



CITY OF KIRKLAND
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Julie Underwood, Director of Public Works
Stephanie Croll, Senior Assistant City Attorney
John Starbard, Deputy Director of Public Works

Date: December 1, 2022

Subject: EXTENSION OF MORATORIUM—PERSONAL DELIVERY DEVICES—PUBLIC HEARING

RECOMMENDATION:

It is recommended that the City Council conduct a public hearing for an ordinance concerning the extension of an existing moratorium on the acceptance, processing, and/or issuance of permits related to Personal Delivery Devices. At the conclusion of the public hearing, the Council can take action on the proposed extension ordinance. Staff recommends Council approve the ordinance and extend the moratorium.

BACKGROUND DISCUSSION:

In late 2021, the City received four incomplete building permit applications to site, construct, and operate "dispensers" for Personal Delivery Devices (PDDs) under the auspices of Amazon. At about this same time, staff observed testing of delivery devices on City roads and sidewalks. Because the City did not have any regulations concerning the permitting and operation of this emerging technology, and given that Washington local governments are granted broad powers to regulate their rights-of-way, the City wanted an opportunity to evaluate its options. Staff recommended and the City Council enacted an emergency moratorium on the acceptance, processing, and/or issuance of permits related to autonomous personal delivery devices.

The initial moratorium was established on January 18, 2022, and was to last six months. At its July 5, 2022 meeting, the Council extended the moratorium for an additional six months.

Staff has been researching and working to develop two legislative options. One option is to permit PDDs only on private property, such as mixed-use and/or institutional sites, provided the owners of those sites agree. That option would require an amendment to the *Kirkland Zoning Code*. Another option is to allow PDD operation on the public rights-of-way. In that case, they would be regulated by the *Kirkland Municipal Code* and also would require code amendments. It also is possible to permit PDDs on both private property and public rights-of-way, or for the Council to opt to entirely disallow PDD operation anywhere in Kirkland at this time.

The agenda for the November 15, 2022, Regular Council Meeting included a Business item to continue discussions of draft regulations for operation on rights-of-way. However, because of the lateness of the hour, the item was postponed to a subsequent meeting.

The current moratorium will expire on January 4, 2023. Staff plans to return on January 3 to pick-up the discussion that was deferred on November 15. In order to preserve the status quo and allow the Council to complete its deliberations and take action on this matter, staff recommends a second extension of the moratorium. While staff is hopeful that this second moratorium will be lifted early, a six-month extension is recommended. While State law allows a moratorium or moratorium extension to be less than six months, staff recommends the full six months to give the Council and staff the greatest flexibility to complete its work.

Process to Date

Since the initial establishment of the moratorium, the following process steps have been taken. All dates are in 2022. At each of the meetings listed below, the public was afforded opportunity to provide comment.

January 18	City Council Meeting—Moratorium ordinance established
February 1	City Council Meeting—Moratorium ordinance ratified
March 1	City Council Meeting—Public hearing, scope of work reviewed
March 28	Houghton Community Council
April 18	Virtual community meeting (6:00 p.m.)
April 19	Virtual community meeting (10:00 a.m.)
April 19	Field demonstration by Amazon in Snohomish County
April 27	Transportation Commission
April 28	Planning Commission
May 3	City Council Meeting—Update provided, regulatory options selected
May 25	Transportation Commission
June 23	Planning Commission—Public hearing and deliberations (draft regulations for private and institutional properties only)
July 5	City Council Meeting—Discussion of proposed regulations
November 15	City Council Meeting—Continued discussion postponed
November 23	Determination of Non-significant Impact Issued

In addition to these meetings, staff has made contact with the following entities to seek additional information about how best to regulate PDDs on public rights-of-way as well as private property:

- The Office of Senator Patty Murray, seeking referrals to ADA-focused organizations that may have suggestions, including any suggestions at the federal level;
- Disability Rights Washington
- National Disability Rights Network
- Washington Center for the Blind
- National Federation of the Blind
- Here and Now (organization to connect and empower the paralysis community in the Pacific Northwest)
- Washington Cities Insurance Authority (WCIA)

The Washington Cities Insurance Authority (WCIA) offered to have the City's draft right-of-way regulations reviewed by a third-party attorney, which the City accepted. Kirkland is a member city of

WCIA, so this review is being conducted at no additional charge to the City. The findings of this review will be provided to the Council upon receipt. The preliminary review should be provided to the City by December 16. Council and staff may have additional questions after the preliminary review is submitted.

NEXT STEPS:

At the conclusion of the public hearing, the Council can take action on the proposed ordinance to extend the PDD moratorium for another six months. Staff will return in January of 2023 to continue the City Council's evaluation of its proposed code amendments regulating PDDs on public and private property.

Attachment A: Work Plan Completion
Ordinance
Publication Summary

Attachment A

Work Plan Completion

Moratorium Extension
Personal Delivery Devices
December 13, 2022

For reasons established in its recitals, on January 18, 2022, the City Council enacted an emergency moratorium on the acceptance, processing, and/or issuance of permits related to Personal Delivery Devices (PDD) through ordinance O-4779. A work plan was attached to the staff report for that ordinance.

On July 5, 2022, the Council extended the moratorium for an additional six months by the enactment of ordinance O-4806. Draft regulations related to PDD operation on public rights-of-way were on the Council's agenda for November 15, 2022, but the item was deferred because of the lateness of the hour when the item was due to come forward. The moratorium established by ordinance O-4806 will expire on January 5, 2023. Staff is recommending a second six-month extension of the moratorium, which is anticipated to be acted upon during the December 13, 2022, Regular Meeting of the Council.

During this second and anticipated final extension period, the following work plan items will be undertaken:

- A. Draft regulations related to the operation of PDDs will be discussed by the City Council beginning January 3, 2023. The Council may choose to discuss them further at a subsequent meeting. Draft regulations concerning the operation of PDDs on private property have been reviewed by the Council previously and they also will be attached to the agenda materials for the January 4, 2023, meeting.
- B. Based upon the direction provided by the Council, staff will need to prepare amendments to the *Kirkland Municipal Code*, the *Kirkland Zoning Code*, and/or other City documents in order that they conform to the Council's direction.
- C. Staff will return to the Council for final review and action on those amendments.
- D. Following the effective date of the amendments, staff will return to the Council with an action to lift the moratorium.