



CITY OF KIRKLAND
Planning and Community Development Department
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www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Eric Shields, Planning Director
Nancy Cox, Development Review Manager

Date: May 4, 2006

Subject: HOME OCCUPATIONS

RECOMMENDATION

Staff recommends that the Council provide preliminary direction about code amendments related to home occupations. The Planning Commission will be holding a public hearing on the amendments as part of a larger package of code amendments in July. The code amendment package is tentatively scheduled for Council decision in August.

BACKGROUND DISCUSSION

The Council requested that staff review and analyze the home occupation rules after several home occupation-related code enforcement cases gained Council's attention. At their January 17, 2006 meeting, the Council discussed the cases, the issues and provided some direction about where to focus efforts.

First and foremost, the Council recommended that staff look at ways to make the code more enforceable. They said the focus should be on finding the loopholes or areas in the code that are creating difficulties for enforcement.

Home Occupations are regulated under KZC Section 115.65 (Attachment 1). The code lays out a number of standards that must be met for home occupations to be permitted (KZC Section 115.65.2). The only approval for the majority of home occupations is a business license. However, applicants have an option of applying for a Process IIA zoning permit (hearing examiner hearing, appeal to City Council) if they wish to operate a home business that exceeds the standards. When cases are referred to enforcement, they typically involve proving that one or more of the standards are not met. Often these are difficult cases for the City to investigate and prove. In code enforcement appeal hearings, the City has the burden of proof by a preponderance of the evidence that a violation has occurred.

The Numbers

In 2005 there were 1122 home occupation business licenses out of a total 3389 issued (33%). The City received \$129,472 in fees from these applications which was 11% of the total fees received for business licensing (\$1,133,858). Home occupations are an important resource for start-up businesses in Kirkland and therefore are extremely valuable for the City and our residents in terms of economic development.

Keeping the problem in perspective, out of the 1122 home occupations, the City received only 17 complaints that were investigated by code enforcement in 2005.

Still, the few home occupations that are in violation and become enforcement cases can be very time consuming for staff and troublesome to the neighborhood. The following are some of the key areas staff has identified to try to improve.

The Process

Existing Process

An applicant for a home occupation is provided three pieces of information from the Business Licensing division: 1) an application form that contains several questions specific to home occupations; 2) a "Business License Information" sheet providing information about the application process, exemptions fees, penalties for violation, definitions, and the complete home occupation rules from the Zoning Code; and 3) a "Business License Application Fee Worksheet" (Attachment 2).

The business license applications for home occupations are distributed to the Planning Department and reviewed by a Planner. If a question is answered in a way that the Planner is not sure whether the home occupation follows the rules, then the Planner calls the applicant for clarification. If a problem is revealed, then the Planner requests the applicant come in and amend their form and initial it. The business license is not issued until the Planning Department signs-off.

Home Occupations that exceed the standards in the code must either cease or receive approval through a Process IIA zoning permit. Process IIA permits are decided by the Hearing Examiner and appealable to City Council. A typical IIA permit is processed in about 6 months. During the permit processing time, the home occupation may be asked to cease the activity that exceeds the code standards.

Process Problems

A problem with the existing process occurs when applicants start the home occupation before understanding the rules and proceeds to operate in violation of the standards. Once they are operating the business, it is difficult to cease or change locations. Sometimes people fill out the application form correctly and later add employees or begin behavior that is in violation. A complaint can come in after years of operation. In other instances applicants fill out the form in such a way to avoid detection by staff because they understand the rules. They are taking the risk that their neighbors won't file a complaint.

Process Options

1. Home Occupation permit – Some jurisdictions require an administrative permit from the Planning Director for operating a home occupation. This is an option that staff has considered and is not recommending because it does not really solve the problem. A permit does not ensure that a home occupation will continue to operate within the rules. Also, adding a new permit will require additional work for the applicant and the staff.
2. Approval at the Planning Counter – Another option is to require applicants to get a sign-off from the Planning Department at the counter verifying compliance with the rules. Staff is not recommending this option because a significant number of applications are received via US mail, and for the reason noted above.
3. Provide better information up-front by improving the information available to the home occupation applicant. Improvements can be made to the application form, information form and perhaps

distributed in additional ways to try to let people know before starting their home business. One idea is to have a separate section within the business license application for home occupations. Staff is recommending this option because it will help those applicants who want to go by the rules to get information early. The City can also require the applicant certify in writing that they continue to conform to the home occupation rules each year at time of renewal.

Prohibited Businesses

Existing code

The code (KZC 115.65.2.b.6) prohibits the following: motor vehicle businesses, repair or sales of large equipment, welding, kennels, inventory storage, restaurants, and landscaping. The code states that “office-only” activities for these uses may be allowed.

The Problem

Several home occupation enforcement cases involve businesses that by their very nature are more likely to exceed standards and impact a residential neighborhood. Examples are a construction company, a house cleaning business, a towing business, and a landscaping business. Problems occur when the businesses dispatch crews from the home or have employees come to pick up paychecks. Should more businesses be added to the list of prohibited businesses? Is the code too lenient in allowing even office-only operations for these prohibited businesses?

