

ORDINANCE NO. 2135

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PERSONNEL AND EMPLOYMENT PRACTICES FOR THE CITY OF KIRKLAND, ESTABLISHING A GENERAL PERSONNEL POLICY, AND REPEALING ORDINANCES NOS. 530, 601, 734, 878 AND 590.

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. Short Title. This ordinance shall be known as the "Personnel Ordinance".

Section 2. GENERAL PROVISIONS

A. Personnel Policy. It is the declared policy of the City of Kirkland that employment shall be based on merit and fitness, free from discrimination as to age, sex, marital status, race, color, creed, national origin, or political affiliation.

B. Tenure. Except as otherwise limited herein, tenure of employees covered by this ordinance shall be subject to good behavior, the satisfactory performance of work, need of the work to be performed, and the availability of funds.

C. Exclusion. This ordinance shall not apply to the following officers: Mayor, councilmen, city attorney not serving full time, and members of commissions and boards.

D. Conflicts. Nothing in this ordinance shall be construed to conflict with or invalidate state law relating to the subject matter of this ordinance, nor to take precedence over civil service regulations as to those employees covered by civil service.

E. L.E.F.F. Pension System. Employees under the LEFF are excluded from Section 8.

Section 3. DEFINITIONS

The following words and phrases, when used in this ordinance, shall have the meanings ascribed to them below:

A. Employee. A person occupying a position and who is paid a salary or wage for services rendered.

B. Employer. The City of Kirkland.

C. Permanent Employee. An employee who is working for an indefinite period, is compensated by a salary for services rendered, and has worked in this position for at least six months.

D. Temporary Employee. An employee hired for a specific purpose and for a specific or limited definable time, and who is compensated by an hourly wage for services rendered.

E. Permanent Part-Time Employee. An employee who is employed on a fixed regular schedule, and who is compensated and accrues benefits on the basis of that portion of the month worked.

F. Probationary Employee. An employee who is hired for a permanent position and who has not completed the probationary period of six months.

G. Holiday. The days which are designated as holidays with pay in this ordinance.

H. Year of Employment. The annual interval between any two consecutive "anniversary dates" during which the employee shall be continuously employed.

I. Anniversary Date. The annual recurring calendar date on which the employee commenced employment with the City of Kirkland.

J. LEFF System. Employees under the State Police and Fire retirement system. Only employees designated by ordinance are eligible for the LEFF provisions.

#### Section 4. HOURS AND WAGES

##### A. Hours.

(1) General Personnel. The work day shall be eight hours which shall be consecutive except for interruptions for a one hour lunch break and two fifteen minute coffee breaks. The normal work week shall consist of five consecutive days, Monday through Friday.

(2) Police Personnel. The work day shall be eight hours and the work week shall be five days for a forty hour week. Time spent in court, relating to police and city business, is considered a part of the job requirement and not overtime.

(3) Fire Personnel. Eight hours of work plus a one hour lunch period on the premises shall constitute a normal work day; and forty hours a normal work week. If a fireman is assigned to a shift other than the

day shift, a work week longer than forty hours may be assigned without reference to overtime.

B. Payment of Salary and Wages. Normally, there shall be two pay days per month, which shall fall between the 1st and 5th of each month, and the 15th and 20th of each month. In the event payday falls on a weekend or holiday, employees will be paid the preceding day.

C. Overtime. Overtime shall consist of all work performed by permanent employees in excess of eight hours in any work day and all work performed in excess of forty hours in any work week. Overtime shall accrue at the rate of one and a half times the normal rate of pay or equivalent time, and shall be adjusted by compensatory leave or overtime pay at the convenience of the City and the discretion of the department heads in accordance with budget allowances and restrictions. For continuous duty beyond the normal work shift, employees will receive overtime credit only for those periods exceeding fifteen minutes.

All overtime shall be authorized by the respective department head in advance and earned overtime must be taken within one year of the time it was incurred. Department heads and personnel who have been classified and designated as supervisory shall not be entitled to overtime compensation, provided that the City Manager may authorize overtime compensation in unusual or emergency circumstances.

Programs involving training, public functions, employee special activities or matters not directly related to City business are excluded from overtime provisions.

## Section 5. HOLIDAYS

A. Permanent employees shall be granted the following holidays, and other such days as the City Council may fix, without a reduction in pay; temporary employees shall receive the following holidays without pay:

- |                           |                             |
|---------------------------|-----------------------------|
| 1. New Year's Day         | January 1                   |
| 2. Washington's Birthday  | Third Monday in February    |
| 3. Memorial Day           | Last Monday in May          |
| 4. Independence Day       | July 4                      |
| 5. Labor Day              | First Monday in September   |
| 6. Thanksgiving Day       | Fourth Thursday in November |
| 7. Day after Thanksgiving | Fourth Friday in November   |
| 8. Christmas Day          | December 25                 |

B. When one of the above listed holidays falls on the sixth day of an employee's work week, the fifth day will be observed as the holiday. When one of the above listed holidays falls on the seventh day of the work week, the following day shall be observed as the holiday.

