

ORDINANCE O-4943

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO CODE ENFORCEMENT; AMENDING CHAPTER 1.12 OF THE KIRKLAND MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City's code enforcement procedures are codified in chapter 1.12 of the Kirkland Municipal Code (KMC); and

WHEREAS, the City has experienced continued growth and increasingly complex code enforcement matters involving building, land use, development, and environmental regulations; and

WHEREAS, the City Council finds that clear, consistent, and transparent enforcement procedures support fair, efficient, and effective resolution of code violations; and

WHEREAS, these amendments to chapter 1.12 KMC are intended to improve procedural clarity and transparency, and enhance the City's ability to fairly and consistently administer code enforcement activities; and

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

Section 1. Section 1.12.010 of the Kirkland Municipal Code (KMC) and the corresponding portions of Ordinance No. 4280 § 1 (part) (2011) are amended to read as follows, with the new text shown in underline, deletions shown in ~~striethrough~~, and the intentional omission of unchanged sections or parts of tables indicated with three asterisks (***) ; all other provisions of these sections remain unchanged and in full force, and these provisions for identifying changes apply throughout this ordinance:

1.12.010 Purpose and Intent.

~~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. create a clear and efficient system that ensures compliance with the city's building, land development, land use, and related codes. These rules are designed to resolve violations fairly, establish appropriate penalties, provide hearings and appeals when needed, and allow the city to recover costs associated with enforcement. They also give the city authority to act quickly when abatement is necessary to protect the community.~~

This chapter also helps guide code compliance in a way that is consistent, proportional, and responsive to the seriousness of each situation. Complaints or evidence of violations are addressed according to the level of risk they pose. High risk situations involve imminent or actual harm to public health, safety, property, or the environment, and therefore require urgent action. Moderate risk situations present real concerns but are less severe and often repairable, so they call for prompt but not immediate response. Low risk or *de minimis* situations, which do not pose immediate threats, may be handled as time permits.

To achieve compliance, the city follows an incremental approach in most situations. This begins with contacting the responsible party, explaining the violation, and requesting voluntary correction. If necessary, the city may escalate to more formal enforcement actions. In some cases, the city may determine that no violation exists or that a minor issue does not warrant further action.

Section 2. Section 1.12.020 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4756 § 1 (2021) are amended to read as follows:

1.12.020 Definitions.

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

(a) "Abate" means to repair, rehabilitate, replace, remove, demolish, destroy, or otherwise take steps the city deems necessary in the interest of the general health, safety and welfare of the community to remedy a condition which that 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, and to return a property to the condition in which it existed before a civil violation occurred or to assure that the property complies with applicable code requirements.

(b) "Act" means doing or performing something.

(c) "Applicable department director" means the director of the department or ~~his or her~~ their designee.

(d) "Appeal hearing" means a hearing requested in response to a notice and order, stop work order, cease and desist order, or other official written notice issued by the city.

(e) "Cease and desist order" is a formal directive requiring a person or responsible party to immediately stop an activity or condition that violates any city regulation, permit condition, or written rule.

~~(d-f) "Civil violation" is an act or omission that violates any city regulation, permit condition, or written rule, including a condition resulting from such act or omission. It also includes any act or omission that violates the conditions of a notice and order, stop work order, cease and desist order, or any other official permission or order issued by the city. 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 Title 12 are specifically excluded from the application of this chapter.~~

(g) "De minimis" means a minor or insignificant civil violation or code violation that is not pursued under this chapter. Something is de minimis if it has minimal or no impact on the community or the environment.

(e-h) "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.

(i) "Director" means the director of the planning and building department, or their designee, unless indicated otherwise.

~~(f-j) "Emergency" means a situation which in the opinion of the applicable department director city requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.~~

(k) "Found in violation" means that either a notice and order, stop work order, cease and desist order, or other official written notice was issued by the City and no timely appeal was filed; or the hearing examiner has determined a violation occurred and the hearing examiner decision has not been stayed or reversed on appeal.

(g-l) "Hearing examiner" means the Kirkland hearing examiner and the office thereof established pursuant to Chapter 3.34 of the Kirkland Municipal Code.

(m) "Notice and order of civil violation" is a written document that informs a responsible party of a violation and directs them to correct the violation by a specified time or face potential fines or additional legal action.

(h-n) "Omission" means a failure to act.

(o) "Permit" means any form of certificate, approval, registration, license, or any other written permission issued by the city of Kirkland.

(i-p) "Person" means any individual, firm, association, partnership, corporation or any entity, public or private. For purposes of this chapter only, "person" does not mean the city of Kirkland.

(q) "Related parties" encompasses, but is not limited to, the following relationships:

(1) Individuals who are members of the same family;

(2) An individual and a corporation or other legal entity where the individual holds, either directly or indirectly, a controlling interest exceeding 50 percent;

(3) Two or more corporations or other legal entities that are part of the same controlling group;

(4) The grantor and the fiduciary of any trust arrangement; and

(5) A corporation and a partnership where the same individuals possess more than 50 percent of the corporation's value and more than 50 percent of the partnership's capital or profits interest.

The federal Internal Revenue Code, IRC Section 267, provides additional definitions that may be used to determine "related parties" status.

~~(j-r) Person responsible for the violation~~ "Responsible party" or "responsible parties" means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission ~~which that~~ 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), vendor(s), contractor(s), occupier(s), manager(s), agent(s), or other person(s) entitled to control, use, and/or occupy property where a civil violation occurs. Responsible party includes related parties (see definition of "related parties" herein). 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 caused or participated 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-s) "Regulation" means and includes the following, as they now exist or are hereafter amended:

(1) Title 23 (Kirkland Zoning Code);

(2) Title 21, Buildings and Construction (including codes adopted by reference);

