

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE _____

AN ORDINANCE relating to the Whistleblower Protection Code; amending the following sections of the Seattle Municipal Code (SMC): Section 4.20.800 to clarify the legislative purpose, Section 4.20.810 to clarify the rights and responsibilities of employees and the process for reporting, Section 4.20.860 to amend the manner in which allegations of retaliation are reported, investigated and resolved, Section 4.16.070.6F adding retaliation to prohibited behavior under the Ethics Code, Section 3.70.010 and ~~Sections~~ subsection 3.70.100.A redefining the jurisdiction of the Ethics and Elections Commission to include administration of the Whistleblower Protection Code; adding the following new sections to the SMC: Section 4.20.805 containing definitions of terms used in the Whistleblower Protection Code, Section 4.20.870 creating a private cause of action for retaliation against whistleblowers, Section 4.20.875 providing the Ethics and Elections Director investigative tools including subpoena power; repealing the following sections of the SMC: whose content had been replaced by amending or creating other sections, Section 4.20.820 concerning confidentiality provisions, Section 4.20.840 concerning civil penalties, and Section 4.20.850 concerning definitions.

WHEREAS, in 1990, 1991, 1992 and 1994, the City Council has recognized the important public policy inherently expressed by the City’s Whistleblower Protection Code; and

WHEREAS, it is in the public interest to encourage public employees to report instances of improper governmental action in order to give the governmental entity the opportunity to correct improper governmental actions; and

WHEREAS, the most effective way to encourage public employees to report improper governmental action is to provide an effective whistleblower protection program that includes a clear reporting process and effective protection from retaliation; and

WHEREAS, City employees who step forward as whistleblowers to make good faith reports of perceived improper governmental actions serve the public interest; and

WHEREAS, it is the policy of the City not to disclose the identity of a Cooperating Employee who in good faith reports alleged improper government action, a policy which is intended to ensure that Cooperating Employees report potential improper governmental action without concern that providing such information would endanger their physical safety or property, their right to privacy, or result in any form of retaliation; and

1 WHEREAS, City employees who step forward as whistleblowers uphold the principle that
2 holding a public office or employment is a public trust; and

3 WHEREAS, the efficient and honest use of public funds is of paramount importance to
4 upholding the public trust; and

5 WHEREAS, ensuring that government comports with the rule of law strengthens a democratic
6 government; and

7 WHEREAS, ensuring that governmental actions advance and protect both the public's health and
8 safety is critical to our communities; and

9 WHEREAS, the dissemination of thorough, accurate, truthful and necessary information is the
10 basis upon which decision makers make informed decisions and judgments; and

11 WHEREAS, it is the intent of the City of Seattle to protect City employees from retaliation for
12 reporting improper governmental actions regardless of whether the information arguably
13 relates to a policy decision, whether properly or improperly implemented; and

14 WHEREAS it is the intent of the City of Seattle to fund a robust, independent and effective
15 whistleblower protection program; and

16 WHEREAS, an effective whistleblower protection program should include: an accessible
17 reporting system; prompt, efficient, and independent investigation and evaluation of
18 allegations that whistleblowers have been subject to retaliation; and effective remedies in
19 cases where such retaliation has occurred; NOW, THEREFORE,

20 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

21 **Section 1.** Section 4.20.800 of the Seattle Municipal Code, last amended by Ordinance
22 117039, is amended as follows:

23 4.20.800 Policy – ~~((P))~~purpose ~~((-))~~

24 ~~((Unless prohibited by state law, City employees are encouraged to report on improper
25 governmental action to the appropriate City or other government official, depending on the
26 nature of the improper governmental action. To assist such reporting and to implement Sections
27 42.41.030 and 42.41.040 of the Revised Code of Washington ("RCW"), Sections 4.20.800~~

1 through 4.20.860 provide City employees a process for reporting improper governmental action
2 and protection from retaliatory action for reporting and cooperating in the investigation and/or
3 prosecution of improper governmental action in good faith in accordance with this subchapter.))

4 4.20.800 Policy -- Purpose

5 It is the purpose of this ordinance to:

6 A. Encourage City employees to report in good faith assertions of improper
7 governmental action and to provide employees with a clear process for making reports;
8

9 B. Provide City employees protection from retaliatory action for making a good faith
10 report or being perceived as making a report, or cooperating or being perceived as cooperating in
11 any subsequent inquiry or investigation;

12 C. Provide for an independent investigation of reports to inform the operation of City
13 government and promote the public confidence;
14

15 D. Provide for an independent investigation and determination of alleged retaliation;

16 E. Provide an administrative forum in which to address the harm caused by
17 retaliatory behavior;

18 F. Provide for the assessment of penalties against individuals who retaliate against a
19 City employee;
20

21 G. Adopt a whistleblower program to comply with RCW 42.41, Local Government
22 Whistleblower Protection; and

23 H. In adopting this subchapter do nothing to diminish employee rights under any
24 collective bargaining agreement.
25

1 **Section 2.** A new ~~section~~Section 4.20.805 of the Seattle Municipal Code is added to
2 Subchapter III of Chapter 4.20 as follows:

3 4.20.805 Definitions

4 As used in Sections 4.20.800 through 4.20.880, the following terms ~~shall have these~~
5 meanings are defined as follows:

6 “Adverse change” is an unfavorable workplace action that includes, but is not limited to:
7 denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office
8 changes or changes in the physical location of the employee’s workplace or a change in the basic
9 nature of the employee’s job, if either is in opposition to the employee’s expressed wish; refusal
10 to assign meaningful work;
11 unsubstantiated letters of reprimand or unsatisfactory performance evaluations; reduction in pay;
12 denial of promotion; transfer or reassignment; demotion, suspension or dismissal or other
13 disciplinary action; ~~or~~ a supervisor or superior who behaves in, or encourages coworkers to
14 behave in, a hostile manner toward the employee; ~~-~~issuance of or attempt to enforce any
15 nondisclosure policy or agreement in a manner inconsistent with prior practice; or any other
16 significant unfavorable action that is inconsistent compared to actions taken before the employee
17 engaged in action protected by this chapter, or compared to other employees who have not
18 engaged in action protected by this chapter.

19 “City ~~Agency~~agency” means any department, office, board, commission, or committee of
20 the City, or any subdivision thereof, but excludes public corporations and ad hoc advisory
21 committees.
22
23
24
25
26
27
28

1 “City ~~Employee~~employee” or “Employee” means every individual who is, or was at the
2 time actions under this chapter were taken, appointed to a position of employment in any City
3 agency, whether in a permanent, temporary or intermittent position.

4 “City ~~Officer~~officer” means every individual elected or appointed to an office in any City
5 agency, whether such individual is paid or unpaid.

