



CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425-587-3600

MEMORANDUM

To: Houghton Community Council

From: Jeremy McMahan, Deputy Director of Planning and Building Department
Scott Guter, AICP, Senior Planner

Date: March 14, 2022

Subject: Moratorium on Autonomous Personal Delivery Devices, File No. CAM22-00195

Recommendation

Consider adoption of Resolution 2022-3 to approve the Moratorium on issuing permits on Autonomous Personal Delivery Devices (APDDs) within the Houghton Community Municipal Corporation. The moratorium was adopted by Ordinance 4779 on February 1, 2022 by Kirkland City Council (see Attachment 1).

Background

In late 2021, the City received four incomplete building permit applications to construct and maintain a total of four APDD dispensers. APDDs are automated or remotely-piloted devices that deliver consumer items to customers at their homes or places of business.

City staff also discovered that an operator or operators had been testing APDDs in various locations in the City in recent weeks and last summer without any notice to the City and without any authorization or permission from the City. Staff understands that testing has ceased at this time.

Staff has conducted preliminary research on the APDDs (see Attachment 2). During the period of the moratorium, staff will research the issues associated with APDDs and dispensers with the possibility of developing permanent regulations for them. A public hearing on the moratorium was held on March 1, 2022 and City Council adopted staff's proposed scope of work with Resolution 5521 (Attachment 3).

Attachments:

1. Ordinance 4779 – Moratorium on Autonomous Personal Delivery Devices
2. Meeting Packet to City Council
3. Resolution 5521 – Scope of Work to Evaluate APDDs

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

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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

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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

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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

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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

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40 parking for the current uses on the property, and a parking spot
41 at a church; and
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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
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52 parking requirements for access, effect on existing uses of the
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55 WHEREAS, the applicants have requested permits for hives
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57 sidewalks and cross walks, because State law restricts APDDs uses
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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
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63 certain times of the day and/or night, such as during rush hour;
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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
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70 WHEREAS, adoption of rules and regulations related to
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72 *Municipal Code* and the *Kirkland Zoning Code*; that such possible
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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
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81 WHEREAS, an emergency moratorium is necessary to
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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

O-4779

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. City hall is
 108 located at 123 5th 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 18th 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 Date: 1/24/2022

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.



Kathi Anderson, City Clerk



CITY OF KIRKLAND
Public Works Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Adam Weinstein, Director of Planning and Building
Julie Underwood, Director of Public Works
John Starbard, Deputy Director of Public Works
John Burkhalter, Development and Environmental Services Manager

Date: February 17, 2022

Subject: PUBLIC HEARING—EMERGENCY MORATORIUM ON AUTONOMOUS PERSONAL DELIVERY DEVICES (APDD)

RECOMMENDATION:

It is recommended that the City Council conduct a public hearing on the City's emergency moratorium regarding permitting and use of autonomous personal delivery devices in the City (Ordinances O-4779 and O-4782), discuss the matter at the close of the hearing, then act on a proposed Resolution to enter Findings of Fact in support of the moratorium.

BACKGROUND DISCUSSION:

This agenda item concerns the public hearing and entry of findings of fact in support of the City's emergency moratorium regarding permitting the use of autonomous, motorized package delivery technology in Kirkland.

The package delivery business has grown dramatically in the past several years as consumers shop online increasingly for products, groceries, and prepared food. During the early period of the pandemic, United Parcel Service saw a 21-percent increase in volume during the first quarter of 2020, and a 65-percent increase in shipping to homes¹. While the pandemic increased the trend dramatically, the volume of package delivery has been on the rise for several years, and the package delivery industry has been exploring alternatives and technologies for "last mile" delivery—the final segment of the journey that delivers the item to the recipient.

One of the solutions that has been developed and either is in use or being tested in certain markets is autonomous personal delivery devices ("APDDs").

¹ *Wall Street Journal*, July 30, 2020.



Picture 1: An example of an autonomous personal delivery device, which Amazon calls "Scout."

As defined by the Municipal Research Services Center (MRSC), an APDD is, "an automated or remotely-piloted device that contains storage space for packages, food, and other delivery items (see Picture 1, above)." MRSC continues by writing, "[t]hese devices are intended to help businesses cut costs on deliveries, reduce delivery vehicle congestion, and cut greenhouse gas emissions from delivery vehicles [MRSC *Insight*, September 2, 2021].