Options

1. Ban certain businesses outright, even when “office-only.” Staff does not recommend this option because it penalizes all because of the action of a few. There probably are businesses within the prohibited list that can and do operate within the “office-only” rules just fine.
2. Clarify in the code that businesses whose activities are conducted off-site but are staged from the home such as construction, landscaping or house cleaning are prohibited. Staff recommends this option because it regulates based on the type of activities that can cause problems and provides the City flexibility because it does not presume to list all such businesses.
3. Define “office-only” in the Code. Staff recommends adding this definition to help applicants understand what is and is not permitted.

Residency Requirement

Existing requirement

The code requires that the home occupation business owner reside in the dwelling (KZC 115.65.2.b 1).

The problem

The language in the code regarding the residency requirement is a little vague. It states, “Is carried on exclusively by family members who reside in the dwelling unit.” It has been a challenge for Code Enforcement officers in a few cases to verify the primary residence of the business owner.

Recommendation

Staff recommends adding new code language stating that the business “is carried on in the principal dwelling unit of the permanent on-going residents” because it may help clarify the intent for applicants.

Residential Character

Existing requirement

The International Building Code (IBC), as amended by Washington State, states that if more than 500 square feet is used for a home occupation in a residential structure then any of the following might be required:

- full fire separation between the uses
- larger separation to the property line
- compliance with ADA (Americans with Disabilities Act)

In essence, the structure becomes non-residential.

The Zoning Code states that a home occupation may be conducted if it “requires no alteration to the interior or exterior of the dwelling that changes its residential character.” (115.65.2.b 3) The intent is to allow home businesses that will not bother the neighbors with excessive traffic, noise or visual indication.

The Problems

The City has not been requiring information about the number of square feet devoted to the home occupation to check compliance with the IBC. In a few instances, the Building Department has required compliance in enforcement cases. This can be very costly and by complying a residence might no longer be in character with the neighborhood.

The IBC and Zoning Code are silent about the number of home occupations that can be on one property. If there is a home occupation in both the main residence and the ADU (Accessory Dwelling Unit), would the impacts be too great? If a husband and wife each have a home business, would that be a problem? How many home occupations should be permitted within a condominium or apartment unit or property?

Recommendations

1. Clarify the code that all standards apply per single family property regardless of the number of home occupations on site. Staff recommends this amendment because the City would be regulating the impacts while providing flexibility for property owners.
2. Staff recommends adding a standard that home occupations may be conducted if they utilize less than 500 square feet per single family property, and that home occupations utilizing more than 500 square feet per property must get approval through a Process IIA permit.
3. Clarify the code that for medium or high density residential uses home occupations are limited to office-only uses with no outside employees, storage, visitors, or indication. A Process IIA permit could be an option to modify this requirement.

Chronic Cases

Existing Code

The City's code enforcement process is displayed in the flow chart in Attachment 3. There are different routes a case can take, but unless a violator is cooperative, most will take months and possibly years to resolve.

The Problem

Uncooperative violators can “work the system.” The impact to the neighborhood can continue during the process. Unfortunately there are no good options to solve this problem. It takes time to do a thorough investigation. Part of what staff must do is to inform all parties that the cases take time to resolve, and the best the City can do is to move as quickly as possible while following the process.

ATTACHMENTS

1. Home Occupation Regulations, KZC 115.65
2. Business license application form, information form, and fee schedule
3. Enforcement flow chart

Cc: Kirkland Chamber of Commerce
File ZON05-0001

- c. Radio Tower – A radio tower and antenna structure for use by a noncommercial, licensed amateur operator shall be allowed, if the Planning Official determines that:
- 1) A reasonable effort is made to minimize radio tower and antenna structure visibility from adjacent properties, while still permitting effective operation; and
 - 2) The radio tower and antenna structure does not extend higher than reasonably necessary to operate effectively; and
 - 3) The radio tower and antenna structure does not physically interfere with nearby utility lines.

Notice of filing application for building or other permit to construct a radio tower and/or antenna shall be given in the manner required by KZC 145.22 as to each such application which shows the proposed tower and/or antenna to either exceed the maximum allowable height for the zone in which it is located, or be within 20 feet of an electrical power or telecommunication utility line.

Any person believing a radio tower or antenna structure does not comply with the foregoing may request in writing a determination of compliance from the Planning Director, providing such request is filed with the City and a copy delivered to the permit applicant within 14 days of the date of publication of the notice of filing. The Planning Director shall make such determination utilizing Process I described in Chapter 145 KZC. In making his determination, the Planning Director shall take into consideration the strong federal interest in promoting amateur communications and the rules adopted by the Federal Communications Commission in support of that interest to regulate the amateur service (47 CFR Part 97 and FCC PRB-1).

- d. Structures Requiring Design Review – If a structure is reviewed through design review pursuant to Chapter 142 KZC and has a peaked roof, the peak may extend the following amount above the height limit:
- 1) Five feet, if the slope of the roof is equal to or greater than three feet vertical to 12 feet horizontal; or
 - 2) As allowed by the underlying zone.

115.65 Home Occupations, Accessory Dwelling Units, and Other Accessory Components of Residential Uses

1. General – The regulations of this section apply to every residential use within the City.
2. Home Occupations
 - a. Purpose – The purpose of this section is to allow commercial occupations incidental to residential uses to be located in residences while guaranteeing all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential neighborhoods.
 - b. Home Occupation Regulations – A home occupation may be conducted subject to the following regulations:

A home occupation is permitted if it:

- 1) Is carried on exclusively by family members who reside in the dwelling unit and not more than two additional people who are not residents of the dwelling;

- 2) Is conducted indoors and has no outside storage, exterior indication, or outside activity, including equipment stored on vehicles;
- 3) Requires no alteration to the interior or exterior of the dwelling that changes its residential character;
- 4) Involves activities, including but not limited to heavy equipment, power tools, power sources, or other equipment, which do not result in noise, vibration, smoke, dust, odors, heat, or other conditions that exceed in duration or intensity, such conditions normally produced by a residential use;
- 5) Has no pickup or delivery by commercial vehicles; however, occasional mail and courier deliveries are permitted;
- 6) Does not include the following businesses:
 - a) Motor vehicle-related businesses including but not limited to auto, truck, body work, detailing, painting, or taxicab, van shuttle, limousine, towing, or other transportation service or sales;
 - b) Repair or sales of large appliances or heavy equipment;
 - c) Welding;
 - d) Kennels or commercial stables;
 - e) Inventory storage of more than 1,200 cubic feet of materials;
 - f) Restaurants; and
 - g) Landscaping.

Office-only activities for the above uses may be allowed as home occupations; provided, all other requirements of this section are met;

- 7) Does not include more than four persons per day and no more than two persons at any time coming to and leaving from the subject property for goods or services. Customer visits or deliveries to a home occupation shall be between the hours of 8:00 a.m. and 8:00 p.m.(not applicable to a bed and breakfast house);
- 8) Operates no more than one vehicle, van, truck or similar vehicle, not exceeding a gross vehicle weight of 10,000 pounds; and
- 9) Has no signs other than one building-mounted, nonilluminated sign with a maximum size of two square feet.
- 10) For a bed and breakfast house, the following additional regulations apply in addition to those listed above:
 - a) It is operated by the owner of the dwelling in which it is located and it is the primary residence of the owner/operator;
 - b) There is a maximum of two guest rooms;
 - c) Guests stay a maximum of 30 days;

- d) Food service shall be limited to serving overnight guests of the establishment. Individual rooms shall not be equipped with cooking facilities;
 - e) The applicant may be required to provide up to one parking stall per guest room. The applicant shall demonstrate the parking provided will be adequate based on the following criteria:
 - i. The number of guest rooms;
 - ii. The number of permanent residents of the dwelling proposed for the bed and breakfast;
 - iii. The number of parking stalls that can be accommodated in a garage or driveway; and
 - iv. The number of legal on-street parking stalls immediately adjacent to the bed and breakfast;
 - f) Concentrations of Bed and Breakfast Houses – Where a bed and breakfast house is proposed within 500 feet of another bed and breakfast house, the applicant shall demonstrate that the neighborhood will not be adversely affected by the concentration.
- c. A home occupation which does not meet one or more of the requirements of subsection (2)(b) of this section may be approved using Process IIA, described in Chapter 150 KZC, if it:
- 1) Will not harm the character of the surrounding neighborhood;
 - 2) Will not include outdoor storage and/or operation of building materials, machinery, commercial vehicles, or tools, except if it meets the following criteria:
 - a) Is appropriately screened from other properties;
 - b) Does not emit noise, odor, or heat; and
 - c) Does not create glare; and
 - 3) Does not create a condition which injures or endangers the comfort, repose, health or safety of persons on abutting properties or streets; and
 - 4) Will not generate excessive traffic or necessitate excessive parking; and
 - 5) For bed and breakfast houses, there will be a maximum of four guest rooms.
- d. Licensing – A business license shall be required for all home occupations.
- e. Revocation of Home Occupation Permit – Upon determination that there has been a violation of any decision criteria or condition of approval of a home occupation permit granted pursuant to subsection (2)(c) of this section, the Director of Planning and Community Development may revoke a home occupation permit pursuant to the provisions of Chapter 170 KZC, Zoning Code Enforcement.
3. Accessory Structure (detached dwelling unit uses only) – Structures, to be used as a tool shed, greenhouse, private garage, accessory dwelling unit, barns or similar use are permitted. The total size of all such structures may not exceed the gross floor area of 1,200 square feet plus

10 percent of the lot area that exceeds 7,200 square feet. The height (roof peak elevation) of an accessory structure may not exceed 15 feet above the existing height (roof peak elevation) of the primary residence or 25 feet above average building elevation, whichever is less. Accessory dwelling units must also comply with subsection (5) of this section.

