

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5263

AN ORDINANCE amending the Human Resources Code, BCC Chapter 3.79; amending Ordinance No. 5094, as amended by Ordinance No. 5187 and 5228; authorizing the creation of new partially benefited employment positions; and implementing portions of the Settlement Agreement in the Jordan temporary help lawsuit.

WHEREAS, on August 7, 2000, the City Council approved the Amended Proposed Settlement Agreement in the Jordan, et al. vs. City of Bellevue "temporary help" lawsuit and authorized and directed the City Manager to take the necessary steps to implement the settlement; and

WHEREAS, on November 3, 2000, the King County Superior Court approved the Settlement Agreement, as amended; and

WHEREAS, on December 4, 2000, the Settlement Agreement became final, without appeal, and the parties, according to its terms, are moving forward to complete implementation of the Agreement's terms; and

WHEREAS, a major component in the settlement is the creation of a system of employment positions that recognize and follow the principles enunciated in the Settlement Agreement; and

WHEREAS, the City Council desires to authorize the implementation of employment status guidelines that will carry out the spirit and intent of the Settlement Agreement; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code ("BCC") Chapter 3.79, "Human Resources," and Ordinances No. 5094, 5187 and 5228 are each hereby amended to read as follows:

Chapter 3.79  
HUMAN RESOURCES

3.79.010 Title and purpose

- A. This chapter shall be known as "the Human Resources Code" of the City of Bellevue, and is sometimes referred to herein as the "code."
- B. This chapter is enacted to:
  - 1. Establish the terms and conditions of employment for city employees as described and limited herein;
  - 2. Set forth the policies governing the administration of the human resources functions of the city administration; and

3. Delegate to the City Manager or his/her designee the authority to adopt and implement all rules, practices and/or procedures necessary or appropriate for administering this code.

4. Establish employment policies that recognize the city's commitment to provide city services in an efficient and cost effective manner that looks to all possible technologies and resources to accomplish that purpose.

5. Establish those employment positions that are entitled to receive City Council authorized benefits. Unless an employee is appointed to serve in a position that the City Council has designated as receiving City Council authorized benefits, the employee shall not receive such benefits.

#### 3.79.020 Authority of city and delegation.

A. The city retains all rights to manage city operations and affairs in accordance with the powers and authority that an employer possesses including, but not limited to, the right to make work assignments, to determine the number of personnel assigned at any time to any function, to make reductions in force as determined necessary or appropriate subject to the limitations of this code, to develop workplace rules that promote efficiency and productivity in the workplace, and to promote city services to the community.

B. The City Council hereby delegates to the City Manager or his/her designee the authority to make all rules, practices and procedures necessary or appropriate to implement this code.

#### 3.79.030 Applicability.

This code applies to all employees of the city paid through the city's payroll system, except those employees appointed to serve in positions in collective bargaining units. Specific provisions of this code may not be applicable to all employees covered under this code depending on the employee's employment position or benefit status.

#### 3.79.040 Definitions.

The following terms shall have the meaning indicated for purposes of this code. Unless otherwise provided therein, they shall also apply to the city's pay plan as adopted from time to time by the City Council.

A. "Abandonment of a position" means unauthorized absence from work for a period of three consecutive days.

B. "Acting status" means the performance of the full duties of a position in the absence of the incumbent for a minimum of 30 consecutive days when assigned to do so by the appointing authority.

C. "Adjusted base salary rate" means an employee's current base salary rate of pay plus a prorated share of any merit increase for which the employee may be eligible.

D. "Administrative leave" means paid leave of absence during disciplinary investigation or where it is determined to be in the best interest of the city.

E. "Agency worker" means a person working at the city on assignment from a temporary help agency or other labor-providing organization, and who is not paid through the city's payroll system. An agency worker may not work at the city as an agency worker and in a partial benefit position at the same time. An agency worker may not work at the city as an agency worker for a period of more than 9 months in any 12 month period, or in any successive combination as an agency worker and partial benefit employee for a combined total of more than the maximum annual number of hours or maximum period that is permitted for any partial benefit position worked. An agency worker who has worked at the city as an agency worker or in a successive combination as an agency worker and partial benefit employee who reaches a combined annual number of hours or period worked that equals the maximums provided herein may not work at or for the city as an agency worker or partial benefit employee until he/she has complied with the limitation on the maximum annual number of hours as provided herein, or until he/she has not worked at the city for three months, or both, as the case may be. The City Manager or his/her designee shall adopt procedures to implement the provisions and limitations of this subsection. An agency worker shall accrue no city benefits, even if he/she works as an agency worker and/or as a partial benefit employee for a period or for an annual number of hours in excess of any applicable limitations set forth in this code.

F. "Appointing authority" means the City Manager or his/her designee.

G. "At-will employee" means an employee appointed to an at-will position and who serves at the pleasure of the appointing authority. At-will employees may be terminated with or without cause and may not utilize the grievance process. Supervisory performance counseling or evaluations (whether oral or written), initial close review, and/or discipline or the absence of same, shall not result in a change in an at-will employee's at-will status.

H. "At-will position" means a position for which the City Council does not require a trial service period or a position filled by an employee who has not completed his or her trial service period. Positions in the E or M pay plan; positions being filled by trial service, limited term, training pool, transitional, temporary, non-regular part time, student intern, and on-call employees; and any other positions being filled by employees who serve at the pleasure of the appointing authority, are all at-will.

