

ORDINANCE O-4833

AN ORDINANCE OF THE CITY OF KIRKLAND, RELATING TO PERSONAL DELIVERY DEVICES, AND EXTENDING THE MORATORIUM ENACTED BY O-4779, AND EXTENDED FOR SIX MONTHS BY O-4806, ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR PERSONAL DELIVERY DEVICES.

1           WHEREAS, the City has the authority to adopt moratoria  
2 pursuant to Revised Code of Washington (RCW) 35A.63.220 and  
3 RCW 36.70A.390 and Kirkland Municipal Code (KMC) 135.30.1;  
4 and

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6           WHEREAS, on January 18, 2022, the City Council adopted  
7 an emergency moratorium ordinance upon the acceptance of  
8 applications for the review and/or issuance of building permits for  
9 autonomous personal delivery device dispensers and on the  
10 acceptance of applications for the review and/or issuance of right-  
11 of-way use permits for autonomous personal delivery devices,  
12 (APDD) Ordinance O-4779 (hereinafter, the "moratorium  
13 ordinance"); and

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15           WHEREAS, on February 1, 2022, the City Council adopted  
16 Resolution R-5521 affirming the moratorium ordinance; and

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18           WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 allow  
19 the City to extend a moratorium in six month increments, so long  
20 as a public hearing is conducted before the extension and findings  
21 of fact in support of the extension are entered by the City Council;  
22 and

23  
24           WHEREAS, after a public hearing and the entry of findings  
25 of fact in support of an extension, the moratorium was extended  
26 six months via O-4806; and

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28           WHEREAS, the City Council finds it necessary to extend the  
29 moratorium one additional time based upon the facts set forth in  
30 the following WHEREAS statements; and

31 WHEREAS, the City Council does find that in April of 2019,  
32 the State Legislature passed House Bill 1325, codified as Chapter  
33 46.75 RCW, which identifies and defines APDDs and sets forth  
34 some State requirements that must be met before APDDs may  
35 operate anywhere in the State of Washington; and  
36

37 WHEREAS, pursuant to RCW 46.75.020(1), the first  
38 requirement for use of an APDD within a local jurisdiction in  
39 Washington is that it must be "operated in accordance with all  
40 ordinances, resolutions, rules and regulations established by the  
41 jurisdiction governing the rights-of-way within which the personal  
42 delivery device is operated"; and  
43

44 WHEREAS, after the moratorium ordinance was issued, the  
45 City conducted at least twelve (12) public meetings at which public  
46 comment was or could have been provided; and  
47

48 WHEREAS, after the moratorium ordinance was issued,  
49 staff drafted two regulatory frameworks that have been reviewed  
50 by the Planning Commission, the Transportation Commission, and  
51 been afforded review by the public; and  
52

53 WHEREAS, based upon the reviews by the two  
54 commissions and the public a series of questions were raised that  
55 required further research, study, and evaluation by staff and the  
56 City Council; and  
57

58 WHEREAS, after the City Council extended the moratorium  
59 for six months, staff continued to conduct additional research  
60 about how best to craft regulations for the operation of PDDs in a  
61 city, especially by contacting governmental and non-profit  
62 agencies that work at a policy level with those constituencies  
63 protected by the Americans with Disabilities Act; and  
64

65 WHEREAS, as Kirkland is a member agency of Washington  
66 Cities Insurance Authority (WCIA), staff contacted WCIA to seek  
67 its guidance about liability and insurance issues and WCIA offered  
68 the City a third-party review of its draft right-of-way regulations  
69 by a private law firm under contract to WCIA, which offer staff  
70 accepted, and such review is ongoing at this time; and  
71

72 WHEREAS, staff further refined policy questions that  
73 emerged from the draft regulatory frameworks, including but not

74 limited to, performance-based evaluative measures, equity  
75 interests, enforcement, safety concerns, recommendations from  
76 the ADA community, concerns about reasonable expectations of  
77 privacy, and whether local institutional and private properties  
78 have an interest in hosting APDDs; and

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80 WHEREAS, the City has not yet enacted ordinances,  
81 resolutions, rules and/or regulations regarding the operations of  
82 APDDs within the City; and

83  
84 WHEREAS, an additional six-month extension of the  
85 moratorium ordinance is necessary to protect the public health,  
86 safety, and welfare; and will enable staff and the City Council to  
87 complete its work plan, which includes review of the impacts and  
88 benefits of APDDs and dispensers, and undertaking the public  
89 processes of amending the City's relevant ordinances, resolutions,  
90 rules, and regulations to allow for safe zoning and operation of  
91 APDDs and dispensers within the City; and

92  
93 WHEREAS, the City Council approves of the work plan  
94 presented by staff at the City Council's public meeting on  
95 December 13, 2022 at 7:30 PM, a copy of which is attached to the  
96 staff report.