6 “Commission” means the Seattle Ethics and Elections Commission.
7

8 “Cooperating ~~Employee~~employee” means a City employee who:

9 1A. In good faith makes a report of alleged improper governmental action
10 pursuant to subsection 4.20.810.C;

11 2B. Is perceived by the City as having reported pursuant to this chapter, but
12 who in fact, did not report;

13 3C. In good faith provides information in connection with an inquiry or
14 investigation of a report or testifies in any proceeding resulting from a report; or
15

16 4D. Is perceived by the employer as providing information in connection with
17 an inquiry or investigation of a report made pursuant to this chapter, but who in fact has not done
18 so.

19 “Executive Director” means the Executive Director of the Seattle Ethics and Elections
20 Commission.
21

22 “Good ~~Faith~~faith” means the individual reporting or providing information has a
23 reasonable basis in fact for reporting or providing the information.

24 “Gross ~~Waste~~waste of ~~Public Funds~~public funds or ~~Resources~~resources” means to spend
25 or use funds or resources, or to allow the use of any funds or resources, in a manner grossly
26

1 deviating from the standard of care or competence that a reasonable person would observe in the
2 same situation. The term “gross waste of public funds or resources” also includes the non-
3 collection of a debt or other obligation owed the City when the non-collection is done in a
4 manner grossly deviating from the standard of care or competence that a reasonable person
5 would observe in the same situation.

6 "Improper governmental action" ~~means~~

7 ~~A. — Any~~ A. Improper governmental action means any action by an employee that is
8 undertaken in the performance of the employee's official duties, whether or not the action is
9 within the scope of employment, that:
10

- 11 1. Violates any federal, state, county or City statute, ordinance or rule;
- 12 2. Creates a substantial or specific risk of serious injury, illness, peril, or loss,

13 that is a gross deviation from the standard of care or competence that a reasonable person would
14 observe in the same situation;

- 15 3. Results in a gross waste of public funds or resources; or
- 16 4. Prevents the dissemination of scientific opinion or alters technical findings

17 without scientifically valid justification, unless disclosure is legally prohibited. This provision is
18 not meant to preclude the discretion of agency management to adopt a particular scientific
19 opinion or technical finding from among differing opinions or technical findings to the exclusion
20 of other scientific opinion or technical findings.

21 B. Improper governmental action excludes:

22 1. Personnel actions, including but not limited to: employee grievances,
23 complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements,
24
25
26

1 restorations, reemployments, performance evaluations, reductions in pay, dismissals,
2 suspensions, demotions, reprimands, violations of collective bargaining or civil service laws, or
3 alleged violations of agreements with labor organizations under collective bargaining, or any
4 action that may be taken under RCW Chapters 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 or
5 RCW 54.04.170 and 54.04.180.

6 2.- A properly authorized City policy, reasonable expenditure or activity
7 merely because an employee dissents from the City policy or considers the expenditure unwise.
8

9 “Interested Parties” means the Cooperating Employee who alleges retaliatory action, the
10 relevant agency, the Executive Director, and the individual employee the Executive Director
11 alleges to have retaliated.

12 “Report” means:

13 ~~1~~A. Reporting any assertion of improper government action to the Executive
14 Director including reporting violations of the Ethics and Elections Codes;
15

16 ~~2~~B. Reporting any assertion of improper government action to an employee’s
17 supervisor, manager, officer or appointing authority or director;

18 ~~3~~C. Reporting any assertion of sexual harassment to the employee's
19 supervisor, Equal Employment Officer, agency head, or other government official as set out in
20 the City's procedure for reporting sexual harassment complaints;
21

22 ~~4~~D. Reporting alleged violations of the Fair Employment Practices ordinance
23 or the Health Insurance Portability and Accountability Act (HIPAA) to the Office for Civil
24 Rights;
25

1 ~~5E.~~ Reporting alleged misconduct by Seattle Police Department personnel to
2 the Seattle Police Office of Professional Accountability;

3 ~~6F.~~ Reporting alleged violations of the Code of Judicial Conduct to the
4 Washington State Commission on Judicial Conduct;

5 ~~7G.~~ Reporting alleged violations of criminal laws to any law enforcement
6 agency;

7 ~~8H.~~ Reporting when the employee believes in good faith that a crime is about
8 to be committed, to any law enforcement agency, agency head, manager or supervisor;

9 ~~9I.~~ Reporting if an employee is, in good faith, seeking advice, counsel or
10 opinion on their rights and responsibilities under this subchapter to determine whether to make a
11 report under this chapter;
12

13 ~~10J.~~ Reporting outside of City government if 30 days have passed since the
14 employee made a written report pursuant to this chapter; or
15

16 ~~11K.~~ Reporting in an emergency, to any person who has the ability to address
17 the danger or risk, where the employee believes in good faith that there is a substantial and
18 specific danger or risk of serious injury, illness, peril, or loss to any person. No emergency
19 under this subsection exists where prompt attention and reporting under this subchapter by the
20 employee could have avoided the perceived need to report immediately.
21

22 "Retaliate," and its kindred nouns, "retaliation" and "retaliatory action," means to make,
23 or use one's authority to make, an adverse change in a Cooperating Employee's employment
24 status or terms and conditions of employment where the employee's status as a Cooperating
25 Employee was a contributing factor in the decision making process.
26

1 **Section 3.** ~~___~~ Section 4.20.810 of the Seattle Municipal Code, last amended by
2 Ordinance 118392, is amended as follows:

3 ~~((4.20.810 Reporting improper governmental action—Employee protection.~~

4 ~~A. Right. Every City employee shall have the right to report, in good faith and in accordance~~
5 ~~with this subchapter, to a City official, another government official or a member of the public,~~
6 ~~information concerning an improper governmental action.~~

7
8 ~~B. Limitations.~~

9 ~~1. This section does not authorize a City employee to report information that is subject to an~~
10 ~~applicable privilege against disclosure at law (e.g., RCW 5.60.060 privileged communications),~~
11 ~~unless waived, or to make disclosure where prohibited at law. The only purpose of this~~
12 ~~subchapter is to protect and encourage employees who know or in good faith believe improper~~
13 ~~governmental action has occurred to report those actions in good faith and in accordance with~~
14 ~~this subchapter.~~

15
16 ~~2. Except in cases of emergency where the employee believes in good faith that substantial~~
17 ~~damage to persons or property will result unless a report is made immediately to a person or~~
18 ~~entity who is not the appropriate auditing official listed in Section 4.20.850 A, an employee~~
19 ~~shall, before making a report to a person who is not the appropriate auditing official, first make a~~
20 ~~written report of the improper governmental action to the appropriate auditing official. No~~
21 ~~emergency under this subsection exists where prompt attention and reporting under this~~
22 ~~subchapter by the employee could have avoided the perceived need to report immediately to a~~
23 ~~person not the appropriate auditing official.~~

1 ~~An employee making a written report as required by this subsection is encouraged to wait at least~~
2 ~~thirty (30) days from receipt of the written report by the appropriate auditing official before~~
3 ~~reporting the improper governmental action to a person who is not an appropriate auditing~~
4 ~~official.~~

5 ~~3. An employee's reporting of his or her own improper action does not grant an employee~~
6 ~~immunity from discipline or termination under Section 4.04.230 or 4.08.100 insofar as his or her~~
7 ~~improper action would be cause for discipline.~~

9 ~~C. Employee Protections and Protected Conduct.~~

10 ~~1. The following conduct by employees is protected if carried out in good faith under this~~
11 ~~subchapter:~~

12 ~~a. Reporting sexual harassment to the employee's supervisor, EEO officer, department head, or~~
13 ~~other government official as set out in the City's adopted procedure for reporting sexual~~
14 ~~harassment complaints; reporting violations of the Fair Employment Practices ordinance to the~~
15 ~~Office for Civil Rights; reporting police misconduct to the Police Department's Internal~~
16 ~~Investigation Section; reporting violations of the Code of Judicial Conduct by Municipal Court~~
17 ~~judges to the Washington State Commission on Judicial Conduct; reporting violations of~~
18 ~~criminal laws to the appropriate county prosecuting attorney; and reporting violations of the~~
19 ~~Elections Code or the Ethics Code, and any actions for which no other appropriate recipient of a~~
20 ~~report is listed in this subsection, to the Executive Director of the Seattle Ethics and Elections~~
21 ~~Commission;~~

22 ~~b. Cooperating in an investigation by an "auditing official" related to "improper governmental~~
23 ~~action"; and/or~~

~~e. Testifying in a proceeding or prosecution arising out of an "improper governmental action."~~

~~2. No City officer or employee shall retaliate against any employee because that employee proceeded or is proceeding in good faith in accordance with this subchapter.~~

~~D. Penalty. Any City officer or employee who engages in prohibited retaliatory action is subject to discipline by suspension without pay, demotion or discharge or, pursuant to Section 4.20.840, a civil fine up to Five Hundred Dollars (\$500.00), or both discipline and a fine.~~

~~E. Annual Restatement. Upon entering City service and at least once each year thereafter, every City officer and employee shall receive a written summary of this chapter, the procedures for reporting improper governmental actions to auditing officials, the procedures for obtaining the protections extended, and the prohibition against retaliation in this section. The Executive Director of the Ethics and Elections Commission shall ensure that such summaries are distributed and that copies are posted where all employees will have reasonable access to them.)~~

4.20.810 Employee rights, responsibilities and limitations

A. Rights

1. Every employee shall have the right to report in good faith pursuant to this subchapter an assertion of improper governmental action and shall be free from retaliation.

2. The identity of a ~~Cooperating Employee~~ cooperating employee shall be kept confidential and shall not be disclosed unless such disclosure is required under applicable law or the employee in writing waives confidentiality.

B. Responsibilities

1. An employee may not disclose information when disclosure is prohibited under the law (e.g., RCW 5.60.060 privileged communications).

1 2. An employee who reports his or her own improper governmental action
2 will not be free from discipline or termination under Section 4.04.230 or 4.08.100 if his or her
3 improper action would be cause for discipline or termination.

4 C. Prohibitions

5 No City agency, officer or employee shall retaliate against any ~~Cooperating~~
6 ~~Employee~~ cooperating employee.

7
8 **Section 4.** ~~Section 4.20.820 of the Seattle Municipal Code, last amended by~~
9 ~~Ordinance 117039 and that currently reads as follows, is repealed:~~

10 ~~((4.20.820 Confidentiality:~~

11 ~~_____ To the extent allowed by law, the identity of an employee reporting information about an~~
12 ~~improper governmental action shall be kept confidential unless the employee in writing waives~~
13 ~~confidentiality.))~~

14
15 **Section 5.** ~~Section 4.20.830 of the Seattle Municipal Code, last amended by~~
16 ~~Ordinance 117039, is amended as follows:~~

17 ~~((4.20.830 Investigation:~~

18 ~~A. Referral or Retention. The Executive Director of the Ethics and Elections Commission, upon~~
19 ~~receiving a report alleging improper governmental action, shall refer the complainant to the~~
20 ~~appropriate auditing official listed in Section 4.20.850 A if the Executive Director is not the~~
21 ~~appropriate auditing official. If the Executive Director is the appropriate auditing official, and the~~
22 ~~report alleges a violation of the Elections Code or the Code of Ethics, the Executive Director~~
23 ~~shall handle that allegation according to the ordinances and rules applicable to the code alleged~~
24 ~~to have been violated. If the Executive Director is the appropriate auditing official and the report~~

1 ~~alleges improper governmental action that does not fall within the prohibitions of the Ethics~~
2 ~~Code or the Elections Code, the Executive Director may refer the report to the chief elected~~
3 ~~official of the branch of government implicated in the allegation, who shall ensure that the~~
4 ~~appropriate officer or agency responds to the complainant in writing within thirty (30) days of~~
5 ~~receipt of the report by the appropriate auditing official, with a copy of the response to the~~
6 ~~Executive Director. If the Executive Director does not refer the report to another official, or if the~~
7 ~~other official's response is not timely or satisfactory to the Executive Director, the Executive~~
8 ~~Director may conduct an investigation. The procedures in subsections B through E of Section~~
9 ~~4.20.830 shall apply only to the Executive Director of the Ethics and Elections Commission~~
10 ~~when he or she is investigating an improper governmental action that does not fall within the~~
11 ~~prohibitions of the Ethics Code or the Elections Code and that should not have been referred to~~
12 ~~another auditing official under the first sentence of this subsection; other auditing officials~~
13 ~~investigating allegations of improper governmental action appropriately referred to them are not~~
14 ~~bound by these procedures.~~

17 ~~B. Executive Director's Investigation. At any stage in an investigation of an alleged "improper~~
18 ~~governmental action," the Executive Director of the Seattle Ethics and Elections Commission~~
19 ~~may issue subpoenas, administer oaths, examine witnesses, compel the production of documents~~
20 ~~or other evidence, enlist the assistance of the City Attorney, the City Auditor, or the Chief of~~
21 ~~Police, refer the matter to the State Auditor or law enforcement authorities, and/or issue reports,~~
22 ~~each as deemed appropriate.~~

24 ~~Within thirty (30) days after receiving information about an "improper governmental action"~~
25 ~~from a City employee, the Executive Director shall conduct a preliminary investigation, and~~

1 ~~provide the complainant with a written report of the general status of the investigation which~~
2 ~~may include matters for further research or inquiry.~~

3 ~~C. Completion and Reports. Upon completion of the investigation, the Executive Director shall~~
4 ~~notify the complainant in writing of any determinations made. If the Executive Director~~
5 ~~determines that an improper governmental action has occurred, the Executive Director shall~~
6 ~~report the nature and details of the activity to the complainant; to the head of the department with~~
7 ~~responsibility for the action; and if a department head is implicated, to the Mayor and City~~
8 ~~Council; and to such other governmental officials or agencies as the Executive Director deems~~
9 ~~appropriate. If satisfactory action to follow up the report is not being taken within a reasonable~~
10 ~~time, the Executive Director shall report his or her determination to the Mayor and advise the~~
11 ~~City Council.~~

12
13
14 ~~D. Closure. The Executive Director may close an investigation at any time he or she determines~~
15 ~~that no further action is warranted and shall so notify the complainant.~~

16 ~~E. Decisions of the Executive Director under this section are not appealable to the Ethics and~~
17 ~~Elections Commission.))~~

18 4.20.830 Reports to the Executive Director

19 The following applies to any report of improper governmental action made to the
20 Executive Director.

21
22 A. Reports. A report of improper governmental action should be made ~~within 12~~
23 ~~months of the occurrence of the alleged improper governmental action, or~~ within 12 months of
24 when a reasonable person similarly situated to the reporting employee would have become aware
25

1 of the occurrence. The Executive Director may initiate an inquiry of an occurrence falling
2 outside of this time limitation if he or she believes that doing so is in the public interest.

