



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

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kimberly Scrivner, Transportation Planner
Joel Pfundt, Transportation Manager
John Starbard, Deputy Director of Public Works
Julie Underwood, Interim Director of Public Works

Date: March 5, 2020

Subject: DOWNTOWN PARKING DISCUSSION

RECOMMENDATION:

At the March 17 meeting, staff will be discussing several issues regarding public parking in the downtown area. Staff recommends that the City Council:

1. Receive an update about improvements that are being made to the Peter Kirk Municipal Garage and review proposed hours, service, rules, and an amending ordinance concerning the garage;
2. Review preliminary information about broadening the City's downtown pay-for-parking program starting in 2021; and
3. Receive an update about the Downtown Employees Parking Program and discuss the possibility of charging a fee for the program in 2021, which now is free.

BACKGROUND DISCUSSION:

The City owns and manages three surface parking lots in the downtown area and owns and manages one structured parking garage. The surface lots are located at: the southeast corner of Lake Street and Central Way, the Lakeshore Plaza parking lot east of Marina Park, and the Wester lot south of City Hall used for the downtown employee parking program. The parking garage is located on the northeast corner of 3rd Street and Kirkland Avenue beneath the library (see Attachment A, "Map of City-owned Parking Facilities").

As was (and often still is) the pattern in the suburbs for about a century, Kirkland and private property owners have a history of providing convenient, free parking in the City's commercial areas. But in recent decades, Kirkland has made continuous and strategic decisions to urbanize, particularly in the downtown area. Through zoning, development standards, transit and multimodal decisions, and increased residential and employment densities, Kirkland is now an Eastside city its own right.

With that has come a more urban parking environment. New residential buildings have lower parking-to-unit ratios, parking in new commercial buildings most often is structured rather than on the surface, and new mixed-use developments—including ones that feature day-to-day conveniences such as a grocery store—charge or validate for parking.

Given these changes, and to facilitate a follow-up discussion from a similar topic at the Council's February 2020 retreat, staff is presenting information in this staff report about the City's own parking inventory, policies, regulations, and options.

1. Peter Kirk Municipal Parking Garage

The downtown library was built about 26 years ago on City-owned land that is part of the larger Peter Kirk Park. It was built as a partnership between the City and the King County Library System. The City continues to own the land and the City paid for the construction of, owns, and manages the undercover portions of the parking structure; and the Library System paid for the construction of, owns, and manages the library spaces and the open-air parking stalls on the upper deck of the parking structure, which are for library patrons only. The City-owned portion of the garage has 344 parking stalls (the middle and lower decks) and the library's upper deck has 63 stalls; there are 407 parking stalls total.

Since its construction, it appears the parking garage has been open to the public 24 hours per day, every day. Though there always have been doors and electric closers at the vehicle entrances, staff has been unable to identify anyone who remembers when the doors were ever closed. The rolling gates on the upper deck were made inoperable years ago when the bottom metal track upon which the gates used to roll was cut away by the City, and vehicles have run into the tracks for the coiling vehicle doors on 3rd Street making them inoperable.

Over the years, issues in the garage have emerged and increased. Some of the issues relate to the fact that the garage has aged and needs attention to some deferred maintenance. Other issues relate to the fact that the garage is always wide open and invites activities that are undesired, illegal, dangerous, or all three.

In the past three years, some needed improvements have been made to the garage:

- Installing energy-saving lighting;
- Repairing the cab and mechanics of the single elevator;
- Sealing leaky gaps around a glass block ceiling and in an electrical room;
- Unplugging a storm drain on the upper deck that caused pooling during rain events;
- Installing 18 securing cameras;
- Bringing a fiber optic line into the garage;
- Purchasing new help/panic buttons (soon to be installed); and
- Daily custodial cleaning of the elevator and weekly cleaning of the two stairways.

Since late 2018, the City has contracted with Diamond Parking Services to monitor the garage five times per day every day. At the City's option, the City's contract with Diamond provides for an increased level of service—on-site personnel for eight hours per day to augment walk-through monitoring at other times—once the garage can be closed and locked. Practically, though, until the garage can be closed and locked the ability to manage the garage as many would prefer has been difficult.

