AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS LICENSES AND REGULATIONS AND AMENDING TITLE 7 OF THE KIRKLAND MUNICIPAL CODE.

WHEREAS, the Washington State Legislature passed Engrossed House Bill (EHB) 2005 (RCW 35.90) in 2017 which effects Kirkland business licensing requirements; and

WHEREAS, the law required cities with business licenses to establish a workgroup to create a model business license ordinance to take effect by January 1, 2019, or be prohibited from enforcing city general business license requirements until model ordinance provisions are adopted; and

WHEREAS, the City participated in the workgroup to develop a model business license ordinance; and

WHEREAS, the law required all cities with a business license program to use the state’s Business Licensing System (BLS) by 2022 or FileLocal by 2020; and

WHEREAS, the City has determined that BLS offers the most benefit for management of its business licensing program; and

WHEREAS, BLS has scheduled the City’s conversion and implementation for the fourth quarter of 2018.

WHEREAS, amendments to the Kirkland Municipal Code are needed to meet EHB 2005 requirements.

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

Section 1. Kirkland Municipal Code Section 7.02.020 is amended to read as follows:

7.02.020 Policy and scope.
All persons engaging in a business or occupation within the limits of the city shall be subject to the provisions of this chapter, unless otherwise indicated in this chapter.

Section 2. Kirkland Municipal Code Section 7.02.030 is amended to read as follows.

7.02.030 Definitions.
Where used in this chapter, the following words and terms shall have the meanings as defined in this section, unless, from the context, a more limited or different meaning is clearly defined or apparent:
(a) "Business" includes all activities, occupations, pursuits, or professions located and/or engaged within the city, with the object of
gain, benefit or advantage to the person engaging in the same, or to any other person or class, directly or indirectly, and includes nonprofit enterprises.

(b) "Business license" means that document issued by the city licensing the transaction of the indicated business by the person whose name appears thereon for the stated period.

(c) "Business licensing service" or "BLS" means the program within the Washington State Department of Revenue providing business licensing services to the city.

(d) "Engaging in business":
(1) The term "engaging in business" means commencing, conducting, or continuing in any business within the city, whether or not an office or physical location for the business lies within the city, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
(2) This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.
(3) Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.
A. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City including both short-term and long-term rentals.
B. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.
C. Soliciting sales.
D. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
E. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
F. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
G. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
H. Collecting current or delinquent accounts.
I. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
J. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying,
and real estate services including the listing of homes and managing
real property.
K. Rendering professional services such as those provided by
accountants, architects, attorneys, auctioneers, consultants, engineers,
professional athletes, barbers, baseball clubs and other sports
organizations, chemists, consultants, psychologists, court reporters,
dentists, doctors, detectives, laboratory operators, teachers,
veterinarians.
L. Meeting with customers or potential customers, even when no sales
or orders are solicited at the meetings.
M. Training or recruiting agents, representatives, independent
contractors, brokers or others, domiciled or operating in the City,
acting on its behalf, or for customers or potential customers.
N. Investigating, resolving, or otherwise assisting in resolving customer
complaints.
O. In-store stocking or manipulating products or goods, sold to and
owned by a customer, regardless of where sale and delivery of the
goods took place.
P. Delivering goods in vehicles owned, rented, leased, used, or
maintained by the person or another acting on its behalf.
The City expressly intends that engaging in business include any activity
sufficient to establish nexus for purposes of applying the license fee
under the law and the constitutions of the United States and the State
of Washington. Nexus is presumed to continue as long as the taxpayer
benefits from the activity that constituted the original nexus generating
contact or subsequent contacts.
(c) "Engaging in business" means commencing, conducting or
continuing in any business within the city, whether or not an office or
physical location for the business lies within the city. "Engaging in
business" includes the performance of work or services by contractors,
consultants, representatives, agents or other persons within the city;
even though the office location of the contractor, consultant,
representative, agent or other person is not within the city limits; the
exercise of corporate or franchise powers, as well as the liquidation of
a business when the liquidators hold themselves out to the public as
conducting such business; acting as a solicitor or canvasser; short-term
and long-term rentals; and furnishing temporary employees and/or
workers to other businesses. By way of illustration only and without
being all inclusive, a business with an office or physical location outside
the city limits which sells or leases personal property to buyers or
lessees in the city; accepts or executes a contract to perform
construction or installation services contracts in the city; solicits sales in
the city; or renders services to others in the city; is engaged in business
in this city, irrespective of whether or not such business maintains a
permanent place of business in the city;
(d)(e) "Finance and administration director" or "director" means the
city of Kirkland director of finance and administration or his/her
designee.
(e)(f) "Gross receipts" shall have its ordinary meaning and also means
the value accruing from the business activity within the city or
conducted from the city including compensation for the rendition of
services (without any deduction for labor costs or the cost of materials
used), sale of personal property (without any deduction for the cost of
property sold), gains or dividends realized, rents, royalties,
contributions, fees and commissions, all without any deduction for any expense, taxes, or losses.