- 155
156 (3) Chapter 15.52 (Surface Water Management);
157
158 (4) Title 29 (Land Surface Modification);
159
160 (5) Chapter 19.04 (Obstructing Streets or Sidewalks);
161
162 (6) Chapter 11.76 (Junk Vehicles);
163
164 (7) Chapter 11.24 (Nuisances);
165
166 (8) Chapter 11.64 (Littering);
167
168 (9) The terms and conditions of any permit or approval issued by the city, or any
169 concomitant agreement with the city;
170
171 (10) Chapter 7.74 (Fair Housing Regulations);
172
173 (11) *Repealed by Ord. 4769*;
174
175 (12) Chapter 16.08 (Garbage Disposal); and
176
177 (13) Chapter 7.02 (Business Licenses and Regulations); and
178
179 (14) Any other city ordinance or code provision where no alternative enforcement
180 mechanism is provided in the applicable ordinance or code.
181

182 ~~(l-t)~~ "Repeat violation" means a violation of the same city regulation, permit condition, or written
183 rule or requirement in any location in the city by the same person or responsible party for which
184 compliance previously has been sought or a notice of civil violation has been issued.
185

186 ~~(m-u)~~ "Required plan" means a city-required plan that addresses storm water or surface water
187 management including, but not limited to, a temporary sediment and erosion control (TESC)
188 plan, storm water pollution prevention plan (SWPPP), permit conditions and/or notes.
189

190 (v) "Stop work order" means a written order prohibiting any work or other activity at a particular
191 site.
192

193 ~~(e) "Violation" means an act or omission contrary to a city development regulation including~~
194 ~~an act or omission at the same or different location by the same person and including a~~
195 ~~condition resulting from such act or omission.~~
196

197 (w) "Voluntary correction agreement" or "VCA" means a written contract between the
198 responsible party and the city, under which the responsible party agrees to abate the violation
199 within a specified time and according to specified conditions.
200

201 Section 3. A new section entitled "Service of written notice," to be codified as KMC
202 1.12.027, is hereby created and shall read as follows:
203

204 **1.12.027 Service of written notice.**

205 (a) Service of a notice and order of civil violation, stop work order, cease and desist order, or
206 other official written notice of violation will be made by one or more of the following methods:
207

(1) By personal service to the responsible party or by leaving a copy of the written notice at such person's place of residence with a person of suitable age and discretion who resides there.

(2) By posting the written notice in a conspicuous place on the property where the violation occurred and concurrently mailing notice as provided for in this subsection.

(3) By mailing two copies of the written notice, postage prepaid, one by ordinary first-class mail and the other by certified mail, to the responsible party at their last known address, at the address of the civil violation, or at the address of the place of business of the responsible party. The taxpayer's address as shown on the county tax records will be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the civil violation occurred.

(b) The failure of the city to serve written notice on all responsible parties will not invalidate any proceedings as to any other person duly served.

(c) Proof of service should be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, and the manner by which the service was made.

Section 4. Section 1.12.030 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4280 § 1 (part) (2011) are amended to read as follows:

1.12.030 Voluntary correction agreement.

(a) *Applicability.* This section applies whenever the ~~applicable department director~~ city determines that a civil violation of a regulation has occurred or is occurring.

(b) *General.* The ~~city will~~ applicable department director shall make a reasonable attempt to secure voluntary correction by contacting the ~~person responsible party for the violation, where possible, explaining the violation, and requesting correction via a voluntary correction agreement (VCA).~~ At the city's discretion, a VCA may be entered into at any time before an administrative appeal is decided.

(c) ~~Issuance of Entry into a Voluntary Correction Agreement.~~ A ~~voluntary correction agreement VCA~~ may be entered into between the ~~person responsible party for the violation~~ and the city, acting through the ~~applicable department director~~ or their designee.

(d) The VCA will, at minimum, include the following:

(1) The name and address of the responsible party who is entering into the VCA;

(2) The street address or other description sufficient for identification of the building, structures, premises, or land upon which the civil violation has occurred or is occurring;

(3) A description of the civil violation and a reference to the city regulation, permit condition, or written rule or requirement that has been violated;

(4) The necessary corrective action to be taken;

(5) The date by which the corrective action must be completed;

(6) Agreement by the responsible party that the city may inspect the premises to determine compliance with the VCA; including explicit written permission from the responsible party and/or the property owner for the city to enter land or premises or structures to make such determination;

(7) The amount of the civil fine and/or the formula for calculating the civil fine that will be imposed pursuant to this chapter if the responsible party does not meet their obligations under the VCA;

(8) A statement that the responsible party waives their right to an administrative or judicial hearing for appeal purposes; and

(9) Agreement by the responsible party that if the city determines that such party does not meet their obligations specified in the VCA, the city may impose any remedy authorized by law, including, but not limited to:

(A) Assessment of civil fines as established by this chapter, and/or as identified in the VCA, and/or as allowed by law;

(B) Summary abatement of the civil violation by the city;

(C) Assessment of all costs and expenses incurred by the city to pursue code enforcement and to abate the civil violation, including legal and incidental expenses; and

(D) Suspension, revocation, or limitation of a permit.

~~(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-e) 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 city at the city's discretion, such as if the person responsible party 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 Section 1.12.060 if the terms of the voluntary correction agreement are not met.~~

~~(5-f) Collection of Costs. If the terms of the voluntary correction agreement VCA are not met, the person responsible party for the violation shall will be assessed a monetary penalty civil fine commencing on the date set for correction and thereafter, in accordance with Section 1.12.045040, plus all costs and expenses of abatement, as set forth in Section 1.12.060.~~

Section 5. Section 1.12.040 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4556 § 1 (2017) are amended to read as follows:

1.12.040 Notice and order of civil violation.

(a) Issuance.

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

~~(2) The applicable department director city, in its discretion, may issue a notice and order of civil violation without first having attempted to secure voluntary correction as provided in Section 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 and order of civil violation shall will include the following:

~~(1) The name and address of the person responsible party 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, permit condition, or written rule or requirement which that 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 Section 1.12.060 and the hearing examiner's order; and~~

(5) ~~The date, time and location of a right to request an appeal hearing before the hearing examiner as set forth in Section 1.12.047, which will be at least ten days from the date the notice of civil violation has been served; 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 forty-eight 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 Section 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 and order of civil violation is directed as specified and ordered by the hearing examiner.~~

(c) Service of Notice and Order of Civil Violation. ~~The applicable department director shall city will serve the notice and order of civil violation upon the person party to whom it is directed as set forth in Section 1.12.027, either personally or by mailing a copy of the notice of civil violation to such person at their last known address; provided, however, that service by mail shall be deemed served three days after it has been deposited in regular U.S. mail. 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 Schedule.

