



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager
From: Tracey Dunlap, Director of Finance and Administration
Sandi Hines, Financial Planning Manager
Date: December 4, 2008
Subject: **2009-2010 BUDGET ADOPTION**

RECOMMENDATION:

As part of the budget finalization process, Council approve the attached ordinances:

- Ordinance 4161 that restructures the business license program;
- Ordinance 4162 that increases the utility tax on the City's utilities; and
- Ordinance 4163 adopting the budget for the 2009-2010 biennium.

BACKGROUND DISCUSSION:

Background for each budget item is provided below along with related attachments at the end of this memorandum.

2009-2010 Budget Adoption

The attached budget adoption ordinance represents the City's third biennial budget. It adopts the 2009-2010 Budget as proposed by the City Manager and amended by the City Council. By state law, the budget must be adopted by December 31, 2008.

The budget is adopted at the fund level which sets the total expenditure authority for the biennium for each fund. A summary of the 2009-2010 Final Budget by fund type, as compared to the 2007-2008 Budget, is included in the table below:

| Fund Type | 07-08 Budget | 09-10 Budget | % Change |
|----------------------------|---------------------|---------------------|-----------------|
| General Government: | | | |
| General Fund | 113,636,653 | 124,687,343 | 9.72% |
| Other Operating Funds | 14,754,390 | 15,109,367 | 2.41% |
| Internal Service Funds | 32,125,867 | 33,887,335 | 5.48% |
| Non-Operating Funds | 105,520,266 | 85,873,288 | -18.62% |
| Utilities: | | | |
| Water/Sewer | 59,536,428 | 68,826,272 | 15.60% |
| Surface Water | 22,235,249 | 19,281,159 | -13.29% |
| Solid Waste | 17,233,322 | 18,753,863 | 8.82% |
| Total Budget | 365,042,175 | 366,418,627 | 0.38% |

The 2009-2010 Final Budget totals \$366.4 million which represents an increase of 0.38% from the 2007-2008 Approved Budget (as of June 30, 2008). Factors contributing to the change from the preliminary budget include: the impact the Council's restoration of selected expenditure reductions proposed by the City Manager, changes to the 2007-2008 approved budget total – the result of incorporating mid-year Capital Improvement Program adjustments, planned increases in the Water/Sewer utility fund, and changes in spending for capital improvements. The total General Fund budget is \$124.7 million, which represents an increase of 9.72 % from the 2007-2008 Approved Budget. It should be noted that the increase is for a two year period and is primarily the result of accounting changes (recreation revolving and facilities) which moved about \$4 million of costs from other funds to the General Fund, employee wage and benefit growth, and approved service packages. A 2009-2010 Final Budget Overview by fund is provided as Exhibit A to the budget ordinance (O-4163, found at the end of this document).

The adjustments made to the Preliminary budget fall into either Council directed or housekeeping adjustments. The total adjustments increase the preliminary budget by \$3.9 million. The Council directed adjustments are outlined in Attachment A to this staff report. Housekeeping adjustments of particular note include the following items:

- **Police Captain to the Criminal Justice Training Center (CJTC)** (2009 and 2010 one-time) – With the appointment of Rex Caldwell to the CJTC, it is necessary to adjust for the “bumping” of personnel to backfill positions. This adjustment has no net cost to the City.
- **Reclass Planning Receptionist** (2009 and 2010 ongoing) – The vacant Receptionist position is being reclassified to an Office Technician in order to better serve both the administrative and technical needs of the Planning Department with the reduction of the Planning Information Specialist position. Further discussions regarding the Planning Information Specialist position are in progress as of the date this memo was prepared.
- **Revenue Housekeeping Adjustments** (2009 and 2010 ongoing) – Adjust the Fire District revenue to the General Fund based on the updated budget and contract. Also, adjust the EMS levy revenue to its full levy amount.
- **Tour Dock Fund Adjustment** (2009 and 2010 ongoing) – New information was received regarding the 2007-08 revenue and expenses for the Tour Dock Fund and this in turn decreased the total appropriation for 2009-2010.
- **Adjust Capital Funds** (2009 and 2010) – The General Capital and Water/Sewer Utility Capital Funds were adjusted to reflect the Council's decision to suspend the Neighborhood Connection Program for two years, and the revisions made to the Preliminary 2009-2014 CIP to address the reduced impact fees for transportation and parks. The net impact of the CIP changes is \$2.3 million.

Lodging Tax Advisory Committee (LTAC)

At the November 18, 2008 Kirkland City Council meeting, Council determined that three requests for outside agency funding could potentially be funded or supplemented by lodging tax funds, and requested that the LTAC consider funding for these programs.

At its December 2, 2008 meeting, the LTAC reviewed requests from the Kirkland Classic Car Show, Seven Hills of Kirkland and the Junior Softball World Series and recommended the use of \$7,250 of lodging tax funds for the three events. A separate staff memo describing the details is included as Attachment B.

Human Services Funding

The budget of \$1,128,789 for human services includes a proposed base per capita spending amount of \$1,054,261 (including ongoing and one-time funding), a transfer from the Police Department to support Eastside Domestic Violence

Program for \$62,528, and \$12,000 in support from Evergreen Hospital. The Human Services Advisory Committee would like Council to consider allocating \$50,000 from Council Special Projects Reserve to establish a human services emergency fund. This fund would be used to respond to emerging needs in the community. The Committee will establish criteria for allocation if/when this fund is established.

Business License

At the November 18 meeting, the City Council approved incorporating a new business license fee schedule and changes to general rules as part of the final 2009-10 budget. Ordinance 4161 implements the new fee structure which includes a base fee of \$100 and a Revenue Generating Regulating License charge of \$100 per FTE. This option is estimated to generate revenue of \$3.1 million in 2009, an increase of \$1.7 million from the current structure. The increased revenue from the preliminary budget was used to restore selected program reductions.

The new fee structure would go into effect for businesses with license renewals due in the month of January. Any delay in implementation will result in a revenue loss of \$140,000 per month and will result in the need for additional expenditure reductions or use of reserves to balance the 2009-10 budget.

Utility Tax Rate

Council approved a 3% increase in utility taxes on water, sewer, and solid waste as part of the framework to balance the budget. Upon Council approval, the utility tax rate on water, sewer, and solid waste would increase from 7.5% to 10.5%. City utilities are billed bi-monthly by "cycle." There are six billing cycles that span each two-month period. Utilities that are billed through the City (water, sewer and solid waste) can begin billing at the new tax rate on the first day of each of the billing cycles following the effective date. Based on the proposed effective date, the utility tax increase for water, sewer and garbage will begin to appear on bills mailed in February and revenue will be received beginning in late March or early April.

