



CITY OF KIRKLAND
Department of Parks & Community Services
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Lynn Zwaagstra, Director of Parks and Community Services
John Lloyd, Deputy Director of Parks and Community Services
Heather Lantz-Brazil, Management Analyst

Date: September 7, 2021

Subject: UPDATE TO MUNICIPAL CODE 11.80 ADDRESSING NOISE IN PARKS

RECOMMENDATION

That the City Council approves changes to the Park Rules as defined in the [Kirkland Municipal Code \(KMC\) 11.80](#) to address recent concerns about inequity in how the rules impact buskers.

BACKGROUND DISCUSSION

Recently there have been several complaints about buskers in parks. Complaints have come from park users and buskers alike. Park users have complained about the noise disturbing them while visiting the park, while buskers complain about other buskers interfering with their ability to play music in the park. This has led to conflicts between buskers about who has the right to play music in a given space, resulting in calls to the Police Department (KPD) and Parks and Community Services (PCS) staff.

At the request of the Council, staff presented a summary of the issue at the July 6, 2021 City Council meeting. Due to the complexity of the issue at hand and the legal issues surrounding regulating busking activities, staff presented multiple potential options for Council to consider including short-term and long-term options. Short-term solutions included disallowing busking in parks and/or updating the KMC to address noise related issues in parks. The long-term solution presented was to further study the legalities and logistics of regulating busking and/or to create a permit process. Council recommended both the short and long-term options.

For short term solutions, staff turned off power to the Marina Park power outlets, rendering them useless for busking or any other activity not planned or permitted by the City. Staff are also proposing a small change to KMC 11.80 to bring it in line with similar noise regulations found in [KMC 11.84A.070](#). Staff will continue to study/evaluate options related to regulating busking and will provide Council with further recommendations at a later time.

Busking is considered a free speech activity, and parks are generally considered to be traditional public forums where individual expression is protected under the free speech clause of the first amendment, regulations need to be carefully crafted to ensure the content of the speech/performance is not what is being regulated. Staff recommend strengthening KMC

11.80.090 by adding defined limits for sound as found in KMC 11.84A.070. The new language prohibits any noise that may be heard 50 feet or more, regardless of the source. This will regulate noise in parks equally, regardless of the source of the noise. Just as a speaker may produce excessive noise, so too might a musical instrument without amplification. However, the language still retains the prohibition on amplification without a permit. Amplified sound is much more available due to current technology and more likely to exceed the 50-foot sound limit. Staff's assessment is that eliminating the amplification restraint will likely increase the number of complaints and conflicts.

By setting 50-foot limits for all noise the proposed code is more equitable and more easily enforced. Additionally, the proposed updates may help overcrowded performance locations and excessive volume conflicts by setting clear limits for all park users and buskers.

In its current form, KMC 11.80.090 addresses "certain vocations and loudspeakers" in parks. The code prohibits selling, soliciting, or peddling in a park without a permit as well as the use of any loudspeaker or sound amplification device without a permit. Staff recommend moving the restriction on selling, soliciting, and peddling be incorporated with KMC 11.80.100 - Business activities in parks, and to update the title of KMC 11.80.090 to "Public disturbance noises in parks." The proposed code changes would read as follows:

11.80.090 Public disturbance noises in parks.

It is unlawful for any person to cause a sound that is a public disturbance noise so as to unreasonably disturb the peaceful enjoyment of public park space. It is also unlawful to operate or use any loudspeaker or sound amplification devices in any park without first obtaining a written permit from the director. Any noise that can be heard 50 feet or more from the source be considered a public disturbance noise regardless of use of amplification or source. Sources of potentially prohibited noise include, but are not limited to musical instruments, radios, stereos, speakers, bullhorns, amplifiers, horns, sirens, and voice (including singing, shouting, yelling and whistling).

11.80.100 Business activity in parks.

It is unlawful to sell, solicit or peddle in any park without first obtaining a written permit from the director. It is unlawful to conduct any type of business activity in any park without first entering into a concession contract according to the rules and regulations of the parks and community services department. As used in this section, "business activity" shall include, but not be limited to, the following:

- (1) Sale of food, beverages or merchandise; or
- (2) Providing classes or other forms of instruction for a fee or other valuable consideration; or
- (3) Use of park facilities for advertising any business, product, or service.

NEXT STEPS:

The Parks & Community Services Department plans to review all PCS related sections of the KMC and will bring forward a comprehensive code update to City Council in the future. This will include defining the rules and regulations associated with busking. As busking is an issue that impacts more than just PCS, this will likely fall outside of KMC 11.80.

Attachment: Ordinance

ORDINANCE O-4765

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO NOISE IN PARKS AND AMENDING SECTION 11.80.090 AND SECTION 11.80.100 OF THE KIRKLAND MUNICIPAL CODE.

1 WHEREAS, Kirkland Municipal Code ("KMC") Section
2 11.80.090 relates to certain vocations and loudspeakers, and KMC
3 Section 11.80.100 relates to business activity in parks; and
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5 WHEREAS, Parks and Community Services recommend that
6 KMC Section 11.80.090 be renamed to "Public disturbance noises
7 in parks" and be amended to move the restriction on selling,
8 soliciting, and peddling to KMC Section 11.80.100; and
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10 WHEREAS, eliminating the prohibition on the use of
11 speakers or amplification devices; and
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13 WHEREAS, setting limits for noise, regardless of the source,
14 the proposed code will be more equitable and more easily
15 enforced.
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17 NOW, THEREFORE, the City Council of the City of Kirkland
18 do ordain as follows:
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20 Section 1. Kirkland Municipal Code Section 11.80.090 is
21 amended to read as follows:
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23 **11.80.090 ~~Certain vocations and loudspeakers prohibited~~**
24 **Public disturbance noises in parks.**

25 ~~It is unlawful to sell, solicit or peddle in any park without first~~
26 ~~obtaining a written permit from the director. It is also unlawful to~~
27 ~~operate or use any loudspeaker or sound amplification devices in~~
28 ~~any park without first obtaining a written permit from the director~~
29 ~~for any person to cause a sound that is a public disturbance noise~~
30 ~~so as to unreasonably disturb the peaceful enjoyment of public~~
31 ~~park space. It is also unlawful to operate or use any loudspeaker~~
32 ~~or sound amplification devices in any park without first obtaining~~
33 ~~a written permit from the director. Any noise that can be heard~~
34 ~~50 feet or more from the source be considered a public~~
35 ~~disturbance noise regardless of use of amplification or source.~~
36 ~~Sources of potentially prohibited noise include, but are not limited~~
37 ~~to musical instruments, radios, stereos, speakers, bullhorns,~~
38 ~~amplifiers, horns, sirens, and voice including singing, shouting,~~
39 ~~yelling and whistling.~~
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41 Section 2. Kirkland Municipal Code Section 11.80.100 is
42 amended to read as follows:

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11.80.100 Business activity in parks.

It is unlawful to sell, solicit or peddle in any park without first obtaining a written permit from the director. It is unlawful to conduct any type of business activity in any park without first entering into a concession contract according to the rules and regulations of the parks and recreation department therefor with the city. As used in this section, "business activity" shall include, but not be limited to, the following:

- (1) Sale of food, beverages or merchandise;
- (2) Providing classes or other forms of instruction for a fee or other valuable consideration; or
- (3) Use of park facilities for advertising any business, product or service.

Section 3. 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 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2021.

Signed in authentication thereof this ____ day of _____, 2021.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney