



**CITY OF KIRKLAND**  
**City Attorney's Office**  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3030  
www.kirklandwa.gov

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## **MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Stephanie Croll, Senior Assistant City Attorney

**Date:** March 29, 2021

**Subject:** EMERGENCY AMENDMENT TO THE ANIMAL CONTROL AUTHORITY CODE AND AMENDMENT TO THE RESOLUTION SETTING FORTH THE CITY'S ANIMAL CONTROL FEES AND CIVIL PENALTIES

## **RECOMMENDATIONS:**

City Council adopt:

- (1) An ordinance amending provisions of the Animal Control Authority Code, KMC Chapter 8.09, to authorize the Animal Control Officer to issue tickets for Class 1 Infractions, which are non-traffic infractions, for any violation of the Code, in addition to or as an alternative to any other penalty allowed by the Code or law; and
- (2) A resolution amending **Exhibit A** to R-5262, to clarify the base penalties for certain common Class 1 infractions of the Animal Control Authority Code.

These recommendations are based upon an audit of Kirkland's Code by the Administrative Office of the Courts (AOC), and AOC's determination that the Code's authorization for "civil penalties" did not clearly identify the penalties as "infractions," which can be processed by the municipal court, and simple civil fines that may only be collected through civil measures, such as through a hearing examiner's hearing. These code changes are recommended so that all civil penalties for violation of the City's Animal Code can be processed through the municipal court. Further explanation is set forth below.

## **BACKGROUND DISCUSSION:**

Prior to 2018, the City contracted with King County for animal control services. In 2017, over the course of several months, the City Council adopted ordinances setting up the City's own animal control authority, which became fully effective on January 1, 2018.

On August 2, 2017, Council adopted O-4591, O-4592, O-4593 and Res. 5262, which accomplished the following:

- O-4591 – Authorized Animal Control Officers and authorized the City Manager to enter into animal services contracts;

O-4592 – Adopted definitions and authorized Council to set pet licensing fees, fines and penalties and amend them via resolution;

O-4593 – Amended Parks Code to allow dogs to be off-leash in designated parks at designated times; and

R-5262 – Established pet licensing fees, fines and penalties.

On October 3, 2017, Council adopted O-4608 and O-4609, which accomplished the following:

O-4608 – Adopted by reference certain provisions of the Revised Code of Washington and the Washington Administrative Code with regard to animal care, control and services; and

O-4609 – Adopted regulations applicable to kennels, hobby kennels, catteries, hobby catteries, grooming services, pet shops and private animal placement permits (required for private fostering of animals).

On October 17, 2017, Council adopted O-4612, which accomplished the following:

O-4612 - Adopted the enforcement, penalties and procedures portion of the Code, providing that all violations of the Code are deemed public nuisances; also that unless otherwise stated, all violations of the chapter are misdemeanors; and that in addition to other penalties provided by the City Code or any law (including criminal charges and penalties), the animal control officer could impose a "civil penalty" of up to \$1,000.

The language in this ordinance is the primary area where the AOC is requiring clarification language to change "penalty" to "infraction" for the municipal court to process non-traffic, non-criminal infractions related to animal control.

On November 8, 2017, Council adopted O-4614, which accomplished the following:

O-4614 - Adopted regulations regarding nuisances, orders to abate nuisances, and appeal procedures. Also adopted regulations making cruelty to animals a criminal offense, and defining procedures regarding vicious animals, dangerous dogs, and potentially dangerous dogs.

On November 21, 2017, Council adopted O-4622, which accomplished the following:

O-4622 - Adopted regulations requiring (i) animals to be on leashes, (ii) rabies vaccinations, (iii) persons to report any animal bites, and (iv) persons to pick up animal waste.

***Current issue with processing civil fines in municipal court:***

Until recently, the animal control officer has been issuing tickets for civil penalties consistent with R-5262, such as a \$25 ticket for a first time off-leash violation. These tickets were processed through the Kirkland Municipal Court. Recently, however, the City's tickets for civil penalties under the animal code have been rejected by the Administrative Office of the Courts.

The Administrative Office of the Courts (AOC) provides support for most all Washington courts through a wide range of services intended to promote the efficient administration of justice. AOC operates under the direction of the Chief Justice of the Supreme Court and management from the State Court Administrator. AOC provides many services, including maintenance of the Judicial Information System.

