AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SICK LEAVE AND AMENDING KIRKLAND MUNICIPAL CODE SECTION 3.80.100.

WHEREAS, the Minimum Wage and Paid Sick Leave Initiative 1433 (codified as RCW 9.46.210) passed on November 8, 2016, which requires that paid sick leave be provided to all employees in Washington State at the rate of one hour for every 40 worked starting on January 1, 2018; and

WHEREAS, under KMC Section 3.80.100, the City of Kirkland currently provides sick leave to full time, part time and temporary employees ("Benefitted employees") at a rate of two hours for every 40 worked, which greater benefit is allowed under RCW 9.46.210; and

WHEREAS, KMC 3.80.100 will still need to be amended to include seasonal, intern and variable hour City employees ("Contingent") but only at the lower rate of accrual required by RCW 9.46.210; and

WHEREAS, any greater benefits that any of these employees receive under specific bargaining agreements can also continue to be provided so long as there is not conflict with the requirements of RCW 9.46.210.

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

Section 1. Kirkland Municipal Code Section 3.80.100 is amended to read as follows:

3.80.100 Sick leave.
(a) Accumulation. Regular full-time employees may be granted sick leave with pay for illness or injury. Sick leave shall be accrued at a rate of eight hours for each calendar month of the employee's service, but not to exceed a maximum with an annual carry over of up to nine hundred sixty hours. Regular part time employees and temporary employees that will or have exceeded one thousand and forty hours within six months of hire shall accrue sick leave at a rate proportionate to the number of hours worked per month. This section does not apply to employees hired under LEOFF (1): 1) Regular part time employees that do not exceed one thousand forty hours within 6 months of hire, 2) regular part time employees that do exceed one thousand forty hours within 6 months of hire but their rate of sick leave accrual is less than one hour for every 40 hours worked, 3) seasonal employees, 4) temporary employees and 5) on-call employees shall accrue at least one hour of sick leave for every 40 hours worked.
Eligibility. Sick leave shall be available to regular employees; except LEOFF (1) employees, after they have worked for a minimum of thirty consecutive calendar days after the most recent date of hire unless there was a separation from employment and the employee was rehired within twelve months of separation, whether at the same or a different business location, in which event, previously accrued and unused paid sick leave shall be reinstated and the previous period of employment shall be counted for purposes of determining the employee's eligibility to use paid sick. Sick leave shall be available to all other employees on the ninetieth calendar day after the commencement of his or her employment unless there was a separation from employment and the employee was rehired within twelve months of separation, whether at the same or a different business location, in which event, previously accrued and unused paid sick leave shall be reinstated and the previous period of employment shall be counted for purposes of determining the employee's eligibility to use paid sick. Sick leave shall be granted for the following reasons:

(1) Personal illness or physical incapacity:

(2) Serious illness in the immediate family or members of employee's household, the care of a child with a health condition that requires treatment or a spouse, parent, parent in-law, or grandparent with a serious health condition or an emergency condition:

(1) The employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;

(2) To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care. In addition to immediate family and members of the employee's household as defined in this Chapter, for purposes of this Section, family member also includes:

(a) an adopted or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(b) an adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
(c) a grandchild, and
(d) a sibling.

(3) Medical or dental appointments:

(3) If the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason; and

(4) For absences that qualify for leave under the domestic violence leave act, chapter 49.76 RCW.

The employee must notify his or her supervisor if he or she intends to use vacation leave instead for this purpose any of the foregoing reasons.

(4-5) Sick leave may be granted for one day in order to attend the funeral of a family member or other person not a member of the employee's immediate family, with the approval of the department director.

(c) Notification. An employee on sick leave shall notify his or her immediate supervisor of the fact. Failure to do so within one hour after the commencement of the normal work shift may be cause for denial of sick leave with pay for the period of such absence.

(1) If the need for sick leave is foreseeable, including an absence qualified for leave under the domestic violence leave act, the employee must provide notice at least ten days, or as early as practicable, in advance of the use of sick leave.

(2) Unless the absence is qualified for leave under the domestic violence leave act, if the need for paid sick leave is unforeseeable, the employee must provide notice to the employer as soon as possible before the required start of their shift, unless it is not practicable to do so. In the event it is impracticable for an employee to provide notice to their employer, a person on the employee's behalf may provide notice to the employer.

(3) If the absence is qualified for leave under the domestic violence leave act and it is unforeseeable and the employee is unable to give advance notice to the employer because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, the employee or his or her designee must give oral or written notice to the employer no later than the end of the first day that the employee takes such leave.