(9)(g) "Person" includes individual natural persons, any firm, corporation, association, sole proprietor, club, partnership, trust, receiver, administrator, executor, estate, company, independent contractor, society, any officer, agent, personal representative, any group of individuals acting as a unit, the United States or the state of Washington or any instrumentality thereof, and includes the singular and the plural.

(9)(h) "City" means the city of Kirkland, Washington.

(1) "Year" means a calendar year, except where otherwise specified or when permission is obtained from the director to use a different fiscal year.

(9)(j) "L&I" means the Washington State Department of Labor and Industries.

(9)(k) "Place of business" or "office" includes, but is not limited to, the following: maintaining, occupying, or using a permanent building or facility, premises or other fixed location as an office or location for conducting business; residential units used for short-term or long-term rentals or leases, or a location where the regular business of the person is conducted and which is either owned by the person or over which the person exercises legal dominion and control; or a location which includes a business sign, mailing address, and permanent phone. A vehicle such as a pickup, van, truck, boat or other motor vehicle will not be considered a place of business for purposes of this chapter.

(9)(l) "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved. Persons who hold themselves out to the public as making sales at retail or wholesale are deemed to be engaged in business, and sales made by them of the type of property which they hold themselves out as selling are not casual or isolated sales even though such sales are not made frequently.

(9)(m) "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:

1. Any person who is on the business's payroll, and includes all full-time, part-time, and temporary employees or workers; and
2. Self-employed persons, sole proprietors, owners, managers, and partners; and
3. 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.

(9)(n) "Contractor" means any person who, in the capacity of an independent contractor, contracts with any business, property owner or person to perform a particular job or jobs, whether the remuneration received for performing the job or jobs is on a cost-plus basis, a flat sum basis or a salary computed at so much per hour.

(9)(o) "Subcontractor" means any person who in the capacity of an independent contractor contracts with any contractor to perform a particular trade or job, whether the remuneration received for performing the job or jobs is on a cost-plus basis, a flat sum basis, or a salary basis computed at so much per hour.
(e) "Residential unit" means either a detached dwelling unit or an attached or stacked dwelling unit, as those terms are defined in the city's Zoning Code.

(g) "Short-term rental" means the rental of a residential unit for less than thirty days. A short-term rental is not a bed and breakfast house or home occupation as defined in the Zoning Code for purposes of this chapter.

(r) "Long-term rental" means the rental or lease of a residential unit for a period of thirty days or more. A long-term rental is not a bed and breakfast house or home occupation as defined in the Zoning Code.

Section 3. Kirkland Municipal Code Section 7.02.040 is amended to read as follows.

7.02.040 Business license required.

(a) It is unlawful to engage in any business within the city without first having obtained a business license ("license") from the city and being the holder of a currently valid license to engage in such business or activity.

(b) If a business is conducted from more than one premises in the city a separate registration and license shall be required for each premises within the city.

(c) If more than one business, as indicated with a separate UBI number, is conducted upon or from a single premises a separate registration and license shall be required for each separate business conducted, operated, engaged in or practiced.

(d) Persons or companies doing business in Kirkland must comply with this chapter regardless of the physical location of the business (i.e., whether inside or outside Kirkland city limits).

(e) Limited Exemption from Multiple License Requirements. A business which holds a currently valid city of Kirkland general business license need not obtain an additional business license to conduct business at a second location so long as the second location is not rented, leased, subleased or owned by such business.

Section 4. Kirkland Municipal Code Section 7.02.060 is amended to read as follows.

7.02.060 No license required in certain circumstances.

(a) Employees. The requirement for a separate business license shall not apply to a person in respect to the person's employment in the capacity as an employee, as distinguished from, for example, that of an independent contractor. For purposes of this section, it shall be presumed that a person is not an employee of a business unless that business makes contributions to the state Employment Security Department on behalf of such person. The fact that the business makes industrial insurance contributions on behalf of such worker will not rebut this presumption.

