

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6153

AN ORDINANCE amending the Bellevue City Code to align with the federal Patient Protection and Affordable Care Act (Affordable Care Act).

WHEREAS, the Human Resources Code includes definitions for categories of employees and their eligibility for city provided benefits including health benefits; and

WHEREAS, certain provisions of the Affordable Care Act will be implemented in 2015 that will impact employee eligibility for health insurance; and

WHEREAS, the best interests of the City dictate that employee definitions currently in the Human Resources Code be amended to align with the Affordable Care Act to effectively administer the City's health insurance program and avoid penalties under the Affordable Care Act; and

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

Section 1. Section 3.79.040 of the Bellevue City Code is hereby amended to read 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 staffing 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 fully or partially benefited 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. The temporary staffing agency/labor-providing organization shall be required to offer the agency worker health insurance as required under the Patient Protection and Affordable Care Act (PPACA) and consistent with the agency worker's assignment with the City. An agency worker may be hired into a partially benefited position without a break after approval by Human Resources. The city manager or his/her designee shall adopt procedures to implement the provisions and limitations of this subsection.

- 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. All positions in the City except those filled by regular full time employees who have completed their trial service period are at-will (this includes positions in the E or M pay plan, partially benefited such as seasonal, variable, part-time; and any other positions being filled by employees who serve at the pleasure of the appointing authority..
- 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. "Fully benefited employee" means an employee appointed to serve in a regular, limited term, training pool, or transitional status position. "Fully 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 "fully benefited." Fully benefited employees shall accrue such benefits as are expressly set forth in this code. Fully benefited positions shall be assigned to work at least the minimum number of hours under the applicable definition of "full time employee" as provided in the shared responsibility laws or regulations of the Affordable Care Act as now or hereafter amended. Provided, the City Manager shall have the discretion in consultation with the Human Resources Director to determine a lower minimum number of hours for fully benefited employees where said determination furthers sound personnel practices and is consistent with city budgetary principles.
- K. "Calendar month of service" means the minimum number of hours in a calendar month (e.g., January, February, etc.) for which a fully 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 fully 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 18 years old; and
 - 4. Are not related by blood to a degree of closeness that would prohibit legal marriage in Washington state; and
 - 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 the capacity of a bona fide executive, administrative, professional, or computer-related occupation 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. (This provision shall only apply to those in a job share prior to 1/1/2014 after that date the category of job share shall no longer be an option).

X. "Layoff" means the separation from city service of a regular status employee 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 a fully benefited employee appointed to serve in a position for a specific project with a specific ending date which is anticipated to last for more than five 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 consecutive 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 (LTE) 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 be assigned to work at least the minimum number of hours applicable to a fully benefited employee. . Limited term employee positions are not regular status 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 status 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. "Part-time employee" means a partially benefited employee who is appointed to serve in a part-time position that is regularly scheduled to work less than a fully benefited employee. Partially benefited, part-time, temporary employees shall receive no other compensation or benefits except as expressly provided herein. All current regular part-time benefited employees below 0.75 FTE shall be grandfathered into that status and keep all the benefits that apply to that status prior to the adoption of the revised code.

DD. "On-call employee" means a partially benefited employee who is appointed to serve in a variable employment status 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.

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. "Partially benefited employee" means any employee other than a fully benefited employee. "Partially benefited employee" includes those employees who are appointed to serve in part-time, seasonal and variable employment positions and such other positions as from time to time the city council may designate as partially benefited positions. A partially benefited employee shall accrue no city benefits except those expressly set forth in this subsection, even if he/she works as a

partially benefited employee in excess of any applicable limitations set forth in this code except as required by law.

GG "Partially benefited positions" are all positions that are not fully benefited. Partially benefited positions are at-will positions for which the employee is only eligible to receive either PERS benefits or MEBT II benefits and no other City benefits, except as required by law. "Partially benefited positions" include part-time, seasonal and variable employment positions. Partially benefited positions are not regular status 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 partially benefited 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. The city manager or his/her designee shall adopt procedures to implement the provisions and limitations of this subsection.

HH. "Pay plan" means the listing of employment classifications and the pay ranges associated with those classifications that describe the salaries and wages that may be paid to employees. The pay plan is adopted annually by the city council.

II. "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.

JJ. "Prorated accruals" means proration of vacation and sick leave accruals and holiday credits for a fully benefited employee working less than 40 hours a week.

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

LL. "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.

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

NN. "Regular employee 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 is assigned and works the minimum number of hours applicable to a fully benefited employee... Regular employee or regular full-time employees are all regular status employees who are not included in

the City's E and M pay plans. A regular employee or regular full time employee may only be disciplined for cause.

OO. "Regular status position" means a city council created fully benefited 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 employment status positions shall be eligible to receive the full range of city council approved benefits.

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

QQ. "Reinstatement" means return of a regular status 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 "Seasonal employee" means a partially benefited employee who is appointed to serve in a position that is regularly scheduled to work up to 40 hours per week and the work is tied to a season. The term "season" shall be interpreted using guidance from applicable laws and regulations.