(1) Amount.

(A) ~~The penalty for first-time violations is one hundred dollars per day for each violation;~~

(B) ~~The per-day penalty for repeat violations shall be double the previous per-day penalty amount. For example, the per-day penalty for second-time violations is two hundred dollars, and the per-day penalty for third-time violations is four hundred dollars.~~

(2) Limit. ~~The total monetary penalties for each violation shall not exceed ten thousand dollars per violation, except as provided for in Sections 1.12.050(d)(3) and (4).~~

(f) Continued Duty to Correct. ~~Payment of a monetary penalty civil fine pursuant to this chapter does not relieve the person to whom the notice and order of civil violation was issued of the duty to correct the violation.~~

(g-e) Collection of ~~Monetary Penalty Civil Fine~~.

(1) The ~~monetary penalty civil fine~~ constitutes a personal obligation of the person(s) to whom the notice and order of civil violation is directed. Any ~~monetary penalty civil fine~~ assessed must be paid to the city as stated in the notice and order from the city that ~~penalties fines~~ are due ~~as established in the hearing examiner's decision~~.

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

Section 6. A new section entitled "Civil fines," to be codified as KMC 1.12.045, is hereby created and shall read as follows:

1.12.045 Civil fines.

(a) The city is authorized to assess monetary fines for any civil violation as identified in this chapter. When more than one responsible party is identified for fines and/or costs under this chapter, the city may determine whether the responsible parties will be jointly and severally liable for all fines and/or costs assessed.

(b) Fines assessed by the city pursuant to this chapter for civil violations included in a Notice and Order may be based on the number of days of noncompliance, dating back to the date of the initial violation.

(c) Fines assessed by the city pursuant to this chapter for failure to comply with the terms of a VCA may be based on the number of days of noncompliance for the initial violation, dating back to the date of the initial violation.

(d) Fines assessed by the city pursuant to this chapter for violation of a posted stop work or cease and desist order will be assessed for each day the city determines that work or activity was done in violation of the stop work or cease and desist order.

(e) Payment of a fine does not relieve the responsible party of the duty to correct the civil violation.

(f) The civil fines in this chapter are in addition to, and not in lieu of, any other penalties, sanctions, restitution, or fines provided for in any other provisions of law.

(g) Civil fine amounts shall be assessed based on Table 1.12.045:

Table 1.12.045 – Civil Fines

Unauthorized removal of posted stop work or cease and desist order	\$1,000
Noncompliance with City requirement:	
Days 1-15	\$100 per day
Days 16-30	\$250 per day
Days 31+	\$500 per day

(h) In addition to the other fines provided for in this chapter, including daily fines, any party responsible for a civil violation of the city's critical area ordinance may be jointly and severally liable for site restoration for the redress of ecological, recreation, and economic values lost or

465 damaged. Additionally, the responsible party may be assessed a civil fine up to \$25,000 plus
466 restoration, based upon the severity of the violation as documented by the city.

467
468 For the purposes of this subsection, a civil violation of the critical areas ordinance means: the
469 violation of any provision of chapter 85 KZC (Critical Areas: Geologically Hazardous Areas)
470 and chapter 90 KZC (Critical Areas: Wetlands, Streams, Minor Lakes, Fish and Wildlife Habitat
471 Conservation Areas, Priority Habitat, and Frequently Flooded Areas); and/or the failure to
472 obtain a permit required for work in a critical area; and/or the failure to comply with the terms
473 and/or conditions of any permit, approval, critical area tract, setback area, easement, or other
474 covenant, plat restriction, binding assurance, mitigation plan, contract, or other agreement
475 related to a critical area.

476
477 (i) Except as provided otherwise in this chapter, the total civil fine for each civil violation shall
478 not exceed \$50,000 per violation.

479
480 Section 7. A new section entitled "Appeals," to be codified as KMC 1.12.047, is hereby
481 created and shall read as follows:

482
483 **1.12.047 Appeals.**

484 (a) Department staff should:

- 485
486 (1) Be available within a reasonable time to a person wishing to file an appeal
487 pursuant to this chapter, and to respond to queries concerning the facts and
488 processes of the city decision; and
489
490 (2) Make available to a person wishing to file an appeal, within a reasonable time,
491 a copy of the key documents detailing the factual bases of the violation(s) listed
492 in the city decision they wish to appeal.

493
494 (b) Any person identified as a responsible party to a violation pursuant to any notice and order,
495 stop work order, cease and desist order, or other official written notice issued by the city under
496 this chapter may file an appeal within 21 calendar days after being served with a written copy
497 of such city decision. When the last day of the period so computed is a federal or city holiday,
498 the period will run until 4:30 p.m. on the next business day. The appeal must be in writing
499 clearly explaining the basis for the appeal.

500
501 (c) Filing. Except as otherwise provided herein, appeals to the hearing examiner will be filed
502 with the planning and building department in person, or via U.S. Mail. If the appeal is filed by
503 U.S. Mail, then the envelope must be post-marked by the applicable appeal deadline.

504
505 (d) The appeal must identify the city decision being appealed and the alleged errors in that
506 decision. Further, the appeal must state specific reasons why the city decision should be
507 reversed or modified, the harm suffered or anticipated by the appellant, and the relief sought.
508 The scope of an appeal will be based on matters or issues raised in the appeal.

509
510 (e) Failure to timely file an appeal deprives the hearing examiner of jurisdiction to consider the
511 appeal.