The City's Job Order Contractor, Forma, has been working since January to enable the garage to be closed and locked automatically at fixed hours of the day, and also so that it can be opened or closed remotely or on site if there were a weather or other circumstance that would warrant it. The work should be complete this April. Elements of the work include:

- Replacing most doors in the garage—new coiling doors on 3rd Street and a new coiling door leading the swimming pool, replacing most pedestrian doors;
- Repairing the rolling gates on the upper deck and installing a new track;
- Retaining a pedestrian door leading to the swimming pool;
- Wiring together all doors so that they can be operated by timer, remotely, as well as on-site;
- Replacing the fire-rated, glass enclosure at the bottom of the southeast stairway;
- Providing flashing warning lights when vehicular doors are opening and shutting and the beginning and end of the day or at other times; and
- Installing the same type of card readers and software the City uses for its other buildings (Genetec) so that emergency responders and select others can access the garage after hours when needed

Being able to close and lock the garage regularly is anticipated to greatly facilitate the management, safety, and cleanliness of the garage. It also raises practical questions about which staff seeks the Council's guidance and direction.

HOURS OF OPERATION

Since the garage will be able to be closed and locked, and since not doing so has led to issues, staff recommends establishing hours of operation for the garage. Staff recommends that the garage open at 5:00 a.m. and close at midnight seven days a week. This will allow a five hour window each day for interior cleaning and maintenance when such work is needed or scheduled.

Staff is aware that there may be some downtown employees who park in the garage past midnight. Those employees would still have the Wester lot, surrounding surface and private garage lots, or street parking as options.

INCREASED ON-SITE PRESENCE

Once the City closes and locks the garage on a daily basis, the City anticipates increasing the on-site management services to the second level provided in its contract with Diamond Parking Services so that there would be a staff person on-site every day between 4:00 p.m. and midnight for monitoring and customer service (e.g. providing directions to exits or key downtown locations). Between 5:00 a.m. and 4:00 p.m. there would continue to be walk-through monitoring several times per day.

ESTABLISHMENT AND POSTING OF RULES

While there are a few signs in the garage now that speak to rules, they are limited and tend to refer to code citations rather than use plain terms. Staff proposes that the Council establish the following rules and, if established, that they will be posted at several clearly visible locations in the garage:

- No Skating, Skateboarding, or Scooters
- No Loitering or Soliciting
- No Camping
- Vehicles that remain in the garage after closure can either: a) wait until the garage is reopened the following morning and are subject to the 4-hour parking limit; or b) pay a "after hours fee" to the company monitoring the garage)
- All City public nuisance laws, traffic laws, and parking regulations apply (KMC 11.24, KCM 12.12 and KMC 12.45)

Current rules in the garage that are proposed to be retained are:

- 4-hour public parking on the middle level
- The lower level will remain permit-only from 9:00 a.m. to 5:00 p.m., except for weekends and holidays

SIGNAGE

The current signage in the garage is dated and sometimes provides mixed messages. Staff proposes new signage in the garage, to include:

- Posting of rules, hours, and potentially fees, based upon Council direction;
- Converting some stalls that currently are designated for both 4-hour general public parking and simultaneously employee permit-only to be clearly either general public or permit-only. These stalls were made to be shared before Kirkland offered the Wester Lot for downtown employees;
- Converting signs to eliminate confusion that the permitted stalls are available to the public on evenings, weekends, and holidays; and
- Replacing a few old signs that are unreadable or damaged

The City has some local rules and laws in chapter 12.45 of the *Kirkland Municipal Code* that pertain to the Municipal Garage. In light of the changes being made at the garage and also unwanted behaviors and activities there, staff is proposing amendments to chapter 12.45 (see Attachment B, "An Ordinance...Related to Parking, Prohibited Conduct, Trespass Warnings, and the Peter Kirk Municipal Garage." The parenthetical references below refer to sections of the attached, proposed ordinance. In summary, the proposed ordinance:

- Provides a definition of "overnight camping" (12.45.010.6)
- Provides a definition of "dangerous" behavior (12.45.010.15)
- Provides a definition of "illegal" behavior (12.45.010.16)
- Provides a definition of behavior that is "unreasonably disruptive to other users" (12.45.010.17)
- Adds a new section concerning Municipal Garage Use—Civil Infractions—Overnight Parking Exception (12.45.400)

- As noted above in "Establishment and Posting of Rules," proposes that overnight parking itself is not cause for an infraction, but states that the owner either needs to wait until morning to retrieve the vehicle or pay an "after hours fee" to retrieve the car prior to opening.
- Adds a new section concerning Trespass Warnings (12.45.410)
 - Authorizes City police officers to issue trespass warning to persons exhibiting conduct that is "dangerous, illegal, or unreasonably disruptive" (12.45.410.1).
 - Provides for escalating durations for being excluded from the garage, from up to seven days, up to ninety days, or up to one year (12.45.410.4).
 - Provides an appeal process for challenging a trespass warning (12.45.410.6).
 - Provides for the conditions under which a person may be arrested for violation of a trespass warning (12.45.410.14).
 - Provides for the conditions when an individual who has received a trespass warning may re-enter the garage to exercise constitutionally-protected free speech rights (12.45.410.15).

