

ORDINANCE Q-4557

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO RIGHT OF ENTRY.

1           WHEREAS, as part of a legal review of the Kirkland Municipal  
2 Code ("KMC") by Code Publishing Company it has been recommended  
3 that various sections of the KMC related to right of entry be amended  
4 to declare that when consent to entry is not obtained such entry must  
5 be pursuant to a warrant unless a public safety emergency justifies  
6 warrantless entry in order to comply with Constitutional limits on  
7 unreasonable search and seizure.

8  
9           NOW, THEREFORE, The City Council of the City of Kirkland do  
10 ordain as follows:

11  
12           Section 1. Kirkland Municipal Code Section 21.06.160 is  
13 amended to read as follows:

14  
15           **21.06.160 Right of entry.**

16           Where it is necessary to make an inspection to enforce the  
17 provisions of this chapter and the technical codes, or where the building  
18 official has reasonable cause to believe that there exists in a structure  
19 or upon a premises a condition that is contrary to or in violation of this  
20 chapter and the technical codes that make the structure or premises  
21 unsafe, dangerous or hazardous, the building official is authorized to  
22 enter the structure or premises at reasonable times to inspect or to  
23 perform the duties imposed by this chapter and the technical codes;  
24 provided, that if such structure or premises be occupied, that credentials  
25 be presented to the occupant and entry requested. If such structure or  
26 premises is unoccupied, the building official shall first make a reasonable  
27 effort to locate the owner or other person having charge or control of  
28 the structure or premises and request entry. If entry is refused, entry  
29 shall be pursuant to a warrant or other remedy provided by law unless  
30 a public safety emergency justifies entry without a warrant or other  
31 lawful remedy.

32  
33           Section 2. Kirkland Municipal Code Section 21.41.104 is  
34 amended to read as follows:

35  
36           **21.41.104 Duties and powers of the code official.**

37           (a) Inspections. The code official is authorized to make all of the  
38 required inspections, or accept reports of inspection by approved  
39 agencies or individuals. Reports of such inspections shall be in writing  
40 and be certified by a responsible officer of such approved agency or by  
41 the responsible individual. The code official is authorized to engage such  
42 expert opinion as deemed necessary to report upon unusual technical  
43 issues that arise, subject to the approval of the appointing authority.

44           (b) Right of Entry. Where it is necessary to make an inspection to  
45 enforce the provisions of this code, or whenever the code official has  
46 reasonable cause to believe that there exists in a structure or upon a

47 premises a condition in violation of this code, the code official is  
 48 authorized to enter the structure or premises at reasonable times to  
 49 inspect or perform the duties imposed by this code; provided, that if  
 50 such structure or premises is occupied the code official shall present  
 51 credentials to the occupant and request entry. If such structure or  
 52 premises is unoccupied, the code official shall first make a reasonable  
 53 effort to locate the owner, owner's authorized agent, or other person  
 54 having charge or control of the structure or premises and request entry.  
 55 If entry is refused, entry shall be pursuant to a warrant or other remedy  
 56 provided by law unless a public safety emergency justifies entry without  
 57 a warrant or other lawful remedy.

58 (c) Identification. The code official shall carry proper identification  
 59 when inspecting structures or premises in the performance of duties  
 60 under this code.

61 (d) Notices and Orders. The code official shall issue all necessary  
 62 notices or orders to ensure compliance with this code.

63 (e) Department Records. The code official shall keep official  
 64 records of all business and activities of the department specified in the  
 65 provisions of this code. Such records shall be retained in the official  
 66 records for the period required for retention of public records.

67  
 68 Section 3. Kirkland Municipal Code Section 21.41.302 is  
 69 amended to read as follows:

70  
 71 **21.41.302 Exterior property areas.**

72 (a) Sanitation. Exterior property and premises shall be maintained  
 73 in a clean, safe and sanitary condition. The occupant shall keep that  
 74 part of the exterior property that such occupant occupies or controls in  
 75 a clean and sanitary condition.

76 (b) Grading and Drainage. Premises shall be graded and  
 77 maintained to prevent the erosion of soil and to prevent the  
 78 accumulation of stagnant water thereon, or within any structure located  
 79 thereon.

80 Exception: Approved retention areas and reservoirs.

81 (c) Sidewalks and Driveways. Sidewalks, walkways, stairs,  
 82 driveways, parking spaces and similar areas shall be kept in a proper  
 83 state of repair, and maintained free from hazardous conditions.