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

VV. "Special assignment pay" means a specified monthly amount which is added to the base salary rate of an exempt fully 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.

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

XX. "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.

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. Note this provision shall sunset and shall no longer be applicable after 12/31/2014.

ZZ. "Training pool employee" means a fully benefited employee who is hired into a position created for the purpose of training for a regular status position of the city, where the hiring department has demonstrated to the city manager or his/her designee that: (1) the regular status 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 status 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 be assigned to work at least the minimum number of hours applicable to fully benefited employees. Training pool employee positions are not regular status 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 status 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 fully benefited position created for the purpose of training for the regular status position that is being vacated by an incumbent. The city manager may approve a transitional assignment when he/she has received sufficient documentation to support that the regular status 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. For incumbents in the E and M pay plan, the incumbent may agree to serve in an equivalent status prior to his/her resignation date to allow the transition employee to be appointed to the incumbent's positions. 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 status position for which the transitional employee is being trained. Transitional employees shall be assigned to work at least the minimum number of hours applicable to fully benefited employee. Transitional employee positions are not regular status 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 status 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 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 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. 5744 § 1, 2007; Ord. 5694 § 1, 2006; Ord. 5263 § 1, 2000; Ord. 5228 § 1, 2000; Ord. 5187 § 1, 1999; Ord. 5094 § 2, 1998.)

FFF. "Variable Status Employee" means a partially benefited employee who is appointed to serve in a position that has a work schedule that cannot initially be determined. The term "variable status employee" shall be interpreted using guidance from applicable laws and regulations.

Section 2. Section 3.79.050 of the Bellevue City Code is hereby amended to read as follows:

3.79.050 Employments.

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

- A. Regular employees;
- B. At-will employees.

Section 3. Section 3.79.110 of the Bellevue City Code is hereby amended to read as follows:

3.79.110 Job performance and changes in employment status.

A. Trial Service Period. Regular full-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 status 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-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 of regular status employees in an amount not inconsistent with budget constraints, and to determine when and in what circumstances these rules shall apply.

Section 4. Section 3.79.120 of the Bellevue City Code is hereby amended to read as follows:

3.79.120 Grievance process.

- A. **Who May Grieve.** Regular full-time employees who have successfully passed a trial service period 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 BCC 3.79.110(C)(4).
- 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 nonbinding 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.

Section 5. Section 3.79.130 of the Bellevue City Code is hereby amended to read as follows:

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 and/or benefits 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 or salary range for the city manager, nor may he/she adjust the compensation and/or benefits of bargaining unit employees as established by existing labor agreements, except in accordance with procedures established in collective bargaining; or in order to bring compensation and/or benefits in line with other bargaining units or unrepresented employees; provided however, such modifications may not exceed an annual cost to the city of \$50,000 in the aggregate for any bargaining unit. 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 fully benefited 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)
 - President's Day (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.** Fully benefited employees assigned to work as a full-time equivalent of 1.0 or 40 hours a week will receive 16 hours of holiday credit on January 1st of each year, in addition to the 10 designated holidays listed above, fully benefited employees assigned to work less than a 1.0 work schedule 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 fully 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 fully benefited employee. A full-time benefited employee working a 1.0 FTE schedule or assigned to work 40 hours a week 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 fully benefited employee who works less

than a 1.0 FTE/40 hours a week 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 fully 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.

| Length of Service | Hours of Leave Accrued Per Calendar Month of Service |
|--------------------------|---|
| 0 – 4 years | 8 |
| 5 – 9 years | 10 |
| 10 – 14 years | 12.7 |
| 15 – 19 years | 14.7 |
| 20 years or more | 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 status 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 fully benefited employee assigned to work a full-time equivalent of 1.0 or 40 hours a week 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 fully benefited employee assigned to work less than 40 hours a week 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 working a 1.0 FTE/40 hours a week must be in paid status for at least 90 hours in a calendar month to earn sick leave for that month; a fully benefited employee working less than a 1.0 FTE/40 hours a week 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 1,440 hours.

- b. Payment for Sick Leave Accruals at Time of Retirement. Upon retirement or twenty or more years of service, a regular status 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.
- c. 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.

Section 6. Section 3.79.170 of the Bellevue City Code is hereby amended to read as follows:

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 regular status 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 regular status 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 regular status 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 status 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 status employee immediately prior to the effective date of the layoff where the period of the layoff does not exceed two years.

Section 7. Section 3.79.180 of the Bellevue City Code is hereby amended to read as follows:

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. An 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 8. This ordinance shall take effect and be in force five (5) days after passage and legal publication.


Section 9. The Human Resources Code amendments contained in Sections 1-7 above shall become effective April 1, 2014.

ORIGINAL

1377-ORD
02/27/14

Passed by the City Council this 3rd day of March, 2014 and signed in authentication of its passage this 3rd day of March, 2014.

(SEAL)



Claudia Balducci, Mayor

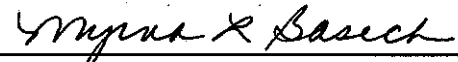
Approved as to form:

Lori M. Riordan, City Attorney



Siena D. Windsor, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published March 6, 2014