Following the Council's review and discussion of the proposed ordinance, the ordinance would be brought forward at a subsequent meeting for adoption.

2. Discussion of Fees for Downtown Parking

At the Council's February financial retreat, staff introduced the idea of expanding options for paid parking downtown to help address the financial challenges from the loss of the annexation sales tax credit revenue. New parking fee revenues would be allocated as part of the Council's 2021-2022 budget process but would most likely be allocated to sustain transportation planning and traffic safety program staff that are currently funded with one-time funding sources set to expire at the end of 2020. A discussion of potential fee options and related issues follows.

Of the City's four off-street parking assets, the City offers two for free and charges for the other two. In the municipal garage, the general public can park up to four hours for free on the middle deck, and those registered in the downtown employees parking program can park on the lower deck of the garage for free. Similarly, the Wester lot offers free parking for registered downtown employees, and free public parking after 5:00 p.m. and on weekends. The City began charging for parking in the Lakeshore and Lake and Central city-owned lots in the early 2000's at the rate of \$1.00 per hour with a limit of 4-hours.

With Kirkland Urban now open adjacent to the Central Business district, the garage parking could be significantly impacted. The Kirkland Urban garage hosts approximately 700 stalls with the charge of \$5 for the first 0-3 hours. With the Municipal Garage and on-street parking being free and an estimated addition of over 2,000 new employees to Kirkland Urban as well visitors to all of the growing downtown businesses, free parking may need to be reassessed due to the risk of employees and customers parking at the City garage to save money. In addition, the garage has maintenance needs, both on-going and deferred, and the City is paying a third-party parking management company for services in the garage. Also, free parking is counter to one of Council's goals to reduce reliance on single occupancy vehicles.

Funds received from the 151 revenue-generating stalls in the two surface lots downtown is approximately \$350,000 per year, or roughly \$2,700 per stall per year.

If the Council desires to see more detailed revenue and expense data about downtown parking to further its analysis of the idea, staff recommends obtaining some consulting from a third party that has expertise in parking pricing and implementation options.

Staff is recommending a review as part of the 2021-2021 budget process. Any new parking fees would not be implemented until at least 2021. A preliminary projection of possible revenues and expenses is provided below, with the following assumptions:

- Both the Lake/Central and Maria Park lots are free on Sundays and holidays, and fees are charged only between 9:00 a.m. and 9:00 p.m. on weekdays and Saturday. Staff assumed the same for the additional stalls.
- The City would maintain the downtown employees parking program, meaning some stalls in the municipal garage and all stalls in the Wester lot would have limited availability to the general public for a fee.
- A fee would be charged for on-street parking between 9:00 a.m. and 9:00 p.m. Monday through Saturday; Sunday would be free.
- Staff assumed \$1.00 per hour, which is what the City charges now at two lots; this rate facilitates multiplication or division for discussing other price points.
- Projections were based upon a 50% utilization rate averaged by season and time of day; staff assumed a slight range for a drop in usage when pay-for-parking is introduced.
- Projections exclude ADA stalls, 30-minute stalls, and loading zones.
- Possible cost of pay stations may be approximately \$10,500 each depending on the menu of options available for the pay-stations. The quantity of stations assumed were:
 - Two pay stations on each of two decks in the garage
 - One pay station on each block face for on-street parking
 - One pay station at the Wester lot

Table 1: Possible Additional Annual Revenue and Expense—Downtown Parking

Location	# of Stalls	When?	Possible Annual Revenue	Possible Cost of Pay Stations
Garage— General Parking	155	Monday-Saturday 9:00 a.m. to 9:00 p.m.	\$196,000 to \$300,000	\$21,000
Garage— Employee Program	185	Weekday evenings and Saturdays only	\$85,000 to \$100,000	\$21,000
On-street	288	Monday -Saturday 9:00 a.m. to 9:00 p.m.	\$365,000 to \$470,000	\$157,500
Wester	79	Weekday evenings and Saturdays only	\$36,000 to \$47,000	\$10,500
Totals	707		\$36,000 to \$917,000	\$10,500 to \$210,000

The cost of operational expenses for the current parking program is about \$275,000 annually, on average. More investigation will be needed to evaluate the increase in on-going annual cost for a larger program. Operations to close the garage at night, provide monitoring services and an attendant after 4:00 p.m. as well as ongoing cleaning and maintenance services is estimated to cost an additional \$127,000 per year above what is being paid currently.