4. Domestic Animals – Please see KZC 115.20, Animals in Residential Zones, for regulations for keeping animals in residential zones.
5. Accessory Dwelling Units – One accessory dwelling unit (ADU) is permitted as subordinate to a single-family dwelling; provided, that the following criteria are met:
 - a. Number of Occupants – The total number of occupants in the principal dwelling unit and the ADU combined shall not exceed the maximum number established for a single-family dwelling as defined in KZC 5.10.300.
 - b. Owner Occupancy – One of the units must be owner-occupied. Owner occupancy is defined as a person with an ownership interest in the property.
 - c. Subdivision – Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.
 - d. Scale – The square footage of the accessory dwelling unit shall not exceed 40 percent of the primary residence and accessory dwelling unit combined. If the accessory unit is completely located on a single floor, the Planning Director may allow increased size in order to efficiently use all floor area.

Detached accessory dwelling units shall not exceed 800 square feet of gross floor area. When calculating the square footage of the ADU (see KZC 5.10.340, definition of “gross floor area”), covered exterior elements such as decks and porches will not be included; provided, the total size of all such covered exterior elements does not exceed 200 square feet. An accessory dwelling unit will be considered to be “detached” from the principal unit if it has any of the following characteristics:

- 1) It does not share a common roof structure with the principal unit.
 - 2) It is not integrated into the footprint of the principal unit.
 - 3) The design is inconsistent with the existing roof pitch, siding treatment, and window style of the principal unit.
- e. Location. The accessory dwelling unit may be added to or included within the principal unit, or located in a detached structure. Detached structures must conform with the setbacks, height restrictions, lot coverage and other applicable zoning regulations required for single-family dwellings in the applicable use zone; provided, that an accessory dwelling unit shall not be considered a “dwelling unit” in the context of Special Regulations in Chapters 15 through 60 KZC which limit the number of detached dwelling units on each lot to one.
 - f. Entrances. The primary entrance to the accessory dwelling unit shall be located in such a manner as to be clearly secondary to the main entrance to the principal unit and shall not detract from or alter the single-family character of the principal unit.
 - g. Parking. There shall be one off-street parking space provided for the accessory dwelling unit.

- h. WD I and WD III Zones. Properties located in the WD I and WD III Zones which develop accessory dwelling units must provide public pedestrian access consistent with the regulations contained in KZC 30.15.020 and 30.35.020 for attached or stacked dwelling units.
- i. Applicable Codes. The portion of a single-family dwelling in which an accessory dwelling unit is proposed must comply with all standards for health and safety contained in all applicable codes, with the following exception for ceiling height. Space need not meet current Uniform Building Code (UBC) ceiling height requirements if it was legally constructed as habitable space.
- j. Permitting

- 1) Application

- a) The property owner shall apply for an accessory dwelling unit permit with the Building Department. The application shall include an affidavit signed by the property owner agreeing to all the general requirements outlined in this section.

In the event that proposed improvements in the accessory dwelling unit do not require a building permit, a registration form for the unit must be completed and submitted to the Planning Department.

- b) The registration form as required by the City shall include a property covenant. The covenant must be filed by the property owner with the City for recording with the King County Department of Records and Elections to indicate the presence of the accessory dwelling unit, and reference to other standards outlined in this section. The covenant shall run with the land as long as the accessory dwelling unit is maintained on the property.
 - c) If an ADU was or is created without being part of a project for which a building permit was or is finalized, an ADU inspection will be required for issuance of an ADU permit. The ADU inspection fee will cover a physical inspection of the ADU. This fee will be waived if the ADU existed on January 1, 1995, and the ADU permit is applied for by December 31, 1995.
- 2) Eliminating an Accessory Dwelling Unit. Elimination of a registered accessory dwelling unit may be accomplished by the owner filing a certificate with the Planning Department, or may occur as a result of enforcement action.
 - 3) Preexisting Units. That portion of a single-family residence which meets the definition of accessory dwelling unit which existed on January 1, 1995, may be legally established, and not subject to zoning violation fines, if the following requirements are met:
 - a) An application for an accessory dwelling permit is filed by December 31, 1997;
 - b) The accessory dwelling unit is determined to meet the requirements of this section, as well as the other code requirements referred to in KZC 115.65(5)(g).
 - 4) Appeals. The decision of the Planning Official in approving or denying a request to construct an accessory dwelling unit may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.

5. Emergency Notification (must list two contacts):

	(1)	(2)
Name:	_____	_____
Address:	_____	_____
City/State/Zip:	_____	_____
Home Phone:	_____	_____

6. Property Owner(s)/Leasing Agent:

	(1)	(2)
Name:	_____	_____
Address:	_____	_____
City/State/Zip:	_____	_____
Home Phone:	_____	_____

7. List other business locations in Kirkland:

	(1)	(2)
Name:	_____	_____
Address:	_____	_____
Bus. Phone:	_____	_____

8. Specifically describe your business activity: _____

9. Is this business a change of ownership, location change (within City of Kirkland), or business activity change?

Yes No If yes, please indicate: _____

10. Is this a business conducted in a residence? Yes No

11. Occupancy Type:

<input type="checkbox"/> Apartment Building/Condo	<input type="checkbox"/> Office Building	<input type="checkbox"/> Single Family/Duplex	<input type="checkbox"/> Church
<input type="checkbox"/> Hospital/Nursing Home	<input type="checkbox"/> Retail	<input type="checkbox"/> Warehouse	
<input type="checkbox"/> Hotel/Motel	<input type="checkbox"/> School	<input type="checkbox"/> Other (Please Specify) _____	

