

ORDINANCE O-4779

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN ALL ZONES OF THE CITY ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICES; AND DECLARING AN EMERGENCY.

1 WHEREAS, the City has the authority to adopt moratoria
2 pursuant to RCW 35A.63.220 and RCW 36.70A.390 and KMC
3 135.30.1; and

4
5 WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 allow
6 the City to adopt a moratorium for up to six months without notice
7 and without a public hearing, so long as a public hearing is
8 conducted within 60 days of adoption of the moratorium; and

9
10 WHEREAS, RCW 35A.13.190 requires the Council to
11 approve an emergency ordinance by a vote of a "majority plus
12 one;" and

13
14 WHEREAS, in April of 2019, the State Legislature passed
15 House Bill 1325, codified as Chapter 46.75 Revised Code of
16 Washington (RCW), which identifies and defines autonomous
17 personal delivery devices (APDDs) and sets forth some State
18 requirements that must be met before APDDs may operate
19 anywhere in the State of Washington; and

20
21 WHEREAS, pursuant to RCW 46.75.020(1), the first
22 requirement for use of an APDD is that it must be "operated in
23 accordance with all ordinances, resolutions, rules and regulations
24 established by the jurisdiction governing the rights-of-way within
25 which the personal delivery device is operated"; and

26
27 WHEREAS, the City has not yet enacted any ordinances,
28 resolutions, rules and/or regulations regarding the operations of
29 APDDs within the City; and

30
31 WHEREAS, the City has currently received four (4)
32 applications for building permits to construct and maintain the
33 large container-like storage dispensers for APDDs, which the
34 applicants call "hives," in various City zones including the LIT
35 Industrial Zone, the FHNC Commercial Zone, the JBD 2 Juanita
36 Business District Zone and the PLA 6B Institutional Zone; and

37 WHEREAS, the applicants for the hives have asked for
38 authorization to place them in various locations, such as a parking
39 spot at a gas station that currently does not have sufficient

40 parking for the current uses on the property, and a parking spot
41 at a church; and
42

43 WHEREAS, the City needs time to study the proposed hives
44 to determine what type of use the hives will be defined as (such
45 as general commercial, outside storage, warehouse, etc.), to
46 accurately account for any impact hives may have on the public's
47 health, safety, and welfare; for example, the City must determine
48 whether hives should be restricted to a certain zone or zones;
49 whether they should be prohibited in certain areas, such as within
50 100 feet of a school and/or daycare center; and many other
51 issues, such as design, lighting, signage, clearance, additional
52 parking requirements for access, effect on existing uses of the
53 property where they are located, etc.; and
54

55 WHEREAS, the applicants have requested permits for hives
56 so that they can begin using APDDs within the City primarily on
57 sidewalks and cross walks, because State law restricts APDDs uses
58 primarily to sidewalks and cross walks; and
59

60 WHEREAS, the City needs time to study what types of rules
61 and regulations it should enact for use of APDDs and hives in the
62 City, for example, whether use of APDDs should be prohibited at
63 certain times of the day and/or night, such as during rush hour;
64 regulations to ensure APDDs interact safely with pedestrians, pets,
65 children, street vehicles, etc.; whether use of APDDs is compliant
66 with the Americans With Disabilities Act (the "ADA"); and the
67 proper reporting requirements to the City with regard to
68 accidents, injuries, and failures; etc.; and
69

70 WHEREAS, adoption of rules and regulations related to
71 APDDs and hives will involve amendments to both the *Kirkland*
72 *Municipal Code* and the *Kirkland Zoning Code*; that such possible
73 amendments will require discussions and public hearings
74 regarding the establishment of new zoning laws before the
75 Planning Commission, the City Council, and the Houghton
76 Community Council; and it could take an indeterminate amount of
77 time for these groups to analyze the impacts of APDDs and hives
78 and to reach recommendations and decisions on applicable rules
79 and regulations; and
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81 WHEREAS, an emergency moratorium is necessary to
82 protect the public health, safety, and welfare while the City studies
83 the impacts of APDDs and hives, and undertakes the public
84 processes of amending its relevant ordinances, resolutions, rules,
85 and regulations to allow for safe zoning and operation of APDDs
86 and hives.
87

88 NOW, THEREFORE, the City Council of the City of Kirkland
89 do ordain as follows:

90 Section 1. Imposition of a Moratorium. Pursuant to RCW
91 35A.63.220, RCW 36.70A.390, and KMC 35.30.1, a moratorium
92 hereby is imposed in the City of Kirkland on the acceptance of
93 applications for, review of, or issuance of any permit related in

94 any way to the use or storage of autonomous personal delivery
95 devices (APDDs).
96

97 Section 2. Duration of Moratorium. This moratorium shall
98 remain in effect for six months from the effect date of this
99 ordinance unless terminated earlier as provided by law.