(d) Doctor's Certificate, Health Care Provider Verification. After three days and/or at the discretion of the department director, certification of illness by a doctor verification the leave was taken for the allowed
purposes under this section may be required for approval of sick leave with pay. Certification—Verification establishing the date on which an employee was able to return to work, may also be required. Except for absences that qualify for leave under the domestic violence leave act, the verification must be provided no later than ten calendar days following the first day upon which the employee uses paid sick leave. For absences that qualify for leave under the domestic violence leave act, verification must be provided in conformity with WAC 296-135-070.

If the employee believes this verification requirement results in an unreasonable burden or expense, the employee may provide an oral or written explanation which must assert the employee's use of paid sick leave was for an authorized purpose under this section and how the employer's verification requirement creates an unreasonable burden or expense.

If after the employer considers the employee's explanation, the employer and employee disagree that the employer's verification requirement results in an unreasonable burden or expense on the employee the employer and employee may consult with the Department of Labor and Industries regarding the verification requirement and The employee may file a complaint with the department.

If after consideration the employer agrees the verification requirement creates an unreasonable burden or expense, within ten calendar days the employer will provide alternatives to the employee to meet the verification requirement without creating an unreasonable burden or expense on the employee which could include, but is not limited to, accepting the explanation as meeting the verification requirement or mitigating the employee's out-of-pocket expenses associated with obtaining the verification.

(e) Measurement and Deduction. Accumulated sick leave will be measured from the effective date of Ordinance 2470. Sick leave taken will be first deducted from the most recently accumulated sick leave.

(f) Unused Sick Leave Policy. Unused sick leave may be accumulated from year to year to a maximum of nine hundred sixty hours but may not be taken or used for any reason other than illness, injury or maternity leave. The city shall not compensate any employee upon termination or at any other time for unused accrued sick leave by payment of money or compensating time off, except as provided in this section for employees who are members of PERS 1

(1) Upon retirement, any city of Kirkland employee who is then an active member of PERS 1 and whose employment qualifying for membership in PERS 1 commenced prior to October 1, 1977, and whose annual
average of the greatest compensation earnable during any consecutive
two-year period of service for which PERS 1 service credit is allowed
occurred while an employee of Kirkland may have included, as
compensation earnable in said calculation, pay for unused sick leave
accumulated during said two years on the basis of one day's pay for
each two days of accrued unused sick leave a maximum of twelve days,
but only if such retiring employee has given two weeks' notice of
retirement. Notwithstanding other provisions of this code and for
purposes of this subparagraph only, an employee who maintains a
balance of at least twenty-four days of sick leave throughout the said
two years shall be treated as having accrued twelve days sick leave per
each of the said two years.

(g) **Disability.** In the event an employee shall be entitled to benefits
or payments under any program of disability insurance furnished by the
city, workers' compensation or similar legislation of the state or other
governmental unit, the city shall pay to the employee only the difference
between the benefits and payments received under such insurance or
act by such employee and the regular rate of compensation that he/she
would have received from the city if able to work. In such event, the
number of hours deducted from the employee's total accrued sick leave
shall be the hourly equivalent of the city's payment. The foregoing
payment or contribution by the city shall be limited to the period of time
that such employee has accumulated sick leave credits as specified in
this chapter. Any time the employee receives a disability award, such as
from workers' compensation, the employee must notify the immediate
supervisor or the personnel officer within five days of receipt.

(h) **Payment.** Sick leave will be paid on the pay day following the
pay period in which the sick leave was used unless verification under
this section is required. If verification is required, the sick leave will be
paid on the pay day following the pay period during which verification
is provided to the employer.

(i) **Policies regarding the use of paid sick leave in regards to
discipline of an employee must be compliant with RCW 49.46.210.**

(j) **The City may not discriminate or retaliate against an employee
for his or her exercise of any rights under RCW 49.46.210 including the
use of paid sick leave.**

**Section 2.** 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 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 2nd day of January, 2018.

Signed in authentication thereof this 2nd day of January, 2018.

[Signature]
Mayor

Attest:

[Kathi Anderson, City Clerk]

Approved as to Form:

[Kevin Raymond, City Attorney]

Publication Date: January 8, 2018
PUBLICATION SUMMARY
OF ORDINANCE O-4635

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SICK LEAVE AND AMENDING KIRKLAND MUNICIPAL CODE SECTION 3.80.100.

SECTION 1. Amends Kirkland Municipal Code Section 3.80.100 related to sick leave.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 2nd day of January, 2018.

I certify that the foregoing is a summary of Ordinance O-4635 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk