

ORDINANCE O-4614

AN ORDINANCE OF THE CITY OF KIRKLAND ADOPTING PORTIONS OF THE CITY'S LOCAL ANIMAL CONTROL PROVISIONS THAT SET FORTH THE REGULATIONS APPLICABLE TO CRUELTY TO ANIMALS, NUISANCES, NOTICES AND ORDERS TO ABATE A PUBLIC NUISANCE, APPEAL PROCEDURES, VICIOUS ANIMALS, DANGEROUS DOGS, AND POTENTIALLY DANGEROUS DOGS.

1           WHEREAS, the City of Kirkland has, for many years, contracted  
2 with King County to allow the County to provide the City with animal  
3 services, such as animal control, sheltering and licensing; and  
4

5           WHEREAS, beginning in 1985, the City adopted the animal  
6 control ordinances enacted by King County, which are currently in effect  
7 in the City, codified at Kirkland Municipal Code, KMC chapter 8.04; and  
8

9           WHEREAS, the City's contract with King County will expire on  
10 December 31, 2017; and  
11

12           WHEREAS, on November 1, 2016, the City made a decision to  
13 begin providing its own local animal services commencing on January 1,  
14 2018; and  
15

16           WHEREAS, Council held a study session on July 18, 2017, to  
17 review initial proposed ordinances to eventually replace KMC chapter  
18 8.04 and establish a local animal control authority in the City; and  
19

20           WHEREAS, Council adopts the regulations set forth below  
21 applicable to cruelty to animals, nuisances, notices and orders to abate  
22 a public nuisance, appeal procedures, vicious animals, dangerous dogs,  
23 and potentially dangerous dogs:  
24

25           Section 1. A new Kirkland Municipal Code Section 8.09.400 is  
26 hereby adopted to read as follows:  
27

28 **8.09.400 Public nuisances defined.**

29           Violations of this chapter are deemed public nuisances. Violations  
30 of this chapter include, but are not limited to, the following:

- 31           1. Any public nuisance relating to animal care and control known at  
32 common law or in equity jurisprudence, including, but not limited to,  
33 cruelty to animals;
- 34           2. Animals running in packs;
- 35           3. A dog running at large within the City;
- 36           4. Any domesticated animal that enters any place where food is  
37 stored, prepared, served or sold to the public, or any other public  
38 building or hall. **Provided**, this subsection shall not apply to any person  
39 using a trained and registered service animal, to veterinary offices or  
40 hospitals, or to animal shows, exhibitions or organized dog-training

41 classes, or to places where the owner or proprietor expressly allows the  
42 presence of certain animals;

43 5. Any domesticated animal that habitually snaps, growls, snarls,  
44 jumps at, jumps upon or otherwise threatens persons lawfully using the  
45 public sidewalks, streets, alleys or other public ways;

46 6. Any animal that has exhibited vicious propensities and constitutes  
47 a danger to the safety of persons or property off the animal's premises  
48 or lawfully on the animal's premises. In addition to other remedies and  
49 penalties, the provisions of this chapter relating to dangerous dogs,  
50 potentially dangerous dogs, and vicious animals shall apply;

51 7. Any vicious animal or animal with vicious propensities that runs  
52 at large at any time off the owner's premises not securely leashed on a  
53 line or confined and in the control of a person of suitable age and  
54 discretion to control or restrain the animal. In addition to other remedies  
55 and penalties, the provisions of this chapter relating to dangerous dogs,  
56 potentially dangerous dogs, and vicious animals shall apply;

57 8. Any domesticated animal that howls, yelps, whines, barks or  
58 makes other oral noises, in such a manner as to disturb any person or  
59 neighborhood to an unreasonable degree, taken to be continuous noise  
60 for a period of 10 or more minutes or intermittent noise that totals a  
61 period of 20 or more minutes, except that such sounds made indoors in  
62 animal shelters or in commercial kennels duly licensed shall be exempt;

63 9. Any domesticated animal that enters upon a person's property  
64 without the permission of that person;

65 10. Animals harbored, kept or maintained and known to have a  
66 contagious disease, unless under the treatment of a licensed  
67 veterinarian.

68  
69 Section 2. A new Kirkland Municipal Code Section 8.09.410 is  
70 hereby adopted to read as follows:

71  
72 **8.09.410 Transfer of unaltered dogs and cats prohibited.** It is a  
73 violation of this chapter to sell or give away unaltered dogs and cats in  
74 any public places or to auction off or raffle unaltered dogs and cats as  
75 prizes or gifts.

76  
77 Section 3. A new Kirkland Municipal Code Section 8.09.420 is  
78 hereby adopted to read as follows:

79  
80 **8.09.420 Unlawful acts against police department dogs -**  
81 **Penalty for violation.**

82 A. No person shall willfully torment, torture, beat, kick, strike or  
83 harass any dog used by a police department for police work, or  
84 otherwise interfere with the use of any such dog for police work by said  
85 department or its officers or members.

86 B. Any person who violates subsection A of this section shall be  
87 deemed guilty of a misdemeanor, punishable by not more than ninety  
88 days in jail or not more than a one thousand dollar fine, or both.

89 C. Nothing within this provision prohibits the Animal Control Officer  
90 from pursuing criminal charges and remedies through RCW 9A.76.200  
91 – Harming a Police Dog, Accelerant Detection Dog or Police Horse –  
92 Penalty.

93  
94 Section 4. A new Kirkland Municipal Code Section 8.09.430 is  
95 hereby adopted to read as follows:  
96

97 **8.09.430 Warning tickets – violations.**

98 A. The Animal Control Officer may, based on his or her discretion  
99 and pursuant to the circumstances of the case, issue a warning ticket to  
100 the animal’s owner and/or the person responsible for the animal for a  
101 violation of this code.

102 B. If a warning ticket is issued, a copy of the warning ticket shall be  
103 given to the animal’s owner and/or the person responsible for the  
104 animal. The remaining copies shall be returned to the office of the  
105 Animal Control Authority.  
106

107 Section 5. A new Kirkland Municipal Code Section 8.09.440 is  
108 hereby adopted to read as follows:  
109

110 **8.09.440 Violations - unlawful acts - cruelty to animals -**  
111 **database.**

112 A. It is unlawful for any person to:

113 1. Willfully and cruelly injure or kill any animal by any means  
114 causing it fright or pain;

115 2. Knowingly, recklessly or with criminal negligence cause or  
116 allow any animal to endure pain, suffering or injury; or to fail or neglect  
117 to aid or attempt alleviation of pain, suffering or injury;

118 3. Knowingly, recklessly or with criminal negligence fail to  
119 provide an animal with necessary food, water, shelter, rest, sanitation,  
120 ventilation, space, or medical attention;

121 4. Lay out or expose any kind of poison, or to leave exposed  
122 any poison food or drink, or any substance or fluid whatever whereon  
123 or wherein there is or shall be deposited or mingled, any kind of poison  
124 or deadly substance or fluid whatever, which is capable of consumption  
125 by any animal, on any premises, or in any unenclosed place, or to aid  
126 or abet any person in so doing, unless in accordance with RCW  
127 16.52.190; or

128 5. Abandon any domesticated animal by dropping off or leaving  
129 the animal on the street, road or highway, or in any other public place  
130 or on the private property of another.

131 B. If a law enforcement officer or the Animal Control Officer has  
132 probable cause to believe that an owner of any animal has committed  
133 animal cruelty, the officer may authorize, with a warrant, the seizure  
134 and removal of the animal to a suitable place for feeding and care. An  
135 animal may be seized and removed without a warrant only if the animal  
136 is in an immediate life-threatening condition.

137 C. Animal cruelty committed willfully and intentionally as defined in  
138 RCW 9A.08.010 is a gross misdemeanor. Animal cruelty committed  
139 knowingly, recklessly or with criminal negligence as defined in RCW  
140 9A.08.010 is a misdemeanor.

141 D. The Animal Control Authority shall keep a database containing  
142 the names of all persons who are either found in violation of this  
143 provision or charged or convicted of animal cruelty under either RCW  
144 16.52.205 or RCW 16.52.207.

145 E. Upon conviction for animal cruelty, the defendant shall make  
146 restitution to the City for all veterinary and kennel expenses incurred by  
147 the City.

148 F. Any animal seized and removed from an owner pursuant to this  
149 section shall not thereafter be released to the owner during investigation  
150 of or prosecution for animal cruelty. Upon conviction for animal cruelty  
151 the owner shall forfeit any interest in the seized and removed animal.

152  
153 Section 6. A new Kirkland Municipal Code Section 8.09.450 is  
154 hereby adopted to read as follows:  
155

156 **8.09.450 Violations - notice and order – abatement of a public**  
157 **nuisance.**

158 A. Whenever the Animal Control Officer has found an animal  
159 maintained in violation of this chapter, the Animal Control Officer may  
160 commence proceedings to cause the abatement of each violation.