Washington State law has been amended to address the use of APDDs in the State. State law specifically requires that APDDs are subject to the local regulations adopted in those counties or cities where they operate or propose to operate. Through the passage of HB 1325 in April 2019, Chapter 46.75 of the *Revised Code of Washington* (RCW) was added to establish operating requirements, self-certification steps, restrictions, and violation provisions for APDDs at the state level. In brief, RCW Chapter 46.75 says:

- APDDs must comply with local rules and regulations;
- APDDs may operate in pedestrian areas such as sidewalks, crosswalks, and shoulders;
- Vehicle drivers must treat APDDs as pedestrians;
- APDDs must operate according to pedestrian safety laws;
- APDDs must not exceed six miles per hour and must be equipped with braking systems;
- A human operator must be able to override and pilot an APDD remotely when needed;
- APDDs must have lights if operating during the evening;
- APDDs are not permitted to transport hazardous materials or alcohol;
- APDD operators must adhere to State self-certification and licensing procedures and maintain insurance for damages of up to at least \$100,000; and
- Operators are subject to fines in case of personal or property damage(s).

Applications Submitted

In late 2021, the City received four incomplete building permit applications to construct and maintain a total of four APDD dispensers (see subsection "Dispensers," below, and Picture 2, below). The applications were to place pre-fabricated dispensers in parking stalls at privately-owned properties that have parking lots (e.g., a church, a gas station, etc.). The applicant's intent was to begin initial operation of APDDs in Kirkland in four delivery areas of the City (see **Attachment A**, Maps of Proposed Dispenser Locations).

Additionally, City staff also discovered that an operator or operators had been testing APDDs in various locations in the City in recent weeks (and last summer) without notice to the City and without any authorization or permission from the City. Staff understands that testing has ceased at this time.

City Has Established Moratorium—Public Hearing Required

The City has not yet enacted any local regulations regarding the use of APDDs as envisioned by RCW Chapter 46.75. Because this new technology was raising more questions for staff than it could answer—such as how to categorize and regulate these uses, implications for public safety, questions about such a use on the public rights-of-way, and uncertainties about community acceptance—the City Council adopted an emergency 6-month moratorium by unanimous vote on February 1, 2022 (see **Attachment B**, Ordinance O-4779). Council’s Study Session prior to the meeting on February 1, 2022, began early, thus the entire meeting was denominated a “Special Meeting.” In the event the status of the meeting had any effect on the Moratorium, and to increase community awareness prior to the public hearing by providing the public the actual moratorium language with an explanatory memo, the City Council essentially ratified it by passing it again at the next regular meeting of the City Council on February 15, 2022 (see **Attachment C**, Ordinance O-4782). The moratorium places a temporary ban 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. This will give the City time to conduct the necessary review and analysis needed to assist it in enacting the local regulations intended by RCW Chapter 46.75.

Moratoria are regulated statewide by RCW Chapters 35A.63.220 and 36.70A.390, and in Kirkland also by *Kirkland Zoning Code* (KZC) 135.30.1. If a local governing body establishes a moratorium without having a public hearing prior to its establishment, which was the case in this instance, then the body (the City Council) must conduct a public hearing within sixty days following the moratorium’s establishment. Similarly, if findings of fact justifying the moratorium were not identified before establishing the moratorium, then they must be identified subsequent to the public hearing.

Moratoria are established or extended in six-month increments, but may be withdrawn sooner than six months if the matters are resolved. The current moratorium is for six months from February 1, 2022 until August 1, 2022. A moratorium may be extended for another six month period provided an additional public hearing is conducted, new findings of fact are supplied, and a scope of work is adopted.

As of this writing, Kirkland staff is not aware of any other Washington city establishing a pre-emptive moratorium on this use (see “Other Locations,” below).

Kirkland Staff’s Understanding of the Technology and Planned Initial Application

Subsequent to the Council’s adoption of the moratorium, an interdepartmental team met virtually with representatives from Amazon and some of its subcontractors in an effort to gain a better understanding of the technology itself, its deployments in other locations, Amazon’s plans for Kirkland, and both practical and potential operational issues. Staff still has more to learn about APDDs, so staff presents this information as preliminary findings that are subject to refinement as more is learned in the coming weeks and months.

‘Scout’

Amazon’s proprietary name for both its APDDs and the program that facilitates them is “Scout.”

