



**CITY OF KIRKLAND**  
**Public Works Department**  
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[www.kirklandwa.gov](http://www.kirklandwa.gov)

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## **MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Julie Underwood, Director of Public Works  
Adam Weinstein, Director of Planning and Building  
Stephanie Croll, Senior Assistant City Attorney  
John Starbard, Deputy Director of Public Works  
Scott Guter, Senior Planner

**Date:** January 9, 2023

**Subject:** PERSONAL DELIVERY DEVICES—PROPOSED ORDINANCES

### **RECOMMENDATION:**

It is recommended that the City Council review and adopt two proposed ordinances to regulate the operation of personal delivery devices on 1) private and institutional property, and 2) on public rights-of-way; or provide different direction. Notable updates to the ordinance include allowing the delivery of prepared food, not limiting number of deliveries, expanding delivery hours, assessing fees, eliminating the requirement for greenhouse gas emission tracking, adding a requirement for indemnification, and removing data regulations that are the purview of the state and federal governments.

### **BACKGROUND DISCUSSION:**

The City has been working to develop regulations for autonomous Personal Delivery Devices (PDDs) since January 2022. Generally, PDDs are devices that are operated on streets, sidewalks, and/or campuses by remote control for the delivery of packages or goods. They are an emerging technology that vary in size, design, and operational features depending upon the manufacturer.

In late 2021, the City received four incomplete building applications on behalf of Amazon to site small PDD garages or hubs to facilitate the testing of PDDs in four areas in Kirkland. Around this same time, Amazon was testing PDDs on streets and sidewalks in the City. Because the City did not have any regulations concerning the operation of PDDs on rights-of-way or private property, nor for siting PDD support facilities, the City Council established a six-month emergency moratorium for the acceptance, processing, or issuance of permits related to PDDs. The moratorium was renewed on July 5, 2022 and again on December 13, 2022.

Staff began researching this new technology, attended a field demonstration, conducted public engagement and comment opportunities, and reached out to entities that might inform the City about how to craft proposed regulations, particularly entities that advocate for or support constituencies protected by the Americans with Disabilities Act.

Early on, staff began to think about regulations in two categories: those pertaining to PDD operation on private and institutional properties, and those pertaining to operation on public rights-of-way. Working together, the Department of Planning and Building took the lead to draft regulations for private and institution properties (amendments to the Zoning Code) while the Department of Public Works took the lead to draft regulations for rights-of-way (amendments to the Municipal Code).

Throughout this process, there were numerous opportunities for the public to become aware of and comment upon the proposed introduction of PDDs into the City as well as comment on the draft regulations, as shown below.

### 2022

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—Council discussion about conceptual regulations for operation on rights-of-way; moratorium extended for six months
December 13	City Council Meeting—Extension of moratorium for six months

### 2023

January 3	City Council Meeting—Suggested refinements to proposed regulations for operation on rights-of-way
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Although there have been numerous opportunities, the City has received very little public comment about this topic. A total of five community members attended the two virtual community meetings; no public comment was offered at any of the commission meetings or the Houghton Community Council meeting; and at the March 1 public hearing, one representative of Amazon addressed the Council and one letter from a community member was submitted in advance.

Additional background information can be found on the City's [website](#).

### **PDD Operation on Private and Institutional Property**

The last time the Council discussed proposed regulation for PDD operation on private property was at the [July 5, 2022](#) Regular Meeting where staff presented draft zoning regulations and the

Planning Commission's recommendation. At that time, the City Council did not offer any amendments to the proposal. Accordingly, the same proposed amendment to the *Kirkland Zoning Code* is provided in ordinance format (see Ordinance O-4836).

### **Criteria for Amending the Zoning Code**

Amendments to the text of the Zoning Code must satisfy the following criteria contained in Chapter 135 of the *Kirkland Zoning Code*.

1. The proposed amendment is consistent with the applicable provisions of the *Comprehensive Plan*;
2. The proposed amendment bears a substantial relation to the public health, safety, or welfare;
3. The proposed amendment is in the best interests of the residents of Kirkland; and
4. When applicable, the proposed amendment is consistent with the Shoreline Management Act and the City's adopted shoreline master program.

A brief analysis of how the proposed changes meet these criteria is discussed below.

*Staff Analysis. The proposed amendments to the Zoning Code for PDDs are consistent with the criteria listed above. The amendments are supported by the Comprehensive Plan's Economic Element policies, including the following:*

*Policy ED-2.2: Foster a culture of creativity, entrepreneurship, and innovation.*

*Policy ED-2.3: Make land use decisions that take into consideration the effects on businesses and the economic benefit to the community.*

*Policy ED-2.4: Provide a regulatory environment that is predictable, fair, responsive, and timely.*

The amendments provide the City with regulations that encourage innovative economic development in a manner that is consistent with established policy direction of the Economic Element (and other elements) of the *Comprehensive Plan*.

The amendments account for general public health, safety, and welfare of the community by requiring PDDs to operate safely on private and institutional properties in accordance with City code concerning vehicular and pedestrian circulation and fire safety. The amendments are in the public interest because product delivery is an integral part of the local economy, and has an effect on traffic levels, bike and pedestrian safety, air pollution, carbon emissions, and other components of the environment. The amendments serve the interest of Kirkland residents by offering a means for an Eligible Entity to operate and further develop its technology to enhance product delivery to the community.

Criterion 4, above, does not apply because these code amendments are not amending the City's adopted shoreline master program.

### **Environmental Review**

Environmental review is required for both Zoning Code land use and Municipal Code right-of-way code amendments. The State Environmental Policy Act (SEPA) helps identify if proposed amendments will result in new environmental impacts beyond those identified in previous environmental review documents, such as the Environmental Impact Statement (EIS) prepared for the *Comprehensive Plan*. Staff [issued](#) a SEPA Determination of Non-significance on the two proposed amendments on November 23, 2022.

### **Submittal of Draft Plans to the Department of Commerce**

Under RCW 36.70A.106, the City is required to submit a Notice of Intent to Adopt along with any amendments to development regulations to the Washington State Department of Commerce (DOC) at least sixty days prior to final adoption. DOC may review the draft regulations to confirm that they are consistent with the GMA, and with multi-regional and region planning policies. The City submitted the Intent to Adopt the Draft amendments to the DOC on June 7, 2022 and no feedback has been provided by DOC yet.

### **PDD Operation on Public Rights-of-Way**

The Council has had more discussion concerning regulations for the rights-of-way than for private and institutional properties. The Council reviewed and provided feedback about a conceptual right-of-way regulatory framework on July 5, 2022; then on January 3, 2023, it reviewed and provided feedback on a draft ordinance that was based upon the July 5 discussion.

Several revisions to the draft ordinance were directed by the Council on January 3, and the chart below summarizes the requested amendments and the section(s) of the ordinance that were revised [see Attachment A, New Chapter of Municipal Code (Legislative Format)]. A clean version is provided as proposed Ordinance O-4826

One suggested amendment caused staff to have a follow-up conversation with Deputy Mayor Arnold and Councilmember Nixon in order to discuss an issue at greater length than the Council meeting allowed. That amendment concerned draft reporting requirements related to reduced use of fossil fuels.

When Amazon proposed its program to staff, it promoted the idea that electric PDDs would generate less greenhouse gas emissions compared to similar deliveries made by vehicles run on fossil fuel. In thinking about writing regulations, staff looked for ways to document whether that goal was being met. Staff's approach, however, presupposed that the applicant already was providing deliveries in the City and using fossil fuel vehicles for them. But since the ordinance would apply to any applicant, it is possible an entrepreneur could establish a new business based solely on PDDs and thus not have any baseline data to compare. Also, measuring change in greenhouse gas emissions is a tough undertaking since, for instance, a PDD in Kirkland may be recharging with electricity that actually was produced from a coal-fired plant in, say, Montana. Other similar points were made. Accordingly, the ordinance was amended to eliminate the requirement for baseline data and to streamline the reporting process.

The ordinance also was amended to remove the City from regulating data privacy issues, since these are addressed at State and federal levels. There still is a requirement that the only data that is stored is that which facilitates navigation and delivery operation.

City Council Interests	Section Amended
Customer complaints about the operation of PDDs in Kirkland should go to an easy-to-find location on the City's website, not to the vendor.	19.29.030(b)4 19.29.040(g)1 19.29.090(d)
There should be an annual fee for operation on the rights-of-way.	19.29.030(c)
Allow State and federal agencies to protect private data; City's focus should be limited to restricting data storage for navigation and delivery purposes.	19.29.030(d)
The hours of operation during the pilot project should be 9:00 a.m. to 8:00 p.m. because the formerly proposed time of 4:00 p.m. seemed too early.	19.29.040(d)
The City should not limit the number of deliveries per day.	19.29.040(e)
The City should allow the delivery of prepared food.	19.29.060(b)
Rather than complicated reporting related to fossil fuel reduction, limit reporting to the number of trips by PDDs.	19.29.080
The City should have the right to remove PDDs that are having operational problems or causing safety issue.	19.29.090(a)
An issue with legislative construction needs to be addressed.	19.29.100

Staff asked the Washington Cities Insurance Authority (WCIA) to review the proposed right-of-way ordinance. WCIA assigned it to one of law firms under contract to WCIA, Williams Kasner (Adam Rosenberg). Mr. Rosenberg offered the following recommended changes, as shown in the chart below.

WCIA Legal Review Recommendations	Section Amended
Amend the language concerning establishing Pilot Project Areas to lessen the potential for disputes.	19.29.020(k) 19.29.040(b)
Enhance the language concerning proof of insurance.	19.29.030(a)3
Amend language concerning reasonable expectation of privacy.	19.29.030(c)
Change "shall" to "may."	19.29.030(d)
Add clarity about the process for the Director's review of the Pilot.	19.29.040(j)
Enhance ADA language.	19.29.070(d)
Recommend amending equity provision to something that is more manageable by the City and more inclusive.	19.29.090(c)
Enhanced language related to operational complaints.	19.29.090(d)

**Recommendation to Establish Regulations**

In October 2022, the City received a copy of a national press announcement that Amazon was suspending the testing of its PDD program. Staff is unaware of any other company that has near-term interest in seeking permits to deploy a PDD program in Kirkland once the moratorium is lifted.

However, State law does permit the operation of PDDs on streets and sidewalks in Washington as governed by some basic State regulations. State law also provides that PDDs must operate according to the laws and rules of the local government in which they are operating. If the local government does not have any specific PDD laws and regulations, then only the basic State regulations would apply. So, there is both opportunity and merit for local regulations.

It also is a legitimate choice to disallow PDD operation within Kirkland. While a considerable amount of time has been dedicated by the City to develop, review, and refine proposed regulations, the City does not have an obligation to permit PDD operation. There is an option to disallow operation on rights-of-way, on private property, or Citywide.

If the Council desires to disallow PDD use on private property and/or rights-of-way, there is sufficient time to develop an ordinance for that option and return for action because the moratorium is still in place. Regardless, staff recommends establishing some form of regulations before the moratorium is lifted so that there would be enhanced protections for the City.

**NEXT STEPS:**

The Council can review, amend as desired, and act on one or both of the ordinances provided. If the Council wishes to disallow PDD operation on either private/institutional properties and/or public rights-of-way, staff will return with a substitute ordinance(s) for action at a future meeting.

Attachment A: New Chapter of Municipal Code (Legislative Format)

Ordinance O-4826

Publication Summary

Ordinance O-4836

Publication Summary

## ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KIRKLAND ENACTING A NEW CHAPTER 19.29 OF THE KIRKLAND MUNICIPAL CODE ENTITLED "PERSONAL DELIVERY DEVICES"; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION.

WHEREAS, the City of Kirkland is a municipal corporation organized under Ch. 35A.13 RCW; and

WHEREAS, among other authorizations, the City has all powers possible for a city to have relating to the rights and powers to improve, maintain, protect, regulate, and use its public ways, as authorized by RCW 35A.11.020; and

WHEREAS, over several decades, the City has taken many strategic actions and invested considerable funds to develop a multimodal transportation system; and

WHEREAS, the City's *Transportation Master Plan*, in support of the continued development of a multimodal transportation system, states, "Safe and approachable interconnected walking and biking networks designed for all ages and abilities can offer everyone options for all kinds of trips," and

WHEREAS, the package, grocery, and prepared food delivery industries are looking for ways to make more efficient provision of their services through new technologies, particularly for "last mile" deliveries; and

WHEREAS, one of those technologies is Personal Delivery Devices ("PDDs"); and

WHEREAS, the City is aware of a variety of current personal delivery devices that operate—or wish to operate—on public streets and sidewalks, as well as private property; and

WHEREAS, State law has adopted minimum regulations for the use of PDDs anywhere in the State, which includes the requirement that the devices must be "operated in accordance with all ordinances, resolutions, rules and regulations established by the jurisdiction governing the rights-of-way within which the personal delivery device is operated;" RCW 46.75.020; and

WHEREAS, the City wants to ensure that PDDs that operate within the City do so in a manner that does not greatly diminish the public's ability to enjoy the City's rights-of-way and facilities, nor endanger the public health, safety, or welfare; and

WHEREAS, the City has a particular obligation to help guarantee that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life; and

WHEREAS, in late 2021, the City received four incomplete building applications for PDD operation in the City; and

WHEREAS, because the City did not have any regulations concerning PDDs, the City established a six-month emergency moratorium via Ordinance O-4779 on January 18, 2022, prohibiting, among other things, the acceptance, processing, or issuance of permits related to PDDs; and

WHEREAS, the City began research and analysis aimed at crafting legislation, rules, and regulations applicable to PDDs in the City, and conducted several public hearings and public informational meetings about the proposed operation of PDDs on private property and/or public rights-of-way within the City; and

WHEREAS, on July 5, 2022, the City Council extended the moratorium for an additional six months via Ordinance O-4806; and

WHEREAS, on December 13, 2022, the City Council extended the moratorium again for an additional six months via Ordinance O-4833; and

WHEREAS, staff has worked diligently to conduct research and to craft proposed legislation concerning PDDs; and

WHEREAS, the City desires to establish performance-based regulations for the operation of PDDs that respect federal ADA rights, assure public safety, reduce greenhouse gas emissions, and do not overly burden emergency responders.

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

Section 1. Creation of New Municipal Code Chapter Providing for the Regulation of Personal Delivery Devices. A new chapter is added to the Kirkland Municipal Code as follows:

## **Chapter 19.29 Regulation of Personal Delivery Devices**

### **19.29.010 Purpose**

The purpose of this ordinance is to establish local regulations for the operation of personal delivery devices by private entities in and on all public rights-of-way within the corporate limits of the City of Kirkland, as authorized by RCW 46.75.020(1).

### **19.29.020 Defined Terms**

- (a) City. The City of Kirkland, Washington, a municipal corporation.
- (b) Cross Kirkland Corridor. The portion of the Eastrail regional rails-to-trails corridor that is owned by the City in fee simple.
- (c) Delivery Route. A complete round trip from and to a Dispenser during which a PDD may make one or more delivery stops.
- (d) Director. The Director shall be the City's Director of Public Works, or the Director's designee.

(e) Dispenser. A physical structure permitted by the City used by the Eligible Entity for the storage, electrical recharging, package loading, and/or minor maintenance of PDDs.

(f) Eligible Entity. A corporation, partnership, association, firm, sole proprietorship, or other entity engaging in business.

(g) Greenway. A designated and completed transportation segment that promotes higher volumes of walking and biking and encourages or causes lower volumes and speed of motorized vehicles. Greenways feature special signage, and pedestrian and bicycle amenities.

(h) Personal Delivery Device or PDD. An electrically powered devices to which all of the following apply:

1. The device is intended primarily to transport property on sidewalks and crosswalks;

2. The device weighs less than one hundred twenty pounds, excluding any property being carried on the device;

3. The device will operate at a maximum speed of six miles per hour; and

4. The device is equipped with automatic driving technology, including software and hardware, enabling the operation of the device, with the support and supervision of a remote personal delivery device operator.

(i) Personal Delivery Device Right-of-Way Use Permit ("PDD Use Permit"). The permit required under this chapter for use of the City's designated rights-of-way by Personal Delivery Devices.

(j) Pilot Project. A limited term period during which an Eligible Entity may operate in the City for the City to evaluate the performance of the Eligible Entity's equipment, services, interactions with the public, compliance with applicable rules and regulations, and achievement of identified goals.

(k) Pilot Project Areas. ~~The defined area or areas in the City, agreed upon mutually~~ as determined by the City with input from the Eligible Entity, where the Eligible Entity may conduct its Pilot Project.

### **19.29.030 Basic Requirements of Operation**

Before the operation of any PDD shall occur within the City, all of the following provisions of this subsection must be provided to the City and evaluated by the Director ~~or the Director's designee~~. These materials shall be required before the commencement of a Pilot Project and shall be provided, if ongoing permission is granted by the City, on an annual basis.

a. Application materials.

1. An application form and indemnification agreement as provided by the City.

2. Proof of having obtained a City business license.

3. Proof of insurance in an amount and form acceptable to the City. This shall include a certified copy or original of a comprehensive liability insurance policy naming the City as an additional insured. Such insurance policy shall be maintained and in full force as a condition of ongoing PDD operations. Such insurance shall contain or be endorsed to reflect that the applicant's insurance coverage is primary with respect to the City. Any additional insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the applicant's insurance and shall not contribute with it.

~~4. An initial report relating to baseline climate change data as identified in KMC 19.29.080(a).~~

~~45. A copy of the Washington State Department of Licensing Self-certification Form as described in RCW 46.75.030.~~

~~56. The sworn signed affidavit described in KMC 19.29.030(d).~~

~~67. Identification of the sites from which PDDs will begin and conclude their Delivery Routes; City staff will verify the sites for that proposed activity comply with KZC 115.106.~~

~~78. A list providing the identifying numbers for each PDD used within the City.~~

~~89. If the Eligible Entity has successfully completed a Pilot Project, then the Eligible Entity must provide a list of any incidents or traffic infractions, as identified in RCW 46.75.030(5).~~

~~910. Proof that the Eligible Entity has cyber security programs and protocols in place such that the information they receive from customers for deliveries is protected; and that operation and control of the PDDs cannot be accessed or interfered with in any manner by anyone other than the Eligible Entity.~~

~~101. An application fee in the amount set forth by the Director before commencement of the Pilot Period; and, if approved to operate on an ongoing basis, annually thereafter.~~

~~b. All PDDs operating within the City, in addition to meeting the requirements of RCW 46.75, shall meet the following requirements.~~

~~1. The operational requirements of KZC 115.106 on private property.~~

~~2. The sound requirements of KMC 19.29.070(c)~~

~~3. The signal activation requirements of KMC 19.29.050(e).~~

~~4. Each PDD shall have identified on the outside of the PDD, in clearly legible typeface, the telephone number and e-mail address for contacting the Eligible EntityCity about customer service issues concerning the operation of the PDD, or compliance or non-compliance with the provisions of this Chapter. The City shall maintain these records of operational concerns filed by telephone or e-mail.~~

~~c. Annual Fee. Each Eligible Entity shall pay the City an annual personal delivery device right-of-way use fee ("annual fee") in an amount determined by the Director. The annual fee shall be assessed per PDD and shall be paid at the initial issuance of a PDD Use Permit and annually on the anniversary date of the PDD Use Permit.~~

~~d. Reasonable Expectation of Privacy. Each Eligible Entity shall provide to the City prior to the issuance of a PDD Use Permit a sworn affidavit from an authorized representative that the Eligible Entity shall respect all residents' reasonable expectations of privacy, and shall not gather or store any data beyond what is necessary for navigation and/or delivery related to PDD deliveries. sell, provide, exchange, transfer, or offer data gathered by the PDD to any other party; nor use such data for any purpose other than the delivery of goods by the Eligible Entity when such delivery is requested by the receiving party. By way of illustration and not limitation, "data" shall mean geospatial information, facial recognition data, photos, purchasing history, demographic data, or any other data.~~

~~e. Indemnification. An Eligible Entity must provide the City with a written indemnification agreement that provides, at a minimum, the Eligible Entity's agreement to indemnify, defend, and hold the City~~

harmless from any and all claims or causes of action for injury to persons or property resulting from the Eligible Entity's operation of PDDs within the City, including injuries to persons and property, both real and personal, and including injuries to both public and private properties. This agreement shall be in a form approved by the City.

fe. If all provisions above have been met to the City's satisfaction, then a PDD Use Permit ~~shall~~may be issued by the Director, as set forth in KMC 19.29.040. The Terminable Right-of-Way Use permit may have conditions attached to it.

#### **19.29.040 Limited Initial Authorization**

a. After an Eligible Entity has obtained the necessary approvals required in KMC 19.29.030, it may operate on designated portions of the City's rights-of-way as a Pilot Project for a period of six months from the date of issuance of the PDD Use Permit. At the end of the Pilot Project, the Eligible Entity must cease operations and the performance of the Eligible Entity during the Pilot Project shall be reviewed by the Director.

b. ~~The Eligible Entity and the City, with input from the Eligible Entity,~~ may mutually establish up to four Pilot Project Areas in which the PDDs may operate during the Pilot Project. Each Pilot Project Area shall not be greater than five percent of the land area of the City, shall be differentiated from each other in terms of land uses and street types, and shall not be contiguous.

c. No more than one Dispenser shall be permitted in each Pilot Project Area.

d. During the Pilot Project, PDD hours of operation shall be 9:00 a.m. to ~~8~~4:00 p.m.

e. ~~During the Pilot Project, each PDD shall be limited to one Delivery Route per day.~~

ef. The provisions of KMC 19.29.080(a) shall apply during the Pilot Project. ~~The Eligible Entity shall provide this data to the City monthly during the Pilot Project period.~~

fg. The PDD Use Permit shall be revokable for non-compliance with these regulations, the degree of intervention that has been required by the Police department or other City departments, frequency of complaints, and/or serious safety concerns that arise, as determined by the Director. The Director shall consult with other City departments as determined.

h. ~~The provisions of KMC 19.29.080 shall apply during the Pilot Project.~~

gi. At the conclusion of the Pilot Project, the Director shall review the performance of the Eligible Entity during the Pilot Project based upon, but not limited to, the following factors.

1. The quantity and nature of complaints received by the ~~Eligible Entity and the City.~~

2. The quantity and nature of interventions required ~~by~~of City departments.

3. The quantity and nature of accidents involving a PDD.

4. The quantity and type of infractions issued related to PDD operation.

5. An evaluation of the data required in KMC 19.29.080.

hj. Based upon the outcome of the Director's review under this section, an Eligible Entity may apply for an annual permit, as provided in KMC 19.29.030. The Director shall issue a written determination that includes explanatory support.

#### **19.29.050 Right-of-Way Restrictions**

Any operation of a PDD shall have the following restrictions on or in the rights-of-way or other City property:

- a. A PDD may not operate on the shoulders of rights-of-way.
- b. A PDD may not operate on a designated and established Greenway.
- c. A PDD may not operate on the Cross Kirkland Corridor.
- d. A PDD may not operate on a school walk and/or bike route designated by the Lake Washington School District located within the City, within 30 (thirty) minutes prior to the school start time, or the 30 (thirty) minutes following the school end time when such schools are in session.
- e. A PDD may not operate in a controlled intersection or in a crosswalk improved with Rectangular Rapid Flashing Beacons unless the PDD is able to activate both a pedestrian walk signal and Rectangular Rapidly Flashing Beacon signal and unless proper equipment is installed to receive the activation. It shall be the financial responsibility of the Eligible Entity to cause all related technology to be installed.
- f. All PDDs must adhere to Ch. 46.61 RCW, "Rules of the Road."
- g. No Dispenser shall be located on right-of-way or on City-owned property.

#### **19.29.060 Package Delivery Restrictions**

Any operation of a PDD shall be prohibited from transporting or delivering the following:

- a. Beer, wine, spirits, or other consumable alcohol.
- ~~b. Prepared food.~~
- ~~bc.~~ Prescription drugs.
- ~~cd.~~ Marijuana or marijuana-related products.
- ~~de.~~ Fireworks.
- ~~ef.~~ Products regulated by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives.

#### **19.29.070 Americans with Disabilities Act (ADA) Accommodations**

To address the federal requirement that people with disabilities have accessibility to civic life, and so that people with disabilities do not encounter prolonged inconvenience or risk personal harm or property damage because of the operation of PDDs on the public rights-of-way, the following is required for any operation of PDDs.

- a. A PDD may not operate on a sidewalk or other right-of-way that is narrower than five feet.
- b. When a PDD is operating outside a Dispenser, regardless of the time of day, the PDD shall operate with lights on the front, rear, and sides of the PDD.

c. PDDs shall be equipped with technology that detects when a person is within twenty-five (25) feet of the PDD. When the PDD is within 25 feet of a person:

1. It shall activate a signal or bell that warns the person of the PDD's proximity.

2. It must move to the right side of the right-of-way in the direction of travel within five (5) seconds.

3. If the PDD is on an ADA ramp, it must vacate the ADA ramp within five (5) seconds.

d. If State or federal law require stricter standards than those provided in this Section, they shall control.

### **19.29.080 Climate Change PDD Reports**

To assess the quantity of PDD deliveries in the City, the following data shall be collected and reported.

a. At the conclusion of the Pilot Project period, the Eligible Entity shall provide a report to the City that documents the following:

~~To evaluate the effectiveness of PDDs being a means to reduce greenhouse gas emissions attributable to delivery services, each Eligible Entity shall provide the following described reports to the City:~~

~~a. To establish a baseline, prior to the issuance of a Terminable Right of Way Use Permit, the Eligible Entity shall provide a report that is no older than three months from the date of complete application and span the 365 days prior to the date of the report. The report shall:~~

~~1. Identify the number of van deliveries made and miles driven, by month, within the corporate limits of the City.~~

~~2. Identify the number of van deliveries made and miles driven, by month, within the boundaries of each Pilot Project Area established through KMC 19.29.040(b).~~

~~b. After obtaining a right of way use permit, the Eligible Entity must provide to the City on a monthly basis a report that identifies:~~

~~1. The number of van deliveries made and vehicle miles driven within the City during the Pilot Project.~~

~~2. The number of van deliveries made and vehicle miles driven within each Pilot Project Area during the Pilot Project.~~

~~3. The total number of PDD delivery round trips made in each Pilot Project Area during the Pilot Project, the total number of individual deliveries made by the PDDs during the Pilot Project, and the total number of miles traveled per week for all PDDs in each Pilot Project Area.~~

~~4. The total number of aborted/unsuccessful deliveries per week for each Pilot Project Area during the Pilot Project.~~

~~5. The number of PDD equipment failures.~~

~~6. The number of accidents in which a PDD was involved.~~

~~7. The number of occurrences when a PDD delivery and a van delivery occurred on the same day to the same location.~~

b. Should the Eligible Entity obtain an annual permit, then the Eligible Entity shall provide the data identified in 19.29.080(a) 1 through 4 annually.

c. The Director may determine annual reporting is no longer required, or reporting is required on a less frequent basis.

### **19.29.090 Additional Performance Standards**

In addition to other performance standards identified in this Chapter, the following standards and requirements shall apply to any operation of a PDD.

a. In the event a PDD becomes unable to move or move safely, has become damaged, or has been relocated contrary to its intended delivery route, the Eligible Entity shall cause a person(s) employed by the Eligible Entity to remove or retrieve such PDD within thirty (30) minutes of being made aware of the circumstance. In the event of an emergency, or in the event a PDD is not removed or retrieved in a timely manner as set forth in this section, then the City shall have authority to remove or retrieve the PDD itself and recover costs—~~This provision does not affect the City's rights pursuant to KMC 19.29.1100.~~

b. Whenever practicable, PDDs must move off the right-of-way and wait in private driveways or on other non-public property until the delivery item(s) have been retrieved by the customer.

~~c. For reasons of equity among the residential communities of the City, PDDs must deliver to both single family and multifamily residences. The Eligible Entity shall be responsible for complying with all applicable, nondiscrimination laws and regulations.~~

d. The Eligible Entity shall develop and enforce policies to ensure safe operation of all PDDs that meet or exceed all applicable industry, State, and federal standards.

~~ed. The Eligible Entity and the City shall must establish and advertise a complaint lines that are accessible by telephone or e-mail. The lines shall be directed to the City, and the City shall maintain the records of such complaints, which may be an online platform, and maintain records shall identifying the quantity, date and time, nature, resolution, and time to resolve the complaints received. These data shall be used at the conclusion on the Pilot Program as provided in 19.29.040(h)1, or as a factor or the cause for invoking the provisions of 19.29.110.~~

~~e. If the Eligible Entity continues operation in the City beyond the Pilot Period, then it shall provide to the City a report every six months that includes the data identified in KMC 19.29.080(b) and KMC 19.29.100(d).~~

### **19.29.100 City Response to Incidents**

In the event ~~the City staff, including but not limited to employees of the City Fire Department, or and the City Police Department,~~ is required to remove or retrieve one or more PDDs, ~~whether caused by accidental or intentional action,~~ the City shall assess the Eligible Entity \$1,500 per occurrence, or the actual costs if they are greater than \$1,500 per occurrence.

### **19.29.110 City Reserves Right to Revoke Permission**

Whether during a Pilot Project or while operating on an ongoing basis, the City reserves the right to revoke the Eligible Entity's permission to operate on or in the rights-of-way at any time for any violation of this Chapter or any other violation of law.

Section 2. Severability. 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 3. Effective Date. 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.

Section 4. Publication. Publication of this ordinance shall be 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 \_\_\_\_\_, 2023.

Signed in authentication thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Penny Sweet, Mayor

Attest:

\_\_\_\_\_  
Kathi Anderson, City Clerk

Approved as to Form:

\_\_\_\_\_  
Kevin Raymond, City Attorney

ORDINANCE O-4826

AN ORDINANCE OF THE CITY OF KIRKLAND ENACTING A NEW CHAPTER 19.29 OF THE KIRKLAND MUNICIPAL CODE ENTITLED "PERSONAL DELIVERY DEVICES"; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION.

1 WHEREAS, the City of Kirkland is a municipal corporation  
2 organized under Ch. 35A.13 RCW; and  
3

4 WHEREAS, among other authorizations, the City has all powers  
5 possible for a city to have relating to the rights and powers to improve,  
6 maintain, protect, regulate, and use its public ways, as authorized by  
7 RCW 35A.11.020; and  
8

9 WHEREAS, over several decades, the City has taken many  
10 strategic actions and invested considerable funds to develop a  
11 multimodal transportation system; and  
12

13 WHEREAS, the City's *Transportation Master Plan*, in support of  
14 the continued development of a multimodal transportation system,  
15 states, "Safe and approachable interconnected walking and biking  
16 networks designed for 'all ages and abilities' can offer everyone options  
17 for all kinds of trips;" and  
18

19 WHEREAS, the package, grocery, and prepared food delivery  
20 industries are looking for ways to make more efficient provision of their  
21 services through new technologies, particularly for "last mile" deliveries;  
22 and  
23

24 WHEREAS, one of those technologies is Personal Delivery  
25 Devices ("PDDs"); and  
26

27 WHEREAS, the City is aware of a variety of current personal  
28 delivery devices that operate—or wish to operate—on public streets and  
29 sidewalks, as well as private property; and  
30

31 WHEREAS, State law has adopted minimum regulations for the  
32 use of PDDs anywhere in the State, which includes the requirement that  
33 the devices must be "operated in accordance with all ordinances,  
34 resolutions, rules and regulations established by the jurisdiction  
35 governing the rights-of-way within which the personal delivery device is  
36 operated;" RCW 46.75.020; and  
37

38 WHEREAS, the City wants to ensure that PDDs that operate  
39 within the City do so in a manner that does not greatly diminish the  
40 public's ability to enjoy the City's rights-of-way and facilities, nor  
41 endanger the public health, safety, or welfare; and

42 WHEREAS, the City has a particular obligation to help guarantee  
43 that people with disabilities have the same opportunities as everyone  
44 else to participate in the mainstream of American life; and  
45

46 WHEREAS, in late 2021, the City received four incomplete  
47 building applications for PDD operation in the City; and  
48

49 WHEREAS, because the City did not have any regulations  
50 concerning PDDs, the City established a six-month emergency  
51 moratorium via Ordinance O-4779 on January 18, 2022, prohibiting,  
52 among other things, the acceptance, processing, or issuance of permits  
53 related to PDDs; and  
54

55 WHEREAS, the City began research and analysis aimed at  
56 crafting legislation, rules, and regulations applicable to PDDs in the City,  
57 and conducted several public hearings and public informational  
58 meetings about the proposed operation of PDDs on private property  
59 and/or public rights-of-way within the City; and  
60

61 WHEREAS, on July 5, 2022, the City Council extended the  
62 moratorium for an additional six months via Ordinance O-4806; and  
63

64 WHEREAS, on December 13, 2022, the City Council extended  
65 the moratorium again for an additional six months via Ordinance O-  
66 4833; and  
67

68 WHEREAS, staff has worked diligently to conduct research and  
69 to craft proposed legislation concerning PDDs; and  
70

71 WHEREAS, the City desires to establish performance-based  
72 regulations for the operation of PDDs that respect federal ADA rights,  
73 assure public safety, reduce greenhouse gas emissions, and do not  
74 overly burden emergency responders.  
75

76 NOW, THEREFORE, the City Council of the City of Kirkland do  
77 ordain as follows:  
78

79 Section 1. Creation of New Municipal Code Chapter Providing  
80 for the Regulation of Personal Delivery Devices. A new chapter is added  
81 to the Kirkland Municipal Code as follows:  
82

83 **Chapter 19.29 Regulation of Personal Delivery Devices**

84  
85 **19.29.010 Purpose**

86 The purpose of this ordinance is to establish local regulations for  
87 the operation of personal delivery devices by private entities in and on  
88 all public rights-of-way within the corporate limits of the City of Kirkland,  
89 as authorized by RCW 46.75.020(1).  
90

91 **19.29.020 Defined Terms**

92 (a) City. The City of Kirkland, Washington, a municipal  
93 corporation.

94 (b) Cross Kirkland Corridor. The portion of the Eastrail  
95 regional rails-to-trails corridor that is owned by the City in fee simple.

- 96 (c) Delivery Route. A complete round trip from and to a  
 97 Dispenser during which a PDD may make one or more delivery stops.
- 98 (d) Director. The Director shall be the City's Director of  
 99 Public Works, or the Director's designee.
- 100 (e) Dispenser. A physical structure permitted by the City  
 101 used by the Eligible Entity for the storage, electrical recharging, package  
 102 loading, and/or minor maintenance of PDDs.
- 103 (f) Eligible Entity. A corporation, partnership, association,  
 104 firm, sole proprietorship, or other entity engaging in business.
- 105 (g) Greenway. A designated and completed transportation  
 106 segment that promotes higher volumes of walking and biking and  
 107 encourages or causes lower volumes and speed of motorized vehicles.  
 108 Greenways feature special signage, and pedestrian and bicycle  
 109 amenities.
- 110 (h) Personal Delivery Device or PDD. An electrically powered  
 111 devices to which all of the following apply:
- 112 1. The device is intended primarily to transport  
 113 property on sidewalks and crosswalks;
  - 114 2. The device weighs less than one hundred twenty  
 115 pounds, excluding any property being carried on the device;
  - 116 3. The device will operate at a maximum speed of  
 117 six miles per hour; and
  - 118 4. The device is equipped with automatic driving  
 119 technology, including software and hardware, enabling the operation of  
 120 the device, with the support and supervision of a remote personal  
 121 delivery device operator.
- 122 (i) Personal Delivery Device Right-of-Way Use Permit ("PDD  
 123 Use Permit"). The permit required under this chapter for use of the  
 124 City's designated rights-of-way by Personal Delivery Devices.
- 125 (j) Pilot Project. A limited term period during which an  
 126 Eligible Entity may operate in the City for the City to evaluate the  
 127 performance of the Eligible Entity's equipment, services, interactions  
 128 with the public, compliance with applicable rules and regulations, and  
 129 achievement of identified goals.
- 130 (k) Pilot Project Areas. The defined area or areas in the City,  
 131 as determined by the City with input from the Eligible Entity, where the  
 132 Eligible Entity may conduct its Pilot Project.

### 134 **19.29.030 Basic Requirements of Operation**

135 Before the operation of any PDD shall occur within the City, all  
 136 of the following provisions of this subsection must be provided to the  
 137 City and evaluated by the Director. These materials shall be required  
 138 before the commencement of a Pilot Project and shall be provided, if  
 139 ongoing permission is granted by the City, on an annual basis.

- 140 a. Application materials.
  - 141 1. An application form and indemnification  
 142 agreement as provided by the City.
  - 143 2. Proof of having obtained a City business license.
  - 144 3. Proof of insurance in an amount and form  
 145 acceptable to the City. This shall include a certified copy or original of  
 146 a comprehensive liability insurance policy naming the City as an  
 147 additional insured. Such insurance policy shall be maintained and in full  
 148 force as a condition of ongoing PDD operations. Such insurance shall  
 149 contain or be endorsed to reflect that the applicant's insurance coverage

150 is primary with respect to the City. Any additional insurance, self-  
151 insurance, or self-insured pool coverage maintained by the City shall be  
152 excess of the applicant's insurance and shall not contribute with it.

153 4. A copy of the Washington State Department of  
154 Licensing Self-certification Form as described in RCW 46.75.030.

155 5. The sworn affidavit described in KMC  
156 19.29.030(d).

157 6. Identification of the sites from which PDDs will  
158 begin and conclude their Delivery Routes; City staff will verify the sites  
159 for that proposed activity comply with KZC 115.106.

160 7. A list providing the identifying numbers for each  
161 PDD used within the City.

162 8. If the Eligible Entity has successfully completed a  
163 Pilot Project, then the Eligible Entity must provide a list of any incidents  
164 or traffic infractions, as identified in RCW 46.75.030(5).

165 9. Proof that the Eligible Entity has cyber security  
166 programs and protocols in place such that the information they receive  
167 from customers for deliveries is protected; and that operation and  
168 control of the PDDs cannot be accessed or interfered with in any manner  
169 by anyone other than the Eligible Entity.

170 10. An application fee in the amount set forth by the  
171 Director before commencement of the Pilot Period; and, if approved to  
172 operate on an ongoing basis, annually thereafter.

173 b. All PDDs operating within the City, in addition to meeting  
174 the requirements of RCW 46.75, shall meet the following requirements.

175 1. The operational requirements of KZC 115.106 on  
176 private property.

177 2. The sound requirements of KMC 19.29.070(c)

178 3. The signal activation requirements of KMC  
179 19.29.050(e).

180 4. Each PDD shall have identified on the outside of  
181 the PDD, in clearly legible typeface, the telephone number and e-mail  
182 address for contacting the City about customer service issues  
183 concerning the operation of the PDD, or compliance or non-compliance  
184 with the provisions of this Chapter. The City shall maintain these  
185 records of operational concerns filed by telephone or e-mail.

186 c. Annual Fee. Each Eligible Entity shall pay the City an  
187 annual personal delivery device right-of-way use fee ("annual fee") in  
188 an amount determined by the Director. The annual fee shall be  
189 assessed per PDD and shall be paid at the initial issuance of a PDD Use  
190 Permit and annually on the anniversary date of the PDD Use Permit.

191 d. Reasonable Expectation of Privacy. Each Eligible Entity  
192 shall provide to the City prior to the issuance of a PDD Use Permit a  
193 sworn affidavit from an authorized representative that the Eligible Entity  
194 shall respect all residents' reasonable expectations of privacy, and shall  
195 not gather or store any data beyond what is necessary for navigation  
196 and/or delivery related to PDD deliveries. By way of illustration and  
197 not limitation, "data" shall mean geospatial information, facial  
198 recognition data, photos, purchasing history, demographic data, or any  
199 other data.

200 e. Indemnification. An Eligible Entity must provide the City  
201 with a written indemnification agreement that provides, at a minimum,  
202 the Eligible Entity's agreement to indemnify, defend, and hold the City  
203 harmless from any and all claims or causes of action for injury to persons

204 or property resulting from the Eligible Entity's operation of PDDs within  
 205 the City, including injuries to persons and property, both real and  
 206 personal, and including injuries to both public and private properties.  
 207 This agreement shall be in a form approved by the City.

208 f. If all provisions above have been met to the City's  
 209 satisfaction, then a PDD Use Permit may be issued by the Director, as  
 210 set forth in KMC 19.29.040. The Terminable Right-of-Way Use permit  
 211 may have conditions attached to it.

212

### 213 **19.29.040 Limited Initial Authorization**

214 a. After an Eligible Entity has obtained the necessary  
 215 approvals required in KMC 19.29.030, it may operate on designated  
 216 portions of the City's rights-of-way as a Pilot Project for a period of six  
 217 months from the date of issuance of the PDD Use Permit. At the end of  
 218 the Pilot Project, the Eligible Entity must cease operations and the  
 219 performance of the Eligible Entity during the Pilot Project shall be  
 220 reviewed by the Director.

221 b. The City, with input from the Eligible Entity, may  
 222 establish up to four Pilot Project Areas in which the PDDs may operate  
 223 during the Pilot Project. Each Pilot Project Area shall not be greater  
 224 than five percent of the land area of the City, shall be differentiated  
 225 from each other in terms of land uses and street types, and shall not be  
 226 contiguous.

227 c. No more than one Dispenser shall be permitted in each  
 228 Pilot Project Area.

229 d. During the Pilot Project, PDD hours of operation shall be  
 230 9:00 a.m. to 8:00 p.m.

231 e. The provisions of KMC 19.29.080(a) shall apply during  
 232 the Pilot Project.

233 f. The PDD Use Permit shall be revokable for non-  
 234 compliance with these regulations, the degree of intervention that has  
 235 been required by the Police department or other City departments,  
 236 frequency of complaints, and/or serious safety concerns that arise, as  
 237 determined by the Director. The Director shall consult with other City  
 238 departments as determined.

239 g. At the conclusion of the Pilot Project, the Director shall  
 240 review the performance of the Eligible Entity during the Pilot Project  
 241 based upon, but not limited to, the following factors.

242 1. The quantity and nature of complaints received  
 243 by the City.

244 2. The quantity and nature of interventions required  
 245 by City departments.

246 3. The quantity and nature of accidents involving a  
 247 PDD.

248 4. The quantity and type of infractions issued  
 249 related to PDD operation.

250 5. An evaluation of the data required in KMC  
 251 19.29.080.

252 h. Based upon the outcome of the Director's review under  
 253 this section, an Eligible Entity may apply for an annual permit, as  
 254 provided in KMC 19.29.030. The Director shall issue a written  
 255 determination that includes explanatory support.

256

### 257 **19.29.050 Right-of-Way Restrictions**

258 Any operation of a PDD shall have the following restrictions on  
259 or in the rights-of-way or other City property:

- 260 a. A PDD may not operate on the shoulders of rights-of-  
261 way.
- 262 b. A PDD may not operate on a designated and established  
263 Greenway.
- 264 c. A PDD may not operate on the Cross Kirkland Corridor.
- 265 d. A PDD may not operate on a school walk and/or bike  
266 route designated by the Lake Washington School District located within  
267 the City, within 30 (thirty) minutes prior to the school start time, or the  
268 30 (thirty) minutes following the school end time when such schools are  
269 in session.
- 270 e. A PDD may not operate in a controlled intersection or in  
271 a crosswalk improved with Rectangular Rapid Flashing Beacons unless  
272 the PDD is able to activate both a pedestrian walk signal and  
273 Rectangular Rapidly Flashing Beacon signal and unless proper  
274 equipment is installed to receive the activation. It shall be the financial  
275 responsibility of the Eligible Entity to cause all related technology to be  
276 installed.
- 277 f. All PDDs must adhere to Ch. 46.61 RCW, "Rules of the  
278 Road."
- 279 g. No Dispenser shall be located on right-of-way or on City-  
280 owned property.

281  
282 **19.29.060 Package Delivery Restrictions**

283 Any operation of a PDD shall be prohibited from transporting or  
284 delivering the following:

- 285 a. Beer, wine, spirits, or other consumable alcohol.
- 286 b. Prescription drugs.
- 287 c. Marijuana or marijuana-related products.
- 288 d. Fireworks.
- 289 e. Products regulated by the federal Bureau of Alcohol,  
290 Tobacco, Firearms, and Explosives.

291  
292 **19.29.070 Americans with Disabilities Act (ADA)**  
293 **Accommodations**

294 To address the federal requirement that people with disabilities  
295 have accessibility to civic life, and so that people with disabilities do not  
296 encounter prolonged inconvenience or risk personal harm or property  
297 damage because of the operation of PDDs on the public rights-of-way,  
298 the following is required for any operation of PDDs.

- 299 a. A PDD may not operate on a sidewalk or other right-of-  
300 way that is narrower than five feet.
- 301 b. When a PDD is operating outside a Dispenser, regardless  
302 of the time of day, the PDD shall operate with lights on the front, rear,  
303 and sides of the PDD.
- 304 c. PDDs shall be equipped with technology that detects  
305 when a person is within twenty-five (25) feet of the PDD. When the  
306 PDD is within 25 feet of a person:
- 307 1. It shall activate a signal or bell that warns the  
308 person of the PDD's proximity.
- 309 2. It must move to the right side of the right-of-way  
310 in the direction of travel within five (5) seconds.

311 3. If the PDD is on an ADA ramp, it must vacate the  
312 ADA ramp within five (5) seconds.

313 d. If State or federal law require stricter standards than  
314 those provided in this Section, they shall control.

315  
316 **19.29.080 PDD Reports**

317 To assess the quantity of PDD deliveries in the City, the following  
318 data shall be collected and reported.

319 a. At the conclusion of the Pilot Project period, the Eligible  
320 Entity shall provide a report to the City that documents the following:

321 1. The total number of PDD delivery round trips  
322 made in each Pilot Project Area during the Pilot Project, the total number  
323 of individual deliveries made by the PDDs during the Pilot Project, and  
324 the total number of miles traveled per week for all PDDs in each Pilot  
325 Project Area.

326 2. The total number of aborted/unsuccessful  
327 deliveries per week for each Pilot Project Area during the Pilot Project.

328 3. The number of PDD equipment failures.

329 4. The number of accidents in which a PDD was  
330 involved.

331 b. Should the Eligible Entity obtain an annual permit, then  
332 the Eligible Entity shall provide the data identified in 19.29.080(a) 1  
333 through 4 annually.

334 c. The Director may determine annual reporting is no longer  
335 required, or reporting is required on a less frequent basis.

336  
337 **19.29.090 Additional Performance Standards**

338 In addition to other performance standards identified in this  
339 Chapter, the following standards and requirements shall apply to any  
340 operation of a PDD.

341 a. In the event a PDD becomes unable to move or move  
342 safely, has become damaged, or has been relocated contrary to its  
343 intended delivery route, the Eligible Entity shall cause a person(s)  
344 employed by the Eligible Entity to remove or retrieve such PDD within  
345 thirty (30) minutes of being made aware of the circumstance. In the  
346 event of an emergency, or in the event a PDD is not removed or  
347 retrieved in a timely manner as set forth in this section, then the City  
348 shall have authority to remove or retrieve the PDD itself and recover  
349 costs pursuant to KMC 19.29.100.

350 b. Whenever practicable, PDDs must move off the right-of-  
351 way and wait in private driveways or on other non-public property until  
352 the delivery item(s) have been retrieved by the customer.

353 c. The Eligible Entity shall be responsible for complying with  
354 all applicable, nondiscrimination laws and regulations.

355 d. The Eligible Entity shall develop and enforce policies to  
356 ensure safe operation of all PDDs that meet or exceed all applicable  
357 industry, State, and federal standards.

358 e. The Eligible Entity and the City shall advertise complaint  
359 lines that are accessible by telephone or e-mail. The lines shall be  
360 directed to the City, and the City shall maintain the records of such  
361 complaints, which shall identify the quantity, date and time, nature,  
362 resolution, and time to resolve the complaints received. These data  
363 shall be used at the conclusion on the Pilot Program as provided in

364 19.29.040(g)1, or as a factor or the cause for invoking the provisions of  
365 19.29.110.

366  
367 **19.29.100 City Response to Incidents**

368 In the event the City, including but not limited to employees of  
369 the City Fire Department and the City Police Department, is required to  
370 remove or retrieve one or more PDDs, the City shall assess the Eligible  
371 Entity \$1,500 per occurrence, or the actual costs if they are greater than  
372 \$1,500 per occurrence.

373  
374 **19.29.110 City Reserves Right to Revoke Permission**

375 Whether during a Pilot Project or while operating on an ongoing  
376 basis, the City reserves the right to revoke the Eligible Entity's  
377 permission to operate on or in the rights-of-way at any time for any  
378 violation of this Chapter or any other violation of law.

379  
380 Section 2. Severability. If any provision of this ordinance or its  
381 application to any person or circumstance is held invalid, the remainder  
382 of the ordinance or the application of the provision to other persons or  
383 circumstances is not affected.

384  
385 Section 3. Effective Date. This ordinance shall be in force and  
386 effect five days from and after its passage by the Kirkland City Council  
387 and publication, as required by law.

388  
389 Section 4. Publication. Publication of this ordinance shall be  
390 pursuant to Section 1.08.017, Kirkland Municipal Code, in the summary  
391 form attached to the original of this ordinance and by this reference  
392 approved by the City Council.

393  
394 Passed by majority vote of the Kirkland City Council in open  
395 meeting this \_\_\_\_ day of \_\_\_\_\_, 2023.

396  
397 Signed in authentication thereof this \_\_\_\_ day of  
398 \_\_\_\_\_, 2023.

\_\_\_\_\_  
Penny Sweet, Mayor

Attest:

\_\_\_\_\_  
Kathi Anderson, City Clerk

Approved as to Form:

\_\_\_\_\_  
Kevin Raymond, City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE NO. 4826

AN ORDINANCE OF THE CITY OF KIRKLAND ENACTING A NEW CHAPTER 19.29 OF THE KIRKLAND MUNICIPAL CODE ENTITLED "PERSONAL DELIVERY DEVICES"; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION.

SECTION 1. Creates a new Municipal Code Chapter 19.29 providing for the regulation of personal delivery devices.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides an effective date for the ordinance.

SECTION 4. 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 \_\_\_\_\_, 2023.

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

\_\_\_\_\_  
Kathi Anderson, City Clerk

ORDINANCE NO. O-4836

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING THE KIRKLAND ZONING CODE (ORDINANCE 3719 AS AMENDED) ENACTING A NEW SECTION 115.106 ENTITLED PERSONAL DELIVERY DEVICES AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM22-00195.

1           WHEREAS, the City Council has received a recommendation  
2 from the Kirkland Planning Commission to amend the Kirkland Zoning  
3 Code adding section 115.106, as set forth in the report dated June 23,  
4 2022, and bearing Kirkland Planning and Building Department File No.  
5 CAM22-00195; and  
6

7           WHEREAS, prior to making the recommendation, the Kirkland  
8 Planning Commission, following notice as required by RCW 36.70A.035,  
9 on June 10, 2022, held a public hearing, on the amendment proposals  
10 and considered the comments received at the hearing; and  
11

12           WHEREAS, pursuant to the State Environmental Policy Act  
13 (SEPA), there accompanies the legislative proposal and  
14 recommendation a Determination of Non-significance issued on  
15 November 23, 2022, by the responsible official pursuant to WAC 197-  
16 11-625; and  
17

18           WHEREAS, in regular public meeting the City Council considered  
19 the environmental documents received from the responsible official,  
20 together with the recommendation of the Planning Commission.  
21

22           NOW, THEREFORE, the City Council of the City of Kirkland do  
23 ordain as follows:  
24

25           Section 1. Creation of a new section of the Kirkland Zoning  
26 Code to read as follows:  
27

28           **115.106 Personal Delivery Devices**  
29

30           An Eligible Entity operating a Personal Delivery Device (PDD) as defined  
31 under RCW 46.75 may operate on private property in commercial zones,  
32 office zones, and industrial zones, and on institutional property within  
33 the PLA 1, PLA 14 zones consistent with the following standards:  
34

35           1. The operation and storage of PDDs shall be reviewed as a Planning  
36 and Building Director decision. An Eligible Entity must demonstrate that  
37 their proposal meets the standards established in this section.  
38

39           The decision of the Planning and Building Director in approving or  
40 denying an application to operate and store PDDs under this section  
41 may be appealed using the appeal provisions, as applicable, of Process  
42 I, KZC 145.60.  
43

44           2. Prior to any decision, the Eligible Entity shall submit to the Planning  
45 and Building Director a letter signed by the owner of the property

46 approving the location, time, and manner to which PDDs will operate  
47 and be stored on said property. The application shall include an affidavit  
48 certifying that the applicant has notified all staff, students, and tenants  
49 (if any) on the subject property of the proposed PDD operation and  
50 storage.

51  
52 3. The operation and storage of PDDs shall not inhibit the safe vehicular  
53 and pedestrian movement to, from, and on the subject property in  
54 accordance with the requirements of the Zoning Code and standards of  
55 the Fire Department, the Planning and Building Department, and the  
56 Public Works Department.

57  
58 4. PDD storage shall be located within existing structures or, if located  
59 within a separate structure, shall be consistent with the following  
60 standards:

- 61
- 62 a. If the storage area is located within a Design District, it shall  
63 conform with the design regulations in KZC 92.  
64
  - 65 b. Storage areas located adjacent to nonresidential zones may be  
66 located in the required side and rear setback yards; except, that  
67 all storage areas located adjacent to residential zones, or  
68 adjacent to residential uses within nonresidential zones, must  
69 meet required setbacks for the primary use.  
70
  - 71 c. If the storage area is surrounded on all sides by property zoned  
72 for industrial use, then the height of the storage shall not exceed  
73 the height of the primary structure. In all other cases, the  
74 storage area shall not exceed 12 feet in height.  
75
  - 76 d. If located on an unimproved area of the site, the underlying  
77 ground must be improved as required by the Department of  
78 Public Works and Planning and Building Department, and no  
79 regulated trees, six (6) inches in diameter at breast height (DBH)  
80 or greater, may be removed. If impacts are proposed within the  
81 Critical Root Zone (CRZ) of existing regulated trees, a report  
82 prepared by a Qualified Professional Arborist is required and  
83 must meet the standards pursuant to KZC 95.30(3)(c).  
84
  - 85 e. The required parking and loading spaces for the primary use and  
86 the PDD storage and operation must be provided onsite. The  
87 parking area requirements for the PDD and storage use will be  
88 reviewed pursuant to KZC 105.25 and a parking study may be  
89 required.  
90
  - 91 f. The storage area shall comply with the required land use buffer  
92 for the primary use as established in KZC 95.42.  
93
  - 94 g. The storage area shall conform to lighting regulations of KZC  
95 115.85.  
96
  - 97 h. The storage area shall conform to noise regulations of KZC  
98 115.95.

99 i. All signage shall conform to the same sign category as the  
100 primary use and applicable requirements of Chapter 100 KZC.  
101

102 5. The Eligible Entity shall maintain liability insurance consistent with the  
103 requirements of RCW 46.75.202(4).  
104

105 6. An Eligible Entity shall obtain a business license to operate and store  
106 PDDs in the City.  
107

108 7. The Eligible Entity shall file with the City an agreement, approved by  
109 the City, wherein the operator agrees to defend, save, and hold  
110 harmless the City of Kirkland.  
111

112 Section 2. If any section, subsection, sentence, clause, phrase,  
113 part or portion of this ordinance, including those parts adopted by  
114 reference, is for any reason held to be invalid or unconstitutional by any  
115 court of competent jurisdiction, such decision shall not affect the validity  
116 of the remaining portions of this ordinance.  
117

118 Section 3. This ordinance shall be in full force and effect five  
119 days from and after its passage by the Kirkland City Council and  
120 publication pursuant to Kirkland Municipal Code 1.08.017 in the  
121 summary form attached to the original of this ordinance and by this  
122 reference approved by the City Council.  
123

124 Section 4. A complete copy of this ordinance shall be certified  
125 by the City Clerk, who shall then forward the certified copy to the King  
126 County Department of Assessments.  
127

128 Passed by majority vote of the Kirkland City Council in open  
129 meeting this \_\_\_\_ day of \_\_\_\_\_, 2023.  
130

131 Signed in authentication thereof this \_\_\_\_ day of  
132 \_\_\_\_\_, 2023.

\_\_\_\_\_  
Penny Sweet, Mayor

Attest:

\_\_\_\_\_  
Kathi Anderson, City Clerk

Approved as to Form:

\_\_\_\_\_  
Kevin Raymond, City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE NO. O-4836

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING THE KIRKLAND ZONING CODE (ORDINANCE 3719 AS AMENDED) ENACTING A NEW SECTION 115.106 ENTITLED PERSONAL DELIVERY DEVICES AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM22-00195.

SECTION 1. Amends Kirkland Zoning Code Chapter 115 relating to zoning, planning and land use.

SECTION 2. Provides a severability clause for the Ordinance.

SECTION 3. 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.

SECTION 4. Directs the City Clerk to certify and forward a complete certified copy of this ordinance to the King County Department of Assessments.

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 \_\_\_\_\_, 2023.

I certify that the foregoing is a summary of Ordinance 4836 approved by the Kirkland City Council for summary publication.

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Kathi Anderson, City Clerk