97  
98 NOW, THEREFORE, the City Council of the City of Kirkland  
99 do ordain as follows:

100  
101 Section 1. Findings of Fact. In accordance with RCW  
102 35A.63.220 and RCW 36.70A.390, which require the City Council  
103 to adopt findings of fact justifying the extension of moratoria, the  
104 "WHEREAS" clauses set forth above are hereby adopted as the  
105 City Council's findings of fact in support of the extension of the  
106 moratorium imposed by this ordinance and are by this reference  
107 incorporated herein.

108  
109 Section 2. Purpose. The purpose of this extension of the  
110 moratorium is to maintain the status quo for another six months  
111 while the City completes its review of the impacts and benefits of  
112 APDDs and dispensers, and undertakes the public processes of  
113 amending its relevant ordinances, resolutions, rules, and  
114 regulations to allow for safe zoning and operation of APDDs and  
115 dispensers within the City.

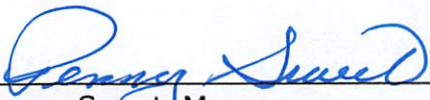
116           Section 3. Extension of Moratorium. Pursuant to RCW  
 117 35A.63.220, RCW 36.70A.390, and KMC 35.30.1, the moratorium  
 118 established by O-4779 and extended once by O-4806 shall not  
 119 lapse and shall be extended an additional six months (estimated  
 120 to be until July 18, 2023, at 11:59 PM), unless earlier terminated.  
 121 This six-month moratorium extension shall be imposed upon the  
 122 acceptance of applications for the review and/or issuance of  
 123 building permits for autonomous personal delivery device  
 124 dispensers and on the acceptance of applications for the review  
 125 and/or issuance of right-of-way use permits for autonomous  
 126 personal delivery devices.

127  
 128           Section 4. Severability. If any provision of this ordinance  
 129 or its application to any person or circumstance is held invalid, the  
 130 remainder of the ordinance or the application of the provision to  
 131 other persons or circumstances is not affected.

132  
 133           Section 5. Effective Date. This ordinance shall be in force  
 134 and effect five days from and after its passage by the Kirkland City  
 135 Council and publication pursuant to Section 1.08.017, Kirkland  
 136 Municipal Code in the summary form attached to the original of  
 137 this ordinance and by this reference approved by the City Council.

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 139           Passed by majority vote of the Kirkland City Council in open  
 140 meeting this 13 day of December, 2022.

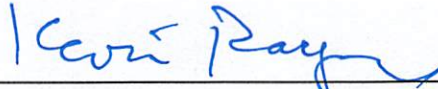
141  
 142           Signed in authentication thereof this 13 day of December,  
 143 2022.

  
 Penny Sweet, Mayor

Attest:

  
 Anja Mullin, Deputy City Clerk

Approved as to Form:

  
 Kevin Raymond, City Attorney



PUBLICATION SUMMARY  
OF ORDINANCE NO. 4833

AN ORDINANCE OF THE CITY OF KIRKLAND, RELATING TO PERSONAL DELIVERY DEVICES, AND EXTENDING THE MORATORIUM ENACTED BY O-4779, AND EXTENDED FOR SIX MONTHS BY O-4806, ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR PERSONAL DELIVERY DEVICES.

SECTION 1. Adopts findings of fact in support of the extension of the moratorium ordinance related to personal delivery devices.

SECTION 2. States the purpose of the extension of the moratorium.

SECTION 3. Extends the moratorium for six months estimated to be until July 18, 2023.

SECTION 4. Provides a severability clause for the ordinance.

SECTION 5. 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 meeting on the 13 day of December, 2022.

I certify that the foregoing is a summary of Ordinance 4833 approved by the Kirkland City Council for summary publication.

  
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Anja Mullin, Deputy City Clerk