The Judicial Information System (JIS) is the primary information system for courts in Washington. It provides case management automation to appellate, superior, limited jurisdiction and juvenile courts. Its stated two-fold purpose is: (1) to automate and support the daily operations of the courts, and (2) to maintain a statewide network connecting the courts and partner criminal justice agencies to the JIS database. It serves as a statewide clearinghouse for criminal history information, domestic violence protection orders and outstanding warrants. The benefits are the reduction of the overall cost of automation and access to accurate statewide history information for criminal, domestic violence, and protection order history.

For the Kirkland Municipal Court Administrator to process the City's civil penalty tickets issued under the Animal Code, they must be entered into JIS. To date they have been entered as "non-traffic infractions," and JIS has accepted and processed them as such in the past.

Recently, however, the AOC did an audit of almost every community's local codes in JIS and end-effective dated some of them, including the City's Animal Control Authority Code. AOC did this without the City's knowledge. When the City's Court Administrator requested that the City's Animal Control Authority Code be reentered into JIS she was informed that AOC had audited and reviewed Kirkland's Animal Code and determined that it was unclear whether tickets issued for civil penalties, such as off-leash violations, were being charged as Class 1 civil infractions pursuant to RCW 7.80.120. AOC further informed the City that only civil penalties charged as civil infractions could be processed through the municipal court. Although the City had previously adopted RCW 7.80.120 per KMC 11.12.040, it had not linked the civil infraction code to our Animal Code, Ch. 8.09 KMC.

The City Council, in adopting the various ordinances that make up the Animal Code, had previously determined that tickets for civil penalties should be processed through the municipal court, not in a civil manner, such as through the hearing examiner system. Although AOC has allowed the City to do this in the past, that has now changed. Until the City clarifies its Code with regard to civil penalties, AOC will not allow any further tickets to be entered into JIS and the City's tickets cannot be processed. Currently, the Court Administrator at the municipal court indicates that approximately ten (10) tickets cannot currently be processed through JIS.

The following KMCs need to be amended in order to provide the clarification required by AOC:

- 8.09.150 – License fees and penalties. **(O-4592)**
- 8.09.310 – Violations – Deemed nuisance – Abatement. **(O-4612)**
- 8.09.320 – Violations – Misdemeanor – Penalty. **(O-4612)**
- 8.09.330 – Violations – Civil penalty. **(O-4612)**
- 8.09.400 – Public nuisances defined. **(O-4614)**
- 8.09.490 – Civil penalty and abatement costs – Liability of owner. **(O-4614)**
- 8.09.492 – Costs of enforcement action. **(O-4614)**
- 8.09.500 – Dogs – Leash requirement – Exceptions. **(O-4622)**
- 8.09.508 – Animal waste – Removal required. **(O-4622)**

***Current issue with amount of civil penalties assessed by the Animal Control Officer:***

A separate issue has also come to light as a result of AOC's recent audit. As a matter of state law, for every ticket written and processed through the Washington court system, additional fees are assessed, such as a public safety and education assessment (PSEA). The PSEAs are described in [RCW 3.62.090](#). PSEAs are in addition to any other fines, penalties, or forfeitures and must be imposed and collected by all courts organized under Title [35](#) RCW on anything other than parking infractions.

In JIS, PSEAs are included in the amount designated to go to the "State General Fund." This amount is 105% of the base penalty. For instance, if the City determines that a civil fine of \$50 should apply to a certain violation of the Animal Code and a ticket is written for \$50, then the breakdown is as follows:

Base Civil Penalty: \$24.00 (this amount, less some additional fees, goes to the City)  
State General Fund: \$26.00  
**Total: \$50.00**

Generally, this breakdown can also be visualized as follows: approximately 48% of the total fee goes to the City and approximately 52% goes to the State. Thus, if, for instance, the City wants to collect approximately \$50, then the ticket would have to be written for a total of \$103:

Base Civil Penalty: \$50.00 (this amount, less some additional fees, goes to the City)  
State General Fund: \$53.00  
**Total: \$103.00**

At this time, staff is not proposing to change the amount of the civil penalties assessed for certain violations of the Animal Code, such as \$25 for a first-time violation of the leash requirement. Council can view our codes and fees on Ex. A to the amended resolution, attached. These fees were originally set as deterrents, to help catch the public's attention and educate them about the rules regarding pets in Kirkland, not as revenue. If, however, Council would like to revisit the amount of fees on Ex. A, staff can bring this issue back to them.