C. Police Uniformed Personnel. Police uniformed personnel shall be granted eight days vacation in lieu of the above holidays. Such vacation days shall be given at the convenience of the City, but within twelve months of the holiday(s) worked.

D. When a permanent employee, other than police uniformed personnel, works on any holiday, he shall be given one other day vacation with full pay for each holiday that he is on duty. Such vacation days shall be given at the convenience of the City, but within twelve months of the holiday worked.

#### Section 6. VACATION POLICY

A. Each permanent full-time employee shall accrue vacation leave at a rate of 1/12 of annual vacation per month of service, based on the following schedule:

<u>Years of Employment</u>	<u>Annual Vacation (Working Days)</u>
1st year of employment	7 days vacation
2nd year of employment	12 days vacation
3rd year of employment	12 days vacation
4th year of employment	12 days vacation
5th year of employment	12 days vacation
6th year of employment	15 days vacation
7th year of employment	15 days vacation
8th year of employment	15 days vacation
9th year of employment	15 days vacation
10th year of employment	16 days vacation
11th year of employment	16 days vacation
12th year of employment	16 days vacation
13th year of employment	17 days vacation
14th year of employment	17 days vacation
15th year of employment	17 days vacation
16th year of employment	18 days vacation
17th year of employment	18 days vacation
18th year of employment	19 days vacation
19th year of employment	19 days vacation
20th year of employment	20 days vacation

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The vacation schedule herein adopted shall be used in determination of vacation leave accrual as to each employee commencing with his anniversary date occurring after January 1, 1971, and shall in no other way be deemed to apply retroactively.

B. Vacation leave cannot be accrued during any leave without pay, but such leave shall not be considered an interruption of consecutive years of employment for the purpose of determining entitlement to additional vacation days under the foregoing schedule.

C. An additional day of vacation will be granted in the event a holiday falls within an employee's vacation period.

D. Unless specifically authorized by the City Manager, vacation leave shall not be accumulated from year to year, and in any case it shall not exceed 24 days. Failure by an employee to make use of earned vacation leave within the year following its accrual shall constitute a waiver and loss of such leave and shall not form the basis of any severance pay or additional compensation.

E. Vacation leave may not be taken during the first year of employment except as provided in Section 6(F).

F. Department heads, management staff, and personnel defined as supervisors, who have completed six consecutive months of service, may take a vacation equivalent to the amount of vacation credit he has received up to the time of going on vacation. In no case will an employee be paid for accrued vacation upon separation if he has been employed by the City for less than twelve consecutive months.

G. Earned vacation leave may be taken at any time during a period of sickness after expiration of sick leave.

H. Vacations will be scheduled by department heads at a time that will cause minimum interference with the operations of the City and department. Employees desiring to claim accrued vacation leave must first procure the approval of his respective department head.

Department heads desiring to claim accrued vacation leave must secure the approval of the City Manager.

I. Vacation leave shall not accrue for service time during a fraction of a month.

## Section 7. TERMINAL VACATION PAY

A. There shall be no pay in lieu of unused or accrued, earned vacation leave, except in cases of separation. An employee with more than one year of employment who terminates for any reason other than discharge for cause or resignation without two weeks notice, shall receive pay for any vacation time earned but not taken, up to separation date.

B. In case of death, compensation for accrued vacation leave shall be paid in the same manner that salary due to the decedent is paid.

## Section 8. SICK LEAVE

A. Permanent employees' sick leave with pay, shall accrue at the rate of one working day of leave for each full calendar month of the employee's service, and any such leave accrued in any year shall be accumulative for succeeding years to a maximum of 120 working days.

B. Sick leave shall be available to permanent employees after they have worked for a minimum of thirty consecutive calendar days after the most recent date of hire.

C. No compensation shall be paid at termination of employment for accrued sick leave.

D. Personal illness or physical incapacity resulting from causes beyond the employee's control as well as forced quarantine of employee in accordance with state or community health regulations are approved grounds for sick leave.

E. Permanent employees shall be permitted to use three days sick leave in the event of a death or serious illness with impending death in the immediate family of the employee.

In cases where travel distance is excessive, two additional days maximum may be granted by the respective department head or the City Manager. Immediate family shall be defined as wife, husband, son, daughter, mother, father, brother, sister, mother-in-law, father-in-law, or more distant relative, if living as members of the employee's immediate household.