I. "Base hourly rate" means the hourly rate shown under "hourly" on each pay plan or base monthly salary times 12 and divided by 2,080, as required by the Fair Labor Standards Act (FLSA).

J. "Benefited employee" means an employee appointed to serve in a regular, limited term, training pool, or transitional position. "Benefited employee" also includes employees who are appointed to serve in such other positions as from time to time the City Council expressly may designate as "benefited." Benefited employees shall accrue such benefits as are expressly set forth in this code.

K. "Calendar month of service" means the minimum number of hours in a calendar month (e.g., January, February, etc.) for which a benefited employee must be in paid status (time worked, compensated leave, or sick leave) in order to earn and accrue sick leave and/or vacation credit for that month.

L. "Cause for disciplinary action" means acts or omissions of an employee warranting discipline up to, and including, termination from employment.

M. "Classification" means a systematic means for grouping similar positions and evaluating the relative compensation of the positions in relation to other positions within the city and the external market.

N. "Compensatory time (comp time)" means hours accumulated by nonexempt employees in lieu of overtime pay calculated at the rate of 1.5 times the overtime hours worked.

O. "Continuous length of service" means the length of time since a benefited employee's most recent hire date.

P. "Demotion" means the movement of an employee from one classification level or pay grade to a lower classification level or pay grade as a result of reclassification, reorganization, voluntary change or disciplinary action.

Q. "Discrimination." See "Unlawful discrimination"

R. "Employee" means a person appointed to serve in a position that is paid through the city's payroll system.

S. "Exempt employee" means an employee who is exempt from FLSA overtime because he/she acts in a bona fide executive, administrative or professional capacity as defined under the Fair Labor Standards Act and as designated by the classification and pay system.

T. "Harassment" means acts or conduct of a harassing nature that would be offensive to the reasonable person including, but not limited to, unwelcome hitting, touching, impeding or blocking movement; physical interference with normal work; unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature including, but not limited to, making explicit or implied job threats in return for submission to sexual acts or movement; unwelcome epithets, derogatory comments or slurs; unwelcome derogatory posters, notices, bulletins, cartoons, or drawings or any other similar conduct; when any of such acts or conduct are directed at an individual based on race, color, creed, religion, gender, age, national origin, citizenship, marital status, or the presence of any sensory, physical or mental disability.

U. "Immediate family" means an employee's parents (natural, step-, adopted, foster, or individuals who stood in loco parentis to the employee when the employee was a child), sisters, brothers, spouse, children (natural, adopted, step-, foster, legal wards, or children of persons standing in loco parentis), mother/father-in-law, daughter/son-in-law, grandparents, great-grandparents, grandchildren, and great-grandchildren.

V. "Job share" means two benefited employees with the same job classification, sharing one position in the same department within the city. The City Manager or his/her designee will develop and implement rules prescribing which positions occupied by benefited employees may participate in job shares and rules and procedures pertaining thereto.

W. "Layoff" means the separation from city service of a regular full- or part-time employee who has completed his/her applicable trial service period, because of reorganization, a change in the duties of a position, lack of work, changing needs of the organization, insufficient funding, or operational analysis.

X. "Limited term employee" means an employee appointed to serve in a position for a specific project with a specific ending date which is anticipated to last for more than nine months. A limited term position shall last only for so long as the project or specific need for which it was created exists, but in no event longer than three years. The position shall only be used a) during periods of higher than usual workload, b) during long-term absences of regular status employees, or c) to perform work requiring specialized skills, and in each case only where the work reasonably cannot be performed using existing regular status employees. The City Manager or his/her designee is authorized to create limited term employee positions consistent with this subsection and so long as sufficient appropriations exist within the current operating budget to pay the full cost of the positions. Limited term employees shall be at-will employees. The remaining terms and conditions of employment of a limited term employee shall be the same as if the employee were serving in an at-will regular status position. The City Manager or his/her designee shall have the authority to set the salary of the position consistent with good personnel practices and the city's compensation policy. Limited term employees shall receive no other compensation or benefits except as expressly provided herein. Limited term employees shall work either full-time or part-time as those terms are defined for regular status employees. Limited term employee positions are not regular positions and do not increase the number of City Council created and budgeted full-time equivalent positions, or any portion thereof. For purposes of determining accrual rates for vacation leave, the service credit date for a limited term employee who during his/her period of service as a limited term employee is appointed to serve in a regular position shall be the hire date for his/her most recent term of service as a limited term employee.

Y. "Merit date" means the effective date that an employee is eligible for a merit increase.

Z. "Merit increase" means a within-range increase that may be awarded to an eligible employee on or after his/her merit date, based on satisfactory performance during the preceding 12-month period, or six-month period for newly hired employees hired at the minimum rate of the pay range.

AA. "Nonexempt employee" means an employee who is not exempt from FLSA overtime.

BB. "Non-regular part-time employee" means a partial benefit employee who is appointed to serve in a position that is regularly scheduled to work twenty hours or less per week and in no event more than 1040 hours per year doing the on-going work of the city. Non-regular part-time employees shall be at-will employees and shall accrue no benefits other than PERS or MEPT II if eligible, even if they work more than 1040 hours in a year. Non-regular part-time positions are not regular positions and do not increase the number of City Council created and budgeted full-time equivalent positions, or any portion thereof. The City Manager or his/her designee shall adopt procedures to implement the provisions and limitations of this subsection. The City Manager or his/her designee is authorized to create non-regular part-time positions consistent with this subsection and so long as sufficient appropriations exist within the current budget to pay the full cost of the position. The City Manager or his/her designee shall have the authority to set the salary of the position consistent with good personnel practices and the city's compensation policy. Non-regular part-time employees shall receive no other compensation or benefits except as expressly provided herein.

