

ORDINANCE NO. 4280

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE CONSOLIDATION OF VARIOUS CITY CODE ENFORCEMENT PROCESSES INTO A SINGLE UNIFORM PROCESS.

WHEREAS, the City of Kirkland ("City") has a number of code enforcement processes in the Kirkland Municipal Code ("KMC") and the Kirkland Zoning Code ("KZC") for various types of code violations; and

WHEREAS, the City would like to consolidate the various code enforcement processes into a single code enforcement chapter in the KMC;

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

Section 1. A new Chapter 1.12 of the Kirkland Municipal Code, entitled "Code Enforcement," is hereby adopted to read as follows:

1.12.010 Purpose.

The purpose of this chapter is to establish an efficient system to enforce the regulations of the city, to provide an opportunity for a prompt hearing and decision on alleged violations of these regulations, and to establish monetary penalties for violations.

1.12.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a civil violation by such means, in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Act" means doing or performing something.

C. "Applicable department director" means the director of the department or his or her designee.

D. "Civil violation" means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation. Traffic infractions issued pursuant to KMC Title 11 are specifically excluded from the application of this chapter.

E. "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or

use of any land above, at or below ground or water level, and all acts governed by a city regulation.

F. "Emergency" means a situation which in the opinion of the applicable department director requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.

G. "Hearing examiner" means the Kirkland hearing examiner and the office thereof established pursuant to Chapter 3.34 of this Code.

H. "Omission" means a failure to act.

I. "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

J. "Person responsible for the violation" means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission which is a civil violation or causes or permits a civil violation to occur or remain upon property in the city, and includes but is not limited to owner(s), lessor(s), tenant(s), or other person(s) entitled to control, use and/or occupy property where a civil violation occurs. For violations of the City sign regulations, this definition includes, but is not limited to, sign installers/posters, sign owners, and any other persons who cause or participate in the placement of a sign in a manner that constitutes a civil violation. For violations of City tree regulations, this definition includes any person who caused or participated in the removal of a tree in a manner that constitutes a civil violation.

K. "Regulation" means and includes the following, as they now exist or are hereafter amended:

1. KMC Title 23 (Kirkland Zoning Code);
2. KMC Title 21 Building and Construction (including codes adopted by reference);
3. KMC Chapter 15.52 (Surface Water Management)
4. KMC Title 29 (Land Surface Modifications)
5. KMC Chapter 19.04 (Obstructing Streets and Sidewalks)
6. KMC Chapter 11.76 (Junk Vehicles)
7. KMC Chapter 11.24 (Nuisance)
8. The terms and conditions of any permit or approval issued by the city, or any concomitant agreement with the city.

L. "Repeat violation" means a violation of the same regulation in any location by the same person for which voluntary compliance

previously has been sought within two years or a notice of civil violation has been issued within two years.

M. "Violation" means an act or omission contrary to a city development regulation including an act or omission at the same or different location by the same person and including a condition resulting from such act or omission.

1.12.030 Voluntary correction.

A. **Applicability.** This section applies whenever the applicable department director determines that a violation of a regulation has occurred or is occurring.

B. **General.** The applicable department director shall make a reasonable attempt to secure voluntary correction by contacting the person responsible for the violation where possible, explaining the violation and requesting correction.

C. **Issuance of Voluntary Correction Agreement.** A voluntary correction agreement may be entered into between the person responsible for the violation and the city, acting through the applicable department director.

1. **Content.** The voluntary correction agreement is a contract between the city and the person responsible for the violation under which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

a. The name and address of the person responsible for the violation; and

b. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and

c. A description of the violation and a reference to the provision(s) of the city ordinance or regulation which has been violated; and

d. The necessary corrective action to be taken, and a date or time by which correction must be completed; and

e. An agreement by the person responsible for the violation that the city may abate the violation and recover its costs and expenses and assess a monetary penalty pursuant to this chapter from the person responsible for the violation if terms of the voluntary correction agreement are not met; and

f. An agreement that by entering into the voluntary correction agreement the person responsible for the violation waives the right to an administrative appeal of the violation and/or the required corrective action.

2. Right to a Hearing Waived. The person responsible for the violation waives the right to an administrative appeal of the violation and the required corrective action upon entering into a voluntary correction agreement.

3. Extension – Modification. An extension of the time limit for correction or a modification of the required corrective action may be granted by the applicable department director if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction under the original conditions unattainable.

4. Abatement by the City. The city may abate the violation in accordance with KMC 1.18.060 if the terms of the voluntary correction agreement are not met.

5. Collection of Costs. If the terms of the voluntary correction agreement are not met the person responsible for the violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with KMC 1.12.040, plus all costs and expenses of abatement, as set forth in KMC 1.12.060.

1.12.040 Notice of civil violation.

A. Issuance.

1. When the applicable department director determines that a violation has occurred or is occurring, and is unable to secure voluntary correction, pursuant to KMC 1.12.030, the applicable department director may issue a notice of civil violation to the person responsible for the violation.

2. The applicable department director may issue a notice of civil violation without having attempted to secure voluntary correction as provided in KMC 1.12.030 under the following circumstances:

- a. When an emergency exists;
- b. When a repeat violation occurs;
- c. When the violation creates a situation or condition which cannot be corrected;
- d. When the person knows or reasonably should have known that the action is in violation of a city regulation.

B. Content. The notice of civil violation shall include the following:

1. The name and address of the person responsible for that violation; and
2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
3. A description of the violation and a reference to the provision(s) of the city regulation which has been violated; and
4. The required corrective action and a date and time by which the correction must be completed after which the city may abate the unlawful condition in accordance with KMC 1.12.060 and the hearing examiner's order; and
5. The date, time and location of a hearing before the hearing examiner which will be at least 10 days from the date the notice of civil violation is issued; and
6. A statement indicating that the hearing will be canceled and no monetary penalty will be assessed if the applicable department director approves the completed, required corrective action at least 48 hours prior to the hearing; except, that this statement need not be included where the violation constitutes a repeat violation or the violation creates a situation or condition which cannot be corrected; and
7. A statement that the costs and expenses of abatement incurred by the city pursuant to KMC 1.12.060 and a monetary penalty in an amount per day for each violation as specified in subsection (E) of this section may be assessed against the person to whom the notice of civil violation is directed as specified and ordered by the hearing examiner.

C. Service of Notice. The applicable department director shall serve the notice of civil violation upon the person to whom it is directed, either personally or by mailing a copy of the notice of civil violation to such person at their last known address. If the person to whom it is directed cannot after due diligence be personally served within King County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the notice of civil violation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting the facts showing that due diligence was used in attempting to serve the person personally or by mail.

D. Extension. No extension of the time specified in the notice of civil violation for correction of the violation may be granted, except by order of the hearing examiner.

E. Monetary Penalty – The amount of the monetary penalty per day or portion thereof for each violation is as follows:

1. First violation: \$100.00;
2. Second violation: \$200.00;
3. Third violation: \$300.00;
4. Additional violation in excess of three: \$500.00.

The hearing examiner may double the monetary penalty schedule if the violation was a repeat violation. In determining the amount of the monetary penalty for repeat violations, the hearing examiner shall consider the factors set forth in KMC 1.12.050(D)(4).

F. Continued Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of civil violation was issued of the duty to correct the violation.

G. Collection of Monetary Penalty.

1. The monetary penalty constitutes a personal obligation of the person to whom the notice of civil violation is directed. Any monetary penalty assessed must be paid to the city within 10 calendar days from the date of mailing of the hearing examiner's decision or a notice from the city that penalties are due.

2. The city attorney or his/her designee is authorized to take appropriate action to collect the monetary penalty. The City may contract with a collection agency for this purpose.

1.12.050 Hearing before the hearing examiner.

A. Notice. A person to whom a notice of civil violation is issued will be scheduled to appear before the hearing examiner not less than 10 calendar days after the notice of civil violation is issued.

B. Prior Correction of Violation or Payment of Monetary Penalty. Except in the case of a repeat violation or a violation which creates a situation or condition which cannot be corrected, the hearing will be canceled and no monetary penalty will be assessed if the applicable department director approves the completed required corrective action at least 48 hours prior to the scheduled hearing.

C. Procedure. The hearing examiner shall conduct a hearing on the civil violation pursuant to the rules of procedure of the hearing examiner. The applicable department director and the person to whom the notice of civil violation was directed may participate as

parties in the hearing and each party may call witnesses. The city shall have the burden of proof to demonstrate by a preponderance of the evidence that a violation has occurred and that the required corrective action, if applicable, is reasonable. The determination of the applicable department director as to the need for the required corrective action shall be accorded substantial weight by the hearing examiner in determining the reasonableness of the required corrective action.

D. Decision of the Hearing Examiner.

1. The hearing examiner shall determine whether the city has established by a preponderance of the evidence that a violation has occurred and that the required correction is reasonable and shall affirm, vacate, or modify the city's decisions regarding the alleged violation and/or the required corrective action, with or without written conditions.

2. The hearing examiner shall issue an order to the person responsible for the violation which contains the following information:

- a. The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision;
- b. The required corrective action;
- c. The date and time by which the correction must be completed;
- d. The monetary penalties assessed based on the criteria in KMC 1.12.050(D)(3);
- e. The date and time after which the city may proceed with abatement of the unlawful condition if the required correction is not completed.

3. **Assessment of Monetary Penalty.** Monetary penalties assessed by the hearing examiner shall be in accordance with the monetary penalty schedule in KMC 1.12.040. The hearing examiner shall have the following options in assessing monetary penalties:

- a. Assess monetary penalties beginning on the date the notice of civil violation was issued and thereafter; or
- b. Assess monetary penalties beginning on the correction date set by the applicable department director or an alternate correction date set by the hearing examiner and thereafter; or
- c. Assess no monetary penalties.

4. Determining Monetary Penalty. In determining the monetary penalty assessment, the hearing examiner shall consider the following factors:

- a. Whether the person responded to staff attempts to contact the person and cooperated with efforts to correct the violation;
- b. Whether the person failed to appear at the hearing;
- c. Whether the violation was a repeat violation;
- d. Whether the person showed due diligence and/or substantial progress in correcting the violation;
- e. Whether a genuine code interpretation issue exists; and
- f. Any other relevant factors.

5. Effect of Repeat Violations. The hearing examiner shall assess a monetary penalty for each repeat violation as set forth in KMC 1.12.040.

6. Notice of Decision. The hearing examiner shall mail a copy of the decision to the appellant and to the applicable department director within 10 working days of the hearing.

E. Failure to Appear. If the person to whom the notice of civil violation was issued fails to appear at the scheduled hearing, the examiner will enter an order finding that the violation appeared and assessing the appropriate monetary penalty. The city will carry out the hearing examiner's order and recover all related expenses, plus the cost of the hearing and any monetary penalty from that person.

F. Appeal to Superior Court. An appeal of the decision of the hearing examiner must be filed with superior court within 21 calendar days from the date the hearing examiner's decision was mailed to the person to whom the notice of civil violation was directed, or is thereafter barred.

1.12.060 Abatement by the city.

A. The city may abate a condition which was caused by or continues to be a civil violation when:

1. The terms of voluntary correction agreement pursuant to KMC 1.12.030 have not been met; or
2. A notice of civil violation has been issued pursuant to KMC 1.12.040 and a hearing has been held pursuant to KMC 1.12.050 and the required correction has not been completed by the date specified in the hearing examiner's order; or

3. The condition is subject to summary abatement as provided for in subsection B of this Section.

B. Summary Abatement. Whenever any violation of a regulation causes a condition the continued existence of which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it shall be given to the person responsible for the violation as soon as reasonably possible after the abatement.

C. Authorized Action by the City. Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

D. Recovery of Costs and Expenses. The costs, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city at the permit center within 10 calendar days. The term "incidental expenses" includes but shall not be limited to personnel costs, both direct and indirect, including attorney's fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing.

E. Interference. No person shall obstruct, impede, or interfere with the city or its agents, or with any person who owns, or holds any interest or estate in any property, in performing any tasks necessary to correct the violation.

1.12.070 Stop work orders and orders to cease and desist.

A. Issuance of Order. Whenever the applicable department director finds any activity is being conducted or work being performed without a permit or in a manner contrary either to the provisions of the Kirkland Zoning Code or Kirkland Municipal Code, including any of the technical codes adopted by reference in KMC Chapter 21, the applicable department director is authorized to issue a stop work order or order to cease and desist. The order shall be in writing and shall be given to the owner or occupant of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order or order to cease and desist, the cited work or activity shall immediately cease. The order shall state the reason for the order, and the conditions under which the cited work or activity will be permitted to resume.

