

ORDINANCE O-4607

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SHORT-TERM RENTALS.

1 WHEREAS, public comment has brought forward concerns about
2 the impacts of unregulated short-term detached dwelling unit rentals in
3 the city of Kirkland; and
4

5 WHEREAS, such concerns have included absentee owners,
6 excessive numbers of residents and vehicles, blocked neighboring
7 driveways, noise, litter, trespasses and the use of detached dwelling
8 units as event venues; and
9

10 WHEREAS, public comment has also demonstrated that
11 appropriately regulated short-term rentals of residential units, including
12 both detached dwelling units and attached or stacked dwelling units,
13 help make it possible for owners of such residential units to be able to
14 afford to live in Kirkland thereby helping preserve affordable housing
15 stock, while also bringing visitors, students, tourism and economic
16 development benefits to the city; and
17

18 WHEREAS, Chapter 7.02 of the Kirkland Municipal Code,
19 Business Licenses and Regulations, requires business licenses in
20 connection with all activities and pursuits located and/or engaged within
21 Kirkland with the object of gain, benefit or advantage to the person
22 engaging in the same; and
23

24 WHEREAS, Chapter 7.02 KMC therefore applies to both short-
25 term rentals and long-term rentals as provided for herein; and
26

27 WHEREAS, rental agreements in excess of one month, which are
28 considered long-term rentals for purposes of this ordinance, remain
29 freely permitted subject to the business license requirements of Chapter
30 7.02; and
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32 WHEREAS, the City Council wishes to add additional provisions
33 to Chapter 7.02 specifically applicable to short-term rentals of detached
34 dwelling units to address the regulatory concerns described above; and
35

36 WHEREAS, the Council further wishes to provide for the
37 enforcement of the requirements of Chapter 7.02 through amendments
38 to Chapter 1.12 KMC, Code Enforcement; and
39

40 WHEREAS, the Kirkland Zoning Code regulates similar types of
41 activities, including bed and breakfast houses and home occupations,
42 neither of which are considered short-term rentals for purposes of this
43 ordinance.
44

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

47 Section 1. Kirkland Municipal Code Section 1.12.020 is amended
48 to read as follows:

49
50 **1.12.020 Definitions.**

51 As used in this chapter, unless a different meaning is plainly
52 required:

53 (a) "Abate" means to repair, replace, remove, destroy or
54 otherwise remedy a condition which constitutes a civil violation by such
55 means, in such a manner and to such an extent as the applicable
56 department director determines is necessary in the interest of the
57 general health, safety and welfare of the community.

58 (b) "Act" means doing or performing something.

59 (c) "Applicable department director" means the director of the
60 department or his or her designee.

61 (d) "Civil violation" means a violation for which a monetary penalty
62 may be imposed as specified in this chapter. Each day or portion of a
63 day during which a violation occurs or exists is a separate violation.
64 Traffic infractions issued pursuant to Title 12 are specifically excluded
65 from the application of this chapter.

66 (e) "Development" means the erection, alteration, enlargement,
67 demolition, maintenance or use of any structure or the alteration or use
68 of any land above, at or below ground or water level, and all acts
69 governed by a city regulation.

70 (f) "Emergency" means a situation which in the opinion of the
71 applicable department director requires immediate action to prevent or
72 eliminate an immediate threat to the health or safety of persons or
73 property.

74 (g) "Hearing examiner" means the Kirkland hearing examiner and
75 the office thereof established pursuant to Chapter 3.34.

76 (h) "Omission" means a failure to act.

77 (i) "Person" means any individual, firm, association, partnership,
78 corporation or any entity, public or private.

79 (j) "Person responsible for the violation" means any person who
80 is required by the applicable regulation to comply therewith, or who
81 commits any act or omission which is a civil violation or causes or
82 permits a civil violation to occur or remain upon property in the city, and
83 includes but is not limited to owner(s), lessor(s), tenant(s), or other
84 person(s) entitled to control, use and/or occupy property where a civil
85 violation occurs. For violations of the city sign regulations, this definition
86 includes, but is not limited to, sign installers/posters, sign owners, and
87 any other persons who cause or participate in the placement of a sign
88 in a manner that constitutes a civil violation. For violations of city tree
89 regulations, this definition includes any person who caused or
90 participated in the removal of a tree in a manner that constitutes a civil
91 violation.