84 (d) Control of Overgrown Vegetation. Overgrown vegetation shall  
 85 comply with subsections (d)(1) and (d)(2) of this section.

86 (1) Removal of Overhanging Vegetation and Fire Hazards.

87 (A) The owner of any property in the city shall remove or destroy,  
 88 in a manner permitted by law, all vegetation or parts thereof that  
 89 overhang or are growing on any sidewalk or street in a manner that  
 90 obstructs or impairs the free and full use of the sidewalk or street by  
 91 the public. Prior authorization is required from the city to the extent  
 92 pruning or removal of trees is required.

93 (B) The owner of any property in the city shall remove or destroy,  
 94 in a manner permitted by law, all vegetation growing or which has  
 95 grown and died or debris upon property owned or occupied by them  
 96 that is a fire hazard or a menace to public health, safety or welfare.  
 97 Such work, when proposed in a critical area or its buffer, requires prior  
 98 approval from the planning and building department. Prior authorization  
 99 also is required from the city to the extent pruning or removal of trees  
 100 is required.

101 (2) Weeds and Grass. Premises and exterior property shall be  
102 maintained free from weeds and grass in excess of eighteen inches.

103 Upon failure to comply with this section, any duly authorized  
104 employee of the jurisdiction or contractor hired by the jurisdiction shall  
105 be authorized to enter upon the property in violation and cut and  
106 destroy the weeds or plants growing thereon that are over eighteen  
107 inches tall, and the costs of such removal shall be paid by the owner or  
108 agent responsible for the property; provided, however, that such entry  
109 and removal shall be pursuant to a warrant or other remedy provided  
110 by law unless a public safety emergency justifies entry without a warrant  
111 or other lawful remedy.

112 (e) Duty to Keep Buildings and Premises Free of Rodents—Right  
113 of Entry for Inspection. The owner or occupant of real property shall  
114 keep buildings and premises free from rats, mice and other rodents, to  
115 the extent reasonably possible, as determined by the building official. A  
116 property owner or occupant shall take all necessary measures to ensure  
117 that rats, mice or other rodents do not come into contact with food,  
118 food products, goods or merchandise. Subject to applicable  
119 constitutional and statutory constraints on entry, the building official or  
120 his appointed representative shall be permitted access to property or  
121 buildings for the purpose of ascertaining the presence of rats, mice and  
122 other rodents; provided, however, that such entry shall be pursuant to  
123 a warrant or other remedy provided by law unless a public safety  
124 emergency justifies entry without a warrant or other lawful remedy.

125 (1) Duty to Eradicate Rodent Infestation. If rat, mice or other  
126 rodent infestation occurs, a property owner or occupant shall take all  
127 necessary measures to eradicate the infestation and prevent future  
128 infestation. In addition, the owner or occupant of the property shall  
129 perform all eradication measures as reasonably required by the building  
130 official. The provisions of this section shall not apply to wetlands,  
131 unimproved parks, greenbelts or other unimproved property if the  
132 property owner or occupant has not committed any acts or omissions  
133 that increase the likelihood of rat, mice or other rodent infestation.

134 (2) Rat Baiting. All applicants for a demolition or a land surface  
135 modification permit and those persons undertaking a land clearing  
136 project shall initiate a rat baiting program on the project site at least  
137 fifteen days prior to the start of demolition, clearing or land surface  
138 modification activity. The baiting program must continue at least until  
139 the project begins; however, no demolition, clearing or land surface  
140 modification work shall commence until all significant rat activity has  
141 been abated even if it has been fifteen or more days since the initiation  
142 of the rat baiting program, unless approved by the building official. The  
143 rat baiting program shall be approved by a qualified pest control agent  
144 and be consistent with the Seattle-King County Health Department  
145 guidelines and recommendations for rat baiting. The use of any  
146 pesticides shall fully comply with WAC 162-28-1380. The building official  
147 shall not issue or deliver any demolition or land surface modification  
148 permit, nor shall any land clearing begin, until the applicant has filed  
149 with the city a copy of the rat baiting program and a declaration, under  
150 penalty of perjury, that the requirements of this section have been  
151 complied with. The rat baiting program may be terminated at any time,  
152 due to the lack of rat activity, upon a written recommendation of the  
153 pest control agent or upon approval of the building official; however,  
154 the program must be reinstated upon discovery of additional rat activity

155 by the pest control agent or the building official and all work may be  
156 required to be stopped until the additional rat activity has been abated  
157 as determined in writing by the pest control agent or upon approval of  
158 the building official. At the discretion of the building official, a project  
159 unlikely to disturb a nesting place of rats may be exempted from the  
160 requirements of this section.

