

ORDINANCE O-4757

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING CHAPTER 8.09 OF THE KIRKLAND MUNICIPAL CODE ENTITLED "ANIMAL CONTROL AUTHORITY" TO CLARIFY THAT CERTAIN VIOLATIONS OF THE CODE ARE NON-TRAFFIC CIVIL INFRACTIONS; DECLARING AN EMERGENCY AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

1 WHEREAS, effective January 1, 2018, the City adopted by
2 various ordinances all of the codes, regulations, facilities,
3 equipment, employees, and contracts necessary to provide the
4 City with its own animal control services via the Animal Control
5 Authority Code, codified at KMC Ch. 8.09; and
6

7 WHEREAS, the Animal Code provided that certain code
8 violations were subject to criminal charges and certain code
9 violations were subject to civil penalties. But the Animal Code also
10 stated that all violations of the code were misdemeanors unless
11 stated otherwise; that all violations of the code were deemed
12 public nuisances; and that all violations of the code could, in
13 addition to other penalties, also be subject to a civil fine.
14 Generally, the Animal Control Officer was given authority on how
15 to charge a violation and whether or not to assess a civil fine; and
16

17 WHEREAS, the Administrative Office of the Courts ("AOC")
18 provides many services to the Kirkland Municipal Court and other
19 state-wide courts, including provision and management of the
20 Judicial Information System ("JIS"). JIS provides case
21 management automation to all levels of Washington courts,
22 including an automated system to support the daily operations of
23 the Kirkland Municipal Court, such as the processing of tickets;
24 and
25

26 WHEREAS, the City's Animal Control Officer has been
27 writing tickets for civil violations of the Animal Code and
28 submitting them to the municipal court for processing. These
29 tickets have been processed by AOC in the past as non-traffic civil
30 infractions; and
31

32 WHEREAS, the AOC recently audited the local codes in the
33 JIS system and discovered some inconsistencies with the City's
34 Animal Code. JIS will no longer process the City's civil tickets for
35 Animal Code violations until the Animal Code is changed to more
36 clearly state that such violations are charged as Class 1 civil
37 infractions as described in RCW 7.80.120, and as previously
38 adopted by the City at KMC 11.12.040; and
39

40 WHEREAS, the City Council wishes to make the changes to
41 the Animal Code suggested by the AOC as soon as possible so

42 that the civil infraction tickets already written and submitted to
43 the Court may be processed expeditiously, and so that there is no
44 confusion with the civil infraction tickets issued by the Animal
45 Control Officer going forward.

46
47 NOW, THEREFORE, the City Council of the City of Kirkland
48 do ordain as follows:

49
50 Section 1. Section 8.09.150 of the Kirkland Municipal Code
51 is amended to read as follows:

52
53 **8.09.150 License fees and penalties fines for Class 1 civil**
54 **infractions of this code.**

55 After establishing initial fees and penalties fines for Class 1 civil
56 infractions of this code by resolution, unless otherwise designated,
57 subsequent pet license fees and animal control fees and fines for
58 Class 1 civil infractions of this code shall be set by resolution of
59 the city council as deemed necessary part of the biennial budget
60 process. This provision does not affect the discretion of the Animal
61 Control Officer to assess a fine of up to two hundred and fifty
62 dollars per violation for any Class 1 civil infractions, as set forth in
63 KMC 8.09.330.

64
65 Section 2. Section 8.09.310 of the Kirkland Municipal Code
66 is hereby repealed.

67
68 Section 3. Section 8.09.320 of the Kirkland Municipal Code
69 is hereby repealed.

