

ORDINANCE NO. O-4888

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE CITY'S BUSINESS LICENSING REQUIREMENTS AND LATE FEE PENALTIES AND AMENDING CHAPTER 7.02 OF THE KIRKLAND MUNICIPAL CODE REGARDING BUSINESS LICENSES AND REGULATIONS.

1 WHEREAS, in 2017, the State enacted chapter 35.90 RCW to
2 simplify the administration of municipal general business licenses,
3 requiring the City to administer its business license application process
4 through the Department of Revenue (DOR) portal; and
5

6 WHEREAS, while the transition to the DOR portal simplified the
7 business license application process for many businesses and resulted
8 in significantly more compliance with the City's business licensing
9 requirement, it has also had a detrimental impact on some small
10 businesses and business-like organizations and on the administration
11 of certain code sections, with impacts felt by both licensees and City
12 staff; and
13

14 WHEREAS, in order to mitigate certain challenges arising from
15 the transition to the DOR's business license portal, the City Council
16 desires to clarify existing business licensing exemptions and to create a
17 registry for those organizations who are exempt from business licensing
18 requirements; and
19

20 WHEREAS, the City Council also desires to modify the penalties
21 applicable to business licensing applications or renewals that are not
22 submitted in a timely manner, eliminating the penalties applicable when
23 the appropriate fees are paid within thirty days and reducing penalties
24 for those paid within sixty days; and
25

26 WHEREAS, the City Council anticipates that these changes will
27 benefit Kirkland's small business community and will promote a thriving
28 economy.
29

30 NOW, THEREFORE, the City Council of the City of Kirkland do
31 ordain as follows:
32

33 Section 1. A new section to be titled "Exemptions" is added to
34 chapter 7.02 of the Kirkland Municipal Code (KMC), to be codified as
35 KMC 7.02.065:
36

37 **7.02.065 Exemptions.**
38

39 Except as otherwise specifically provided in this chapter, the
40 following persons or entities are exempt from licensing under this
41 chapter, except that such entities must file, on a form provided by the
42 City, a certification demonstrating that they meet one of the following
43 exemptions:
44

- 45 (a) Organizations approved to be nonprofit by the state of Washington,
46 which include the following: a tax-exempt nonprofit corporation
47 described by Section 501(c)(3), (4), or (10) of the IRC; or a nonprofit
48 organization that would qualify for tax exemption under these codes
49 except that it is not organized as a nonprofit corporation; or a nonprofit
50 organization that does not pay its members, stockholders, officers,
51 directors, or trustees any amounts from its gross income, except as
52 compensation to any person for services rendered, and does not
53 engage in a substantial amount of political activity (RCW 82.04.3651).
54
- 55 (b) A governmental entity that engages solely in the exercise of
56 governmental functions. Activities ~~which~~ that are not exclusively
57 governmental, such as some of the activities of a hospital or medical
58 clinic, are not exempt under this chapter.
59
- 60 (c) A nonprofit business operated exclusively for a religious purpose,
61 upon furnishing proof to the finance and administration department of its
62 nonprofit status. For the purposes of this chapter, the activities that are
63 not part of the core religious functions are not exempt.
64
- 65 (d) Civic groups, service clubs, and social organizations that are not
66 engaged in any profession, trade, calling, or occupation, but are
67 organized to provide civic, service, or social activities in the city.
68 Examples of such organizations may include but are not limited to:
69 Soroptimists; Kiwanis; Lions; Rotary; American Legion; children's and
70 adults' athletic organizations; and similar types of groups, clubs, or
71 organizations.
72
- 73 (e) Homeowners' associations that engage solely in the exercise of
74 functions which are not taxable. Revenues from activities ~~which~~ that are
75 subject to tax and are in excess of twenty thousand dollars are not
76 exempt under this chapter.
77
- 78 (f) Political campaigns.
79
- 80 (g) Any person or business whose annual value of products, gross
81 proceeds of sales, or gross income of business conducted in the city is
82 equal to or less than two thousand dollars and who does not maintain a
83 place of business within the city.
84
- 85 (h) Any person or business who is not required to register with the
86 Washington State Department of Revenue pursuant to RCW
87 82.32.030(2)(a), (b), and (c).
88
- 89 (i) A business that can demonstrate to the satisfaction of the director
90 that it is exempt due to preemption by state or federal law.