12. Number of square feet (gross) of floor space/business activity uses: _____

13. Number of workers at this location including owner/manager: _____

14. Type of Business:

<input type="checkbox"/> Business/Prof. Office	<input type="checkbox"/> Restaurant	<input type="checkbox"/> Wholesale	<input type="checkbox"/> Religious
<input type="checkbox"/> Manufacturing	<input type="checkbox"/> Retail	<input type="checkbox"/> Government	
<input type="checkbox"/> Medical/Dental	<input type="checkbox"/> Services (Personal)	<input type="checkbox"/> Other (Please Specify) _____	

15. Is this a non-profit organization? Yes No

If yes, please provide a copy of IRS 501(c)(3) Federal Tax Exemption Certificate.

16. Will any type of live music be conducted at business? Yes No

17. Will any admission fees be charged: Yes No

18. Do you store flammable or hazardous materials? Yes No
If yes, please attach a list of type and quantity.

19. Do you use any spray painting equipment? Yes No

20. Do you or will you have a burglar alarm(s)? Yes No

If yes, please indicate type, i.e., audible, silent, etc.: _____

What is the name(s) and after-hour phone number(s) of the person(s) to be notified in case the alarm is activated?

21. Do you have a fire alarm system? Yes No

22. Do you have a fire sprinkler system? Yes No

23. Will waste material (other than restrooms) be discharged into the sewer? Yes No

If yes, indicate type:

Cooling Water

Grease

Wash Down or Floor Cleaning

Food Waste

Product Waste

Other (Please Specify) _____

24. Will you have any sanitary sewer connections from your production area (other than restrooms)?

Yes No

If yes, indicate type:

Catch Basins

Floor Drains

Sinks

Sumps

Other (Please Specify) _____

25. Opening date of your business at this location: _____

26. Are you the first tenant at this location? Yes No

If not, name of previous business at this location: _____

(If Question #10 was answered yes, please answer Questions 27 and 28.)

27. Is this business license application for a Home Daycare? Yes No

If yes, please indicate the following:

DSHS License/Certification No.: _____ Expiration Date: _____

Maximum number of children authorized by DSHS: _____

Actual number of children enrolled: _____

28. For all other Home Occupations, answer the following (if you answer yes to any of these questions, please explain in the space provided. If needed, a separate sheet may be attached):

- a. Does the business employ individuals who are not residents of the subject dwelling unit? Yes No
If yes, how many? _____
- b. Does the business include any outside storage, exterior indication, or outside activity on the subject property?
 Yes No
- c. Does the business use any heavy equipment, power tools, or power sources not common to a residence?
 Yes No If yes, what type? _____
- d. Are there any noise, dust, glare, vibration, odor, smoke, or other impacts to a residential area?
 Yes No
- e. Is there pickup or delivery by commercial vehicles (excluding occasional mail or courier deliveries)?
 Yes No
- f. Do customers come to the subject property for goods and/or services? Yes No
If yes, how many persons per day and how many persons at any one time? _____
- g. Does the business include parking or operating a vehicle, van or truck that exceeds 10,000 pounds in gross vehicle weight? Yes No

BUSINESS OWNER MUST ENSURE COMPLIANCE WITH ALL LAWS:

Do not engage in business until you receive an approved license. When the City issues a business license, the City is not representing that the business is in compliance with all local, state and federal laws.

DECLARATION:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Applicant's Signature: _____ Title: _____ Date: _____

FOR OFFICE USE ONLY

Receipt No.: _____

Check No.: _____

Application Date: _____



CITY OF KIRKLAND BUSINESS LICENSE INFORMATION

PURPOSE OF LICENSING

To license for regulation and revenue generation.

APPLICATION PROCESS

1. A City of Kirkland Business License Application form shall be completed and submitted to the CAS - Licensing, 123 Fifth Avenue, Kirkland, WA 98033-6189, along with the license fee.
2. All sections of the application must be completed.
3. If more than one business is conducted, operated, engaged in, or practiced on a single premises, a separate registration and license will be required for each business.
4. If a business is conducted from more than one premises in the City, a separate registration and license will be required for each premises.
5. If the business is a partnership, the application must be made by one of the partners; if a corporation, by one of the officers; if a foreign corporation, partnership, or nonresident individual, by the resident agent or local manager of the corporation, partnership, or individual.
6. The license or refusal of license will be issued within fifteen (15) days.
7. All businesses located and / or engaged in business within the City will be required to obtain licenses and pay all fees.
8. Each license issued will be for one year.
9. The City of Kirkland, in issuing a Business License, makes no representation that the registered business is in compliance with City or state laws and regulations regarding the operation of the business within the City of Kirkland. It is the responsibility of the business owner to investigate, maintain, and ensure compliance with all applicable laws and regulations.

EXEMPTIONS

You may be eligible to pay a registration fee of \$25 in lieu of a business license fee under the following circumstances:

- Any business with less than \$2,000 average annual gross receipts.