B. Fees and Penalties. The applicable department director is authorized to assess a special investigation fee for the issuance of a stop work order or order to cease and desist based on the costs to the City of investigation and enforcement of the order. Any person who shall continue any work or activity on the property after having been served with a stop work order or order to cease and desist (except such work as that person is directed to perform to remove a violation or unsafe condition) shall be subject to penalties as provided under this Chapter and as otherwise prescribed by law. A stop work order or order to cease activity may be appealed in the same manner and pursuant to the same provisions as a Notice of Civil Violation under this Chapter.

1.12.080 Entry to buildings and premises – Warrants.

Whenever necessary to make an inspection to determine whether a civil violation has occurred or is occurring, or to enforce any provision of the Kirkland Zoning Code or Kirkland Municipal Code, or regulation issued thereunder, violation of which is a civil violation under this chapter, the applicable department director or his designee may enter any building or premises at any reasonable time, provided if such building or premises is occupied he shall first present credentials and demand entry; and if such building or premises is not occupied, he shall first make a reasonable effort to locate the owner or other person having charge of the building or premises and demand entry. If such entry is refused, or the owner or other person having charge of the building or premises cannot be located, the applicable department director or his designee shall have recourse to every remedy provided by law to secure entry, including recourse to the district or superior court for issuance of a warrant authorizing such entry and inspection.

1.12.090 Additional enforcement procedures.

The provisions of this chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by the Kirkland Municipal Code except as precluded by law.

1.12.100 Special provisions relating to enforcement of tree regulations.

A. General Requirements. This Section applies to all trees in the City, including private property trees, public property trees and street trees. Enforcement shall be conducted in accordance with procedures set forth in this Chapter. Special enforcement provisions related to tree conservation are set forth in this Section.

B. Authority. It shall be the duty of the applicable department director to administer the provisions of this Section.

C. Cease and Desist. The applicable department director may issue a notice to cease and desist using the procedure set forth in this

Chapter if he or she finds that a violation of this code has occurred. Continued illegal tree activity following issuance of a cease and desist from the City for the tree activity shall result in fines of \$1,000 per day of continued activity.

D. Stop Work Order. If a violation of Chapter 95 of the Kirkland Zoning Code or an approved Tree Retention Plan occurs on property on which work is taking place pursuant to a City of Kirkland development or building permit, the Building Official may suspend some or all of the work as appropriate through issuance of a stop work order. The Building Official shall remove the stop work order when the City determines that the violation has been corrected or when the City has reached an agreement with the violator regarding rectification of the violation. Any stop work order issued under this section may be appealed using the procedures set forth in this Chapter.

E. Civil Penalty for Violations of the Tree Code:

1. A person who fails to comply with the requirements of Kirkland Zoning Code Chapter 95 or the terms of a permit issued thereunder, who undertakes an activity regulated by this chapter without obtaining a permit, or fails to comply with a cease and desist or stop work order issued under this chapter shall also be subject to a civil penalty as set forth in the following Table. Each unlawfully removed or damaged tree shall constitute a separate violation.

2. Any person who aids or abets in the violation shall be considered to have committed a violation for purposes of the civil penalty.

3. The amount of the penalty shall be assessed in accordance with Table 95.55.1. The applicable department director may elect not to seek penalties if the he or she determines that the circumstances do not warrant imposition of civil penalties in addition to restoration.

Types of Violations	Allowable Fines per Violation
1. Removal of tree(s) approved to be removed, but prior to final tree plan approval or issuance of a City tree removal permit	\$100.00 per tree
2. Removal or damage of tree(s) that	\$1,000 per tree

<p>are or would be shown to be retained on an approved tree plan or any other violation of approved tree protection plan</p>	
<p>3. Removal of tree(s) without applying for or obtaining a required City permit</p>	<p>\$1,000 per tree</p>

F. Tree Restoration:

1. Violators of Kirkland Zoning Code Chapter 95 or of a permit issued thereunder shall be responsible for restoring unlawfully damaged areas in conformance with a restoration plan approved by the applicable department director. The restoration plan shall provide for repair of any environmental and property damage and restoration of the site. The goal of the restoration plan shall be a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation. In cases where the violator intentionally or knowingly violated this chapter or has committed previous violations of this chapter, restoration costs may be based on the City-appraised tree value of the subject trees in which the violation occurred, utilizing the industry standard trunk formula method in the current edition of Guide for Plant Appraisal. If diameter of removed tree is unknown, determination of the diameter size shall be made by the applicable department director by comparing size of stump and species to similar trees in similar growing conditions. The amount of costs above the approved restoration plan will be paid into the City forestry account.