512
513 (f) Upon receipt of the appeal, department staff will provide the hearing examiner with a copy
514 of an appeal and the city will schedule an appeal hearing before the hearing examiner. The
515 hearing will be conducted in accordance with the procedures set forth in KMC 1.12.050 and
516 the hearing examiner's Rules of Procedure for Appeals.
517

Section 8. Section 1.12.050 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4451 § 3 (2014) are amended to read as follows:

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 ten 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 forty-eight hours prior to the scheduled hearing.~~

~~(e-a) Procedure. The hearing examiner shall will conduct a hearing on the appeal of the civil violation pursuant to the Hearing Examiner's Rules of Procedure for Code Enforcement Cases rules of procedure of the hearing examiner. The city applicable department director and the person responsible party to whom the notice and order of civil violation, stop work order, cease and desist order, or other official written notice issued by the city was directed may participate as parties in the hearing and each party may call witnesses. The city shall will have the burden of proof to demonstrate by a preponderance of the evidence that a violation has occurred, and that the amount of civil fine, if applicable, is reasonable, and whether the required corrective action, if applicable, is reasonable. The determination of the city applicable department director as to whether a civil violation has occurred and the amount of any civil fine is reasonable and/or the need for required corrective action is reasonable shall will be accorded substantial weight by the hearing examiner in determining the reasonableness of the required corrective action city's decision.~~

~~(d-b) Decision of the Hearing Examiner.~~

~~(1) The hearing examiner shall will determine whether the city has established by a preponderance of the evidence that a civil violation has occurred, and that the amount of civil fine, if applicable, is reasonable, and that the required correction, if applicable, is reasonable, and shall The hearing examiner will affirm, vacate, or modify the city's decision regarding the alleged violation and the amount of civil fine and/or required corrective action, with or without written conditions.~~

~~(2) If the responsible party is found to have committed the alleged civil violation, The the hearing examiner shall will issue an a written order to the person responsible party for the violation which that contains the following information:~~

~~(A) The decision regarding the alleged civil violation including findings of fact and conclusions of law based thereon in support of the decision;~~

~~(B) The required corrective action;~~

~~(C) The date and time by which the correction corrective action must be completed;~~

~~(D) The monetary penalties civil fines assessed and the date and time by which those fines must be paid based on the criteria in subsection (d)(3) of this section; and~~

~~(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 Civil Fine.~~ The hearing examiner ~~shall have the following options in assessing monetary penalties:~~ has authority to assess additional civil fines that will be due if compliance with the hearing examiner's decision is not achieved within the specified timeframe.

~~(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.~~

(4) ~~Determining Monetary Civil Fine Penalty.~~ Monetary penalties assessed by the hearing examiner ~~shall be in accordance with the monetary penalty schedule in Section 1.12.040; provided, that the hearing examiner may assess no monetary penalties or may assess up to double the monetary penalty schedule.~~ In determining the monetary penalty civil fine, the hearing examiner ~~shall~~ will consider the following factors:

(A) Whether the person responded to staff attempts to contact the person and cooperated with efforts to correct the civil violation;

~~(B) Whether the person appeared at the hearing;~~

~~(C) Whether the civil 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) Notice of Decision. The hearing examiner ~~shall~~ will email a copy of the decision to the person responsible for the civil violation and to the city ~~applicable department director~~ within ten (10) working days of the hearing; provided the responsible party has provided the city and the hearing examiner with an email address. If no email address has been provided, a copy of the decision will be mailed by the hearing examiner to the responsible party via first class mail.

~~(e-c) Failure to Appear.~~ If the person ~~to whom the notice of civil violation was issued who filed the appeal fails to appear at the scheduled hearing, without good cause,~~ the examiner will enter an default order finding that the civil violation occurred and assess the appropriate monetary penalty civil fine in addition to other remedies as allowed under this chapter. 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 civil fine from that person the responsible party.

~~(d) Effect of Decision.~~ The decision of the hearing examiner will constitute the final decision of the city unless appealed to superior court as set forth below. The city may pursue collection and abatement as provided in this chapter and as allowed by law.

~~(fe) Appeal to Superior Court.~~ An appeal of the decision of the hearing examiner must may be filed with superior court; any such appeal related to a land use decision must be appealed pursuant to the Land Use Petition Act ("LUPA"), codified in chapter 36.70C RCW. If an appeal

is sought, it must be filed within twenty-one (21) calendar days from the date the hearing examiner's decision was issued mailed to the person to whom the notice of civil violation was directed, or is thereafter barred.

Section 9. Section 1.12.055 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4451 § 4 (2014) are amended to read as follows:

1.12.055 Reduction of monetary penalties civil fines.

(a) The ~~city applicable department director~~ may reduce ~~monetary penalties~~ civil fines assessed in ~~Section 1.12.050~~ under this chapter if the civil violation is corrected and the city verifies in writing that the correction has been made and is acceptable ~~correction is verified by the department.~~

(b) For reduction of ~~monetary penalties~~ civil fines, the ~~person responsible party for the violation~~ shall will have the burden of proof that the civil violation has been corrected. The ~~person responsible party~~ must inform the ~~city department~~ of the date of correction and request verification by the city department.

(c) The ~~city applicable department director~~ may base the decision to reduce a ~~monetary penalty~~ civil fine on an evaluation of individual circumstances, including but not limited to the severity of the violation, the impact to neighbors, the duration of the violation, the cost to the city, the public interest being protected, and the cooperation of the ~~person responsible party for the violation~~. The ~~person responsible party for the violation~~ must submit a written request for reduction of ~~monetary penalties~~ civil fines that includes an explanation of the circumstances surrounding the commission of the violation and acts taken to correct the violation.

(d) Nothing in this section ~~shall obligates~~ the city director to reduce any ~~monetary penalties~~ civil fines.

Section 10. Section 1.12.057 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4451 § 5 (2014) are amended to read as follows:

1.12.057 Certificate of noncompliance Notice on title.

(a) ~~If When a property remains is determined by the city to be out of compliance under this chapter after a hearing examiner decision verifying the violation,~~ the applicable department director may record a certificate of noncompliance notice on title.

(b) The ~~certificate of noncompliance notice on title~~ is a notice recorded on the title of real property. The purpose of the certificate notice on title is to give notice to interested parties of outstanding code investigations and violations.

(c) The ~~notice on title certificate of noncompliance must~~ should include a statement of ~~how that~~ it can be removed from the title of the property when the civil violation(s) have been corrected.