F. If the absence claimed as sick leave does not exceed three days, no doctor's certificate will be required unless required specifically by the department head or City Manager. Requests for sick leave in excess of three days must be accompanied by a doctor's certificate or other satisfactory proof of sickness or injury. The department head will acknowledge to the personnel officer that the above sick leave is approved.

G. Continuance of sick leave pay during absence from duty is contingent upon the employee or someone in his behalf notifying his immediate supervisor of reason for absence within one hour of the start of his first day off duty.

H. Absence for a fraction or part of a day that is chargeable to sick leave shall be charged proportionately in an amount not smaller than one-half of a day. Holidays and other normal days off during the week shall not be charged against sick leave.

I. In a case in which an employee shall be entitled to benefits or payments under any programs of disability insurance furnished by the employer, Workmen's Compensation Act, or similar legislation of the State of Washington, or other governmental unit, the employer shall pay only the difference between the benefits and payments received under such insurance or act, by such employee and his regular rate of compensation that he would have received from the City if able to work. The foregoing payment or contribution by the employer shall be limited to the period of time that such employee has accumulated sick leave credits as hereinabove specified.

J. Temporary employees shall not be eligible for paid sick leave.

#### Section 9. OTHER LEAVE

a. Leave of Absence. Leave of absence without pay may be granted to permanent employees for a period not to exceed six months for such reasons, e.g., as serious illness or accident, or pregnancy. Such leave must be approved by the City Manager and shall be in the interest and convenience of the City. Leave of absence without pay shall not accrue vacation or sick leave time.

b. Jury Duty. Necessary leave shall be allowed by the City Manager to permit a permanent employee to report for duty as a member of a jury. The employee shall receive from the City as compensation during this period the excess of his regular salary over the compensation received by the employee for such jury duty. Jury duty leave will not count against accrued vacation or sick leave.

c. Military Leave. Leave, not to exceed fifteen calendar days during each calendar year, shall be allowed to any permanent employee who is a member of the Washington National Guard or any organized reserve of the armed forces of the U.S. and required by reason of such membership to be on active duty. The employee shall be paid his normal pay during such military

leave. When a permanent employee is called to active duty for a period greater than fifteen days, he shall be granted leave of absence without pay and without loss of position, rating or eligibility, providing said employee applies for re-employment within 30 days after termination of such duty.

D. Hearing Witness. A permanent employee shall be permitted to appear before a court, legislative committee, or judicial or quasi-judicial body as a witness in response to a subpoena or other direction by proper authority, provided that salary paid to him shall be reduced by an amount equal to any compensation he may receive as witness fees.

E. Employees shall be allowed leave for other authorized duties directly connected with city business.

#### Section 10. SUSPENSION AND DISCHARGE

A. Authority of City Manager. Nothing in this Section 10 shall be construed as in any way limiting the authority of the City Manager under RCW 35A.13.080 to appoint and remove at any time, with or without cause, all department heads and employees of the City, except members of the City Council and its advisory boards and commissions.

B. Termination for Cause. Continued employment with the City shall be dependent upon the continued fitness of the employee to perform the duties required of the position and office in which employed, and upon the satisfactory performance by the employee of those duties. Employees of the City are subject to removal, suspension without pay for up to 30 days (only once during a calendar year), reduction in rank, position or pay, reprimand or being deprived of vacation privileges for the following reasons, which are declared to be cause, although charges may be based on causes other than those enumerated:

1. Incompetency, inefficiency, inattention to or dereliction of duty.
2. Mental or physical unfitness to perform the duties of the position held by the employee.
3. Conviction of a criminal offense involving moral turpitude.
4. Misuse or abuse of public property or waste of public supplies, any misuse of public funds, or falsifying reports or records.
5. Failure to pay just debts or make reasonable provision for future payments.



6. Dishonest or prejudicial conduct, insubordination, or discourteous treatment of the public or fellow employees.

7. Intoxication or the use of intoxicating liquor, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position, or that it endangers the employee's or other employees' health and welfare.

8. Violation of this ordinance or of rules, regulations or orders issued by the employee's immediate supervisor, department head, personnel officer or City Manager.

B. Permanent employees disciplined or terminated for cause shall be provided with a full statement, in writing, of the reasons for such action, nature of the action, and effective date. When such action is deemed necessary, the City Manager must be acquainted with all the facts giving rise to the necessity.

C. Temporary employees may be disciplined, suspended or dismissed by informing the employee concerned of the nature of the action, and its effective date.

D. Probationary employees have no vested status for six months. Such employees may be disciplined, suspended or dismissed by the City Manager without further recourse.

E. Whenever it becomes necessary to suspend or dismiss a permanent employee, even though probationary, it should be remembered that the City Manager alone has the power to suspend or discharge, and that he will normally do so only for cause.