CC. "On-call employee" means a partial benefit employee who is appointed to serve in a position that does not have a regular work schedule, and the employee is called upon to work as needed a) when additional work requires an augmented work force, b) in the event

of an emergency, c) to fill in during the absence of a regular employee, or d) to fill a vacancy on an interim basis. An on-call employee may not work more than a total of 1040 hours per year. On-call employees shall be at-will employees and shall accrue no benefits other than PERS or MEBT II if eligible, even if they work more than 1040 hours in a year. On-call positions are not regular positions and do not increase the number of City Council created and budgeted full-time equivalent positions, or any portion thereof. On-call employees shall be employed to supplement the regular work force and shall not be used to displace regular positions. The City Manager or his/her designee shall adopt procedures to implement the provisions and limitations of this subsection. The City Manager or his/her designee is authorized to create on-call positions consistent with this subsection and so long as sufficient appropriations exist within the current budget to pay the full cost of the position. The City Manager or his/her designee shall have the authority to set the salary of the position consistent with good personnel practices and the city's compensation policy. On-call employees shall receive no other compensation or benefits except as expressly provided herein.

DD. "Overtime" means time worked by a nonexempt employee in excess of 40 hours in an FLSA-defined work week compensable at time and one-half the employee's regular hourly rate of pay. Time worked does not include paid leave time, except holiday leave.

EE. "Partial benefit employee" means any employee other than a benefited employee, and includes all employees who are appointed to serve in a position for which the City Council has only approved MEBT II benefits, or alternatively, for which the employee receives only PERS benefits. "Partial benefit employee" includes those employees who are appointed to serve in temporary, non-regular part-time, student intern and on-call positions and such other positions as from time to time the City Council may designate as receiving only such benefits. No person may work as a partial benefit employee or in any combination of partial benefit positions, whether concurrently or successively, where the combined number of hours worked or combined number of months worked exceeds the limitation on annual hours worked or the limitation on the number of months worked applicable to any partial benefit position(s) worked. The City Manager or his/her designee shall adopt procedures to implement the provisions and limitations of this subsection. A partial benefit employee shall accrue no city benefits except those expressly set forth in this subsection, even if he/she works as a partial benefit employee for a period or for an annual number of hours in excess of any applicable limitations set forth in this code.

FF. "Pay plan" means the listing of employment classifications and the pay ranges associated with those classifications that describes the salaries and wages that may be paid to employees. The pay plan is adopted annually by the City Council.

GG. "Promotion" means movement of an employee from one classification level or pay grade to a higher classification level or pay grade as a result of reclassification, voluntary change, or reorganization.

HH. "Prorated accruals" means proration of vacation and sick leave accruals and holiday credits for a benefited part-time employee which is determined by dividing the employee's regular weekly work schedule by 40 hours.

II. "Reassignment" means movement of an employee to a different work group with no change in classification or pay grade.

JJ. "Reclassification of position" means the changing of a classification level or position of an employee as a result of a classification review and/or amendment to the classification

plan in recognition of changes in job duties and responsibilities that have occurred over time, excluding any action resulting from discipline.

KK. "Reemployment" means employment of an employee who has terminated employment and who is subsequently rehired, when such employment does not qualify as reinstatement.

LL. "Regular employee full-time or regular full-time employee" means an employee who has successfully completed a trial service period as defined in this code for the regular position to which he/she is appointed and who regularly works a minimum of 40 hours per week in a regular position. A regular full-time employee may only be disciplined for cause.

MM. "Regular employee part-time or regular part-time employee" means an employee who has successfully completed a trial service period as defined in this code for the regular position to which he/she is appointed and who regularly works less than 40 hours but at least 22.5 hours a week in a regular position. A regular part-time employee may only be disciplined for cause.

NN. "Regular position" means a City Council created position that is individually identified, counted and budgeted in the city's budget as a full-time equivalent position, or some portion thereof. Employees appointed to serve in regular positions shall be eligible to receive the full range of City Council approved benefits.

OO. "Regular status employee" means a regular full- or part-time or at-will employee, serving in a regular position.

PP. "Reinstatement" means return of a regular full- or part-time employee to his/her former position within two years following layoff, leave of absence without pay, or classification reduction as a result of reorganization.

QQ. "Reorganization" means reallocation of duties, assignments, workload, programs, service and/or responsibilities to achieve organizational objectives.

RR. "Salary range adjustment" means a percentage or fixed dollar adjustment of wages and salaries applied generally to pay ranges in the pay plan.

SS. "Service credit date" means the date assigned to each benefited employee upon his/her most recent appointment to serve in a benefited position with the city. Except as otherwise expressly provided in this code, it is the most recent date of hire into that benefited position.

TT. "Special assignment pay" means a specified monthly amount which is added to the base salary rate of an exempt benefited employee who is required to perform a special function or project that is outside of his/her normal work responsibilities and that requires the employee to work a substantial amount of extra work time. Written approval from the City Manager or his/her designee is required for an employee to receive special assignment pay.

UU. "Special recognition award" means a lump-sum award for special recognition of exceptional service or performance that may be given to benefited E, G, L, and M pay plan employees.

VV. "Standby pay" means an allowance granted by the City Manager or his/her designee to nonexempt employees in job classifications specified by the City Manager or his/her

designee who may be required to be available and subject to call outside of scheduled working hours. The City Manager or his/her designee shall develop and implement rules and procedures for standby pay, and may set the amounts thereof consistent with good personnel practices and the city's compensation policy, so long as sufficient appropriations exist within the current budget to pay the full cost thereof.

WW. "Student intern" means a partial benefit employee who is appointed to serve in a position that is regularly scheduled to work 20 hours a week or less during the school year, but that may be scheduled to work more hours per week during the summer break period, doing work for the city that is related to the bona fide educational program in which the employee is enrolled. Student interns shall be at-will employees and shall accrue no benefits other than PERS or MEBT II if eligible. A student intern's employment shall terminate when he or she is no longer doing work for the city related to a bona fide educational program. The City Manager or his/her designee shall adopt procedures to implement the provisions and limitations of this subsection. The City Manager or his/her designee is authorized to create student intern positions consistent with this subsection and so long as sufficient appropriations exist within the current budget to pay the full cost of the positions. The City Manager or his/her designee shall have the authority to set the salary of the positions consistent with good personnel practices and the city's compensation policy. Student interns shall receive no other compensation or benefits except as expressly provided herein.

XX. "Temporary employee" means a partial benefit employee who is appointed to serve in a position that is temporary in nature and expected to last no longer than six months. A temporary position may be extended for one additional three-month period if required by changed circumstances or for efficiency. No person may be appointed to serve as a temporary employee for more than 9 months in any 12 month period in one or more temporary positions. After working for the City for 9 months in one or more temporary positions, a temporary employee may not again work for the city in a temporary position until at least 3 months have elapsed since he/she last worked for the city. A temporary employee is an at-will employee and shall accrue no benefits other than PERS or MEBT II if eligible, even if he/she works in one or more temporary positions for more than 9 months in any 12 month period. The City Manager or his/her designee shall adopt procedures to implement the provisions and limitations of this subsection. The City Manager or his/her designee is authorized to create temporary positions consistent with this subsection and so long as sufficient appropriations exist within the current budget to pay the full cost of the positions. The City Manager or his/her designee shall have the authority to set the salary of temporary positions consistent with good personnel practices and the city's compensation policy. Temporary employees shall receive no other compensation or benefits except as expressly provided herein.

YY. "Training pool employee" means an employee who is hired into a position created for the purpose of training for a regular position of the city, where the hiring department has demonstrated to the City Manager or his/her designee that a) the regular position has a recurring and consistent turnover rate on at least an annual basis, b) the position is critical in order for the hiring department to carry out its mission, c) a substantial training period is required for the regular position, and d) creation of the training pool employee position will substantially reduce the overall costs resulting from turnover that otherwise would be incurred by the city. A training pool employee position may exist for the period needed for training, but in no event longer than one year. The City Manager or his/her designee is authorized to create training pool employee positions consistent with this subsection and so long as sufficient appropriations exist within the current budget to pay the full cost of the positions. Training pool employees shall be at-will employees; the remaining terms and conditions of employment of a training pool employee shall be the same as if the employee

were a new or newly promoted employee hired into the regular position for which the employee is being trained. Training pool employees shall work either full-time or part-time as those terms are defined for regular status employees. Training pool employee positions are not regular positions and do not increase the number of City Council created and budgeted full-time equivalent positions, or any portion thereof. For purposes of determining accrual rates for vacation leave, the service credit date for a training pool employee who during his/her tenure as a training pool employee is appointed to serve in the regular position for which he/she was trained shall be the hire date for his/her most recent term of service as a training pool employee.

ZZ. "Transfer" means reassignment of an employee to a different classification within the same pay grade.

AAA. "Transitional employee" means an employee who is appointed to serve in a position created for the purpose of training for the regular position of the city of an incumbent regular status employee as to whom the City Manager has received sufficient documentation to satisfy the City Manager that the regular position will become vacant within one year, and where a) the position is critical in order for the hiring department to carry out its mission, b) a substantial training period is required for the regular position, and c) the transitional employee position will substantially reduce the overall costs resulting from the vacancy in the incumbent employee's position that otherwise would be incurred by the city. Receipt of a letter of resignation from the incumbent employee by a supervisor or manager shall constitute acceptance of the resignation for all purposes, including determining whether the incumbent's position will become vacant. A transitional employee position may exist for the period needed for training for the incumbent employee's position, but in no event longer than one year. The City Manager or his/her designee is authorized to create transitional employee positions consistent with this subsection and so long as sufficient appropriations exist within the current budget to pay the full cost of the positions. Transitional employees shall be at-will employees; the remaining terms and conditions of employment of a transitional employee shall be the same as if the transitional employee were a new or newly promoted employee hired into the regular position for which the transitional employee is being trained. Transitional employees shall work either full-time or part-time as those terms are defined for regular status employees. Transitional employee positions are not regular positions and do not increase the number of City Council created and budgeted full-time equivalent positions, or any portion thereof. For purposes of determining accrual rates for vacation leave, the service credit date for a transitional employee who during his/her tenure as a transitional employee is appointed to serve in the regular position for which he/she was trained shall be the hire date for his/her most recent term of service as a transitional employee.