92 (k) "Regulation" means and includes the following, as they now
93 exist or are hereafter amended:

94 (1) Title 23 (Kirkland Zoning Code);

95 (2) Title 21, Buildings and Construction (including codes adopted
96 by reference);

97 (3) Chapter 15.52 (Surface Water Management);

98 (4) Title 29 (Land Surface Modification);

99 (5) Chapter 19.04 (Obstructing Streets or Sidewalks);

- 100 (6) Chapter 11.76 (Junk Vehicles);
 101 (7) Chapter 11.24 (Nuisances);
 102 (8) The terms and conditions of any permit or approval issued by
 103 the city, or any concomitant agreement with the city;
 104 (9) Chapter 7.74 (Fair Housing Regulations);
 105 (10) Chapter 16.05 (Retail Carryout Bags, including definitions set
 106 forth in Chapter 16.04);
 107 (11) Chapter 16.08 (Garbage Disposal); and
 108 (12) Chapter 7.02 (Business Licenses and Regulations).

109 (l) "Repeat violation" means a violation of the same regulation in
 110 any location by the same person for which voluntary compliance
 111 previously has been sought within two years or a notice of civil violation
 112 has been issued within two years.

113 (m) "Violation" means an act or omission contrary to a city
 114 development regulation including an act or omission at the same or
 115 different location by the same person and including a condition resulting
 116 from such act or omission.

117
 118 Section 2. Kirkland Municipal Code Section 7.02.030 is amended
 119 to read as follows:

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 121 **7.02.030 Definitions.**

122 Where used in this chapter, the following words and terms shall have
 123 the meanings as defined in this section, unless, from the context, a more
 124 limited or different meaning is clearly defined or apparent:

125 (a) "Business" includes all activities, occupations, pursuits, or
 126 professions located and/or engaged within the city, with the object of
 127 gain, benefit or advantage to the person engaging in the same, or to
 128 any other person or class, directly or indirectly, and includes nonprofit
 129 enterprises.

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

133 (c) "Engaging in business" means commencing, conducting or
 134 continuing in any business within the city, whether or not an office or
 135 physical location for the business lies within the city. "Engaging in
 136 business" includes the performance of work or services by contractors,
 137 consultants, representatives, agents or other persons within the city,
 138 even though the office location of the contractor, consultant,
 139 representative, agent or other person is not within the city limits; the
 140 exercise of corporate or franchise powers, as well as the liquidation of
 141 a business when the liquidators hold themselves out to the public as
 142 conducting such business; acting as a solicitor or canvasser; short-term
 143 and long-term rentals; and furnishing temporary employees and/or
 144 workers to other businesses. By way of illustration only and without
 145 being all-inclusive, a business with an office or physical location outside
 146 the city limits which sells or leases personal property to buyers or
 147 lessees in the city; accepts or executes a contract to perform
 148 construction or installation services contracts in the city; solicits sales in
 149 the city; or renders services to others in the city; is engaged in business
 150 in this city, irrespective of whether or not such business maintains a
 151 permanent place of business in the city.

152 (d) "Finance and administration director" or "director" means the
153 city of Kirkland director of finance and administration or his/her
154 designee.

155 (e) "Gross receipts" shall have its ordinary meaning and also
156 means the value accruing from the business activity within the city or
157 conducted from the city including compensation for the rendition of
158 services (without any deduction for labor costs or the cost of materials
159 used), sale of personal property (without any deduction for the cost of
160 property sold), gains or dividends realized, rents, royalties,
161 contributions, fees and commissions, all without any deduction for any
162 expense, taxes, or losses.

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

170 (g) "City" means the city of Kirkland, Washington.

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

174 (i) "L&I" means the Washington State Department of Labor and
175 Industries.

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

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

193 (l) "Employee" means and includes each of the following persons
194 who are not required by the city to have his/her/its own separate city
195 of Kirkland business license:

196 (1) Any person who is on the business's payroll, and includes all
197 full-time, part-time, and temporary employees or workers; and

198 (2) Self-employed persons, sole proprietors, owners, managers,
199 and partners; and

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

203 (m) "Contractor" means any person who, in the capacity of an
204 independent contractor, contracts with any business, property owner or
205 person to perform a particular job or jobs, whether the remuneration

206 received for performing the job or jobs is on a cost-plus basis, a flat sum
207 basis or a salary computed at so much per hour.

208 (n) "Subcontractor" means any person who in the capacity of an
209 independent contractor contracts with any contractor to perform a
210 particular trade or job, whether the remuneration received for
211 performing the job or jobs is on a cost-plus basis, a flat sum basis, or a
212 salary basis computed at so much per hour.

213 (o) "Residential unit" means either a detached dwelling unit or an
214 attached or stacked dwelling unit, as those terms are defined in the
215 city's zoning code.

216 (p) "Short-term rental" means the rental of a residential unit for
217 less than thirty days. A short-term rental is not a bed and breakfast
218 house or home occupation as defined in the zoning code for purposes
219 of this ordinance.

220 (q) "Long-term rental" means the rental or lease of a residential
221 unit for a period of thirty days or more. A long-term rental is not a bed
222 and breakfast house or home occupation as defined in the zoning code.

223

224 Section 3. Kirkland Municipal Code Section 7.02.050 is amended
225 to read as follows:

226

227 **7.02.050 Operating without a license.**

228 (a) Any person who engages in or carries on a business without
229 having obtained a business license when required to do so shall be guilty
230 of a violation of this chapter for each day during which the business is
231 so engaged in or carried on. Any person who fails or refuses to pay a
232 fee required under this chapter, or any part thereof, on or before the
233 due date, shall be deemed to be operating a business without having
234 obtained a license to do so. Except as otherwise specified, any person
235 violating this chapter shall be guilty of a misdemeanor crime and a civil
236 violation under Chapter 1.12.

237 (b) A business failing to obtain or maintain a currently valid license
238 and yet conducting business within the city is hereby declared to be a
239 public nuisance. Any remedy provided by this code with respect to a
240 public nuisance is in addition to other remedies provided under this
241 chapter.

242

243 Section 4. Kirkland Municipal Code Section 7.02.070 is amended
244 to read as follows:

245

246 **7.02.070 Presumptions.**

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

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

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

257 (c) It shall be presumed that average annual gross receipts of an
258 entity are at least twenty thousand dollars per each employee who

259 works for the entity in Kirkland except in the instances of short-term
 260 rentals and long-term rentals and leases of residential units.

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

265
 266 Section 5. Kirkland Municipal Code Section 7.02.200 is amended
 267 to read as follows:

268
 269 **7.02.200 Debt owed to city.**

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

277 (b) Issuance of a business license does not forgive amounts owed
 278 to the city or penalties thereon.

279
 280 Section 6. Kirkland Municipal Code Section 7.02.260 is amended
 281 to read as follows:

282
 283 **7.02.260 Suspension or revocation of license—Criteria.**

284 The director may suspend or revoke a business license or permit
 285 when the licensee, officer or partner thereof, or another person with a
 286 legal interest in the license:

287 (1) Knowingly causes, aids, abets, or conspires with another to
 288 cause any person to violate any of the laws of this state or the city which
 289 may affect or relate to the licensed business;

290 (2) Has obtained a license or permit by fraud, misrepresentation,
 291 concealment, or through inadvertence or mistake;

292 (3) Is convicted of, forfeits bond upon, or pleads guilty to any
 293 offenses related to the operation of the licensed business;

294 (4) Makes a misrepresentation or fails to disclose a material fact
 295 to the city related to any of the obligations set forth in this chapter;

296 (5) Violates any building, life or public safety, fire or health
 297 regulation on the premises in which the business is located after
 298 receiving warning from the city to refrain from such violations;

299 (6) Is in violation of a zoning or building code or other material
 300 regulation of the city, including the responsibility to exercise best efforts
 301 to help ensure conflicts between short-term renters and neighbors are
 302 avoided as set forth in Section 7.02.300(3); or

303 (7) Is indebted or obligated to the city for past due fees or taxes,
 304 excluding special assessments such as LID assessments.

305
 306 Section 7. A new Kirkland Municipal Code Section 7.02.300 is
 307 amended to read as follows:

308
 309 **7.02.300 Short-term Rentals—Special Provisions.**

310 The following special provisions are applicable to short-term rentals
 311 of detached dwelling units:

312 (1) Short-term rentals are freely permitted as they relate to
313 frequency and total number of days per year when an owner or
314 authorized agent of an owner continuously occupies a portion of a short-
315 term rental as his or her primary residence.

316 (2) Short-term rentals not exceeding a total of 120 days per year
317 are permitted when (a) an owner or an authorized agent of the owner
318 occupies all or a portion of the short-term rental as his or her primary
319 residence for a total of at least 245 days per year and (b) a property
320 manager identified to both the city and all short-term renters is
321 continuously available and located within 15 miles of the short-term
322 rental whenever the owner or an authorized agent of the owner is not
323 occupying all or a portion of the short-term rental as his or her primary
324 residence.

325 (3) Short-term rental agreements shall include provisions
326 encouraging renters to exercise best efforts to avoid conflicts with
327 neighbors related to issues such as noise, littering, parking and trespass,
328 and the owner and authorized agent of the owner of a short-term
329 residential unit shall be jointly responsible to the city for exercising best
330 efforts to help ensure such conflicts are avoided as a condition of
331 maintaining a business license under this chapter.

332 (4) There may be no more than two short-term rental agreements
333 in effect at a single detached dwelling unit at any one time.

334 (5) The owners and authorized agents of owners of detached
335 dwelling units that are the subject of short-term rental agreements are
336 jointly responsible for ensuring compliance with all applicable city zoning
337 code requirements, including those related to the number of unrelated
338 people occupying the unit.

339 (6) The owners and authorized agents of owners of detached
340 dwelling units that are the subject of short-term rental agreements are
341 jointly responsible for ensuring compliance with the parking provisions
342 applicable to bed and breakfast houses set forth in the zoning code.

343 (7) The director of finance and administration may impose such
344 additional requirements as may be necessary, consistent with the police
345 power authority of the city, to protect the public health, safety and
346 welfare in the issuance of business licenses related to short-term
347 rentals.

348
349 Section 8. A new Kirkland Municipal Code Section 7.02.310 is
350 amended to read as follows:

351
352 **7.02.310 Payment of Lodging Excise Tax on Short-term**
353 **Rentals.**

354 It shall be the responsibility of the person owning a residential unit
355 used for a short-term rental to ensure the lodging excise tax provided
356 for by Chapter 5.19 is timely paid.

357
358 Section 9. The provisions of this ordinance shall apply to all
359 short-term rentals existing on or after the effective date hereof except
360 to the extent necessary to avoid the impairment of existing short-term
361 rental agreements as they may relate to rental dates and durations
362 existing as of the effective date hereof.
363

364 Section 10. City staff shall provide an update to the City Council
365 on the performance of the short-term rental regulations, along with any
366 recommendations for improvements, no later than July 15, 2018.

367
368 Section 11. If any provision of this ordinance or its application
369 to any person or circumstance is held invalid, the remainder of the
370 ordinance or the application of the provision to other persons or
371 circumstances is not affected.

372
373 Section 12. This ordinance shall be in force and effect five days
374 from and after its passage by the Kirkland City Council and publication
375 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary
376 form attached to the original of this ordinance and by this reference
377 approved by the City Council.

378 Passed by majority vote of the Kirkland City Council in open
379 meeting this 17th day of October, 2017.

380
381 Signed in authentication thereof this 17th day of October, 2017.



Amy Walen, Mayor

Attest:



Kathi Anderson, City Clerk

Approved as to Form:



Kevin Raymond, City Attorney