

ORDINANCE 3439

AN ORDINANCE OF THE CITY OF KIRKLAND CREATING A MUNICIPAL COURT TO COMMENCE OPERATION ON JANUARY 1, 1995, PROVIDING FOR THE APPOINTMENT OF A MUNICIPAL JUDGE, REPEALING CHAPTER 3.48 AND ADOPTING CHAPTER 3.49 IN THE KIRKLAND MUNICIPAL CODE.

WHEREAS, the City of Kirkland is an optional municipal code city with a population of less than four hundred thousand, and

WHEREAS, Chapter 3.50 of the Revised Code of Washington allows such cities to create and operate a municipal court, having the jurisdiction and powers set forth therein; and

WHEREAS, the City considers the creation of a Kirkland Municipal Court to be in the best interests of the citizens of the city.

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

Section 1. KMC Chapter 3.48 is repealed as of 11:59 p.m. December 31, 1994.

Section 2. A new Chapter 3.49, entitled Kirkland Municipal Court, is hereby added to the Kirkland Municipal Code, to read as follows:

3.49.010 Creation. The Municipal Court of Kirkland is hereby created, which shall have jurisdiction and exercise all powers vested in the Court by Chapter 3.50 RCW as it now exists or may hereafter be amended, together with such other powers and jurisdiction as are generally conferred on such courts in Washington, either by common law or express statute. The Municipal Court shall commence operation January 1, 1995.

3.49.020 Jurisdiction. The Kirkland Municipal Court shall have exclusive original jurisdiction over traffic infractions arising under City ordinances, and exclusive original criminal jurisdiction of all violations of City ordinances. The Court shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared by City ordinance or state statute. The Court is also empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such City ordinances, and to pronounce judgment in accordance therewith. Finally, the court shall have the jurisdiction as conferred on it by statute. Notwithstanding the foregoing, the District Court for King County, Northeast Division, shall continue to have jurisdiction over a matter filed with such court by the City of Kirkland and which matter is not transferred by order of the Kirkland Municipal Court.

3.49.030 Violations Bureau.

A. Creation. The Kirkland Violations Bureau is hereby created to operate under the supervision of the municipal court to assist the court in processing traffic cases. The Violations Bureau created by this section shall commence operation January 1, 1995,

and, shall take over processing of all matters which were being processed as of December 31, 1994 by the Violations Bureau which operated under KMC Chapter 3.48. Day to day operations of the Violations Bureau shall be supervised by the court administrator.

B. Processing. The Violations Bureau is authorized to perform all of the functions which a city may authorize a violations bureau to perform under RCW Chapter 3.50. The violations bureau shall operate in conformity with state statutes such as RCW Chapter 46.63 and RCW 3.50.030. All penalties and forfeitures paid to the violations bureau shall be handled in the same manner as municipal court revenue.

3.49.040. Municipal Judge.

A. Appointment. Within thirty days after the effective date of this ordinance, the City Manager shall appoint a municipal judge. Pursuant to RCW 35A.13.080, this appointment is subject to confirmation by the City Council.

B. Term. The Municipal Court judge shall serve a term of four (4) years. The initial appointment of a judge under this ordinance shall expire December 31, 1997. Until January 1, 1995, Municipal Judge shall be an administrative position only. On or before December 1, 1997, the City Manager shall make an appointment of a judge for a term commencing January 1, 1998 and expiring December 31, 2001. Appointments for each term thereafter shall be made on or before December 1 of the year next preceding the year in which the judicial term commences. At the time of the appointment, the person appointed shall be qualified for the position of municipal judge under city rules and state statutes, such as RCW 3.50.040.

C. Additional Judges. Additional full or part time municipal judge positions may be filled as provided in paragraphs A and B of this section, when the public interest and the administration of justice makes such additional judge or judges necessary, and so long as that procedure is in compliance with state statutes, such as RCW 3.50.055.

