

ORDINANCE 3905

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PERSONNEL AND AMENDING KMC 3.80, THE PERSONNEL ORDINANCE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 3.80.020 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.020 General provisions.

(a) Purpose. The objective of the personnel ordinance is to facilitate efficient service to the public and provide a personnel management system within the city government which deals with all employees of various departments in an equitable and uniform manner.

(b) Affirmative Action Policy. Within the parameters required or allowed by law, it is the policy of the city to promote and assure equal opportunity based on ability and fitness to all persons regardless of race, religion, color, national origin, sex, age, marital status, political affiliation, sexual orientation or the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a disabled person.

~~(c) Sexual Harassment. The city will not tolerate sexual harassment of any employee. Sexual harassment is illegal and is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:~~

~~(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;~~

~~(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or~~

~~(3) Such conduct has the purpose or effect of reasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.~~

~~(d) (c) Exclusion. Except as to Section ~~3.80.020(c)~~ and 3.80.045 0(f) pertaining to sexual harassment and Section 3.80.140 pertaining to gifts and favors, this chapter shall not apply to the following personnel: Mayor, members of the city council, members of commissions or boards, reserve firefighters, and the city attorney.~~

~~(e) (d) Scope. In cases where this chapter conflicts with collective bargaining contracts and agreements duly agreed upon between the authorized employee organizations or unions and the city, or with civil service regulations, the provisions of the contract or regulations shall govern.~~

~~(f) (e) Conflicts. Nothing in this chapter shall be construed to conflict with, or invalidate state or federal law relating to the subject matter herein.~~

Section 2. Section 3.80.030 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.030 Definitions.

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

- (1) "City" means the city of Kirkland.
- (2) "Doctor's certificate" means a form provided by the city and signed by a physician stating that the employee has been ill and is now able to return to work.
- (3) "Employee" means a person occupying a position and who is paid a salary or wage by the city. "Employee" shall not include any person retained by the city under a written personal service or consultant contract or agreement.
- (4) "Holiday" means the days designated as holidays with pay by this chapter.
- (5) "Immediate family" means wife, husband, son, daughter, mother, father, grandmother, grandfather, mother-in-law, father-in-law, domestic partner, brother, sister and other relatives as designated by approval of the city manager.
- (6) "Just cause" means cause, supported by evidence, for disciplinary action against an employee.
- (7) "LEOFF" means the Law Enforcement Officers and Firefighters Retirement System.
- (8) "Members of employee's household" means persons who reside in the same home who have reciprocal and natural or moral duties to and/or do provide support for one another. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune.
- (9) "Overtime" consists of any work performed by regular full-time or part-time employees required to be compensation as overtime by the Federal Fair Labor Standards Act.
- (10) "Probationary employee" means any employee hired for a regular position who has not completed the probationary period.
- (11) "Regular full-time employee" means any salaried employee, hired for an indefinite period of time, who works forty or more hours per week on a fixed, regular schedule and is compensated and accrues benefits based on full-time employment.
- (12) "Regular part-time employee" means any salaried employee, hired for an indefinite period of time, who works less than forty hours per week on a fixed regular schedule ~~and is compensated and accrues benefits proportionate to the number of hours worked per month.~~
- (13) "Seasonal employees" means employees hired to work in positions which are cyclic in nature, begin at approximately the same time each year

and last for a minimum of three months and a maximum of nine months in any consecutive twelve-month period.

(14) "Temporary employee" means an employee hired for a specific purpose or project and for a specific or definite period of time ~~who is compensated with an hourly wage.~~

(15) "Uniformed employees" means employees hired as officers of the city's police and fire departments and who are under the LEOFF retirement system.

Section 3. Section 3.80.040 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.040 Policies and procedures.

(a) Hiring Immediate Family Members or Members of Employee's Household. Hiring or maintaining employment status of immediate family members of present employees or members of a present employee's household is prohibited if:

(1) One member would have the authority or practical power to supervise, hire, remove or discipline the other;

(2) One member would be responsible for financially auditing the work of the other; or

(3) One member would handle confidential material which may create the appearance of improper or inappropriate access to that material by the other; unless such handling of confidential material is in the best interest of the city as determined by the city manager.

(b) Recruitment. Available positions may be filled through internal or external recruitment. Internal recruitments shall be publicized to City employees. External recruitments shall be publicized within City Hall to City employees, 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 at any time under the provisions of Section 3.80.050 of this chapter without further recourse.

(d) Promotion. Vacancies may be filled, insofar as is consistent with the best interests of the city, from qualified employees holding regular positions within the city. Employees who are promoted shall again hold probationary status as provided in subsection (c) of this section. Those who fail the probationary period may reassume any regular appointment held prior to the promotion if the position is vacant.

(e) Transfer. Upon recommendation of the department director or to meet the needs of the city, a transfer may be made. No person may be transferred to a position for which he/she does not possess minimum qualifications. A probationary period shall be established for anyone requesting a transfer. A transfer shall not be used to circumvent regulations regarding promotions, demotions or terminations.