Section 11. Section 1.12.060 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4280 § 1 (part) (2011) are amended to read as follows:

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 a voluntary correction agreement pursuant to Section 1.12.030 have not been met; or

(2) A notice and order of civil violation has been issued pursuant to Section 1.12.040, the responsible party did not timely request a hearing, and the responsible party has failed to correct their violation by the date required by the City; or

(23) A notice and order of civil violation has been issued pursuant to Section 1.12.040 and a hearing has been held pursuant to Section 1.12.050 and the required correction has not been completed by the date specified in the hearing examiner's order; or

(4) A timely appeal was filed pursuant to Section 1.12.047, and the appellant failed to appear at the scheduled hearing, and the hearing examiner has found in favor of the city by default; or

(3-5) The condition is subject to summary abatement as provided for in subsection (b) of this section or any other provision of city or state law.

(b) Summary Abatement. Whenever any civil 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~~ will be given to the ~~person responsible~~ party 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 civil violation ~~shall~~ will be billed to the ~~person responsible~~ party for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and ~~shall~~ will become due and payable to the city at City Hall ~~the permit center~~ within ten business calendar days. Such costs may include, but are not limited to, the following: ~~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.~~

(1) "Legal expenses," which include, but are not limited to:

(A) Personal costs, both direct and indirect, including attorney's fees and all costs incurred by the city Attorney's Office or its designee;

(B) Actual and incidental expenses and costs incurred by the city in preparing notices, contracts, court pleadings, and all other necessary documents; and

(C) All costs associated with the retention and use of expert witnesses or consultants.

(2) "Abatement expenses," which include, but are not limited to:

(A) Costs incurred by the city for preparation of notices, contracts, and related documents;

(B) All costs associated with inspection of the abated property and monitoring of said property consistent with orders of compliance issued by the hearing examiner or a court of competent jurisdiction;

(C) All costs incurred by the city, including but not limited to, costs for hauling, storage, disposal, or removal of vegetation, trash, debris, dangerous structures or structures unfit for occupancy, potential vermin habitat or fire hazards, junk vehicles, obstructions to public rights-of-way, and setback obstructions;

(D) All costs incurred by law enforcement or related enforcement agencies;

(E) All costs incurred by the city during abatement of nuisance and code violations, which may include interest in an amount as prescribed by law; and

(F) The city will have a lien for the actual costs of any abatement proceedings under this chapter, and all other related costs including attorney and expert witness fees, against the real property on which the work of abatement was performed. The lien will be subordinate to all previously existing special assessment liens imposed on the same property and will be superior to all other liens, except for state and county taxes, with which it will be on parity.

(e) Interference. No person shall will 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 or abate the civil violation.

Section 12. Section 1.12.070 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4451 § 6 (2014) are amended to read as follows:

1.12.070 Stop work orders and orders to cease and desist orders.

(a) Issuance of Order. The city may issue a stop work or cease and desist order, detailing the civil violation and prohibiting any further work or activity at the site if the following actions occur: 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 Title 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.

(1) Work is underway without a required permit;

(2) Work is being done in violation of a permit's terms;

(3) The activity contradicts any provision of the Kirkland Zoning Code or Municipal Code;

(4) The activity poses a threat to public health or safety; or

(5) The activity significantly impairs the city's ability to enforce the Zoning or Municipal Code.

The order will be served on the responsible party as set forth in Section 1.12.027. The order will also be posted on the property in a conspicuous manner.

(b) Effect. Upon issuance of a stop work or cease and desist order, the cited work or activity must immediately cease. Work or activity may not resume unless specifically authorized in advance by the city in writing. In addition to being subject to the fines in Section 1.12.045, any violation of a stop work or cease and desist order is hereby declared to be a public nuisance and the city is authorized to enjoin or abate such nuisance by any legal or equitable means available.

(bc) 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 order based on the costs to the city of investigation and enforcement of the order. Any person who shall continues any work or activity on the property after having been served with a stop work order or order to cease and desist order (except such work as that person is directed to perform to remove a violation or unsafe condition) shall will be subject to fines established in Section 1.12.045 and penalties as provided under this chapter and as otherwise prescribed by law.

(d) Any person identified as a responsible party, and/or any person with an ownership interest in property subject to a stop work or cease and desist order may file an appeal as set forth in KMC 1.12.047.

Section 13. Section 1.12.080 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4280 § 1 (part) (2011) are amended to read as follows:

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~~ their designee may enter any building or premises at any reasonable time, provided if such building or premises is occupied ~~he shall~~ they will first present credentials and demand entry, and if such building or premises is not occupied, ~~he shall~~ they will 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~~ their designee ~~shall will~~ 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.

Section 14. Section 1.12.100 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4877 § 1 (2024) are amended to read as follows:

1.12.100 Special provisions relating to enforcement of tree regulations in Chapter 95 KZC.

(a) General Requirements. This section applies to all trees in the city, including private property trees, public property trees and street trees. Enforcement shall will be conducted in accordance with procedures set forth in this chapter. Special enforcement provisions related to tree retention and restoration are set forth in this section.

(b) Authority. It shall will be the duty of the applicable department director or designee to administer the provisions of this section.

(c) Civil Penalty Fines for Tree Removal.

(1) It is unlawful to remove or damage trees in violation of the tree regulations in Chapter 95 KZC. Tree removal shall include the removal of a tree, through either direct or indirect

actions, including but not limited to: (A) clearing, damaging, girdling, or poisoning, in each case, resulting in an unhealthy or dead tree; (B) topping that results in removal of more than twenty-five percent of the live crown; or (C) damage to roots or trunk that is likely to destroy the tree's structural integrity.

(2) In addition to the definitions established in Section 1.12.020, any person who aids or abets in a violation of the city's tree regulations ~~shall~~ will be considered to have committed a violation for purposes of fines.

(3) Types of Violations. Violations of this code include, but are not limited to, the following:

(A) Removal or damage to tree(s), prior to final tree retention plan approval or issuance of a city tree removal permit;

(B) Removal or damage to tree(s) that are shown, or would be shown, to be retained on an approved tree retention plan or any other violation of an approved tree retention plan;

(C) Removal or damage to tree(s) without applying for or obtaining a required city tree removal permit; ~~or~~

(D) Removal or damage to tree(s) in violation of any of the terms and conditions of an issued city permit, which will require compliance with the most current version of the American National Standards Institute (ANSI) A300 Tree Care Standards pruning standards-;

(E) Removal or relocation of tree and soil protection fencing without approval by the city; or

(F) Damage to tree and soil protection fencing.

(4) Civil penalty fines ~~shall~~ will be assessed in accordance with Table 1.12.100, based on the diameter at breast height (DBH) of the unlawfully removed or damaged tree trunk. If the DBH of an unlawfully removed or damaged tree cannot be established, the diameter of the remaining stump, ~~top shall measured at two feet or less above natural grade, minus 10 percent, will~~ be used in lieu of DBH. In cases where the stump has been removed, the city will approximate the size of removed tree(s) based on available evidence, and if there is inadequate evidence of the size of the tree the city shall will assess a minimum ten thousand dollar civil penalty fine per equivalent to the fine for a landmark tree over 30 inches diameter per Table 1.12.100 for each unlawfully removed tree and stump. Fines may will be assessed against the responsible party in addition to the cost(s) of restoration. ~~The applicable department director may elect not to seek fines if they determine that the circumstances do not warrant imposition of fines in addition to the cost(s) of restoration. The city may, in its sole discretion, reduce or waive any fines on a case-by-case basis. If the responsible party seeks a reduction or waiver, then they must submit a written request for such to the city, which must include at a minimum a detailed statement of the circumstances surrounding the violation and all of the reasons that support a reduction or waiver of fines.~~

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Table 1.12.100. Civil Penalty-Fines

Unlawfully Removed or Damaged Tree DBH or Stump Diameter	Fines per Tree	Fines per Tree when Protected Through Easement, Tracts or Similar Document ¹
Trees less than 6 inches	none	\$1,000
Larger than 6 and up to 10 inches	\$1,000	\$1,500
Larger than 10 and up to 14 inches	\$2,000	\$3,000
Larger than 14 and up to 18 inches	\$4,000	\$6,000
Larger than 18 and up to 22 inches	\$6,000	\$9,000
Larger than 22 and up to 26 inches	\$8,000	\$12,000
Larger than 26 and up to 30 inches	\$16,000	\$24,000
Larger than 30 inches	\$20,000	\$30,000
Tree stump has been eliminated	\$10,000-20,000 ²	\$15,000-30,000 ²

Footnotes:

1. Tree(s) protected through easements, tracts or similar mechanism (such as, *but not limited to*, grove easements, Native Growth Protection Easements, Native Growth Retention Area, or Protected Natural-Areas).

2. Minimum fine amount; fine will be based on an assessment of actual size of tree when evidence allows.

(5) Civil fines for tree protection fencing violations and tree damage not resulting in immediate removal.

(A) For unauthorized relocation or removal of tree protection, such as tree protection fencing, violators are subject to a \$5,000 fine per location on the property in addition to any fines that may be assessed for damage caused to a tree resulting from such removal.

(B) If a tree has been damaged and it has been determined by an ISA-certified arborist (as defined by chapter 95 KZC) that the tree is not a hazard tree and does not have to be immediately removed, then the fine will be equivalent to half the fine amount in Table 1.12.100 for Unlawfully Removed or Damaged Trees. Additionally, the responsible party will repair all damages according to the recommendations of an ISA-certified arborist, using best available science.

(C) If a tree is damaged to the extent that it is considered a hazard tree, fines will be issued for the full amount set forth in Table 1.12.100 for Unlawfully Removed or Damaged Trees. Additionally, the responsible party will be required to provide site restoration as set forth in KMC 1.12.100(d).

(5-6) The fine per tree-penalty for repeat violations-shall will be determined by multiplying the fine per tree amount in Table 1.12.100 by the number of violations. For example, the fine per tree amount for second-time violations is multiplied by two, and the fine per tree amount for third-time violations is multiplied by three, and so on.

(6-7) Treble Damages. Where violation(s) result in the unlawful removal of or damage to public trees, in addition to the civil ~~penalty~~ fines in Table 1.12.100, the city may assess treble damages per RCW 64.12.030.

(d) Tree and Site Restoration.

(1) Restoration Plan. Violators of Chapter ~~KZC~~ 95 KZC or of a permit issued thereunder shall ~~will~~ be responsible for restoring unlawfully damaged areas. The goal of the restoration plan shall ~~will~~ be a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation.

(A) The restoration plan shall ~~will~~ depict repairs of any environmental and property damage and restoration of the site.

(B) Tree violations that occur in critical areas and their buffers, on properties within shoreline jurisdiction and within the Holmes Point Overlay zone are also subject to any restoration plan requirements in chapters 90, 85, 83 and 70 KZC, respectively.

(C) Restoration plans on private property shall ~~will~~ be approved by the planning official. If the violation occurred to public trees or street trees, the applicable department director or their designee may require a violator to pay fees in lieu of restoration per subsection (d)(3) of this section.

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

(A) The number of trees required to be planted shall ~~will~~ be equal to the number of tree credits of illegally removed trees according to Table 1.12.101.

Table 1.12.101:- Tree Credits for Illegally Removed Trees

(Credits per ~~minimum~~ maximum diameter – DHB)

DBH	Tree Credits	DBH	Tree Credits	DBH	Tree Credits
3" 5" 6"	0.5	24"	8	38"	15
6" 10"	1	26"	9	40"	16
12"	2	28"	10	42"	17
14"	3	30"	11	44"	18
16"	4	32"	12	46"	19
18"	5	34"	13	48"	20
20"	6	36"	14	50"	21
22"	7				

(B) The minimum size for a tree planted for restoration shall ~~will~~ be a six-foot-tall conifer and/or two-inch caliper deciduous or broadleaf evergreen tree. The city may approve

smaller restoration tree sizes at a higher restoration ratio, depending on the size, quality and species of the removed tree.

(C) The restoration plan ~~shall~~ will include a maintenance plan and an agreement or security to ensure survival and maintenance of restoration trees for a minimum five-year period.

