

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

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

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

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

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

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

(f) Political campaigns.

(g) Any person or business whose annual value of products, gross proceeds of sales, or gross income of business conducted in the city is equal to or less than two thousand dollars and who does not maintain a place of business within the city.

(h) Any person or business who is not required to register with the Washington State Department of Revenue pursuant to RCW 82.32.030(2)(a), (b), and (c).

(i) A business that can demonstrate to the satisfaction of the director that it is exempt due to preemption by state or federal law.

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

**7.02.120 Basic license fee.**

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

(a) Basic License Fee.

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

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

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

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

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

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

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

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

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

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

~~(6) Political campaigns.~~

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

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

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

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

#### **7.02.130 Regulatory licenses.**

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

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

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

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

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

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

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

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

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

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

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

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

(b) Amount of RGRL.

(1) Revenue Generating Regulatory License (RGRL) Fee Method. Except as otherwise provided by this chapter, every person engaging in business within the city shall pay an RGRL based upon the number of employee hours worked in Kirkland during the previous year. Annual employee hours are calculated based on the sum of the four quarterly reports submitted to the 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 6<sup>th</sup> day of November, 2024.

401  
402 Signed in authentication thereof this 6<sup>th</sup> day of November, 2024.

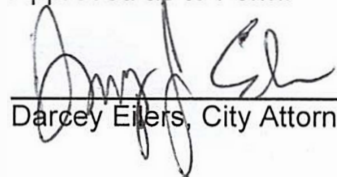
  
Kelli Curtis, Mayor

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  
13       SECTION 5. Amends KMC 7.02.190 related to penalties.

14  
15       SECTION 6. Provides a severability clause for the ordinance.

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

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 6<sup>th</sup> 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