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71 Section 4. Section 8.09.330 of the Kirkland Municipal Code
72 is amended to read as follows:

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74 **8.09.330 Violations—Civil penalty Class 1 Civil Infraction.**

75 a. In addition to or as an alternative to any other penalty
76 provided in this chapter or by law, any person whose animal is
77 maintained in violation who violates any provision of this chapter
78 shall be charged with a Class 1 Civil Infraction per RCW 7.08.120
79 and KMC 11.12.040, incur a civil penalty in an amount not to
80 exceed one thousand two hundred and fifty dollars per violation
81 to be directly assessed by the animal control officer, except for
82 those circumstances provided in RCW 7.08.120, plus statutory
83 assessments and billable costs of the city. Each day, location,
84 violator, and incident shall constitute a separate civil infraction.
85 The officer, in a reasonable manner, may vary the amount of the
86 penalty assessed to consider the appropriateness of the penalty
87 to the nature and type of violation; the gravity of the violation;
88 the number of past and present violations committed and the
89 good faith of the violator in attempting to achieve compliance with
90 prescribed requirements or after notification of a violation.

91
92 b. Once the notice of infraction has been filed with the
93 municipal court, it shall be sent in the normal course to the animal
94 owner(s) and/or to other person(s) causing or allowing or

95 participating in the violation, and thereafter processed for court
96 proceedings in accordance with applicable rules and regulations.

97
98 Section 5. Section 8.09.400 of the Kirkland Municipal Code
99 is amended to read as follows:

100
101 **8.09.400 Violations — Public nuisances defined.**

102 All violations of this chapter are detrimental to the public
103 health, safety, and welfare and are deemed public nuisances.
104 Violations of this chapter include, but are not limited to, the
105 following:

106 (1) Any public nuisance relating to animal care and control
107 known at common law or in equity jurisprudence, including, but
108 not limited to, cruelty to animals;

109 (2) Animals running in packs;

110 (3) A dog running at large within the city;

111 (4) Any domesticated animal that enters any place where
112 food is stored, prepared, served or sold to the public, or any other
113 public building or hall. Provided, this subsection shall not apply to
114 any person using a trained and registered service animal, to
115 veterinary offices or hospitals, or to animal shows, exhibitions or
116 organized dog-training classes, or to places where the owner or
117 proprietor expressly allows the presence of certain animals;

118 (5) Any domesticated animal that habitually snaps, growls,
119 snarls, jumps at, jumps upon or otherwise threatens persons
120 lawfully using the public sidewalks, streets, alleys or other public
121 ways;

122 (6) Any animal that has exhibited vicious propensities and
123 constitutes a danger to the safety of persons or property off the
124 animal’s premises or lawfully on the animal’s premises. In addition
125 to other remedies and penalties, the provisions of this chapter
126 relating to dangerous dogs, potentially dangerous dogs, and
127 vicious animals shall apply;

128 (7) Any vicious animal or animal with vicious propensities
129 that runs at large at any time off the owner’s premises not
130 securely leashed on a line or confined and in the control of a
131 person of suitable age and discretion to control or restrain the
132 animal. In addition to other remedies and penalties, the provisions
133 of this chapter relating to dangerous dogs, potentially dangerous
134 dogs, and vicious animals shall apply;

135 (8) Any domesticated animal that howls, yelps, whines,
136 barks or makes other oral noises, in such a manner as to disturb
137 any person or neighborhood to an unreasonable degree, taken to
138 be continuous noise for a period of ten or more minutes or
139 intermittent noise that totals a period of twenty or more minutes,
140 except that such sounds made indoors in animal shelters or in
141 commercial kennels duly licensed shall be exempt;

142 (9) Any domesticated animal that enters upon a person’s
143 property without the permission of that person;

144 (10) Animals harbored, kept or maintained and known to
145 have a contagious disease, unless under the treatment of a
146 licensed veterinarian.

147

148 Section 6. Section 8.09.490 of the Kirkland Municipal Code
149 is hereby repealed.

150
151 Section 7. Section 8.09.492 of the Kirkland Municipal Code
152 is hereby repealed.

