

ORDINANCE NO. 2375

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO CRIMINAL ACTIVITY ADOPTING CERTAIN SECTIONS AND SUBSECTIONS OF REVISED CODE OF WASHINGTON TITLES 9, 9A, 28A, 68, AND 70 BY REFERENCE AND AMENDING, SUPPLEMENTING AND REPEALING CERTAIN CHAPTERS, SECTIONS AND SUBSECTIONS OF TITLE 11 OF THE KIRKLAND MUNICIPAL CODE, AMENDING KIRKLAND MUNICIPAL CODE SECTION 1.04.010, ADDING KIRKLAND MUNICIPAL CODE SECTION 1.04.015; REPEALING KIRKLAND MUNICIPAL CODE SECTION 12.60.030; AMENDING KIRKLAND MUNICIPAL CODE SECTION 7.48.010; AND AMENDING CERTAIN SECTIONS OF TITLE 12 OF THE KIRKLAND MUNICIPAL CODE.

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

Section 1.

A. Section 1.04.010 of the Kirkland Municipal Code is hereby amended to read as follows:

1.04.010 Classes of crime - penalties.

(1) Any offense defined by the Kirkland Municipal Code or by any other ordinance of the City of Kirkland constitutes a crime. Crimes are classified as serious or simple crimes.

(2) A crime is a serious crime if it is so designated by this Ordinance. For convenience, designation of a serious crime shall be noted as (S) immediately preceding the relevant code section when practicable. For further designation of serious crimes, see Sections 9, 10 and 11 of this Ordinance. Any person convicted of a serious crime may be punished by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed 180 days, or by a combination of both fine and imprisonment.

(3) Every crime not designated as a serious crime shall be a simple crime. Any person convicted of a simple crime shall be punished by a fine not to exceed \$500.00.

B. Section 1.04.015 is hereby added to the Kirkland Municipal Code and provides as follows:

1.04.015 Limitation of actions. Prosecutions for crimes may be commenced at any period of time within one year after the commission of the crime, provided that any length of time during which the party charged was not usually and publicly residing within the State of Washington shall not be reckoned within the one year time period; and, further, provided that where a complaint has been filed within the time limited for the commencement for a criminal action, if the complaint be set aside, the time of limitation shall be extended by the length of time from the filing of such complaint to the time such complaint was set aside.

Section 2. Title 11 of the Kirkland Municipal Code is hereby amended and there is added a new chapter to be known as Chapter 11.04A to read as follows:

Chapter 11.04A General provisions.

11.04A.010 Title, effective date, application, severability captions.

(1) Title 11 of the Kirkland Municipal Code as amended by this ordinance shall be known and may be cited as the Kirkland Municipal Criminal Code and shall become effective on March 5, 1978. 1978.

(2) The provisions of this ordinance shall apply to any offense committed on or after March 5, 1978.

(3) The provisions of this ordinance do not apply to or govern the construction of or punishment for any offense or to the construction and application of any defense to prosecution for any offense committed prior to the effective date of this ordinance. Offenses committed prior to the effective date of this ordinance must be construed and punished according to the provisions of the ordinances of the City of Kirkland existing at the time of commission thereof in the same manner as if this ordinance had not been enacted.

(4) If any provisions of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance and Title 11 of the Kirkland Municipal Code or the application of the provision to other persons or circumstances is not affected and to this end the provisions of this ordinance are declared to be severable.

(5) Chapter, section and subsection captions are for organizational purposes only and shall not be construed as a part of this ordinance.

11.04A.020 Purposes - principles of construction.

(1) The general purposes of the provisions governing the definitions of offenses are:

- (a) To forbid and prevent conduct that inflicts or threatens substantial harm to individual or public interests.
- (b) To safeguard conduct that is without culpability from condemnation as criminal.
- (c) To give fair warning of the nature of the conduct declared to constitute an offense.

(2) The provisions of this ordinance shall be construed according to the fair import of their terms but when the language is susceptible to different constructions, it shall be interpreted to further the general purposes stated in this ordinance.

(3) Whenever the incorporated Revised Code of Washington provisions use the words "state," "laws of this state," "within this state" and other similar language, "city," "laws of this city" and "within this city" must be substituted in order to accomplish the purpose of incorporation by reference as part of this city ordinance. Also, definitions such as of government and public servant contained in adopted sections of Revised Code of Washington shall be interpreted so as to be lawfully enforceable under the Kirkland Municipal Code.

11.04A.030 Criminal jurisdiction. Any person who commits within the City of Kirkland any act which is contrary to or prohibited by the provisions of Title 11 of the Kirkland Municipal Code or any mandatory ordinance of the city shall be liable for punishment.

11.04A.040 Provisions of the Revised Code of Washington not incorporated by reference may be referred to for purposes of word definition or definition of terms.

11.04A.080 If the adopted by reference section of the Revised Code of Washington refers to another incorporated section for purposes of definition or otherwise, the cited Revised Code of Washington section shall be interpreted as referring to the corresponding Kirkland Municipal Code section.

Section 3. The following sections of Title 9A Revised Code of Washington are hereby adopted by reference as a part of Chapter 11.04A Kirkland Municipal Code:

<u>Kirkland Mun. Code Section</u>	<u>Section caption</u>	<u>RCW Section adopted by reference</u>
11.04A.050	People capable of committing crimes.	9A.04.050
11.04A.060	Common law to supplement statute.	9A.04.060
11.04A.070	Who amenable to criminal statutes.	9A.04.070
11.04A.100	Proof beyond a reasonable doubt.	9A.04.100
11.04A.110	Definitions.	9A.04.110

Section 4. The following sections and subsections of Revised Code of Washington Title 9A are, by this reference, adopted as sections of Title 11 Kirkland Municipal Code:

<u>Kirkland Mun. Code Section</u>	<u>Section caption</u>	<u>RCW Section adopted by reference</u>
11.08A.010	General requirements of culpability.	9A.08.010
11.08A.020	Liability for conduct of another - Complicity.	9A.08.020
11.08A.030	Criminal liability of corporations	9A.08.030
11.08A.030(1)	and persons acting or under a duty	9A.08.030(1)
11.08A.030(2)	to act in their behalf.	9A.08.030(2)
11.08A.030(3)		9A.08.030(3)
11.08A.030(4)		9A.08.030(4)
11.16A.010	Definitions.	9A.16.010

*See KMC 11.36A.080, 11.36A.090
 **Serious crime (S), see KMC 1.04.010

11.16A.020	Use of force - When lawful.	9A.16.020
11.16A.020(1)		9A.16.020(1)
11.16A.020(3)		9A.16.020(3)
11.16A.020(5)		9A.16.020(5)
11.16A.060	Duress.	9A.16.060
11.16A.060(1)		9A.16.060(1)
11.16A.060(3)		9A.16.060(3)
11.16A.060(4)		9A.16.060(4)
11.16A.070	Entrapment.	9A.16.070
11.20A.030	Alternative to a fine - Restitu- tion.	9A.20.030
11.28A.020(1)	Criminal attempt.	9A.28.020(1)
11.28A.020(2)		9A.28.020(2)
11.28A.030(1)	Criminal solicitation.	9A.28.030(1)
11.28A.040(1)	Criminal conspiracy.	9A.28.040(1)
11.28A.040(2)		9A.28.040(2)
** (S) 11.36A.040(1)	Simple assault.*	9A.36.040(1)
(S) 11.36A.050(1)	Reckless endangerment.	9A.36.050(1)
(S) 11.36A.070(1)	Coercion.	9A.36.070(1)
11.36A.070(2)		9A.36.070(2)
11.40A.050(1)	Custodial interference.	9A.40.050(1)
11.48A.010(1)	Definitions.	9A.48.010(1)
(S) 11.48A.050(1)	Reckless burning in the second degree	9A.48.050(1)
11.48A.060	Defense	9A.48.060
(S) 11.48A.090(1)	Malicious mischief in the third degree	9A.48.090(1)
11.48A.100	"Physical Damage" defined	9A.48.100
11.52A.010	Definitions	9A.52.010
(S) 11.52A.060(1)	Making or having burglary tools	9A.52.060(1)
(S) 11.52A.070(1)	Criminal trespass in the first degree	9A.52.070(1)
11.52A.080(1)	Criminal trespass in the second degree	9A.52.080(1)
11.52A.090	Criminal trespass - Defenses.	9A.52.090
(S) 11.52A.100(1)	Vehicle prowling.	9A.52.100(1)
11.56A.010	Definitions	9A.56.010
11.56A.020	Theft - Definition, defense.	9A.56.020
**Serious crime (S), see KMC 1.04.010		
*See KMC 11.36A.080, 11.36A.090		

(S) 11.56A.050(1)	Theft in the third degree	9A.56.050(1)
(S) 11.56A.060(1)	Unlawful issuance of checks or drafts.	9A.56.060(1)
11.56A.100	Theft and larceny equated.	9A.56.100
11.56A.140	Possessing stolen property - Definition - credit card, pre- sumption	9A.56.140
(S) 11.56A.170(1)	Possessing stolen property in the third degree	9A.56.140
(S) 11.56A.180(1)	Obscuring identity of a machine.	9A.56.180(1)
11.56A.180(2)		9A.56.180(2)
11.60A.010	Definitions	9A.60.010
(S) 11.60A.040(1)	Criminal impersonation	9A.60.040(1)
(S) 11.60A.050(1)	False certification.	9A.60.050(1)
11.72A.010	Definitions.	9A.72.010
(S) 11.72A.040(1)	False swearing	9A.72.040(1)
11.72A.050	Perjury and false swearing - Inconsistent statements	9A.72.060
11.72A.060	Perjury and false swearing - Retraction	9A.72.060
11.72A.070	Perjury and false swearing - Irregularities no defense	9A.72.070
11.72A.080	Statement of what one does not know to be true	9A.72.080
11.72A.140(1)	Jury tampering	9A.72.140(1)
(S) 11.72A.150(1)	Tampering with physical evidence	9A.72.150(1)
11.72A.150(2)		9A.72.150(2)
11.76A.010	Definitions.	9A.76.010
(S) 11.76A.020	Obstructing a public servant.	9A.76.020
(S) 11.76A.030(1)	Refusing to summon aid for a peace officer	9A.76.030(1)
(S) 11.76A.040(1)	Resisting arrest	9A.76.040(1)
11.76A.050	Rendering criminal assistance - definition of term	9A.76.050
11.76A.060	Relative defined	9A.76.060
(S) 11.76A.080(1)	Rendering criminal assistance in the second degree	9A.76.080(1)
(S) 11.76A.090(1)	Rendering criminal assistance in the third degree	9A.76.090(1)
(S) 11.76A.100(1)	Compounding	9A.76.100(1)
11.76A.100(2)		9A.76.100(2)
(S) 11.76A.130(1)	Escape in the third degree	9A.76.130(1)
(S) 11.76A.160(1)	Introducing contraband in the third degree	9A.76.160(1)

*See KMC 11.88A.100
 **Serious crime(S); see KMC 1.04.010

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(S) 11.76A.170(1)	Bail jumping	9A.76.170(1)
(S) 11.76A.180(1)	Intimidating a public servant	9A.76.180(1)
11.76A.180(2)		9A.76.180(2)
11.76A.180(3)		9A.76.180(3)
(S) 11.80A.010(1)	Official misconduct	9A.80.010(1)
(S) 11.84A.010(1)	Riot	9A.84.010(1)
(S) 11.84A.020(1)	Failure to disperse	9A.84.020(1)
(S) 11.84A.030(1)	Disorderly conduct	9A.84.030(1)
(S) 11.84A.040(1)	False reporting	9A.84.040(1)
(S) 11.88A.010(1)	Public indecency	9A.88.010(1)
(S) 11.88A.030(1)	Prostitution *	9A.88.030(1)
11.88A.050	Prostitution: No defense	9A.88.050
(S) 11.88A.090(1)	Permitting prostitution	9A.88.090(1)

