

ORDINANCE O-4645

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE KIRKLAND MUNICIPAL COURT AND AMENDING CHAPTER 3.49 OF THE KIRKLAND MUNICIPAL CODE.

1 WHEREAS, various provisions of Chapter 3.49 of the Kirkland  
2 Municipal Code ("KMC") related to the Kirkland Municipal Court are  
3 appropriate for amendment or repeal in order to more completely  
4 conform to current practices, nomenclature and fee schedules.

5  
6 NOW, THEREFORE, the City Council of the City of Kirkland do  
7 ordain as follows:

8  
9 Section 1. Section 3.49.030 of the Kirkland Municipal Code is  
10 repealed.

11  
12 Section 2. Section 3.49.040 of the Kirkland Municipal Code is  
13 amended to read as follows:

14  
15 **3.49.040 Municipal court judge.**

16 (a) ~~Appointment. Within thirty days after the effective date of this~~  
17 ~~ordinance, the city manager shall appoint a municipal judge. Pursuant~~  
18 ~~to RCW 35A.13.080, this appointment is subject to confirmation by the~~  
19 ~~city council. Election. A municipal court judge shall be elected to office~~  
20 ~~for a term of four years commencing January 1, 2010. The judge shall~~  
21 ~~be elected in the same manner as the members of the city council are~~  
22 ~~elected to office.~~

23 (b) ~~Term. The Municipal Court judge shall serve a term of four years.~~  
24 ~~The initial appointment of a judge under this chapter shall expire~~  
25 ~~December 31, 1997. Until January 1, 1995, municipal judge shall be an~~  
26 ~~administrative position only. On or before December 1, 1997, the city~~  
27 ~~manager shall make an appointment of a judge for a term commencing~~  
28 ~~January 1, 1998 and expiring December 31, 2001. Appointments for~~  
29 ~~each term thereafter shall be made on or before December 1 of the year~~  
30 ~~next preceding the year in which the judicial term commences. At the~~  
31 ~~time of the appointment, the person appointed shall be qualified for the~~  
32 ~~position of municipal judge under city rules and state statutes, such as~~  
33 ~~RCW 3.50.040. Qualifications. A person elected as municipal court~~  
34 ~~judge shall be a citizen of the United States, a resident of the state of~~  
35 ~~Washington, and an attorney admitted to practice before the courts of~~  
36 ~~record of the State of Washington.~~

37 (c) ~~Additional Judges. Additional full or part time municipal judge~~  
38 ~~positions may be filled as provided in paragraphs (a) and (b) of this~~  
39 ~~section, when the public interest and the administration of justice makes~~  
40 ~~such additional judge or judges necessary, and so long as that~~  
41 ~~procedure is in compliance with state statutes, such as RCW 3.50.055.~~

42 (d) ~~Judges Pro Tem. The municipal court judge may designate one or~~  
43 ~~more persons as judges pro tem to serve in the absence, disability or~~  
44 ~~disqualification of a the municipal court judge, subsequent to the filing~~  
45 ~~of an affidavit of prejudice or, in addition to a the municipal court judge~~

46 when the administration of justice and the accomplishment of the work  
 47 of the court make it necessary. A judge pro tem shall be qualified to  
 48 hold the position of judge of the municipal court as described in this  
 49 section, ~~except that a judge pro tem need not be a resident of King~~  
 50 ~~County.~~ A judge pro tem shall have all the powers of ~~a~~ the municipal  
 51 court judge when serving as a pro tem judge. Before entering on his or  
 52 her duties, each judge pro tem shall take, subscribe, and file an oath as  
 53 is taken by a the municipal court judge. The judges pro tem shall receive  
 54 such compensation from the city as shall be fixed by the ordinances of  
 55 the city. ~~When deemed necessary by the city manager or designee, the~~  
 56 ~~city manager or designee may make a temporary appointment of a~~  
 57 ~~judge pro tem, to preserve an individual's rights according to law, or to~~  
 58 ~~respond to emergency circumstances, effective for up to one week.~~  
 59 ~~Such temporary appointee shall have the same powers as other judges~~  
 60 ~~pro tem. The temporary appointment and the term thereof do not need~~  
 61 ~~to be in writing and the oath of office of the temporary appointee may~~  
 62 ~~be orally sworn to or affirmed before the court administrator or court~~  
 63 ~~clerk.~~

64 (e-d) Vacancy. Any vacancy in the municipal court due to death,  
 65 disability or resignation of a municipal court judge shall be filled by the  
 66 city manager, for the remainder of the unexpired term. The appointment  
 67 shall be subject to the confirmation of the city council. The appointed  
 68 judge shall be qualified to hold the position of judge of the municipal  
 69 court as provided in this section.

