

ORDINANCE No. 3350

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE PERSONNEL ORDINANCE, AND AMENDING SECTIONS 3.80.020, 3.80.030, 3.80.040, 3.80.050, 3.80.060, 3.80.070, 3.80.080, 3.80.090, 3.80.110, AND 3.80.120 OF THE KIRKLAND MUNICIPAL CODE.

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

Section 1. Subsections 3.80.020(b) and (d) of the Kirkland Municipal Code are hereby amended to read as follows:

(b) Affirmative Action Policy. It is the policy of the (e)City to promote and assure equal opportunity based on ability and fitness to all persons regardless of race, religion, color, national origin, sex, ~~(handicap)~~ age, marital status ~~(or)~~, political affiliation, or the presence of any sensory, mental or physical disability.

(d) Exclusion. Except as to Sections 3.80.020(c) and 3.80.040(k) pertaining to sexual harassment, this chapter shall not apply to the following personnel: Mayor, members of the City (e)Council, members of commissions or boards, ~~(volunteer)~~ reserve firefighters, and the (e)City (a)Attorney.

Section 2. Subsections 3.80.030(1) and (9) of the Kirkland Municipal Code are hereby amended to read as follows:

(1) "City" means the (e)City of Kirkland.

(9) "Overtime" consists of any work performed by regular full-time or part-time employees (in-excess-of-forty-hours-in-one week) required to be compensated as overtime by the Federal Fair Labor Standards Act.

Section 3. Subsections 3.80.040(b), (c), (f), (k)(1), (k)(2), and (m) of the Kirkland Municipal Code are hereby amended to read as follows:

(b) Recruitment. Available positions shall be publicized within City Hall, in at least one major newspaper or other suitable

publication within the primary recruitment/ labor market(s) for the position(s), and in accordance with all prevailing affirmative action guidelines regarding recruitment. Public notice of a position opening shall contain title, salary, brief description, minimum qualifications and the closing date for applications.

(c) Probation. New employees shall hold probationary status for a period of at least six months and a maximum of one year from the date of hire. The length of the probationary period shall be based on the length of time needed by the City to afford it adequate time to evaluate an individual's ability and fitness for performing the required work of the position. Probationary employees have no vested status and may be disciplined or terminated under the provisions of section 3.80.050 of this chapter without further recourse.

(f) Demotions. No employee shall be demoted to a position for which he/she does not possess minimum qualifications. Any employee may be demoted (1) when his/her standard of performance falls below an acceptable level; (2) when the employee becomes physically or mentally incapable of performing the duties of his or her position; (3) for disciplinary purposes; (4) in lieu of layoff; (5) at the employee's request; or (6) when the classification of the position currently held has changed.

(k) Sexual Harassment. It is the policy of the (e)City to seek to eliminate and/or prevent sexual harassment in general, as well as to alleviate any effects sexual harassment may have had on the working conditions of an employee. In response to formal reports of sexual harassment, the (e)City will seek to protect all parties involved from retaliation, false accusations, or future harassment, and where indicated, will take reasonably prompt and adequate remedial measures.

(l) Reporting Sexual Harassment. Any employee who feels he/she is being sexually harassed or is aware of sexual harassment of another employee is strongly encouraged to report this to his/her immediate supervisor, department head, (p)Personnel (d~~irector~~) Manager, or to contact the employee assistance

program counselor. The reporting may be informal or formal. Formal reporting includes submitting a written statement or using the grievance procedure.

(2) Response to Reports of Sexual Harassment. Written reports concerning sexual harassment will be forwarded to the ~~(p)Personnel (director)~~ Manager unless there is an allegation against that person ~~(or the personnel-assistant)~~ or against the ~~(d)Director of (a)Administration and (f)Finance,~~ and if so, then written reports will be forwarded to the ~~(e)City (m)Manager,~~ but if he or she is unavailable then to the ~~(city-attorney)~~ Assistant City Manager; provided, however, written reports alleging sexual harassment on the part of the City Manager or any elected or appointed City official shall be forwarded to the City Attorney. This procedure will apply to written statements received from reporting employees or written records made by higher managerial or supervisory employees, including department heads and division supervisors. Whenever higher managerial or supervisory city employees become aware of allegations of sexual harassment, they will make a written record of the allegations and will forward it as described above.