(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.

(g) Resignation. An employee shall give at least two weeks written notice of his or her effective resignation date. The time limit of the resignation may be waived at the discretion of the department director concerned. Termination vacation pay shall be forfeited if written notice is not given nor waived. Unauthorized absence from work for a period of three consecutive days will be presumed as voluntary resignation not in good standing.

(h) Abandonment. An employee who is absent from work without approval for more than three days may be terminated by the City Manager or designee unless waived by the City Manager

~~(h)~~ (i) Retirement. All regular full-time and regular part-time employees must belong to either the Public Employees Retirement System (PERS) or the Law Enforcement Officers and Firefighters (LEOFF) retirement system or any other systems which may take their place so long as they qualify for membership under the applicable state statutes.

~~(j) Sexual Harassment. It is the policy of the 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 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.~~

~~(1) 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, personnel 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 personnel manager unless there is an allegation against that person or against the director of administrative services, and if so, then written reports will be forwarded to the city manager, but if he or she is unavailable, then to the 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 personnel manager, the city manager, assistant city manager or the city attorney will begin an investigation if necessary. 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 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 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.~~

~~(3) Sealing of Records Relating to Sexual Harassment. Records relating to sexual harassment include written reports regarding alleged sexual harassment, memos between city employees concerning investigation of such allegations and city recommendations in response to allegations. Records~~

~~relating to sexual harassment will be retained by the city for a minimum of six years. All such records will be retained in one sealed personnel file. There will be a cross-reference to the sealed file, without details thereof, in the personnel file of the reporting employee, allegedly affected employee and the employee who was reported to have sexually harassed another. Once the material in the sealed file is determined to have no reasonable bearing on job performance or on the efficient and effective management of the city, it may be destroyed, together with any cross-references to the sealed file.~~

~~No information from the sealed file nor any indication of the cross-reference to the sealed file will be disclosed to persons who do not have confidential access to the personnel affairs of the city; provided, that there are two exceptions which permit some disclosure. First, an employee who reported sexual harassment and/or an employee who was allegedly affected by sexual harassment may request that the city provide information to another regarding the investigation of sexual harassment. On a case-by-case basis, the city, as a matter of its own discretion, may agree to release specified information. Secondly, whenever the city would provide general information to persons who are not officers or employees of the city regarding an employee or former employee for the city's personnel file and the employee's personnel file reflects a finding or reasonable cause for disciplinary action, then the city will also send information regarding the investigation of sexual harassment, except that no readily identifiable reference to other parties involved would be included, and any statement which the employee has requested be held in his/her file will accompany the disclosure. Information about the finding or reasonable cause for disciplinary action would not be given in response to a request for verification of dates employed.~~

~~(j)(i) Exit Interview. An exit interview checklist shall be completed by the personnel department for all employees resigning from city employment.~~

~~(k) Drug Testing. Drug testing shall be administered in accordance with Chapter 4-28 of the City of Kirkland Administrative Policy Manual. Upon a finding by an employee's supervisor of reasonable suspicion that the employee's ability to properly perform the job has been lessened by the use of intoxicating liquor and/or drugs, the employee may be required to submit to alcohol or drug testing. In addition, an employee may be required to submit to alcohol or drug testing if the employee is injured or injures another employee during work hours or is involved in a work-related accident and the city reasonably suspects that the employee's actions or failure to act contributed to the injury or accident.~~

~~(l) Physical, Mental and Sensory Disabilities. If a physical, mental or sensory disability causes an employee to be incapable of properly performing the essential functions of his/her present position, the city will explore ways to accommodate the employee's 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 to voluntary demotion or transfer.~~

(m) Layoff. The City Manager may layoff employees as he or she deems necessary.

Section 4. There is hereby created a new section of the Kirkland Municipal Code to be known as Section 3.80.045 and to read as follows:

3.80.045. Sexual Harassment.

(a) The city will not tolerate sexual harassment of any employee. Sexual harassment is illegal and is defined as unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, and other verbal or physical conduct or communication of a sexual nature when:

(1) Submission to such conduct or communication is made either explicitly or implicitly a term or condition of an individual obtaining employment;

(2) Submission to or rejection of such conduct or communication by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct or communication has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

It is the policy of the 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 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.

(b) 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 director, human resources 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 when applicable.

(c) Response to Reports of Sexual Harassment. Written reports concerning sexual harassment will be forwarded to the human resources manager unless there is an allegation against that person or against the director of administrative services, and if so, then written reports will be forwarded to the city manager, but if he or she is unavailable, then to the 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 directors 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 regardless of whether those involved report the incident.

The human resources manager, the city manager, assistant city manager or the city attorney will begin an investigation if appropriate. The city manager, city attorney, or human resources manager, with the concurrence of the city manager, may engage the services of an independent third party to assist in the investigation. The first pre-investigation 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 subsection (a) of this section, then no investigation shall be conducted and all records shall be gathered together and sealed to the extent allowed by law. All other reports of sexual harassment will be investigated within a reasonably prompt time after the report is received and the following procedures will be followed.

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 city shall initiate a separate investigation or include these instances in the ongoing investigation, whichever is appropriate.

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 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.

(d) Sealing of Records Relating to Sexual Harassment. Records relating to sexual harassment include, but are not limited to, written reports regarding alleged sexual harassment, memos between city employees concerning investigation of such allegations and city recommendations in response to allegations. Records relating to sexual harassment will be retained by the city for as long as required by law. All such records will be retained in one sealed personnel file. There will be a cross-reference to the sealed file, without details thereof, in the personnel file of the reporting employee, allegedly affected employee and the employee who was reported to have sexually harassed

another. Except to the extent required or allowed by law, no information from the sealed file nor any indication of the cross-reference to the sealed file will be disclosed to persons who do not have confidential access to the personnel affairs of the city.

Section 5. Section 3.80.050 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.050 Disciplinary actions Authority of the City Manager.

~~(a) Authority of the City Manager. Nothing in this chapter shall be construed in any way as 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 directors and employees of the city, except members of the city council and its advisory boards, commissions, and those employees covered by the civil service commission. Whenever a disciplinary action or termination becomes necessary, the city manager has the power to discipline or terminate, and he/she will normally do so for just cause. Disciplinary action may consist of counseling for which there is a written record, verbal or written warning, written reprimand, suspension with or without pay, demotion, or termination.~~

~~(b) Just Cause. Continued employment with the 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 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, neglect of duty, malfeasance, acts of moral turpitude;~~

~~(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;~~

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

~~(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 or physical fitness of the employee, or which precludes the employee from properly performing his/her functions and duties;~~

~~(6) Violation of a city ordinance or the rules, policies, regulations or orders issued by the employee's immediate supervisor, department director, human resources manager or city 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;~~

~~(11) Using abusive language, including but not limited to racial slurs, during the performance of city duties or when such abusive language adversely impacts another employee's ability to perform the duties of his/her position;~~

~~(12) Falsifying reports or records.~~

~~(c) Disciplinary Actions.~~

~~(1) In addition to the city manager's authority described in subparagraph (a) and Section 3.80.050, whenever an employee's performance, attitude, work habits or personal conduct falls below satisfactory levels, the following individuals are authorized to take disciplinary action as indicated below:~~

~~(A) The employee's supervisor may impose: counseling for which there is a written record; an oral or written warning; or a written reprimand;~~

~~(B) The employee's department director may impose: counseling for which there is a written record; an oral or written warning; a written reprimand; suspension with or without pay, demotion, or termination. Before imposing a suspension without pay for more than two days or terminating an employee, the department director shall consult with the city manager.~~

~~(2) The individual taking disciplinary action has the discretion to select the appropriate type of initial or progressive discipline. Factors to be considered in selecting the severity of discipline include the seriousness of the employee's conduct and whether less severe discipline would impact the efficiency of the work unit or place an unfair burden on other employees. 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.~~

~~(3) Notification to the Employee. Employees who are subject to disciplinary action shall, within a reasonable period of time, be provided with a full statement, in writing, of the reasons for such action, the nature of the action and the effective date.~~

~~(4) Name Clearing Hearing. Any terminated employee believing he/she may be entitled to a name clearing hearing may initiate such a hearing using the procedures set forth in Sections 3.80.060(c)(1) and (2) of this chapter. A name clearing hearing does not involve a review or appeal of the decision to terminate the employee.~~

Section 6. There is hereby created a new section of the Kirkland Municipal Code to be known as Section 3.80.055 and to read as follows:

3.80.055 Disciplinary actions.

(a) Whenever a disciplinary action or termination becomes necessary, the city manager has the power to discipline or terminate, and he/she will normally do so for just cause. Disciplinary action may consist of counseling for which there is a written record, verbal or written warning, written reprimand, suspension with or without pay, demotion, or termination.

(b) Just Cause. Continued employment with the 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 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, neglect of duty, malfeasance, acts of moral turpitude;

(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;

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

(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 or physical fitness of the employee, or which precludes the employee from properly performing his/her functions and duties;

(6) Violation of a city ordinance or the rules, policies, regulations or orders issued by the employee's immediate supervisor, department director, human resources manager or city 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;

(11) Using abusive language, including but not limited to racial slurs, during the performance of city duties or when such abusive language adversely impacts another employee's ability to perform the duties of his/her position;

(12) Falsifying reports or records.

(c) Disciplinary Actions.

(1) In addition to the city manager's authority described in subparagraph (a) and Section 3.80.050, whenever an employee's performance, attitude, work habits or personal conduct falls below satisfactory levels, the following individuals are authorized to take disciplinary action as indicated below:

(A) The employee's supervisor may impose: counseling for which there is a written record; an oral or written warning; or a written reprimand;

(B) The employee's department director may impose: counseling for which there is a written record; an oral or written warning; a written reprimand; suspension with or without pay, demotion, or termination. Before imposing a suspension without pay for more than two days or terminating an employee, the department director shall consult with the city manager.

(2) The individual taking disciplinary action has the discretion to select the appropriate type of initial or progressive discipline. Factors to be considered in selecting the severity of discipline include the seriousness of the employee's conduct and whether less severe discipline would impact the efficiency of the work unit or place an unfair burden on other employees. 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.

(3) Notification to the Employee. Employees who are subject to disciplinary action shall, within a reasonable period of time, be provided with a full statement, in writing, of the reasons for such action, the nature of the action and the effective date.

(4) Name-Clearing Hearing. Any terminated employee believing he/she may be entitled to a name-clearing hearing may initiate such a hearing using the procedures set forth in Sections 3.80.060(c)(1) and (2) of this chapter. A name-clearing hearing does not involve a review or appeal of the decision to terminate the employee.

Section 7. Section 3.80.060 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.060 Grievance procedure.

(a) Definition. A "grievance" means a claim or dispute by an employee with respect to the interpretation, meaning or application of the provisions of this chapter.

(b) Purpose. An employee may resort to grievance procedures hereinafter set forth for any decision or action in violation of the provisions of this chapter which he/she feels may affect his/her employment adversely. To be timely, the grievance must be filed in writing by the employee with the employee's immediate supervisor and the personnel manager within five working days of the occurrence of the incident producing the dispute or grievance. The grievance must be signed by the employee and must state the issue, the provision(s) of this chapter violated, the facts giving rise to the grievance and the remedy sought. 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.

(c) Procedure. Subsequent to the timely filing of a grievance under subsection (b) hereinabove, the following grievance procedures apply unless other procedures are provided by state law, as in the case of the uniformed services, union contract, or any other which offers a grievance procedure;

(1) The employee must first discuss the grievance with his or her immediate supervisor.

(2) If the employee believes the supervisor's response fails to resolve the grievance to his or her satisfaction, then within five working days after receiving the supervisor's response the employee shall submit the grievance to his/her department director. The department director shall reply in writing to the parties regarding the grievance within ~~five~~ ten working days.

(3) If the employee feels that his or her complaint is not fairly resolved by the department director, he or she may submit, within five working days after receipt of the department director's reply, a written grievance to the city manager.

(4) The city manager or designee shall review the grievance materials and issue a final determination within twenty working days; provided however, if the city manager or designee determines the grievance materials are insufficient to enable him/her to make a final determination or that further investigation and review is warranted, he may first confer with the parties or any one of them, direct the parties to provide additional information, authorize further investigation and/or conduct a grievance meeting. Alternatively, the city manager or designee may, in his or her discretion, agree to arbitration by an outside third party or any other available method for resolving the employee's grievance. No punitive action shall be carried out against the employee for utilizing the grievance procedures contained herein.

(5) Upon agreement of the city and the employee, at any time during the grievance the parties can utilize an agreed upon mediation process. In the event such an agreement is reached, the running of the timelines set forth herein are tolled until one party notifies the other in writing that they are withdrawing from the process. The notice given will be effective as of the date it is received by the other party.

Section 8. Section 3.80.070 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.070 Classifications and salary.

(a) Position classification 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 city. Job descriptions shall reflect the essential duties and responsibilities of the position.

~~(b) Reclassification of Positions and Compensation. Positions and compensation shall be reclassified when appropriate in accordance with Chapter 4-7 of the City of Kirkland Administrative Policy Manual. Significant changes in the duties and responsibilities of any position within the city shall result in an evaluation of the position and possible reclassification based on such changes. All existing positions should periodically be reviewed for possible changes and reclassifications.~~

~~(c) Salary Range. Preparation of the current range shall be based upon the classification resulting from the evaluation of duties and responsibilities. Any change in salary range must be made on the same basis.~~

~~(d) Whenever the human resources division has classified a new position or reclassified an existing position, as required by subsections (a) and (b) of this section, the human resources division shall submit the changes to the city manager for approval. To the extent the foregoing results in a change in an employee's current salary or wages, such change shall become effective as of the first pay period commencing immediately following approval by the city manager.~~

~~(ec) Overtime. Overtime shall be compensated at a rate of one and one-half times the normal rate of pay or by compensatory time off in lieu of overtime pay at the discretion of the employee. All overtime shall be authorized by the employee's respective supervisor department director in advance. Requests for overtime pay or compensatory time off must also be made in advance and remain consistent for a period of three months. Overtime for uniformed personnel shall be referred to current contract agreements. If the employee requests compensatory time off, it must be taken prior to the second payout dates of January, April, July and October within twenty-eight days of the accrual date. Executive, administrative and professional employees shall not be entitled to overtime compensation as defined in WAC 296-128-500.~~

~~(fd) Pay Period. Employees shall be paid twice each month. Paychecks will be issued on or about the first eighth and fifteenth twenty-third of each month. In the event payday falls on a weekend or holiday, employees will be paid the preceding business day.~~

Section 9. Section 3.80.080 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.080 Hours of work.