91 Section 2. KMC 7.02.120, and the corresponding portions of
 92 Ordinance O-4821 § 5 (2022), is amended as follows, with new text
 93 shown in underline and deleted text shown in ~~strikethrough~~:
 94

95 **7.02.120 Basic license fee.**
 96

97 The basic license fee for the annual license issued under this
 98 chapter shall be as follows:
 99

100 (a) Basic License Fee.

101
 102 (1) Each business with twenty thousand dollars or more in
 103 average annual gross receipts shall pay a basic license fee of one
 104 hundred dollars per year.

105
 106 (2) Any business with less than twenty thousand dollars
 107 average annual gross receipts shall pay a basic license fee of fifty
 108 dollars per year.

109
 110 (3) Businesses without a full year history must estimate the
 111 gross receipts expected in the next 12 months.
 112

113 (b) Exemptions. Any person or business whose annual value of
 114 products, gross proceeds of sales, or gross income of the business is
 115 less than twenty thousand dollars and who maintains a place of
 116 business within the city may claim an exemption from the basic license
 117 fee but must still register and obtain a business license under this
 118 chapter.
 119

120 ~~The following entities may claim an exemption from the basic license~~
 121 ~~fee but if exempt under this subsection such entities shall still register~~
 122 ~~and obtain a business license under this chapter:~~
 123

124 (1) ~~Organizations approved to be nonprofit by the state of~~
 125 ~~Washington, which include the following: a tax exempt nonprofit~~
 126 ~~corporation described by Section 501(c)(3), (4), or (10) of the IRC; or a~~
 127 ~~nonprofit organization that would qualify for tax exemption under these~~
 128 ~~codes except that it is not organized as a nonprofit corporation; or a~~
 129 ~~nonprofit organization that does not pay its members, stockholders,~~
 130 ~~officers, directors, or trustees any amounts from its gross income,~~
 131 ~~except as compensation to any person for services rendered, and does~~
 132 ~~not engage in a substantial amount of political activity (RCW~~
 133 ~~82.04.3651).~~
 134

135 (2) ~~A governmental entity that engages solely in the exercise~~
 136 ~~of governmental functions. Activities which are not exclusively~~
 137 ~~governmental, such as some of the activities of a hospital or medical~~
 138 ~~clinic, are not exempt under this chapter.~~
 139

140 (3) ~~A nonprofit business operated exclusively for a religious~~
 141 ~~purpose, upon furnishing proof to the finance and administration~~
 142 ~~department of its nonprofit status. For the purposes of this chapter, the~~
 143 ~~activities that are not part of the core religious functions are not exempt.~~
 144

145 ~~(4) Civic groups, service clubs, and social organizations that~~
 146 ~~are not engaged in any profession, trade, calling, or occupation, but are~~
 147 ~~organized to provide civic, service, or social activities in the city.~~
 148 ~~Examples of such organizations may include, but are not limited to:~~
 149 ~~Scroptimists; Kiwanis; Lions; Rotary; American Legion; children's and~~
 150 ~~adults' athletic organizations; and similar types of groups, clubs or~~
 151 ~~organizations.~~

152
 153 ~~(5) Homeowners associations that engage solely in the~~
 154 ~~exercise of functions which are not taxable. Revenues from activities~~
 155 ~~which are subject to tax and are in excess of twenty thousand dollars~~
 156 ~~are not exempt under this chapter.~~

157
 158 ~~(6) Political campaigns.~~

159
 160 ~~(7) For purposes of the license required by this chapter, any~~
 161 ~~person or business whose annual value of products, gross proceeds of~~
 162 ~~sales, or gross income of business conducted in the city is equal to or~~
 163 ~~less than two thousand dollars and who does not maintain a place of~~
 164 ~~business within the city. The threshold does not apply to regulatory~~
 165 ~~license requirements or activities that require a specialized permit.~~

166
 167 ~~(8) For purposes of the license required by this chapter, any~~
 168 ~~person or business whose annual value of products, gross proceeds of~~
 169 ~~sales, or gross income of the business is less than twenty thousand~~
 170 ~~dollars and who maintains a place of business within the city. The~~
 171 ~~threshold does not apply to regulatory license requirements or activities~~
 172 ~~that require a specialized permit.~~

173
 174 ~~(9) A business that can demonstrate to the satisfaction of the~~
 175 ~~director that it is exempt due to preemption by state or federal law.~~

176 Section 3. KMC 7.02.130, and the corresponding portions of
 177 Ordinance O-4161 § 9 (2008), is amended as follows:

178
 179 **7.02.130 Regulatory licenses.**

180
 181 A business that holds a current valid city of Kirkland regulatory
 182 license under another chapter of this code must also file the general
 183 business license application form, pay the general business license fee,
 184 and pay the revenue generating regulatory license fee (RGRL) pursuant
 185 to this chapter, unless otherwise exempt under KMC 7.02.065. The
 186 license fee levied in this chapter shall be additional to any license fee or
 187 tax imposed or levied under the law or any other ordinance of the city
 188 except as expressly provided herein.

189 **Section 4.** KMC 7.02.160, and the corresponding portions of
 190 Ordinance O-4816 § 1 (2022), is amended as follows:

191
 192 **7.02.160 Revenue generating regulatory license fee (RGRL).**

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

196 (1) A business with less than twenty thousand dollars of
 197 average annual gross receipts shall be exempt from any RGRL.

198 (2) A business located within the city limits of Kirkland with ten
 199 or fewer employees or FTEs ~~shall be~~ is exempt from the RGRL
 200 for the first year of business operation ~~only~~. Businesses exempt
 201 from the RGRL under this subsection shall still be required to
 202 pay the basic license fee under Section 7.02.120 and register
 203 the number of employees and FTEs under this chapter. In order
 204 to obtain this exemption, the business must request exemption
 205 from the City within 60 days of submitting the business license
 206 application.

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

211 (A) Any person who is on the business's payroll, and
 212 includes all full-time, part-time, and temporary
 213 employees or workers, including employees and workers
 214 who work remotely; and

215 (B) Self-employed persons, sole proprietors, owners,
 216 managers, and partners; and

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

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

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

227 (b) Amount of RGRL.

228 (1) Revenue Generating Regulatory License (RGRL) Fee
 229 Method. Except as otherwise provided by this chapter, every
 230 person engaging in business within the city shall pay an RGRL
 231 based upon the number of employee hours worked in Kirkland
 232 during the previous year. Annual employee hours are calculated
 233 based on the sum of the four quarterly reports submitted to the
 234 Washington State Department of Labor and Industries for the

235 previous year. It will be the responsibility of the employer to
 236 determine the number of hours worked within the city from these
 237 reports. Businesses that did not file quarterly reports with the
 238 Washington State Department of Labor and Industries shall
 239 determine the number of hours worked within the city and
 240 demonstrate, if required, to the satisfaction of the finance and
 241 administration director or his/her authorized agent, that the
 242 number of employee hours worked is correct. For purposes of
 243 determining employee hours worked in Kirkland, a business
 244 located in Kirkland must also include those hours an employee
 245 works remotely.

246 (2) The annual license fee (basic license fee and RGRL) shall
 247 be calculated by adding the basic license fee per business
 248 license to the full-time-equivalent employees that worked in
 249 Kirkland multiplied by one hundred and thirty dollars. The
 250 approved tax rate per full-time employee is \$0.054688 (which
 251 represents a RGRL multiplier of \$0.054688 per employee hour
 252 worked), as may be adjusted herein. Employers without a full
 253 year history would need to estimate the number of employee
 254 hours that will be worked in the current calendar year.

255 (3) If a business has more than one location in Kirkland, the
 256 annual business license fee calculation must include a basic
 257 license fee for each location and the RGRL for annual employee
 258 hours at all locations.

