

ORDINANCE NO. 3761

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO AMENDING SECTION 19.04, OBSTRUCTING STREETS AND SIDEWALKS, OF THE KIRKLAND MUNICIPAL CODE (FILE NO. CC-00-72).

WHEREAS, the City Council has received from the Department of Planning and Community Development a recommendation to amend certain sections of the text of title 19 (Streets and Sidewalks).

THE CITY COUNCIL OF THE CITY OF KIRKLAND DO ORDAIN AS FOLLOWS:


Section 1. Section 19.04 of the Kirkland Municipal Code is amended to read as set forth in Exhibit A.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in force and effect on July 1, 1999, or five days from and 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, as required by law, whichever occurs last.

PASSED by majority vote of the Kirkland City Council in regular, open meeting this 7th day of November, 2000.

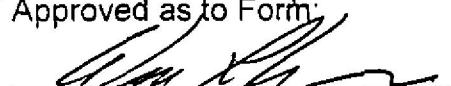
SIGNED IN AUTHENTICATION thereof this 7th day of November, 19 2000

  
\_\_\_\_\_  
Mayor

Attest:

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

Approved as to Form:

  
\_\_\_\_\_  
City Attorney

**EXHIBIT A****Chapter 19.04****OBSTRUCTING STREETS OR SIDEWALKS****Sections:**

- 19.04.010** Obstructions in right-of-way.
- 19.04.050** Private use of street right-of-way without permit prohibited.
- 19.04.060** Street use permit - Sidewalk cafe and produce market - Policy.
- 19.04.061** Street use Sidewalk cafe permit - Required.
- 19.04.062** Application for street use permit - sidewalk cafes permit.
- 19.04.063** Application for street use permit - produce markets.
- 19.04.064** 3 Performance bond, issuance, other requirements.
- 19.04.065** 4 Conditions of street use permit - sidewalk cafes permit.
- 19.04.066** Conditions of street use permit - produce markets.
- 19.04.067** 5 Fee for street use permits and use of sidewalk.
- 19.04.068** 6 Violation of Sections 19.04.060 through 19.04.067 - Criminal penalties.
- 19.04.080** Off-premises motorist service directional signs.
- 19.04.081** Street use permit required.
- 19.04.082** Services qualifying for off-premises directional signs.
- 19.04.083** Installation and maintenance of off-premises directional signs.
- 19.04.084** Placement and orientation of off-premises directional signs.
- 19.04.085** Sign framework - Number of signs.
- 19.04.086** Sign face.
- 19.04.087** City may terminate the program.

**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 citation 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. (Ord. 3006 § 1, 1987)

**19.04.050 Private use of street right-of-way without permit prohibited.**

It is unlawful for any person to either temporarily or permanently use or utilize any portion of a street right-of-way (whether or not improved and including sidewalk or walkway) for personal use, place of business or other private use, without first obtaining from the city a street use permit;

provided, however, that this section shall not be construed to prohibit the incorporation of the unused right-of-way portion of an improved street into the landscaping design of the abutting private property. (Ord. 2725 § 1, 1983)

**19.04.060 Street use permit - Sidewalk café and produce markets - Policy.**

It is the policy of the city of Kirkland that sidewalks are primarily to provide safe and convenient pedestrian use by the general public. A limited secondary uses may be considered for cafe tables, and retail sales of produce (including fruits, vegetables, flowers, live plants, and similar agricultural goods) only to the extent that such uses promotes and displays Kirkland business districts as pedestrian and people-oriented areas. (Ord. 3027 § 1 (part), 1987)

**19.04.061 ~~Sidewalk cafe~~ Street use permit - Required.**

A street use permit, allowing a portion of a public ~~sidewalk-right-of-way~~ to be used as a sidewalk ~~cafe~~ café or produce market, is required for any such private use of a public sidewalk ~~right-of-way~~. A ~~Such~~ sidewalk cafe street use permit shall be valid from January 1st through December 31st of the year in which the permit may be issued. The director of public works has authority to issue the permit, provided the criteria set forth in Sections 19.04.060 through 19.04.0685, inclusive, are met, and to otherwise deny the permit. (Ord. 3061 § 1, 1987; Ord. 3027 § 1 (part), 1987)

**19.04.062 Application for street use permit - sidewalk cafes permit.**

The owner of a cafe or other food service establishment providing on-premises consumption of food or beverage, may apply for a street use sidewalk cafe permit to use a portion of the public sidewalk abutting such establishment, provided the application includes and provides for the following standards:

- (a) A minimum six-foot-wide, unobstructed general public pedestrian corridor;
- (b) The table area of the permit to be fenced off from the pedestrian corridor by rope stanchions, portable planters, or similar device approved by the city;
- (c) A single opening through the fencing for customer entry;
- ~~(3) No off-premises advertising signs or displays;~~
- ~~(ed)~~ Applicant to provide one or more approved trash receptacles and one or more ash trays;
- ~~(fe)~~ The design and character of all street furniture to be subject to approval by the city;
- ~~(gf)~~ The table area limited to the portion of the sidewalk immediately adjacent to the occupied business frontage;
- ~~(hg)~~ Table area to be of sufficient size and configuration to provide internal customer and food service circulation. (Ord. 3027 § 1 (part), 1987)

**19.04.063 Application for street use permit- produce market.**

The owner of a retail produce market establishment within the Central Business District may apply for a street use permit to use a portion of the public right-of-way abutting such establishment, provided the application includes and provides for the following standards:

- (a) A minimum six-foot-wide, unobstructed general public pedestrian corridor;
- (b) No off-premises advertising signs or displays;

(c) The design and character of all street furniture shall be subject to approval by the city and in keeping with the design and character of the area. All improvements shall be easily moveable;

(d) Outdoor display and sales area limited to the portion of the right-of-way immediately adjacent to the occupied business frontage;

(e) If a public parking stall is proposed for use for outdoor display or sales, the following standards apply:

(i) Not more than one public parking stall within 300' on the same side of the street may be used at any one time. If multiple applications are received within 300', the use of any public parking stalls shall rotate between the applicants every six months with the order following the date the applications are received.