The Scout devices, as pictured above, measure about 30 inches long by 24 inches wide; weigh about 100 pounds excluding cargo; and can travel up to 15 miles per hour, though in

Washington State they may not exceed six miles per hour. They are powered by rechargeable batteries, and have wireless and other technologies for guidance, sensing of obstacles, and communication. By State law, they are required to have lights on the front and back if the APDD is to be used between sunset and sunrise.

Their payloads can carry up to 50 pounds, which could be one or more packages delivered to one or more locations per delivery round trip. In Washington, they may not transport hazardous materials or alcohol.

Packages are loaded into the Scouts at local dispensers by a human acting on behalf of the delivery company. Once the Scout reaches its destination, the recipient must meet the APDD and remove the package; Scouts cannot unload themselves.

APDDs must be licensed by the State according to its requirements.

Dispensers

Amazon Scouts are loaded in, stored in, and travel to and from dispensers. Dispensers are about 18-feet long by 8-1/2-feet wide by 11 feet tall; they are about the length and width of a parking stall.



Picture 2: An example of an APDD dispenser.

They have concealed or shaded exterior lights above roll-up doors on the end(s) and side(s). They require communication and electrical (single-phase 120/240, such as is used for most homes) connections, but not domestic water or sanitary sewer. They house up to twenty Scouts.

Operationally, a person working on behalf of Amazon drives up to a dispenser in a delivery van (e.g., a Mercedes-Benz Sprinter), opens a side roll-up door to the dispenser, manually loads the Scouts from the van, then closes the dispenser and leaves. Van drivers need about 20-30 minutes to unload their vans and load the Scouts, and typically require an empty parking space adjacent to the dispenser. Currently, in other test locations, this occurs once per day, though van deliveries may scale up.

Delivery

Scouts travel from their dispenser to their programmed destination(s) then return to their dispenser.

Traveling on sidewalks and crosswalks, Scouts deliver packages up to a 2 kilometer distance (1.25 miles) from their dispensers, though the APDD can have a maximum round trip of five to seven miles. The representatives said deliveries are only within a small radius from the dispensers, and that there would not be circumstances of a Scout "traveling across the city" to make a delivery.

If a person is not present at the delivery location to unload the Scout, it returns to the dispenser.

Ambassadors

State law requires an APDD entity to have a "personal delivery device operator" who can control or monitor the navigation of an APDD [RCW 46.75.020(3)]. Amazon calls such an employee an "Ambassador." City staff understand that during test periods Ambassadors are in the field and may actually accompany a Scout. But as Scouts proliferate that will not be practical or economical. Staff has more to learn about the future roles of Ambassadors, but at this point staff understands they will be the employees who respond to issues or conflicts with Scout devices in the field that need human attention. It is possible some of that work may be conducted remotely, but again the City needs to learn more about this aspect of the program.

Limitations

According to the Amazon representatives with whom staff had a virtual meeting, Scouts do not operate in snow or threat of snow, over a certain limit of rainfall, nor on steep hills. The representatives said they would not operate on most roads that do not have adjacent sidewalks (e.g., Goat Hill, where they are few to no sidewalks), though as noted above State law allows them to operate on certain areas without sidewalks, such as shoulders where pedestrians may travel.

The representatives also stated that Scouts do not operate on narrow or crowded sidewalks. The representatives stated they would not be testing in the Kirkland downtown core.

Noting that the APDDs need a person to unload them, and that some multifamily buildings are staffed and others are not, the representatives stated the Scouts would not deliver to multifamily homes but only single-family homes.

Dispersion

Though staff asked what Amazon foresaw as the proliferation of dispensers, the representatives stated they were "uncertain." However, they did state that the delivery radius is about 2 kilometers (1.25 miles) from a dispenser.

Safety

This new technology raises a number of safety questions, especially since the primary travel routes for Scouts is on public sidewalks. Staff needs to study the safety implications to vehicular traffic, pedestrians (including those with mobility challenges or ADA needs), bicyclists, emergency response, and potential conflicts with other users.

Other Locations

When asked by staff, the Amazon representatives stated that Scout has been implemented locally in Bothell, Everett, Lynnwood, Mukilteo, and Snohomish County. Elsewhere, it has been implemented in Irvine, California; Nashville, Tennessee; some cities in Georgia, including Atlanta; and City staff is aware it is being used for prepared food delivery on the Oregon State University campus in Corvallis.

Staff has been told that in other locations the local government has considered it an "accessory use," though staff will conduct more research on this issue.

Staff is aware that some local cities, such as Everett, initially permitted Scout operation but then subsequently began work to amend or create regulations. In contrast, Kirkland's moratorium was established before any complete applications were submitted or permits issued.

Potential for Other Providers

Amazon is but one package delivery service. There are other package delivery companies that may desire to deploy this or other technology in the City, not to mention the possibility of the United States Postal Service exploring such options or alternatives. Additionally, grocery stores and certain restaurants also provide deliveries and may seek alternatives and new technologies.

PROPOSED SCOPE OF WORK FOR STUDY:

During the period of the moratorium, staff will research the issues associated with APDDs and dispensers with the possibility of developing regulations for them.

A proposed scope of work for the study is identified as **Exhibit A** to the proposed Resolution that accompanies this staff report. The proposed scope is subject to amendment based upon testimony offered during the public hearing, by direction of the City Council, or by staff as it studies the matter and additional questions or issues arise. Following adoption of the Resolution, additional formal action by the City Council to amend the scope is not required.

NEXT STEPS:

At the conclusion of the public hearing, the Council may discuss this matter and provide direction to staff.

The Council must establish findings of fact at the conclusion of the hearing, and staff also has provided a preliminary scope of work for a study. Staff recommends the Council establish the requisite findings of fact by acting on the Resolution, as proposed or amended; and by acting on the Resolution the Council also would be adopting the preliminary scope of work for the evaluation of the use of APDDs in Kirkland.

As required in Kirkland, according to KZC 135.30.2, moratoria actions must be taken to the Houghton Community Council for action on a resolution to approve or disapprove the moratorium within the jurisdictional boundaries of the Community Council. Planning and Building staff is planning to take this item to the Council on March 28.

Attachment A: Map—Amazon Proposed APDD Dispenser Locations

Attachment B: Existing Ordinance O-4779 (February 1, 2022)

Attachment C: Existing Ordinance O- 4782(February 15, 2022)

Resolution

Exhibit A to Resolution: Preliminary Scope of Work to Evaluate the Use of APDDs in Kirkland

Kenmore

Bothell

14130 JUANITA DR NE
KIRKLAND, WA
98034

9800 NE 116TH ST
KIRKLAND, WA 98034

715 8TH ST
KIRKLAND, WA
98033

232 5TH AVENUE S
KIRKLAND, WA
98033

Redmond

Amazon Proposed APDD Dispenser Locations

Legend

-  APDD Dispenser
-  Cross Kirkland Corridor
-  Street
-  Lake
-  Park / Open Space
-  School

0 1 2 Miles

Medina
Hunts Point
Yarrow Point
Clyde Hill

Bellevue
N


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

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

Section 4. 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 5. Effective Date. This ordinance is hereby declared and designated a public emergency ordinance necessary for the protection of public health and safety and shall be effective immediately upon its passage by the City Council.

Section 6. Publication 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 affirmative vote of at least 5 members of the Kirkland City Council in open meeting this 18th day of January, 2022.

Signed in authentication thereof this 18 day of January, 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.



Kathi Anderson, City Clerk

ORDINANCE O-4782

AN ORDINANCE OF THE CITY OF KIRKLAND RATIFYING AND REAFFIRMING ORDINANCE O-4779, IMPOSING AN EMERGENCY 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.

1 WHEREAS, the City Council, at its January 18, 2022 special
2 meeting did meet in executive session to discuss potential
3 litigation before reconvening in open public session to consider
4 and then enact Ordinance O-4779, declaring an emergency and
5 imposing a temporary moratorium on the City's acceptance of
6 applications for the review and/or issuance of building permits for
7 autonomous personal delivery device dispensers and right-of-way
8 permits for autonomous personal delivery devices; and
9

10 WHEREAS, Ordinance O-4779 did establish, pursuant to
11 RCW 35A.63.220 and RCW 36.70A.390, a March 1, 2022 public
12 hearing on the temporary moratorium; and
13

14 WHEREAS, the Council wishes to increase public awareness
15 of the temporary moratorium, provide for public comment at the
16 Council's February 1, 2022 regular meeting, and take the action
17 of ratifying and reaffirming Ordinance O-4779.
18

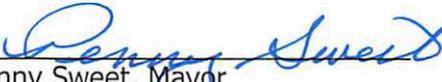
19 NOW, THEREFORE, the City Council of the City of Kirkland
20 do ordain as follows:

21 Section 1. Ordinance O-4779 is hereby ratified and
22 reaffirmed.
23

24 Section 2. Effective Date. This ordinance shall be in force
25 and effect five days from and after its passage by the Kirkland City
26 Council and publication, as required by law.