259 (c) Alternative FTE Method. A business may choose to calculate its
 260 annual license fee by adding the basic license fee to the RGRL based
 261 on multiplying one hundred and thirty dollars by the number of its
 262 employees. The number of employees shall be based on the sum of the
 263 employees in the four quarterly reports submitted to the Washington
 264 State Department of Labor and Industries for the previous year divided
 265 by four. It will be the responsibility of the employer to determine the
 266 number of employees working within the city from these reports.
 267 Businesses that did not file quarterly reports with the Washington State
 268 Department of Labor and Industries shall determine the number of
 269 employees working in the city and demonstrate, if required, to the
 270 satisfaction of the finance and administration director or his/her
 271 authorized agent, that the number of employees is correct. Employers
 272 without a full year history would need to estimate the number of
 273 employees that will work in the city for the current calendar year.

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

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

278 (3) For businesses with employees who work less than one
 279 thousand, nine hundred twenty hours per year (the work hour
 280 figure used by the Washington Department of Labor and
 281 Industries) the total number of hours worked by all such
 282 employees during the four quarters of the previous year shall be
 283 added together and divided by one thousand, nine hundred
 284 twenty to determine the FTE equivalency.

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

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

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

301 (f) The minimum fee for any license issued under this chapter shall be
 302 the basic license fee and the minimum RGRL, as may be adjusted
 303 herein.

304 (g) Payment made by draft or check shall not be deemed a payment
 305 of the fee unless and until the same has been honored in the usual
 306 course of business, nor shall acceptance of any such check or draft
 307 operate as a quittance or discharge of the fee unless and until the check
 308 or draft is honored. The Business Licensing Service will address any
 309 dishonored payment submitted through its processes. Any person who
 310 submits a business license fee payment by check directly to the city
 311 pursuant to the provisions of this chapter shall be assessed an NSF fee
 312 set by the finance and administration director if the check is returned
 313 unpaid by a bank or other financial institution for insufficient funds in the
 314 account or for any other reason.

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

323 (i) If no higher RGRL applies under this section, then the minimum
 324 RGRL shall be one FTE.

325 Section 5. KMC 7.02.190, and the corresponding portions of
 326 Ordinance O-4821 § 7 (2022), is amended as follows:

327
 328 **7.02.190 Penalties**

329
 330 (a) Late Renewal. A business that fails to renew its license by the
 331 expiration date will be assessed the state's late renewal penalty required

332 by RCW 19.02.085 and will also be assessed the city's late renewal
333 penalty as follows:

334 ~~(1) Up to twenty nine days late, a penalty of twenty five dollars~~
335 ~~or ten percent of the amount for the license, whichever is greater;~~

336 ~~(12) Between thirty and fifty-nine days late, a penalty of fifty~~
337 ~~thirty-five dollars or fifty thirty-five percent of the amount for the~~
338 ~~license, whichever is greater;~~

339 ~~(23) Sixty or more days late, a penalty of one hundred dollars~~
340 ~~or one hundred percent of the amount for the license, whichever~~
341 ~~is greater.~~

342 (b) A business license that remains delinquent for at least one
343 hundred twenty days after the expiration date will be canceled. After
344 cancellation, a business must reapply for a business license as provided
345 in this chapter in order to continue business in the city.

346 (c) Late Application. A business that fails to obtain a license before
347 first commencing business in Kirkland shall pay a penalty directly to the
348 city according to the schedule in this subsection. The penalty is in
349 addition to the amount charged for the annual license for all years the
350 business has been in operation or to the greatest extent allowed by law;
351 provided, that the number of days late shall mean the number of days
352 between the commencement of business and the date the city receives
353 a complete application.