Ordinance 4162 provides for the tax on the water, sewer and solid waste utilities to increase to 10.5%. Note that a voted increase in the tax levied on private utilities (gas, electric, telecommunications, and cable) is incorporated into the 2010 budget, assuming an affirmative vote in 2009. If this does not occur, further reductions or use of reserves will be necessary.

Follow-up Requested by Council

Along with modifications to the biennial budget, Council requested several reports as future follow-up items. These include:

- A report on **Performance Budgeting**.
- A discussion on **Revenue Diversification** at the Council Retreat.
- Ongoing review of cost allocation to utilities ("institutionalize").
- A more detailed look at the **Tourism program**.
- Combine All City Dinner and volunteer celebrations.
- Further discussion on methods for allocating **Council travel and training costs**.
- Study ways to have community self-select to receive printed **City Update**.
- Additional information on **Court Security**.
- A report on funding **water/oil separators** from Surface Water Management Fund.
- A report on the status of **communicating the impacts of reductions** to the community.
- A report on **energy usage** of City facilities and **vehicle fuel savings**.
- A report on the viability of offering **community service hours for downtown maintenance**.
- A report on **permit processing times**.

Copies of the final budget document will be available early in 2009.

**2009-2010 Budget
Council Changes to Preliminary Budget**

| Budget Item | One-Time | | Ongoing | | Funding Source Options |
|---|----------------|----------------|----------------|---------------------------------------|---|
| | Adds Resources | Uses Resources | Adds Resources | Uses Resources | |
| Neighborhood Connections Program Eliminate Program One Neighborhood per Year | | | 200,000 | 0 | Was \$50,000 |
| Eliminate Neighborhood Grants | | | 0 | | Was \$55,000 |
| Business Head Tax - Option 2C | | | 531,360 | | |
| Undesignated Evergreen Sponsorship for Human Services | 12,000 | 12,000 | | | |
| Delay Tree Canopy Analysis | 28,000 | | | | |
| Property Tax Shortage for Banked Capacity | | | | 73,128 | \$36,000 reduction/yr due to credit |
| Human Services Human Services Advisory Committee - Option 1 Emergency Fund | | 15,561 TBD | | TBD | Undesignated Evergreen funds Council Special Projects Reserve |
| Economic Development Program Restore Budget Reductions Commuter Trip Reduction Program Downtown Maintenance Kirkland Downtown Association Funding Restore Partner Funding & Fund at Requested Amount Change One-time Partner Funding to Ongoing | | 25,000 | | 36,400 100,000 22,000 65,000 | Business License Tax Business License Tax One-Time Revenue (Was \$50,000) Business License Tax Business License Tax |
| Add Citizen Survey | 30,000 | 30,000 | | | Council Special Projects Reserve |
| Restore Cultural Council Funding | | 5,000 | | | |
| Increase Environ. Outreach Specialist by .37 to Full Time | | | | 0 | Was \$75,318 |
| Restore Parks Maintenance Night Shift (Seasonal Hours) | | | 9,000 | 45,201 | Assumes User Fee Increases |
| Restore Front Desk Position (.5 FTE) | | | | 35,335 | Restore only .25 FTE |
| Restore ProAct Unit Administrative Support (.50 FTE) | | | | 83,152 | |
| Restore Traffic Officer Position (1.0 FTE) | | | | 205,736 | |
| Restore Graphic Support Position (.75 FTE) | | | | 72,408 | Restore Hourly On-Call or .4 FTE |
| City Update Limited Mailing on Request (1,000) - 3 Editions per Year | | | | 0 | Was \$7,500 |
| OR Full Page Ad in Reporter (no color) - 3 Ads per Year | | | | | |
| Volunteer Dinner plus All-City Dinner Low End of Range - Cake and Coffee OR High End of Range - Hors d'oeuvres | | | | 2,000 0 | Included in Low End Totals Included in High End Totals |
| General Fund Resources Freed Up by: Softball World Series (to be funded by Lodging Tax) Classic Car Show (to be funded by Lodging Tax) | 2,340 1,640 | | | | |
| Restore Reserve Firefighter Program | 120,000 | 120,000 | | | Contingency (\$89,280)/FD #41 (\$30,720) |
| Total Adds/Uses - Low End of Range | 214,980 | 207,561 | 740,360 | 740,360 | |
| Total Adds/Uses - High End of Range | N/A | N/A | | N/A | |
| Net Available - Low End of Range | | 7,419 | | - | |
| Net Available - High End of Range | | N/A | | N/A | |



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MEMORANDUM

To: David Ramsay, City Manager

From: Sheila Cloney, Special Project Coordinator

Date: December 4, 2008

Subject: Outside Agency Funding requests – Tourism Funding

RECOMMENDATION:

Council accept a recommendation from the Lodging Tax Advisory Committee (LTAC) to fund the Kirkland Classic Car Show (\$1,640); KITH Seven Hills of Kirkland (\$3,270); and the Little League Baseball Jr. Softball World Series (\$2,340) from the lodging tax fund in the total amount of \$7,250.

BACKGROUND DISCUSSION:

At the November 18, 2008 Kirkland City Council meeting, Council determined that three requests for outside agency funding could potentially be funded or supplemented by lodging tax funds, and requested that the LTAC consider funding for these programs.

At its December 2, 2009 meeting, the LTAC reviewed requests from the Kirkland Classic Car Show, Seven Hills of Kirkland and the Junior Softball World Series in the total amount of \$7,250. The LTAC was asked to make a recommendation regarding the use of lodging tax funds for the marketing/tourism elements associated with event activities. The LTAC was advised by staff that there were adequate reserve funds to cover these activities and that they need not redistribute funds that had already been recommended for other projects.