(3) In the event the violators cannot restore the unlawfully removed or damaged trees, the violators ~~shall~~ will pay a fee in lieu of restoration to the city forestry account.

(A) Fees in lieu of restoration ~~shall~~ will be ~~as set forth in KZC 95.34 four hundred fifty dollars multiplied by the number of illegally removed tree credits per Table 1.12.101.~~

(B) If the diameter at breast height of a removed or damaged tree trunk is unknown, determinations of tree value ~~shall~~ will be made per subsection (c)(4) of this section.

(4) Owner Liability for Restoration. Where a violation of chapter 95 KZC has occurred, and when more than one responsible party is identified for fines, the city may determine that the responsible parties will be jointly and severally liable for all fines and/or costs assessed against each responsible party, including the cost and performance of restoration.

(e) Hearing on Violation, Failure to Restore or Failure to Pay Fines and/or Provide Restoration. The city shall will enforce this code via issuance of a notice and order of civil violation to the violator(s) according to the procedures set forth in this chapter. Violator(s) The responsible party may administratively appeal the notice and order of civil violation, and/or the amount of the fine, and/or any restoration due, in which case a hearing on the notice of civil violation shall will be held in accordance with Section 1.12.050 and the hearing examiner shall will determine whether violation(s) occurred and, if so, the hearing examiner may impose any appropriate fine(s) for such violation(s), as well as require restoration or fee(s) in lieu of restoration. Nothing in this provision affects the City's right to order required restoration, pursuant to this chapter and chapters 90 and 95 KZC.

Section 15. Section 1.12.110 of the Kirkland Municipal Code, entitled "Special provisions relating to enforcement of nuisance regulations," and the corresponding portions of Ordinance No. 4491 § 3 (part) (2015), are hereby repealed.

Section 16. Section 1.12.200 of the Kirkland Municipal Code and the corresponding portions of Ordinance No. 4756 § 2 (2021) are amended to read as follows:

1.12.200 Special provision relating to enforcement of Chapter 15.52 (Surface Water Management).

(a) General Requirements. This section applies to violations of Chapter 15.52, including illicit discharges and connections that discharge into the municipal storm drain system and/or surface and ground waters. Enforcement ~~shall~~ will be conducted in accordance with procedures set forth in this chapter.

Special enforcement provisions related to illicit discharges and connections are set forth in this section.

(b) Authority. It ~~shall~~ will be the duty of the public works director or designee to administer the provisions of this section.

(c) Determining Fines for Illicit Discharges and Connections and Other Violations of Chapter 15.52.

(1) Each action or omission taken in violation of Chapter 15.52 ~~shall~~ will constitute a separate violation.

(2) Any person who aids or abets the violation ~~shall~~ will be considered to have committed a violation for purpose of assessment of fines.

(3) Fines for a violation ~~shall~~ will be determined using the surface water enforcement matrix (Table 1) and administered per violation.

Table 1. Surface Water Enforcement Matrix

Enforcement Evaluation Criteria		Zero (0) points	One (1) point	Two (2) points
1)	Public Health Risk?			
2)	Environmental Damage?			
3)	Discharge into Municipal Storm Drain System?			
4)	Unresponsive in Correcting Action?			
5)	Was the violation a Result of a Responsible Party(s) Failure to Properly Operate, Maintain, or Implement a Required Plan?			

The surface water enforcement matrix (Table 1) is comprised of a set of criteria formulated as questions for the director to evaluate and answer. The director uses the guidelines below to determine the total points to be assessed according to the violation. The surface water fine(s) are determined by the total score of the matrix.

1. Did the violation result in a public health risk?

a. Assess zero points if there is no evidence to support a claim of public health risk or adverse health effects.

b. Assess one point if evidence supports a claim of public health risk and there is a plausible connection between this violation and health effect.

c. Assess two points if there is evidence directly linking public health risk or adverse effects with the violation.

2. Did the violation result in environmental (e.g., physical, chemical, or biological) damage?

a. Assess zero points if there is no evidence to support a claim of environmental damage.

b. Assess one point if environmental damage can be reasonably inferred from evidence or knowledge of the effects of the violation.

- c. Assess two points if there is evidence directly linking environmental damage with the violation.
3. Did the violation discharge into the municipal storm drain system?
- a. Assess zero points if there is no evidence to support a claim of impact to municipal storm drain system.
- b. Assess one point if impact to municipal storm drain system can be reasonably inferred from evidence or knowledge of the effects of the violation.
- c. Assess two points if there is evidence directly linking municipal storm drain system impacts to the violation.
4. Was the responsible party unresponsive in correcting the violation?
- a. Assess zero points if the violation was corrected as soon as the responsible party learned of it.
- b. Assess one point if the violation was corrected, or measures were attempted to be implemented, in a less timely and cooperative fashion.
- c. Assess two points if the responsible party made no attempt to correct the violation or no measures were attempted to be implemented to prevent further violation.
5. Was the violation a result of a responsible party(s) failure to properly operate, maintain, or implement a required plan?
- a. Assess zero points if the violation was not the result of improper or inadequate actions or inactions described above.
- b. Assess one point if proper operation or actions described above were completed but a violation still occurred.
- c. Assess two points if the violation was a result of improper or inadequate actions or inactions described above.

Once the total amount of penalty points is determined, a rating and a corresponding surface water fine amount are established (Table 2).

Table 2. Penalty Points Rating and Corresponding Surface Water Fine Amount

Rating	1-2	3-4	5-6	7	8	9	10
Fine	\$500	\$1,500	\$2,500	\$4,000	\$6,000	\$8,000	\$10,000

(d) Self-Reported Violations. The director or designee may reduce or waive the surface water fine for persons who immediately self-report violations to the city at 425-587-3900.

(e) Assessment of Fines.

(1) Fines. The ~~city director or designee shall~~ will assess the surface water fine against any responsible party in a written notice that sets forth the nature of the violation and the determination of the amount of the fine. The director or designee may elect not to seek

surface water fines if he or she finds that rare and unique circumstances do not warrant imposition of fines.