70 (fe) Removal. A municipal court judge shall be removed only upon  
 71 conviction of misconduct or malfeasance in office, or because of physical  
 72 or mental disability rendering the judge incapable of performing the  
 73 duties of the office; provided, that a municipal court judge is also subject  
 74 to disciplinary actions by the Commission on Judicial Conduct and the  
 75 supreme court, as described in Chapter 2.64 RCW.

76 (gf) Oath. Every judge of the municipal court, before entering upon  
 77 the duties of the office, shall take and subscribe the following oath or  
 78 affirmation:

79 "I do solemnly swear (or affirm) that I will support the Constitution of  
 80 the United States and the Constitution of the State of Washington, and  
 81 that I will faithfully discharge the duties of the office of judge of the  
 82 municipal court of the City of Kirkland, according to the best of my  
 83 ability."

84 The oath shall be filed in the office of the King County recorder and with  
 85 the Kirkland city clerk.

86 (h) ~~Bonds. Every municipal court judge shall give such bonds to the~~  
 87 ~~state and city for the faithful performance of the judge's duties as may~~  
 88 ~~be required by law or city ordinance.~~

89 (ig) Compensation. Pursuant to RCW 3.50.080, the compensation for  
 90 municipal court judges shall be set by the city council by ordinance. ~~The~~  
 91 ~~city shall enter into a contract with the appointed judge for professional~~  
 92 ~~services.~~

93 (jh) Duties and Authority. The municipal court judge shall have the  
 94 duties and authority outlined in ~~ARLJ5~~ of the Administrative Rules for  
 95 Courts of Limited Jurisdiction of Washington State (ARLJ).  
 96

97 Section 3. Section 3.49.110 of the Kirkland Municipal Code is  
 98 repealed.

99 Section 4. Section 3.49.120 of the Kirkland Municipal Code is  
100 repealed.

101  
102 Section 5. Section 3.49.130 of the Kirkland Municipal Code is  
103 amended as follows:

104  
105 **3.49.130 Sessions.**

106 The municipal court shall be open for regular session on Monday  
107 through Friday of each week. The time for operation of court on those  
108 days shall be established by the judge. The municipal court judge shall  
109 have the authority to establish additional court dates, by order of the  
110 municipal court, to provide effective and efficient administration of  
111 justice. However, court shall not be open on nonjudicial days, as  
112 established by state law. This section shall not act as a limitation of  
113 actions of the municipal court judge regarding items such as telephonic  
114 approval of search warrants, issuance of no contact orders, or  
115 determinations as to probable cause.

116  
117 Section 6. Section 3.49.160 of the Kirkland Municipal Code is  
118 amended as follows:

119  
120 **3.49.160 Jury trial and fee.**

121 Jury trials shall be allowed as specifically provided for municipal courts  
122 or in accordance with state law applicable to a particular matter. In  
123 accordance with RCW 3.50.135 ~~3.50.125~~, each juror shall receive an  
124 attendance fee \$10.00 plus mileage for each day in attendance at upon  
125 the Kirkland municipal court consistent with state law, such as RCW  
126 3.50.135. ~~These fees may be included in the costs that are imposed by~~  
127 ~~the court upon a defendant.~~

128  
129 Section 7. Section 3.49.180 of the Kirkland Municipal Code is  
130 amended as follows:

131  
132 **3.49.180 Sentencing.**

133 The municipal court judge shall have the broadest authority and  
134 greatest discretion consistent with city ordinances ~~the Kirkland Municipal~~  
135 ~~Code~~ and state law with respect to sentencing and probation. In matters  
136 of execution of sentence, deferral of sentence, continuing jurisdiction  
137 after sentencing, and termination of probation, the municipal court  
138 judge shall be guided by applicable state law, such as RCW 3.50.300  
139 through ~~3.50.340, 3.50.440~~ 3.50.445.

140  
141 Section 8. Section 3.49.300 of the Kirkland Municipal Code is  
142 amended as follows:

143  
144 **3.49.300 Appointment of commissioners.**

145 ~~The provisions of this chapter shall define the position of court~~  
146 ~~commissioner for the Kirkland municipal court pursuant to the provisions~~  
147 ~~of Chapter 3.50 RCW. The Kirkland municipal court judge may appoint~~

148 ~~up to five part-time~~ one or more municipal court commissioners. Each  
 149 commissioner shall hold office at the pleasure of the municipal court  
 150 judge.

151

152 Section 9. Section 3.49.310 of the Kirkland Municipal Code is  
 153 amended as follows:

154

155 **3.49.310 Commissioner qualifications.**

156 A commissioner authorized to hear or dispose of a case must be an  
 157 attorney a lawyer, who is admitted to practice in the courts of record in  
 158 the State state of Washington. A commissioner need not be a resident  
 159 of Kirkland.

160

161 Section 10. Section 3.49.320 of the Kirkland Municipal Code is  
 162 amended as follows:

163

164 **3.49.320 Authority of court commissioner.**

165 ~~The municipal judge shall, by order filed with the municipal court~~  
 166 ~~administrator and the city clerk, designate the authority of a~~  
 167 ~~commissioner to hear, decide, or dispose of cases within the jurisdiction~~  
 168 ~~of the municipal court. Such authorization may be limited to specific~~  
 169 ~~types of cases and calendars. A court commissioner may not preside~~  
 170 ~~over jury trials or bench trials in criminal cases. Court commissioners~~  
 171 ~~shall perform such duties as set forth in applicable state law, for example~~  
 172 ~~RCW 3.50.075.~~

173

174 Section 11. Section 3.49.330 of the Kirkland Municipal Code is  
 175 repealed.

176

177 Section 12. Section 3.49.340 of the Kirkland Municipal Code is  
 178 repealed.

179

180 Section 13. If any provision of this ordinance or its application  
 181 to any person or circumstance is held invalid, the remainder of the  
 182 ordinance or the application of the provision to other persons or  
 183 circumstances is not affected.

184

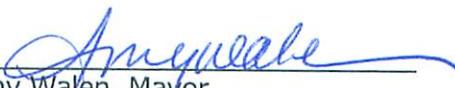
185 Section 14. This ordinance shall be in force and effect five days  
 186 from and after its passage by the Kirkland City Council and publication  
 187 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary  
 188 form attached to the original of this ordinance and by this reference  
 189 approved by the City Council.

190

191 Passed by majority vote of the Kirkland City Council in open  
 192 meeting this 5th day of June, 2018.

193

194 Signed in authentication thereof this 5th day of June, 2018.

  
 Amy Walen, Mayor

Attest:

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

Publication Date: June 11, 2018

Approved as to Form:

  
\_\_\_\_\_  
Kevin Raymond, City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4645

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE KIRKLAND MUNICIPAL COURT AND AMENDING CHAPTER 3.49 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Repeals Section 3.49.030 of the Kirkland Municipal Code.

SECTION 2. Amends Section 3.49.040 of the Kirkland Municipal Code related to the municipal court judge.

SECTION 3. Repeals Section 3.49.110 of the Kirkland Municipal Code.

SECTION 4. Repeals Section 3.49.120 of the Kirkland Municipal Code.

SECTION 5. Amends Section 3.49.130 of the Kirkland Municipal Code related to municipal court sessions.

SECTION 6. Amends Section 3.49.160 of the Kirkland Municipal Code related to jury trials and fees.

SECTION 7. Amends Section 3.49.180 of the Kirkland Municipal Code related to sentencing.

SECTION 8. Amends Section 3.49.300 of the Kirkland Municipal Code related to appointment of commissioners.

SECTION 9. Amends Section 3.49.310 of the Kirkland Municipal Code related to commissioner qualifications.

SECTION 10. Amends Section 3.49.320 of the Kirkland Municipal Code related to the authority of the court commissioner.

SECTION 11. Repeals Section 3.49.330 of the Kirkland Municipal Code.

SECTION 12. Repeals Section 3.49.340 of the Kirkland Municipal Code.

SECTION 13. Provides a severability clause for the ordinance.

SECTION 14. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland.

The Ordinance was passed by the Kirkland City Council at its meeting on the 5th day of June, 2018.

I certify that the foregoing is a summary of Ordinance O-4645 approved by the Kirkland City Council for summary publication.

  
Kathi Anderson, City Clerk