(a) General Personnel. The normal work week shall consist of five consecutive days and shall average forty hours within a one hundred sixty-eight 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 director and the city manager, or designee.

~~(b) Uniformed Personnel. Shift work will be assigned and varied to meet the needs of the city.~~

(eb) Work Breaks. Authorized breaks must be arranged so as not to interfere with city business. Business shall not be interrupted simply because it is breaktime. Employees are entitled to one fifteen-minute break in the morning and afternoon. Breaks for office employees should be taken in designated areas and field employees should take their breaks on or near the job site. Misuse of break privileges shall be subject to disciplinary action.

Section 10. Section 3.80.090 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.090 Vacation leave.

(a) Approval. Upon satisfactory completion of six month's ~~continuous~~ service, an employee shall be eligible for 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 director. Vacation leave shall be granted by the department director only in the best interests of the city. Department directors requesting vacation leave must coordinate such request with the city manager's office ~~receive approval from the city manager prior to using such leave.~~

(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, and regular part-time employees and temporary employees that will or have exceeded 1040 hours within six months of hire shall accrue vacation leave at a rate proportionate to the number of hours worked per month, based on the following schedule:

Annual Vacation

Year of Employment (Working Hours)

±1st year of employment	104 hours vacation
±2nd year of employment	104 hours vacation
±3rd year of employment	104 hours vacation
±4th year of employment	104 hours vacation
±5th year of employment	128 hours vacation
±6th year of employment	128 hours vacation
±7th year of employment	128 hours vacation
±8th year of employment	136 hours vacation
±9th year of employment	136 hours vacation
10th year of employment	136 hours vacation
11th year of employment	144 hours vacation
12th year of employment	144 hours vacation
13th year of employment	144 hours vacation
14th year of employment	160 hours vacation
15th year of employment	160 hours vacation
16th year of employment	160 hours vacation
17th year of employment	176 hours vacation
18th year of employment	176 hours vacation
19th year of employment	176 hours vacation

20th year of employment 192 hours vacation

Beyond 20 years of employment 192 hours vacation

(c) Accumulation. Vacation leave shall not be accumulated in excess of two hundred eighty (280) hours within a calendar year without the express prior written authorization of the City Manager or his or her designee. No more than two hundred and forty (240) hours may be carried over from one calendar year to the next except as provided in this sub-paragraph. Requests to the City Manager or designee for exceptions shall be for a specific number of hours to be used for a specific purpose and to be taken by a specific date. Accrued unused vacation leave shall not, under any circumstance, exceed three hundred twenty (320) hours.

~~Failure by an employee to make use of earned vacation leave within the calendar year following the year of its accrual shall constitute a waiver and loss of such leave and shall not form the basis of any severance pay or additional compensation. Vacation leave shall not accrue for service time during a fraction of a month. The city manager may authorize additional accrual on a case-by-case basis, but in no case shall an employee's accumulated leave balance exceed two hundred forty hours.~~

(d) Payment in Lieu of Vacation Leave. There shall be no pay in lieu of unused vacation leave, except in cases of separation from city employment. An employee who has successfully completed probation 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 the date of separation but not to exceed a maximum of two hundred forty (240) hours accumulated vacation leave unless specifically authorized by the city manager.

Section 11. Section 3.80.092 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.092 Leave sharing program.

(a) Donation of Leave. Only vacation leave is available to be donated. All donated leave must be voluntarily given. An employee may donate any amount of vacation leave; provided, that it does not cause the employee's vacation leave balance to fall below ten days. Employees wishing to donate leave which would cause their leave balance to fall below ten days must seek and obtain written permission from the city manager. A donor must fill out and sign a "vacation leave transfer" form to authorize the city to transfer vacation leave.

(b) Eligibility to Receive Shared Leave. Subject to the approval of the city manager or his designee, an employee may receive donated leave under the following conditions:

(1) The employee suffers from, or has a relative or household member suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition; and

(2) The employee's job is one in which vacation and/or sick leave can be used and accrued; and

(3) The employee is not eligible for time loss compensation under RCW Chapter 51.32; and

(4) The employee has abided by city policies and procedures regarding the use of sick leave; and

(5) The employee has exhausted, or will shortly exhaust, his/her sick leave and vacation leave; and

(6) The condition has caused or is likely to cause the employee to go on leave without pay or terminate city employment where termination is due solely to the exhaustion of leave; and

(7) An employee may not receive donated vacation leave beyond that which, if combined with the employee's own leave, could result in the employee being on city paid leave for more than 600 hours ~~seventy-five work days~~ in any six-month period.