Section 5. The following sections and subsections of the Revised Code of Washington Title 9 are by this reference adopted as sections of Title 11 Kirkland Municipal Code:

<u>Kirkland Mun. Code Section</u>	<u>Section caption</u>	<u>RCW Section adopted by reference</u>
(S) 11.23.010	Criminal contempt	9.23.010
11.41.240	Use of Firearms by Minor	9.41.240
(S) 11.45.180	Fraud in Operating Coin Box Telephone or other receptacle	9.45.180
(S) 11.45.190	Penalty for manufacture or sale of slugs to be used for coin	9.45.190
(S) 11.45.240	Fraud in obtaining telephone or or telegraph service	9.45.240
(S) 11.61.160	Threats to bomb or injure property	9.61.160
11.61.170	Threats to bomb or injure property - Hoax no defense	9.61.170
(S) 11.61.230	Telephone calls to harass, intimidate, torment or embarrass	9.61.230
(S) 11.61.240	Telephone calls to harass, in- timidate, torment or embarrass - permitting telephone to be used	9.61.240
11.61.250	Telephone calls to harass, in- timidate, torment or embarrass - offense - where deemed committed	9.61.250
(S) 11.69.100	Withholding knowledge of felony involving violence, penalty	9.69.100

*See KMC 11.88A.100

**Serious crime (S), see KMC 1.04.010

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11.86.010	"Flag," etc., defined	9.86.010
11.86.020	Improper use of flag prohibited	9.86.020
11.86.030	Desecration of flag	9.86.030
(S) 11.91.060	Leaving children unattended in parked automobile	9.91.060

Section 6. The following sections and subsections of the Revised Code of Washington titles are by this reference adopted as sections of Title 11 Kirkland Municipal Code:

<u>Kirkland Mun. Code Section</u>	<u>Section Caption</u>	<u>RCW Section adopted by reference</u>
(S) 11.87A.230	Interfering by force or violence with any administrator, teacher or student unlawful	28A.87.230
(S) 11.87A.231	Intimidating any administrator, teacher or student by threat of force or violence unlawful	28A.87.231
11.87A.232	Disciplinary authority, exception	28A.87.232

Section 7. The relevant chapters of Title 11 of the Kirkland Municipal Code are hereby amended and supplemented by the enactment of the following sections thereto:

11.36A.080 Assault defined. Every person who, with intent to inflict bodily harm or to create an apprehension thereof, by threat, with force and violence, to do a corporeal hurt to another, is guilty of an assault and shall be punished for a serious crime unless such assault or use of force is excused under the provisions of Kirkland Municipal Code 11.16A.020.

11.36A.090 Assault and battery - defined. "Assault and Battery" is the unlawful beating of another or a consummated attempt to unlawfully touch, strike, beat or wound another person.

11.84A.060 False aid calls and false fire alarms - civil remedy. Any person committing those acts described in Kirkland Municipal Code 11.84A.040 shall be liable for damages in a civil action for actual costs incurred in response to such acts of reporting and for reasonable court costs and attorneys' fees

**Serious crime (S), see KMC 1.04.010

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incurred in proceeding under this section. It is provided that any such person proceeded against under this section need not be shown to have had actual knowledge that the information reported, conveyed or circulated was false, but rather that said information lacked a reasonable and justifiable basis from which an ordinarily prudent person could conclude that it was true.

11.52A.110 Unlawful entry into motor vehicle. It shall be unlawful for any unauthorized person to enter and remain in a motor vehicle without the permission of the owner or person entitled to the possession thereof.

11.84A.050 Unlawful consumption of intoxicating liquor. It shall be unlawful for any person to open a container of intoxicating liquor or consume intoxicating liquor in a public place or way open to the public; except in such public places as are specifically identified and posted as places where intoxicating liquor may be consumed.

(S)11.88A.020 Encouraging a minor to engage in sexual conduct.* It shall be unlawful for any person over the age of seventeen years of age to communicate with a child under the age of seventeen years of age for the purpose of encouraging said child to engage in sexual conduct.

11.88A.100 Sexual conduct - defined. Acts of masturbation, sexual intercourse or physical conduct with a person's clothed or unclothed genitals, pubic area, buttocks or, if a female, breasts.

(S)11.28.190 Carrying loaded shotgun or rifle in vehicle. It shall be unlawful for any person to carry, transport or convey, or to have in his possession or under his control in any motor driven or horse drawn vehicle or on or in any vehicle propelled by man, any shotgun or rifle containing shells or cartridges therein.

Section 8. The following chapters of Title 11 of the Kirkland Municipal Code are hereby repealed in their entirety: Chapter 11.04; Chapter 11.08; Chapter 11.16; Chapter 11.32; and Chapter 11.40. The following sections of the Kirkland Municipal Code are hereby repealed: 11.12.020; 11.20.030; 11.20.040; 11.20.110; 11.20.120; 11.20.130; 11.20.140; 11.20.150; 11.20.160; 11.20.180 and 11.20.190;

*See KMC 11.88A.100

11.36.010; 11.36.030; 11.36.040; 11.36.070; 11.36.080 and
11.36.090; 11.48.010; 11.48.020; and 12.60.030.

Section 9. Pursuant to Kirkland Municipal Code Section 1.04.010, as amended herein, the following Kirkland Municipal Code Sections are hereby designated as serious crimes:

11.12.010; 11.20.010; 11.24.010; 11.24.020; 11.24.050;
11.24.070; 11.24.080; 11.24.110; 11.28.020; 11.28.030;
11.28.040; 11.28.050; 11.28.110; 11.28.170; 11.28.190;
11.36.020; 11.36.050; 11.36.060; 11.36.100; 11.44.030;
11.44.040; 11.44.050; 11.44.070; 11.44.080; 11.44.120;
11.52.010; 11.52.020; 11.52.050; 11.60.010; 11.80.050;
11.80.060; 11.80.070; 11.80.080; 11.80.150; 11.80.180;
11.80.210; 11.80.230.

Section 10. Kirkland Municipal Code Section 7.48.010 is hereby designated a serious crime.

Section 11. The following sections of Title 12 of the Kirkland Municipal Code are hereby designated serious crimes (designation by Revised Code of Washington numbers refers to sections as incorporated by reference through Kirkland Municipal Code Section 12.60.010): RCW 46.20.190; 46.20.336; 46.20.342; 46.20.410; 46.20.440; 46.37.540; 46.52.010; 46.52.020; 46.52.090; 46.61.015; 46.61.020; 46.61.080; 46.64.048; 46.52.088; 46.61.266; 46.61.655; 46.61.400; 46.61.500; 46.61.506; 46.61.530; 47.20.120; 46.61.645; and Kirkland Municipal Code Sections 12.28.010 and 12.28.040.

Section 12. The City shall at all times keep on hand and available for public inspection not less than three (3) copies of Title 9A Revised Code of Washington or the parts thereof adopted by reference as a part of this ordinance.

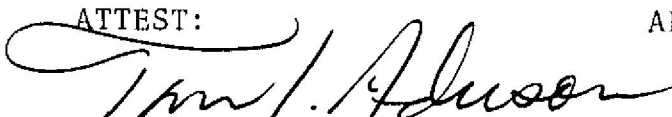
Section 13. Except as provided in Section 2, this ordinance shall be in force and take effect five (5) days from and after its passage by the City Council and publication as required by law.

PASSED by the Kirkland City Council in regular meeting on the 21st day of February, 1978.

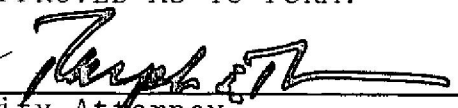
SIGNED IN AUTHENTICATION thereof on the 21st day of February, 1978.


MAYOR

ATTEST:


Director of Administration
and Finance
(Ex officio City Clerk)

APPROVED AS TO FORM:


City Attorney

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