161 (f) Exhaust Vents. Pipes, ducts, conductors, fans or blowers shall  
162 not discharge gases, steam, vapor, hot air, grease, smoke, odors or  
163 other gaseous or particulate wastes directly upon abutting or adjacent  
164 public or private property or that of another tenant.

165 (g) Accessory Structures. Accessory structures, including  
166 detached garages, fences and walls, shall be maintained structurally  
167 sound and in good repair.

168 (h) Motor Vehicles. Except as provided for in other regulations, no  
169 inoperative or unlicenseable motor vehicle shall be parked, kept or  
170 stored on any premises unless parked or stored in a building complying  
171 with the Kirkland Building Code. No vehicle shall at any time be in a  
172 state of major disassembly, disrepair, or in the process of being stripped  
173 or dismantled. Painting of vehicles is prohibited unless conducted inside  
174 an approved spray booth.

175 Exception: A vehicle of any type is permitted to undergo major  
176 overhaul, including body work; provided, that such work is performed  
177 inside a structure or similarly enclosed area designed and approved for  
178 such purposes.

179 (i) Defacement of Property. No person shall willfully or wantonly  
180 damage, mutilate or deface any exterior surface of any structure or  
181 building on any private or public property by placing thereon any  
182 marking, carving or graffiti.

183 It shall be the responsibility of the owner to restore said surface to  
184 an approved state of maintenance and repair.

185  
186 Section 4. Kirkland Municipal Code Section 29.04.030 is  
187 amended to read as follows:

188  
189 **29.04.030 Right of entry.**

190 Where it is necessary to make an inspection to enforce the  
191 provisions of this chapter, or where the city has reasonable cause to  
192 believe that there exists upon a site a condition which is contrary to or  
193 in violation of this chapter, the city is authorized to enter the site at  
194 reasonable times to inspect or to perform the duties imposed by this  
195 chapter; provided, however, that such entry and enforcement shall be  
196 pursuant to a warrant or other remedy provided by law unless a public  
197 safety emergency justifies entry without a warrant or other lawful  
198 remedy.

199  
200 Section 5. If any provision of this ordinance or its application to  
201 any person or circumstance is held invalid, the remainder of the  
202 ordinance or the application of the provision to other persons or  
203 circumstances is not affected.

204  
205 Section 6. This ordinance shall be in force and effect five days  
206 from and after its passage by the Kirkland City Council and publication  
207 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary

208 form attached to the original of this ordinance and by this reference  
209 approved by the City Council.

210  
211 Passed by majority vote of the Kirkland City Council in open  
212 meeting this 21st day of February, 2017.

213  
214 Signed in authentication thereof this 21st day of February, 2017.

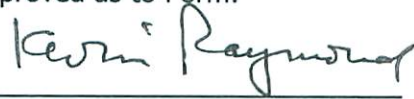
  
MAYOR

Attest:

  
City Clerk

Publication Date: February 27, 2017

Approved as to Form:

  
City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4557

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO RIGHT OF ENTRY.

SECTION 1. Amends Kirkland Municipal Code Section 21.06.160 related to right of entry if refused, allowing for entry pursuant to a warrant or other remedy provided by law unless a public safety emergency justifies entry without a warrant or other lawful remedy.

SECTION 2. Amends Kirkland Municipal Code Section 21.41.104 related to duties and powers of the code official and right of entry if refused, allowing for entry pursuant to a warrant or other remedy provided by law unless a public safety emergency justifies entry without a warrant or other lawful remedy.

SECTION 3. Amends Kirkland Municipal Code Section 21.41.302 related to exterior property areas and right of entry to allow for entry and removal pursuant to a warrant or other remedy provided by law unless a public safety emergency justifies entry without a warrant or other lawful remedy.

SECTION 4. Amends Kirkland Municipal Code Section 29.04.030 related to right of entry for inspections to allow for entry and enforcement pursuant to a warrant or other remedy provided by law unless a public safety emergency justifies entry without a warrant or other lawful remedy.

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 21st day of February, 2017.

I certify that the foregoing is a summary of Ordinance O-4557 approved by the Kirkland City Council for summary publication.

  
\_\_\_\_\_  
City Clerk