2. Restoration Plan Standards. The restoration plan shall be in accordance to the following standards:

a. The number of trees required to be planted is equal to the number of tree credits of illegally removed trees according to Kirkland Zoning Code Table 95.33.1.

b. The minimum size for a tree planted for restoration is 12-foot-tall conifer and three-inch caliper deciduous or broadleaf evergreen tree. The City may approve smaller restoration tree sizes at a higher restoration ratio, provided the site has capacity for the additional trees and the results of restoration at a higher restoration ratio is as good or better than at the normal ratio. The smallest allowable alternatives to the normal restoration requirements shall be two eight-foot conifers for one 12-foot conifer or two two-inch caliper deciduous for one three-inch caliper deciduous tree.

c. In the event the violators cannot restore the unlawfully removed or damaged trees, the violators shall make payment to the City forestry account. Unless otherwise determined to base the restoration costs on appraised value, the amount paid will be the City's unit cost for a restoration tree multiplied by the number of outstanding tree credits. The City's unit cost is based on the current market cost of purchase, installation and three-year maintenance for a minimum-sized tree for restoration.

d. The restoration plan shall include a maintenance plan and an agreement or security to ensure survival and maintenance of restoration trees for a three-year period unless the violation was on a site with an approved tree plan, in which case the maintenance period is five years.

G. Failure to Restore or Pay Fines.

1. **Prohibition of Further Approvals.** The City shall not approve any application for a subdivision or any other development permit or approval, or issue a certificate of occupancy for property on which a violation of this chapter has occurred until the violation is cured by restoration or other means accepted by the applicable department director and by payment of any penalty imposed for the violation.

2. **Fines.** A property owner or occupant who fails to restore or otherwise cure property on which a violation of this chapter has occurred shall be assessed a fine of \$100.00 per day for each day that restoration is incomplete. Prior to assessing fines under this subsection, the City shall issue a written notice to the property owner or that restoration has not been completed. The notice shall include the following information: (1) a description of the nature of the violation; (2) a description of what actions are required to bring the property into compliance; and (3) a date by which compliance shall be required (the "compliance date"). The compliance date shall be no less than 30 days from the date the notice is served on the property owner or occupant. If the property owner or occupant does not, in the determination of the City, bring the property into compliance by the compliance date, then the City may issue an order imposing \$100.00 per day fines at any time after the compliance date.

1.12.110 Special provisions relating to enforcement of nuisance regulations

A. Upon the discovery of a public nuisance that does not constitute an immediate threat to the public health, welfare or safety (including but not limited to a violation of KMC Chapter 11.24, the applicable department director shall issue an order of abatement to the appropriate responsible parties identifying the nuisance and applicable code section violated, imposing a civil fine of not more

than five thousand dollars and the date by which it must be paid, ordering a method of abatement, the date by which abatement must be accomplished, and containing notice of any right of appeal.

B. In case of a failure to abate or to appeal, the applicable department director shall notify the appropriate responsible parties that the city will abate the nuisance, the date abatement will occur, and that the city will assess the cost of abatement and any fine levied jointly and severally against the responsible parties, the subject property or both; provided, that in cases of immediate necessity as determined by the applicable department director, prior notification under this subsection may be dispensed with and the applicable department director shall provide the notice after the abatement has occurred. Such notice shall state the date the abatement occurred, the amount due the city for costs incurred in abating the nuisance, and any fines levied.

C. An order of abatement or any notice required herein shall be served upon the appropriate responsible parties as determined by the applicable department director in the manner set forth in KMC Section 1.12.040.

D. A person may appeal an order of abatement by filing a written notice of appeal with the Department of Planning and Community Development within ten (10) calendar days from the date of service of the notice. Except as otherwise provided in this Section, the appeal hearing shall be held in the manner set forth in KMC Section 1.12.050.

1. The hearing examiner may sustain the order and fine, modify the order and fine or dismiss the order and fine; provided, that whenever the order is sustained or modified, the hearing examiner shall establish a new date for abatement or affirm the original date. When appropriate, the hearing examiner may also require that the appellant post a bond to secure performance of the abatement by the appellant.