161 B. To commence abatement proceedings, the Animal Control Officer  
162 shall issue a notice of violation and an order directed to the owner or  
163 the person presumed to be the owner of the animal maintained in  
164 violation of this chapter. The notice and order shall contain:

165 1. The name, address and phone number, if known, of the owner  
166 or person presumed to be the owner of the animal in violation of this  
167 chapter;

168 2. The license number and/or micro-chip number, if available,  
169 and a description of the animal in violation sufficient for identification;

170 3. A statement to the effect that the Animal Control Officer has  
171 found the animal maintained illegally with a brief and concise description  
172 of the conditions which caused the animal to be in violation of this  
173 chapter, including reference to the specific sections of code or statute  
174 violated and, where relevant, reference to the specific sections of code  
175 or statute authorizing removal of the animal;

176 4. Statements that the violation must be abated, the action  
177 required to be taken to abate the violation, and the date by which the  
178 abatement must be commenced;

179 a. If the Officer has determined the animal in violation  
180 must be disposed of, the order shall require that the abatement be  
181 completed within a specified time from the order as determined by the  
182 Officer to be reasonable;

183 b. If the Officer determined to assess a civil penalty, the  
184 order shall require that the penalty shall be paid within fourteen days  
185 from the date of the order.

186 5. Statements advising that if any required abatement is not  
 187 commenced within the time specified, the Animal Control Officer shall  
 188 proceed to cause abatement and charge the costs thereof against the  
 189 owner;

190 6. Statements advising:

191 a. that a person having a legal interest in the animal may  
 192 appeal from the notice of violation and order in writing as provided by  
 193 KMC 8.09.460 and filed with the Kirkland Municipal Court, within  
 194 fourteen days from the date the notice of violation and order was  
 195 served; **provided** that the appeal of a declaration of potentially  
 196 dangerous dog, declaration of dangerous dog or declaration of vicious  
 197 animal must be filed within five business days as set forth in KMCs  
 198 8.09.470(D)(2); 8.09.472(C)(2); and 8.09.480(C)(2) respectively, and

199 b. that failure to appeal constitutes a waiver of all right  
 200 to an administrative hearing and determination of the matter.

201 C. Service of the notice of violation and order shall be made either:

202 1. Personally; or

203 2. By mailing a copy of the notice of violation and order by  
 204 certified mail, postage prepaid, return receipt requested, to the owner  
 205 or person presumed to be the owner at his/her last known address; or

206 3. By posting the notice of violation and order on the front door  
 207 of the living unit of the owner or person presumed to be the owner if  
 208 the owner or person is not home.

209 D. Proof of service of the notice of violation and order shall be  
 210 made at the time of service by a written declaration under penalty of  
 211 perjury executed by the person effecting service, declaring the time,  
 212 date and manner in which service was made.

213  
 214 Section 7. A new Kirkland Municipal Code Section 8.09.460 is  
 215 hereby adopted to read as follows:

216  
 217 **8.09.460 Appeals – nuisance – potentially dangerous dog –**  
 218 **dangerous dog – vicious animal.**

219 A. Appeals of orders to abate a nuisance, declaration of potentially  
 220 dangerous dog, declaration of dangerous dog, and declaration of vicious  
 221 animal under this chapter shall be made to the Clerk of the Kirkland  
 222 Municipal Court.

223 B. Appeals under this chapter shall be commenced by filing a written  
 224 appeal within fourteen days from the date the notice of violation and  
 225 order was served; **provided** that the appeal of a declaration of  
 226 potentially dangerous dog, declaration of dangerous dog or declaration  
 227 of vicious animal must be filed within five business days as set forth in  
 228 KMCs 8.09.470(D)(2); 8.09.472(C)(2); and 8.09.480(C)(2) respectively,  
 229 with the Municipal Court of the City of Kirkland, using the form provided  
 230 by the Animal Control Officer, also available on the City of Kirkland's  
 231 website.

232 C. The Clerk of the Municipal Court shall set a time and place, not  
 233 more than forty-five days from the filing of the notice of appeal, for a  
 234 hearing on the appeal. Written notice of the time and place of hearing

235 shall be given at least ten days before the hearing to each appellant by  
236 the Clerk.

237 D. At the hearing, the appellant(s) shall be entitled to appear in  
238 person, to be represented by counsel and to offer evidence that is  
239 pertinent and material to the action of the Animal Control Officer being  
240 protested. Only those matters or issues specifically raised by the  
241 appellant in the written notice of appeal shall be considered.

242 E. Failure of any person to file a timely appeal in accordance with  
243 this section shall constitute a waiver of the right to an administrative  
244 hearing.

245 F. Enforcement of any notice and order of the Animal Control Officer  
246 issued under this chapter shall be stayed during the pending of an  
247 appeal, except impoundment of an animal that is claimed to be vicious,  
248 potentially dangerous, dangerous, or cruelly treated.

249 G. In administrative appeal proceedings before the municipal court,  
250 the Animal Control Authority shall bear the burden of proving by a  
251 preponderance of the evidence both the violation and the  
252 appropriateness of the remedy it has imposed.

253 H. It shall be the responsibility of the parties to notify witnesses of  
254 the hearing date. Testimony may be provided in the form of a signed  
255 written statement pursuant to RCW 9A.72.085. Otherwise, parties are  
256 responsible for presenting any witnesses they deem necessary to testify.

257 I. The failure of the appellant to appear at the hearing shall result  
258 in a denial of the appeal and upholding of the order to abate a nuisance,  
259 declaration of potentially dangerous dog, declaration of dangerous dog,  
260 or declaration of vicious animal.

261 J. The municipal judge may uphold, dismiss or modify the order of  
262 the Animal Control Officer. All decisions and findings of the municipal  
263 judge shall be rendered to the appellant in writing with a copy to the  
264 Animal Control Officer within 30 days of the conclusion of the appeal  
265 hearing. The decision of the municipal judge shall be a final  
266 administrative decision appealable to the King County superior court  
267 within 30 days of the final written order.

268 K. Upon sustaining or reversing the declaration, the municipal judge  
269 shall notify the non-prevailing party in writing of the right to appeal the  
270 court's decision.

271 L. If the Animal Control Officer's order is reversed and an appeal is  
272 not timely filed by the Animal Control Authority, any previously imposed  
273 restrictions on the dog shall be annulled.

274  
275 Section 8. A new Kirkland Municipal Code Section 8.09.470 is  
276 hereby adopted to read as follows:  
277

278 **8.09.470 Potentially dangerous dogs.**

279 The provisions of this section apply to the extent they are not  
280 inconsistent with the provisions of Chapter 16.08 RCW.

281 A. Declaration of a Dog as Potentially Dangerous. The Animal  
282 Control Officer shall have the authority to declare a dog to be potentially  
283 dangerous, and place restrictions on such dog, if the Officer has

284 probable cause to believe that the dog falls within the definition set forth  
285 in KMC 8.09.120(34). The declaration must be based upon:

286 1. The written complaint of a citizen who is willing to testify that  
287 the animal has acted in a manner which causes it to fall within the  
288 definition of KMC 8.09.120(34);

289 2. Animal bite report(s) filed with the Kirkland Police Department  
290 and/or Animal Control Authority;

291 3. Action(s) of the animal witnessed by any employee of the  
292 Animal Control Authority or any law enforcement officer; or

293 4. Other substantial evidence.

294 B. Exclusions. A dog shall not be declared potentially dangerous if  
295 the Animal Control Officer determines, by a preponderance of the  
296 evidence, that the threat, injury, or bite alleged to have been committed  
297 by the dog was sustained by a person who was at the time committing  
298 a willful trespass or other tort upon the premises occupied by the owner  
299 of the dog, or who was tormenting, abusing, or assaulting the dog, or  
300 who had been in the past observed or reported to have tormented,  
301 abused, or assaulted the dog, or who was committing or attempting to  
302 commit a crime.

303 C. Prohibited Ownership. No person under the age of 18 years old  
304 shall own a potentially dangerous dog.

305 D. Notice of Declaration. If the Animal Control Officer receives a  
306 report of a potentially dangerous dog, the Officer shall immediately  
307 initiate an investigation including, but not limited to, interviewing the  
308 complainant(s), interviewing the owner of the dog, if known, and  
309 observing the dog. Upon completion of the Officer's investigation, if the  
310 dog is declared potentially dangerous, the Officer shall prepare a written  
311 declaration.

312 1. The declaration shall be in writing and served on the owner  
313 or person presumed to be the owner pursuant to KMC 8.09.450(C).

314 2. The declaration shall include, but is not limited to, the  
315 information set forth in KMC 8.09.450(B), in addition to:

316 a. The whereabouts of the dog if not in custody of the owner;

317 b. A statement of any restrictions placed on the animal or  
318 owner as a result of the declaration; and

319 c. The ability and process for appealing the declaration by  
320 submitting a written request to the Municipal Court of the City of  
321 Kirkland within five days of the date the declaration was served.