The LTAC recommended the use of lodging tax funds for the three events as follows:

| | |
|--|----------------|
| Kirkland Classic Car Show | \$1,640 |
| KITH Seven Hills of Kirkland | \$3,270 |
| Little League Baseball Jr. Softball World Series | <u>\$2,340</u> |
| Total | \$7,250 |

The table below summarizes overall funding of the three events.

| Project | City Manager Recommendation | Source(s) |
|---|------------------------------------|---|
| Kirkland Downtown Association - Kirkland Classic Car Show | \$1,640 | Lodging Tax Fund \$1,640 |
| KITH – Seven Hills of Kirkland | \$3,270 | One-Time General Fund \$3,270; Lodging Tax Fund \$3,270 |
| Little League Baseball - Junior Softball World Series | \$2,340 | Lodging Tax Fund \$2,340 |



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MEMORANDUM

To: David Ramsay, City Manager

From: Sheila Cloney, Special Project Coordinator

Date: December 4, 2008

Subject: Lodging Tax Advisory Committee Recommendation regarding Kirkland Uncorked Funding

RECOMMENDATION:

Council earmark funding in the amount of \$15,000 in the Tourism budget for the 2009 Kirkland Uncorked event. The Lodging Tax Advisory Committee (LTAC) will reconsider the proposal in January, 2009, and will forward a final recommendation to the Council thereafter. Council can then determine whether LTAC funds should be allocated for this event.

BACKGROUND DISCUSSION:

On December 2, 2009 the LTAC received a report from staff regarding the 2008 Kirkland Uncorked event. In consideration of a 2009 request for Tourism outside agency funding for marketing of the event by Bold Hat Productions, the committee was provided with three options:

1. Approve the Tourism outside agency funding request in the amount of \$15,000;
2. Decline the request for \$15,000 in Tourism outside agency funding or approve Tourism outside agency funding in a lesser or greater amount than \$15,000; or
3. Make no decision on the request for Tourism outside agency funding.

Following discussion, it was determined on a three to one vote that the event not be funded in 2009 with the caveat that LTAC could reconsider its decision following a follow-up presentation by the applicant in January 2009.

The draft minutes from the December 2, 2009 LTAC meeting are attached to this memorandum.

Kirkland Lodging Tax Advisory Committee (LTAC)

December 2, 2008

Minutes

8:30 – 10:00 a.m.

Kirkland City Hall, Norkirk Room

Call to Order

Chair Tom Hodgson called the December 2, 2008 Lodging Tax Advisory Committee meeting to order at 8:30 a.m.. The following members were in attendance: Shirley Day, hotel representative Ryan Noel, Julie Metteer. Hotel representative Les Utley, and Luanne Erickson were absent.

Approval of Minutes

Shirley Day moved for the approval of the minutes of the August 27, 2009 and September 16, 2009 meetings. Ryan Noel seconded the motion which carried.

Reports

Kirkland Uncorked 2008 Report

Councilmember Hodgson introduced the topic and Scott Nagel of Birchill Enterprises made a presentation to the committee regarding the economic impact statement prepared for Kirkland Uncorked. Following the presentation and a question and answer session the committee discussed whether the event is an appropriate event for tourism funding.

The committee moved not to support the event in its current form on a three to one vote with Councilmember Hodgson, Shirley Day and Julie Metteer voting no. Ryan Noel voted yes. Committee members expressed interest in a broader scope/geography for the event and enhanced offerings; indicated that all new activities associated with the event should generate increased revenue; expressed receptivity to the continued use of the Uncorked brand and public relations efforts; and agreed to meet in January to consider a revised event format.

Bold Hat Productions president, Phil Megenhardt expressed an interest in coming back in January 2009 to present the marketing aspects of the event with the committee.

Old Business

2009 Outside Agency Tourism Funding

Following a discussion, Shirley Day moved to grant tourism funds to Kirkland Classic Car Show (\$1,640), Seven Hills of Kirkland (\$3,270); and Junior Softball World Series (\$2,340) in the total amount of \$7,250.

Listening Tour – Status Update

Economic Development Manager Ellen Miller-Wolfe commented on the status of the listening tour being conducted in an effort to evaluate the current organizational structure of the tourism program.

Tourism Marketing RFP

Staff updated the committee on progress made regarding requests for proposals for marketing/branding services.

New Business

Committee Rules and Procedures Project

The committee discussed the need for committee rules and procedures for the Lodging Tax Advisory Committee to ensure program consistency and compliance with State law.

Announcements

None.

Adjourn

The meeting adjourned at 10:35 a.m.

Dated this ____ Day of _____, 2008

Councilmember Hodgson

ORDINANCE 4161

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS LICENSES AND REGULATIONS AND AMENDING CHAPTER 7.02 OF THE KIRKLAND MUNICIPAL CODE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 7.02.020 of the Kirkland Municipal Code is hereby 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. ~~The city council finds that in order for the city of Kirkland to responsibly carry out the duties and authorities delegated to it by the Washington State Constitution and the laws of the state of Washington as a noncharter code city, maintenance of current information with respect to business, trade, service, commercial and professional activities carried on within the city is necessary and essential for the maintenance of the public health, safety and welfare; that such information can best be accumulated and maintained on a current basis through establishment of a license fee supported program for the licensing and registration of such activities.~~

Section 2. Section 7.02.030 of the Kirkland Municipal Code is hereby 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) "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; 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) "Finance director" or "director" means the city of Kirkland director of finance or his/her designee.

(e) "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.

(f) "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.

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

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

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

(j) "Place of business" or "office" includes, but is not limited to, the following: maintaining, occupying, or using a permanent building or facility or fixed location as an office or location for conducting business; 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.

(k) "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.

(l) "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' 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.

(m) "Contractors" 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 salary computed at so much per hour.

(n) "Subcontractors" 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 salary basis computed at so much per hour.

Section 3. Section 7.02.040 of the Kirkland Municipal Code is hereby 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~~premise in the city a separate registration and license shall be required for each ~~premises~~premise within the city.

(c) If more than one business 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. Section 7.02.060 of the Kirkland Municipal Code is hereby 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 is 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 ~~surcharge~~Revenue Generating Regulatory License (RGRL) to be paid for the designated broker's business license and includes the real estate agent's gross receipts in calculating the designated brokers gross receipts for the purposes of this chapter.

(d) 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 KMC 19.24 (e.g., vendors at a temporary booth who are included under an entity's special event permit, consistent with the term and activity for which the permit was issued);

- (3) Meeting with suppliers of goods and services as a customer;
 - (4) Attending meetings where the person does not provide training for a fee;
 - (5) Renting personal property as a customer when the property is not used in the city;
 - (6) Sale of one's own residence;
 - (7) Employing a household employee or being a customer of a domestic worker (e.g., babysitters, nannies, health aides, maids, or yard workers); or
 - (8) Casual and isolated sales.
- (e) 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.