BBB. "Trial service employee" means an employee appointed to serve in a regular full- or part-time position who has not yet completed an initial trial service period for that position or has not yet completed a trial service period for that position after promotion, demotion or transfer. A trial service employee is an at-will employee serving at the pleasure of the appointing authority, whose employment can be terminated at any time with or without cause. Unless otherwise specified therein, the policies and procedures promulgated from time to time by the City Manager or his/her designee as authorized by this code shall apply to trial service employees.

CCC. "Trial service period" means a specified length of time worked during which a newly hired, promoted, demoted or transferred regular full- or part-time employee's performance is reviewed to determine whether the match between the employee and the job is appropriate.

DDD. "Unlawful discrimination" means discrimination in employment prohibited by federal, state, or local law.

#### 3.79.050 Employments.

The City of Bellevue shall have the following categories of employments:

- A. Regular employees - full-time or part-time;
- B. At-will employees.

#### 3.79.060 Recruitment and selection.

The City of Bellevue seeks to hire and promote qualified candidates for positions with the city. The city also supports diversity in the work force. The City Manager shall develop and implement rules and procedures for recruitment and selection of employees as appropriate or necessary in conformance with applicable laws.

- A. Recruitment and Moving Expenses. Recruitment and moving expenses may be reimbursed as provided and limited by rules and procedures developed by the City Manager or his/her designee within the limitations of the adopted budget.

#### 3.79.070 Employment of relatives.

The City Manager or his/her designee may adopt rules limiting the employment of some or all categories of immediate family members of current employees based on business necessity including those circumstances where there is a compelling and essential need to avoid business-related conflicts of interest, or to avoid the reality or appearance of improper influence or favor.

#### 3.79.080 Employment and work place policies.

- A. Equal Employment Opportunity. The city has a policy of providing a work environment free from unlawful discrimination and harassment. The city will take appropriate steps so that employees have such a discrimination-free and harassment-free work environment, including appropriately disciplining, up to and including termination from employment, employees who are found to have violated this policy. The City Manager shall develop a complaint procedure for reporting unlawful discrimination and harassment that requires employees to utilize the complaint procedure where they believe that they are being subjected to unlawful discrimination or harassment in the work place.

- B. Code of Ethics. In accordance with the city's code of ethics and other applicable law, the City Manager will adopt rules for employees with respect to use of public property, conflicts of interest, and other work-related activities.

- C. Outside Employment. Employees may retain their position with the city while having outside employment; provided, that such employment does not interfere with their assigned duties and responsibilities within the city and does not create a conflict of interest.

- D. Intellectual Property. Any software authored or otherwise developed by an employee on city time or for city purposes is the property of the city. The city shall hold all rights and privileges regarding its use and distribution.

E. Smoking in the Work Place. Because the city wishes to promote a healthy and productive work environment consistent with applicable laws, the City Manager shall adopt rules for regulating smoking in the work place and on/in City of Bellevue property.

F. Safety. All employees are responsible for following applicable health and safety precautions on the job including using appropriate safety equipment and clothing as required. The City Manager or his/her designee is responsible for promoting safe working conditions and compliance with safety standards at work sites.

G. Accidents. The City Manager or his/her designee shall adopt rules and procedures for the prompt reporting of on-the-job accidents, illnesses and/or injuries, and prescribing consequences for failure to report.

H. Work Place Violence. The City of Bellevue is committed to providing, in so far as it reasonably is able to do so within available budgetary appropriations and adopted policies, a safe environment for working and conducting business. The city will not tolerate acts of violence committed by employees while on City of Bellevue property or while performing City of Bellevue business at other locations. The City Manager shall develop and implement rules that promote a work place free from violence, including defining dangerous weapons and prohibiting the possession or use of such dangerous weapons on city property, in city vehicles, or in any personal vehicle which is used for city business, with appropriate exceptions.

I. Substance Abuse Policy. It is the city's policy that employees shall not be under the influence or in the possession of alcohol or illegal drugs while on city property, while at city work locations, and while on duty or subject to being called to duty. Employees shall not sell or provide alcohol or illegal drugs to any other employee or person while on duty. Employees engaged in selling illegal drugs whether on or off duty pose a serious risk to the reputation of the city and to the well-being of fellow employees and the city. Therefore, the city will not tolerate employees engaged in the selling of illegal drugs whether on or off duty. While the use of validly prescribed medications and drugs does not violate this policy, failure by an employee to notify his/her supervisor before beginning work when taking medications or drugs that foreseeably might interfere with the safe and effective performance of duties, or the operation of city equipment, can result in discipline up to and including termination.

The city reserves the right to search, without employee consent, all areas and property in which the city maintains control or joint control with the employee. The city further reserves the right to conduct for cause and/or random drug and alcohol tests as permitted by law in furtherance of this policy.

Refusal to immediately submit to an alcohol and/or drug test or analysis when lawfully requested by a manager or supervisor constitutes insubordination and is grounds for discipline up to, and including, termination.

The City Manager or his/her designee shall develop necessary or appropriate rules for implementing this substance abuse policy including rules for random and for-cause drug and alcohol testing for applicants and employees.

J. Personnel Files. The city will maintain a personnel file for each employee. The city in its discretion reserves the right to assert the confidentiality of employee personnel files to the extent permitted by law. The City Manager or his/her designee shall develop rules relating to the release of employee information including the release of information in response to requests for references for employment.

### 3.79.090 General working conditions.

A. Work Hours. Except where otherwise specified in rules established by the City Manager or his/her designee, work hours for city employees are from 8:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted. The City Manager or his/her designee shall establish necessary or appropriate rules relating to the employee work week, work schedule, and work assignments.

