



**CITY OF KIRKLAND**  
Department of Parks & Community Services  
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300  
[www.kirklandwa.gov](http://www.kirklandwa.gov)

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## MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** Jennifer Schroder, Director  
Michael Cogle, Deputy Director

**Date:** April 25, 2014

**Subject:** ORDINANCE RELATING TO BUSINESS LICENSE EXEMPTIONS FOR  
COMMUNITY PROGRAM VENDORS

### **RECOMMENDATION:**

That the City Council adopts the attached ordinance amending the Kirkland Municipal Code ("KMC") so that vendors at a temporary booth as part of a Community Program permit are not required to have a City of Kirkland business license. The recommendation is for the Council to act on May 6 so that vendors at the two Kirkland Farmer's Markets are not required to get business licenses in 2014.

### **BACKGROUND DISCUSSION:**

Since their adoption, Kirkland's business licensing regulations have specifically excluded temporary booth vendors at special events, including farmer's markets, from having to obtain a City of Kirkland business license. Current language is included below:

#### [KMC Chapter 7.02.060 No License Required in Certain Circumstances:](#)

*Activities that are within the term and scope of a city special event permit, Chapter 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);*

In December of 2013 the City Council adopted Ordinance 0-4431 amending Kirkland's special event policies. The new policies in part established a new category of Community Programs which no longer are subject to special event permit requirements. Community Programs are defined as follows:

#### [KMC Chapter 19.24.010 Definitions:](#)

*"Community Programs" means activities of an on-going nature which are open to the public and provided free of an admission charge, such as weekly farmer's markets and park performing arts series.*

Since activities such as farmer's markets are no longer considered special events, booth vendors at markets are inadvertently no longer exempt from business license requirements. That was not the intent of the original legislation. A code amendment is required to continue to exempt booth vendors in Community Programs.

If approved, the attached ordinance would resolve this unintended consequence by specifying that vendors at Community Programs are not required to have a City of Kirkland Business License. Vendors would still be required to obtain other required permits, such as a State master business license, health permits, food handler's permits, etc.

Attachment:

Ordinance Amending KMC Section 7.02.060

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ORDINANCE O-4441

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS LICENSE EXEMPTIONS FOR COMMUNITY PROGRAM VENDORS.

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

Section 1. Kirkland Municipal Code Section 7.02.060 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 are true:

(1) The real estate agent engages in no business in Kirkland other than the work with the designated broker; and

(2) The designated broker notifies the city in writing as part of each year's business license renewal of the name of each real estate agent that the city should consider to be the equivalent of an employee of the designated broker for the purposes of this chapter; and

(3) The designated broker includes the real estate agent in counting the number of employees to determine the revenue generating regulatory license fee (RGRL) to be paid for the designated broker's business license and includes the real estate agent's gross receipts in calculating the designated broker's gross receipts for the purposes of this chapter.

(d) No license is required if a person engages in no activities within the city but the following:

(1) Mere delivery of goods;

(2) Activities that are within the term and scope of a city special event permit; pursuant to KMC Chapter 19.24 or a community program activity as defined in KMC Section 19.24.010 (e.g., vendors at a temporary booth who are included under an entity's special event or community program permit, consistent with the term and activity for which the permit was issued);

(3) Activities that are within the term and scope of a city-operated and city-managed parks event that would otherwise be exempt if they were conducted pursuant to a special events permit;

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

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

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

(7) Sale of one's own residence;

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

(9) 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 2. 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 \_\_\_\_ day of \_\_\_\_\_, 2014.

Signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney