

# Moratorium on Autonomous Personal Delivery Devices



# State Statute Regarding Autonomous Personal Delivery Devices

Legislature passed HB 1325, enacted as Chapter 46.75 RCW, identifying and regulating “personal delivery devices” as an “electrically powered device” that:

- (a) is intended primarily to transport property on sidewalks and crosswalks;
- (b) weighs less than one hundred twenty pounds;
- (c) operates at a maximum speed of six miles per hour; and
- (d) is equipped with automated driving technology AND with support and supervision of a remote human operator who has the capacity to override and pilot the APDD.

# Minimal Requirements for APDDs

- ▶ They may be operated only on sidewalks or crosswalks, with an exception for certain pedestrian trails if sidewalks are not provided;
- ▶ They must be controlled or monitored by a “personal delivery device operator,” i.e., a human being;
- ▶ They may not be used to transport hazardous materials or alcoholic beverages;
- ▶ The entity operating the APDDs must maintain insurance of at least \$100k;
- ▶ The entity must report accidents or injuries to local law enforcement within 48 hours;
- ▶ The entity must register an agent in Washington State to address traffic infractions and other incidents;
- ▶ The entity must self-certify annually with the Department of Licensing;
- ▶ The APDD must contain certain equipment, such as the operator’s name and contact info, a braking system, and lights if it operates after dark; and
- ▶ The entity must pay an annual registration fee to the Department of Licensing.

# APDDs must comply with local laws, rules, and regulations

- ▶ In addition to the minimum rules set forth the by legislature, the key requirement they passed was that an APDD 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(1).
- ▶ The City needs to adopt rules and regulations applicable to APDDs to protect the public health and safety and needs time to do so.

# MORATORIUM ORD. No. 0-4779

- ▶ The legislature allows local jurisdictions such as the City of Kirkland to enact an emergency moratorium of up to 6 months to maintain the *status quo* when the jurisdiction needs time to study and develop new plans, rules, and regulations so as to protect the public health, safety, and welfare. *See* RCW 35A.63.220 and RCW 36.70A.390. *See, also,* KMC 135.30.1.
- ▶ Moratoria are temporary and expedient.
- ▶ Moratoria allow the development process to include full public participation.
- ▶ The local jurisdiction must provide a public hearing with regard to the moratorium within 60 days of its emergency enactment.
- ▶ The moratorium ordinance passed by the City on January 18, 2022, sets a hearing date for a full public hearing on **March 1, 2022**.



ORDINANCE O-4779

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN ALL ZONES OF THE CITY ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICES; AND DECLARING AN EMERGENCY.

1           WHEREAS, the City has the authority to adopt moratoria  
2 pursuant to RCW 35A.63.220 and RCW 36.70A.390 and KMC  
3 135.30.1; and  
4

5           WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 allow  
6 the City to adopt a moratorium for up to six months without notice  
7 and without a public hearing, so long as a public hearing is  
8 conducted within 60 days of adoption of the moratorium; and  
9

10           WHEREAS, RCW 35A.13.190 requires the Council to  
11 approve an emergency ordinance by a vote of a "majority plus  
12 one;" and  
13

14           WHEREAS, in April of 2019, the State Legislature passed  
15 House Bill 1325, codified as Chapter 46.75 Revised Code of  
16 Washington (RCW), which identifies and defines autonomous  
17 personal delivery devices (APDDs) and sets forth some State  
18 requirements that must be met before APDDs may operate  
19 anywhere in the State of Washington; and  
20

21           WHEREAS, pursuant to RCW 46.75.020(1), the first  
22 requirement for use of an APDD is that it must be "operated in  
23 accordance with all ordinances, resolutions, rules and regulations  
24 established by the jurisdiction governing the rights-of-way within  
25 which the personal delivery device is operated"; and  
26

27           WHEREAS, the City has not yet enacted any ordinances,  
28 resolutions, rules and/or regulations regarding the operations of  
29 APDDs within the City; and  
30

31           WHEREAS, the City has currently received four (4)  
32 applications for building permits to construct and maintain the  
33 large container-like storage dispensers for APDDs, which the  
34 applicants call "hives," in various City zones including the LIT  
35 Industrial Zone, the FHNC Commercial Zone, the JBD 2 Juanita  
36 Business District Zone and the PLA 6B Institutional Zone; and

37           WHEREAS, the applicants for the hives have asked for  
38 authorization to place them in various locations, such as a parking  
39 spot at a gas station that currently does not have sufficient

40 parking for the current uses on the property, and a parking spot  
 41 at a church; and  
 42

43 WHEREAS, the City needs time to study the proposed hives  
 44 to determine what type of use the hives will be defined as (such  
 45 as general commercial, outside storage, warehouse, etc.), to  
 46 accurately account for any impact hives may have on the public's  
 47 health, safety, and welfare; for example, the City must determine  
 48 whether hives should be restricted to a certain zone or zones;  
 49 whether they should be prohibited in certain areas, such as within  
 50 100 feet of a school and/or daycare center; and many other  
 51 issues, such as design, lighting, signage, clearance, additional  
 52 parking requirements for access, effect on existing uses of the  
 53 property where they are located, etc.; and  
 54