100
101 Section 3. Public Hearing Date. A public hearing shall be
102 held pursuant to 35A.63.220 and RCW 36.70A.390 during the
103 regular City Council meeting of Tuesday, March 1, 2022 at 7:30
104 PM. Due to the ongoing COVID-19 protocols, this public hearing
105 will occur virtually, online. Information on how to participate is
106 available on the City website at
107 www.kirklandwa.gov/Government/City-Council. City hall is
108 located at 123 5th Avenue, Kirkland, WA.
109

110 Section 4. Severability. If any provision of this ordinance
111 or its application to any person or circumstance is held invalid, the
112 remainder of the ordinance or the application of the provision to
113 other persons or circumstances is not affected.
114

115 Section 5. Effective Date. This ordinance is hereby
116 declared and designated a public emergency ordinance necessary
117 for the protection of public health and safety and shall be effective
118 immediately upon its passage by the City Council.
119

120 Section 6. Publication shall be pursuant to Section
121 1.08.017, Kirkland Municipal Code in the summary form attached
122 to the original of this ordinance and by this reference approved by
123 the City Council.
124

125 Passed by affirmative vote of at least 5 members of the
126 Kirkland City Council in open meeting this 18th day of January,
127 2022.
128


129 Signed in authentication thereof this 18 day of January,
130 2022.


Penny Sweet, Mayor

Attest:


Kathi Anderson, City Clerk

Approved as to Form:


Kevin Raymond, City Attorney

Publication Date: 1/24/2022

ORDINANCE O-4782

AN ORDINANCE OF THE CITY OF KIRKLAND RATIFYING AND REAFFIRMING ORDINANCE O-4779, IMPOSING AN EMERGENCY MORATORIUM WITHIN ALL ZONES OF THE CITY ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICES.

1 WHEREAS, the City Council, at its January 18, 2022 special
2 meeting did meet in executive session to discuss potential
3 litigation before reconvening in open public session to consider
4 and then enact Ordinance O-4779, declaring an emergency and
5 imposing a temporary moratorium on the City's acceptance of
6 applications for the review and/or issuance of building permits for
7 autonomous personal delivery device dispensers and right-of-way
8 permits for autonomous personal delivery devices; and
9

10 WHEREAS, Ordinance O-4779 did establish, pursuant to
11 RCW 35A.63.220 and RCW 36.70A.390, a March 1, 2022 public
12 hearing on the temporary moratorium; and
13

14 WHEREAS, the Council wishes to increase public awareness
15 of the temporary moratorium, provide for public comment at the
16 Council's February 1, 2022 regular meeting, and take the action
17 of ratifying and reaffirming Ordinance O-4779.
18

19 NOW, THEREFORE, the City Council of the City of Kirkland
20 do ordain as follows:

21 Section 1. Ordinance O-4779 is hereby ratified and
22 reaffirmed.
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24 Section 2. Effective Date. This ordinance shall be in force
25 and effect five days from and after its passage by the Kirkland City
26 Council and publication, as required by law.

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

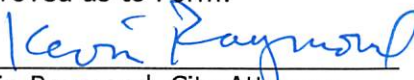
Signed in authentication thereof this 1 day of February, 2022.


Penny Sweet, Mayor

Attest:


Kathi Anderson, City Clerk

Approved as to Form:


Kevin Raymond, City Attorney

Publication Date: 02/07/2022

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 AUTONOMOUS 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
4

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
8

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
12

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
18

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");
23 and
24

25 WHEREAS, autonomous personal delivery devices are a
26 relatively new technology that has not been permitted in the City
27 previously, and
28

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
32

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
37

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

45
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

61
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

65
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

70
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.

74
75 NOW, THEREFORE, be it resolved by the City Council of the City
76 of Kirkland as follows:

77
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:

- 81
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.

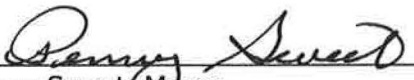
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Section 2. A preliminary scope of work to evaluate the use of autonomous personal delivery devices in Kirkland is attached to this Resolution as Exhibit A and is intended to be used by the City as an outline or plan to study these matters. This scope 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?

ORDINANCE O-4806

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

5
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

14
15 WHEREAS, on February 1, 2022, the City Council adopted
16 Resolution R-5521 affirming the moratorium ordinance; and

17
18 WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 allow
19 the City to extend a moratorium an additional six months, 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, a public hearing on the extension of the
25 moratorium was held during the regular City Council meeting of
26 Tuesday, July 5, 2022 at 7:30 PM; and

27
28 WHEREAS, the City Council does find that in April of 2019,
29 the State Legislature passed House Bill 1325, codified as Chapter
30 46.75 RCW, which identifies and defines APDDs and sets forth

31 some State requirements that must be met before APDDs may
32 operate anywhere in the State of Washington; and

33

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

40

41 WHEREAS, in the six months since the moratorium
42 ordinance was issued, the City has conducted at least twelve (12)
43 public meetings at which public comment was or could have been
44 provided; and