2. A sustained or modified abatement order shall also provide that in the event the appellant does not abate the nuisance by the date provided in the order, the applicable department director may abate the nuisance in any reasonable manner without further notice and that any costs and fines may be satisfied by the sale of any property obtained by the abatement or collected directly from the appellant or other responsible parties previously notified of the order of abatement.

E. Notwithstanding the foregoing, the applicable department director may summarily abate a public nuisance on private property without prior notice using the procedures set forth in Section 11.24.050 whenever it is of such character as to constitute an imminent threat to the public health, welfare or safety.

F. At the applicable department director's discretion, the costs of abatement and fines shall be a lien against and collected from the sale of the property constituting the nuisance, the responsible parties, who shall be jointly and severally liable for the costs, or both. The city shall maintain an account of all costs incurred in performing an abatement. In addition to other powers given in this chapter to collect abatement costs, the city attorney may bring suit for recovery of the costs of any abatement in any court of competent jurisdiction, in the name of the city, against the subject property or the responsible parties.

Section 2. KMC Sections 11.24.060, 11.24.070 and 11.24.080 are hereby repealed. A new KMC Section 11.24.060 is hereby adopted to read as follows:

11.24.060 Procedures for enforcement against public nuisances on private property.

In addition to the remedies provided for in this chapter and remedies that may otherwise be available at law, any public nuisance on private property may be enforced against pursuant to the provisions of KMC Chapter 1.12.

Section 3. KMC Section 11.76.030 is hereby amended to read as follows:

**~~11.76.030 Notice of violation and order to correct~~
Certification of vehicles as junk.**

(a) Whenever the director, or the director's designee, determines that a vehicle, vehicles, or parts thereof are junk vehicles, a notice of civil citation violation and order to correct shall be served upon the owner of the property upon which the vehicle is located and the last registered owner of the vehicle (unless the vehicle is in such condition that identification numbers are not available to determine ownership or the owner of the land has denied the certifying individual entry to the land to obtain the vehicle identification number). The notice of civil citation violation and order to correct shall: conform to the requirements of RCW 46.55.240(3) as it now exists or may subsequently be amended. Enforcement proceedings under this chapter shall be held in accordance with the provisions of KMC Chapter 1.12, provided that in the event of a conflict between the provisions of KMC Chapter 1.12 and the provisions of RCW 46.55.240(3), the provisions of RCW 42.55.240(3) shall control.

~~(1) Separately identify each vehicle and certify that each vehicle is a "junk vehicle" as defined in Section 11.76.020;~~

~~(2) State that the vehicle must be removed and establish a date, at least fifteen days from the day the notice is served or mailed, for compliance;~~

~~(3) Clearly denote the city's authority to impound.~~

~~(b) The notice of violation and order to correct shall be served either by (i) personal service; or (ii) certified mail with a five-day return receipt requested.~~

~~(c) Whenever possible, a copy of the notice of violation and order to correct shall be posted at a conspicuous place on the property.~~

~~(d) The notice of violation and order to correct shall state that a public hearing may be requested before the city hearing examiner and that if no hearing is requested within fifteen days from the date of the postmark of the notice or personal service of the notice, the junk vehicle will be removed.~~

~~(e) If a request for hearing is received within fifteen days of the postmark, a notice of hearing giving the time, location and date of such hearing on the question of abatement and removal of the vehicle, vehicles or parts thereof as a public nuisance shall be mailed, by certified mail with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record of each vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership or the owner of the land has denied the certifying individual entry to the land to obtain the vehicle identification number.~~

Section 4. KMC Sections 11.76.050, 11.76.060, 11.76.070 and 11.76.080 are hereby repealed.

Section 5. KMC Section 15.52.140 is hereby repealed. A new KMC Section 15.52.140 is hereby adopted to read as follows:

15.52.140 Enforcement, violations and penalties.

Enforcement of violations of this Chapter shall be conducted pursuant to Kirkland Municipal Code Chapter 1.12.

Section 6. KMC Section 19.04.010 is hereby amended to read as follows:

19.04.010 Obstructions in right-of-way.

It is a simple crime for any person to drop, deposit, leave or permit to be deposited upon a street or sidewalk or within other portions of the public right-of-way any object, structure, construction material, equipment or other natural or artificial thing which obstructs or tends to obstruct vehicles or persons traveling thereon; except as provided in Section 19.04.050 or otherwise authorized by city ordinance or specific permission of the city.

Such a deposit is a public nuisance. As an alternative to, or in addition to, issuance of a criminal citation or notice of civil violation pursuant to KMC 1.12 for violation of this section, the city may take such action as may be necessary to abate the nuisance. Whenever the nuisance poses a present danger, the city has the authority to cause its immediate removal.

Any person violating this section shall be liable to the city for the costs of the removal of the nuisance.

Section 7. KMC Section 19.04.068 is hereby amended to read as follows:

19.04.068 Violation of Sections 19.04.060 through 19.04.067—~~Criminal Penalties.~~

Any violation of the provisions of Sections 19.04.060 through 19.04.067, which would also constitute a violation of Section 19.04.010, may be enforced by the police department, through the issuance of ordinance violation citations, or other enforcement remedies provided for in Section 19.04.010. In addition, City staff may issue a notice of civil violation pursuant to KMC Chapter 1.12.

Section 8. A new KMC Section 19.04.110 is hereby adopted to read as follows:

19.04.110 Violations and enforcement.

In addition to remedies provided for in this chapter and remedies that may otherwise be available at law, any violation of this chapter may be enforced against pursuant to the provisions of KMC Chapter 1.12.

Section 9. KMC Chapter 19.36, entitled "Penalties for Violations—Street Trees and Trees on City Property" is hereby repealed.

Section 10. KMC Section 21.06.570 is hereby amended to read as follows:

21.06.570 Appeals to hearing examiner.

Appeals of orders, decisions and determinations of the building official that do not constitute enforcement actions shall be heard and decided by the city of Kirkland hearing examiner. Enforcement actions shall be brought pursuant to the provisions of KMC Chapter 1.12. To the extent the codes adopted by reference in this title refer to a "board of appeals" or a "building board of appeals," those references shall be deemed to refer to the city of Kirkland hearing examiner.

Section 11. KMC Sections 21.06.595, 21.06.600 and 21.06.605 are hereby repealed.

Section 12. A new KMC Section 21.06.600 is hereby adopted to read as follows:

21.06.600 Violations and enforcement.

In addition to the remedies provided for in this chapter and remedies that may otherwise be available at law, any violation of this Title, including codes adopted by reference, may be enforced against pursuant to the provisions of KMC Chapter 1.12.

Section 13. KMC Section 29.36.030 is hereby amended to read as follows:

29.36.030 Enforcement.

Violations of the requirements of this title shall be enforced through the provisions, as applicable, of KMC Chapter 1.12~~Chapter 170-KZC~~.

Section 14. 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 15. This ordinance shall be in force and effect on April 1, 2011 after its passage by the Kirkland City Council and publication 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 majority vote of the Kirkland City Council in open meeting this 4th day of January, 2011.


Signed in authentication thereof this 4th day of January, 2011.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4280

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE CONSOLIDATION OF VARIOUS CITY CODE ENFORCEMENT PROCESSES INTO A SINGLE UNIFORM PROCESS.

SECTION 1. Creates a new Chapter 1.12 of the Kirkland Municipal Code ("KMC") entitled "Code Enforcement" relating to administrative civil enforcement of the City's codes and regulations.

SECTION 2. Repeals KMC Sections 11.24.060, 11.24.070 and 11.24.080 and adopts a new KMC Section 11.24.060.

SECTION 3. Amends KMC Section 11.76.030.

SECTION 4. Repeals KMC Sections 11.76.050, 11.76.060, 11.76.070 and 11.76.080.

SECTION 5. Repeals KMC Section 15.52.140 and adopts a new KMC Section 15.52.140.

SECTION 6. Amends KMC Section 19.04.010.

SECTION 7. Amends KMC Section 19.04.068.

SECTION 8. Adopts a new KMC Section 19.04.110.

SECTION 9. Repeals KMC Chapter 19.36.

SECTION 10. Amends KMC Section 21.06.570.

SECTION 11. Repeals KMC Sections 21.06.595, 21.06.600 and 21.06.605.

SECTION 12. Adopts a new KMC Section 21.06.600.

SECTION 13. Amends KMC Section 29.36.030.

SECTION 14. Provides a severability clause for the Ordinance.

SECTION 15. 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 April 1, 2011.

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 4th day of January, 2011.

I certify that the foregoing is a summary of Ordinance 4280 approved by the Kirkland City Council for summary publication.



City Clerk