



**CITY OF KIRKLAND**  
**City Manager's Office**  
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## **MEMORANDUM**

**To:** Kirkland City Council

**From:** Kurt Triplett, City Manager

**Date:** December 2, 2020

**Subject:** AUTHORIZING ONE-TIME ALLOCATION OF ADDITIONAL MANAGEMENT LEAVE IN 2021

### **RECOMMENDATION:**

That the Council adopt revised Ordinance O-4744 authorizing the City Manager to provide a one-time increase in Management Leave in 2021 to eligible employees in recognition of the additional exceptionally long hours that were worked by these employees throughout 2020. By approving it as part of the consent calendar, the Council will be enacting this revised ordinance.

### **BACKGROUND DISCUSSION:**

This proposed ordinance was before the Council for comment at its November 17, 2020 meeting. The rationale for the ordinance from the previous memo is repeated below as background. Based on comments received from the Council on November 17, the draft ordinance was amended remove the word "generally" in a whereas provision to make it clear that any additional management leave must either be used or cashed out by December 31, 2021. Section 1 of the ordinance has also been revised to include the following language: No additional management leave hours authorized by the City Manager in 2021 shall be carried forward to 2022. Staff believe these two revisions address the comments raised by the Council and recommend adoption of the ordinance at the December 8 Council meeting.

#### *November 17, 2020 Memo Background*

The year 2020 has been one of unprecedented challenges for the City of Kirkland. On February 29, 2020, the City Manager issued a Proclamation of Emergency and activated Kirkland's Emergency Operations Center as Kirkland experienced the first formally reported COVID-19 death in the United States and for a brief time was the epicenter of the outbreak in the country. Within a week, nearly one third of Kirkland's firefighters and many police officers were in quarantine. Many management employees throughout the government, and particularly the command staff of the Police and Fire Departments, the City Manager's Office, and leadership in the Public Works and Parks Departments worked intensely long hours for many months to keep City employees safe and still provide critical government services to the community.

Leadership teams in the internal services departments of including the City Attorney, Finance, Human Resources, and Information Technology also experienced very high workloads as they helped transition the government to respond to the coronavirus. Details of these extraordinary efforts have been reported to the Council and the public at Council meetings throughout the year. The pandemic has not abated and cases are rising again at record levels. While the intensity required at this time has lessened, workloads have still not returned to normal.

Concurrently, at the end of May, the tragic death of George Floyd at the hands of police in Minneapolis reignited the racial justice movement throughout the nation and here in Kirkland. Kirkland experienced dozens of marches and protests throughout the summer and fall. Once again command staff in Police and Fire spent many hours protecting the safety of those exercising their rights to speech and assembly. Management employees in the City Manager's office, the City Attorney's office, Finance, and Parks and Community Services also spent many hours working with the community and developing legislative and budgetary responses to improve the safety and respect of Black people and help end structural racism in Kirkland. Finally, the economic impacts of COVID-19 have made the 2021-2022 budget process one of the most difficult since the Great Recession in 2008. Leadership teams, and especially those in Finance and Administration, worked many extra hours to complete the preliminary budget and capital budget in time to present them to the Council in September and October.

The City of Kirkland has remained strong and resilient throughout these historic challenges. The success of the organization is a shared success that has come from all Kirkland employees who have continued to serve the public and take the actions necessary to keep colleagues safe. Unionized employees receive compensation for the additional efforts through overtime and/or comp time as determined by existing labor contracts. However, one important key to the performance of the organization has been the dedication of the Directors, Managers and Supervisors throughout the year. The demands of 2020 have placed considerable strain on these management positions and these positions are not overtime eligible.

To recognize these management impacts, the City Manager is requesting that the Council enact Ordinance O-4744, allowing a one-time addition to the Management Leave banks of Directors, Managers and Supervisors in 2021 in the discretion of the City Manager. Management Leave is authorized under the Kirkland Municipal Code 3.80.115. As the KMC states, Management Leave was originally created since "*The city recognizes that employees who are exempt for purposes of overtime pay often put in hours that extend beyond the standard work week, without additional compensation or compensatory time off, to meet the demands of their position.*"

The language of KMC 3.80.115 is reprinted in its entirety at the end of this memo as additional background. The amount of Management Leave provided is capped by the current code. The proposed ordinance, if approved by the Council, would authorize the City Manager to provide a one-time addition of up to 40 hours (one week) of Management Leave to eligible employees on a case-by-case basis as determined by the City Manager. Not every position was equally impacted, so management staff would receive differing amounts depending on 2020 contributions as determined by the City Manager. The additional Management Leave would be deposited in the first paycheck of 2021, allowing the employee a full year to take the Management Leave as time off or be cashed out at the end of 2021 if the leave is not used.

### **3.80.115 Management leave for eligible employees.**

(a) Purpose. The city recognizes that employees who are exempt for purposes of overtime pay often put in hours that extend beyond the standard work week, without additional compensation or compensatory time off, to meet the demands of their position. While some extra work time is an expected component of these positions, the city wishes to provide a

benefit in recognition of this service. This section provides for management leave, which is a paid leave for a group of overtime-exempt employees.

