

ORDINANCE NO. 583

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, REGARDING THE CREATION OF THE UNIVERSITY PLACE MUNICIPAL COURT; APPOINTING ERNEST HELLER AS MUNICIPAL JUDGE FOR THE CITY OF UNIVERSITY PLACE FOR THE FIRST TERM OF THE CITY'S INTERLOCAL AGREEMENT WITH THE CITY OF LAKEWOOD FOR COURT SERVICES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City's contract for municipal court services with Pierce County expires on December 31, 2010; and

WHEREAS, the City, after much research and analysis, concluded that creating its own municipal court and pursuing a contract with the City of Lakewood for municipal court services is the best option for reduced cost and increased service level and that it would be beneficial to both cities; and

WHEREAS, on November 30, 2009, the City Council approved an Interlocal Agreement with the City of Lakewood for municipal court services, which Agreement was executed in December 2009; and

WHEREAS, on March 15, 2010, the City Council adopted Resolution No. 640, supporting the appointment of Ernest Heller to the position of Municipal Court Judge for the City of University Place for the first term of the City's Interlocal Agreement with the City of Lakewood for court services;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. University Place Municipal Court Created. The Municipal Court of the City of University Place ("municipal court") is hereby created, which shall have jurisdiction and exercise all powers vested in the municipal court by Chapter 3.50 RCW together with such other powers and jurisdiction as are generally conferred on such courts in Washington, either by common law or statute. The municipal court shall commence operation on January 1, 2011.

Section 2. Jurisdiction. The municipal court shall have exclusive original jurisdiction over traffic infractions arising under City of University Place ordinances and exclusive original criminal jurisdiction of all violations of City of University Place ordinances. The municipal court shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared by City of University Place ordinance or State statute. The municipal 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, to issue process including without limitation subpoenas and search warrants; and to pronounce judgment in accordance therewith. Finally, the municipal court shall have all jurisdiction conferred on it by statute. Notwithstanding the foregoing, the District Court for Pierce County shall continue to have jurisdiction over any matter filed with the District Court by the City of University Place before January 1, 2011, so long as the matter has not been transferred by court order of the University Place Municipal Court.

Section 3. Disposition of Revenue. Costs in civil and criminal actions may be imposed as provided in district court pursuant to RCW 3.62.060 and 10.01.160 or other applicable law. Pursuant to the Interlocal Agreement between the City of University Place and the City of Lakewood dated December 18, 2009 (the "Interlocal Agreement"), all fees, costs, penalties and fines, except restitution payments to the City of University Place, assessed in the University Place Municipal Court for the duration of that Agreement. In the absence of such Agreement, all above-mentioned fees, costs, penalties, fines and forfeitures, and other money imposed by the municipal court for the violation of any City ordinance shall be collected, deposited, retained, and disbursed pursuant to City ordinance and state law.

Section 4. Municipal Judge.

- A. Appointment. Consistent with RCW 35A.13.080, the City Manager hereby appoints and the City Council hereby confirms Ernest Heller as municipal judge for the City of University Place for the first term of the City's Interlocal Agreement with the City of Lakewood for court services. Ernest Heller shall work less than a full time equivalent as defined in RCW 3.50.055.
- B. Term. The municipal judge shall serve consistent with RCW 3.50.040, with his term running concurrent with Ernest Heller's term with the City of Lakewood.
- C. Judicial Qualifications. At the time of the appointment or election, Ernest Heller is qualified for the position of municipal judge under all applicable state statutes, including without limitation RCW 3.50.040 and 3.50.050.
- D. Additional Judges. Additional full or part-time municipal judicial positions may be filled in accordance with RCW 3.50.055, when in the judgment of the City Manager and following approval by the City Council, the public interest and the administration of justice makes such additional judge or judges necessary.
- E. Judges Pro Tem. The municipal judge shall, in writing, appoint judges pro tem who shall serve in absence, disability, or disqualification of the regular municipal judge, subsequent to the filing of an affidavit of prejudice, or when the administration of justice and the accomplishment of the work of the municipal court make it necessary; provided, however, that the compensation of all judges pro tem shall be within the municipal court budget adopted by the City Council. A pro tem judge's term of appointment shall also be specified in writing. The judges pro tem shall receive such compensation as is received, on an hourly basis, by the municipal judge, or as otherwise fixed by resolution or by ordinance. The pro tem judge shall meet the qualifications required for the position of municipal court judge as provided herein. Before entering upon judicial duties, the pro tem judge shall take, subscribe, and file an oath in the same form as that of the duly appointed municipal judge and thereafter shall have all the powers of the appointed municipal judge. When deemed necessary by the municipal judge, he/she 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.
- F. Vacancy. Any vacancy in the municipal court due to death, disability, or resignation of a judge shall be filled by the City Manager and confirmed by the City Council for the remainder of the unexpired term. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this section.
- G. Removal.
- a. Removal for Misconduct/Malfesance. Pursuant to RCW 3.50.095, a judge may be removed from office during the term of his or her appointment upon conviction of misconduct or malfesance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of the office. Conviction of misconduct or malfesance in office shall include without limitation:
 - i. Conviction of any criminal offense by the judge during the term of office; or
 - ii. A determination by the Washington State Judicial Conduct Commission that a code or standard of judicial conduct has been violated.
 - b. Removal by Judicial Conduct Commission. A municipal court judge may also be removed from office by the Washington State Judicial Conduct Commission and/or the Washington State Supreme Court, as described in Chapter 2.64 RCW or other applicable law. No separate action by the City Council is required to effect such removal.