322 E. Appeal. Appeals shall be heard by the Municipal Court of the City  
323 of Kirkland pursuant to KMC 8.09.460.

324 F. Appeal Form. The declaration shall include an appeal form, a  
325 copy of which is also available on the City of Kirkland website.

326  
327 Section 9. A new Kirkland Municipal Code Section 8.09.472 is  
328 hereby adopted to read as follows:

329  
330 **8.09.472 Dangerous dogs.**

331 The provisions of this section apply to the extent they are not  
332 inconsistent with the provisions of Chapter 16.08 RCW.

333 A. Declaration of a Dog as Dangerous. Upon declaration that a dog  
334 is a dangerous dog as defined in KMC 8.09.120(10), the owner shall be  
335 served with a dangerous dog declaration.

336 B. Declaration – Final Determination Unless Appealed. The service  
337 of a dangerous dog declaration shall, unless timely appealed, be a final  
338 determination that the dog is a dangerous dog.

339 C. Notice – Contents of Dangerous Dog Declaration. A dangerous  
340 dog declaration shall contain the information set forth in KMC  
341 8.09.450(B), in addition to:

342 1. A statement that the Animal Control Officer has found the  
343 animal to be a dangerous dog as defined in KMC 8.09.120(10) and a  
344 concise description explaining why the declaration has been made;

345 2. A statement that service of the dangerous dog declaration is  
346 a final determination unless appealed and that an appeal must be filed  
347 within five business days of service of the dangerous dog declaration;  
348 and

349 3. A copy of KMC 8.09.460 regarding appeal procedures.

350 D. Notice – Service. Service of the dangerous dog declaration shall  
351 be in writing and served on the owner or person presumed to be the  
352 owner pursuant to KMC 8.09.450(C).

353 E. Appeal. Appeals shall be heard by the Municipal Court of the City  
354 of Kirkland pursuant to KMC 8.09.460.

355 F. Appeal Form. The declaration shall include an appeal form, a  
356 copy of which is also available on the City of Kirkland website.  
357

358 Section 10. A new Kirkland Municipal Code Section 8.09.474 is  
359 hereby adopted to read as follows:  
360

361 **8.09.474 Requirements for Dangerous Dogs.**

362 A. Strict compliance with each of the following conditions is  
363 required to keep a dangerous dog in the City:

364 1. No person under the age of 18 years old shall own a  
365 dangerous dog.

366 2. In addition to any license required under the provisions of this  
367 chapter, all dog owners who are required to obtain a certificate of  
368 registration pursuant to the dangerous dog provisions of Chapter 16.08  
369 RCW, must also obtain a City of Kirkland dangerous dog certificate of  
370 registration. The applicant shall apply for such certificate upon forms  
371 supplied by the Animal Control Authority and pay an annual fee of  
372 \$100.00, in addition to the regular dog licensing fee, which shall not be  
373 prorated for any part of a year. A copy of a valid certificate of  
374 registration issued pursuant to Chapter 16.08 RCW shall be attached to  
375 the application. The City’s dangerous dog certificate of registration shall  
376 be issued upon completing all the requirements of this section.

377 3. The owner of a dangerous dog shall provide for proper  
378 enclosure of the dangerous dog. A dangerous dog may not be outside  
379 of the dwelling of the owner or outside of a proper enclosure unless  
380 muzzled and restrained by a substantial chain or leash and under the  
381 control of a responsible person. The muzzle shall be made in a manner

382 that will not cause injury to the dog nor interfere with its vision or  
 383 respiration, but shall prevent it from biting any person or animal.

384 4. The owner of a dangerous dog shall secure liability insurance  
 385 coverage or a surety bond as required by Chapter 16.08 RCW.

386 5. The owner of a dangerous dog shall be required to post the  
 387 premises with a clearly visible warning sign that there is a dangerous  
 388 dog on the property. In addition, the owner shall conspicuously display  
 389 a sign with a warning symbol that informs children of the presence of a  
 390 dangerous dog.

391 B. Failure to Comply with Dangerous Dog Requirements. Any  
 392 dangerous dog shall be immediately impounded by the Animal Control  
 393 Officer if:

394 1. The dog is not validly registered under this code and Chapter  
 395 16.08 RCW;

396 2. The owner does not secure liability insurance coverage or a  
 397 surety bond as required by Chapter 16.08 RCW;

398 3. The dog is not maintained in a proper enclosure;

399 4. The dog is outside of the dwelling of the owner or outside of  
 400 a proper enclosure and not muzzled and restrained by a substantial  
 401 chain or leash and under the control of a responsible person; or

402 5. The owner has failed to post the property with warning signs  
 403 as required.