Section 5. Section 7.02.070 of the Kirkland Municipal Code is hereby 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.

~~(d) It shall be presumed that an entity with average annual gross receipts of forty thousand dollars or more has at least two employees, as "employee" is defined in Section 7.02.160.~~

~~(e) It shall be presumed that an entity with average annual gross receipts of one hundred twenty thousand dollars or more has at least six employees, as "employee" is defined in Section 7.02.160.~~

~~(f) It shall be presumed that an entity with average annual gross receipts of four hundred twenty thousand dollars or more has at least twenty-one employees, as "employee" is defined in Section 7.02.160.~~

~~(g) It shall be presumed that an entity with average annual gross receipts of two million, twenty thousand dollars or more has at least one hundred one employees, as "employee" is defined in Section 7.02.160.~~

~~(h) It shall be presumed that a business' average annual gross receipts are equal to its prior years gross receipts or the average of its gross receipts for the last three years, whichever is higher.~~

~~(i) With regard to a business that did not operate for the full prior year, it shall be presumed that the prior year's gross receipts are equal to the annualized product of the prior year's actual gross receipts.~~

~~(j) It shall be presumed that a business' average annual gross receipts are greater than or equal to the business' annual gross volume of business, gross revenue, or gross proceeds of sales.~~

~~(k) It shall be presumed that a business with premises in the city of Kirkland has all of its employees working within the city of Kirkland.~~

~~(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. Section 7.02.090 of the Kirkland Municipal Code is hereby repealed.

Section 7. Section 7.02.110 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.110 Review of application.

(a) The director, upon receipt of an application form, shall cause an investigation and review of the application to be made by the proper city officials, and shall issue or deny issuance of the license within ~~fifteen~~ thirty days after the city receives a complete application.

(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 of the city.
- (e) If an application is denied, any person aggrieved may request director review as provided in this chapter.

Section 8. Section 7.02.120 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.120 Basic license fee.

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

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

(b) Registration Fee. Any business with less than ~~two~~twelve thousand dollars average annual gross receipts shall pay a registration fee of ~~twenty-five~~fifty dollars per year.

(c) Exemptions. The following entities may claim an exemption from the basic license fee or registration fee, but if exempt under this subsection such entities shall still register under this chapter:

(1) Certain Organizations Exempt from Federal Income Tax. An organization that files with the city a copy of its current IRS 501(c)(3) exemption certificate issued by the Internal Revenue Service.

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

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

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

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

Section 9. Section 7.02.130 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.130 Regulatory licenses.

(a) A business that holds a current valid city of Kirkland regulatory license under another chapter of this code must also file the general business license application form, pay the general business license fee and pay the ~~surcharge~~ Revenue Generating Regulatory License Fee (RGRL) pursuant to this chapter; ~~provided, however, that such business may take a credit for the amount paid for the regulatory license up to the total amount of general business license fee plus the surcharge.~~ The license fee levied in this chapter shall be additional to any license fee or tax imposed or levied under the law or any other ordinance of the city except as expressly provided herein.

(b) ~~Regulatory licensees under the following KMC chapters may apply the credit described in this section:~~

| | |
|-----------------|--|
| 7.08 | Ambulances |
| 7.12 | Amusement Devices |
| 7.16 | Auctions and Auctioneers |
| 7.20 | Cabarets |
| 7.22 | Carnivals and Circuses |
| 7.24 | Dances and Dance Halls |
| 7.32 | Massage Parlors and Public Bathhouses |
| 7.36 | Pawnbrokers and Secondhand Dealers |
| 7.44 | Taxicabs and For Hire Vehicles |
| 7.61 | Cable Television—Procedures and Terms for Grant of Franchises |

Section 10. Section 7.02.140 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.140 Utilities.

(a) A business that pays a utility occupation tax to the city pursuant to Chapter 5.08 must also file the general business license application form, ~~but need not~~ and pay a general business license fee. ~~This is a waiver of the basic fee, not an exemption.~~

(b) A business that pays a utility occupation tax to the city pursuant to Chapter 5.08 is subject to the ~~surcharge~~ RGRL which is set forth in this chapter; ~~provided, that such a business may take a credit for the amount of such tax paid, up to the total amount of the surcharge.~~

Section 11. Section 7.02.150 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.150 Temporary business.

(a) General. One act of engaging in business in the city is sufficient to require a city business license. However, a person may apply to the city for a temporary business permit instead of a general business license. The city will be the sole judge as to whether a business qualifies for a temporary permit, considering factors such as whether the business has a fixed location within the city, whether the business has previously applied for a temporary permit within the last twelve months, and the city's experience with similar activities.

(b) Permit. If a temporary business permit is approved by the city, it will allow the conduct of business for not more than thirty-five consecutive days. The permit shall state an expiration date which shall be not more than thirty-five calendar days after its term begins. The fee for this permit is ~~twenty-five~~ dollars. There will be no charge for this permit when business will be engaged in solely by an organization with a current IRS 501(c)(3) exemption certificate. A person who engages in business in accordance with the requirements of this section is not required to obtain a general city business license.

(c) Revocation. Once a permit has been issued, the city may find that the actual conduct of the business does not qualify for a temporary permit. If so, the city may revoke the temporary permit and require the person to immediately obtain a general business license.

Section 12. Section 7.02.160 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.160 ~~Surcharge~~ Revenue Generating Regulatory License Fee (RGRL).

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

(1) A business with less than ~~fifty-two~~ thousand dollars of average annual gross receipts shall be exempt from any ~~surcharge~~RGRL.

(2) For the purposes of this section and in determining the applicable ~~surcharge~~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' 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.

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

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

(b) Amount of ~~Surcharge~~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 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 dollars. The approved tax rate per full-time employee is \$0.052084 (which represents a RGRL multiplier of \$0.052084 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 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 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 1,920 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 1,920 to determine the FTE equivalency.

(4) It will be the responsibility of the business to determine the total number of FTE's (or equivalency) and demonstrate, if required, to the satisfaction of the Finance 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 \$200.00 (a base fee of \$100.00 and a RGRL of \$100.00), 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 an a quittance or discharge of the fee unless and until the check or draft is honored. Any person who submits a business license fee payment by check to the city pursuant to the provisions of this chapter shall be assessed a NSF fee set by the Finance 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 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 dollars.

~~(1) One employee: one hundred twenty-five dollars. A business with one employee shall pay a surcharge of one hundred twenty-five dollars. If such a~~

business has less than one hundred thousand dollars of average annual gross receipts ("GR"), then the surcharge shall be seventy-five dollars.

~~(2) Two to five employees: two hundred twenty-five dollars. A business with at least two but not more than five employees shall pay a surcharge of two hundred twenty-five dollars. If such a business has less than one hundred thousand dollars of GR, then the surcharge shall be one hundred fifty dollars.~~

~~(3) Six to twenty employees: seven hundred fifty dollars. A business with at least six but not more than twenty employees shall pay a surcharge of seven hundred fifty dollars. If such a business has less than one hundred thousand dollars of GR, then the surcharge shall be five hundred dollars.~~

~~(4) Twenty-one to one hundred employees: one thousand five hundred dollars. A business with at least twenty-one but not more than one hundred employees shall pay a surcharge of one thousand five hundred dollars. If such a business has less than one hundred thousand dollars of GR, then the surcharge shall be one thousand dollars.~~

~~(5) More than one hundred employees: two thousand five hundred dollars. A business with more than one hundred employees shall pay a surcharge of two thousand five hundred dollars. If such a business has less than one hundred thousand dollars of GR, then the surcharge shall be two thousand dollars.~~

~~(c) Multiple Locations. If a business is conducted from more than one premises in the city, a separate license is required for each premises. The applicable surcharge shall be determined for each premises and then paid for such separate premises.~~

~~(d) In the event that no employee of a business physically works within the city, the applicable surcharge shall be the amount for one employee.~~

~~(e) If no higher surcharge applies under this section, then the minimum surcharge shall be seventy-five dollars.~~

Section 13. Section 7.02.170 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.170 Determination of number of employees for surchargeRGRL.

For the purposes of this section, "employee" shall be defined as in Section [7.02.160](#).

(a) Standard Rule. In determining the amount of surchargeRGRL to be paid for the upcoming license year, the number of employees shall be the current number of employees or the number of employees on the last regular working day of each of the last twelve months divided by twelve, whichever is higher. Each person who comes under the definition of "employee" shall be counted as one employee, even if the person works part-time.

(b) Alternative Method ("FTE"). A business may choose to calculate the number of employees for the purpose of the surchargeRGRL according to the following alternative method based on the number of employee hours worked for the business during the previous year.

(1) The business must notify the city of its choice to use the FTE method. It will be the responsibility of the business to determine the number of hours worked for the business, taking into account the information submitted to L & I in the last four quarterly reports. The business must demonstrate, to the satisfaction of the director, that the alternative calculation is accurate. The director may require the business to submit copies of its L & I reports.

(2) Each employee who worked more than one thousand, nine hundred twenty hours during the previous year (including paid time off) shall be counted as one employee. If a person such as an owner or partner devotes more than one thousand, nine hundred twenty hours per year to the business then that person must be counted as one employee for ~~surcharge~~RGRL purposes.

(3) Where there are employees who work less than one thousand, nine hundred twenty hours per year, the total number of hours worked by all such employees during the previous year shall be added together and divided by one thousand, nine hundred twenty. A fraction of 0.5 or over shall be rounded up. Hours worked by persons who are defined as employees for ~~surcharge~~RGRL purposes must be included in the calculation even if the business is not required to report to L & I concerning such persons.

(4) The results from subsection (b)(2) of this section plus subsection (b)(3) of this section shall be the total number of employees used to determine the amount of the ~~surcharge~~RGRL.

(c) New Businesses. The ~~surcharge~~RGRL for a business that did not submit reports for each of the last four quarters to L & I shall be based on the estimated number of employees of that business. The business shall provide its estimate of the average number of employees for the upcoming year. The city will determine the number of employees that will be used in calculating the amount of the ~~surcharge~~RGRL. If, during the license year, the city determines that the actual number of employees is significantly different than estimated, then the amount of the ~~surcharge~~RGRL will be recalculated for the new business. If the revised ~~surcharge~~RGRL is higher, the business must pay the difference within thirty days after notification. ~~If the revised surcharge is lower, then the difference will be refunded within thirty days.~~

(d) Over-Reporting Number of Employees. A licensee may request that the city refund ~~surcharge~~RGRL overpaid on the basis that the business miscounted the number of employees by an error factor of more than fifteen percent. The request must be in writing and the city must receive the request and all supporting documentation no later than sixty days after the end of the licensee's fiscal year in which the error was made. If the city is satisfied that the licensee paid an excess ~~surcharge~~RGRL, then the city will refund the excess ~~surcharge~~RGRL paid by the licensee ~~during either the current calendar year or one prior calendar year.~~(e) Under-Reporting of Employees. If the city determines that the number of employees was under-reported at the time of application or renewal by an error factor of more than fifteen percent, the business shall pay the balance of the applicable ~~surcharge~~RGRL together with

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

Section 14. A new Section 7.02.175 of the Kirkland Municipal Code is hereby created to read as follows:

7.02.175 Temporary employees.

The following provisions shall apply to businesses engaged in the practice of providing temporary employees or workers ("temporary agencies") to businesses located within the city and to businesses located within the city which utilize the services of such employees or workers:

(1) Temporary agencies located within the city shall include all temporary employees and workers placed with businesses located within the city in calculating the number of employee hours worked in addition to employees described under KMC 7.02.160.

(2) Temporary agencies located outside the city which place temporary employees or workers with businesses located within the city shall include all such temporary employees and workers in calculating the number of hours worked by their employees;

(3) Businesses located within the city which utilize temporary employees or workers provided by a temporary agency shall not include the temporary employees or workers in calculating the number of their employee hours,

(4) Temporary agencies placing temporary employees and workers within the city shall calculate the number of hours worked by such employees and workers in the manner provided by KMC 7.02.160(a),

(5) In submitting an initial business license application or subsequent renewal application, all businesses located within the city which use temporary employees or workers furnished by a temporary agency shall indicate the number of employee hours worked by using the formula set forth in KMC 7.02.160(a) and further indicate the names and addresses of the temporary agencies furnishing said employees or workers. Failure to so report the number of hours worked by temporary employees or workers or the names and addresses of the agencies furnishing said employees or workers shall result in imposition of a penalty equal to 10% of the company's total business license fee. In addition, failure to report may result in revocation, suspension, or denial of the business license.

Section 15. Section 7.02.190 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.190 Penalty for late payment.

(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) Late Application. A business that fails to obtain a license before first commencing business in Kirkland shall pay a penalty ~~in addition to the amount charged for the annual license~~ according to the schedule in subsection (a) of this section 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.

Section 16. Section 7.02.220 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.220 Notification of termination of business activities.

(a) Any person who obtains a city business license and thereafter ceases to engage in business shall so notify the city in writing. A business shall be presumed to continue in operation within the city until the city receives such notice of termination of business activities and enforcement proceedings may be conducted on the basis of this presumption.

(b) There shall be no pro rata refund of the basic license fee. However, a business may request a pro rata refund of the ~~surcharge~~RGRL if the city receives such request within ~~ninety~~ thirty days after business activities cease. The city shall calculate and refund such pro rata amount based on the date business ceased or the date the city received the required notice, whichever is later.

Section 17. Section 7.02.230 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.230 Notification of exemption.

(a) A licensee may request that the city reissue a business license on the basis of a new or newly recognized exemption or partial exemption. The request must be in writing and the city must receive the request and all

supporting documentation no later than thirty days prior to the expiration date of the current license.

(b) If the city is satisfied that the exemption or partial exemption applies, then the city will refund a pro rata amount of excess fees based on the date the city received all information necessary to consider the request. Both the basic license fee and the ~~surcharge~~RGRL are subject to pro rata refund.

Section 18. Section 7.02.250 of the Kirkland Municipal Code is hereby amended to read as follows:

7.02.250 Appeal.

(a) Any person aggrieved by a determination of the director may appeal such determination to the hearing examiner pursuant to this section.

(b) Form of Appeal. An appeal must be in writing and must contain the following:

(1) The name and address of the appellant;

(2) A statement identifying the determination of the director from which the appeal is taken;

(3) A statement setting forth the grounds upon which the appeal is taken and identifying specific errors the director is alleged to have made in making the determination; and

(4) A statement identifying the requested relief from the determination being appealed.

(c) Time and Place to Appeal. An appeal shall be filed with the director with a copy to the city clerk's office no later than fourteen calendar days following the date on which the city mailed the notice of the determination. Failure to follow the appeal procedures in this section shall preclude the taxpayer's right to appeal.

(d) Appeal Hearing. The director shall transmit the appeal to the hearing examiner. The hearing examiner shall schedule a hearing date and notify the appellant and the director of such hearing date. The hearing examiner shall conduct an appeal hearing in accordance with this chapter and procedures developed by the hearing examiner, at which time the appellant and the director shall have the opportunity to be heard and to introduce evidence relevant to the subject of the appeal.

(e) Burden of Proof. The appellant shall have the burden of proving by a preponderance of the evidence that the determination of the director is erroneous.

(f) Hearing Record. The hearing examiner shall make an electronic sound recording of each appeal hearing unless the hearing is conducted solely in writing.

(g) Decision of the Hearing Examiner. Following the hearing, the hearing examiner shall enter a decision on the appeal, supported by written findings and conclusions in support thereof. A copy of the findings, conclusions and decision shall be mailed to the appellant and to the director.

(h) Appeal Not a Stay. Filing an appeal will not stay the effect of the director's determination. Interest and/or penalties shall continue to accrue on all unpaid amounts, notwithstanding the fact that an appeal has been filed. ~~If the hearing examiner determines that the taxpayer is owed a refund, the city shall pay such refund within thirty days.~~

(i) A writ of review regarding the decision of the hearing examiner may be sought from King County Superior Court by the appellant or by the city. A proper request for a writ of review must be filed with the superior court within twenty calendar days following the date that the decision of the hearing examiner was mailed to the parties. Review by the superior court shall be on, and shall be limited to, the record on appeal created before the hearing examiner. Filing with the court does not automatically stay the effect of the city's decision.

Section 19. 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 20. This ordinance shall be in force and effect five days from and 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 ____ day of _____, 2008.

Signed in authentication thereof this ____ day of _____, 2008.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4161

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS LICENSES AND REGULATIONS AND AMENDING CHAPTER 7.02 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends Section 7.02.020 of the Kirkland Municipal Code relating to policy and scope.

SECTION 2. Amends Section 7.02.030 of the Kirkland Municipal Code by adding definitions for the words "Employee" "Contractor" and "Subcontractor" and adding "city" as a defined term.

SECTION 3. Amends Section 7.02.040 of the Kirkland Municipal Code changing premises to premise.

SECTION 4. Amends Section 7.02.060 of the Kirkland Municipal Code regarding calculation of the number of employees to reflect the change by this ordinance from collection of a surcharge to collection of a Revenue Generating Regulatory License (RGRL) fee and clarifying that the exemption from the requirement of having a license for a special event arises only under KMC Chapter 19.24.

SECTION 5. Amends Section 7.02.070 of the Kirkland Municipal Code removing certain presumptions.

SECTION 6. Repeals Section 7.02.090 of the Kirkland Municipal Code.

SECTION 7. Amends Section 7.02.110 of the Kirkland Municipal Code to require issuance or denial of a permit within 30 days instead of 15.

SECTION 8. Amends Section 7.02.120 of the Kirkland Municipal Code regarding which businesses must pay a basic fee or a registration fee.

SECTION 9. Amends Section 7.02.130 of the Kirkland Municipal Code to reflect businesses are paying the RGRL instead of a surcharge and that this fee is in addition to other regulatory fees.

SECTION 10. Amends Section 7.02.140 of the Kirkland Municipal Code to require that utilities paying a utility occupation tax also pay the general business license fee and the RGRL.

SECTION 11. Amends Section 7.02.150 of the Kirkland Municipal Code by increasing the temporary business permit fee to fifty dollars.

SECTION 12-13. Amends Sections 7.02.160 and 7.02.170 of the Kirkland Municipal Code by replacing "surcharge" with "Revenue Generating Regulatory License Fee (RGRL)" and providing for how the RGRL will be calculated.

SECTION 14. Adds a new Section 7.02.175 to the Kirkland Municipal Code relating to the calculation of employee hours for temporary employees and providing a penalty for failure to properly report such employees and their hours.

SECTION 15. Amends Section 7.02.190 to clarify that businesses are responsible for payment of all fees retroactively to the commencement of business operations.

SECTION 16. Amends Section 7.02.220 to reflect that a business may request a refund of the RGRL instead of surcharge and requiring the request be made within 30 days of closing the business.

SECTION 17. Amends Section 7.02.230 of the Kirkland Municipal Code to reflect that a business may request a refund of the RGRL instead of surcharge upon finding an exemption applies.

SECTION 18. Amends Section 7.02.250 of the Kirkland Municipal Code regarding refunds.

SECTION 19. Provides a severability clause for the ordinance.

SECTION 20. 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 _____ day of _____, 2008.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk

ORDINANCE 4162

AN ORDINANCE OF THE CITY OF KIRKLAND INCREASING THE UTILITY TAX ON CERTAIN UTILITIES TO PROVIDE REVENUE FOR CITY SERVICES; AMENDING KIRKLAND MUNICIPAL CODE CHAPTER 5.08 AND ESTABLISHING EFFECTIVE DATES.

WHEREAS, during the 2009-2010 biennial budget process the City Council will need to reduce services, raise revenue, and use reserves to balance the budget. The City Council is implementing a 3% increase in utility taxes on water, sewer, and solid waste to assist in balancing the budget; and

WHEREAS, the City has availed itself of all appropriate revenue sources currently authorized; and

WHEREAS, staff presented potential new revenue sources the City Council could use to balance the budget; and

WHEREAS, the City Council has determined that the public interest is best served by the implementation of a utility tax increase, on certain utilities;

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

Section 1. Kirkland Municipal Code Section 5.08.050 is hereby amended as follows:

5.08.050 Utility occupations subject to tax—Amount.

There are levied upon and shall be collected from every person engaging within this city in utility occupations annual license fees or occupation taxes in the amounts to be determined by the application of the rates against gross income as follows:

(1) Upon every person engaged in or carrying on the business of providing telephone services a fee or tax equal to six percent of the total gross income from such business in the city, including one hundred percent of the total gross revenues derived from toll service, during the tax year for which the license is required;

(2) Upon every person engaged in or carrying on the business of selling or furnishing natural or manufactured gas a fee or tax equal to six percent of the total gross income for such business in the city during the tax year for which the license is required;

(3) Upon every person engaged in or carrying on the business of selling or furnishing electric light and power or electrical energy a fee or tax equal to six percent of the total gross income from such business in the city for the tax year for which the license is required;

(4) Upon every person engaged in or carrying on the business of furnishing water distribution and/or sanitary collection services including both sewage and refuse a fee or tax equal to ~~seven~~ ten and one-half percent of the total

gross income from such business in the city during the tax year for which the license is required;

(5) Upon every person conducting or operating a storm water and/or surface water utility for any customer, including residential and commercial customers, a fee or tax equal to seven and one-half percent of the total gross income from such business in the city during the tax year for which the license is required;

(6) Upon every person engaged in or carrying on the business of providing cable service, a fee or tax equal to six percent of the total gross income from such business in the city during each tax year.

Section 2. This ordinance is effective five days from and after its passage by the Kirkland City Council and publication, as required by law. The tax increase on the business of furnishing water and/or sewer and refuse collection services set forth in Kirkland Municipal Code Section 5.08.050(4) shall take effect on January 1, 2009.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2008.

Signed in authentication thereof this _____ day of _____, 2008.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

ORDINANCE 4163

AN ORDINANCE OF THE CITY OF KIRKLAND ADOPTING THE BIENNIAL BUDGET FOR 2009-2010.

WHEREAS, the Kirkland City Council conducted a duly noticed public hearing on November 18, 2008, to take public comment with respect to the proposed Biennial Budget of the City of Kirkland for 2009-2010 and all persons wishing to be heard were heard; and

WHEREAS, the City Council finds that the proposed Biennial Budget for 2009-2010 reflects revenues and expenditures that are intended to ensure the provision of vital municipal services at acceptable levels;

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

Section 1. The Biennial Budget of the City of Kirkland for 2009-2010, as set out in Exhibit "A" attached hereto and by this reference incorporated herein as though fully set forth, is hereby adopted as the Biennial Budget of the City of Kirkland for 2009-2010.

Section 2. In summary form, the totals of estimate revenues and appropriations for each separate fund and the aggregate totals for all such funds combined are as follows:

| <u>Funds</u> | <u>Estimated Revenues</u> | <u>Appropriations</u> |
|------------------------------------|---------------------------|-----------------------|
| General | 124,687,343 | 124,687,343 |
| Lodging Tax | 794,424 | 794,424 |
| Street Operating | 9,087,068 | 9,087,068 |
| Cemetery Operating | 199,498 | 199,498 |
| Parks Maintenance | 2,203,287 | 2,203,287 |
| Recreation Revolving | 2,825,090 | 2,825,090 |
| Contingency | 2,324,515 | 2,324,515 |
| Cemetery Improvement | 598,528 | 598,528 |
| Impact Fees | 7,165,555 | 7,165,555 |
| Park & Municipal Reserve | 10,050,552 | 10,050,552 |
| Off-Street Parking Reserve | 217,610 | 217,610 |
| Tour Dock | 122,675 | 122,675 |
| Street Improvement | 2,613,576 | 2,613,576 |
| Grant Control Fund | 216,458 | 216,458 |
| Excise Tax Capital Improvement | 24,039,092 | 24,039,092 |
| Limited General Obligation Bonds | 2,735,723 | 2,735,723 |
| Unlimited General Obligation Bonds | 2,703,581 | 2,703,581 |
| General Capital Projects | 26,142,349 | 26,142,349 |
| Grant Capital Projects | 5,307,113 | 5,307,113 |
| Water/Sewer Operating | 46,479,043 | 46,479,043 |
| Water/Sewer Debt Service | 3,510,123 | 3,510,123 |

| | | |
|--------------------------------|-------------|-------------|
| Utility Capital Projects | 18,837,106 | 18,837,106 |
| Surface Water Management | 12,515,606 | 12,515,606 |
| Surface Water Capital Projects | 6,765,553 | 6,765,553 |
| Solid Waste | 18,753,863 | 18,753,863 |
| Equipment Rental | 13,971,736 | 13,971,736 |
| Information Technology | 10,111,156 | 10,111,156 |
| Facilities Maintenance | 9,804,443 | 9,804,443 |
| Firefighter's Pension | 1,635,961 | 1,635,961 |
| | <hr/> | <hr/> |
| | 366,418,627 | 366,418,627 |

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 16th day of December, 2008.

Signed in authentication thereof this 16th day of December, 2008.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

CITY OF KIRKLAND 2009-2010 BUDGET OVERVIEW: BY FUND TYPE/FUND

General Government Operating Funds

| Fund | 2007-2008 Budget* | 2009-2010 Budget | Percent Change |
|---|----------------------|---------------------|-------------------|
| <i>General Fund</i> | | | |
| 010 General | 113,636,653 | 124,687,343 | 9.72% |
| <i>Special Revenue Funds</i> | | | |
| 112 Lodging Tax | 561,841 | 794,424 | 41.40% |
| 117 Street Operating | 9,600,236 | 9,087,068 | -5.35% |
| 122 Cemetery Operating | 336,709 | 199,498 | -40.75% |
| 125 Parks Maintenance | 2,144,266 | 2,203,287 | 2.75% |
| 126 Recreation Revolving | 2,111,338 | 2,825,090 | 33.81% |
| Total Special Revenue Funds | 14,754,390 | 15,109,367 | 2.41% |
| <i>Internal Service Funds</i> | | | |
| 521 Equipment Rental | 12,367,189 | 13,971,736 | 12.97% |
| 522 Information Technology | 10,692,354 | 10,111,156 | -5.44% |
| 527 Facilities Maintenance | 9,066,324 | 9,804,443 | 8.14% |
| Total Internal Service Funds | 32,125,867 | 33,887,335 | 5.48% |
| Total General Government Operating Funds | 160,516,910 | 173,684,045 | 8.20% |

General Government Non-Operating Funds

| Fund | 2007-2008 Budget* | 2009-2010 Budget | Percent Change |
|-------------------------------------|----------------------|---------------------|-------------------|
| <i>Special Revenue Funds</i> | | | |
| 152 Contingency | 2,940,790 | 2,324,515 | -20.96% |
| 154 Cemetery Improvement | 549,500 | 598,528 | 8.92% |
| 156 Impact Fees | 3,709,937 | 7,165,555 | 93.14% |
| 157 Park & Municipal Reserve | 12,761,743 | 10,050,552 | -21.24% |
| 158 Off-Street Parking Reserve | 69,564 | 217,610 | 212.82% |
| 159 Tour Dock | 99,235 | 122,675 | 23.62% |
| 170 Street Improvement | 3,222,265 | 2,613,576 | -18.89% |
| 188 Grant Control Fund | 285,835 | 216,458 | -24.27% |
| 190 Excise Tax Capital Improvement | 22,091,056 | 24,039,092 | 8.82% |
| Total Special Revenue Funds | 45,729,925 | 47,348,561 | 3.54% |

* 2007-2008 Budget as of June 30, 2008.

CITY OF KIRKLAND 2009-2010 BUDGET OVERVIEW: BY FUND TYPE/FUND

General Government Non-Operating Funds (Continued)

| Fund | 2007-2008 Budget* | 2009-2010 Budget | Percent Change |
|--|----------------------|---------------------|-------------------|
| <i>Debt Service Funds</i> | | | |
| 210 LTGO Debt Service | 4,966,356 | 2,735,723 | -44.91% |
| 220 UTGO Debt Service | 3,243,334 | 2,703,581 | -16.64% |
| 230 LID Control | 9,647 | 0 | -100.00% |
| Total Debt Service Funds | 8,219,337 | 5,439,304 | -33.82% |
| <i>Capital Projects Funds</i> | | | |
| 310 General Capital Projects | 33,808,550 | 26,142,349 | -22.68% |
| 320 Grant Capital Projects | 16,379,729 | 5,307,113 | -67.60% |
| Total Capital Projects Funds | 50,188,279 | 31,449,462 | -37.34% |
| <i>Trust Funds</i> | | | |
| 620 Firefighter's Pension | 1,382,725 | 1,635,961 | 18.31% |
| Total Trust Funds | 1,382,725 | 1,635,961 | 18.31% |
| Total General Government Non-Op Funds | 105,520,266 | 85,873,288 | -18.62% |

Water/Sewer Utility Funds

| Fund | 2007-2008 Budget* | 2009-2010 Budget | Percent Change |
|--|----------------------|---------------------|-------------------|
| <i>Operating Fund</i> | | | |
| 411 Water/Sewer Operating | 38,471,870 | 46,479,043 | 20.81% |
| Total Operating Fund | 38,471,870 | 46,479,043 | 20.81% |
| <i>Non-Operating Funds</i> | | | |
| 412 Water/Sewer Debt Service | 3,758,988 | 3,510,123 | -6.62% |
| 413 Utility Capital Projects | 17,305,570 | 18,837,106 | 8.85% |
| Total Non-Operating Funds | 21,064,558 | 22,347,229 | 6.09% |
| Total Water/Sewer Utility Funds | 59,536,428 | 68,826,272 | 15.60% |

* 2007-2008 Budget as of June 30, 2008.

CITY OF KIRKLAND 2009-2010 BUDGET OVERVIEW: BY FUND TYPE/FUND

Surface Water Utility Funds

| Fund | 2007-2008 Budget* | 2009-2010 Budget | Percent Change |
|--|----------------------|---------------------|-------------------|
| <i>Operating Fund</i> | | | |
| 421 Surface Water Management | 12,094,573 | 12,515,606 | 3.48% |
| Total Operating Fund | 12,094,573 | 12,515,606 | 3.48% |
| <i>Non-Operating Fund</i> | | | |
| 423 Surface Water Capital Projects | 10,140,676 | 6,765,553 | -33.28% |
| Total Non-Operating Funds | 10,140,676 | 6,765,553 | -33.28% |
| Total Surface Water Utility Funds | 22,235,249 | 19,281,159 | -13.29% |

Solid Waste Utility Fund

| Fund | 2007-2008 Budget* | 2009-2010 Budget | Percent Change |
|---------------------------------------|----------------------|---------------------|-------------------|
| <i>Operating Fund</i> | | | |
| 431 Solid Waste Utility | 17,233,322 | 18,753,863 | 8.82% |
| Total Operating Fund | 17,233,322 | 18,753,863 | 8.82% |
| Total Solid Waste Utility Fund | 17,233,322 | 18,753,863 | 8.82% |

| | | | |
|------------------------|--------------------|--------------------|--------------|
| TOTAL ALL FUNDS | 365,042,175 | 366,418,627 | 0.38% |
|------------------------|--------------------|--------------------|--------------|

* 2007-2008 Budget as of June 30, 2008.