3 B. Inquiry. Within 14 days after receiving an assertion of alleged improper
4 governmental action, the Executive Director shall conduct a confidential preliminary inquiry to
5 determine if the facts as asserted would constitute improper governmental action. The Executive
6 Director shall communicate the results to the reporting individual along with the actions, if any,
7 that will be taken. If, after a preliminary inquiry, the Executive Director determines that the facts
8 as asserted would constitute improper governmental action, the Executive Director shall make a
9 mandatory or discretionary referral, or may open an investigation.

11 C. Mandatory and ~~Discretionary Referral~~discretionary referral

12 1. Mandatory ~~Referral~~referral. The Executive Director shall refer an
13 employee making the following allegations as follows:

14 a. Sexual harassment to any management representative, the Seattle
15 Office for Civil Rights, Equal Employment Opportunity Commission, the Washington Human
16 Rights Commission, or other governmental official as set out in the City's adopted procedure for
17 reporting sexual harassment complaints;

18 b. Violations of the Fair Employment Practices ordinance to the
19 Office for Civil Rights;

20 c. Allegations regarding misconduct by Seattle Police Department
21 personnel to the Seattle Police Office of Professional Accountability; or

22 d. Allegations of violations of the Code of Judicial Conduct to the
23 Washington State Commission on Judicial Conduct.

1 2. Discretionary ~~Referral~~referral. The Executive Director may refer a report
2 to the chief elected official of the branch of government named in the allegation or to other
3 governmental agencies the Executive Director believes better suited to investigate the allegation.

4 a. When the Executive Director makes a discretionary referral
5 pursuant to this chapter, the ~~Cooperating Employee~~cooperating employee shall be notified before
6 the referral is made.

7
8 b. Within 60 days of a discretionary referral being made by the
9 Executive Director, the City official or agency head receiving the referral shall personally or
10 through their designated representative, respond to the Executive Director with the agency's plan
11 to ~~investigate and/or~~ resolve the concern ~~with a date at which the agency anticipates the planned~~
12 ~~action will be completed.~~ If the Executive Director does not receive an agency's plan or, if
13 within a reasonable time the agency does not complete the plan, the Executive Director may alert
14 the Mayor and the City Council.

15
16 D. Investigation

17 1. The Executive Director shall investigate alleged violations of the
18 Elections Code according to Section 2.04.070 and the Ethics and Election Commission's
19 Administrative Rules; alleged violations of the Ethics Code according to Section 4.16.090 and
20 the Ethics and Election Commission's Administrative Rules; and, alleged violations of the
21 Lobbying Code according to Chapter 2.06 and the Ethics and Election Commission's
22 Administrative Rules.

23
24 2. Investigations of improper governmental action that do not assert
25 violations of the Ethics, Election or Lobbying Code shall be completed within a period of six
26

1 months. If an investigation cannot be completed within that time the Executive Director must
2 inform the employee who reported the concern as to the reason why and estimate the completion
3 date of the investigation.

4 3. Completion and Reports. Upon completion of the investigation, the
5 Executive Director shall issue a report summarizing the facts and determining whether there is
6 reasonable cause to believe that improper governmental action occurred.

7
8 4. If the Executive Director determines there is reasonable cause to believe
9 an improper governmental action has occurred, the Executive Director shall report the nature and
10 details of the activity to the reporting employee; the head of the agency with responsibility for
11 the action; and, if an agency head is implicated, to the Mayor and City Council, and such other
12 governmental officials or agencies as the Executive Director deems appropriate.

13
14 E. Response by the City ~~Agency~~agency. The head of the agency in which the
15 conduct took place, or their designated representative, shall report to the Executive Director
16 within 60 days what action was taken to address the conduct. The Executive Director shall report
17 the resolution to the reporting employee. If the Executive Director determines that satisfactory
18 action to follow up the report is not being taken, the Executive Director shall report his or her
19 determination to the Mayor and the City Council.

20
21 F. Closure. The Executive Director may close an inquiry or investigation at any
22 time he or she determines that no further action is warranted and shall so notify the reporting
23 employee.

24 G. Decisions of the Executive Director under this section are not appealable to the
25 Ethics and Elections Commission.
26

1 ~~C. 1. "Improper governmental action" means any action by a City officer or employee~~
2 ~~that is undertaken in the performance of the officer's or employee's official duties, whether or not~~
3 ~~the action is within the scope of employment, and:~~

4 ~~a. Violates any state or federal law or rule or City ordinance, and, where~~
5 ~~applicable, King County ordinances, or~~

6 ~~b. Constitutes an abuse of authority, or~~

7 ~~c. Creates a substantial or specific danger to the public health or safety, or~~

8 ~~d. Results in a gross waste of public funds.~~

9 ~~2. "Improper governmental action" excludes personnel actions, including but not~~
10 ~~limited to: employee grievances, complaints, appointments, promotions, transfers, assignments,~~
11 ~~reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions~~
12 ~~in pay, dismissals, suspensions, demotions, reprimands, violations of collective bargaining or~~
13 ~~civil service laws, or alleged violations of agreements with labor organizations under collective~~
14 ~~bargaining, or any action that may be taken under Chapter 41.08, 41.12, 41.14, 41.56, 41.59, or~~
15 ~~53.18 RCW or RCW 54.04.170 and 54.04.180.~~

16 ~~3. A properly authorized City program or activity does not become an "improper~~
17 ~~governmental action" because an employee or auditing official dissents from the City policy or~~
18 ~~considers the expenditures unwise.~~

19 ~~D. "Retaliate," and its kindred nouns, "retaliation" and "retaliatory action," mean to make,~~
20 ~~because of an activity protected under Section 4.20.810, any unwarranted adverse change in an~~
21 ~~employee's employment status or the terms and conditions of employment including, but not~~
22 ~~limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and~~
23 ~~limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and~~
24 ~~limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and~~
25 ~~limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and~~
26 ~~limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and~~

