

ORDINANCE NO. 2114

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE GENERAL HEALTH, WELFARE AND SAFETY, ESTABLISHING STANDARDS FOR ENTRY AND INSPECTION WITH AND WITHOUT SEARCH WARRANT ON PRIVATE PROPERTY IN FURTHERANCE OF CODE AND ORDINANCE ENFORCEMENT PROGRAMS AND PROVIDING FOR THE APPLICATION OF SUCH SEARCH WARRANTS WHERE CONSTITUTIONALLY REQUIRED.

WHEREAS, the various fire, building and water codes (inter alia) of the City of Kirkland, many of which are uniform or model codes, in general provide for code or ordinance enforcement inspection by entry to the premises with or without the permission of the occupant or owner, and

WHEREAS, the constitution guarantees against unreasonable searches and seizures, requires in certain non-emergency situations either permission for entry or entry pursuant to an inspection search warrant lawfully issued, and

WHEREAS, the City Council of the City of Kirkland deems it advisable to establish standards for the application of such inspection search warrants,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland, as follows:

Section 1. ENFORCEMENT, ENTRY AND INSPECTION

Wherever the various regulatory and administrative ordinances of the City of Kirkland provide for entry and inspection of private property, including the interior of buildings and structures, such entry and inspection by the appropriate City Official or inspector shall be accomplished only in accordance with the provisions of this ordinance.

Section 2. ENTRY AND INSPECTION WITHOUT PERMISSION
OF PROPERTY OWNER

No City official or inspector shall enter into private property for ordinance enforcement and inspection except:

A. With the permission to do so, given by the owner or occupant thereof, or

B. Where the area to be entered and inspected is open to the general public or a significant segment thereof, (whether or not a charge is made by the owner/occupant for admission); or

C. Where the entry and inspection is incident to the application, renewal or continuation of a license or permit issued by a City, County, State or Federal Government or agency; or

D. Where there exists a clear, present and immediate danger to the health, safety, welfare or morals of the general public or persons or property of persons not the owner, or occupant of the premises to be entered and inspected; or

E. Under authority to do so by inspection search warrant properly issued by the Northeast District Justice Court or other Court of competent jurisdiction.

Section 3. APPLICATION FOR ADMINISTRATIVE INSPECTION
SEARCH WARRANT

A. Wherever a City Ordinance provides for the enforcement thereof by entry and inspection of private property, it shall be the duty of the appropriate City Official or Inspector therein designated to inspect, and he may pursuant to section 2 of this Ordinance enter into all premises and buildings as often as may be necessary for the purpose of ascertaining and causing to be corrected

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any conditions failing to meet the regulations or standards established by such ordinance or any violations of the provisions of such ordinance or any other ordinance pertaining to the same subject matter or hazards.

B. It shall further be the duty of the appropriate official or department head or his lawful delegate to promulgate and modify from time to time, and file with the Director of Administration and Finance, administrative standards for the frequency and conduct of such ordinance enforcement inspection. Such standards shall be based upon such factors as the nature of the premises or building or its use, information indicating existence of a hazard sought to be regulated by such ordinance or a violation thereof, the frequency of inspection under such program of enforcement by entry and inspection, and similar considerations relevant to the nature of the subject matter or the hazard regulated.

C. Whenever entry and inspection can be accomplished only under authority of an inspection search warrant, the appropriate official shall make application therefore, to the Northeast District Justice Court or other Court of competent jurisdiction. He shall in said application set forth under oath the factors existing and the criteria established pursuant to this Ordinance and the Ordinance sought to be enforced which require the necessity of such entry and inspection under search warrant. He shall conduct such entry and inspection in accordance with the authorization to be set forth in said search warrant.

Section 4. This ordinance shall be in force and take effect five days from and after its passage and publication was required by law.

PASSED by the City Council at regular meeting on the 6th day of July, 1970.

SIGNED in authentication thereof on the 6th day of July, 1970.

William C. Woods

Mayor

Attest:

Sam J. Peterson

Director of Administration and Finance
(ex officio City Clerk)

Approved as to form:

Karl E. ...

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