3. Downtown Employee Parking Program

In 2012, the City established its downtown employee parking program ("Program") to help ensure that downtown visitors and customers had the best parking options available to them rather than have them taken by downtown employees, and to encourage downtown employees to park in designated areas managed by the City. Participation in the Program currently is free but requires registration with the City. The designated parking areas are: 1) the lower level of the municipal garage, 2) the Wester lot (opened in 2017), and 3) in designated locations along Lake Avenue West. Today, there are 845 active employee permits registered.

In thinking conceptually about establishing a fee for the Program, staff thought about these four Program areas:

GOALS

Staff continues to see merit in encouraging employees to use alternative parking locations so that visitors and customers have the opportunity for more convenient parking when they come downtown. Since the City has parking facilities downtown, directing employee to them also continues to make sense.

ADMINISTRATION

To date, staff has used a rather basic method of administering the Program. Employees complete a registration form, City staff confirms employment within the boundaries of the Program (which excludes Kirkland Urban), and the participant receives a "window cling" to display on the participant's vehicle. New window clings in a different color are provided annually after the employee re-registers annually.

Staff is aware that some employees are seasonal or part-time, and it's likely that some employees leave their downtown Kirkland employment but don't report it and retain their window cling. There may be technology available that the City has not yet researched to administer the program differently so that issues like these are addressed.

ENFORCEMENT

Like administration of the Program, enforcement practices have been basic. Enforcement staff look for the window cling on cars parked in designated areas and either move on or issue citations accordingly. Using the current method, were the City to have different window clings for seasonal or part-time workers enforcement would become more difficult. Again, there may be technology in the parking industry that the City presently is unaware of that could make this easier.

FEES

The way the City administers the Program presently, as noted in the three paragraphs above, could influence the fee that might be established. An annual fee makes the most sense given the Program's current structure, though an annual fee treats year-round, part-time, and seasonal employees the same even if their benefit differs.

Further, while there are a variety of downtown jobs and employees, a meaningful percentage of those who use the Program are in the service industry. The fee should not be too high to be a burden on those who use the Program the most, yet not so low that it is a trivial amount that does not recognize the value of the City's parking resources and the service that is being provided. An additional consideration for this Program is that were the City to charge a market rate that could prove a disincentive, the goals of the Program may not be realized, and downtown employees may become more creative for parking options.

DIRECTION SOUGHT:

1. Does the Council support the proposed 5:00 a.m. to midnight hours of operation for the Peter Kirk Municipal Parking Garage, and does the Council also support increased on-site safety staffing, and revised rules and signage? A proposed ordinance is attached to amend the *Kirkland Municipal Code* to address parking regulations, prohibited conduct, trespass warnings, and the Peter Kirk Municipal Garage. Staff will return at a future meeting for action on the proposed ordinance if Council concurs with the ordinance.
2. Would the Council like to see more detailed revenue and cost information to further its evaluation of broadening the City's downtown pay-for-parking program at more City-owned locations downtown starting in 2021?
3. Is the Council interested in receiving more information about the idea of charging for the downtown employee parking program in 2021, including pricing options and ways to administer and enforce the program differently?






Attachment A: Map of City-owned Parking Facilities

Attachment B: Proposed Ordinance Related to Parking, Prohibited Conduct, Trespass, and the Peter Kirk Municipal Garage

Attachment A: Map of City-owned Parking Facilities



LEGEND

-  Central Business District
-  Pay-for-Parking lots
-  Employee Permit Parking Only
-  Mixed Free Parking and Employee Permit Only
-  Parks



ORDINANCE O-4718

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PARKING, PROHIBITED CONDUCT, TRESPASS WARNINGS AND THE PETER KIRK MUNICIPAL GARAGE.

1 WHEREAS, the Peter Kirk Municipal Garage ("Municipal
2 Garage" or "garage") is owned and operated by the City of
3 Kirkland ("City") and is located at the southwest corner of Peter
4 Kirk Park on the corner of Third Street and Kirkland Avenue in
5 downtown Kirkland; and
6

7 WHEREAS, the top, above-ground floor of the Municipal
8 Garage is used by the Kirkland Branch of the King County Library
9 System; the middle floor of the garage is available to downtown
10 shoppers, library employees and patrons, and park and pool users
11 with a four-hour parking limit; and the lower level is used by
12 permitted downtown employees until five p.m. Monday through
13 Friday and is available for public use with a five-hour parking limit
14 at all other times; and
15

16 WHEREAS, pursuant to an Interlocal Agreement ("ILA")
17 between the City and the King County Rural Library District dated
18 March 13, 1990, as amended, the City provides the Kirkland
19 Library with Municipal Garage parking spaces located on the
20 surface level and the ramp to the level below for the use of library
21 patrons and also parking on the lower parking levels for library
22 personnel and patrons in addition to the general public; and
23

24 WHEREAS, the City is responsible pursuant to such ILA to
25 enforce time restrictions governing the use of the garage in
26 accordance with a parking management program for the garage;
27 and
28

29 WHEREAS, the Municipal Garage is in "Zone B" of the public
30 works department's "Parking Guidelines for Downtown Kirkland";
31 and
32

33 WHEREAS, "Zone B" is intended to serve a balanced mix of
34 long-term and short-term parking needs with the upper level of
35 the Municipal Garage, which is intended to serve patron demand
36 for stays of less than four hours; and the lower level of the garage
37 is intended to serve library and downtown employee parking
38 during the main workday (i.e., five a.m. to five p.m.); and
39

40 WHEREAS, over time an increasing number of regulatory
41 concerns related to the public health, welfare and safety have
42 arisen at the Municipal Garage, including criminal acts such as
43 assault and vandalism; the unlawful use of drugs and alcohol;
44 overnight camping; loitering and other non-garage uses (e.g.
45 spray painting a car), the intimidation of public garage users, and
46 increased staff and maintenance costs associated with these
47 concerns; and

48 WHEREAS, it is essential for members of the public,
49 including downtown workers, library employees and patrons, to
50 feel safe in the garage environment; and

51
52 WHEREAS, it is necessary to adopt new regulations related
53 to the Municipal Garage in order to protect the public health,
54 safety and welfare pursuant to Article XI, Section 11 of the
55 Washington Constitution; and

56
57 WHEREAS, a purpose of this ordinance is to regulate hours
58 of use of the Municipal Garage and to provide for a legally sound
59 process for enabling the City to exclude from the garage those
60 individuals whose behavior is dangerous, unsafe, illegal, or
61 unreasonably disruptive to other users; and

62
63 WHEREAS, a further purpose of this ordinance to provide
64 for a specific method to generally allow for the issuance of
65 trespass warnings to such individuals, including placing limitations
66 on trespass warnings and providing procedures for such
67 individuals to promptly appeal the issuance of trespass warnings.

68
69 NOW, THEREFORE, the City Council of the City of Kirkland
70 do ordain as follows:

71
72 Section 1. Kirkland Municipal Code 12.45.010 is amended
73 to read as follows:

74
75 **12.45.010 Definitions.**

76
77 For the purpose of this chapter:

- 78
79 (1) "Central business district" means the combination of areas
80 which the city of Kirkland Zoning Code designates as CBD-1A,
81 CBD-1B, CBD-2, CBD-3 or CBD-8.
82 (2) "Central business district employee" means: (A) a person who
83 is engaged for wages, credit or other consideration, or as a
84 volunteer, for a business or nonprofit entity within the central
85 business district, including temporary workers, contractors,
86 and consultants; or (B) an employer of persons who work at
87 a location within the central business district; or (C) a
88 principal/owner of a business premises within the central
89 business district.
90 (3) "Employee-restricted parking areas" shall mean all parking
91 spaces within the Lake and Central parking lot or the Marina
92 Park parking lot that are not municipal permit parking spaces
93 and any stall not marked "permit parking" in the Peter Kirk
94 Municipal Garage parking garage located at the corner of
95 Kirkland Avenue and Third Street.
96 (4) "Municipal permit or garage parking" is parking or standing of
97 motor vehicles on property owned, leased or operated by the
98 city requiring the obtaining of permits, depositing of money
99 or use of a credit or other payment card, or compliance with

100 pavement designations for the privilege to park at that
101 location and is subject to restrictions as enacted by the city.
102 (5) "Operator" means every person who is in actual physical
103 control of a vehicle as herein defined, upon a public street or
104 highway of the city.
105 (6) "Overnight camping" means remaining in the garage at any
106 time during the hours from midnight to five a.m. the following
107 day, whether in a vehicle or otherwise.

108 (~~7~~6) "Overnight parking" means the parking of a vehicle in
109 one spot continuously for a period exceeding six hours at any time
110 during the hours from ~~ten p.m.~~ midnight of the day designated to
111 five a.m. of the following day.

112
113 (~~8~~7) "Parking payment device" means any device used to aid
114 in management and control of the parking of vehicles on city
115 streets or other rights-of-way, including pay stations.

116
117 (~~9~~8) "Parking pay station" means any electronic device
118 placed or erected adjacent to a parking space which, after deposit
119 of money or use of a credit or other payment card, dispenses a
120 proof of payment receipt to be displayed on the vehicle.

121
122 (10) "Peter Kirk Municipal Garage" means the municipal
123 garage owned by the city and located at the northeast corner of
124 Third Street and Kirkland Avenue.

125
126 (~~11~~9) "Performing their ~~his or her~~ duties" means being
127 present at a place of the person's employment anytime between
128 the hours of nine a.m. and nine p.m.

129
130 (~~12~~10) "Person" means every natural person, firm,
131 partnership, corporation, association or organization.

132
133 (~~13~~11) "Street" or "public street" includes all public ways,
134 streets, highways and off-street parking facilities owned or
135 maintained by the city.

136
137 (~~14~~12) "Vehicle" means every device capable of being
138 moved upon a public highway and in, upon, or by which any
139 person, or property, shall or may be transported or drawn upon
140 any public highway excepting devices moved by human power.
141 There is a prima facie presumption that the registered owner of a
142 violator vehicle was the person who parked such vehicle.

143
144 (15) Behavior that is "dangerous" is behavior that creates an
145 imminent and unreasonable risk of injury or harm to either
146 persons or property of another or the actor.

147
148 (16) Behavior that is "illegal" is behavior that is prohibited by
149 federal, state or city laws or regulations including, but not limited
150 to, any of the following types of behavior:

151

- 152 (a) Threatening another person by communicating either directly
153 or indirectly to another person the intent to cause bodily injury
154 in the future to the person threatened or to any other person;
155 or
156 (b) Selling or using alcohol, marijuana or drugs; or
157 (c) Threatening or harassing behavior (e.g., fighting or threatening
158 to fight, brandishing a weapon, stalking, verbally threatening to
159 harm others or their property); or
160 (d) Assault; or
161 (e) Sexual misconduct or harassment (e.g., indecent exposure,
162 offensive touching, sexual acts).

163 (17) Behavior that is "unreasonably disruptive to other users"
164 is behavior that is not constitutionally protected and that, in
165 consideration of the nature, scope, use and purpose of the parking
166 garage, unreasonably interferes with others' use and enjoyment
167 of such garage. Examples of behavior that may unreasonably
168 interfere with others' use and enjoyment of the garage include,
169 but are not limited to, any of the following:

- 170
171 (a) Use of unreasonably hostile or aggressive language or
172 gestures; or
173 (b) Unreasonably loud vocal expression or unreasonably
174 boisterous physical behavior; or
175 (c) Using electronic or other communication devices in a
176 manner that is unreasonably disruptive to others; or
177 (d) Unreasonably interfering with the free passage of staff or
178 patrons in or on the garage property; or
179 (e) Behavior that is unreasonably inconsistent with the normal
180 use for which the garage was designed and intended to be used
181 (e.g., overnight camping), provided, however, that individuals
182 experiencing homelessness will be directed to available shelter
183 beds or a different location within Kirkland where overnight
184 camping is allowed.

185
186 Section 2. Kirkland Municipal Code Section 12.45.020 is
187 amended to read as follows:

188
189 **12.45.020 Parking restrictions—Designation.**

190 The chief of police or delegate ~~or~~, the director of public works or
191 delegate, ~~or the traffic engineer~~ may from time to time designate
192 portions of streets of the city and property of the city as prohibited
193 parking areas, restricted parking zones, municipal permit or
194 garage parking, and/or parking payment device spaces. Such
195 designation shall be shown by signage or other appropriate
196 indicators. The same procedure may be followed in altering or
197 abandoning a designation relating to parking.

198
199 Section 3. A new Section 12.45.400 of the Kirkland
200 Municipal Code is added to read as follows:

201
202 **Part V. Peter Kirk Municipal Garage**
203 **12.45.400 Municipal garage use – Civil infractions.**

204 The Peter Kirk Municipal Garage is reserved for use as follows:

205 (1) The surface parking lot above the parking garage and
206 the ramp to the level below is reserved for use by library patrons
207 during the library's posted hours of operation Monday through
208 Sunday, excluding library holidays.

209
210 (2) Garage parking below the surface parking lot and the
211 ramp to the level below is reserved for members of the public,
212 including library patrons, Monday through Sunday, and between
213 the hours of five a.m. and midnight limited to four hours. Central
214 business district employees with valid city parking permits may
215 park on the lower level and the ramp to the lower level between
216 the hours of five a.m. and five p.m. Monday through Friday.
217 Permitted areas are available to the general public on weekends
218 and holidays. Parking shall be in designated areas.