Also any business that holds a valid regulatory license or is a utility company that pays a utility tax to the City may take a credit for the amount paid for the regulatory license or utility tax up to the total amount of the business license fee.

REGISTRATION FEE

The following entities may claim an exemption from the basic license fee or registration, but if exempt under this subparagraph, 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.

FEES

1. Base License Fee is \$100.00 for all new applicants (except for exempt businesses)
2. Surcharge: The new business license fee consists of two parts: a base fee and a surcharge based on number of employees. A partial exemption is granted to businesses with gross receipts below the designated threshold.

# Employees or FTEs	More than \$100,000	\$50,000-\$100,000	\$2,000-\$49,999
1	\$125	\$75	\$0
2-5	\$225	\$150	\$0
6-20	\$750	\$500	\$0
21-100	\$1,500	\$1,000	\$0
100+	\$2,500	\$2,000	\$0

SALE OR TRANSFER OF BUSINESS

A business license terminates with the sale or transfer of any business. The new owner intending to continue the business must apply for a new business license.

LICENSE DENIAL

1. If a business is refused a license, the reason(s) for refusal will be set forth in writing and mailed to the business.
2. The business may appeal the refusal to the Finance Director by filing a Notice of Appeal within fourteen (14) calendar days from the mailing of the Notice of Refusal.

PENALTY FOR VIOLATION

A business that fails to apply and/or renew its license on time shall pay a penalty in addition to the amount charged for the annual license as follows:

1. Up to 29 days late, a penalty of \$25.00 or 10% of the amount of the license, whichever is greater;
2. Between 30 and 59 days late, a penalty of \$50.00 or 50% of the amount of the license, whichever is greater;
3. 60 or more days late, a penalty of \$100.00 or 100% of the amount of the license, whichever is greater.

For a copy of ordinance and further information or clarification, please visit our website at www.kirkland.wa.us or call 425-587-8140

REVOCATION OR SUSPENSION

1. The City Council may, at any time, suspend or revoke any license whenever the licensee or an officer or partner has been convicted, in any court of competent jurisdiction, of violating any criminal statute of the United States or the State of Washington, or any ordinance of the City of Kirkland, upon the business premises stated in the license or in connection with the business stated in the license.
2. A hearing shall be held before the revocation or suspension.
3. The licensee shall be notified in writing, by certified mail, fourteen (14) days prior to the hearing date.

DEFINITIONS

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.

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.

Retail

A business which provides goods which are available for immediate purchase and consumption or removal from the premises by the purchaser.

Wholesale

A business which sells goods to retail establishments.

Manufacturing

A business engaged in the fabrication or assembly of goods.

Business Office

A business which provides administrative or technical support for retail, wholesale, manufacturing, personal services, or medical services businesses.

Personal Services

All other activities or services including repair or counseling services, but excluding medical and dental services.

Medical/Dental Services

A business providing medical, dental, or veterinary health care.

Cabaret

Permitting music only, or permitting both music and dancing in a place of business in which food or liquor is sold and consumed on the premises.

Celebration

Any one-time event.

Permit/License

Unless the context in which it is used clearly indicates otherwise, the words "license" and "permit" as used herein both mean the official approval or authorization of the City of Kirkland.

Place of Business

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 pick-up, van, truck, boat or other motor vehicle will not be considered a place of business for purposes of this chapter.

Public Dance

Any dance to which the general public is admitted for which an attendance charge or donation is imposed as a condition of attendance.

CITY OF KIRKLAND RULES GOVERNING BUSINESSES CONDUCTED WITHIN RESIDENCES

A business conducted incidental to a residential use is termed home occupation and is governed by Section 115.65 of the Kirkland Zoning Code. A home occupation is permitted without a zoning permit if it complies with all of the following:

- 1) It is carried on exclusively by family members who reside in the dwelling unit and not more than two additional people who are not residents of the dwelling;
- 2) It is conducted indoors and has no outside storage, exterior indication, or outside activity, including equipment stored on vehicles;
- 3) It requires no alteration to the interior or exterior of the dwelling that changes its residential character;
- 4) It involves activities, including but not limited to heavy equipment, power tools, power sources, or other equipment, which do not result in noise, vibration, smoke, dust, odors, heat, or other conditions that exceed in duration or intensity, such conditions normally produced by a residential use;
- 5) It has no pickup or delivery by commercial vehicles; however, occasional mail and courier deliveries are permitted;
- 6) It does not include the following businesses:
 - a) motor vehicle-related businesses including but not limited to auto, truck, body work, detailing, painting, or taxicab, van shuttle, limousine, towing, or other transportation service or sales;
 - b) repair or sales of large appliances or heavy equipment;
 - c) welding;
 - d) kennels or commercial stables;
 - e) inventory storage of more than 1,200 cubic feet of materials;
 - f) restaurants; and
 - g) landscaping/gardening/lawn services.

Office-only activities for the above uses may be allowed as home occupations provided all other requirements of this section are met;

- 7) It does not include more than 4 persons per day and no more than 2 persons at any time coming to and leaving from the subject property for goods or services. Customer visits or deliveries to a home occupation shall be between the hours of 8:00 a.m. and 8:00 p.m.
- 8) It operates no more than one vehicle, van, truck or similar vehicle, not exceeding a gross vehicle weight of 10,000 pounds; and
- 9) It has no signs other than one building-mounted, non-illuminated sign with a maximum size of 2 square feet.

For information about operating a bed and breakfast house see Zoning Code Section 115.65.2.f.

If the home occupation does not meet all of the above, it must be approved through a public hearing process before a Hearing Examiner. The Examiner may only allow a home occupation if he/she finds that it:

- 1) will not harm the character of the surrounding neighborhood;
- 2) will not include outdoor storage and/or operation of building materials, machinery, commercial vehicles, or tools, except if it meets the following criteria:
 - a) is appropriately screened from other properties;
 - b) does not emit noise, odor, or heat; and
 - c) does not create glare.
- 3) does not create a condition which injures or endangers the comfort, repose, health or safety of persons on abutting properties or streets; and
- 4) will not generate excessive traffic or necessitate excessive parking

For more information about the City's home occupation regulations, contact:

Department of Planning and Community Development
123 Fifth Avenue
Kirkland, WA 98033
(425) 587-3225

All home occupations are required to obtain a business license, regardless of whether or not a zoning permit is required.



Business License Application Fee Worksheet

Registration Fee

Fee Due

(You may be eligible to pay a registration fee of \$25 in lieu of a business license fee under the following circumstances).

1. Are you a qualified **nonprofit organization**? Yes _____ No _____ \$ _____
 (Do you have a 501(c)(3) designation from the Internal Revenue Service?)
 If yes, stop here. Your registration fee is \$25.

2. Are the **annual gross receipts of your business less than \$2,000**? Yes _____ No _____ \$ _____
 If yes, stop here. Your registration fee is \$25.

3. Are you a qualified **governmental or religious organization**? Yes _____ No _____ \$ _____
 If you engage exclusively in religious activities or governmental functions, stop here.
 Your registration fee is \$25. However, if any of your activities go beyond core religious functions, or if any of your activities go beyond core governmental functions, then skip down to the regular business license section. You will pay a base fee and follow special instructions for calculating the surcharge (see back of form).

Base Fee: All businesses operating in Kirkland are subject to a base fee of \$100 unless eligible for a registration fee based on questions 1 through 3 above or if they are a utility paying a utility tax to the City.

\$ 100

Surcharge:

How many employees (or FTEs), including officer/owner/manager, do you currently employ at this location? (If using FTEs, use the FTE calculation worksheet on the back of this form.) _____

Designate which category best describes your business' annual gross receipts for the most recent twelve months.

\$100,000 or more
 \$50,000-\$99,999
 \$2,000 - \$49,999
 Less than \$2,000*

**If you have less than \$2,000 annual gross receipts, return to question two in section one above.*

Using the table below, find the surcharge that corresponds to the number of employees or FTE's and gross receipts you indicated above.

# Employees or FTE's	Annual Gross Receipts			
	\$100,000 or more	\$50,000 - \$99,999	\$2,000 - \$49,999	Less than \$2,000
1	\$125	\$75	\$0	\$0
2-5	\$225	\$150	\$0	\$0
6-20	\$750	\$500	\$0	\$0
21-100	\$1,500	\$1,000	\$0	\$0
100+	\$2,500	\$2,000	\$0	\$0

Enter your surcharge amount from the table above. \$ _____

Add the surcharge amount and the base fee. This total amount is your business license fee. \$ _____

Credits: If you hold a *regulatory license* (cabaret, dance, etc.), or you are a utility company that pays a utility tax to the City, you may deduct the amount of the regulatory license fee or utility tax remittance from your business license fee up to the full amount of the business license fee (see back for complete list of regulatory licenses).

Enter your regulatory license fee or utility tax credit here. \$(_____)

Subtract your regulatory license fee from your total business license fee. **Net Fee** \$ _____



Business License Application Fee Worksheet

Definitions:

Qualified Nonprofit Organization – 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.

Government Organization – 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.

Religious Organization – 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.

If your business is a religious organization or government entity that pays a \$100 base fee, follow these special instructions in calculating your surcharge. Determine the percentage of your activities that go beyond core religious functions or beyond core governmental functions. Apply this percentage to your total number of employees or FTE's and report the result. Apply the same percentage to your total gross receipts and report the result.

Full Time Equivalent - A business may choose to calculate the number of employees for the purpose of the surcharge according to the following alternative method based on the number of employee hours worked for the business during the previous year. Where there are employees who work less than 1,920 hours per year, the total number of hours worked by all such employees during the previous four quarters shall be added together and divided by 1,920. A fraction of .5 or over shall be rounded up. The City may require the business to submit copies of its Washington State Department of Labor and Industries (L & I) reports for the prior four quarters.

If you do not have physical premises within Kirkland but conduct business in Kirkland, you should consider only the number of worker hours spent working in Kirkland or direct hours related to work completed for a customer located in Kirkland (use the same approach for estimating annual gross receipts).