(b) Farmers. No license or registration fee will be required for any farmer, gardener, or other person to sell, deliver, or peddle any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by such person; provided, that this exemption does not apply to any dairy product, meat, poultry, eel,
fish, mollusk, or shellfish (except as otherwise provided with regard to wild-caught salmon and crab under RCW 36.71.090).

(c) Real Estate Agents. For the purposes of this chapter, "real estate agent" means a person who is licensed under Chapter 18.85 RCW and whose license is being retained by a broker licensed as a broker under Chapter 18.85 RCW ("designated broker"). Due to the unique legal controls placed upon the real estate agent/broker relationship, a real estate agent whose license is retained by a designated broker holding a currently valid city of Kirkland business license is not required to have his/her own separate business license if all of the following are true:

1. The real estate agent engages in no business in Kirkland other than the work with the designated broker; and
2. The designated broker notifies the city in writing as part of each year's business license renewal of the name of each real estate agent that the city should consider to be the equivalent of an employee of the designated broker for the purposes of this chapter; and
3. The designated broker includes the real estate agent in counting the number of employees to determine the revenue generating regulatory license fee (RGRL) to be paid for the designated broker's business license and includes the real estate agent's gross receipts in calculating the designated broker's gross receipts for the purposes of this chapter.

d) If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.

1. Meeting with suppliers of goods and services as a customer.
2. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
3. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
4. Renting tangible or intangible property as a customer when the property is not used in the City.
5. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.
6. Conducting advertising through the mail.
7. Soliciting sales by phone from a location outside the City.
8. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (d).
9. No license is required if a person engages in no activities within the city but the following:
   1. Mere delivery of goods;
   2. Activities that are within the term and scope of a city special event permit, pursuant to Chapter 19.24 or a community program activity as defined in Section 19.24.010 (e.g., vendors at a temporary booth who are included under an entity's special event or community
(3)(2) Activities that are within the term and scope of a city-operated and city-managed parks event that would otherwise be exempt if they were conducted pursuant to a special events permit;

(4) Meeting with suppliers of goods and services as a customer;

(5)(3) Attending meetings where the person does not provide training for a fee;

(6) Renting personal property as a customer when the property is not used in the city;

(7)(4) Sale of one's own residence;

(8)(5) Employing a household employee or being a customer of a domestic worker (e.g., babysitters, nannies, health aides, maids, or yard workers); or

(9)(6) Casual and isolated sales.

(e)(g) No license or registration fee will be required for any judge or court commissioner of the Kirkland municipal court or for any person filing a judicial or hearing examiner position for the city of Kirkland.

(h) Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than $12,000 and who does not maintain a place of business within the city, shall be exempt from the general business license requirements in this chapter. This exemption does not apply to regulatory license requirements or activities that require a specialized permit.

Section 5. Kirkland Municipal Code Section 7.02.070 is amended to read as follows.

7.02.070 Presumptions.

The following presumptions shall be made in interpreting and applying this chapter, unless rebutted as provided in this chapter:

(a) It shall be presumed that an entity that has been issued a Unified Business Identifier Number ("UBI") by the state of Washington is a separate business that is required to have its own city of Kirkland business license.

(b) It shall be presumed that an entity that has been issued a state industrial insurance account number, a state self-insurer number, or a state revenue tax reporting account number is a separate business that is required to have its own city of Kirkland business license.

(c) It shall be presumed that average annual gross receipts of an entity are at least twenty thousand dollars per each employee who works for the entity in Kirkland except in the instances of short-term rentals and long-term rentals and leases of residential units. This presumption does not apply to businesses with one or fewer FTE’s with gross receipts under $12,000.

(d) It shall be presumed that an owner, manager, and/or managing partner of a business that is more than sixty days late in paying any amount due under this chapter is willfully, knowingly and intentionally evading his or her legal duties under this chapter.

Section 6. Kirkland Municipal Code Section 7.02.100 is amended to read as follows.
7.02.100 Application for license.

(a) Formal Application Required. Every person required to have a license must submit a business license application to the Business Licensing Service. The application must include all information required for each license requested and full fees due, including the handling fee required by RCW 19.02.075. The Business Licensing Service will ensure the application is complete before transmitting the information and appropriate fees to the city for review prior to issuance of a license.

(b) The application must include the address of the business; the name and address of the owner; an emergency notification name, and phone number; the nature of business conducted; the number of employees; and other information as may be requested by the director or required by the Business Licensing Service to complete processing of the application.