45

46 WHEREAS, in the six months since the moratorium
47 ordinance was issued, based upon City Council direction, staff has
48 drafted two regulatory frameworks that have been reviewed by
49 the Planning Commission, the Transportation Commission, and
50 been afforded review by the public; and

51

52 WHEREAS, based upon the reviews by the two
53 commissions and the public a series of questions has been raised
54 that need to be further researched, studied and evaluated by staff
55 and the City Council; and

56

57 WHEREAS, staff needs to further refine policy questions
58 that have emerged from the draft regulatory frameworks,
59 including but not limited to, performance-based evaluative
60 measures, equity interests, enforcement, safety concerns,
61 recommendations from the ADA community, concerns about
62 reasonable expectations of privacy, and whether local institutional
63 and private properties have an interest in hosting APDDs; and

64

65 WHEREAS, the City has not yet enacted ordinances,
66 resolutions, rules and/or regulations regarding the operations of
67 APDDs within the City; and

68

69 WHEREAS, an additional six-month extension of the
70 moratorium ordinance is necessary to protect the public health,
71 safety, and welfare will enable staff and the City Council to
72 complete its work plan, which includes review of the impacts and
73 benefits of APDDs and dispensers, and undertaking the public
74 processes of amending the City's relevant ordinances, resolutions,

75 rules, and regulations to allow for safe zoning and operation of
76 APDDs and dispensers within the City; and

77
78 WHEREAS, the City Council approves of the work plan
79 presented by staff at the City Council’s public meeting on July 5,
80 2022 at 7:30 PM, a copy of which is attached to the staff report.

81
82 NOW, THEREFORE, the City Council of the City of Kirkland
83 do ordain as follows:

84
85 Section 1. Findings of Fact. In accordance with RCW
86 35A.63.220 and RCW 36.70A.390, which require the City Council
87 to adopt findings of fact justifying the extension of moratoria, the
88 “WHEREAS” clauses set forth above are hereby adopted as the
89 City Council’s findings of fact in support of the extension of the
90 moratorium imposed by this ordinance and are by this reference
91 incorporated herein.

92
93 Section 2. Purpose. The purpose of this extension of the
94 moratorium is to maintain the status quo for another six months
95 while the City completes its review of the impacts and benefits of
96 APDDs and dispensers, and undertakes the public processes of
97 amending its relevant ordinances, resolutions, rules, and
98 regulations to allow for safe zoning and operation of APDDs and
99 dispensers within the City.

100
101 Section 3. Extension of Moratorium. Pursuant to RCW
102 35A.63.220, RCW 36.70A.390, and KMC 35.30.1, the moratorium
103 established by O-4779 shall not lapse and shall be extended an
104 additional six months (estimated to be until January 18, 2023, at
105 11:59 PM), unless earlier terminated. This six-month moratorium
106 extension shall be imposed upon the acceptance of applications
107 for the review and/or issuance of building permits for autonomous
108 personal delivery device dispensers and on the acceptance of
109 applications for the review an/or issuance of right-of-way use
110 permits for autonomous personal delivery devices.

111
112 Section 4. Severability. If any provision of this ordinance
113 or its application to any person or circumstance is held invalid, the
114 remainder of the ordinance or the application of the provision to
115 other persons or circumstances is not affected.

116
117 Section 5. Effective Date. This ordinance shall be in force
118 and effect five days from and after its passage by the Kirkland City

119 Council and publication pursuant to Section 1.08.017, Kirkland
120 Municipal Code in the summary form attached to the original of
121 this ordinance and by this reference approved by the City Council.
122


123 Passed by majority vote of the Kirkland City Council in open
124 meeting this 5 day of July, 2022.

125 Signed in authentication thereof this 5 day of July, 2022.
126



Penny Sweet, Mayor

Attest:



Kathi Anderson, City Clerk

Approved as to Form:



Kevin Raymond, City Attorney

Publication Date: 07/11/2022

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

5
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

14
15 WHEREAS, on February 1, 2022, the City Council adopted
16 Resolution R-5521 affirming the moratorium ordinance; and

17
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

27
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

79
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.

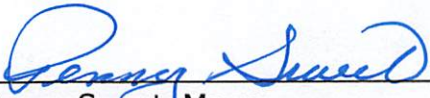
116 Section 3. Extension of Moratorium. Pursuant to RCW
 117 35A.63.220, RCW 36.70A.390, and KMC 35.30.1, the moratorium
 118 established by O-4779 and extended once by O-4806 shall not
 119 lapse and shall be extended an additional six months (estimated
 120 to be until July 18, 2023, at 11:59 PM), 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.

138
 139 Passed by majority vote of the Kirkland City Council in open
 140 meeting this 13 day of December, 2022.

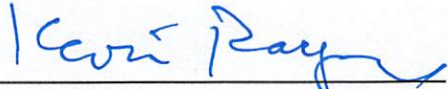
141
 142 Signed in authentication thereof this 13 day of December,
 143 2022.


 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.



Anja Mullin, Deputy City Clerk