1 ~~undesirable office changes; refusal to assign meaningful work; unsubstantiated letters of~~
2 ~~reprimand or unsatisfactory performance evaluations; demotion, reduction in pay; denial of~~
3 ~~promotion; transfer or reassignment; suspension or dismissal; or other unwarranted disciplinary~~
4 ~~action.~~

5 E. "Executive Director" means the Executive Director of the Seattle Ethics and Elections
6 Commission.))

7
8 **Section 8.**- Section 4.20.860 of the Seattle Municipal Code, last amended by
9 Ordinance 117039, is amended as follows:

10 4.20.860 (~~(Reporting and adjudicating retaliation.)~~) Retaliation

11 A. Complaint ~~Alleging Retaliation(;-) - alleging retaliation~~

12 1. Timeliness. In order to seek relief, an employee who believes he or she
13 has been (~~retaliated against in violation~~) the subject of ((Section 4.20.810 C)) retaliation must
14 file a signed written complaint within (~~(thirty (30))~~) 180 days of ~~the occurrence alleged to~~
15 ~~constitute retaliation or within 180 days of~~ when they reasonably should have known that an
16 ~~((the))~~ occurrence alleged to constitute retaliation occurred.

17
18 2. Place of Filingfiling. The complaint shall be filed with the (~~Office of the~~
19 ~~Mayor and must specify the alleged retaliatory action and the relief requested~~) Executive
20 Director.

21
22
23 3. Contents of the Complaintcomplaint. The complaint alleging retaliation
24 must state:

1 a. The adverse change or changes alleged to be retaliation and the
2 date or dates it occurred;

3 b. The person or persons responsible for the adverse change or
4 changes;

5 c. The conduct undertaken; or the conduct perceived to have been
6 ~~taken, undertaken~~ by- the employee that establishes the employee is as a Cooperating
7 Employee cooperating employee;

8 d. The relief the employee is requesting;

9 e. If the protected conduct is based on an employee's report to a
10 person other than the Executive Director, some independent evidence that a report was made on
11 a specific date and some evidence of its content; and

12 f. Whether the complainant has filed an action in any other forum
13 based upon the same conduct.

14 ~~((B. Investigation and Response. The Mayor's office shall forward the complaint to the head of~~
15 ~~the executive office or department in which the retaliation is alleged to have occurred, or, at the~~
16 ~~Mayor's option, to the President of the City Council or the Presiding Judge of the Municipal~~
17 ~~Court if their respective branches are implicated in the complaint. The head of the department,~~
18 ~~office, or branch to which the complaint was referred shall ensure that the complainant is sent a~~
19 ~~response within thirty (30) days after the filing of the complaint. If the head of an executive~~
20 ~~office or department is alleged to have retaliated in violation of Section 4.20.810, the Mayor~~
21 ~~shall ensure that the complainant is sent a response within thirty (30) days after the filing of the~~
22 ~~complaint.~~

1 ~~C. Hearing. If an employee who has filed a complaint of retaliation under this section is~~
2 ~~dissatisfied with the response and desires a hearing pursuant to Section 42.41.040 RCW, the~~
3 ~~employee shall deliver a request for hearing to the Office of the Mayor within the time~~
4 ~~limitations specified in that section. Within five (5) working days of receipt of the request for~~
5 ~~hearing, the City shall apply to the state office of administrative hearings for a hearing to be~~
6 ~~conducted as provided in Section 42.41.040 RCW.))~~

8 B. Initial ~~Determination~~determination

9 1. The Executive Director shall make an initial determination as to the
10 sufficiency of the complaint within 14 days.

11 2. If the Executive Director finds the complaint to be insufficient, he or she
12 shall dismiss the complaint and give notice to the employee. The employee may re-submit the
13 complaint within the 180-day filing period. The time in which the Executive Director is
14 considering the sufficiency of the complaint is not included in the 180 day time frame.

15 3. The Executive Director shall find the complaint sufficient if the complaint
16 asserts facts that, if true, would show:

17 a. the employee is a ~~Cooperating Employee; cooperating employee;~~

18 b. the employee was subjected to an adverse change or changes that
19 occurred within the prescribed time period; and

20 c. the employee's protected conduct reasonably appears to have been
21 a contributing factor.

1 4. The Executive Director shall not dismiss a complaint as insufficient
2 because it fails to include all required information so long as it substantially satisfies the
3 informational requirements.

4 C. Investigation of ~~Sufficient Complaints~~ sufficient complaints

5 1. The Executive Director may choose not to investigate a complaint if the
6 matter is being pursued in another forum.

7 2. If the matter is not before another forum or if the Executive Director
8 decides to pursue a matter even though it is before another forum, the Executive Director shall
9 investigate sufficient complaints and endeavor to complete the investigation in 90 days. If the
10 investigation is not completed within 90 days, the Executive Director shall inform the interested
11 parties of the date the investigation is expected to be completed.

12 3. All investigations shall be conducted in an objective and impartial manner.

13 4. The Executive Director shall at the conclusion of the investigation
14 determine whether there is reasonable cause to believe that retaliation occurred.

15 D. No ~~Reasonable Cause Found~~ reasonable cause found

16 If the Executive Director finds no reasonable cause to believe that retaliation occurred,
17 the Executive Director shall dismiss the complaint and inform the employee.

18 E. Reasonable ~~Cause Found~~ cause found

19 1. If the Executive Director finds reasonable cause to believe that retaliation
20 occurred, the Executive Director shall issue a written report to the interested parties that shall
21 include a statement of the facts which provide the basis for the finding. The report may also
22

1 include the identity of the individual employee or employees responsible for the retaliation and
2 recommendations for agency action.

3 2. The Executive Director may submit a draft including findings and
4 recommendations to the interested parties for review and comment ~~prior to~~before issuing the
5 final investigative report and determination.

6 ~~DF.~~ Settlement

7 Within 30 days of the Executive Director’s final report finding reasonable cause, and
8 ~~prior to~~before the filing of a complaint with the Hearing Examiner pursuant to subsection
9 4.20.865.B, the Director shall determine whether ~~the interested parties would attend~~ it is feasible
10 to conduct a joint settlement conference ~~in an~~with the interested parties to attempt to agree on an
11 appropriate remedy.

12 1. Interested parties may be represented at a settlement conference by a
13 person of their own choosing.

14 2. The Executive Director may ~~utilize~~use the services of the City of Seattle’s
15 Alternative Dispute Resolution office or the King County Inter-local Conflict Resolution Group
16 or similar service to aid in determining an appropriate remedy.

17 3. A settlement may include any terms agreed upon by the parties and not
18 otherwise precluded by law, including the ~~Cooperating Employee’s~~cooperating employee’s
19 reasonable attorney fees attributed directly to attendance at the settlement discussion.

20 4. Any settlement between a City agency and the ~~Cooperating~~
21 ~~Employee~~cooperating employee must include a provision in which the employee releases the
22 City from further liability for acts giving rise to the retaliation complaint.