(2) Repeat Violations. Where the city finds a repeat violation of Chapter 15.52 has occurred pursuant to Section 1.12.020(l), the fine for the repeat violation ~~shall~~ will be determined by multiplying the surface water fine amount in Table 2 by the number of violations. For example, the fine for second time violators is multiplied by two, and the fine for third time violators is multiplied by three, and so on.

(f) Corrective Action and Summary Abatement. In addition to surface water fines, the city may require the responsible party to take corrective action to cease violating Chapter 15.52, including, but not limited to, requiring the responsible party to fully remove pollutants from private storm system(s) which enter into the municipal storm system. In the event the responsible party fails to take necessary corrective action in a timely fashion, the city may take summary abatement action in accordance with Section 1.12.060(b).

(g) Cost Recovery. The ~~city director or designee shall~~ will assess costs associated with cleaning or restoring the municipal storm drain system against any responsible party in a written notice that sets forth the nature of the violation and the determination of the amount. The director or designee may elect not to seek costs if ~~they~~ he or she finds that unique circumstances do not warrant such collection.

(h) Real Property Owner Liability. Where a violation of Chapter 15.52 has occurred at least in part on private property, and when more than one person is responsible for fines and/or costs under subsection (d), (e) and/or (f) of this section, the ~~city director or designee~~ may determine that the owner of the real property where the violation occurred ~~shall~~ will be jointly and severally liable for all of the fines and/or costs assessed against each person.

~~(i) Notice and Order of Civil Violation and Hearing on Violation. The city may issue a notice and order of civil violation to any responsible party who violates Chapter 15.52 and who fails to pay surface water fines and/or costs of recovery, and/or costs of abatement, and/or fails to take other necessary corrective action. The hearing on the notice of civil violation shall be held in accordance with Section 1.12.050.~~

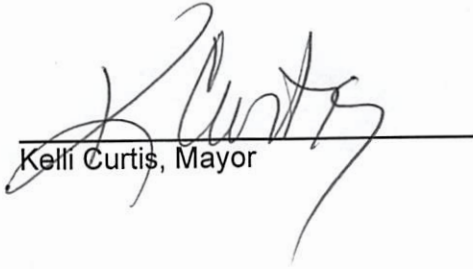
(i) Appeal. The responsible party may request an appeal to the city's hearing examiner as provided in KMC 1.12.047.

Section 17. 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 18. This ordinance shall be in force and effect five days from and after its passage by the 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.

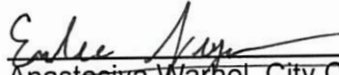
Passed by majority vote of the Kirkland City Council in open meeting this 7th day of July, 2026.

Signed in authentication thereof this 7th day of July, 2026.



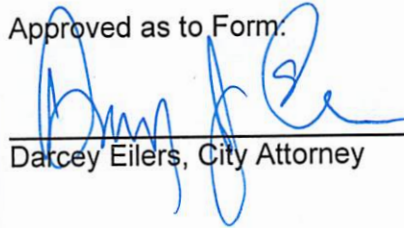
Kelli Curtis, Mayor

Attest:



Anastasiya Warhol, City Clerk
Emilee Ferguson, Deputy City Clerk

Approved as to Form.



Darcey Eilers, City Attorney

Publication Date: July 13, 2026

PUBLICATION SUMMARY
OF ORDINANCE NO. O-4943

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO CODE ENFORCEMENT; AMENDING CHAPTER 1.12 OF THE KIRKLAND MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

1 SECTION 1. Amends Kirkland Municipal Code (KMC) 1.12.010, expanding and
2 clarifying purpose and intent of code enforcement.

3
4 SECTION 2. Amends KMC 1.12.020, providing definitions of key terms in chapter
5 1.12 KMC.

6
7 SECTION 3. Adds a new section to chapter 1.12 KMC, KMC 1.12.027, providing
8 standard service methods for enforcement notices.

9
10 SECTION 4. Amends KMC 1.12.030, updating voluntary correction agreement
11 process.

12
13 SECTION 5. Amends KMC 1.12.040, expanding staff authority to issue notice and
14 order of civil violation.

15
16 SECTION 6. Adds a new section to chapter 1.12 KMC, KMC 1.12.045, establishing
17 predicable, graduated fines to encourage code compliance.

18
19 SECTION 7. Adds a new section to chapter 1.12 KMC, KMC 1.12.047, updating
20 appeal rights and filing deadlines.

21
22 SECTION 8. Amends KMC 1.12.050, regarding proceedings before the hearing
23 examiner.

24
25 SECTION 9. Amends KMC 1.12.055, providing criteria for discretionary civil fine
26 reductions.

27
28 SECTION 10. Amends KMC 1.12.057, renaming the section authorizing city to record
29 a notice on title when property remains out of code compliance.

30
31 SECTION 11. Amends KMC 1.12.060, providing authority for City abatement of code
32 violations and cost recovery.

33
34 SECTION 12. Amends KMC 1.12.070, strengthening authority to issue stop-work and
35 cease-and-desist orders and establishing formal appeals process.

36
37 SECTION 13. Amends KMC 1.12.080, modernizing language.

38
39 SECTION 14. Amends KMC 1.12.100, adding violations for removing or relocating tree
40 protection fencing and updating fine calculation methods.

41
42 SECTION 15. Repeals KMC 1.12.110 to eliminate duplication with chapter 11.24 KMC.

43
44 SECTION 16. Amends KMC 1.12.200, modernizing language.

45
46 SECTION 17. Provides a severability clause for the ordinance.

47
48 SECTION 18. Authorizes publication of the ordinance by summary pursuant to KMC
49 1.08.017 and establishes the effective date as July 1, 2026, which will be more than five days
50 from and after its passage by the City Council and publication of summary.

51
52 The full text of this Ordinance will be mailed without charge to any person upon request
53 made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City
54 Council at its meeting on the 7th day of July, 2026.

55
56 I certify that the foregoing is a summary of Ordinance O-4943 approved by the Kirkland
57 City Council for summary publication.


~~Anastasiya Werhol, City Clerk~~
Emilee Ferguson, Deputy City Clerk