Note for New Businesses - The surcharge for a business that did not submit reports for each of the last 4 quarters to L & I shall be based on the estimated number of employees of that business. 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 may be recalculated for the new business. If the revised surcharge is higher, the business must pay the difference within 30 days after notification. If the revised surcharge is lower, then the difference will be refunded within 30 days.

Worker hours reported during the most recent four quarters:

_____ Quarter 1 + _____ Quarter 2 + _____ Quarter 3 + _____ Quarter 4 = _____ Total for four quarters

Divide by (÷) 1920

_____ *

* A fraction of .5 or over shall be rounded up.

Hours worked by persons who are defined as employees for surcharge purposes must be included in the calculation even if the business is not required to report to the Washington State Department of Labor and Industries (L&I) concerning such person.

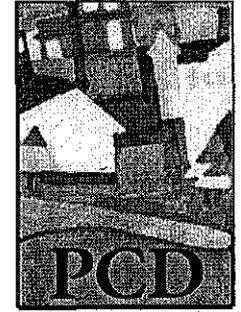
Regulatory License Credit - A business that holds a current valid City of Kirkland regulatory license under another Chapter of the Code may take a credit for the amount paid for the regulatory license up to the total amount of general business license fee plus the surcharge. Regulatory licenses that fall under this category are:

Ambulances
Amusement Devices
Auctions, Auctioneers
Cabarets

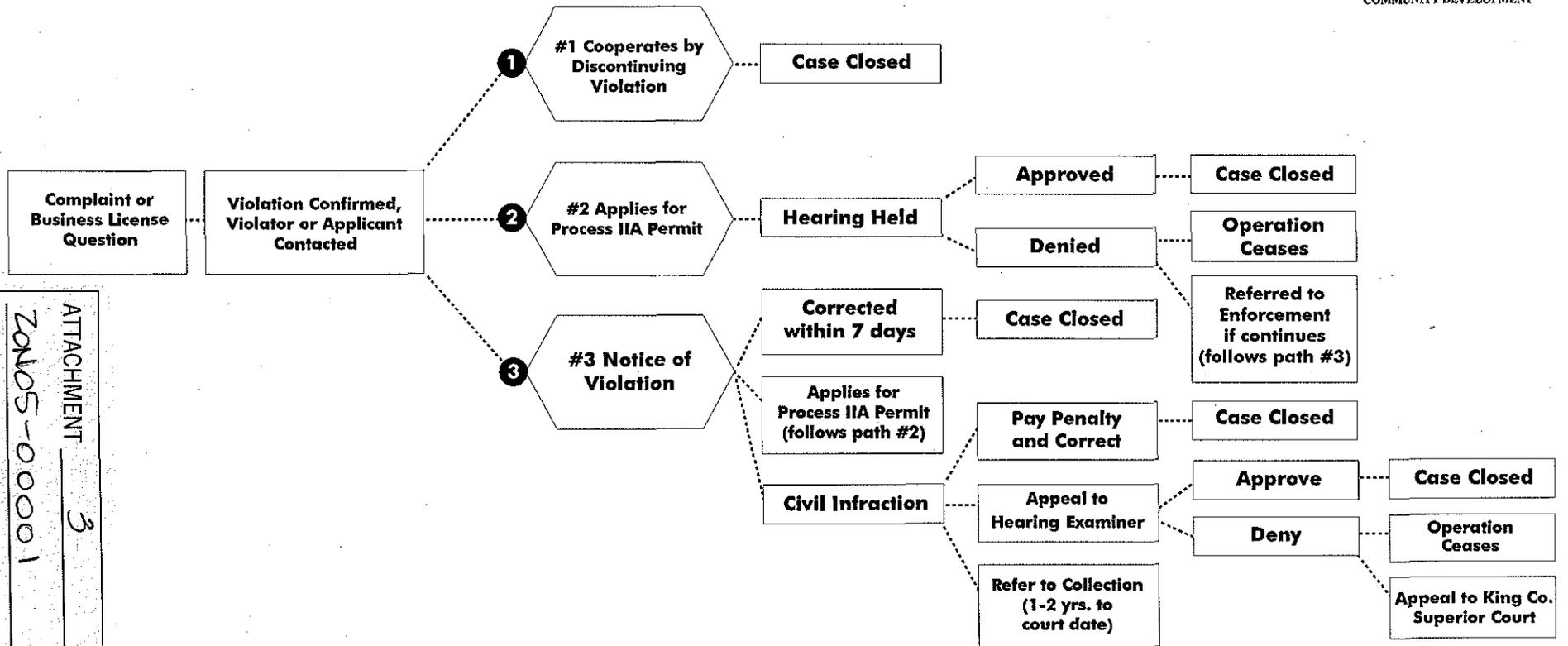
Carnivals and Circuses
Dances and Dance Halls
Massage Parlors and Public Bath Houses
Pawnbrokers, Junk Dealers

Taxicabs and For Hire Vehicles
CATV Franchises

The City reserves the right to request verification of information provided on the application form and fee worksheet.



Home Occupation Violation Flow Chart



ATTACHMENT 3
ZONOS-00001