1 5. ~~Any agreement between the Executive Director and a specific~~
2 ~~employee~~ Settlement agreements concerning charges or ~~employees settling a violating potential~~
3 ~~charges of violations of subsection 4.16.070.6 shall be~~ F are subject to Commission approval
4 ~~under the Seattle Ethics and Elections Commission Administrative Rule.~~

5 G. End of settlement discussions

6 If the Executive Director determines that initiating a joint settlement conference is not
7 feasible or determines that, at any point after such a conference is initiated, it is no longer
8 feasible to reach a joint settlement, the Executive Director shall issue a notice to all interested
9 parties that he or she intends to file a complaint with the Hearing Examiner.

11 **Section 9.**- A new Section 4.20.865 of the Seattle Municipal Code is added to
12 Subchapter III of Chapter 4.20 as follows:

14 4.20.-865_ Enforcement

15 A. Election of administrative forum

16 1. Nothing in this subchapter prohibits an employee from filing in any
17 administrative forum or affects the remedies available in that forum.

18 2. If after filing a complaint with the Executive Director, the complainant
19 files an action in another forum based upon the same conduct, the complainant shall inform the
20 Executive Director within 15 days.

21 3. After discovering or being informed of an action in another forum based
22 upon the same conduct the Executive Director may choose to continue with the proceedings or
23 suspend proceedings until either the other action is completed or the Executive Director
24 determines that another course of action is appropriate.

1 B. Filing a ~~Complaint~~complaint with the Hearing Examiner

2 1. The Executive Director may file a ~~Complaint~~complaint alleging retaliation
3 with the Hearing Examiner. The ~~Complaint~~complaint shall:

- 4 a. name the interested parties;
5 b. provide a concise statement of the conduct constituting retaliation;

6 and

- 7
8 c. contain a request for relief.

9 2. All cases ~~shall beare~~ governed by the Hearing Examiner Rules of Practice
10 and Procedure. The Hearing Examiner may promulgate such additional administrative rules as
11 needed.

12 3. If the Cooperating Employee is a party to the ~~Enforcement~~enforcement
13 action, the employee may choose to be represented by a person of their own choosing.

14 C. Proof

15 1. The burden of proof in any proceeding against an individual employee or
16 employees for retaliating against a Cooperating Employee in violation of subsection 4.16.070.~~6F~~
17 is with the Executive Director. Retaliation must be shown by a preponderance of the evidence.

18 2. The burden of proof in any proceeding against an agency is ~~as follows:~~

19
20 a. ~~The~~with the Executive Director ~~has the burden to prove,~~
21 Retaliation must be shown by a preponderance of the evidence ~~that the subject employee is a~~
22 Cooperating Employee as defined by Section 4.20.805, and that the Cooperating Employee was
23 subjected to an adverse change.
24

1 ~~Employee~~ cooperating employee damages. Any award for emotional distress shall not exceed
2 ~~Twenty Thousand Dollars (\$20,000.00).~~

3 c. The Hearing Examiner may award reasonable attorney fees. Any
4 award for attorneys' fees shall not exceed ~~Twenty Thousand Dollars (\$20,000.00).~~

5 d. The agency shall comply with the provisions of any order granting
6 relief and shall furnish proof of compliance to the Executive Director. In the event that the
7 agency refuses or fails to comply with the order, or does not seek timely judicial review, the
8 Executive Director shall notify the Mayor, the Council and the City Attorney. The Director may
9 request that the City Attorney seek enforcement of the order in an appropriate court.
10

11 2. If the Hearing Examiner finds that one or more employees retaliated
12 against a ~~Cooperating Employee~~ cooperating employee in violation of subsection 4.16.070.6F
13 and this subchapter:
14

15 a. The Hearing Examiner shall deliver the findings of fact and
16 conclusions of law to the Commission, and may include a recommendation to the Commission as
17 to an appropriate sanction under Section 4.16.100. Only the Commission has the authority to
18 impose a penalty against an individual employee.
19

20 b. The Hearing Examiner may recommend to the agency that
21 disciplinary action be commenced against an individual employee or employees found to have
22 retaliated.

23 3. Commission ~~Action~~ action. The Commission shall accept the Hearing
24 Examiner's Findings of Fact as dispositive. The Commission may impose sanctions as provided
25 by Section 4.16.100 on the employee found to have violated subsection 4.16.070.6F.
26

1 complaint with the Hearing Examiner and named the ~~Cooperating Employee~~cooperating
2 employee as an interested party.

3 ~~B.~~ B. When adhering to the filing requirements of subsection 4.20.870A, the
4 Cooperating Employee injured by any violation of this chapter shall have a civil action in a court
5 of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained
6 by the person, or both, ~~together, without limitation.~~ Remedies for damages include the cost of
7 suit including reasonable attorneys' fees, without limitation; emotional distress damages not to
8 exceed \$20,000; and any other appropriate remedy authorized by this chapter, without limitation.
9 The ~~Cooperating Employee shall have~~cooperating employee has the burden to prove by a
10 preponderance of the evidence that a violation occurred.

11
12 C. If the employee files a civil action, the Executive Director shall dismiss any
13 administrative action for relief for that employee in which the charged party is an agency, but
14 may still pursue administrative action ~~as to~~against any employee alleged to have violated
15 ~~SMC~~subsection 4.16.070. ~~6~~F.

16
17 **Section 11.-** _____ A new Section 4.20.875 of the Seattle Municipal Code is added to
18 Subchapter III of Chapter 4.20 as follows:

19 4.20.875 Investigative powers

20
21 At any stage in an inquiry or investigation of an alleged improper governmental action, or
22 the investigation regarding an assertion of retaliation for engaging in conduct protected in this
23 ~~sub-chapters~~subchapter, the Executive Director may issue subpoenas, administer oaths, examine
24 witnesses, submit written questions to be answered under oath and, compel the production of
25 documents or other evidence. If the subpoenaed party or agency does not respond to the request
26

1 in a timely manner, the Executive Director may ask for the assistance of the City Attorney to
2 pursue enforcement through order in superior court.

3 **Section 12.** ~~___~~ A new Section 4.20.880 of the Seattle Municipal Code is added to
4 Subchapter III of Chapter 4.20 as follows:

5 4.20.880 Annual ~~Restatement~~ restatement and ~~Training~~ training

6 The Seattle Ethics and Election Commission and City Personnel shall, within six months
7 of the effective date of this ordinance, develop and present a plan for adoption by City Personnel
8 and the Seattle Ethics and Elections Commission that reaches the following goals ensuring:
9

10 A. City employees attend a Whistleblower Protection Code training offered by the
11 Seattle Ethics and Elections Commission within six months of entering City service;

12 B. All City employees who are acting in a management or supervisory capacity at
13 the time this ordinance becomes effective will, within one year of the effective date attend a
14 Whistleblower Protection Code training offered by the Seattle Ethics and Elections Commission;

15 C. Every City employee who acts within a supervisory capacity will, ~~-within~~ six
16 months of undertaken supervisory responsibilities, attend a Whistleblower Protection Code
17 training offered by the Seattle Ethics and Elections Commission; and
18

19 D. On annual basis each City employee receives a written summary of this chapter as
20 prepared by the Ethics and Elections Commission.
21

22 **Section 13.** ~~___~~ Section 4.16.070 of the Seattle Municipal Code, last amended by
23 Ordinance 123010, is amended as follows:

24 4.16.070 Prohibited conduct ~~(())~~

25 A ~~—~~ Covered Individual ~~((C))~~ covered ((I)) individual may not:
26

...

~~6.((1)) A. Disqualification from ((A))acting on City ((B))business((-))~~

~~((a)) 1. Participate in a matter in which any of the following has a financial interest, except as permitted by Section 4.16.071~~

~~((i)) a. the ((C))covered ((F))individual;~~

~~((ii)) b. an immediate family member of the ((C))covered ((F))individual;~~

~~((iii)) c. an individual residing with the ((C))covered ((F))individual;~~

~~((iv)) d. a person the ((C))covered ((F))individual serves as an officer, director, trustee, partner or employee;~~

~~((v)) e. a person with which the ((C))covered ((F))individual is seeking or has an arrangement concerning future employment.~~

~~((b-)) 2. Participate in a matter in which a person that employed the ((C))covered ((F))individual in the preceding 12 months, or retained the ((C))covered ((F))individual or his or her firm or partnership in the preceding 12 months, has a financial interest; provided, however, that the Executive Director shall waive this section when:~~

~~((i)) a. the ((C))covered ((F))individual's appointing authority or the authority's designee makes a written determination that there is a compelling City need for the ((C))covered ((F))individual to participate in a matter involving a prior employer or client, and submits that determination with a written plan showing how the authority will safeguard the City's interests, and~~

~~((ii)) b. the Executive Director determines that the authority's plan is satisfactory.~~

~~((e-)) 3. Perform any official duties when it could appear to a reasonable person, having knowledge of the relevant circumstances, that the ((C))covered ((F))individual's~~

1 judgment is impaired because of either (1) a personal or business relationship not covered under
2 subsection ((a)) 1 or ((b)) 2 above, or (2) a transaction or activity engaged in by the ((C))covered
3 ((F))individual. It is an affirmative defense to a violation of this subsection ((e)) 3 if the
4 ((C))covered ((F))individual, ((prior to)) before performing the official act, discloses the
5 relationship, transaction or activity in writing to the Executive Director and the ((C))covered
6 ((F))individual's appointing authority, and the appointing authority or the authority's designee
7 either approves or does not within one week of the disclosure disqualify the ((C))covered
8 ((F))individual from acting. For an elected official to receive the same protection, the official
9 must file a disclosure with the Executive Director and the City Clerk. If a ((C))covered
10 ((F))individual is charged with a violation of this subsection, and asserts as an affirmative defense
11 that a disclosure was made, the burden of proof is on the ((C))covered ((F))individual to show
12 that a proper disclosure was made and that the ((C))covered ((F))individual was not notified that
13 he or she was disqualified from acting.

14 ((d.)) 4. Subsections ((Sections)) ((4.06.070.1.a)) 4.16.070.A.1 and ((1.b))
15 4.16.070.A.2 ((shall)) do not apply if the prohibited financial interest is shared with a substantial
16 segment of the City's population.

17 ((2.)) B. Improper ((U))use of ((O))official ((P))position((-))

18 ((a)) 1. Use or attempt to use his or her official position for a purpose that
19 is, or would to a reasonable person appear to be, primarily for the private benefit of the
20 ((C))covered ((F))individual or any other person, rather than primarily for the benefit of the City,
21 except as permitted by Section 4.16.071;

22 ((b.)) 2. Use or attempt to use, or permit the use of any City funds,
23 property, or personnel, for a purpose which is, or to a reasonable person would appear to be, for
24 other than a City purpose, except as permitted by Section 4.16.071; provided, that nothing shall
25 prevent the private use of City property which is available on equal terms to the public generally

1 (such as the use of library books or tennis courts), the use of City property in accordance with
2 municipal policy for the conduct of official City business (such as the use of a City automobile),
3 if in fact the property is used appropriately; or the use of City property for participation of the
4 City or its officials in activities of associations that include other governments or governmental
5 officials;

6 ~~((e-))~~ 3. Except in the course of official duties, assist any person in any
7 matter involving the ~~((€))~~covered ~~((£))~~individual's department; provided, further, that except in
8 the course of official duties, a ~~((€))~~covered ~~((£))~~individual in the Mayor's office or the legislative
9 department may not assist any person in any matter. This subsection c~~((-shall))~~ does not apply to
10 any~~((€))~~covered ~~((£))~~individual appearing on his or her own behalf on any matter, or on behalf of
11 any business entity solely owned by the ~~((€))~~covered ~~((£))~~individual, if not otherwise prohibited
12 by ordinance;

13 ~~((d-))~~ 4. Influence or attempt to influence a City decision to contract with,
14 or the conduct of City business with, a person in which any of the following has a financial
15 interest:

- 16 ~~((i))~~ a. the ~~((€))~~covered ~~((£))~~individual;
17 ~~((ii))~~ b. an immediate family member of the ~~((€))~~covered
18 ~~((£))~~individual;
19 ~~((iii))~~ c. an individual residing with the ~~((€))~~covered ~~((£))~~individual;
20 ~~((iv))~~ d. a person the ~~((€))~~covered ~~((£))~~individual serves as an
21 officer, director, trustee, partner or employee;
22 ~~((v))~~ e. a person with which the ~~((€))~~covered ~~((£))~~individual is
23 seeking or has an arrangement concerning future employment,

24 However, it is not a violation of this section for a City contractor to attempt to obtain
25 other contracts with the City.

1 agency enters into the contract; provided, that this subsection ((b))2 ((shall)) does not apply to
2 any contract awarded through the public bid process in accordance with applicable law.

3 F. Retaliate against a City Employee as prohibited under Section 4.20.810 of the
4 Whistleblower Protection Code; or directly or indirectly threaten or intimidate a City employee
5 for the purposes of interfering with that employee's right to communicate with the Commission,
6 its employees, or its agents; or directly or indirectly threaten or intimidate an employee for the
7 purposes of interfering with or influencing an employee's cooperation in an inquiry or
8 investigation, or interfering or influencing testimony in any investigation or proceeding arising
9 from a report; or knowingly take or direct others to take any action for the purpose of:

11 a 1. influencing an employee's cooperation in an inquiry or investigation based
12 on a report of improper governmental action; or

13 b 2. interfering or influencing testimony in any investigation or proceeding
14 arising from a report.