(c) If the applicant is a partnership, the application must be made by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, partnership or nonresident individual, by the resident agent or local manager of the corporation, partnership or individual.

(d)(c) Commencement of Business Activities. No person shall be entitled or authorized to engage in business within the city until such time as the director has approved the issuance of a business license pursuant to the terms of this chapter. The issuance of a receipt for the amount deposited with the application and/or the acceptance of a business license application by the city shall not be deemed to grant any right or privilege under this chapter, except as otherwise provided by law.

(e) Burden on Applicant. The director is authorized, but not required, to mail to persons engaging in business forms for applications for licenses, but failure of the person to receive any such form shall not excuse the person from making application for and obtaining the license required by this chapter.

Section 7. Kirkland Municipal Code Section 7.02.110 is amended to read as follows.
7.02.110 Review of application.
(a) The director, upon receipt of an applicant’s information, shall cause an investigation and review of the application to be made by the proper city officials, and shall approve or deny issuance of the license within thirty days after.
(b) The proposed use of premises shall not be in violation of any city building, safety, fire, health or land use regulations as determined by the city department charged with the enforcement of said regulations.
(c) If a person required by the terms and provisions of this chapter to pay a license fee for any period fails or refuses to do so, he/she/it shall not be granted a license for the current period until the delinquent license fee, together with penalties, has been paid in full. Neither the applicant nor the proposed business shall be in default under the provisions of this chapter or indebted or obligated in any manner to the city, except for current taxes and other obligations not past due.
(d) Qualifications of Applicants. The director may deny issuance (or renewal) of a business license or permit when the licensee, officer or partner thereof, or another person with a legal interest in the license:
(1) Knowingly causes, aids, abets, or conspires with another to cause any person to violate any of the laws or regulations of this state or the city which may affect or relate to the licensed business;
(2) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;
(3) Is convicted of, forfeits bond upon, or pleads guilty to any offenses related to the operation of the licensed business or had a license revoked or suspended by the city or another jurisdiction;
(4) Makes a misrepresentation or fails to disclose a material fact to the city related to any of the obligations set forth in this chapter;
(5) Violates any building, safety, fire or health regulation on the premises in which the business is located after receiving warning from the city to refrain from such violations; or
(6) Is in violation of a zoning regulation or any other regulation of the city.
(e) If an application is denied, any person aggrieved may request director review as provided in this chapter.

Section 8. Kirkland Municipal Code Section 7.02.160 is amended to read 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 twelve 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 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.

(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; 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 previous year. It will be the responsibility of the employer to determine the number of hours worked within the city from these reports. Businesses that did not file quarterly reports with the Washington State Department of Labor and Industries shall determine the number of hours worked within the city and demonstrate, if required, to the satisfaction of the finance and administration director or his/her authorized agent, that the number of employee hours worked is correct.

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

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

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

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

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

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

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

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

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

(f) The minimum fee for any license issued under this chapter shall be two hundred and five dollars (a base fee of one hundred dollars and an RGRL of one hundred and five dollars), as may be adjusted herein.

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

(h) If any person required by the terms and provisions of this chapter to pay a license fee for any period fails or refuses to do so, he or she shall not be granted a license for the current period until the delinquent license fee, together with penalties, has been paid in full. Any license fee due and unpaid under this chapter and any penalties thereon shall constitute a debt to the city and may be collected in court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.
(i) If no higher RGRL applies under this section, then the minimum RGRL shall be one hundred and five dollars.

Section 9. Kirkland Municipal Code Section 7.02.180 is amended to read as follows.

7.02.180 License period, renewal and terms.
(a) A business license will expire on the date established by the Business Licensing Service, and must be renewed on or before that date. The term and respective fee of the license may be prorated to synchronize the expiration date with the date established by the Business Licensing Service.

(b) A business license will expire on the last day of the twelfth month after it is issued ("license year"). Each licensee shall be responsible for renewal of the license for each license year. A business shall submit its application for renewal at least fifteen calendar days prior to the expiration of its license.

(c) Display of License. A license granted under this chapter shall be posted in a conspicuous place in the place of business of the licensee. No person shall allow any license to be posted, displayed, or used after its expiration, suspension, or revocation, or if it is not a valid license for the premises where displayed.

(d) A business licensee's account information is governed by RCW 19.02.115 concerning its disclosure.

(e) The business name, address and application form of each licensed business is for the purposes of Chapter 42.17 RCW a public record, subject to request for public record disclosure.

(d) Change of Location. A licensee must notify the Business Licensing Service of a change in location. The change may require reapplication for a new license, and approval by the city before commencing business at the new location, as provided for in this chapter.

(e) Change of Location. A licensee must notify the Business Licensing Service if the existing business is moving to the new location.

(f) Payment made by draft or check shall not be deemed a payment of the fee unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check or draft operate as a quittance or discharge of the amounts due unless and until the check or draft is honored.

Section 10. Kirkland Municipal Code Section 7.02.190 is amended to read as follows.

7.02.190 Penalty for late payment.
(a) A business that fails to renew its license by the expiration date will be assessed the late renewal penalty authorized by RCW 19.02.085.
(a) A business that fails to renew its license on time shall pay a penalty in addition to the amount charged for the annual license as follows:

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

(2) Between thirty and fifty-nine days late, a penalty of fifty dollars or fifty percent of the amount for the license, whichever is greater;

(3) Sixty or more days late, a penalty of one hundred dollars or one hundred percent of the amount for the license, whichever is greater;

(4) The director is authorized, but not obligated, to waive all or a portion of the penalties provided herein in the event that the director determines that the late payment was the result of excusable neglect or extreme hardship.

(b) A business license that remains delinquent for at least 120 days after the expiration date will be cancelled. After cancellation, a business must reapply for a business license as provided in this chapter in order to continue business in the city.

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

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

(2) Between thirty and fifty-nine days late, a penalty of fifty dollars or fifty percent of the amount for the license, whichever is greater;

(3) Sixty or more days late, a penalty of one hundred dollars or one hundred percent of the amount for the license, whichever is greater;

(4) The director is authorized, but not obligated, to waive all or a portion of the penalties provided herein in the event that the director determines that the late payment was the result of excusable neglect or extreme hardship.

Section 11. Kirkland Municipal Code Section 7.02.200 is amended to read as follows.

7.02.200 Debt owed to city.

(a) Any amount due and unpaid under this chapter and any city-assessed penalty thereon shall constitute a debt to the city and may be collected in the same manner as any other debt, including through code enforcement and court proceedings, and these remedies shall be in addition to all other existing remedies. Interest shall accrue on amounts owed to the city under this chapter at the same rate as provided for superior court judgments.

(b) Issuance of a business license does not forgive amounts owed to the city or penalties thereon.
Section 12. Kirkland Municipal Code Section 7.02.210 is amended to read as follows.

7.02.210 Transfer or sale of business—New license required.
A city business license is personal to the licensee and is nontransferable except as provided in this chapter. Upon the sale or transfer of a business, the license issued to the prior owner or transferor shall automatically expire on the date of such sale or transfer. The new owner must obtain a new business license, provided that the director may waive the provisions of this section if the business demonstrates, to the satisfaction of the director, that the change in the entity is not a change in ownership.

Section 13. Kirkland Municipal Code Section 7.08.020 is amended to read as follows.

7.08.020 Permit and license required.
No person, firm or corporation shall operate, or cause to be operated, any ambulance in the city without first securing current, valid licenses as required by RCW Chapter 18.73. This licensing requirement is in addition to any city business licensing that may be required under Chapter 7.02 KMC.

Section 14. Kirkland Municipal Code Section 7.12.020 is amended to read as follows.

7.12.020 License fees.
The licenses and respective fees provided for in this chapter are all in addition to any business license and business license fees that may be required under Chapter 7.02 KMC.
(a) Amusement Devices. Any distributor, owner or operator of an amusement device shall pay a license fee of fifty dollars per machine per year, payable annually in advance to the director of finance and administration, at the time of issuance or renewal of the distributor's, owner's or operator's business license.
(b) Every distributor, owner or operator of cigarette vending machines doing business as such within the city shall pay an annual license fee in the sum of fifty dollars for a master license payable annually in advance to the director of finance and administration. Also, any distributor, owner, operator or user of such cigarette vending machines shall pay an additional sum of ten dollars per machine per year, payable annually in advance to the director of finance and administration. Payment shall be made at the time of issuance or renewal of the distributor's, owner's or operator's business license.
(c) It is further required that each cigarette vending machine in the city shall be equipped with an electric lock or device to be operated by the owner and/or employees only.
(d) Juke Box or Record Player.
(1) Every "distributor" (as defined in Section 7.12.010(c)) shall pay to the city an annual master license fee of one hundred dollars per year.
payable in advance; at the time of issuance or renewal of the
distributor's, owner's or operator's business license;
(2) Every "operator" (as defined in Section 7.12.010(e)) shall pay to
the city an annual machine license fee of twenty-five dollars per machine
per year payable in advance; at the time of issuance or renewal of the
distributor's, owner's or operator's business license;
(3) Every "owner and operator" (as defined in Section 7.12.010(f))
shall pay to the city an annual machine license fee of twenty-five dollars
per year, in advance at the time of issuance or renewal of the
distributor's, owner's or operator's business license.