D. Judges Pro Tem. The City Manager shall, in writing, appoint judges pro tem who shall act in the absence, disability, or disqualification of the regular judge of the municipal court. A pro tem judge's term of appointment shall also be specified in writing, but in any event shall not extend beyond the City Manager's termination of employment. The judges pro tem shall be qualified to hold the position of judge of the Municipal Court as described in this section. The pro tem judges shall receive such compensation as shall be fixed by the ordinances of the City. When deemed necessary by the City Manager or designee, the City Manager or designee may make a temporary appointment of a judge pro tem, to preserve an individual's rights according to law, or to respond to emergency circumstances, effective for up to one week. Such temporary appointment shall be the same as other appointments of judges pro tem, except that the appointment and the term thereof do not need to be in writing and the

oath of office may be orally sworn to or affirmed before the court administrator or court clerk.

E. Vacancy. Any vacancy in the Municipal Court due to death, disability or resignation of a judge shall be filled by the City Manager, for the remainder of the unexpired term. The appointment shall be subject to the confirmation of the City Council. The appointed judge shall be qualified to hold the position of judge of the Municipal Court as provided in this section.

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

G. Oath. Every judge of the municipal court, before entering upon the duties of the office, shall take and subscribe the following oath or affirmation:

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

The oath shall be filed in the office of the King County Recorder and with the Kirkland City Clerk.

H. Bonds. Every municipal court judge shall give such bonds to the state and City for the faithful performance of the judge's duties as may be required by law or City ordinance.

I. Compensation. Pursuant to RCW 3.50.080, the compensation for Municipal Court Judges shall be set by the City Council by ordinance. The City shall enter into a contract with the appointed judge for professional services.

3.49.080. Court Operation. As part of the annual preliminary budget presentation, the Department of Administration and Finance will create a budget for the court and the City Manager will make a recommendation to the City Council. The annual budget for the municipal court shall be as approved by the City Council. All employees of the municipal court shall, for all purposes, be deemed employees of the City. They shall be subject to applicable provisions of city personnel rules, collective bargaining agreements, and state laws, such as RCW 3.50.080.

3.49.100. Disposition of Revenue. Costs in civil and criminal actions may be imposed as provided in district court. All fees, costs, fines, forfeitures and other money imposed by the Municipal Court for the violation of any City ordinances shall be collected by the Court Clerk, and, together with any revenues received by the Clerk, shall be deposited with the City Treasurer, as provided by city procedures or

state law. These funds shall be retained or disbursed pursuant to City ordinances or policies and state law, such as RCW 3.50.100.

3.49.110. Witness Fees. Each witness subpoenaed for city cases who appears as directed shall receive a witness fee of \$10.00 plus mileage for each day's attendance at the Kirkland Municipal Court. These fees may be included in the costs that are imposed by the court upon a defendant.

3.49.120. Fees for Services. The Clerk shall collect the following fees for court services:

- (1) The filing fee for any case or matter to be filed or commenced (other than by the City of Kirkland) is \$20.00.
- (2) The fee for preparing a transcript of a judgment is \$6.00.
- (3) The fee for certifying any document on file or of record is \$5.00.
- (4) The fee for preparing the record of a case for appeal to superior court is forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).
- (5) The fee for duplication of part or all of the electronic tape or tapes of a proceeding is ten dollars per tape.

The fees or charges imposed under this section may be included in the costs that are imposed by the court upon a defendant or other person.

3.49.130. Sessions. The Municipal Court shall be open for regular session on Monday and Tuesday of each week. The time for operation of court on those days shall be established by the judge. The municipal judge shall have the authority to establish additional court dates, by order of the municipal court, to provide effective and efficient administration of justice. However, court shall not be open on nonjudicial days, as established by state law. This section shall not act as a limitation of actions of the municipal judge regarding items such as telephonic approval of search warrants, issuance of no contact orders, or determinations as to probable cause.