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

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

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

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

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

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

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

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

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

(i) Upon termination or resignation, an employee shall receive monetary payment in lieu of unused management leave hours. (Ord. 3905 § 15, 2003: Ord. 3735 § 2, 2000)

ORDINANCE O-4744

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PERSONNEL, MANAGEMENT LEAVE FOR ELIGIBLE EMPLOYEES AND CITY MANAGER DISCRETIONARY AUTHORITY TO AUTHORIZE ADDITIONAL MANAGEMENT LEAVE FOR ELIGIBLE EMPLOYEES SERVING IN OVERTIME-EXEMPT POSITIONS IDENTIFIED BY THE CITY MANAGER IN THE CITY MANAGER'S DISCRETION FOR USE IN 2021 ONLY DUE TO EXTRAORDINARY ADDITIONAL WORK TIME REQUIRED IN 2020 RESULTING FROM COVID-19, SOCIAL UNREST, ECONOMIC DISRUPTIONS AND BUDGET CHALLENGES.

1 WHEREAS, 2020 presented unprecedented challenges and  
2 disruptions in Kirkland; and  
3

4 WHEREAS, in Kirkland those challenges included the  
5 ongoing COVID-19 pandemic (including the first reported cases in  
6 the United States), significant social unrest and demands for racial  
7 justice and equality, severe and continuing impacts to the local  
8 economy and its businesses, renters and taxpayers, as well as  
9 unique challenges to biennial budgeting process for the City of  
10 Kirkland ("City"); and  
11

12 WHEREAS, the City's diligent and in some instances  
13 ground-breaking responses to these unprecedented challenges  
14 created additional and extraordinary work time and hours for  
15 many of the City's executive management group, managers and  
16 supervisors serving in overtime exempt positions ("eligible  
17 employees"); and  
18

19 WHEREAS, the City Council has previously adopted a  
20 management leave program for its eligible employees, which  
21 program is codified at Kirkland Municipal Code ("KMC") 3.80.115;  
22 and  
23

24 WHEREAS, the City's management leave program  
25 recognizes that employees who are exempt for purposes of  
26 overtime pay often put in hours that extend beyond the standard  
27 work week, without additional compensation or compensatory  
28 time off, to meet the demands of their position; and  
29

30 WHEREAS, the City Manager has concluded that the  
31 regular management leave benefits should be extended for some  
32 eligible employees in the discretion of the City Manager on a one-  
33 time and limited basis for use in 2021 in recognition of the  
34 additional extraordinary work they performed in response to the  
35 unprecedented challenges of 2020; and  
36

37 WHEREAS, such additional management leave for eligible  
38 employees identified by the City Manager would be capped at no  
39 more than 40 hours for each identified eligible employee and  
40 granted at the start of 2021 and required to be used or cashed by  
41 the end of 2021 in accordance with the general provisions of KMC  
42 3.80.115; and

43 WHEREAS, in recognition of the additional extraordinary  
44 work performed by many eligible employees in responding to the  
45 unprecedented challenges of 2020 the City Council wishes to grant  
46 the City Manager such one-time authority notwithstanding any  
47 provisions seemingly to the contrary contained in KMC 3.80.115  
48 or otherwise.

49  
50 NOW, THEREFORE, the City Council of the City of Kirkland  
51 do ordain as follows:

52  
53 Section 1. Notwithstanding anything seemingly to the  
54 contrary in Kirkland Municipal Code ("KMC") 3.80.115 or  
55 otherwise, and in recognition of the unprecedented challenges  
56 faced by the City of Kirkland in 2020, which resulted in the need  
57 for extraordinary additional work by many eligible employees  
58 serving in overtime-exempt positions, specifically including  
59 individual members of the City's executive management group,  
60 managers and supervisors, the City Manager is hereby authorized,  
61 in his discretion, to grant up to 40 additional hours of  
62 management leave to each eligible employee identified by the City  
63 Manager on a one-time basis for use in 2021, which amounts, if  
64 granted, will be provided at the start of 2021 for use or payment  
65 in 2021 in accordance with the general provisions of KMC  
66 3.80.115. No additional management leave hours authorized by  
67 the City Manager in 2021 shall be carried forward to 2022.

68  
69 Section 2. This ordinance will not be codified and shall be  
70 in force and effect five days from and after its passage by the  
71 Kirkland City Council and publication, as required by law.

72  
73 Passed by majority vote of the Kirkland City Council in open  
74 meeting this \_\_\_\_ day of \_\_\_\_\_, 2020.

75  
76 Signed in authentication thereof this \_\_\_\_ day of  
77 \_\_\_\_\_, 2020.

\_\_\_\_\_  
Penny Sweet, Mayor

Attest:

\_\_\_\_\_  
Kathi Anderson, City Clerk

Approved as to Form:

\_\_\_\_\_  
Kevin Raymond, City Attorney