219
220 (3) Garage parking at times not allowed by this section is
221 prohibited and constitutes a civil infraction in accordance with
222 KMC Section 12.45.030; provided, however, that overnight
223 parking shall not constitute a civil infraction. This penalty is in
224 addition to any other penalties imposed for the underlying
225 infraction.

226
227 Section 4. A new Section 12.45.410 of the Kirkland
228 Municipal Code is added to read as follows:

229
230 **12.45.410 Trespass warnings.**

231 Trespass warnings at the parking garage, including its surface lot.

232
233 (1) City police officers are authorized to issue a trespass
234 warning to any individual who the officer has probable cause to
235 believe has violated any city ordinance, state statute, or
236 government rule or regulation, relating to or prohibiting conduct
237 that is dangerous, illegal, or unreasonably disruptive to other
238 users of the parking garage, as defined in this chapter, while such
239 individual is on or within such garage.

240
241 (2) Trespass warnings may be delivered in person to the
242 individual or by first class mail to the individual at the individual's
243 last known address.

244
245 (3) The individual need not be charged, tried, or convicted of
246 any crime or infraction in order for the trespass warning to be
247 issued or be effective. The warning may be based upon
248 observation by a police officer or a city employee or may be based
249 upon a civilian report that would ordinarily be relied upon by police
250 officers in the determination of probable cause.

251
252 (4) If the individual:

253 (a) Has not been excluded from the parking garage by a
254 trespass warning issued within one year prior to the violation, then
255 the warning may exclude the individual from the garage for a
256 period not exceeding seven days from the date of the warning.

257 (b) Has been the subject of only one prior trespass warning
258 related to the garage issued within one year prior to the current

259 violation, then the warning may exclude the individual from the
260 garage for a period of not more than 90 days from the date of the
261 current warning.

262 (c) Has been the subject of two or more prior trespass
263 warnings related to the garage and issued within one year prior
264 to the current violation, then the warning may exclude the
265 individual from the garage for a period of not more than one year
266 from the date of the current warning.

267
268 (5) The parking garage trespass warning shall be in writing,
269 shall contain the date of issuance, shall describe the behavior that
270 is the basis for the trespass warning, shall specify the length and
271 place of exclusion, shall be signed by the issuing police officer,
272 and shall state the consequences for failure to comply. A trespass
273 warning hereunder shall not prohibit access to another city
274 property or place that is unrelated to the garage.

275
276 (6) For good cause, the city manager, or designee may
277 rescind, shorten or modify a trespass warning issued. A written
278 request for review of a trespass warning must be delivered to the
279 city clerk no later than two business days after it is issued.

280 (a) The city manager or designee will, within three business
281 days of receipt of a request for review of any parking garage
282 trespass warning that excludes the alleged individual for seven or
283 fewer days, review the decision;

284 (b) The city manager or designee will, within five business days
285 of receipt of a request for review of any trespass warning that
286 excludes the alleged individual for more than seven days, review
287 the decision;

288 (c) The city clerk will notify the alleged individual of the date,
289 time, and place or telephone number at which the review will be
290 conducted;

291 (d) The review decision shall be communicated no later than
292 two business days following the review;

293 (e) As a follow-up to verbal communication, specify how a
294 written decision will be served on the alleged individual; and

295 (f) At the end of every written decision, inform the alleged
296 individual that such individual has the right to seek judicial review
297 of the decision and that the timeframe for seeking judicial review
298 runs from the date of service of the written decision.

299
300 (7) For purposes of this section, "good cause" to rescind,
301 shorten or modify a parking garage trespass warning shall be
302 found where:

303 (a) The alleged individual demonstrates by a preponderance
304 of the evidence that such individual's conduct was intended to be
305 expressive conduct protected by the federal or state Constitutions;
306 or

307 (b) The individual would not have known and was not given
308 prior warning that the conduct in question was subject to a
309 trespass warning; or

310 (c) The trespass warning was based solely upon the statement
311 of a third party, was not observed personally by the issuing officer
312 or a city or other government employee, would not ordinarily be

313 relied upon by police officers in the determination of probable
314 cause, and the alleged individual claims that such individual did
315 not commit the action for which such individual was warned; or

316 (d) In the judgment of the city manager or designee, the
317 circumstances warrant a modification or rescission of the trespass
318 warning. The city manager or designee shall rescind the trespass
319 warning if, considering all the circumstances, the city manager or
320 designee finds that reasonable minds could differ on the question
321 of whether the conduct in question was unreasonably disruptive
322 to others at the garage at that time. The review by the city
323 manager or designee shall constitute the only city review available
324 for a trespass warning.