H. Oath. Every judge of the municipal court, before entering upon the duties of the office, shall take and subscribe to 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 University Place according to the best of my ability.

The oath shall be filed in the office of the Pierce County Auditor and with the University Place City Clerk.

I. Compensation. Pursuant to RCW 3.50.080, the judge's compensation shall be set by the City Council by budget ordinance. Other terms of service may be set by separate agreement.

Section 5. Municipal Court Commissioner. Pursuant to RCW 3.50.075, municipal court commissioner(s) may be appointed by the judge so long as the compensation for such commissioner is within the municipal court budget adopted by the City Council. The commissioner shall serve at the pleasure of the judge.

Section 6. Sessions. The municipal court shall be open and shall hold such regular and special sessions as may be prescribed by the legislative body; provided that the municipal court shall not be open on nonjudicial days as established by state law. This section shall not prevent the judge from granting telephonic approval or entry of search warrants, issuing no-contact orders, or making determinations of probable cause, regardless of whether or not the municipal court is officially open.

Section 7. 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 University Place, Washington" surrounding the vignette.

Section 8. Sentencing. The judge shall have the broadest authority and greatest discretion consistent with the University Place Municipal Code and applicable 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 judge shall be guided by applicable State law, such as RCW 3.50.300 through 3.50.340 and 3.50.440.

Section 9. Criminal process. All criminal process issued by the municipal court shall be consistent with RCW 3.50.425, 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 or other police officer of any city or any sheriff in the State.

Section 10. Pleadings, Practice, and Procedure. Pleadings, practice, and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall be governed by RCW 3.50.450 and all other statutes and rules now existing or hereafter adopted governing pleadings, practice, and procedure applicable to district courts, including without limitation the Washington Rules for Courts of Limited Jurisdiction and Local Rules of the District Court for Pierce County.

Section 11. Other Court Rules and Processes. The City of University Place hereby adopts any and all other court rules and processes incorporated expressly or by reference in the approved Interlocal Agreement with the City of Lakewood.

Section 12. References to State Statutes. All references in this Ordinance to State statutes, including, without limitation, Chapter 3.50 RCW, shall be deemed to incorporate by reference such State statutes, as now existing or hereafter adopted or amended.

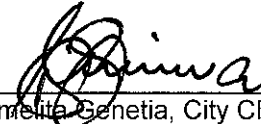
Section 13. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by State or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 14. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

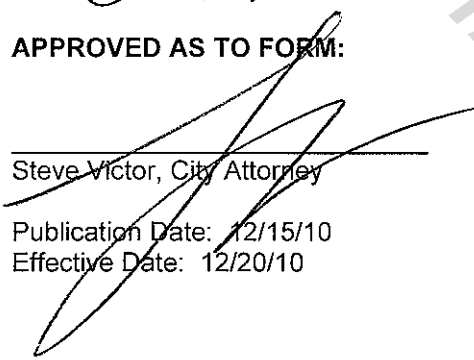
PASSED BY THE CITY COUNCIL ON DECEMBER 13, 2010.


Debbie Klosowski, Mayor

ATTEST:


Emmette Genetia, City Clerk

APPROVED AS TO FORM:


Steve Victor, City Attorney

Publication Date: 12/15/10
Effective Date: 12/20/10