404 C. Penalty. Failing to comply with any dangerous dog requirement  
 405 is a gross misdemeanor. A dangerous dog impounded in violation of  
 406 dangerous dog requirements shall not be released during investigation  
 407 of or prosecution for failure to comply with dangerous dog  
 408 requirements. Any person convicted of failing to comply with dangerous  
 409 dog requirements shall make restitution to the City for all costs incurred  
 410 in boarding and disposition of such dog and shall forfeit any interest in  
 411 such dog.

412 D. The provisions of this section shall not apply to dogs used by  
 413 law enforcement officials for police work.

414  
 415 Section 11. A new Kirkland Municipal Code Section 8.09.476 is  
 416 hereby adopted to read as follows:  
 417

418 **8.09.476 Dangerous Dog - notification of status, change of**  
 419 **ownership, custody and/or residence.**

420 A. The owner of a potentially dangerous dog or dangerous dog shall  
 421 notify the Animal Control Authority, immediately upon discovery of such  
 422 circumstances, when the dog is loose or unconfined off the owner's  
 423 property; or has bitten or injured a human being, pet or livestock; or is  
 424 sold or given away or dies.

425 B. If the owner moves such dog to another address or otherwise  
 426 transfers the dog to the ownership, custody, or residence of another  
 427 individual, the owner shall, within 14 calendar days of the change,  
 428 inform the Animal Control Authority in writing of the name, address and  
 429 telephone number of the new owner and/or the address of the new

430 residence where the dog is located. Such notice shall include the name,  
431 description and license number of the dog.

432 1. In the event the ownership and/or custody of the dog  
433 changes, the owner shall notify the new owner in writing of the details  
434 of the dog's record relating to being declared potentially dangerous or  
435 dangerous and the terms and conditions of the declaration.

436 2. The owner shall also provide the Animal Control Authority  
437 with a copy of the written notification, which shall contain a notarized  
438 statement by the new owner acknowledging receipt of the notification.  
439

440 Section 12. A new Kirkland Municipal Code Section 8.09.480 is  
441 hereby adopted to read as follows:  
442

443 **8.09.480 Vicious animals.**

444 A. Declaration of a Vicious Animal. The Animal Control Officer shall  
445 have the authority to declare an animal vicious, and place restrictions  
446 on such animal, if the Officer has probable cause to believe that the  
447 animal falls within the definition set forth in KMC 8.09.120(44). The  
448 declaration must be based upon:

449 1. The written complaint of a citizen who is willing to testify that  
450 the animal has acted in a manner which causes it to fall within the  
451 definition of KMC 8.09.120(44);

452 2. Animal bite report(s) filed with the Kirkland Police Department  
453 and/or Animal Control Authority;

454 3. Action(s) of the animal witnessed by any employee of the  
455 Animal Control Authority or any law enforcement officer; or

456 4. Other substantial evidence.

457 B. Exclusions. An animal shall not be declared vicious if the Animal  
458 Control Officer determines, by a preponderance of the evidence, that  
459 the threat, injury, or bite alleged to have been committed by the animal  
460 was sustained by a person who was at the time committing a willful  
461 trespass or other tort upon the premises occupied by the owner of the  
462 animal, or who was tormenting, abusing, or assaulting the animal, or  
463 who had been in the past observed or reported to have tormented,  
464 abused, or assaulted the animal, or who was committing or attempting  
465 to commit a crime.

466 C. Notice of Declaration. If the Animal Control Officer receives a  
467 report of a vicious animal, it shall immediately initiate an investigation  
468 including, but not limited to, interviewing the complainant(s),  
469 interviewing the owner of the animal, if known, and observing the  
470 animal. Upon completion of the Officer's investigation, if the animal is  
471 declared vicious, the Officer shall prepare a declaration of vicious  
472 animal.

473 1. The declaration shall be in writing and served on the owner  
474 or person presumed to be the owner pursuant to KMC 8.09.450(C).

475 2. The declaration shall include, but is not limited to, the  
476 information set forth in KMC 8.09.450(B), in addition to:

477 a. The whereabouts of the animal if not in custody of the  
478 owner;

479 b. A statement of any restrictions placed on the animal or  
480 owner as a result of the declaration; and

481 c. The ability and process for appealing the declaration by  
482 submitting a written request to the Municipal Court of the City of  
483 Kirkland within five days of the date the declaration was served.

484 D. Appeal. Appeals shall be heard by the Municipal Court of the  
485 City of Kirkland pursuant to KMC 8.09.460.

486 E. Appeal Form. The declaration shall include an appeal form, a  
487 copy of which is also available on the City of Kirkland website.

488  
489 Section 13. A new Kirkland Municipal Code Section 8.09.482 is  
490 hereby adopted to read as follows:

491  
492 **8.09.482 Vicious animals - corrective action.**

493 A. An animal that has been declared vicious may be harbored, kept  
494 or maintained in the City only upon compliance with those requirements  
495 prescribed by the Animal Control Officer in writing and issued to the  
496 owner. In prescribing the requirements, the Officer must take into  
497 consideration the following factors:

- 498 1. The physical size of the animal;
- 499 2. The number of animals in the owner's home;
- 500 3. The zoning involved; size of the lot where the animal resides  
501 and the number and proximity of neighbors;
- 502 4. The existing control factors, including, but not limited to,  
503 fencing, caging, runs and staking locations; and
- 504 5. The nature of the behavior giving rise to the Officer's  
505 determination that the animal is vicious, including:
  - 506 a. extent of injury or injuries;
  - 507 b. circumstances, such as time of day, if it was on or off the  
508 property, and provocation instinct; and
  - 509 c. circumstances surrounding the result and complaint, such  
510 as neighborhood disputes, identification, credibility of complainants and  
511 witnesses.

512 B. Requirements that may be prescribed include, but are not limited  
513 to, the following:

- 514 1. Erection of additional or new fencing adequate to keep the  
515 animal within the confines of its property;
- 516 2. Construction of a run within which the animal is to be kept.  
517 Dimensions of the run shall be consistent with the size of the animal;
- 518 3. Keeping the animal on a leash adequate to control the animal,  
519 the length and location to be determined by the Animal Control Officer;
- 520 4. Maintenance of the animal indoors at all times, except when  
521 personally controlled on a leash adequate to control the animal by the  
522 owner or a competent person at least eighteen years old; and/or
- 523 5. Removal of the animal from the City within forty-eight hours  
524 from receipt of such a notice.

525 C. Failure to Comply with Vicious Animal Requirements. A vicious  
526 animal shall be immediately impounded by the Animal Control Officer if

527 the animal is not compliant with all of the requirements prescribed by  
528 the Animal Control Officer pursuant to Section B above.

529 D. Penalty. Failure to comply with any vicious animal requirement  
530 is a misdemeanor. An animal impounded in violation of vicious animal  
531 requirements shall not be released during investigation of or prosecution  
532 for failure to comply with such requirements. Any person convicted of  
533 failing to comply with prescribed vicious animal requirements shall make  
534 restitution to the City for all costs incurred in boarding and disposition  
535 of such animal and shall forfeit any interest in such animal.  
536

537 Section 14. A new Kirkland Municipal Code Section 8.09.490 is  
538 hereby adopted to read as follows:  
539

540 **8.09.490 Civil penalty and abatement costs - Liability of owner.**

541 The civil penalty and the cost of abatement are personal obligations  
542 of the animal owner. The attorney on behalf of the City may collect the  
543 civil penalty and the abatement work costs by use of all appropriate  
544 legal remedies.  
545

546 Section 15. A new Kirkland Municipal Code Section 8.09.492 is  
547 hereby adopted to read as follows:  
548

549 **8.09.492 Costs of enforcement action.**

550 In addition to costs and disbursements provided for by statute, the  
551 prevailing party in a collection action under this code may, in the court's  
552 discretion, be allowed interest and a reasonable attorney's fee. The  
553 attorney on behalf of the City shall seek such costs, interest, and  
554 reasonable attorney's fees on behalf of the City when the City is the  
555 prevailing party.  
556

557 Section 16. A new Kirkland Municipal Code Section 8.09.494 is  
558 hereby adopted to read as follows:  
559

560 **8.09.494 Additional rules and regulations.**

561 The Animal Control Officer is authorized to make and enforce rules  
562 and regulations, not inconsistent with the provisions of this title, and it  
563 is unlawful to violate or fail to comply with any of such rules and  
564 regulations. All of such rules and regulations shall be reduced to writing  
565 and adopted in accordance with the Kirkland Police Department's  
566 policies and procedures manual.  
567

568 Section 17. A new Kirkland Municipal Code Section 8.09.496 is  
569 hereby adopted to read as follows:  
570

571 **8.09.496 Waiver of fees and penalties.**

572 A. The Animal Control Officer may waive or provide periods of  
573 amnesty for payment of outstanding licensing fees, late licensing  
574 penalty fees, adoption fees and redemption and sheltering fees, in  
575 whole or in part, when to do so would further the goals of the Animal  
576 Control Authority and be in the public interest and in the best interest  
577 of the animal(s) involved.