The ~~(p)Personnel (m)Manager, (the) (e)City (m)Manager, Assistant City Manager, or (the) (e)City (a)Attorney~~ will begin an investigation if necessary. ~~(No other investigation shall be started during the time in which the formal grievance procedure is being utilized.)~~ The City Manager, City Attorney, or Personnel Manager with the concurrence of the City Manager, may engage the services of an independent third party to assist in the investigation. The first preinvestigation step shall be to inquire of all persons reporting as to whether the record now includes all allegations of sexual harassment. Should the allegations, if true, not describe sexual harassment as defined in Section 3.80.020 of this code, then no investigation shall be conducted and all records shall be gathered together and sealed. All other reports of sexual harassment will be investigated within a reasonably prompt time after the report is received.

The investigation will be directed at ascertaining the facts concerning the allegations. It is appropriate to compare the

treatment of others with that of the employee allegedly affected and to see whether others have also been treated the same way. If, in the course of investigation, evidence of sexual harassment involving other employees is found, the (e)City shall initiate a separate investigation.

The investigator shall cause the person reported to have sexually harassed an employee to be advised of the allegations and to afford such person an opportunity to reply in writing. The employee shall also be advised that any retaliation will be subject to disciplinary action regardless of the outcome of the investigation of allegations of sexual harassment.

The results of the investigation shall be reduced to writing and a finding shall be made that there is or is not reasonable cause for disciplinary action. Nothing in this section shall limit the authority of the (e)City to modify policies or practices to correct any appearance of sexual harassment without finding reasonable cause for disciplinary action or taking any disciplinary action. The report will also include any recommendations for promotion or other personnel actions for the employee alleged to have been affected by sexual harassment. The report shall be forwarded to the City Manager who shall, if warranted, take appropriate disciplinary or other action pursuant to pertinent City procedures; provided, however, if the report concerns allegations of sexual harassment on the part of the City Manager or any elected or appointed City official, then the City Attorney shall forward the report to the City Council for appropriate disposition.

~~(A-report-which-finds-reasonable-cause for-disciplinary-action-will-be-reflected-in the-personnel-file-of-any-employee-subject-to discipline.--The-employee-may-have-placed-in his/her-personnel-file-a-statement-of-rebuttal or-correction.--For-the-purpose-of-this section, a-former-employee-may-present-such statement-within-two-years-after-the-last-day of-city-employment.)~~

(m) (Handicaps) Physical, mental and sensory disabilities. If a (handicap) physical, mental or sensory disability causes (the) an employee to be incapable of properly performing the (work) essential functions of his/her present position, the (e)City will

explore ways to accommodate the employee's (~~handicap~~) disability if it is possible to do so without jeopardizing the efficiency of the work unit or placing an unfair burden on other employees. Alternatively, the employee may apply for voluntary demotion or transfer.

Section 4. Subsections 3.80.050(b) and (c) of the Kirkland Municipal Code are hereby amended to read as follows:

(b) Just Cause. Continued employment with the (e)City shall be contingent upon availability of funds, fitness of the employee to perform the duties required of the position, and upon satisfactory performance of these duties. Employees of the (e)City may be subject to disciplinary action or termination for any of the following reasons and/or any other reasons constituting or providing just cause:

(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) Misuse or abuse of public property, any misuse of public funds or falsifying reports or records;

(4) Dishonest or prejudicial conduct, insubordination, or discourteous treatment of the public or a fellow employee(s), personal conduct at work which is dangerous to others, interfering with or disrupting the work of (~~other~~) another employee(s);

(5) Intoxication during work hours or being under the influence of intoxicating liquor and/or any drug during work hours or the use of intoxicating liquor, narcotics, controlled substances or any other drug when the use thereof interferes with the efficiency or mental and physical fitness of the employee, or which precludes the employee from properly performing his/her functions and duties;

(6) Violation of a (e)City ordinance or the rules, regulations or orders issued by the employee's immediate supervisor, department head, (~~p~~)Personnel (~~officer~~) Manager or (e)City (~~m~~)Manager, fighting or destructive acts during work hours, theft, conviction of a felony or misdemeanor which could adversely impact the employee's ability to perform the duties of his/her position;

(7) Absence without the supervisor's approval, unsatisfactory attendance record, or abuse of leave benefits;

(8) Use of the employee's position for his/her personal profit, gain or advancement other than the rightful compensation and benefits duly authorized;

(9) Sexual harassment;

(10) Refusal to cooperate with testing for intoxicating liquor or drugs as provided for in this chapter.

(c) Disciplinary (Procedures) Actions.

(1) Whenever an employee's performance, attitude, work habits(7) or personal conduct falls below satisfactory levels, (the following-procedure-shall-be-followed-in taking-disciplinary-action) action will generally be taken in the following order:

(1)(a) The supervisor (must) will counsel the employee concerning the problem and discuss possible solutions.

