

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5744

AN ORDINANCE amending Ordinance No. 5694 § 1, 2006; Ord. 5263 § 1, 2000; Ord. 5228 § 1, 2000; Ord. 5187 § 1, 1999; Ord. 5094 § 2; 1998, adding a definition of "domestic partner; amending the definition of "immediate family" to provide certain benefits for employees' domestic partners and their dependents and adding a new section providing for declarations of marriage and domestic partnership

WHEREAS, the Washington state legislature recently passed legislation providing for registration and recognition of domestic partnerships, similar to laws in other states throughout the country; and

WHEREAS, this trend of recognizing relationships which have many attributes of a civil marriage has also been adopted by several employers throughout the state of Washington and the country through the provision of domestic partner benefits; and

WHEREAS, the City of Bellevue has a policy of recruiting and retaining excellent employees and a core value of commitment to employees; and

WHEREAS, providing domestic partner benefits to employees in relationships with marital attributes is consistent with these policies and core value; now, therefore,

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

Section 1. The Human Resources Code, Section 3.79.040 is amended as follows:

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 nine 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, nonregular 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. "Domestic partner" means persons of the same or different sex who:

1. are each other's sole domestic partner and live with each other in the same residence in an exclusive, emotionally committed, and financially responsible relationship similar to a marriage with the intent to continue doing so indefinitely,
2. are not in a marriage legally recognized by the state of Washington,
3. at least eighteen (18) years old, and
4. are not related by blood to a degree of closeness that would prohibit legal marriage in Washington state,
5. jointly responsible for each other's common welfare and shared financial obligations,

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

T. "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.

U. "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, sexual orientation, or the presence of any sensory, physical or mental disability.

V. "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, domestic partner, children (natural, adopted, step-, foster, legal wards, children of domestic partners, or children of persons standing in loco parentis), mother/father-in-law, daughter/son-in-law, mother, father, daughter or son of domestic partners, grandparents, great-grandparents, grandchildren, and great-grandchildren.

W. "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.

X. "Layoff" means the separation from city service of a regular full-time 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.

Y. "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 (1) during periods of higher than usual workload, (2) during long-term absences of regular status employees, or (3) 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.

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

AA. "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.

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

CC. "Nonregular part-time employee" means a partial benefit employee who is appointed to serve in a position that is regularly scheduled to work 20 hours or less per week and in no event more than 1,040 hours per year doing the ongoing work of the city. Nonregular part-time 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 1,040 hours in a year. Nonregular 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 nonregular 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. Nonregular part-time employees shall receive no other compensation or benefits except as expressly provided herein.

DD. "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 (1) when additional work requires an augmented work force, (2) in the event of an emergency, (3) to fill in during the absence of a regular employee, or (4) to fill a vacancy on an interim basis. An on-call employee may not work more than a total of 1,040 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 1,040 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.

EE. "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.

FF. "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, nonregular 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.

GG. "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.

HH. "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.

II. "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.

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

KK. "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.

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

MM. "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.

NN. "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.

OO. "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.

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

QQ. "Reinstatement" means return of a regular full-time 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.

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

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

TT. "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.

UU. "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.

VV. "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.

WW. "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.

XX. "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 MEPT 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.

YY. "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 nine months in any 12-month period in one or more temporary positions. After working for the city for nine months in one or more temporary positions, a temporary employee may not again work for the city in a temporary position until at least three 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 nine 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.

ZZ. "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 (1) the regular position has a recurring and consistent turnover rate on at least an annual basis, (2) the position is critical in order for the hiring department to carry out its mission, (3) a substantial training period is required for the regular position, and (4) 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.

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

BBB. "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 (1) the position is critical in order for the hiring department to carry out its mission, (2) a substantial training period is required for the regular position, and (3) 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.

CCC. "Trial service employee" means an employee appointed to serve in a regular full-time 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.

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

EEE. "Unlawful discrimination" means discrimination in employment prohibited by federal, state, or local law. (Ord. 5694 § 1, 2006; Ord. 5263 § 1, 2000; Ord. 5228 § 1, 2000; Ord. 5187 § 1, 1999; Ord. 5094 § 2, 1998.)

Section 2: A new Human Resources Code Section 3.79.135 is added as follows:

3.79.135 Declarations of Marriage and Domestic Partnership

To establish eligibility for benefits for a spouse or domestic partner, a declaration shall be required as follows:

A. Declaration of Marriage - The employee and spouse shall be required to sign a declaration of marriage under penalty of perjury that:

1. they are legally married to each other,
2. the employee shall notify Human Resources within 30 days of a legal separation or divorce
3. they understand the consequences for intentional false or misleading statements on the declaration including employee discipline up to and including termination, loss of spousal benefits and financial reimbursement for ineligible benefits provided and
4. they have (and if requested can provide) proof of a marriage license.

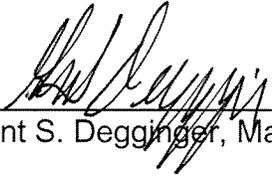
B. Declaration of Domestic Partnership – The employee and domestic partner shall be required to sign a declaration of domestic partnership under penalty of perjury that:

1. they meet the definition of domestic partner as provided in BCC 3.79.040R as now or hereafter amended,
2. the employee shall notify Human Resources within 30 days of the termination of the domestic partnership,
3. they understand the consequences for intentional false or misleading statements on the declaration including employee discipline up to and including termination, loss of domestic partner benefits and financial reimbursement for ineligible benefits provided; and
4. that they have (and if requested can provide) at least three of the following:
 - a. Joint mortgage or lease.
 - b. Designation of domestic partner as beneficiary for life insurance.
 - c. Designation of domestic partner as beneficiary for retirement contract.
 - d. Designation of domestic partner as primary beneficiary in employee's will or of employee in domestic partner's will.
 - e. Durable property and health care powers of attorney.
 - f. Joint ownership of motor vehicle.
 - g. Joint checking account.
 - h. Joint credit account.
 - i. Washington State registration as a domestic partnership.

Section 3. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

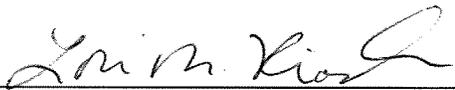
Passed by the City Council this 4th day of June, 2007, and signed in authentication of its passage this 4th day of June, 2007.

(SEAL)



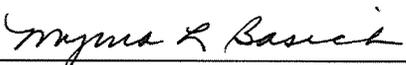
Grant S. Degginger, Mayor

Approved as to form:



Lori M. Riordan, City Attorney

Attest:



Myrna L. Basich, City Clerk

Published JUNE 7, 2007