the assessment payor and the Director of Administration and Finance. The decision of the City Manager shall be final.

j. Notices. Notices of assessment, installment payment or delinquency and all other notices contemplated by this Ordinance shall be sent by ordinary mail to the address appearing in the current business license records for the City. Or, if no address appears therein, the notice may be mailed to the address for such business appearing on the records of the Kirkland Fire Department. Failure of the owner of an assessed business to receive any mailed notice shall not release such owner from the duty to pay the assessment or from payment on the due date and any delinquency charge or interest.

k. 1992 BIA Assessment Equalization Credit. In establishing the 1991 assessment levy, including maximum levies for retail businesses within Assessment Areas 1, 2 and 3, the City Council in Ordinance No. 3231 adopted the written recommendations of the Kirkland Downtown Association (KDA); however the Ordinance in establishing the maximum assessment levies within area 1, 2 and 3 differed from the intended maximums. The City Council finds a special one-time equalization credit should be permitted. Such credit against the 1992 assessments shall be determined as follows:

A special one-time equalization credit against the 1992 BIA assessment may be available to certain retail businesses located with Assessment Areas 1, 2 & 3 as follows:

A. Assessment Area 1:

A retail business within Assessment Area 1 whose area square footage for the purposes of the 1991 assessment calculation was 7,500 square feet or more, but less than 10,000 square feet, and whose 1991 BIA assessment has been paid in full shall be entitled, upon written request, to a credit against such retail business' 1992 assessment in an amount calculated according to the following formula:

1. The lesser of \$4,000, or the sum of:

(i) The business area square

plus

(ii) The business area square footage times .1.

2. Subtracted from the amount of the 1991 assessment.

B. Assessment Areas 2 and 3:

Any retail business within BIA Assessment Areas 2 or 3 whose business area square footage for the purposes of the 1991 BIA assessment calculation was more than 5,000 square feet and less than 25,000 square feet, and who has paid said 1991 BIA assessment in full, shall be entitled, upon written request, to a credit against such retail business' 1992 BIA assessment in an amount calculated in accordance with the following formula:

1. The lesser of \$4,000, or the sum of:

(i) The business area square footage times .3 (but not to exceed \$1,500), plus

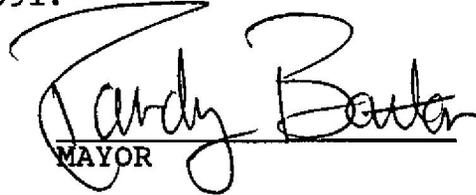
(ii) The business area square footage times .1.

2. Subtracted from the amount of the 1991 assessment.

Section 3. This ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the Summary form attached to the original of this ordinance, and

by this reference approved by the City Council
as required by law.

Passed by majority vote of the Kirkland
City Council in regular, open meeting this 5th
day of November, 1991.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


City Attorney

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SUMMARY OF ORDINANCE 0-3293

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING THE BUSINESS IMPROVEMENT AREA CREATED BY ORDINANCE NO. 3128, ESTABLISHING THE RATES OF ASSESSMENT FOR ALL BENEFIT ASSESSMENT SUB-AREAS, LEVYING ASSESSMENTS FOR THE YEAR 1992 AND AMENDING SECTIONS 2 AND 3 OF ORDINANCE NO. 3128.

Section 1. Amends Section 2 of Ordinance No. 3128 to modify the language related to the transit trolley or bus program and to require that Business Improvement Area administrative operating and program expenses shall be as annually appropriated from the BIA fund in the City's overall annual budget.

Section 2. Amends Section 3 of Ordinance No. 3128 to modify and in general reduce sub-area assessments for 1992 and to provide a limited special credit against the 1992 assessment as respects some businesses located within sub-areas 1, 2 and 3.

Section 3. 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 five days 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 regular meeting on the 5th day of November, 1991.

I certify that the foregoing is a summary of Ordinance 0-3293 approved by the Kirkland City Council for summary publication.



City Clerk