- 578 B. In determining whether a waiver should apply, the Animal  
 579 Control Officer must take into consideration the following elements:  
 580 1. The reason the animal was impounded;  
 581 2. The reason or basis for the violation, the nature of the  
 582 violation, the duration of the violation and the likelihood the violation  
 583 will not recur;  
 584 3. The total amount of the fees charged as compared with the  
 585 gravity of the violation; and  
 586 4. The effect on the owner, the animal's welfare, the public's  
 587 interest, and whether it may further the overall goals of the Animal  
 588 Control Authority if the fee or fees or penalties are not waived and no  
 589 payment is received.

591 Section 18. If any provision of this ordinance or its application  
 592 to any person or circumstance is held invalid, the remainder of the  
 593 ordinance or the application of the provision to other persons or  
 594 circumstances is not affected.

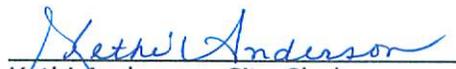
595  
 596 Section 19. This ordinance shall be in force and effect January  
 597 1, 2018, after its passage by the Kirkland City Council and publication  
 598 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary  
 599 form attached to the original of this ordinance and by this reference  
 600 approved by the City Council.

601  
 602 Passed by majority vote of the Kirkland City Council in open  
 603 meeting this 8th day of November, 2017.

604  
 605 Signed in authentication thereof this 8th day of November, 2017.

  
 Amy Walen, Mayor

Attest:

  
 Kathi Anderson, City Clerk

Publication Date: November 13, 2017

Approved as to Form:

  
 Kevin Raymond, City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4614

AN ORDINANCE OF THE CITY OF KIRKLAND ADOPTING PORTIONS OF THE CITY'S LOCAL ANIMAL CONTROL PROVISIONS THAT SET FORTH THE REGULATIONS APPLICABLE TO CRUELTY TO ANIMALS, NUISANCES, NOTICES AND ORDERS TO ABATE A PUBLIC NUISANCE, APPEAL PROCEDURES, VICIOUS ANIMALS, DANGEROUS DOGS, AND POTENTIALLY DANGEROUS DOGS.

SECTION 1. Adds a new Kirkland Municipal Code (KMC) Section 8.09.400 relating to definitions of public nuisances for the Chapter.

SECTION 2. Adds a new KMC Section 8.09.410 stating when the transfer of unaltered dogs and cats is prohibited.

SECTION 3. Adds a new KMC Section 8.09.420 relating to the penalty for unlawful acts against police department dogs.

SECTION 4. Adds a new KMC Section 8.09.430 relating to warning tickets issued by the Animal Control Officer.

SECTION 5. Adds a new KMC Section 8.09.440 relating to cruelty to animals, spelling out unlawful acts and violations.

SECTION 6. Adds a new KMC Section 8.09.450 relating to abatement of a public nuisance for the Chapter.

SECTION 7. Adds a new KMC Section 8.09.460 relating to appeal procedures for nuisance animals or dangerous or potentially dangerous dogs or vicious animals.

SECTION 8. Adds a new KMC Section 8.09.470 relating to potentially dangerous dogs.

SECTION 9. Adds a new KMC Section 8.09.472 relating to dangerous dogs.

SECTION 10. Adds a new KMC Section 8.09.474 relating to requirements for keeping a dangerous dog.

SECTION 11. Adds a new KMC Section 8.09.476 relating to owner notification responsibilities related to keeping a dangerous dog.

SECTION 12. Adds a new KMC Section 8.09.480 relating to vicious animals.

SECTION 13. Adds a new KMC Section 8.09.482 relating to corrective action requirements for vicious animals.

SECTION 14. Adds a new KMC Section 8.09.490 stating all civil penalties and abatement costs are the liability of the animal owner.

SECTION 15. Adds a new KMC Section 8.09.492 relating to costs of enforcement action for the Chapter.

SECTION 16. Adds a new KMC Section 8.09.494 relating to additional rules and regulations for the Chapter.

SECTION 17. Adds a new KMC Section 8.09.496 relating to the waiver of fees and penalties for the Chapter.

SECTION 18. Provides a severability clause for the ordinance.

SECTION 19. 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 January 1, 2018, 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 8th day of November, 2017.

I certify that the foregoing is a summary of Ordinance O-4614 approved by the Kirkland City Council for summary publication.

  
\_\_\_\_\_  
Kathi Anderson, City Clerk