Section 15. Kirkland Municipal Code Section 7.12.050 is
amended to read as follows.

**7.12.050 Terms and rates of licenses.**
Licenses and fees issued required under this chapter shall be applied for
with, and issued directly by the finance director, as a regulatory process
separate from the city business license that is handled through the
Business Licensing Service with the applicant's business license and shall
renew and expire at the same time as the applicant's business license.
In the event an applicant for a license under this chapter already has a
city business license, the initial term of the license under this chapter
shall expire at the same time as the business license expires, as
established by the Business Licensing Service.

Section 16. Kirkland Municipal Code Section 7.16.010 is
amended to read as follows.

**7.16.010 Closing out sale license required.**
It is unlawful for any person to advertise or conduct any auction, sales
of distressed goods, removal or closing out sale without first filing with
the city clerk the inventory hereinafter provided for and obtaining from
him a license for such sale or auction, to be known as a "closing out sale
license." This license is in addition to a city business license that may be
required under Chapter 7.02 KMC.

Section 17. Kirkland Municipal Code Section 7.20.020 is
amended to read as follows.

**7.20.020 License required.**
It is unlawful for any person to conduct, manage or operate a cabaret
unless such person is the holder of a valid and current license from the
city to do so, obtained as provided in this chapter. The cabaret license
and other licenses provided for in this chapter are all in addition to a
business license that may be required under Chapter 7.02 KMC.

Section 18. Kirkland Municipal Code Section 7.20.070 is
amended to read as follows.

**7.20.070 License issuance.**
Application for, along with payment of fees for the Cabaret licenses
provided for in this chapter shall be made to, and issued directly by the
city, separate from the business license process under Chapter 7.02
KMC administered through the Business Licensing Service, with the applicant's business license and shall renew and expire at the same time as the applicant's business license. In the event an applicant for a cabaret license already has a city business license, the initial term of the cabaret license shall expire at the same time as the business license as established by the Business Licensing Service.


7.26.020 License required.
The licenses and related fees required by this chapter are in addition to a business license that may be required under Chapter 7.02 KMC.
(a) It is unlawful for any person to conduct, manage or operate an erotic performance establishment unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter.
(b) It is unlawful for any performer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an unlicensed erotic performance establishment.
(c) It is unlawful for any manager to work in an erotic performance establishment unless such person is the holder of a valid and subsisting license from the city to do so.

Section 20. Kirkland Municipal Code Section 7.32.040 is amended to read as follows.

7.32.040 Massage parlor or public bathhouse-License required—Fee.
(a) It is unlawful to conduct, operate or maintain a massage parlor or public bathhouse unless such establishment or premises is licensed by the city. The licenses and related fees required by this chapter is in addition to the business license that may be required under Chapter 7.02 KMC. The application, issuance, renewal, and revocation of such licenses shall be governed by Sections 7.20.030, 7.20.040 and 7.20.080 of this title.
(b) The fee for a massage parlor license or public bathhouse shall be and is hereby fixed in the sum of seventy-five dollars per year.

Section 21. Kirkland Municipal Code Section 7.36.030 is amended to read as follows.

7.36.030 License required—Application.
Every person, firm or corporation before commencing to carry on, open, conduct or operate a pawnbroker, secondhand dealer or coin dealer business shall obtain a license to do so. The licenses and related fees required by this chapter are in addition to a business license that may be required under Chapter 7.02 KMC. The issuance of such a license shall be governed by Sections 7.20.040 and 7.20.080.

Section 22. Kirkland Municipal Code Section 7.52.020 is amended to read as follows.
7.52.020 License—Required.

It is unlawful to conduct, manage, operate or sponsor a celebration as herein defined without first obtaining from the city a valid and subsisting celebration license. The license and fees required by this chapter are in addition to a business license that may be required under Chapter 7.02 KMC.

Section 23. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 24. This ordinance shall be in force and effect November 29, 2018, after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this 4th day of September, 2018.

Signed in authentication thereof this 4th day of September, 2018.

Amy Walen, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

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