(c) Application to Receive Shared Leave. An employee wishing to receive shared leave must make such request using the application to receive shared leave form. The application must be accompanied by documentation from a licensed physician or other authorized health provider verifying the severe or extraordinary nature and the expected duration of the condition. The application should be submitted to the city's designee for the shared leave program.

(d) Approval to Receive Shared Leave. Based upon the information provided on the application and in the physician's documentation, the city will approve/disapprove the use of shared leave for the applicant. If shared leave is approved, the city will determine the amount of shared leave the recipient may receive. No shared leave may be used by the recipient until all other forms of paid leave available for him/her to use are exhausted.

(e) Value of Shared Leave. All vacation leave hours donated shall be converted to a dollar value based on the donor's straight time hourly rate at the time of donation. Such dollar value will then be divided by the receiving employee's hourly rate to determine the actual number of hours received. ~~The value of any leave transferred under this program which remains unused will be placed in a residual shared leave pool returned at its original value to the donor. To the extent administratively feasible, the value of unused leave transferred by more than one employee will be returned on a pro rata percentage basis.~~

Section 12. Section 3.80.095 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.095 Vacation for executive management.

(a) This section ~~is effective January 1, 1996,~~ and applies to the executive management group ("department heads"), which shall mean department heads and the assistant city manager. The provisions of Section 3.80.090 shall apply to department heads, except as hereinafter provided.

(b) The annual vacation schedule for department heads shall be ~~within a range of one hundred twenty hours to one hundred sixty hours;~~ provided that

the vacation accrual rate in Section 3.80.090 shall apply if such rate would exceed 160 hours based on the individual's years of service with the city. The city manager shall determine the particular rate of vacation leave actual for each department head. During the first six months of employment, department heads are eligible to utilize paid vacation upon approval of the city manager.

Section 13. Section 3.80.100 of the Kirkland Municipal Code is hereby 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 of nine hundred sixty hours. Regular part-time employees and temporary employees that will or have exceeded 1040 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).

(b) 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. Sick leave shall be granted for the following reasons:

(1) Personal illness or physical incapacity resulting from causes beyond the employee's control.

(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. The employee must notify his or her supervisor if he or she intends to use vacation leave instead for this purpose

~~(3) Death in the immediate family or members of employee's household. Leave shall not exceed three days. In cases where travel distance is extensive, up to two additional days may be granted by the employee's department director.~~

~~(4) Medical or dental appointments.~~

~~(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.~~

~~(6) So long as the employee has accrued sick leave, to care for a child of the employee who is under the age of eighteen with a health condition that requires treatment or supervision.~~

(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.

(d) Doctor's Certificate. After three days and/or at the discretion of the department director, certification of illness by a doctor may be required for

approval of sick leave with pay. Certification establishing the date on which an employee was able to return to work may also be required.

(e) 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 ~~one hundred twenty days~~ 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) There shall be no pay nor compensatory time off given for unused sick leave accumulated after the effective date of the amendatory ordinance codified in this chapter, except as may be otherwise provided for in subdivision (3) of this subsection for certain employees who are members of PERS I.~~

~~(2) Up to one half of unused sick leave accrued prior to the effective date of the amendatory ordinance codified in this chapter may be converted to compensatory time off on the basis of one day of compensatory time off for each day of accrued unused sick leave to a maximum of thirty days; provided such conversion is made within thirty days of the effective date of the amendatory ordinance codified in this chapter.~~

~~(1)(3)~~ Upon retirement, any city of Kirkland employee who is then an active member of PERS I and whose employment qualifying for membership in PERS I 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 I 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 24 days of sick leave throughout the said two years shall be treated as having accrued 12 days sick leave per each of the said two years.

(g) 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.

Section 14. Section 3.80.110 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.110 Holidays.

(a) Holiday Schedule. Regular full-time employees are granted the following holidays, and other such days as the city council may fix, without reduction in pay. Regular part-time employees and temporary employees that will or have exceeded 1040 hours within six months of hire shall receive these holidays and other such days as the city council may fix at a rate proportionate to the number of hours worked per month, without reduction in pay.

Holiday Date to be Observed

- (1) New Year's Day January 1
- (2) M.L. King Jr. birthday 3rd Monday in January
- (3) President's Day 3rd Monday in February
- (4) Memorial Day Last Monday in May
- (5) Independence Day July 4
- (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 & Last regular work day before Christmas Day
- half day New Year's Eve Last regular work day before New Year's Day
- (11) Christmas Day December 25
- (12) One floating holiday 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 a floating holiday.

(b) Holidays Occurring on Weekends. Any regular holiday which falls on a Saturday shall be observed on the preceding Friday and any regular holiday which falls on a Sunday shall be observed on the following Monday.

(c) Worked Holidays. When a regular employee other than uniformed personnel works on a holiday, he/she will be granted one other day of vacation with full pay for each holiday worked. Such vacation days shall be approved in the best interests of the city.

Section 15. Section 3.80.115 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.115 Management leave for eligible employees.

(a) Purpose. The city recognizes that employees who are exempt for purposes of overtime pay often put in hours that extend beyond the standard workweek, without additional compensation or compensatory time off, to meet the demands of their position. While some extra work time is an expected component of these positions, the city wishes to provide a benefit in recognition of this service. This section provides for management leave, which is a paid leave for a group of overtime exempt employees.

(b) Management Leave Program. The management leave program is a benefit attached to specific employee positions that are part of the city's MAC group. The MAC group includes designated management and confidential employees. Management leave is made available to certain employees in the MAC group whose positions are exempt from the overtime pay requirements of the federal Fair Labor Standards Act (FLSA). "Management leave" means time off with pay granted to eligible employees and shall be in addition to earned vacation benefits. Management leave is granted in recognition of extraordinary work time required in overtime exempt positions. Management leave is not intended to be balanced hour for hour with extra time worked.

(c) Eligibility to Receive Management Leave. For purposes of this section, "eligible employee" means an employee who:

- (1) Is part of the city's MAC group;
- (2) Is overtime exempt under FLSA as a regular, salaried professional, administrative or executive employee;
- (3) Does not receive overtime pay or compensatory time off and is not covered by an agreement for the city to pay overtime or provide compensatory time off; and
- (4) Is in a position covered by the management leave program.

(d) Management Leave Schedule. The human resources division shall maintain a list of positions that are eligible for management leave and showing the amount of leave granted. Eligible employees shall be granted management leave according to the following schedule:

- (1) Fifty hours annually—Executive management group (consisting of the city manager, assistance city manager, and department directors);
- (2) Forty hours annually—Managers (consisting of positions designated as managers in the MAC group); and
- (3) Thirty hours annually—Supervisors (consisting of positions designated as overtime exempt supervisors in the MAC group).

(e) Management leave shall be prorated for eligible employees who work part-time and for eligible employees who start mid-year.

(f) Procedure for Use. The applicable amount of management leave shall be granted annually ~~beginning January 1, 2000,~~ at the start of each calendar year. Eligible employees must notify supervisors in advance of the time management leave is to be used and are expected to schedule such absence in a manner which will cause the least impact upon work within their department.

(g) Payment for Unused Management Leave. Management leave must be used in the year for which it is given. Any employee with management leave hours remaining unused as of November 30th, and who has not by that date received supervisory approval to use such remaining leave during the month of December, shall receive monetary payment in lieu thereof. Such payment will be calculated on the basis of the employee's regular rate of pay as of November 30th. The city will make such payment by the end of December of that year.

(h) Payments under this section shall not be included in any calculation of the employee's average final compensation used to determine the employee's pension benefit amount or eligibility.

(i) Upon termination or resignation, an employee shall receive monetary payment in lieu of unused management leave hours ~~unused management leave will be paid to an eligible employee on a pro rata basis.~~

Section 16. Section 3.80.120 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.120 Other leave.

(a) Military Leave. In accordance with RCW 38.40.060 any employee who is a member of the Washington National Guard or a federal reserve unit shall be entitled to time off with pay for up to fifteen days during each calendar year while participating in officially ordered military duty. A copy of the employee's orders shall be placed in the employee's personnel file.

(b) Jury or Court Duty. A ~~Regular employees and temporary employees that will or have exceeded 1040 hours within six months of hire who is~~ are required to serve on a jury or as a result of official city duties ~~is~~ are required to appear before a court, legislative committee or quasi-judicial body as a witness in response to a subpoena or other directive, shall be granted paid leave for the time that the employee needs to be released from regular duties; provided, that the supervisor is promptly notified of the conflict or if the employee is excused from the appearance such as for an afternoon. The employee shall be entitled to his or her regular pay; provided, that the employee shall pay to the city any fee or reimbursement received for such court or jury duty, up to the amount paid as paid leave.

(c) Leave without Pay. Upon approval by the department director, leave without pay may be granted for a period not to exceed fifteen working days for illness, injury or additional vacation.

(d) Leave of Absence. Upon the request by the employee, the city manager may grant a leave of absence without pay for a period of not less than three weeks and not more than six months. Approval of such leave shall be in writing and signed by the city manager. No vacation or sick leave benefits or other fringe benefits shall be accrued while an employee is on leave of absence. The employee's anniversary date will be adjusted by the length of the leave granted. Upon expiration of the leave of absence, the employee shall be reinstated in the position held at the time the leave was granted. Any employee

on approved leave of absence may continue his/her medical insurance coverage by paying the full cost to the city in advance for each month of the leave of absence.

(e) Maternity Leave. Female employees shall be granted maternity leave in accordance with their sick leave benefits. Paid leave will be eligible under Section 3.80.100(b)(1). If additional time is requested, leave of absence without pay or fringe benefits may be granted as prescribed in subsections (c) and (d) and (f) of this section.

(f) Federal and State Family and Medical Leave Acts. Employees shall be granted family and medical leave in accordance with the provisions of the State Family Leave Act, Chapter 49.78 RCW, and the Federal Family and Medical Leave Act of 1993 or as thereafter amended. Family and medical leave granted under either of such Acts shall be unpaid unless otherwise provided therein.

(g) Leave at Partial Pay. The city manager may grant an employee, except a LEOFF (1) employee, who has successfully completed the probationary period, leave at partial pay not to exceed forty-five days for treatment of the employee's alcohol, drug, or mental health problems; provided, that the leave does not commence until the employee has exhausted vacation and sick leave. Such treatment program must be recommended by the employee assistance program (EAP) counselor. The employee must agree to the treatment provider, the city, or the EAP counselor conferring about the employee's progress. The city manager has the authority to set the percentage of regular pay to be paid, which will normally be sixty percent and shall not exceed eighty percent, and to condition the leave on compliance with this chapter. The employee may also be required to follow recommendations of the treatment provider or the EAP counselor for up to one year after the leave begins. For example, the employee could be required to: abstain from alcohol and nonprescription drugs, use prescription drugs only as prescribed by a doctor familiar with the employee's problems and treatment program, and participate in after-care activities. If the employee fails to comply with the treatment program during the period of leave granted, the employee shall be immediately removed from partial pay leave status and must reimburse the city for partial pay unless the city manager approves a different result based on reports from the treatment program or EAP counselor. If the employee does not meet requirements such as abstinence after returning to work, it is cause for disciplinary action. In addition, the city manager may require that the employee reimburse the city for partial pay. No vacation or sick leave benefits shall accrue during the leave, except that medical insurance coverage will be handled as if the employee were working regularly.

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

(i) Administrative leave. The city manager may grant administrative leave as necessary.

Section 17. Section 3.80.150 of the Kirkland Municipal Code is hereby amended to read as follows:

3.80.150 Communicable disease policy.

As an employer, the city is committed to providing a safe workplace for its employees. It is the responsibility of every city employee to provide courteous and fair treatment to the public and fellow employees without discrimination.

The city will continue to provide current information and further educate employees concerning the transmission of and precautions to prevent the transmission of communicable diseases. The city is committed to establish workplace protocols and procedures to protect against unreasonable risks of exposure to communicable diseases.

No employee, without reasonable cause, shall refuse to serve, to work with, or deny the use of city services to any individual solely because the individual is perceived as being at risk of having the HIV antibody virus (AIDS) or has tested positive for the HIV antibody virus or has a communicable disease.

Refusing to work with another employee perceived to be at risk of having the HIV antibody virus or who had tested positive for the HIV antibody virus will be considered insubordination.

An employee's refusal to deliver city services to an individual who has or is suspected to have a communicable disease will constitute neglect of duty unless the employee can demonstrate that his or her duty would subject him or her to an unreasonable risk of infection.

Employment selection will be in compliance with current policy and procedure. An applicant will not be denied employment due to health status unless it hampers his or her capabilities in performing the required job duties.

No change in the normal working activities of an employee with a life-threatening illness including, but not limited to, the HIV antibody virus, will be made so long as he or she is able to meet acceptable performance standards, and medical evidence indicates the activities do not pose a threat to himself or herself, or to others.

Medical information in personnel and medical records and sensitive information provided to management personnel about an employee who is diagnosed as having a life-threatening illness and/or communicable disease shall be held in strict confidence to the extent allowed by law.

Section 18. 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.

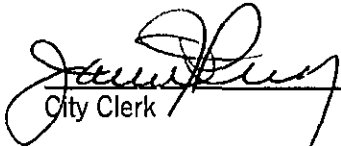
Section 19. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.107, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting
this 16th day of September, 2003.


Signed in authentication thereof this 16th day of
September, 2003.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney
Ord\Personnel

PUBLICATION SUMMARY
OF ORDINANCE NO. 0-3905

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PERSONNEL AND AMENDING KMC 3.80, THE PERSONNEL ORDINANCE.

SECTIONS 1 - 3, 5, AND 7 - 17. Amends certain sections of Chapter 3.80 of the KMC regarding general provisions, definitions, policies and procedures, authority of the City Manager, disciplinary actions, grievance procedures, classification and salary, hours of work, vacation leave, leave sharing, vacation for executive management, sick leave, holidays, management leave, other leave and the communicable disease policy.


SECTIONS 4 AND 6. Creates new sections of Chapter 3.80 of the KMC regarding sexual harassment and disciplinary action.

SECTION 18. Provides a severability clause for the ordinance.

SECTION 19. 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 16th day of September, 2003.

I certify that the foregoing is a summary of Ordinance 3905 approved by the Kirkland City Council for summary publication.



City Clerk
Ord\Personnelpubsum