

RESOLUTION R-5521

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND, WASHINGTON, ADOPTING FINDINGS OF FACT TO SUPPORT THE MORATORIUM ORDINANCE ON AUTONOMOUS PERSONAL DELIVERY DEVICES IN KIRKLAND AND A PRELIMINARY SCOPE OF WORK TO EVALUATE THE USE OF AUTOMONOUS PERSONAL DELIVERY DEVICES IN KIRKLAND.

1 WHEREAS, the City of Kirkland ("City") is an Optional Municipal
2 Code City organized under Title 35A of the *Revised Code of Washington*
3 ("RCW"); and
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5 WHEREAS, Washington State law empowers cities to regulate
6 and protect public ways and real property of all kinds, such powers being
7 illustrated but not exclusively contained within RCW 35A.11.020; and
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9 WHEREAS, the Washington State Legislature passed HB 1325 in
10 April 2019, which caused a new chapter RCW 46.75 to be codified,
11 entitled, "Personal Delivery Devices," and
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13 WHEREAS, RCW 46.75 says in part that an eligible entity may
14 operate a personal delivery device in the State provided that it is
15 operated in accordance with all ordinances, resolutions, rules and
16 regulations established by the jurisdiction governing the rights-of-way
17 within which the personal delivery device is operated; and
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19 WHEREAS, in late 2021, the City received four building permit
20 applications for the placement of four pre-fabricated "dispensers" to
21 facilitate the deployment and operation of autonomous personal
22 delivery devices within defined locations of the City (the "Applications");
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25 WHEREAS, autonomous personal delivery devices are a
26 relatively new technology that has not been permitted in the City
27 previously, and
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29 WHEREAS, the City at this time does not have any ordinances,
30 resolutions, rules, or regulations concerning the use and storage of
31 autonomous personal delivery devices; and
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33 WHEREAS, the Applications raised questions for City staff such
34 as, but not limited to, how to categorize and regulate such uses,
35 implications for public safety, questions about such a use on the public
36 rights-of-way, and uncertainties about community acceptance; and
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38 WHEREAS, on February 1, 2022, the City Council unanimously
39 enacted emergency ordinance O-4779 that imposed a moratorium
40 within all zones of the City on the acceptance of applications for the

41 review and/or issuance of building permits for autonomous personal
42 delivery device dispensers and on the acceptance of applications for the
43 review and/or issuance of right-of-way use permits for autonomous
44 personal delivery devices; and declaring an emergency; and
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46 WHEREAS, on February 15, 2022, in order to increase
47 community awareness of the public hearing and the potential
48 moratorium, the City Council essentially ratified the emergency
49 ordinance by unanimously passing the moratorium again in an open
50 public meeting by enacting O-4782; and
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52 WHEREAS, moratoria are regulated by the State through RCW
53 35A.63.220 and RCW 36.70A.390, which require the City to hold a public
54 hearing within 60 days of the establishment of an emergency
55 moratorium, and to enter findings of fact following the public hearing;
56 and
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58 WHEREAS, a public hearing before the City Council concerning
59 the moratorium adopted by emergency ordinance O-4779 occurred on
60 Tuesday, March 1, 2022; and
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62 WHEREAS, findings of fact in support of the moratorium adopted
63 by emergency ordinance O-4779 are adopted by this Resolution, as set
64 forth herein; and
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66 WHEREAS, to assist City staff in drafting regulations concerning
67 the use of autonomous personal delivery devices in the City, a
68 preliminary scope of work was created and is attached hereto as
69 Attachment A; and
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71 WHEREAS, within the City, moratoria are regulated further by
72 *Kirkland Zoning Code* 135.30.2, which requires approval of the
73 Houghton Community Council.
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75 NOW, THEREFORE, be it resolved by the City Council of the City
76 of Kirkland as follows:
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78 Section 1. By this Resolution the City Council adopts the
79 following findings of fact to support the establishment of the moratorium
80 described in emergency Ordinance O-4779 and Ordinance O-4782:
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- 82 a. Washington State law permits the operation of autonomous
83 personal delivery devices on and in sidewalks, crosswalks,
84 and, if otherwise unavailable, areas where a pedestrian is
85 permitted to travel, provided that the use and operation
86 complies with applicable laws and regulations of the
87 jurisdiction in which the autonomous personal delivery
88 devices are operating.