354 ~~(1) Up to twenty nine days late, a penalty of twenty five dollars~~
355 ~~or ten percent of the amount for the license, whichever is greater;~~

356 ~~(12) Between thirty and fifty-nine days late, a penalty of thirty-~~
357 ~~five fifty dollars or fifty thirty-five percent of the amount for the~~
358 ~~license, whichever is greater;~~

359 ~~(23) Sixty or more days late, a penalty of one hundred dollars~~
360 ~~or one hundred percent of the amount for the license, whichever~~
361 ~~is greater.~~

362 (d) Under-Reporting of annual gross receipts. If the city determines
363 that the annual gross receipts were under-reported at the time of
364 application or renewal, and such underreporting caused the incorrect
365 basic license fee to be paid, the business shall pay the balance of the
366 basic license fee together with a penalty of twenty percent of such due
367 balance. The business shall also reimburse the city for any accounting,
368 legal, or administrative expenses incurred by the city in determining the
369 under-reporting or in collecting the additional amounts. The director
370 shall mail written notice of the amount to be paid and the business shall
371 pay said amount to the city within thirty days. If the city does not receive
372 timely payment, an additional penalty shall be added, applying the
373 schedule for late payments in this chapter.

374 (e) Under-Reporting of Employees. If the city determines that the
375 number of employees required to be reported or calculated under KMC
376 7.02.160 or KMC 7.02.170 was under-reported at the time of application
377 or renewal by an error factor of more than fifteen percent, the business
378 shall pay the balance of the applicable RGRL together with a penalty of

379 twenty percent of such balance due. The business shall also reimburse
380 the city for any accounting, legal, or administrative expenses incurred
381 by the city in determining the under-reporting or in collecting the
382 additional amounts. The director shall mail written notice of the amount
383 to be paid and the business shall pay said amount to the city within thirty
384 days. If the city does not receive timely payment, an additional penalty
385 shall be added, applying the schedule for late payments in this chapter.

386 (f) The director is authorized, but not obligated, to waive all or a portion
387 of the penalties provided herein in the event that the director determines
388 that the late payment or under-reporting was the result of excusable
389 neglect or extreme hardship.

390 Section 6. If any provision of this ordinance or its application to
391 any person or circumstance is held invalid, the remainder of the
392 ordinance or the application of the provision to other persons or
393 circumstances is not affected.

394 Section 7. The ordinance shall be in force and effect on January
395 1, 2025, after its passage by the Kirkland City Council and publication
396 in the summary form attached to the original of this ordinance and by
397 this reference approved by the City Council.
398

399 Passed by majority vote of the Kirkland City Council in open
400 meeting this 6th day of November, 2024.

401 Signed in authentication thereof this 6th day of November, 2024.
402

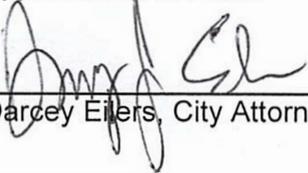

Kelli Curtis, Mayor

Attest:


Elizabeth Adkisson, Acting City Clerk

Approved as to Form:

Publication Date: November 11, 2024


Darcey Eilers, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. O-4888

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE CITY'S BUSINESS LICENSING REQUIREMENTS AND LATE FEE PENALTIES AND AMENDING CHAPTER 7.02 OF THE KIRKLAND MUNICIPAL CODE REGARDING BUSINESS LICENSES AND REGULATIONS.

1 SECTION 1. Adds a new Kirkland Municipal Code (KMC)
2 Section 7.02.065 related to exemptions from licensing.

3
4 SECTION 2. Amends KMC Section 7.02.120 related to the
5 annual basic license fee.

6
7 SECTION 3. Amends KMC 7.02.130 related to regulatory
8 licenses.

9
10 SECTION 4. Amends KMC 7.02.160 related to revenue
11 generating regulatory license fees.

12 SECTION 5. Amends KMC 7.02.190 related to penalties.

13 SECTION 6. Provides a severability clause for the ordinance.

14
15 SECTION 7. Authorizes publication of the ordinance by
16 summary pursuant to KMC 1.08.017 and establishes the effective date
17 as January 1, 2025, which will be more than five days after publication
18 of summary.
19
20

21
22 The full text of this Ordinance will be mailed without charge to
23 any person upon request made to the City Clerk for the City of Kirkland.
24 The Ordinance was passed by the Kirkland City Council at its meeting
25 on the 6th day of November, 2024.

26
27 I certify that the foregoing is a summary of Ordinance O-4888
28 approved by the Kirkland City Council for summary publication.



Elizabeth Adkisson, Acting City Clerk