325
326 (8) At the review hearing, the violation must be proved by a
327 preponderance of the evidence in order to uphold the parking
328 garage trespass warning. The city manager or designee shall
329 consider a sworn report or declaration from the officer who issued
330 the trespass warning or upon whose observation the trespass
331 warning was based, without further evidentiary foundation, as
332 prima facie evidence that the individual committed the violation
333 as described. The city manager or designee may consider
334 information that would not be admissible under the evidence rules
335 in a court of law but that the city manager or designee considers
336 relevant and trustworthy. If the warning was issued because of
337 the alleged violation of any criminal law, the individual need not
338 be charged, tried, or convicted for the warning to be upheld.

339
340 (9) If the city manager or designee rescinds an exclusion, for
341 good cause or because the violation was not proved, the exclusion
342 shall not be considered a prior trespass warning for purposes of
343 subsection (4) of this section.

344
345 (10) The decision of the city manager or designee will be the
346 city's final decision. An individual seeking judicial review of the
347 city's final decision must file an application for a writ of review in
348 King County superior court within 15 days of receipt of the city's
349 final decision.

350
351 (11) The trespass warning shall remain in effect during the
352 pendency of any administrative or judicial proceeding.

353
354 (12) No determination of facts made by the city manager or
355 designee shall have any collateral estoppel effect on a subsequent
356 criminal prosecution or civil proceeding and shall not preclude
357 litigation of those same facts in a subsequent criminal prosecution
358 or civil proceeding.

359
360 (13) This section shall be enforced so as to emphasize
361 voluntary compliance with laws and garage rules and so that
362 inadvertent minor violations of this section can be corrected
363 without resort to a trespass warning.

364
365 (14) Any person who is found on the parking garage premises
366 in violation of a trespass warning issued in accordance with this

367 chapter for a period longer than seven days and who accordingly
368 has had the right to a hearing regarding the trespass warning,
369 may be arrested for trespassing, except as otherwise provided in
370 subsection (15) of this section and provided, however, that
371 nothing herein contained shall prevent an individual from being
372 removed if necessary for overnight camping or attempting to
373 remain in the garage after hours as provided for herein.

374
375 (15) The chief of police or designee may upon request
376 authorize an individual who has received a trespass warning in
377 accordance with this chapter to enter the garage to exercise such
378 constitutionally protected free speech rights if there is no other
379 reasonable alternative location to exercise such rights. Such
380 authorization must be in writing and specify the duration of the
381 authorization and any conditions thereof. The chief of police or
382 designee shall issue a decision on a request for parking garage
383 entry by the recipient of a trespass warning during a period of
384 exclusion no later than 48 hours after receipt of the request.

385
386 (16) Any constitutionally protected action or speech is
387 excluded from the prohibited behavior listed in this section.

388
389 (17) Nothing in this section limits the ability of the city to
390 concurrently enforce any other city ordinance, state statute, or
391 government rule or regulation relating to or prohibiting conduct
392 that is dangerous, illegal, or unreasonably disruptive to other
393 users of the parking garage, and the trespass warnings process
394 set forth in this section does not apply in circumstances where an
395 individual has refused to leave the parking garage after hours,
396 except as specifically otherwise provided for herein.

397
398 Section 5. If any provision of this ordinance or its
399 application to any person or circumstance is held invalid, the
400 remainder of the ordinance or the application of the provision to
401 other persons or circumstances is not affected.

402
403 Section 6. This ordinance shall be in force and effect five
404 days from and after its passage by the Kirkland City Council and
405 publication pursuant to Kirkland Municipal Code 1.08.017 in the
406 summary form attached to the original of this ordinance and by
407 this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2020.

Signed in authentication thereof this _____ day of _____, 2020.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4718

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PARKING, PROHIBITED CONDUCT, TRESPASS WARNINGS AND THE PETER KIRK MUNICIPAL GARAGE.

SECTION 1. Amends Section 12.45.010 of the Kirkland Municipal Code related to parking definitions.

SECTION 2. Amends Section 12.45.020 related to parking restrictions and designations.

SECTION 3. Adds a new Section 12.45.400 related to use of the Peter Kirk Municipal Garage.

SECTION 4. Adds a new Section 12.45.410 related to trespass warnings in the Peter Kirk Municipal Garage.

SECTION 5. Provides a severability clause for the ordinance.

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 _____ day of _____, 2020.

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

Kathi Anderson, City Clerk