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- b. The City has not yet enacted any ordinances, resolutions, rules, or regulations concerning the use of autonomous personal delivery devices within its rights-of-way.
 - c. Autonomous personal delivery devices are a new technology, and currently are being tested or are in use in a small number of locations in the United States. They are being researched and developed for the package delivery industry as an alternative for "last mile" delivery.
 - d. The City received four incomplete building permit applications for "dispensers" to facilitate the use of autonomous personal delivery devices in the City. The City does not yet have any adopted rules or regulations concerning dispensers for autonomous personal delivery devices.
 - e. The City requires time to learn about this new technology, to review and analyze it, to determine any public safety concerns related to it, to look at how it has been regulated in other locations, to identify and address local concerns and interests about the use of the technology, and to draft proposed regulations that must be reviewed and refined by advisory bodies and the City Council.
 - f. Some, but not all, of the safety issues related to permitting autonomous personal delivery devices are as follows:
 - 1. Will they be compliant with the Americans with Disabilities Act?
 - 2. What hours can they operate?
 - 3. Where can they operate safely? Can they be approved in all zones, or only some zones? Should they be barred from certain areas, such as school zones?
 - g. Some, but not all, of the safety issues related to permitting dispensers for these devices are as follows:
 - 1. Where can they be located?
 - 2. What environmental impacts are associated with them?
 - 3. How are they operated, and how prolific may they become?
 - 4. To what extent are they compatible with surrounding land uses?
 - h. The City cannot safely permit autonomous personal delivery devices, or dispensers for those devices, in the City until these reviews and analyses have been completed and ordinances, resolutions, rules, and/or regulations concerning the use of autonomous personal delivery devices in the City

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of Kirkland, and dispensers for those devices, have been adopted and are in full force and effect in the City.

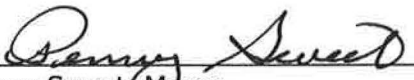
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Section 2. A preliminary scope of work to evaluate the use of autonomous personal delivery devices in Kirkland is attached to this Resolution as Exhibit A and is intended to be used by the City as an outline or plan to study these matters. This scope may be amended by City staff without further Council action in response to questions or issues that arise as a result of conducting the evaluation.

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Passed by a majority vote of the Kirkland City Council in open meeting this 1 day of March, 2022.

Signed in authentication thereof this 1 day of March, 2022.


Penny Sweet, Mayor


Kathi Anderson, City Clerk

Exhibit A to Resolution R-5521
March 1, 2022

**Preliminary Scope of Work to Evaluate the Use of
Autonomous Personal Delivery Devices in Kirkland**

This preliminary scope of work may be amended based upon testimony at a public hearing, City Council direction, and additional questions or issues raised as a result of research.

Category I: Basic Facts About This Emerging Technology

- A. What is the purpose of this new technology and how does it operate?
- B. Dispenser data and operation
 - 1. Standard dimensions and capacity
 - 2. Utility requirements
 - 3. Environmental impacts (e.g., noise, light, glare, and aesthetics)
 - 4. Siting criteria and preferred types of locations for dispensers
 - 5. Amount of clear area required around dispenser for loading
 - 6. Near-term and projected frequencies of loading deliveries and times of day/days of week
 - 7. Loading delivery details: type of vehicle, average loading time, vehicle parking/waiting needs
 - 8. Service area geography of dispensers
 - 9. Signage requirements
 - 10. Regulatory context
- C. Scout delivery device data and operation
 - 1. Standard dimensions and capacity
 - 2. Recharging requirements
 - 3. Speed and speed controls
 - 4. Maneuverability/adaptability to hills and hazards
 - 5. Autonomous mode versus with operator intervention
 - 6. Protocols if device loses charge, such as in the middle of an intersection or sidewalk
 - 7. Interactions with pets or wildlife
 - 8. Reaction to closed sidewalks, sidewalks under construction, downed limbs, etc.
 - 9. Time of day for operation
 - 10. Ability to operate in various weather conditions
 - 11. Does the device itself contain any hazardous materials (e.g., type of batteries)?
 - 12. Do the devices have cameras? If so, would the City have access to the video in the event of a crash or incident?
 - 13. Can the devices travel through side yards or over dirt trails?

14. Do the devices make noise?
15. How does the package actually get delivered from the sidewalk to the recipient's door?
16. Insurance requirements

Category II: Safety

- A. Traffic safety and records of reported accidents
- B. Pedestrian safety
 1. Interactions with pedestrians, pedestrians with strollers or carts, those with ADA/mobility challenges, and bikes and other wheeled devices
 2. Have any pedestrians been injured thus far in other markets?
 3. Adequacy of infrastructure to meet both APDD and ADA needs
 4. Bicycle safety and history of conflicts
 5. Emergency response impacts/implications
 6. Conflicts with other public users
 7. Are there pedestrian interface issues that Amazon is working on now to address/fix?

Category III: Proliferation and Saturation

- A. Quantity of dispensers and devices; potential "logjam"
- B. What's on the horizon for the technology?
- C. Other businesses with their own version of Scout

Category IV: Public Benefits

- A. What is the best case to be made for permitting this technology in Kirkland; what are the public benefits?
- B. Is the operation of this technology on public sidewalks beneficial?
- C. Vandalism, destruction, or theft
 1. Are the devices an attractive nuisance?
 2. Would the City be expected to investigate incidents?
- D. Are there other "last mile" delivery methods that would be more effective or safer?

Category V: Peer City Comparisons

- A. How have other cities addressed APDDs?
- B. What challenges have other cities experienced where they have been permitted?
- C. What are the fundamental commonalities and differences of adopted regulations in other cities?