(2)(b) If the problem continues after a formal counseling session, the supervisor (shall-initiate) will issue to the employee a written (admonition) reprimand, a copy of which (is) shall be placed in the (individual's) employee's personnel file.

(3)(c) If the employee still does not show improvement, the department head shall bring the matter to the attention of the (e)City (m)Manager with a recommendation (for suspension-or-termination) concerning disciplinary action.

(2) The severity of the discipline to be imposed in a given situation depends upon the seriousness of the affected employee's conduct. For example, an act of dishonesty, moral turpitude, consumption of alcohol during work hours, or conduct of a parallel magnitude, may result in termination being the initial form of discipline to be imposed against an employee.

Section 5. Subsection 3.80.060(b) of the Kirkland Municipal Code is hereby amended to read as follows:

(b) Purpose. An employee may resort to grievance procedures hereinafter set forth for any decision or action which he/she feels may affect his/her employment adversely. The grievance must be filed in writing by the employee to the employer within five working

days of the occurrence of the incident producing the dispute or grievance. Employees who are represented by collective bargaining units having written grievance procedures as part of an agreed upon contract are not entitled to file a grievance under this procedure. Unrepresented employees eligible to, and who elect to appeal a decision or action through the civil service appeal process, are not entitled to file a grievance under this procedure.

Section 6. Subsection 3.80.070(a) of the Kirkland Municipal Code is hereby amended to read as follows:

(a) Position classifications shall be prepared and maintained in such a way that the classifications and salary range reflect current duties and responsibilities of all positions within the (e)City. Job descriptions shall reflect the essential duties and responsibilities of the position.

Section 7. Subsection 3.80.080(a) of the Kirkland Municipal Code is hereby amended as follows:

(a) General Personnel. The normal work week shall consist of five consecutive days and shall average forty hours (per-week) within a 168 hour period. The workweek may differ for each position as authorized by the Federal Fair Labor Standards Act. Alternate work schedules may be authorized pursuant to written approval of both the department head and the City Manager.

Section 8. Subsections 3.80.090(a) and (b) of the Kirkland Municipal Code are hereby amended as follows:

(a) Approval. Upon satisfactory completion of six month's continuous service, an employee shall be eligible for (a) paid vacation. All requests for vacation leave must be scheduled and approved at least five days prior to the requested vacation time, unless an exception is granted by the department head. Vacation leave shall be granted by the department head only in the best interests of the (e)City. Department heads requesting vacation leave must receive

prior approval (~~for-vacation-leave~~) from the  
(e)City (m)Manager.

(b) Vacation Schedule. Each regular full-time employee shall accrue vacation leave at a rate of one-twelfth of annual vacation per month of service, based on the following schedule:

Years of Employment	Annual Vacation (Working Hours)
1st year of employment	(96) <u>104</u> hours vacation
2nd year of employment	(96) <u>104</u> hours vacation
3rd year of employment	(96) <u>104</u> hours vacation
4th year of employment	(96) <u>104</u> hours vacation
5th year of employment	( <del>120</del> ) <u>128</u> hours vacation
6th year of employment	( <del>120</del> ) <u>128</u> hours vacation
7th year of employment	( <del>120</del> ) <u>128</u> hours vacation
8th year of employment	( <del>120</del> ) <u>136</u> hours vacation
9th year of employment	( <del>120</del> ) <u>136</u> hours vacation
10th year of employment	( <del>120</del> ) <u>136</u> hours vacation
11th year of employment	( <del>120</del> ) <u>144</u> hours vacation
12th year of employment	( <del>136</del> ) <u>144</u> hours vacation
13th year of employment	( <del>136</del> ) <u>144</u> hours vacation
14th year of employment	( <del>144</del> ) <u>160</u> hours vacation
15th year of employment	( <del>144</del> ) <u>160</u> hours vacation
16th year of employment	( <del>152</del> ) <u>160</u> hours vacation
17th year of employment	( <del>152</del> ) <u>176</u> hours vacation
18th year of employment	( <del>160</del> ) <u>176</u> hours vacation
19th year of employment	( <del>160</del> ) <u>176</u> hours vacation
20th year of employment	( <del>160</del> ) <u>192</u> hours vacation
Beyond 20 years of employment	( <del>168</del> ) <u>192</u> hours vacation

Section 9. Subsection 3.80.110(a) of the Kirkland Municipal Code is hereby amended as follows:

(a) Holiday Schedule. (~~Permanent~~)  
(~~r~~)Regular full-time employees are granted the following holidays, and other such days as the (e)City (e)Council may fix, without reduction in pay:

Holiday	Date to be Observed
(1) New Year's Day	January 1
(2) <u>M.L. King Jr. birthday</u>	<u>3rd Monday in January</u>
(3) President's Day	3rd Monday in February
(4) Memorial Day	Last Monday in May
(5) Independence Day	July 4th
(6) Labor Day	1st Monday in September
(7) Veteran's Day	November 11



(8) Thanksgiving Day	4th Thursday in November
(9) Day after Thanksgiving	4th Friday in November
(10) Half day Christmas Eve & half day New Year's Eve	December 24 December 31
(11) Christmas Day (Half-day-New-Year's-Eve)	December 25 (December-31)
(12) (Two) <u>One</u> Floating Holiday(s)	Employee's choice

In selecting the floating holiday the employee's choice will be granted provided that prior approval is given by the immediate supervisor and provided the number of employees selecting a particular day off does not prevent a department or office from providing efficient public service. The floating holiday must be taken during the calendar year or entitlement to the day will be forfeited. New employees must be employed a minimum of six consecutive months to be eligible to take floating holidays.

Section 10. Subsection 3.80.120(f) of the Kirkland Municipal Code is hereby amended as follows:

(f) (Paternity) Family Leave. (Male)  
~~(e) Employees shall be granted (paternity) family leave in accordance with (their-sick leave-benefits---Paid-leave-will-be-eligible under-section-3-80-100(b)(2))~~ the provisions of the State Family Leave Act, Chapter 49.78 RCW. Family leave granted under this subsection shall be unpaid.

Section 11. There is hereby added to the Kirkland Municipal Code a new subsection 3.80.120(h) to read as follows:

(h) Bereavement Leave. Bereavement leave shall be granted to an employee in an amount not to exceed three (3) days per year for death in the employee's immediate family. This leave is not cumulative from year to year.

Section 12. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.


Section 13. Any act of the City Manager prior

to the effective date of this ordinance, granting regular full-time City employees the Martin Luther King, Jr. holiday on January 18th, 1993, is hereby ratified and confirmed.

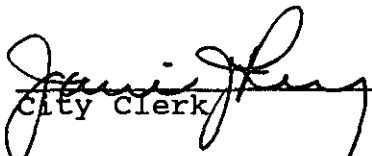
Section 14. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 19th day of January, 1993.

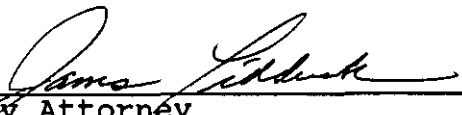
Signed in authentication thereof this 19th day of January, 1993.

  
\_\_\_\_\_  
MAYOR

Attest:

  
\_\_\_\_\_  
City Clerk

Approved as to Form:

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

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PUBLICATION SUMMARY OF ORDINANCE NO. 3350

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE PERSONNEL ORDINANCE, AND AMENDING SECTIONS 3.80.020, 3.80.030, 3.80.040, 3.80.050, 3.80.060, 3.80.070, 3.80.080, 3.80.090, 3.80.110, AND 3.80.120 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Revise KMC subsections 3.80.020(b) and (d) relating to affirmative action and sexual harassment.

SECTION 2. Revise KMC section 3.80.030 providing personnel ordinance definitions.

SECTION 3. Revise KMC subsections 3.80.040(b), (c), (f), (k)(1), (k)(2), and (m), including provisions relating to probationary periods and sexual harassment.

SECTION 4. Revise KMC subsections 3.80.050 (b) and (c) including provisions relating to discipline.

SECTION 5. Revise KMC subsection 3.80.060(b) relating to the grievance procedure for unrepresented employees.

SECTION 6. Revise KMC subsection 3.80.070(a) by providing job descriptions shall reflect the essential functions of the position.

SECTION 7. Revise KMC subsection 3.80.080(a) defining the workweek.

SECTION 8. Revise KMC subsections 3.80.090(a) and (b) relating to vacation leave.

SECTION 9. Revise KMC subsection 3.80.110(a) relating to holidays.

SECTION 10. Revise KMC subsection 3.80.120(f) relating to family leave.

SECTION 11. Create new KMC subsection 3.80.120(h) relating to bereavement leave.

SECTION 12. Provides a severability clause for the ordinance.


SECTION 13. Provides a ratification clause relating to the Martin Luther King, Jr. holiday.

SECTION 14. 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 19th day of January, 1993.

I certify that the foregoing is a summary of Ordinance 3350 approved by the Kirkland City Council for summary publication.

  
city Clerk

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