55 WHEREAS, the applicants have requested permits for hives  
 56 so that they can begin using APDDs within the City primarily on  
 57 sidewalks and cross walks, because State law restricts APDDs uses  
 58 primarily to sidewalks and cross walks; and  
 59

60 WHEREAS, the City needs time to study what types of rules  
 61 and regulations it should enact for use of APDDs and hives in the  
 62 City, for example, whether use of APDDs should be prohibited at  
 63 certain times of the day and/or night, such as during rush hour;  
 64 regulations to ensure APDDs interact safely with pedestrians, pets,  
 65 children, street vehicles, etc.; whether use of APDDs is compliant  
 66 with the Americans With Disabilities Act (the "ADA"); and the  
 67 proper reporting requirements to the City with regard to  
 68 accidents, injuries, and failures; etc.; and  
 69

70 WHEREAS, adoption of rules and regulations related to  
 71 APDDs and hives will involve amendments to both the *Kirkland*  
 72 *Municipal Code* and the *Kirkland Zoning Code*; that such possible  
 73 amendments will require discussions and public hearings  
 74 regarding the establishment of new zoning laws before the  
 75 Planning Commission, the City Council, and the Houghton  
 76 Community Council; and it could take an indeterminate amount of  
 77 time for these groups to analyze the impacts of APDDs and hives  
 78 and to reach recommendations and decisions on applicable rules  
 79 and regulations; and  
 80

81 WHEREAS, an emergency moratorium is necessary to  
 82 protect the public health, safety, and welfare while the City studies  
 83 the impacts of APDDs and hives, and undertakes the public  
 84 processes of amending its relevant ordinances, resolutions, rules,  
 85 and regulations to allow for safe zoning and operation of APDDs  
 86 and hives.  
 87

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

90 Section 1. Imposition of a Moratorium. Pursuant to RCW  
 91 35A.63.220, RCW 36.70A.390, and KMC 35.30.1, a moratorium  
 92 hereby is imposed in the City of Kirkland on the acceptance of  
 93 applications for, review of, or issuance of any permit related in



94 any way to the use or storage of autonomous personal delivery  
95 devices (APDDs).  
96

97 Section 2. Duration of Moratorium. This moratorium shall  
98 remain in effect for six months from the effect date of this  
99 ordinance unless terminated earlier as provided by law.  
100

101 Section 3. Public Hearing Date. A public hearing shall be  
102 held pursuant to 35A.63.220 and RCW 36.70A.390 during the  
103 regular City Council meeting of Tuesday, March 1, 2022 at 7:30  
104 PM. Due to the ongoing COVID-19 protocols, this public hearing  
105 will occur virtually, online. Information on how to participate is  
106 available on the City website at  
107 [www.kirklandwa.gov/Government/City-Council](http://www.kirklandwa.gov/Government/City-Council). City hall is  
108 located at 123 5<sup>th</sup> Avenue, Kirkland, WA.  
109

110 Section 4. Severability. If any provision of this ordinance  
111 or its application to any person or circumstance is held invalid, the  
112 remainder of the ordinance or the application of the provision to  
113 other persons or circumstances is not affected.  
114

115 Section 5. Effective Date. This ordinance is hereby  
116 declared and designated a public emergency ordinance necessary  
117 for the protection of public health and safety and shall be effective  
118 immediately upon its passage by the City Council.  
119

120 Section 6. Publication shall be pursuant to Section  
121 1.08.017, Kirkland Municipal Code in the summary form attached  
122 to the original of this ordinance and by this reference approved by  
123 the City Council.  
124

125 Passed by affirmative vote of at least 5 members of the  
126 Kirkland City Council in open meeting this 18<sup>th</sup> day of January,  
127 2022.  
128

129 Signed in authentication thereof this 18 day of January,  
130 2022.

  
Penny Sweet, Mayor

Attest:

  
Kathi Anderson, City Clerk

Approved as to Form:

  
Kevin Raymond, City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4779

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN ALL ZONES OF THE CITY ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICES; AND DECLARING AN EMERGENCY.

SECTION 1. Imposes a moratorium on the acceptance of applications for, review of, or issuance of any permit related in any way to the use or storage of autonomous personal delivery devices (APDDs).

SECTION 2. Defines the duration of the Ordinance.

SECTION 3. Sets a public hearing date.

SECTION 4. Provides a severability clause for the ordinance.

SECTION 5. Declares that a public emergency exists requiring that the ordinance take effect immediately.

SECTION 6. 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 18 day of January, 2022.

I certify that the foregoing is a summary of Ordinance O-4779 approved by the Kirkland City Council for summary publication.

  
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Kathi Anderson, City Clerk