27 Passed by majority vote of the Kirkland City Council in open
28 meeting this 1 day of February, 2022.

29 Signed in authentication thereof this 1 day of February,
30 2022.
31


Penny Sweet, Mayor

Attest:


Kathi Anderson, City Clerk

Approved as to Form:


Kevin Raymond, City Attorney

Publication Date: 02/07/2022

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. City hall is
108 located at 123 5th Avenue, Kirkland, WA.

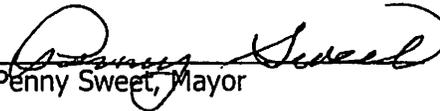
109
110 Section 4. Severability. If any provision of this ordinance
111 or its application to any person or circumstance is held invalid, the
112 remainder of the ordinance or the application of the provision to
113 other persons or circumstances is not affected.

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.

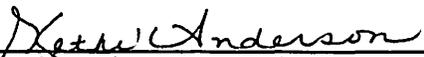
119
120 Section 6. Publication shall be pursuant to Section
121 1.08.017, Kirkland Municipal Code in the summary form attached
122 to the original of this ordinance and by this reference approved by
123 the City Council.

124
125 Passed by affirmative vote of at least 5 members of the
126 Kirkland City Council in open meeting this 18th day of January,
127 2022.

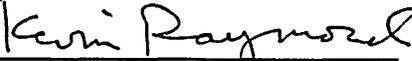
128 Signed in authentication thereof this 18 day of January,
129 2022.
130


Penny Sweet, Mayor

Attest:


Kathi Anderson, City Clerk

Approved as to Form:


Kevin Raymond, City Attorney

Publication Date: 1/24/2022

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.



Kathi Anderson, City Clerk

RESOLUTION R-5521

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND, WASHINGTON, ADOPTING FINDINGS OF FACT TO SUPPORT THE MORATORIUM ORDINANCE ON AUTONOMOUS PERSONAL DELIVERY DEVICES IN KIRKLAND AND A PRELIMINARY SCOPE OF WORK TO EVALUATE THE USE OF AUTONOMOUS PERSONAL DELIVERY DEVICES IN KIRKLAND.

1 WHEREAS, the City of Kirkland ("City") is an Optional Municipal
2 Code City organized under Title 35A of the *Revised Code of Washington*
3 ("RCW"); and
4

5 WHEREAS, Washington State law empowers cities to regulate
6 and protect public ways and real property of all kinds, such powers being
7 illustrated but not exclusively contained within RCW 35A.11.020; and
8

9 WHEREAS, the Washington State Legislature passed HB 1325 in
10 April 2019, which caused a new chapter RCW 46.75 to be codified,
11 entitled, "Personal Delivery Devices," and
12

13 WHEREAS, RCW 46.75 says in part that an eligible entity may
14 operate a personal delivery device in the State provided that it is
15 operated in accordance with all ordinances, resolutions, rules and
16 regulations established by the jurisdiction governing the rights-of-way
17 within which the personal delivery device is operated; and
18

19 WHEREAS, in late 2021, the City received four building permit
20 applications for the placement of four pre-fabricated "dispensers" to
21 facilitate the deployment and operation of autonomous personal
22 delivery devices within defined locations of the City (the "Applications");
23 and
24

25 WHEREAS, autonomous personal delivery devices are a
26 relatively new technology that has not been permitted in the City
27 previously, and
28

29 WHEREAS, the City at this time does not have any ordinances,
30 resolutions, rules, or regulations concerning the use and storage of
31 autonomous personal delivery devices; and
32

33 WHEREAS, the Applications raised questions for City staff such
34 as, but not limited to, how to categorize and regulate such uses,
35 implications for public safety, questions about such a use on the public
36 rights-of-way, and uncertainties about community acceptance; and
37

38 WHEREAS, on February 1, 2022, the City Council unanimously
39 enacted emergency ordinance O-4779 that imposed a moratorium
40 within all zones of the City on the acceptance of applications for the

41 review and/or issuance of building permits for autonomous personal
42 delivery device dispensers and on the acceptance of applications for the
43 review and/or issuance of right-of-way use permits for autonomous
44 personal delivery devices; and declaring an emergency; and
45

46 WHEREAS, on February 15, 2022, in order to increase
47 community awareness of the public hearing and the potential
48 moratorium, the City Council essentially ratified the emergency
49 ordinance by unanimously passing the moratorium again in an open
50 public meeting by enacting O-4782; and
51

52 WHEREAS, moratoria are regulated by the State through RCW
53 35A.63.220 and RCW 36.70A.390, which require the City to hold a public
54 hearing within 60 days of the establishment of an emergency
55 moratorium, and to enter findings of fact following the public hearing;
56 and
57

58 WHEREAS, a public hearing before the City Council concerning
59 the moratorium adopted by emergency ordinance O-4779 occurred on
60 Tuesday, March 1, 2022; and
61

62 WHEREAS, findings of fact in support of the moratorium adopted
63 by emergency ordinance O-4779 are adopted by this Resolution, as set
64 forth herein; and
65

66 WHEREAS, to assist City staff in drafting regulations concerning
67 the use of autonomous personal delivery devices in the City, a
68 preliminary scope of work was created and is attached hereto as
69 Attachment A; and
70

71 WHEREAS, within the City, moratoria are regulated further by
72 *Kirkland Zoning Code* 135.30.2, which requires approval of the
73 Houghton Community Council.
74

75 NOW, THEREFORE, be it resolved by the City Council of the City
76 of Kirkland as follows:
77

78 Section 1. By this Resolution the City Council adopts the
79 following findings of fact to support the establishment of the moratorium
80 described in emergency Ordinance O-4779 and Ordinance O-4782:
81

- 82 a. Washington State law permits the operation of autonomous
83 personal delivery devices on and in sidewalks, crosswalks,
84 and, if otherwise unavailable, areas where a pedestrian is
85 permitted to travel, provided that the use and operation
86 complies with applicable laws and regulations of the
87 jurisdiction in which the autonomous personal delivery
88 devices are operating.

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- b. The City has not yet enacted any ordinances, resolutions, rules, or regulations concerning the use of autonomous personal delivery devices within its rights-of-way.
 - c. Autonomous personal delivery devices are a new technology, and currently are being tested or are in use in a small number of locations in the United States. They are being researched and developed for the package delivery industry as an alternative for "last mile" delivery.
 - d. The City received four incomplete building permit applications for "dispensers" to facilitate the use of autonomous personal delivery devices in the City. The City does not yet have any adopted rules or regulations concerning dispensers for autonomous personal delivery devices.
 - e. The City requires time to learn about this new technology, to review and analyze it, to determine any public safety concerns related to it, to look at how it has been regulated in other locations, to identify and address local concerns and interests about the use of the technology, and to draft proposed regulations that must be reviewed and refined by advisory bodies and the City Council.
 - f. Some, but not all, of the safety issues related to permitting autonomous personal delivery devices are as follows:
 1. Will they be compliant with the Americans with Disabilities Act?
 2. What hours can they operate?
 3. Where can they operate safely? Can they be approved in all zones, or only some zones? Should they be barred from certain areas, such as school zones?
 - g. Some, but not all, of the safety issues related to permitting dispensers for these devices are as follows:
 1. Where can they be located?
 2. What environmental impacts are associated with them?
 3. How are they operated, and how prolific may they become?
 4. To what extent are they compatible with surrounding land uses?
 - h. The City cannot safely permit autonomous personal delivery devices, or dispensers for those devices, in the City until these reviews and analyses have been completed and ordinances, resolutions, rules, and/or regulations concerning the use of autonomous personal delivery devices in the City

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of Kirkland, and dispensers for those devices, have been adopted and are in full force and effect in the City.

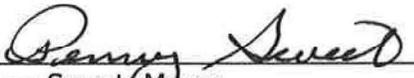
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Section 2. A preliminary scope of work to evaluate the use of autonomous personal delivery devices in Kirkland is attached to this Resolution as Exhibit A and is intended to be used by the City as an outline or plan to study these matters. This scope may be amended by City staff without further Council action in response to questions or issues that arise as a result of conducting the evaluation.

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Passed by a majority vote of the Kirkland City Council in open meeting this 1 day of March, 2022.

Signed in authentication thereof this 1 day of March, 2022.


Penny Sweet, Mayor


Kathi Anderson, City Clerk

Exhibit A to Resolution R-5521
March 1, 2022

**Preliminary Scope of Work to Evaluate the Use of
Autonomous Personal Delivery Devices in Kirkland**

This preliminary scope of work may be amended based upon testimony at a public hearing, City Council direction, and additional questions or issues raised as a result of research.

Category I: Basic Facts About This Emerging Technology

- A. What is the purpose of this new technology and how does it operate?
- B. Dispenser data and operation
 - 1. Standard dimensions and capacity
 - 2. Utility requirements
 - 3. Environmental impacts (e.g., noise, light, glare, and aesthetics)
 - 4. Siting criteria and preferred types of locations for dispensers
 - 5. Amount of clear area required around dispenser for loading
 - 6. Near-term and projected frequencies of loading deliveries and times of day/days of week
 - 7. Loading delivery details: type of vehicle, average loading time, vehicle parking/waiting needs
 - 8. Service area geography of dispensers
 - 9. Signage requirements
 - 10. Regulatory context
- C. Scout delivery device data and operation
 - 1. Standard dimensions and capacity
 - 2. Recharging requirements
 - 3. Speed and speed controls
 - 4. Maneuverability/adaptability to hills and hazards
 - 5. Autonomous mode versus with operator intervention
 - 6. Protocols if device loses charge, such as in the middle of an intersection or sidewalk
 - 7. Interactions with pets or wildlife
 - 8. Reaction to closed sidewalks, sidewalks under construction, downed limbs, etc.
 - 9. Time of day for operation
 - 10. Ability to operate in various weather conditions
 - 11. Does the device itself contain any hazardous materials (e.g., type of batteries)?
 - 12. Do the devices have cameras? If so, would the City have access to the video in the event of a crash or incident?
 - 13. Can the devices travel through side yards or over dirt trails?

14. Do the devices make noise?
15. How does the package actually get delivered from the sidewalk to the recipient's door?
16. Insurance requirements

Category II: Safety

- A. Traffic safety and records of reported accidents
- B. Pedestrian safety
 1. Interactions with pedestrians, pedestrians with strollers or carts, those with ADA/mobility challenges, and bikes and other wheeled devices
 2. Have any pedestrians been injured thus far in other markets?
 3. Adequacy of infrastructure to meet both APDD and ADA needs
 4. Bicycle safety and history of conflicts
 5. Emergency response impacts/implications
 6. Conflicts with other public users
 7. Are there pedestrian interface issues that Amazon is working on now to address/fix?

Category III: Proliferation and Saturation

- A. Quantity of dispensers and devices; potential "logjam"
- B. What's on the horizon for the technology?
- C. Other businesses with their own version of Scout

Category IV: Public Benefits

- A. What is the best case to be made for permitting this technology in Kirkland; what are the public benefits?
- B. Is the operation of this technology on public sidewalks beneficial?
- C. Vandalism, destruction, or theft
 1. Are the devices an attractive nuisance?
 2. Would the City be expected to investigate incidents?
- D. Are there other "last mile" delivery methods that would be more effective or safer?

Category V: Peer City Comparisons

- A. How have other cities addressed APDDs?
- B. What challenges have other cities experienced where they have been permitted?
- C. What are the fundamental commonalities and differences of adopted regulations in other cities?

RESOLUTION. 2022-3

A RESOLUTION OF THE HOUGHTON COMMUNITY COUNCIL APPROVING ORDINANCE NO. 4779 ADOPTED BY THE KIRKLAND CITY COUNCIL ON FEBRUARY 1, 2022, MORATORIUM ON ISSUANCE OF BUILDING PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICES.

WHEREAS, the Houghton Community Council has received from the Kirkland City Council Ordinance No. 4779, for a moratorium on issuance of building permits for autonomous personal delivery devices.

WHEREAS, the City has the authority to adopt moratoria pursuant to RCW 35A.63.220 and RCW 36.70A.390 and KZC 135.30.1; and

WHEREAS, the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council and shall become effective within the Houghton Community Municipal Corporation only upon approval by the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance; and

NOW, THEREFORE, be it resolved that Ordinance O-4779 is hereby approved and shall be effective within the Houghton Community Municipal Corporation.

PASSED by majority vote of the Houghton Community Council in regular, open meeting this ____ day of _____, 2022.

SIGNED IN AUTHENTICATION thereof this ____ day of _____, 2022.

Rick Whitney, Chair
Houghton Community Council

City Clerk