#### Section 11. RESIGNATION

An employee shall give at least two weeks notice of resignation prior to the effective date thereof, provided that the appointing authority may waive the required notice in the interest of the City. Terminal vacation pay shall be forfeited if the notice is neither given nor waived.

#### Section 12. RETIREMENT

All employees of the City shall be retired from employment at the end of the calendar month in which they reach the mandatory retirement age specified by the retirement pension

system then in effect for the city employee affected. This provision shall not preclude the City from hiring persons older than the specified retirement age on a contractual basis. The retirement age may be extended upon application of the employee, subject to approval of the City Council. This section shall not supersede, but shall supplement the provisions of the retirement programs in effect now, or to come into effect in the future as to city employees.

### Section 13. GRIEVANCE PROCEDURE

A "grievance" means a claim or dispute by an employee with respect to the interpretation or application of the provisions of this ordinance which pertain to said employee.

STEP 1: An employee must present a grievance within ten working days of its alleged occurrence to the employee's supervisor who shall attempt to resolve it within five working days after it is presented to him.

STEP 2: If the employee is not satisfied with the solution of the immediate supervisor, the grievance, in writing, may be presented to the department head who shall attempt to resolve it within five working days after it has been presented to him.

STEP 3: If the employee is not satisfied with the solution by the department head, the grievance, in writing, together with all other pertinent materials, may be presented to the City Manager who shall attempt to resolve the grievance within five working days after it has been presented to him.

STEP 4: If the grievance is not resolved by the City Manager, the grievance may, within fifteen working days, be referred to an arbitration committee. This committee shall consist of five persons: two appointed by the employer, two elected or appointed by the employees, and one appointed by agreement between the other four members.

If the four members are unable to agree upon a fifth member for the committee within five days after they first meet, they shall jointly request the Washington State Department of Labor and Industries to provide a panel of five arbitrators from which the parties may select one. The representatives of the employer and employees shall alternately eliminate the name of one person from the list until only one name remains. The person whose name was not eliminated shall be the Chairman and the fifth member of the committee.

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It shall be the function of the Chairman to hold a hearing at which the parties may submit their cases concerning the grievance. The committee shall render its decision based on the interpretation and application of the provisions of this ordinance within thirty days after such hearing. The decision shall be final and binding upon both parties to the grievance. The expenses of the fifth member of the committee will be borne by the employer.

#### Section 14. MANAGEMENT RIGHTS

In matters not covered specifically by language within this ordinance, the City of Kirkland Management shall have the clear right to make decisions in such areas, on a unilateral basis, and such decisions shall not be subject to the grievance procedure.

#### Section 15. GIFTS AND FAVORS

It is the policy of the City that no employee may give or accept gifts or favors of value in his business relationships with firms or persons with whom the City does business, except that the following shall be permitted:

A. Certain business courtesies, such as payment for a modest lunch or dinner in connection with a business meeting.

B. Advertising novelties of no appreciable value which are widely distributed to others under essentially the same business relationship with the donor.

C. Company product models and pictures made generally available under customer and public relations programs.

Offers by present or potential suppliers to provide expense-paid trips for business must be specifically authorized by the City Council.

Nothing in this section shall be construed to permit, condone or allow any activity or practice prohibited by RCW 42.20 or RCW 42.23 relating to conflicts of interest, improper practices and codes of ethics for public officials and employees.

#### Section 16. SEVERABILITY

If any section of this ordinance shall be held invalid by operation of law, or by any court of competent jurisdiction, or if compliance or enforcement of any section should be restrained by such court pending final determination as to its validity, the remainder of this ordinance shall not be held

invalid, and will remain in full force and effect.

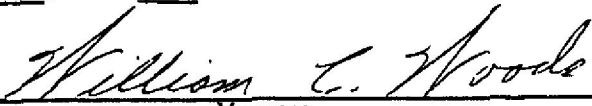
Section 17. REPEAL

Ordinances Numbers 530, 601, 734, 878 and 590, together with any other ordinance or parts thereof inconsistent with the provisions of this ordinance, are hereby repealed.


Section 18. This ordinance shall be in force and take effect five days from and after its passage by the Council and publication as required by law.

PASSED by the City Council of the City of Kirkland in regular meeting on the 21st day of December, 1970.

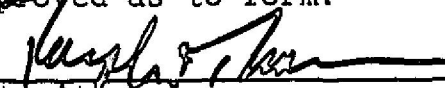
SIGNED in authentication thereof on the 21st day of December, 1970.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Director of Administration and Finance  
(ex officio City Clerk)

Approved as to form:

  
\_\_\_\_\_  
City Attorney

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