3.49.140. Municipal Court Seal. The Municipal Court shall have a seal which shall be the vignette of George Washington, with the words "Seal of The Municipal Court of Kirkland, State of Washington" surrounding the vignette.

3.49.150. Case Transfers. A transfer of a case from the Municipal Court to either another municipal judge of the City of Kirkland or to a judge pro tempore appointed in the manner prescribed by this chapter shall be allowed as provided in RCW 3.50.125.

3.49.160. Jury Trial and Fee. Jury trials shall be allowed as specifically provided for municipal courts or in accordance with state law applicable to a particular matter. In accordance with RCW 3.50.125, each juror shall receive \$10.00 plus mileage for each day in attendance upon the Kirkland Municipal Court. These fees may be included in the costs that are imposed by the court upon a defendant.

3.49.180. Sentencing. The Municipal Judge shall have the broadest authority and greatest discretion consistent with the Kirkland Municipal Code and state law with respect to sentencing and probation. In matters of execution of sentence, deferral of sentence,

continuing jurisdiction after sentencing, and termination of probation, the Municipal Judge shall be guided by applicable state law, such as RCW 3.50.300 through 3.50.340, and 3.50.440.

3.49.200. Criminal Process. All criminal process issued by the Municipal Court shall be in the name of the State of Washington and run throughout the State, and be directed to and served by the chief of police, marshal, or other police officer of any city or to any sheriff in the state.

3.49.210. Complaints. All criminal prosecutions for the violation of a City ordinance shall be conducted in the name of the City and may be upon the complaint of any person, subject to the procedures set forth in all applicable ordinances or statutes.

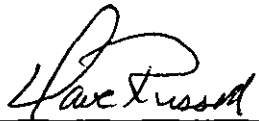
3.49.220. Pleadings, Practice and Procedure. Pleadings, practice and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing or hereafter adopted governing pleadings, practice and procedure applicable to district courts, particularly the Washington Rules of Court Criminal Rules for Courts of Limited Jurisdiction, Infraction Rules for Courts of Limited Jurisdiction, and Local Rules of the District Court for King County.

Section 3. 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. In case of conflict with KMC Chapter 3.48, the provisions of this Ordinance will control.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.107, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

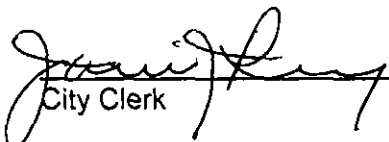
Passed by majority vote of the Kirkland City Council in regular, open meeting this 15th day of November, 1994.

Signed in authentication thereof this 15th day of November, 1994.



MAYOR

Attest:



City Clerk

Approved as to Form:

Hail Hand

City Attorney

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PUBLICATION SUMMARY OF ORDINANCE 3439

AN ORDINANCE OF THE CITY OF KIRKLAND CREATING A MUNICIPAL COURT TO COMMENCE OPERATION ON JANUARY 1, 1995, PROVIDING FOR THE APPOINTMENT OF A MUNICIPAL JUDGE, REPEALING CHAPTER 3.48 AND ADOPTING CHAPTER 3.49 IN THE KIRKLAND MUNICIPAL CODE.

Section 1. Provides for repeal of KMC Chapter 3.48.

Section 2. Creates a new KMC Chapter 3.49, entitled Kirkland Municipal Court, including provisions creating a municipal court to commence operation on January 1, 1995, and providing for the appointment of a municipal judge.

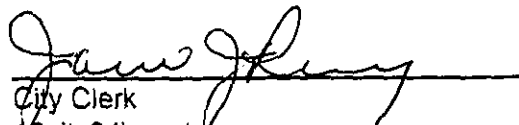
Section 3. Provides for validity of remaining provisions should some provision be held invalid.

Section 4. Authorizes publication of the Ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its regular meeting on the 15th day of November, 1994.

I certify that the foregoing is a summary of Ordinance No. _____
by the Kirkland City Council for summary publication.

Approved



City Clerk
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