(ii) The applicant shall submit a written agreement for the use of the public parking stall from 75% of all ground floor retail tenants within 100' on the same side of the street.

(iii) The department of public works shall review and may deny the proposal for traffic and pedestrian safety concerns.

#### **19.04.0643 Performance bond, insurance, other requirements.**

Prior to issuance of the ~~sidewalk cafe~~ street use permit, the applicant shall file with the city the following:

(a) An agreement, approved by the city, wherein the applicant agrees to defend, save, and hold harmless the city of Kirkland;

(b) The permittee shall obtain, at its sole expense, comprehensive liability insurance, with limits of not less than three hundred thousand dollars per occurrence, and shall provide the city with satisfactory proof of continued insurance coverage during the life of the permit. Such insurance shall include the city of Kirkland as an additional named insured;

(c) File with the city, on a form approved by the city attorney, a performance bond issued by a surety company licensed to do business in the state of Washington. Such bond shall be in the amount of one thousand dollars and conditioned upon the permittee faithful performance of all conditions and requirements of the permit. (Ord. 3027 § 1 (part), 1987)

#### **19.04.0654 Conditions of street use permit - sidewalk cafes permit.**

A ~~sidewalk cafe~~ street use permit for a sidewalk café, when issued, shall be subject to the following conditions:

(a) No alcoholic beverage may be served or consumed within the permit area, except under the following conditions:

(i) The fencing required by Section 19.04.062(b) shall be a 3.5 foot high ~~sight-obscuring~~ barrier,

(ii) Alcoholic beverages may only be served in conjunction with the consumption of meals; alcoholic beverages shall not be carried or taken from the permit area,

(iii) All Liquor Control Board regulations, including regulations relating to "extended outside service areas" shall be adhered to,

(iv) A breach of any of the foregoing conditions shall be grounds for immediate suspension of the permit pursuant to subsection (i) below;

- (b) The entire sidewalk, including both the permit area and the unobstructed pedestrian corridor, plus a distance of fifty feet either side thereof, shall be maintained in a clean and litter-free condition and shall be cleaned by the permittee not less often than once daily;
- (c) No food preparation shall take place within the permit area;
- (d) No food service or other activity shall be carried on by the permittee from or within the pedestrian corridor;
- (e) No product displays shall be placed within the permit area;
- (f) No off-premises advertising signs or displays;
- (fg) Trash receptacles and ash trays shall be cleaned and emptied as required, but not less often than once a day;
- (gh) No animals shall be allowed within the permit area, except guide dogs for the blind and deaf;
- (hi) Any violation of the foregoing conditions shall constitute grounds for immediate revocation of the permit;
- (ij) The city may, and reserves the right to, temporarily or permanently suspend a ~~sidewalk cafe-~~ street use permit during the course of areawide special events or in the interest of the public health, safety and welfare. (Ord. 3061 § 2, 1987; Ord. 3027 § 1 (part), 1987)

**19.04.066 Conditions of street use permit – produce markets.**

A street use permit for a produce market, when issued, shall be subject to the following conditions:

- (a) The entire area, including both the permit area and the unobstructed pedestrian corridor, plus a distance of fifty feet either side thereof, shall be maintained in a clean and litter-free condition and shall be cleaned by the permittee not less often than once daily;
- (b) The area and improvements shall be maintained in a manner complementary to a quality pedestrian-oriented business district.
- (c) The following conditions apply if a public parking stall is proposed for use for outdoor display or sales:
  - (i) All materials shall be removed from the public parking stall and the stall made available any time the use is closed for more than 24 consecutive hours.
  - (ii) For the period between May 1 and October 1, no public parking stalls may be used unless the applicant provides a clearly marked replacement public parking stall within a private parking lot. The replacement stall shall be visible from the right-of-way and within 300' of the public parking stall used by the applicant.
- (c) Any violation of the foregoing conditions shall constitute grounds for immediate revocation of the permit;
- (d) The city may, and reserves the right to, temporarily or permanently suspend a street use permit during the course of areawide special events or in the interest of the public health, safety and welfare.

**19.04.0675 Fee for street use permits and use of public sidewalk.**

At the time of filing the application for a ~~sidewalk cafe-~~ street use permit, the applicant shall pay to the city a ~~sidewalk cafe-~~ street use use permit fee, calculated at the rate of forty-five cents

per square foot of permit area, plus an administrative fee as established by Section 5.74.070  
~~twenty-five-dollar administrative fee.~~ (Ord. 3027 § 1 (part), 1987)

**19.04.0686 Violation of Sections 19.04.060 through 19.04.0675 - Criminal penalties.**

Any violation of the provisions of Sections 19.04.060 through 19.04.0675, 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. (Ord. 3027 § 1 (part), 1987)

PUBLICATION SUMMARY  
OF ORDINANCE NO. 3761

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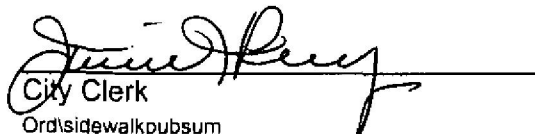
SECTION 1. Amends KMC Chapter 19.04 by adding and revising provisions relating to street use permits so as to include produce markets.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. 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 regular meeting on the 7th day of November, 2000.

I certify that the foregoing is a summary of Ordinance 3761 approved by the Kirkland City Council for summary publication.

  
City Clerk  
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