B. Overtime (Nonexempt Employees). Non-exempt employees may be required to work overtime with prior authorization by the employee's supervisor or manager.

C. Extra Work Compensation (Exempt). Exempt employees are not entitled to compensation or other benefits as a result of working in excess of their regular assigned hours unless under special circumstances preauthorized by the City Manager or his/her designee and as permitted by law.

### 3.79.100 Attendance, absenteeism and tardiness.

A. Policy. The successful and efficient operation of the city administration depends on prompt and reliable attendance of all employees. Therefore, the city shall have the right to require verification from an employee's health care provider for absence from work due to illness or injury. It is further the city's policy to provide appropriate levels of vital services to the community during unusual weather conditions and during emergencies while recognizing a concern for employees' safety. The City Manager or his/her designee shall develop rules and procedures as necessary or appropriate regarding attendance, absence from work, tardiness, reporting to work in unusual weather conditions, and natural disasters.

B. Abandonment of Position. An abandonment of position by an employee constitutes a resignation of employment.

### 3.79.110 Job performance and changes in employment status.

A. Trial Service Period. Regular full- and part-time employees shall serve a trial service period upon initial hire, promotion, demotion or transfer into regular positions. The trial service period is an integral part of the selection process. The length of the trial service period shall be established by the City Manager or his/her designee.

The City Manager or his/her designee may extend the trial service period where further trial service is considered appropriate and in the best interests of the city. The City Manager or his/her designee shall develop and implement rules relating to the extension of trial service periods.

B. Performance of Employees. The City Manager or his/her designee shall develop and implement rules relating to the review of employee job performance, consequences where performance is not satisfactory and merit increases.

C. Discipline.

1. Causes for Discipline. Regular full- or part-time employees are subject to discipline for cause, up to and including termination from employment, where their acts or omissions have or may have an adverse effect on their ability to perform their job or have or may have an adverse effect on other employees or the city. Causes may include, but are not limited to:

- a. Insubordination;
  - b. Unprofessional conduct, including disorderly conduct, indecent language, and immoral acts;
  - c. Unauthorized use of property;
  - d. Unauthorized use, release, or disclosure of confidential information;
  - e. Failure, inability or refusal to perform assigned duties; or performing job duties in an unsatisfactory, negligent or careless manner;
  - f. Verbal or physical abuse or harassment of an employee, a customer of the city, or a member of the public;
  - g. Making malicious, false, or derogatory statements about another employee;
  - h. Falsification of an employee's application for employment, or of medical, time, or other records;
  - i. Habitual or unexcused absences or tardiness or abuse of any other leave policies;
  - j. Unauthorized absence from work for a period of three consecutive days (abandonment of position);
  - k. Theft, deliberate destruction, abuse or unauthorized possession of city property, or any other malicious or careless acts causing property damage, accidents or expense while acting in the scope of his/her employment;
  - l. Dishonesty;
  - m. Unlawful discrimination against or unlawful harassment of another employee, a customer of the city, or a member of the public;
  - n. Possession, sale, purchase, distribution, consumption, or being under the influence of alcohol or controlled substances while at work locations, or while on duty, subject to being called to duty or while on standby duty;
  - o. Sale or manufacture of illegal drugs off-duty;
  - p. A positive random drug test;
  - q. Failure or refusal to submit immediately to an alcohol or drug test or analysis when lawfully requested by a manager or supervisor;
  - r. Failure to comply with safety or security policies and procedures, or any conduct endangering the life, safety or health of self or others;
  - s. Possession or use of unauthorized explosives, unauthorized firearms, or other dangerous weapons on city premises;
  - t. Violation of city policy or procedure;
  - u. Subsequent to being hired, a conviction of a felony or misdemeanor;
- or
- v. Misconduct of any kind not otherwise specified, or any other acts or omissions of an employee, that are inimical to the good working order of the city.

2. Imposition of Discipline. The level of discipline imposed is left to the discretion of the appointing authority or his/her designee based on a consideration of the totality of the circumstances, including progressive discipline and the severity of the infraction. Only regular full- or part-time employees are entitled to be disciplined only for cause. At-will employees may be terminated at any time, with or without cause. The City Manager or

his/her designee shall develop and implement rules for imposing discipline consistent with this code.

3. Levels of discipline include any of the following:
  - a. Oral warning;
  - b. Written reprimand or warning;
  - c. Suspension without pay;
  - d. Demotion;
  - e. Discharge.

4. Process for Implementing Significant Discipline. The City Manager or his/her designee shall develop and implement rules for imposing and appealing discharge, demotion, and suspensions without pay in accordance with this code and applicable law.

5. Liberty Interest Hearing. Where an employee is terminated from employment under circumstances requiring a liberty interest hearing, such hearing will be provided as required by law.

D. Resignation. Employees who resign from their employment with the city shall provide the city with reasonable advance notice of their resignation including the effective date of the resignation.

E. Layoff/Retention. The city shall have the right to reduce the number of employees of the city due to reasons of reorganization, a change in the duties of a position, lack of work, changing needs of the organization, insufficient funding or operational analysis. The City Manager or his/her designee shall develop and implement rules for the redeployment or layoff of employees that are no longer needed in their current position, including the effects of such redeployment or layoff on wages, benefits and reinstatement. The City Manager or his/her designee shall have the discretion to develop rules providing for severance pay in the event of layoff in an amount not inconsistent with budget constraints, and to determine when and in what circumstances these rules shall apply.

#### 3.79.120 Grievance process.

A. Who May Grieve. Regular full- and part-time employees may use the grievance process. At-will employees may not use the grievance process, except as the City Council otherwise expressly may provide.

B. What May Be Grieved. Alleged violations of this code, the HR policy manual, and/or the pay plan or as the City Council otherwise expressly may provide, except as limited by this code, the HR policy manual and/or the pay plan. Basic management rights including the decision to assign and schedule work and decisions to lay off are not grievable. Appeals of significant discipline are governed by the process to be developed and implemented by the City Manager or his/her designee pursuant to Section 3.79.110(C)(4) of this code.

C. Grievance Procedure. The City Manager or his/her designee shall develop and implement a grievance procedure which outlines the steps of the grievance procedure and the time limits which must be followed by the employee that is consistent with this code. The rules shall require that an employee file a grievance within 14 calendar days from the date the employee first was, or should have been, aware of the incident giving rise to the grievance. The grievance procedure shall end with an appeal to the City Manager or his/her designee whose decision will be final and binding. The City Manager or his/her designee in his/her discretion may refer the grievance to a hearing officer who will make a non-binding recommendation to the City Manager or his/her designee regarding the disposition of the grievance. The City Manager or his/her designee may develop rules for alternative dispute resolution and may require participation therein.

### 3.79.130 Compensation and benefit policy.

The city's compensation policy is set forth herein. The city's pay plan will be adopted annually by the City Council.

A. Responsibility for Salary and Benefit Administration. The City Manager or his/her designee is responsible for developing, interpreting, and administering the city's compensation programs, maintaining records of employee time worked, calculating, adjusting and paying compensation earned, calculating the accrual and paying paid leaves of absence, determining amounts of deductions and contributions for employee benefits, paying benefits, conducting the prepayment audit of all expenditures, and developing and implementing rules and procedures necessary to carry out these functions.

B. Adjustments to Employee Compensation. The City Manager may adjust employee compensation when this becomes necessary in order to carry out sound personnel management, and to accomplish objectives within the city's defined commitments. However, the City Manager may not adjust the salary range for the class of City Manager, nor may he/she adjust the pay of bargaining unit employees except in accordance with procedures established in collective bargaining. The City Manager or his/her designee shall develop and implement rules for correcting over/underpayments of salary or other forms of compensation.

C. Garnishment. The City of Bellevue will deduct a processing fee for the first payment made pursuant to a garnishment order or assignment of wages. If the garnishment or assignment is a continuing lien or charge on earnings, additional deduction may be made for the second and any subsequent payment under the garnishment or assignment.

D. Merit Increases. The City Manager or his/her designee shall develop necessary or appropriate rules for timing of receiving merit increases that are consistent with this code, the adopted pay plan and budget constraints.

E. Special Recognition/Alternative Rewards. The City Manager or his/her designee may approve implementation of other pay and benefit delivery systems within budget limits, such as gains sharing plans, small group incentive plans, and skill/knowledge-based plans; special recognition awards; service awards; reimbursement for training; professional memberships; licenses and certificates; clothing allowances; and tuition reimbursement programs.

F. Paid and Unpaid Leave Programs. The City Manager or his/her designee shall develop and implement necessary and/or appropriate rules for the accrual and use of sick leave including maternity/paternity leave and bereavement leave, and all other paid and

unpaid leaves, including family leave, military training leave, active military duty leave, jury duty, other civic duty and administrative leave, consistent with this code.

G. Paid Time Off Schedules.

1. Holidays Observed. The following are paid holidays for all regular status employees of the city, with exception of those employees in the J pay plan:

- New Year's Day (January 1st)
- Martin Luther King's Birthday (3rd Monday in January)
- Washington's Birthday (3rd Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4th)
- Labor Day (1st Monday in September)
- Veteran's Day (November 11th)
- Thanksgiving Day (4th Thursday in November)
- The day immediately following Thanksgiving Day (4th Friday in November)
- Christmas Day (December 25th)

2. Floating Holidays. Excluding employees in the J pay plan and employees who work 24-hour schedules and earn eight hours of holiday credit per month, benefited employees will receive 16 hours of holiday credit on January 1<sup>st</sup> of each year, in addition to the 10 designated holidays listed above. A part-time benefited employee will receive a prorated number of hours to reflect his/her normal scheduled work week, rounded to the nearest one-tenth hour. The City Manager or his/her designee shall develop and implement all necessary or appropriate rules regarding holidays and floating holidays.

3. Vacation Leave.

a. Accruals. Each benefited employee will accrue vacation leave time at the following rate based upon his/her continuous length of service from his/her most recent service credit date as a benefited employee. A full-time benefited employee must be in paid status for at least 90 hours in a calendar month to earn vacation credit for that month (calendar month of service); a part-time benefited employee must be in paid status for at least 75 percent of his/her regularly scheduled work in a calendar month to earn vacation credit. Accruals are credited and posted to the employee's account at the completion of each calendar month.

i. A part-time benefited employee will accrue vacation leave according to this schedule, prorated to reflect his/her normally scheduled work week as compared to a full-time work week of 40 hours. Prorated accruals are rounded to the nearest one-tenth hour.

<b>Length of Service</b>	<b>Annual Leave in Days Per Year of Service</b>	<b>Hours of Leave Accrued per Calendar Month of Service</b>
0-4 years	12	8
5-9 years	15	10
10-14 years	19	12.7
15-19 years	22	14.7
20 years or more	25	16.7

ii. Employees in the fire department who work 24-hour shifts will accrue vacation leave according to the schedule specified in the firefighter's bargaining unit contract, whether or not they are covered by that bargaining unit contract.

iii. A regular full- or part-time employee reinstated from a layoff will begin at the same vacation accrual rate he/she was earning prior to the layoff.

iv. The City Manager or his/her designee shall develop and implement necessary or appropriate rules for vacation including the accrual and use of vacation and payment of vacation upon termination, consistent with the adopted pay plan.

b. Accelerated Vacation Accruals for Exempt Level Employees. In order to ensure the city is competitive in hiring and retaining the most qualified employees in exempt level positions, the City Manager is authorized to agree to an initial lump sum and specific monthly accruals of vacation time which exceed the schedules of earning contained in subsection (G)(3)(a), Accruals, of this section.

#### 4. Sick Leave Accruals.

a. Each full-time benefited employee will earn sick leave at the rate of eight hours for each calendar month of service completed since his/her most recent service credit date as a benefited employee. A part-time benefited employee will earn a prorated number of hours which reflects the proportion his/her regularly scheduled work week is to a full-time work week of 40 hours. A full-time benefited employee must be in paid status for at least 90 hours in a calendar month to earn sick leave for that month; a part-time benefited employee must be in paid status for at least 75 percent of his/her regularly scheduled work in a calendar month to earn sick leave for that month. The maximum amount of sick leave that may be accrued at any time shall be 1440 hours.

b. Fire department employees not in bargaining units who work 24-hour shifts and who are entitled to sick leave benefits will accrue sick leave at the rate of 12 hours per completed calendar month of service. The maximum amount of sick leave that may be accrued at any time shall be 1440 hours.

c. Payment for Sick Leave Accruals at Time of Retirement. Upon retirement, a benefited employee is entitled to receive a cash payment equal to 10 percent of his/her current total unused sick leave hours, multiplied by the employee's current base hourly rate.

d. Bonus for Non-Use of Sick Leave. The City Manager or his/her designee may develop and implement a bonus program for non-use of sick leave within the city's budget constraints.

#### 3.79.140 Position classification.

The City Manager or his/her designee will develop and maintain a position classification system consistent with this code and the compensation policy of the city.

#### 3.79.150 Pay at time of transfer, promotion, reduction or demotion.

Consistent with budgetary constraints and the adopted pay plan, the City Manager or his/her designee shall develop rules relating to employee pay at time of transfer, promotion, reduction and/or demotion.

#### 3.79.160 Salary ranges.

A. Salary ranges are established in accordance with market data and council policy, and are adopted by the City Council.

- B. Base salary rates for employees will be determined annually through the pay plan.
- C. Base salary rates covered by collective bargaining unit agreements will be determined and amended through negotiation and in accordance with City Council policy.

3.79.170 Service credit date.

A. Establishment of Service Credit Date. A service credit date is established in the following manner. The service credit date for a benefited employee whose hire date occurs on or between the first and the fifteenth of a month will be on the first day of that month. The service credit date for a benefited employee whose hire date occurs on or between the sixteenth and the last day of the month will be on the first day of the following month.

B. Service Credit Date Adjustments. The service credit date for a benefited employee who has an interruption in service due to layoff or a leave of absence without pay for any reason (except active duty military service) will be adjusted to deduct the period of interruption in service (to the nearest whole month); provided, however, that the service credit date for a regular full- or part-time employee who has completed his/her trial service period whose city employment is interrupted by a layoff and who is subsequently reinstated will also be adjusted so the employee receives credit for his/her continuous service as a regular full- or part-time employee immediately prior to the effective date of the layoff where the period of the layoff does not exceed two years.

3.79.180 Provisions for overtime compensation.

A. Nonexempt Employees.

1. An employee in a nonexempt position who is authorized and required to work overtime is entitled to one and one-half times his/her regular rate of pay for overtime worked where the employee has worked in excess of 40 hours in an FLSA defined work week. Time worked does not include paid leave time, except holiday leave.

2. The City Manager or his/her designee shall develop and implement rules for the earning of compensatory time off in lieu of overtime pay not inconsistent with applicable laws. Benefited employees shall not be permitted to accrue compensatory time off in excess of 40 hours per calendar year.

B. Exempt Employees.

1. A full- or part-time employee in an exempt position employee in an exempt position -is salaried, and is paid a predetermined amount constituting all or part of his/her compensation. Exempt employees are not entitled to be paid for hours worked in excess of 40 hours per work week except as authorized by the City Manager or his/her designee prior to the work being performed.

2. Special Assignment Pay for Exempt Employees in Certain Work Situations. The City Manager or his/her designee may authorize payment of a flat, monthly premium to an exempt employee assigned to a special function or a project that is outside his/her normal work responsibility and requires the employee to work a substantial amount of extra time.

Section 2. This ordinance shall take effect and be in force five (5) days after its passage and legal publication

Passed by the City Council this 11th day of December, 2000, and signed in authentication of its passage this 11th day of December, 2000.

(SEAL)

Chuck Mosher, Mayor

Approved as to form:  
Richard L. Andrews, City Attorney  
Siona Windsor, Assistant City Attorney

Attest:  
Myrna L. Basich, City Clerk

Published December 15, 2000