***Conclusion***

Amend Ordinances – The Ordinance proposing amendments to some of the original Animal Code ordinances clarifies that civil violations of the Code are deemed Class 1 Civil Infractions (non-traffic infractions) that should be processed through the municipal court. The proposed amendments to the above-listed codes will address AOC's concerns and allow the City's Class 1 Civil Infraction tickets to be easily processed in the future.

Amend Exhibit A to Prior Resolution - The proposed amendments to Exhibit A of R-5262 clarify which violations are subject to a Class 1 Civil Infraction per RCW 7.80.120, and adjusts the maximum fines and penalties per the maximums allowed under RCW 7.80.120. Should the Council wish to change the violation amounts assessed, staff can bring this issue back.

Attachments: Draft Amended Exhibit A  
Ordinance and Publication Summary  
Resolution and Exhibit A to Resolution

**EXHIBIT A**

**FIRST AMENDED  
KIRKLAND POLICE DEPARTMENT  
ANIMAL CONTROL AUTHORITY  
PET LICENSE FEES AND PENALTIES SCHEDULE**

**I. Pet License fees and penalties.**

A. The following animal license and registration fees apply:

- |   |           |
|---|-----------|
| 1. Pet license - dog or cat   |           |
| a. Unaltered  | \$60.00   |
| b. Altered  | \$30.00   |
| 2. Juvenile pet license – dog or cat                                    | \$15.00   |
| 3. Discounted pet license – dog or cat                                  | \$15.00   |
| 4. Replacement tag  | \$5.00    |
| 5. Exotic pet   |           |
| a. New  | \$500.00  |
| b. Renewal  | \$250.00  |
| 6. Service animal/Guide Dogs  | no charge |
| 7. K-9 police dog   | no charge |
| 8. The following late fees shall apply to license renewal applications: |           |
| a. received 45 to 90 days following license expiration                  | \$15.00   |
| b. received 90 to 135 days following license expiration                 | \$20.00   |
| c. received more than 135 days following license expiration             | \$30.00   |
| d. received more than 365 days following license expiration             | \$30.00   |
- plus license fee(s) for any  
years(s) the pet was unlicensed

B. The following business and activity permit fees apply:

- |  |           |
|--|-----------|
| 1. Hobby cattery                                   | \$50.00   |
| 2. Hobby kennel                                    | \$50.00   |
| 3. Combined hobby kennel and hobby cattery license | \$75.00   |
| 4. Private animal placement permit                 | no charge |

**II. Class 1 civil infractions.**

CA. The following ~~civil penalties shall be assessed~~ violations are Class 1 civil infractions, non-traffic, and shall be assessed the following penalties:

- |  |  |
|--|--|
| 1. <del>Civil penalties infractions:</del> General     |  |
| a. No previous similar code violation within one year  | \$50.00  |
| b. One previous similar code violation within one year | \$100.00   |
| c. Two or more similar code violations within one year | Double the rate of<br>the previous penalty,<br>up to a maximum of<br><del>\$1,000.00</del> <u>\$250.00</u> |

2. Civil <del>penalties</del> <u>infractions</u> : Vicious animal or animal cruelty violations	
a. First violation within one year	<del>\$500.00</del> <u>\$250.00</u>
b. Subsequent violations within one year	<del>\$1,000.00</del> <u>\$250.00</u>
3. Civil <del>penalties</del> <u>infractions</u> : Dog leash law violations	
a. First violation within one year	\$25.00
b. Additional violations within one year	\$50.00
4. Civil <del>penalties</del> <u>infractions</u> : Animal abandonment	<del>\$500.00</del> <u>\$250.00</u>
5. Civil <del>penalties</del> <u>infractions</u> : Unlicensed cat or dog	
a. Altered cat or dog	\$125.00
b. Unaltered cat or dog	\$250.00

**III. Costs and fees recoverable.**

~~D~~A. The following service fees apply

1. Impound or redemption of pet from City of Kirkland	
a. First impound within one year	\$45.00
b. Second impound within one year	\$85.00
c. Third impound within one year	\$125.00
2. All other services	Costs Incurred