153
154 Section 8. Section 8.09.500 of the Kirkland Municipal Code
155 is amended to read as follows:

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157 **8.09.500 Dogs—Leash requirement—Exceptions.**

158 All dogs within the city limits shall be required to be on a leash,
159 as defined in Section 8.09.120, when they are off the premises of
160 the property where they reside. Provided, dogs may lawfully be
161 off leash in areas that have been designated by the city of Kirkland
162 as "off-leash" areas. Furthermore, dogs may lawfully be off leash
163 while on another's private property if the private property owner
164 or occupier has given the dog's handler permission to let the dog
165 off leash. ~~Violation of this leash provision shall be deemed a public
166 nuisance and may subject the dog's owner and/or handler to a
167 civil penalty.~~

168
169 Section 9. Section 8.09.508 of the Kirkland Municipal Code
170 is amended to read as follows:

171
172 **8.09.508 Animal waste—Removal required.**

173 (a) It shall be unlawful for any person to:

174 (1) Allow animal feces to accumulate in any open private
175 area, run, pen, shelter, or yard where animals are harbored, kept,
176 or maintained, or fail to remove and properly dispose of animal
177 feces from such areas at least once every twenty-four hours, so
178 as to prevent polluted drainage waters from entering the surface
179 or storm water system of the city. A person who violates this
180 provision shall be guilty of a misdemeanor. Nothing in this
181 provision shall be construed as prohibiting the city from pursuing
182 civil enforcement for a violation of Section KMC 15.52.090(a)
183 pursuant to Chapter 1.12 KMC.

184 (2) Fail to remove fecal matter deposited by an animal under
185 his or her ownership or control on public property or the private
186 property of another before leaving the immediate area where the
187 fecal matter was deposited.

188 (3) Fail to have in his or her immediate possession an
189 appropriately sized bag, or other proper means of disposal, to be
190 used for the removal of animal feces when accompanying an
191 animal on public property or private property of another.

192 ~~(b) Violation of the provisions listed in subsections (a)(2)
193 and (a)(3) of this section will subject the offender to a civil
194 penalty.~~

195
196 Section 10. If any provision of this ordinance or its
197 application to any person or circumstance is held invalid, the
198 remainder of the ordinance or the application of the provision to
199 other persons or circumstances is not affected.
200

201 Section 11. The City Council hereby declares that an
 202 emergency exists pursuant to RCW 35A.13.190 necessitating that
 203 this ordinance take effect immediately upon passage. Publication
 204 shall be pursuant to Section 1.08.017, Kirkland Municipal Code in
 205 the summary for attached to the original of this ordinance and by
 206 this reference approved by the City Council.

207
 208 Passed by affirmative vote of at least five members of the
 209 Kirkland City Council in open meeting this ____ day of _____,
 210 2021.

211
 212 Signed in authentication thereof this ____ day of _____,
 213 2021.
 214

 Penny Sweet, Mayor

Attest:

 Kathi Anderson, City Clerk

Approved as to Form:

 Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4757

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING CHAPTER 8.09 OF THE KIRKLAND MUNICIPAL CODE ENTITLED "ANIMAL CONTROL AUTHORITY" TO CLARIFY THAT CERTAIN VIOLATIONS OF THE CODE ARE NON-TRAFFIC CIVIL INFRACTIONS; DECLARING AN EMERGENCY AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

SECTION 1. Amends Section 8.09.150 of the Kirkland Municipal Code related to license fees and fines for Class 1 civil infractions.

SECTIONS 2 - 3. Repeals Sections 8.09.310 and 8.09.320 of the Kirkland Municipal Code.

SECTION 4. Amends Section 8.09.330 of the Kirkland Municipal Code clarifying violations as a Class 1 civil infraction.

SECTION 5. Amends Section 8.09.400 of the Kirkland Municipal Code defining public nuisance violations.

SECTION 6. Amends Section 8.09.490 of the Kirkland Municipal Code related to liability of animal owner for civil penalty and abatement costs.

SECTION 7. Repeals Section 8.09.492 of the Kirkland Municipal Code.

SECTION 8. Amends Section 8.09.500 of the Kirkland Municipal Code related to the exceptions for dog leash requirements.

SECTION 9. Amends Section 8.09.508 of the Kirkland Municipal Code related to animal waste removal requirements.

SECTION 10. Provides a severability clause for the ordinance.

SECTION 11. Establishes that an emergency exists pursuant to RCW 35A.13.190 necessitating that the ordinance take effect immediately upon passage. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code.

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 _____, 2021.

I certify that the foregoing is a summary of Ordinance 4757 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk