

Title 14

HUMAN RIGHTS¹

This title is intended for those provisions of the Code which relate to the preservation and protection of basic human rights.

Chapters:

- 14.04 Discriminatory Employment Practices
- 14.08 Unfair Housing Practices
- 14.12 Collection of Information for Law Enforcement Purposes

Seattle Municipal code
as adopted in 1980
For current SMC, contact
the Office of the City Clerk

1. Cross-reference: For provisions regarding prevention of discrimination in city contracts, see Chapter 20.44 of this Code.
For provisions regarding relocation assistance for persons displaced by city programs or projects, see Chapter 20.84 of this Code.

Chapter 14.04

DISCRIMINATORY EMPLOYMENT
PRACTICES

Sections:

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- 14.04.200 Effect of other laws.
- 14.04.210 Cooperative agreements.
- 14.04.220 Violation—Penalty.

Statutory Reference: For comparable statutory provisions on employment discrimination, see RCW 49.44.090, 49.60.180 through 49.60.200, 43.01.100 and 28A.02.050.

Severability: If any clause, sentence, paragraph, or part of this chapter, or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter.
(Ord. 102562 § 7, 1973.)

14.04.010 Short title.

This chapter shall constitute the "Seattle Fair Employment Practices Ordinance" and may be cited as such.
(Ord. 102562 § 1, 1973.)

14.04.020 Declaration of policy.

A. It is the policy of the city, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to assure equal opportunity to all persons, free from restrictions because of race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap.

B. The provisions of this chapter shall apply to both private employers and the city, and shall be liberally construed for accomplishment of its policies and purposes; provided that nothing in this chapter shall be construed so as to infringe upon the administrative authority vested in the Civil Service Commission and city departments by the City Charter.

C. Nothing in this chapter shall be deemed to deny any person in any way the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.
(Ord. 103422 § 1, 1974; Ord. 102562 § 2, 1973.)

14.04.030 Definitions.

When used in this chapter, unless the content otherwise requires:

A. "Commission" means the Seattle Human Rights Commission, or the Seattle Women's Commission as the context requires.

B. "Department" means the Department of Human Rights of the city.

C. "Director" means the Director of the Department of Human Rights or the Director of the Office of Women's Rights, as the context requires.

D. "Discrimination," "discriminate," and/or "discriminatory act" means any act, whether by itself or as part of a practice, the effect of which is to differentiate between or among individuals or groups of individuals by reason of race, color, age, sex, marital status, sexual orientation, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based on a

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bona fide occupational qualification reasonably necessary to the normal operation of the particular business, enterprise or employment.

E. "Employee" means any person employed by an employer.

F. "Employer" means any employer who employs four or more persons and includes the head of any department, division or office of the city or their designee and any person acting in the interest of such an employer.

G. "Employment agency" means any person undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer, or place employees for an employer or in employment.

H. "Labor organization" means any organization existing for the purpose of: (1) collective bargaining for or on behalf of employees, (2) dealing with employers concerning grievances, terms or conditions of employment, or (3) other mutual aid or protection in relation to employment.

I. "Party" includes the person charging or making a complaint or upon whose behalf a complaint is made alleging an unfair employment practice, the person alleged or found to have committed an unfair employment practice, the Department of Human Rights, and the Office of Women's Rights.

J. "Person" includes one or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy, and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent or employee, whether one or more natural persons, and further includes any political or civil subdivision or agency or instrumentality of the city.

K. "Respondent" means any person who is alleged or found to have committed an unfair employment practice prohibited by this chapter. (Ord. 105423 § 1, 1976; Ord. 103422 § 2, 1974; Ord. 102562 § 3, 1973.)

14.04.040 Unfair employment practices designated.

It is an unfair employment practice within the city for any:

A. Employer to discriminate against any person with respect to hiring, tenure, promotion, terms, conditions, wages or privileges of employment, or with respect to any matter directly or indirectly related to employment;

B. Employer, employment agency, or labor organization to discriminate by establishing, announcing or following a policy of denying or limiting employment or membership opportunities to any person;

C. Employer, employment agency, or labor organization to print, circulate, or cause to be printed, published or circulated, any statement, advertisement, or publication relating to employment or membership, or to use any form of application therefor, which indicates any preference, limitation, specification, or discrimination based upon race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, enterprise or employment; provided that nothing in this chapter shall prevent an employer from ascertaining and recording data as to race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap whether before or after employment, for the purpose of making reports specifically required by agencies of federal, state or local government for the purpose of eliminating and preventing discrimination or overcoming its effects, or for other purposes authorized by state law or the rules and regulations of the Washington State Human Rights Commission;

D. Employment agency to discriminate against any person with respect to any reference for employment, assignment as to job classification or otherwise;

E. Labor organization to discriminate against any person by limiting, segregating, or classifying its membership in any way that would:

1. Deprive or tend to deprive any person of employment opportunities,

2. Limit any person's employment opportunities or otherwise adversely affect such person's status as an applicant for employment or as an employee,

3. Adversely affect the wages, hours, or conditions of employment of any person;

F. Employer, employment agency, or labor organization to penalize or discriminate in any manner against any individual because he/she has opposed any practice forbidden by this chapter or because he/she has made a charge,

testified or assisted in any manner in any investigation, proceeding, or hearing initiated under the provisions of this chapter;

G. Employer, employment agency, labor organization, or any joint labor-management committee controlling apprentice training programs to discriminate against any person with respect to admission to or participation in any guidance program, apprenticeship training program or other occupational training program;

H. Publisher, firm, corporation, organization, or association printing, publishing or circulating any newspaper, magazine or other written publication, to print or cause to be printed or circulated any advertisement with knowledge that the same is in violation of subsection C of this section, or to segregate and separately designate advertisements as applying only to men and women unless as to any such advertisement, sex is a bona fide occupational qualification reasonably necessary to the particular business or employment;

I. Person to:

1. Knowingly and wilfully aid, abet, incite, compel, or coerce the doing of any act declared in this chapter to be an unfair employment practice; provided that this subparagraph I 1 shall have no application to any act declared to be an unfair employment practice under subsection H of this section,

2. Obstruct or prevent any person from complying with the provisions of this chapter,

3. Attempt directly or indirectly to commit any act declared by this section or Sections 14.04.050 or 14.04.060 to be an unfair employment practice.

(Ord. 107759 § 1(part), 1978: Ord. 105423 § 2(part), 1976: Ord. 103422 § 3(part), 1974: Ord. 102562 § 4(A), 1973.)

14.04.050 Applicability of provisions relating to age discrimination.

The provisions of Section 14.04.040 insofar as they declare discrimination on the basis of age to be an unfair employment practice shall not be applicable with respect to individuals who are under forty or over sixty-five years of age except that the provisions of Section 14.04.040 shall be applicable with respect to applicants for employment with, or to employees of, the city who are over sixty-five years of age.

(Ord. 107759 § 1(part), 1978: Ord. 105423 § 2(part), 1976: Ord. 103422 § 3(part), 1974: Ord. 102562 § 4(B), 1973.)

14.04.060 Applicability of provisions relating to handicap discrimination.

The provisions of Section 14.04.040 insofar as they declare discrimination on the basis of the presence of any sensory, mental or physical handicap to be an unfair employment practice, shall not apply if the particular disability prevents the proper performance of the particular worker involved.

(Ord. 107759 § 1(part), 1978: Ord. 105423 § 2(part), 1976: Ord. 103422 § 3 (part), 1974: Ord. 102562 § 4(C), 1973.)

14.04.070 Complaint—Filing.

A. A complaint alleging an unfair employment practice shall be in writing and signed by the charging party, describing the unfair employment practice complained of and must be filed within six months of the occurrence of the alleged unfair employment practice by:

1. Any person, or the person's attorney, when the person claims to be aggrieved by an unfair employment practice;

2. Any Commission or Director as defined in Section 14.04.030 whenever any such Commission or Director has reason to believe that any person has been engaged or is engaging in an unfair employment practice;

3. A state or federal agency concerned with discrimination in employment whenever any such agency has reason to believe that an unfair employment practice has been or is being committed;

4. Any labor organization which has reason to believe that an unfair employment practice has been or is being committed.

B. Complaints pertaining solely to race, color, creed, religion, ancestry, national origin, political ideology, age or the presence of any sensory, mental or physical handicap, shall be filed with the Department of Human Rights which shall have primary enforcement responsibility with respect thereto; complaints pertaining solely to sex, marital status or sexual orientation shall be filed with the Office of Women's Rights which shall have primary enforcement responsibility with respect thereto; provided that a complaint alleging more than one or a combination of such factors may be filed with the office, department or division having jurisdiction over any one of such factors. In such case the receiving office, or department shall, promptly and before investigation, notify any other office, division or department wherein the complaint could

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have been filed that the complaint has been received and provide a copy thereof upon request. (Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(A), 1973.)

14.04.080 Complaint—Failure to include all information—Amendments.

A complaint shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the informational requirements necessary for processing. The charging party may amend a complaint in any respect before notice of hearing on the matter and thereafter may amend the complaint only with permission of the Hearing Examiner which permission shall be granted when justice will be served thereby and all parties are allowed time to prepare their case with respect to additional or expanded charges which they did not and could not have reasonably foreseen would be in issue at the hearing. (Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(B), 1973.)

14.04.090 Complaint—Investigation.

After the filing of a complaint, the Director or in case of joint enforcement responsibility, the Director of Human Rights, jointly with the Director of the Office of Women's Rights, shall serve notice of the complaint (including the date, place and circumstances of the alleged unlawful practice) on the respondent and shall make an investigation thereof. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or is not reasonable cause for believing that an unfair practice has been or is being committed. (Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(C), 1973.)

14.04.100 Finding of no reasonable cause—Appeal or dismissal.

If the finding is made that there is no reasonable cause, the finding shall be furnished to the charging party and to the respondent. Within thirty days after receipt of the finding, the charging party shall have the right to appeal such finding to the appropriate commission by filing

a written statement of appeal with it. In the event that no appeal is taken or such appeal is unsuccessful, the complaint shall be dismissed. (Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1 (part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(D), 1973.)

14.04.110 Finding of reasonable cause—

Conciliation—Settlement agreement.

If the finding is made initially or on appeal that reasonable cause exists to believe that an unfair employment practice has occurred, the Director shall endeavor to eliminate the unfair practice by conference, conciliation and persuasion which may include as a condition of settlement the elimination of the unfair employment practice, hiring, reinstatement or upgrading with or without back pay, admittance or restoration to membership in a labor organization, admittance to participation in a guidance, apprentice training or retraining program, or such other requirements as may lawfully be agreed upon by the parties, and the Director. Any settlement agreement shall be reduced to writing and signed by the respondent. An order shall then be entered by the Director setting forth the terms of the agreement. Copies of such order shall be delivered to all affected parties and the original thereof filed with the City Clerk. If no agreement can be reached, a finding to that effect shall be made and reduced to writing with a copy thereof furnished to the charging party and the respondent.

(Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(E), 1973.)

14.04.120 Failure to reach agreement—Hearing notification.

In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of a finding to that effect, the complaint and any and all findings made, shall be certified by the Director to the Office of the Hearing Examiner for hearing. The Director shall then cause to be issued and served in the name of the appropriate Commission or Commissions written notice of hearing to all parties as provided by law.

(Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1 (part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(F)(part), 1973.)

14.04.130 Hearing—Generally.

The hearing shall be conducted by a Hearing Examiner from the Office of Hearing Examiner, or by a Deputy Hearing Examiner or by a Hearing Examiner pro tempore appointed by the Hearing Examiner. In order to promote uniformity of rules and procedures for hearings, the Hearing Examiner shall conduct the hearing in accordance with written rules and procedures consistent with this chapter and the Administrative Code¹ of the city.

(Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(F)(part), 1973.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

14.04.140 Hearing panel—Appointment—Conflict of interest or bias.

A. The President of the appropriate Commission, or where joint enforcement responsibility is involved, the President of the Human Rights Commission jointly with the President of the Women's Commission as the case requires, may appoint a hearing panel of not more than three persons, with the majority determined by the nature of the complaint, who may attend the hearing but not participate in the proceedings.

B. In selecting the hearing panel, the President shall not appoint persons who are current members of the Commission or who are employees or agents of any department or agency involved in the case. No person shall be appointed as a member of the hearing panel who has a conflict of interest or who has exhibited any bias or prejudice in the case.

(Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(F)(part), 1973.)

14.04.150 Hearing Examiner or hearing panel—Decision or recommendation.

A. Within such period as may be fixed by rule, the Hearing Examiner presiding at the hearing shall prepare a written decision if there is no hearing panel, or a written recommendation if a panel has been appointed. The decision or recommendation shall be filed as a public record and copies thereof mailed to each party and to other interested persons. Such decision or recommendation shall contain a brief summary

of the evidence considered and shall state the Hearing Examiner's findings of fact and conclusions of law upon which such decision or recommendation is based, together with a brief statement of the Hearing Examiner's reasons therefor. If the Hearing Examiner has prepared a recommendation it shall be in the form of a proposed decision which may be adopted by the hearing panel as its decision in the case.

B. When a hearing panel has been appointed, such hearing panel shall make the final decision within thirty days after receipt of, and upon full consideration of, the proposed decision of the Hearing Examiner as provided in the Administrative Code of the city (Ordinance 102228).¹ The hearing panel shall set a date for consideration of the proposed decision, and shall give notice thereof to all parties not later than ten days prior to such date. The Hearing Examiner's findings of fact shall not be set aside by the hearing panel unless clearly contrary to the weight of the evidence.

(Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(F)(part), 1973.)

1. Editor's Note: The Administrative Code is codified in chapter 3.02 of this Code.

14.04.160 Finding of unfair employment practice—Issuance of order—Penalty.

A. In the event the Hearing Examiner or, in the case of a decision by the hearing panel, the hearing panel shall determine that a respondent has been engaged in or is engaged in any unfair employment practice, the Director shall issue in the name of the Commission and cause to be served on the parties an order setting forth the decision and reasons therefor and requiring the respondent to cease and desist from such unfair practice or practices and to take such appropriate affirmative action, including but not limited to hiring, reinstatement or upgrading with or without back pay, admit to participation in a guidance, apprentice training or retraining program, or to take such other action as in the judgment of the Hearing Examiner or hearing panel will effectuate the purposes of this chapter which may include the requirement for report on the matter of compliance.

B. In the event the Hearing Examiner or the hearing panel finds that the respondent intentionally or knowingly committed any unfair

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employment practice, the Director in the name of the appropriate Commission may further order the respondent to pay a penalty of up to Five Hundred Dollars (\$500.00), which penalty shall be paid to the City Treasurer for deposit in the City General Fund.

(Ord. 106475 § 1 (part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(G), 1973.)

14.04.170 Failure or refusal to comply—Enforcement procedure.

In the event the respondent refuses or fails to comply with any order of a Director, the Director shall certify the case and the entire record of its proceedings to the City Attorney, who shall invoke the aid of the appropriate court to secure enforcement or compliance with the order, or to impose the penalties as set forth in Section 14.04.220, or both; Provided that in any case in which the order is directed to the city, or to any department, division, board or agency thereof, a copy of such order shall be transmitted to the Mayor who shall take appropriate action to secure compliance therewith.

(Ord. 106475 § 1 (part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(H), 1973.)

14.04.180 Aid of city departments.

The Department and the Office of Women's Rights in the performance of their functions may enlist the aid of all departments of city government, and all the departments are directed to fully cooperate therewith.

(Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(I), 1973.)

14.04.190 Aid of City Council.

The Department and the Office of Women's Rights, in carrying out the specific duties imposed by this chapter, may request the aid of the City Council through its proper committee in the conduct of any further investigation and enforcement.

(Ord. 106475 § 1(part), 1977: Ord. 105423 § 3(part), 1976: Ord. 104095 § 1(part), 1974: Ord. 103422 § 4(part), 1974: Ord. 102562 § 5(J), 1973.)

14.04.200 Effect of other laws.

Nothing in this chapter shall invalidate or restrict any right or remedy of any charging party or respondent under state or federal law nor preclude such party from seeking judicial review of any final administrative decision or order made thereunder.

(Ord. 105423 § 5(part), 1976: Ord. 102562 § 5A, 1973.)

14.04.210 Cooperative agreements.

Nothing in this chapter shall be interpreted to prevent the receiving, referring, or other processing of complaints, in accordance with a cooperative agreement with the Washington State Human Rights Commission or with other agencies concerned with the enforcement of laws against discrimination.

(Ord. 105423 § 5 (part), 1976: Ord. 102562 § 5B, 1973.)

14.04.220 Violation—Penalty.

Any person who shall knowingly or wilfully engage in an unfair practice under this chapter or who shall knowingly and wilfully resist, prevent, impede or interfere with a Director, Hearing Examiner or hearing panel in the performance of duties pursuant to this chapter, or who shall fail, refuse, or neglect to comply with any lawful decision or order of a Director, Hearing Examiner or hearing panel, or any person who knowingly makes a false complaint under this chapter shall be subject to a civil penalty of not more than Five Hundred Dollars (\$500.00) for each such violation in addition to any other penalty, sanction, injunction or remedial decree imposed by order of any court.

(Ord. 105423 § 4, 1976: Ord. 102562 § 6, 1973.)

Chapter 14.08

UNFAIR HOUSING PRACTICES¹

Sections:

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14.08.050 Refusal or failure to list or show property.

- 14.08.060 Discrimination in application for financial assistance.
- 14.08.070 Unfair inquiries, advertisements or harassment.
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- 14.08.090 Denial of rights granted under this chapter—Prohibited.
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- 14.08.130 Finding of no reasonable cause—Appeal.
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- 14.08.160 Finding of unfair housing practice—Issuance of order—Penalty.
- 14.08.170 Refusal to comply with order—Aid of court in enforcement.
- 14.08.180 Aid of city departments.
- 14.08.190 Effect of other laws.
- 14.08.200 Cooperative agreements.
- 14.08.210 Exclusions.
- 14.08.220 Violation—Penalty.

Statutory Reference: For comparable statutory provisions on housing discrimination, see RCW 49.60.222 et seq.

1. Cross-reference: For provisions regarding the duties of owners and tenants, see Chapter 22.206 of this Code.

14.08.010 Short title and purposes.

This chapter shall be known as and may be cited as the "Open Housing Ordinance." The general purposes of this chapter are to promote the availability and accessibility of housing and real property to all persons; to prohibit discriminatory practices in real property transactions, whether direct or indirect, which inexcusably and unjustifiably deny those persons equal rights and opportunities in acquiring or disposing of real property; and to provide enforcement mechanisms for the accomplishment of such purposes; and to these ends the provisions of this chapter shall be liberally construed. (Ord. 104839 § 1, 1975.)

14.08.020 Definitions.

Definitions as used in this chapter, unless additional meaning clearly appears from the context, shall have the meanings subscribed:

A. "Charging party" means any person alleging an unfair housing practice under this chapter.

B. "Commission" means the Seattle Human Rights Commission or the Seattle Women's Commission, as the context requires.

C. "Department" means the Department of Human Rights of the city.

D. "Director" means the Director of Human Rights or the Director of the Office of Women's Rights as the context requires.

E. "Discriminate" means any conduct, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation or political ideology.

F. "Dwelling" includes any building containing one or more dwelling units.

G. "Dwelling unit" includes a suite of rooms for occupancy by one family containing space for living, sleeping and preparation of food, and containing toilet and bathing facilities.

H. "Housing accommodations" includes any dwelling or dwelling unit, rooming unit, roominghouse, lot or parcel of land in the city which is used, intended to be used, or arranged or designed to be used as, or improved with, a residential structure for one or more human beings.

I. "Lender" includes any bank, insurance company, savings or building and loan association, credit union, trust company, mortgage company, or other person or agent thereof, engaged wholly or partly in the business of lending money for the financing or acquisition, construction, repair or maintenance of real property.

J. "Occupant" includes any person who has established residence or has the right to occupancy of real property.

K. "Owner" includes persons who own, lease, sublease, rent, operate, manage, have charge of, control or have the right of ownership, possession, management, charge, or control of real property on their own behalf or on behalf of another.

L. "Parental status" means being a parent, stepparent, adoptive parent, guardian, foster

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parent or custodian of a minor child or children, which child or children shall permanently or temporarily occupy the real estate.

M. "Party" includes the person charging or making a complaint or upon whose behalf a complaint is made alleging an unfair practice, the person alleged or found to have committed an unfair practice, the Department of Human Rights and the Office of Women's Rights.

N. "Person" includes one or more individuals, partnerships, organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers. It includes any owner, lessee, proprietor, manager, agent or employee, whether one or more natural persons, and further includes any political or civil subdivisions or agency or instrumentality of the city.

O. "Political ideology" means any idea or belief, or coordinated body of ideas or beliefs, relating to the conduct, organization, function or basis of government and related institutions and activities, whether or not characteristic of any political party or group. This term includes membership or participation in the activities of a group with shared political ideology, provided such membership or participation does not involve force or violence or produce or incite imminent force or violence toward persons or property.

P. "Prospective borrower" includes any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of real property.

Q. "Prospective occupant" includes any person who seeks to purchase, lease, sublease or rent real property.

R. "Real estate agent, salesperson or employee" includes any person employed by, associated with or acting for a real estate broker to perform or assist in the performance of any or all of the functions of a real estate broker.

S. "Real estate broker" includes any person who for a fee, commission, or other valuable consideration, lists for sale, sells, purchases, exchanges, leases or subleases, rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease or rental of real property of another, or holds themselves out as engaged in the business of selling, purchasing, exchanging, listing, leasing, subleasing, or renting real property of another, or collects the rental for use of real property of another.

T. "Real property" includes housing accommodations, buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

U. "Respondent" means any person who is alleged to have committed an unfair practice prohibited by this chapter.

V. "Rooming unit" includes one or more rooms within a dwelling unit or roominghouse containing space for living and sleeping.

W. "Sexual orientation" means male or female heterosexuality, bisexuality or homosexuality, and includes a person's attitudes, preferences, beliefs and practices pertaining to sex, but shall not include conduct which is unlawful under city, state or federal law.

(Ord. 108205 § 1, 1979; Ord. 104839 § 2, 1975.)

14.08.030 Unfair practices prohibited.

Unfair practices as defined in Sections 14.08.040 through 14.08.090 regarding real property are contrary to the public peace, health, safety and general welfare and are prohibited by the city in the exercise of its police power.

(Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(1), 1975.)

14.08.040 Unfair practices—Generally.

No owner, assignee, real estate broker, real estate agent, salesperson or employee, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of real property shall discriminate by undertaking or refusing to sell, rent, lease, sublease, assign, transfer or otherwise deny to or withhold from any person or group of persons such real property, or segregate the use thereof, or represent that such real property is not available for inspection, when in fact it is so available, or expel or evict an occupant from real property because of the race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status or political ideology of such a person or persons, or discriminate against or segregate any person because of such person's race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status or political ideology in the terms, conditions or privileges of the sale, rental, lease,

sublease, assignment, transfer or other disposition of any such real property, including but not limited to the setting of rates for rental or lease, or the establishment of damage deposits, or other financial conditions for rental or lease, or in the furnishing of facilities or services in connection therewith.

(Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(2), 1975.)

14.08.050 Refusal or failure to list or show property.

No real estate broker or real estate agent, salesperson or employee shall because of race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status or political ideology of an occupant, purchaser, prospective occupant, or prospective purchaser:

A. Refuse or intentionally fail to list or discriminate in listing real property for sale, rent, lease or sublease;

B. Refuse or intentionally fail to show a prospective occupant real property listed for sale, rental, lease or sublease;

C. Refuse or intentionally fail to accept and/or transmit to an owner any reasonable offer to purchase, lease, rent or sublease real property;

D. Otherwise discriminate against an occupant, prospective occupant, purchaser or prospective purchaser of real property.
(Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(3), 1975.)

14.08.060 Discrimination in application for financial assistance.

No lender, or any agent or employee thereof, to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, or maintenance of any real property shall:

A. Discriminate against any person, prospective occupant or tenant of real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of, any such financial assistance, or in the extension of services in connection therewith; or

B. Use any form of application for such financial assistance or make any record of inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination because of race, color, religion,

ancestry, national origin, sex, marital status, sexual orientation or political ideology, unless required or authorized by local, state or federal laws or agencies for the purpose of preventing discrimination in real property; provided that nothing in this provision shall prohibit any party to a credit transaction from requesting designation of marital status for the purpose of considering application of community property law to the individual case or from taking reasonable action thereon.

(Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(4), 1975.)

14.08.070 Unfair inquiries, advertisements or harassment.

No owner, real estate agent, salesperson or employee, real estate broker, or any other person shall:

A. Require any information, make or keep any record, or use any form of application containing questions or inquiries concerning race, color, religion, ancestry, national origin, sex, marital status, sexual orientation or political ideology in connection with the sale, rental, lease, or sublease of any real property unless used solely for making reports required by agencies of the federal, state or local government for the purposes of preventing and eliminating discrimination or of overcoming its effects or for other purposes authorized by federal, state or local agencies or laws or rules adopted thereunder, and as to "marital status," for the purpose of determining applicability of community property law to the individual case;

B. Publish, circulate, issue or display or cause to be published, circulated, issued or displayed, any communication, notice, advertisement, or sign of any kind relating to the sale, rental, lease, sublease, assignment, transfer, or listing of real property which indicate any preference, limitation or specification based on race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status or political ideology;

C. Aid, abet, incite, compel or coerce the doing of any act defined in this chapter as an unfair practice; or intimidate, harass, retaliate, obstruct, or discriminate against a person in any manner because such person has complied or proposes to comply with provisions of this chapter or has filed a complaint, testified, or assisted in any proceeding under this chapter, or any order issued thereunder, or attempt, either

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directly or indirectly, to commit any act defined in this chapter to be an unfair practice or apply any economic sanctions or deny any membership privileges because of compliance with the provisions of this chapter.

(Ord. 108205 § 2 (part), 1979; Ord. 104839 § 3(5), 1975.)

14.08.080 Unfair inducement to sell or rent— Steering persons to particular areas.

No owner, real estate agent, salesperson or employee, real estate broker, or any other person, shall for profit:

A. Promote, induce or attempt to promote or induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood or area of a person or persons of a particular race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status or political ideology;

B. Show or otherwise take any action, the design or effect of which is to steer a person or persons to any section of the city or to particular real property in a manner tending to segregate or maintain segregation on the basis of race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status or political ideology.

(Ord. 108205 § 2 (part), 1979; Ord. 104839 § 3(6), 1975.)

14.08.090 Denial of rights granted under this chapter—Prohibited.

No person, whether or not acting for profit, shall harass, intimidate, or otherwise abuse or discriminate against any person or any person's friends or associates because of the race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status or political ideology of such person or persons or their friends or associates with the purpose or effect of denying to such person or persons the rights granted in this chapter or the right to quiet or peaceful possession or enjoyment of any real property.

(Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(7), 1975.)

14.08.100 Complaint—Filing.

A. A complaint alleging an unfair housing practice shall be in writing and signed by the charging party, describing the unfair housing practice complained of, and must be filed within

six months of the occurrence of the alleged unfair housing practice by:

1. Any person, or the person's attorney, when the person claims to be aggrieved by an unfair housing practice;

2. Any Commission or Director, as defined in Section 14.08.020, whenever any such Commission or Director has reason to believe that an unfair housing practice has been or is being committed;

3. A state or federal agency or private organization concerned with discrimination in housing, whenever it has reason to believe that an unfair housing practice has been or is being committed.

B. Complaints pertaining solely to race, color, creed, religion, ancestry, national origin, age, or political ideology shall be filed with the Department of Human Rights which shall have primary enforcement responsibility with respect thereto; and complaints pertaining solely to sex, marital or parental status or sexual orientation shall be filed with the Office of Women's Rights which shall have primary enforcement responsibility with respect thereto; provided that a complaint alleging more than one or a combination of such factors may be filed with the department or office having jurisdiction over any one of such factors. In such case the receiving office or department shall, promptly and before investigation, notify any other office or department wherein the complaint could have been filed that the complaint has been received and provide a copy thereof upon request.

(Ord. 108205 § 3 (part), 1979; Ord. 106476 § 1(part), 1977; Ord. 104839 § 4(1), 1975.)

14.08.110 Complaint—Failure to include all information—Amendments.

A complaint shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the information requirements necessary for processing. The charging party may amend a complaint in any respect before notice of hearing on the matter, and thereafter may amend a complaint only with permission of the Hearing Examiner, which permission shall be granted when justice will be served thereby, and all parties are allowed time to prepare their case with respect to additional or expanded charges which they did not and could not have reasonably foreseen would be in issue at the hearing. (Ord. 108205 § 3(part), 1979; Ord. 106476 § 1 (part), 1977; Ord. 104839 § 4(2), 1975.)

14.08.120 Notice of complaint—Investigation—Findings of fact.

After the filing of a complaint, the Director or in case of joint enforcement responsibility, the Director of Human Rights jointly with the Director of the Office of Women's Rights as the complaint requires, shall serve notice of the complaint (including the date, place and circumstances of the alleged unlawful practice) on the respondent and shall make an investigation thereof. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or is not reasonable cause for believing that an unfair practice has been or is being committed.
(Ord. 108205 § 3(part), 1979: Ord. 106476 § 1(part), 1977: Ord. 104839 § 4(3), 1975.)

14.08.130 Finding of no reasonable cause—Appeal.

If a finding is made that there is no reasonable cause, the finding shall be furnished to the charging party and to the respondent. Within thirty days after receipt of the finding, the charging party shall have the right to appeal such finding to the Commission having hearing responsibilities by filing a written statement of appeal with it. In the event that no appeal is taken or such appeal is unsuccessful, the complaint shall be dismissed.
(Ord. 108205 § 3(part), 1979: Ord. 106476 § 1(part), 1977: Ord. 104839 § 4(4), 1975.)

14.08.140 Finding of reasonable cause—Conciliation—Settlement agreement.

If the finding is made initially or on appeal that reasonable cause exists to believe that an unfair housing practice has occurred, the Director shall endeavor to eliminate the unfair practice by conference, conciliation and persuasion which may include as a condition of settlement the elimination of the unfair housing practice, rent refunds or credits, reinstatement to tenancy, affirmative recruiting or advertising measures or such other requirements as may lawfully be agreed upon by the parties and the Director. Any settlement agreement shall be reduced to writing and signed by the respondent. An order shall then be entered by the Director setting forth the terms of the agreement. Copies of such order shall be delivered to all affected parties and the original thereof filed with the City Clerk. If no agreement can be reached, a finding to that effect shall be made

and reduced to writing, with a copy thereof furnished to the charging party and the respondent.
(Ord. 108205 § 3(part), 1979: Ord. 106476 § 1(part), 1977: Ord. 104839 § 4(5), 1975.)

14.08.150 Hearing—Decision.

A. In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of a finding to that effect, the complaint and any and all findings made shall be certified by the Director to the Office of the Hearing Examiner for hearing. The Director shall then cause to be issued and served in the name of the Commission or Commissions having hearing responsibilities written notice of hearing to all parties as provided by law.

B. A hearing shall be conducted by a Hearing Examiner from the Office of Hearing Examiner, if available, or otherwise by a Deputy Hearing Examiner or by a Hearing Examiner pro tempore appointed by the Hearing Examiner. In order to promote uniformity of rules and procedures for hearings, the Hearing Examiner shall, with the advice of the Director of the Department of Human Rights and the Director of the Office of Women's Rights, and with the approval of their respective Commissions, within sixty days of passage of the ordinance codified in this chapter, present to the City Council written rules and procedures for the conduct of hearings consistent with this chapter and the Administrative Code of the city (Ordinance 102228).² Until such formal rules are adopted, the Hearing Examiner may use such rules as may be approved by the appropriate Director(s).

C. The President of the Commission, or where joint enforcement responsibility is involved, the President of the Human Rights Commission jointly with the President of the Women's Commission as the case requires, may appoint a hearing panel of not more than three persons, with the majority determined by the nature of the complaint, who may attend the hearing but not participate in the proceedings.

D. In selecting the hearing panel, the President will not appoint persons who are current members of the Commission or who are employees or agents of any department or agency involved in the case. Care must also be exercised to determine that no member of the hearing panel has a conflict of interest or has exhibited any bias or prejudice in the case.

E. Within such period as may be fixed by rule, the Hearing Examiner presiding at the

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hearing shall prepare a written decision if there is no hearing panel, or a written recommendation of a panel if one has been appointed. The decision or recommendation shall be filed as a public record and copies thereof mailed to each party and to other interested persons. Such decision or recommendation shall contain a brief summary of the evidence considered and shall state the Hearing Examiner's findings of fact and conclusions of law upon which such decision or recommendation is based, together with a brief statement of the Hearing Examiner's reasons therefor. If the Hearing Examiner has prepared a recommendation it shall be in the form of a proposed decision which may be adopted by the hearing panel as its decision in the case.

F. When a hearing panel has been appointed they will make the final decision within thirty days after receipt of, and upon full consideration of, the proposed decision of the Hearing Examiner as provided in the Administrative Code (Ordinance 102228).² The hearing panel shall set a date for consideration of the proposed decision, and shall give notice thereof to all parties not later than ten days prior to such date. The Hearing Examiner's findings of fact shall not be set aside by the hearing panel unless clearly contrary to the weight of the evidence.

(Ord. 108205 § 3(part), 1979: Ord. 106476 § 1(part), 1977: Ord. 104839 § 4(6), 1975.)

1. Editor's Note: Ord. 108205 was passed by the Seattle City Council on May 14, 1979.

2. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

14.08.160 Finding of unfair housing practice— Issuance of order—Penalty.

A. In the event the Hearing Examiner or the hearing panel shall determine that a respondent has been engaged in or is engaged in any unfair housing practice, the Director shall issue in the name of the Commission and cause to be served on the parties an order setting forth its decision and reasons therefor and requiring the respondent to cease and desist from such unfair practice or practices and to take such appropriate affirmative action, including but not limited to rent refund or credit, reinstatement to tenancy, affirmative recruiting and advertising measures, or to take such other action as in the judgment of the hearing panel will effectuate the purposes of this chapter which may include the requirement for report on the matter of compliance.

B. In the event the Hearing Examiner or the hearing panel finds that the respondent intentionally or knowingly committed any unfair housing practice, the Director in the name of the Commission may further order the respondent to pay a civil penalty of up to Five Hundred Dollars (\$500.00), which penalty shall be paid to the City Treasurer for deposit in the City General Fund.

(Ord. 108205 § 3(part), 1979: Ord. 106476 § 1(part), 1977: Ord. 104839 § 4(7), 1975.)

14.08.170 Refusal to comply with order— Aid of court in enforcement.

In the event the respondent refuses or fails to comply with any order of the Director, the Director shall certify the case and the entire record of its proceeding to the City Attorney, who shall invoke the aid of the appropriate court to secure enforcement or compliance with the order, or to impose the penalties as set forth in this chapter, or both; Provided that in any case in which the order is directed to the city, or to any department, division, board or agency thereof, a copy of such order shall be transmitted to the Mayor who shall take appropriate action to secure compliance therewith.

(Ord. 108205 § 3(part), 1979: Ord. 106476 § 1(part), 1977: Ord. 104839 § 4(8), 1975.)

14.08.180 Aid of city departments.

The Department and the Office of Women's Rights in the performance of their functions may enlist the aid of all departments of city government, and all said departments are directed to fully cooperate therewith.

(Ord. 108205 § 3(part), 1979: Ord. 106476 § 1(part), 1977: Ord. 104839 § 4(9), 1975.)

14.08.190 Effect of other laws.

Nothing in this chapter shall invalidate or restrict any right or remedy of any charging party or respondent under state or federal law nor preclude such party from seeking judicial review of any final administrative decision or order made under this chapter.

(Ord. 104839 § 5, 1975.)

14.08.200 Cooperative agreements.

Nothing in this chapter shall be interpreted to prevent the receiving, referring, or other processing of complaints in accordance with a cooperative agreement with the Washington State Human Rights Commission as authorized and

mandated by RCW 49.60.226 or with other agencies concerned with the enforcement of laws against discrimination.
(Ord. 104839 § 6, 1975.)

14.08.210 Exclusions.

Nothing in this chapter shall:

A. Apply to the renting, subrenting, leasing or subleasing or a single-family dwelling, duplex or any dwelling in an RS or RD zone converted to multiple use prior to 1957, wherein the owner or person entitled to possession thereof normally maintains, or intends to maintain, a permanent residence, home or abode;

B. Be interpreted to prohibit any person from making a choice among prospective purchasers or tenants of real property on the basis of factors other than race, color, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation or political ideology where such factors are not designed, intended or used to discriminate;

C. Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin;

D. Prohibit any person from limiting the rental or occupancy of housing accommodations in any YWCA, YMCA, sorority, fraternity, school dormitory, or similar residential hall to persons of one sex;

E. Prohibit any person from limiting the rental or occupancy of housing accommodations to persons who are elderly or handicapped in any housing facility designed, constructed or substantially rehabilitated and operated exclusively for the elderly or handicapped;

F. Require any person to rent or lease a housing accommodation to an unemancipated minor;

G. Require any person to rent or lease a housing accommodation in violation of the Housing Code (Ordinance 106319).¹
(Ord. 108205 § 4, 1979: Ord. 104839 § 7, 1975.)

1. Editor's Note: The Housing Code is codified in Title 22 of this Code.

14.08.220 Violation—Penalty.

Any person who shall knowingly or wilfully engage in an unfair practice under this chapter or who shall knowingly and wilfully resist, prevent, impede or interfere with a Director, Hearing Examiner or hearing panel in the performance of duties pursuant to this chapter, or who shall fail, refuse, or neglect to comply with any lawful decision or order of a Director, Hearing Examiner or hearing panel, shall be liable for a civil penalty of up to Five Hundred Dollars (\$500.00) for each such violation in addition to any other penalty, sanction, injunction or remedial decree imposed by order of any court.
(Ord. 104839 § 8, 1975.)

Chapter 14.12

COLLECTION OF INFORMATION FOR LAW ENFORCEMENT PURPOSES

Sections:

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- 14.12.010 Statement of purpose.
- 14.12.020 Policies.
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Subchapter IX Civil Liability, Enforcement and Penalties

- 14.12.350 Civil liability.
- 14.12.360 Liability of officers and employees.
- 14.12.370 Rules and regulations.
- 14.12.380 Department reporting.
- 14.12.390 Administrative penalties.
- 14.12.400 Administrative penalties for supervisors.

Statutory Reference: For comparable or useful statutory provisions regarding the dissemination of criminal records, see RCW 10.97.070; for statutory provisions regarding the disclosure of public records, see RCW Ch. 42.17.

Severability: If any provision of this chapter, or its application to any person or circumstances, is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.
(Ord. 108333 § 41, 1979.)

Subchapter I General Provisions

14.12.010 Statement of purpose.

This chapter shall be interpreted and implemented in a manner to permit the collection and recording of information for law enforcement purposes, so long as these police activities do not unreasonably: (A) infringe upon individual rights, liberties, and freedoms guaranteed by the Constitution of the United States or of the state — including, among others, the freedom of speech, press, association, and assembly; liberty of conscience; the exercise of religion; and the right to petition government for redress of grievances; or (B) violate an individual's right to privacy.

(Ord. 108333 § 1, 1979.)

14.12.020 Policies.

The following policies shall govern the collection and recording of information by departmental personnel:

A. No person shall become the subject of the collection of information on the account of a lawful exercise of a constitutional right or civil liberty; no information shall be collected upon a person who is active in politics or community affairs, unless under the same or similar circumstances the information would be collected upon another person who did not participate actively in politics or community affairs;

B. All information collected shall reasonably appear relevant to the performance of an authorized police function; no information shall be collected or used for political purposes;

C. When a police officer knows of two or more techniques to collect restricted information and each would be equally practical and effective, the officer should use the technique which he reasonably believes will have the least adverse impact upon lawful political and/or religious activity;

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D. Information indexed for ready retrieval, other than correspondence files, shall be reviewed periodically and only that deemed relevant to present and future law enforcement activities or required by law shall be retained;

E. To protect rights of privacy of the citizenry and to preserve the confidentiality of communications, disclosure of information shall be limited to records open for public inspection, to arrest notices and information disclosed to the public for law enforcement purposes, and/or to information needed by: (1) criminal justice agencies in the performance of their official functions; (2) persons with a legitimate interest in the information and persons making inquiry with their consent; (3) persons with a right to disclosure under a statute, implementing regulation, ordinance, or court order; (4) persons conducting research for scientific or law enforcement purposes under assurance of confidentiality; and (5) agencies with regulatory responsibilities for which the information is pertinent; and

F. Disclosure of information from records closed to public inspection shall be limited to those facts and materials reasonably deemed relevant to the purposes for the disclosure, unless the disclosure occurs pursuant to a subpoena or court order, the Public Disclosure Act (RCW Chapter 42.17), the Criminal Records Privacy Act (RCW 10.97.070), or other statute mandating disclosure, or the subject of the information consents to its disclosure. (Ord. 108333 § 2, 1979.)

14.12.030 Definitions.

A. "Auditor" means the person described in Section 14.12.310.

B. "Collect" means to write down or preserve information in a tangible form as a record or file of the Department.

C. "Department" means the Police Department of The City of Seattle.

D. "Departmental personnel" means an officer or employee of the city assigned to the Department, and any individual paid by the city pursuant to vouchers drawn by the Chief of the Department or a fiscal officer assigned to the Department and acting under the direction and control of an officer or employee in the Department.

E. "Infiltrator" means a person acting under the direction of the Department, who is a member or associate — or poses or acts as a member

or associate — of a political or religious organization, an organization formed for the protection or advancement of civil rights or civil liberties, or an organization formed for community purposes, and who agrees to provide or provides information about the organization to the Department on a continuing basis without disclosing his or her relationship to the Department.

F. "Informant" means a person other than an officer or employee of the city assigned to the Department:

1. Who provides information to departmental personnel about a person in consideration of a personal benefit; or

2. Who is engaged, directed, or controlled by the Department.

G. "Person" means any individual, group of individuals, unincorporated association, and/or corporation.

H. "Private sexual information," when not emphasized in Sections 14.12.060, 14.12.070, 14.12.080, and 14.12.090D, means any information about an individual's sexual practices or orientation. When emphasized, it excludes any such information within the scope of Sections 14.12.070 through 14.12.120 dealing with administrative records, incidental references, confidential communications, materials open to public inspection, special investigations, and exclusions, respectively.

I. "Purge" means to return, destroy, or deny use of information by means such as removal to a secure depository with access restricted solely to specific individuals for purposes of defending a lawsuit, complying with a court order, preserving evidence possibly valuable to a defendant in a criminal case or pending commitment proceeding, and auditing compliance with this chapter. "Purge" shall include deletion of information from affected materials and from Department indexes.

J. "Reasonable suspicion" means a rational inference that is based on articulable facts.

K. "Restricted information" when not emphasized in Sections 14.12.060, 14.12.070, 14.12.080, 14.12.090D, 14.12.250, 14.24.350A3, and 14.12.370 means any information within subsections 1 through 3 of this subsection K. When emphasized, it excludes any such information within the scope of Sections 14.12.070 through 14.12.120 dealing with administrative records, incidental references, confidential communications, materials open to

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public inspection, special investigations, and exclusions, respectively. "Restricted information" means information about:

1. An individual's political or religious associations, activities, beliefs, or opinions;

2. The political or religious activities, beliefs, or opinions and the membership, mailing, subscription, or contributor lists of a political or religious organization, an organization formed for the protection or advancement of civil rights or civil liberties, or an organization formed for community purposes; or

3. An individual's membership or participation in such an organization, in a political or religious demonstration, or in a demonstration for community purposes.
(Ord. 108333 § 3, 1979.)

14.12.040 Usages.

A. The singular number includes the plural, unless the context clearly indicates otherwise.

B. The masculine includes the feminine with respect to a particular office or position.

C. Unless otherwise indicated, a reference to a city attorney, a prosecuting attorney, a district attorney, or an attorney general includes any deputy or assistant acting on the official's behalf.

D. The subchapters identified with Roman numerals and the section captions are for convenient reference only and do not limit or modify the substance of the text of this chapter.
(Ord. 108333 § 39, 1979.)

14.12.050 Application.

This chapter shall not affect any action taken prior to its effective date.¹
(Ord. 108333 § 40, 1979.)

1. Editor's Note: Ord. 108333 became effective on January 1, 1980.

Subchapter II Scope—Exemptions and Exclusions

14.12.060 Scope.

A. Those sections of this chapter, controlling the collection, receipt, and/or transmission of information (Sections 14.12.130 through 14.12.240) do not apply to administrative records (Section 14.12.070), incidental references (Section 14.12.080), confidential communications (Section 14.12.090), materials open

to public inspection (Section 14.12.100), special investigations (Section 14.12.110) and the exclusions (Section 14.12.120), as long as Department indexing does not cite any private sexual or restricted information other than information in a proper name, unless specifically authorized by this chapter.

B. Except for the exclusion of Section 14.12.120A1, the policies in Section 14.12.020 apply to the provisions of this chapter. All Department records are subject to audit, unless excluded by Section 14.12.320A1 through A5.
(Ord. 108333 § 4, 1979.)

14.12.070 Administrative records.

Administrative records pertain to Department operations and/or public relations, are comparable in character to files and records maintained by other city departments, and exclude investigatory files of the Department. Examples of administrative records include routine correspondence files; employment and personnel records; jail records on prisoners' religious preferences and customs; information for providing chaplain, escort, and ancillary community services; records of evidence, lost or stolen property, and custodial property inventoried without regard to information content; and itinerary information used for providing security and protection for an official, dignitary, or consenting individual. Indexing may cite private sexual or restricted information only for a valid administrative purpose.
(Ord. 108333 § 5, 1979.)

14.12.080 Incidental references.

Private sexual or restricted information within one of the following classifications may be collected as an incidental reference:

A. The information appears as an incidental reference in a standard report form, in response to a general questionnaire completed by an applicant or witness using his or her own words, or in a more general description or statement;

B. The information forms an incidental part of the statement, verification, or rebuttal of a legal defense that has been raised by a suspect or may reasonably be anticipated; or an incidental part of the activities or associations of a homicide, unconscious, or kidnapped victim during the seventy-two hours immediately preceding an incident or investigation;

C. The information relates to a suspect whose identity is unknown and may not then be indexed by a true name;

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D. The subject of the information supplies the information to known department personnel;

E. The information arises in the course of and is used exclusively for Traffic Code¹ enforcement and traffic safety purposes;

F. The information is part of a recording maintained in connection with incoming emergency calls or a video and/or sound recording authorized by RCW 9.73.090;

G. The information is collected and maintained by the Department Communications Division for use exclusively in connection with emergency calls and is isolated from general Department files;

H. The information appears in records relating to child abuse or protective custody services contemplated by RCW Chapter 26.44; or in confidential records of Community Service Officers used in handling domestic disputes, youth counseling, or like community services; and/or

I. The information appears as part of the text of a printed law enforcement manual, the disclosure of which would be detrimental to effective law enforcement.
(Ord. 108333 § 6, 1979.)

1. Editor's Note: The Traffic Code is codified in Title 11 of this Code.

14.12.090 Confidential communications.

The following communications and materials are confidential:

A. A professional consultation between departmental personnel and a Department psychologist, or between a person detained in the City Jail and a jail physician or other medical personnel when a confidential relationship exists between the participants;

B. A confidential communication between departmental personnel and any legal advisor assigned to the Department or to represent the Department or departmental personnel, as well as memoranda of such communications;

C. A confidential communication between departmental personnel and a chaplain or other religious official; or

D. Information identifying the name of an informant which is privileged from disclosure in a court of law, and information collected about an informant as part of and relevant to a background investigation to determine his or her reliability, provided the informant has consented to its collection. Such a confidential communi-

cation may not contain private sexual information or restricted information about any person other than the informant, except as an incidental reference (Section 14.12.080).
(Ord. 108333 § 7, 1979.)

14.12.100 Materials open to public inspection.

Materials such as the following qualify as materials open to public inspection if any person may examine them during regular Department business hours:

A. Information about anticipated political or religious events — such as parades, processions, rallies, demonstrations, or assemblies contemplated in Chapter 11.25 of this Code, or its successor traffic code — and such material as may be necessary in connection with the events for the direction and control of traffic, to protect the public health and safety, and to secure public liability insurance covering the city, provided that complainant identification information may be kept confidential when required by RCW 42.17.310(1)(e);

B. Information in a reference center or library;

C. Printed literature from a criminal justice agency relating to law enforcement duties that may be obtained pursuant to the public disclosure rules of the Department prepared pursuant to state law; and/or

D. Any arrest circular or "Wanted Poster" received by the Department as part of a general circulation by a governmental agency to law enforcement agencies.
(Ord. 108333 § 8, 1979.)

14.12.110 Special investigations.

Information may be collected in connection with the following special investigations when:

A. The information is collected upon the request of the Attorney General of the state, a prosecuting attorney, a city attorney, or the Department of Justice with respect to a person charged with a crime or ordinance violation, or with respect to a person facing civil commitment after commitment proceedings have been filed, and the information reasonably appears relevant to the investigation or judicial proceedings.

B. The information is collected about a person reasonably suspected of involvement in corruption or malfeasance in office of a governmental official or employee, and the information reasonably appears relevant thereto; and/or

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C. The information is collected about an applicant as part of and relevant to a background investigation of the applicant for employment or promotion with the city or a city license or commission; or the subject of the information has consented in writing to its collection.
(Ord. 108333 § 9, 1979.)

14.12.120 Exclusions.

A. This chapter shall not apply to:

1. Activities by departmental personnel as private citizens not related to their law enforcement functions;

2. The collection of information about police conduct by the Department Internal Investigations Section;

3. The participation of departmental personnel in their official capacities in the city's administrative and legislative processes with respect to Department operations to the same extent and in the same manner as other city departments; or

4. Personal communications to, and personal papers of, the Chief of the Department personally maintained in his own office, provided such materials do not include investigatory information.

B. Nothing in this chapter shall restrict or forbid departmental personnel from complying with a court order.

(Ord. 108333 § 10, 1979.)

Subchapter III Handling Private Sexual Information

14.12.130 Collection and use.

Private sexual information shall not be collected unless the information involves a reported or observed sex crime; an apparent felony where a motivation for the crime may reasonably be suspected to be sexual in origin; a violation of the law that by its nature is commonly related to sexual activity (for example, prostitution, pandering, procuring, lewd conduct, or pornography); or the information is about a subject or fugitive and may reasonably lead to his or her arrest. The private sexual information collected shall reasonably appear relevant to the investigation of unlawful activity or to making an arrest of the subject of the information.

(Ord. 108333 § 11, 1979.)

14.12.140 Receipt and transmission.

A. Unless Section 14.12.130 applies, private sexual information received from another criminal justice or governmental agency shall be purged within the sooner of seven working days or of the placement of other material which was received with the private sexual information into an investigatory file, the commingling of the other material with other Department files and records, or the indexing of the other material in the Department's record system.