15 ~~((6)) 7-G. Application to Certain Members of Advisory Committees-((:))~~

17 ~~a. 1. ((SMC)) Subsections ((4.16.070.1.a and)) 4.16.070.1.b A.1 and~~
18 ~~((4.16.070.1.b)) 4.16.070.A.2 ((shall)) apply to employee members of advisory committees.~~

19 ~~((SMC-s)) Subsections ((4.16.070.1.a)) 4.16.070.A.1 and ((4.16.070.1.b shall)) 4.16.070.A.2 do~~
20 ~~not apply to other members of advisory committees. This subsection ((6)) 7-G ((shall)) instead~~
21 ~~((apply)) applies to all other members of advisory committees. No member of an advisory~~
22 ~~committee to whom this subsection applies shall:~~

24 ~~((a)) 1. Have a financial interest, direct or indirect, personally or~~
25 ~~through a member of his or her immediate family, in any matter upon which the member would~~

1 otherwise act or participate in the discharge of his or her official duties, and fail to disqualify
2 himself or herself from acting or participating in the matter.

3 ~~((b))—2).~~ Engage or have engaged in any transaction or activity
4 which would to a reasonable person appear to be in conflict with or incompatible with the proper
5 discharge of official duties, or which would to a reasonable person appear to impair the
6 member's independence of judgment or action in the performance of official duties, without fully
7 disclosing on the public record of the advisory committee the circumstances of the transaction or
8 activity giving rise to such an appearance ~~((prior to))~~ before engaging in the performance of such
9 official duties. Such a member shall also file with the Commission a full written disclosure of the
10 circumstances giving rise to such an appearance ~~((prior to))~~ before engaging in such official
11 duties. If such prior written filing is impractical, the member shall file such a disclosure as soon
12 as practical.
13
14

15 **Section 14.-** Section 3.70.010 of the Seattle Municipal Code, last amended by
16 Ordinance 116005, is amended as follows:

17 3.70.010 Commission established ~~—Purpose— ((P))purpose((-))~~
18 ~~((There is hereby established a))~~ The Seattle Ethics and Elections Commission is
19 established to administer the City's Code of Ethics (Chapter 4.16); to administer the Election
20 Campaign Code and its campaign matching fund program (Chapter 2.04); to publish the City's
21 election pamphlets (Chapter 2.14~~((;)))~~ and to administer the ~~((political sign ordinance (Chapter~~
22 ~~2.24) and to investigate certain complaints of improper governmental action under the~~
23 ~~whistleblower protection ordinance))~~ Whistleblower Protection Code ~~((((SMC))~~ Sections
24 ~~4.20.800 through ((4.20.860))~~ 4.20.880).
25
26
27
28

1 **Section 15.** ~~Section~~ Subsection 3.70.100.A of the Seattle Municipal Code, which
2 section was last amended by Ordinance ~~116005~~123361, is amended as follows:

3 3.70.100 Powers and duties ~~((:))~~

4 The Commission shall have the following powers:

5 A. To administer the City's Code of Ethics ~~(((Code))~~ Chapter 4.16); the Election
6 Campaign Code and its campaign matching fund program ~~(((Code))~~ Chapter 2.04); the City's
7 election pamphlet ordinance ~~(((Code))~~ Chapter 2.14); the lobbying disclosure ordinance
8 ~~(((Code))~~ Chapter 2.06 ((; the political sign code (Code Chapter 2.24);)) and the
9 ~~((whistleblower protection ordinance))~~ Whistleblower Protection Code ~~(((SMC))~~ Sections
10 ~~(((4.20.800))~~ 4.20.800 through ~~((4.20.860))~~ 4.20.880 inclusive) ~~((insofar as violations of the Code~~
11 ~~of Ethics or elections ordinance may be involved))~~ (called collectively "Commission-
12 administered ordinances"):");
13

14 ~~B. To publish the election pamphlet (Code Chapter 2.14); to maintain as a public record reports~~
15 ~~required by the City's election campaign code (SMC Sections 2.04.150 through 2.04.290) and~~
16 ~~publish data; to enforce limitations on campaign contributions (SMC Sections 2.04.340 through~~
17 ~~2.04.350); to execute campaign contracts, disburse campaign matching funds (SMC Sections~~
18 ~~2.04.400 through 2.04.470), and seek recovery thereof if funds are due the City (SMC Sections~~
19 ~~2.04.450 through 2.04.510); to solicit and accept donations for the campaign matching fund~~
20 ~~account; and to promulgate forms for employee statements of economic interest and maintain~~
21 ~~files for their public inspection (SMC Section 4.16.080);~~
22
23
24
25
26
27
28

1 ~~C. To promulgate, amend and rescind rules and regulations in accordance with the City's~~
2 ~~Administrative Code (Code Chapter 3.02) in order to carry out the Commission administered~~
3 ~~ordinances, and to establish its own procedures;~~

4 ~~D. To authorize investigations, hold hearings, and make findings on violations or alleged~~
5 ~~violations of any Commission administered ordinances; to consider complaints, inquiries, and to~~
6 ~~initiate its own proceedings; to render advisory opinions; to publish informative publications and~~
7 ~~conduct educational programs as to Commission administered ordinances;~~
8

9 ~~E. In its discretion, to delegate to the Office of the Hearing Examiner the fact finding in a case~~
10 ~~and to review and revise the recommended decision of the Hearing Examiner as to the~~
11 ~~interpretation and application of Commission administered ordinances;~~
12

13 ~~F. To administer oaths and affirmations, examine witnesses, and compel attendance of persons,~~
14 ~~and production of documents, papers, books, accounts, letters, and records by subpoena;~~

15 ~~G. To appoint an Executive Director (SMC Section 3.70.150), subject to confirmation by the~~
16 ~~City Council, and to confirm staff appointed by the Executive Director;~~

17 ~~H. To make expenditures authorized in its annual budget; to retain expert and consultant~~
18 ~~services; to use the services of the City Attorney as deemed appropriate to carry out its functions;~~
19 ~~and to call upon the Director of Finance and Administrative Services and Auditor to assist in~~
20 ~~auditing compliance with campaign contribution limits and eligibility for campaign matching~~
21 ~~funds; and~~
22

23 ~~I. To make recommendations to the City Council for amendments to Commission administered~~
24 ~~ordinances or for new legislation and to comment on the effect of other legislation upon its~~
25 ~~functions or Commission administered ordinances.~~
26

~~Section 16.~~ **Section 16.** Application of Ordinance

The Code sections added or amended by this ordinance are to be applied prospectively only after the effective date of this ordinance. An employee who gained rights, protections or liabilities under the preceding version of SMC 4.20.800 et seq. must proceed under the terms of the those prior code provisions.

This ordinance does not affect any existing right acquired or liability or obligation incurred under the code sections amended or repealed in this ordinance or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

Section 17. Effective Date

This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Section 1.04.020.

Passed by the City Council the ____ day of _____, 2013, and signed by me in open session in authentication of its passage this ____ Day of _____, 2013.

President _____ of the City Council

Approved by me this ____ day of _____, 2013.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

Monica Martinez Simmons, City Clerk

(Seal)