B. Private sexual information shall not be transmitted to another criminal justice or governmental agency unless:

1. The recipient agency has a need for the information which satisfies the requirements of Section 14.12.130, or a subpoena, court order, or statutory mandate requires the production of the information; and a log of each written transmission is maintained which contains the name of the subject of the information and the recipient agency; or

2. The information is transmitted to the King County Prosecuting Attorney or the City Attorney in connection with a pending investigation of unlawful activity or a judicial proceeding.

(Ord. 108333 § 12, 1979.)

Subchapter IV Handling Restricted Information for Criminal Investigations

14.12.150 Collecting restricted information.

A. Departmental personnel shall not collect any restricted information for any use other than for dignitary protection without an authorization by a unit commander of the rank of lieutenant or above; provided, when time is of the essence, departmental personnel may collect restricted information under the condition that it shall be purged within twenty-four hours unless an authorization for its collection is granted.

B. An investigating officer may secure an authorization under this section from a lieutenant or higher ranking officer who is in his or her chain of command or has supervision over the investigation. The authorization may adopt a written request from a prosecuting attorney, a city attorney, the Attorney General of the state, or the Attorney General of the United States made in the court of and for performance of the duties of their respective offices.

C. Such an authorization may be granted only when:

1. There is a reasonable suspicion that the subject of the **restricted information** has engaged in, is engaging in, or is about to engage in unlawful activity, or that the **restricted information** about the subject may reasonably lead to his or her arrest, or that the **restricted information** is collected about a victim or witness for the purpose of discovering his or her knowledge or evaluating his or her reliability;

2. The **restricted information** to be collected appears relevant to the investigation of the suspected unlawful activity described in subsection C1 of this section, or appears relevant to making an arrest of the subject of the **restricted information**; and

3. The collection of the **restricted information** is consistent with the statement of purpose, policies, and other provisions of this chapter.

D. No informant or infiltrator may be used to collect **restricted information** about a victim or witness. **Restricted information** about a victim or witness may not be indexed under his or her name.

E. When time is of the essence, an authorization may be requested and given orally, but the authorization shall be reduced to writing within two business days.

F. Notice of each authorization shall be given to the Auditor.

G. Authorizations shall be in effect for no more than ninety days.

(Ord. 108333 § 13, 1979.)

14.12.160 Contents of an authorization.

A unit commander or higher ranking officer of the Department shall include in the written authorization his or her opinion that the criteria in Section 14.12.150 are satisfied, as well as the following information:

A. The identity of the subject about whom the **restricted information** will be collected, if known;

B. The violation of law under investigation to which the **restricted information** is deemed relevant and, in the event that the violation of law has not yet occurred, the approximate date of the violation, if known;

C. An explanation of the **restricted information** likely to be sought and its relevance to the violation of law or the arrest of the subject;

D. A statement of the facts and circumstances creating a reasonable suspicion that the subject of the **restricted information** has engaged in, is engaging in, or is about to engage in unlawful activity, or that **restricted information** may lead to the subject's arrest; or if the **restricted information** concerns a victim or witness, the facts and circumstances creating a reasonable suspicion that the victim or witness has information about the particular incident under investigation, and an explanation of why collection of the **restricted information** is deemed necessary;

E. If an informant or infiltrator will be used to gather **restricted information**, the reasons why the use of an informant or infiltrator is deemed necessary for law enforcement purposes; and

F. An explanation of the protective measures to be taken to avoid unreasonable infringement upon the rights, liberties, and freedoms described in Section 14.12.010(A).

(Ord. 108333 § 14, 1979.)

14.12.170 Additional authorizations.

After an authorization expires, the Chief of the Department may authorize the collection of **restricted information** for additional periods of up to ninety days each as often as may be necessary for the completion of an investigation of specified unlawful activity, but in no event longer than the expiration of the statute of limitations or the prosecution of a case. The additional authorization, together with the documentation preceding it, shall describe the **restricted information** already collected and identify the investigation to be completed or the case to be prosecuted. An additional authorization shall satisfy the criteria in Sections 14.12.150 and 14.12.160, be substantiated by the information already collected, and justify the need to collect additional **restricted information**.

(Ord. 108333 § 15, 1979.)

14.12.180 Actions after authorization.

The collection, maintenance, and use of **restricted information** pursuant to an authorization under Sections 14.12.150/14.12.160, or 14.12.170 shall be limited to the scope stated in the authorization and shall conform to its protective measures.

(Ord. 108333 § 16, 1979.)

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14.12.190 Receipt of restricted information.

Unless an authorization has been given under Sections 14.12.150/14.12.160, 14.12.170, or 14.12.230, **restricted information** received from another criminal justice or governmental agency shall be purged or, if the **restricted information** is useful for dignitary protection, transferred to departmental personnel with such responsibilities within the sooner of seven working days or of the placement of other material which was received with the **restricted information** into an investigatory file, the commingling of the other material with other Department files and records, or the indexing of the other material in the Department's record system.
(Ord. 108333 § 17, 1979.)

14.12.200 Transmission of restricted information.

A. **Restricted information** shall not be transmitted to another criminal justice or governmental agency unless:

1. The recipient agency has a need for the **information** based upon facts sufficient to obtain an authorization under Sections 14.12.150/14.12.160 or 14.12.230, or a subpoena, court order, or statutory mandate requires the production of the **information**; a log of each written transmission shall be maintained which contains the name of the subject of the **information** and the recipient agency; or

2. The information is transmitted to the King County Prosecuting Attorney or the City Attorney in connection with a pending investigation of unlawful activity or a judicial proceeding.

B. Wherever practical, the first page and each page containing **restricted information** in a document transmitted to a recipient agency shall contain a prominent notice limiting dissemination or use to the specific purposes for which the document was transmitted, unless otherwise authorized by the Chief of the Department.

C. Nothing in this section shall prevent departmental personnel from transmitting an evaluation of information or pooling information in a common investigation of a series of related incidents as long as **restricted information** is not disclosed.

(Ord. 108333 § 18, 1979.)

Subchapter V Handling Restricted Information for Protecting Dignitaries

14.12.210 Collecting and filing restricted information.

A. Departmental personnel assigned the duty of providing for the security and protection of visiting officials and dignitaries may collect **restricted information** for investigatory purposes under Sections 14.12.150 through 14.12.190, or for dignitary protection under Sections 14.12.220, 14.12.230, and 14.12.240, and may transmit **restricted information** in accordance with Sections 14.12.200 or 14.12.240.

B. Unless an authorization pursuant to Sections 14.12.150/14.12.160 or 14.12.170 allows its use for a criminal investigation, **restricted information** collected under Sections 14.12.220, 14.12.230, and 14.12.240 shall be subject to the following conditions:

1. The **restricted information** shall be maintained in a separate record system under the custody of the departmental personnel assigned to providing security and protection for visiting officials and dignitaries (called "dignitary protection files" herein), indexed separately, and accessible only to these departmental personnel and their superiors;

2. Collection of **restricted information**, other than an unsolicited communication, may not begin before departmental personnel receive notice of an anticipated arrival date of the visiting official or dignitary for whom security and protection are to be provided, and shall cease upon notice that the anticipated visit will not occur or upon the visitor's departure from the city, whichever occurs sooner;

3. A log shall be kept, including each access made to the dignitary protection files and the reason therefor;

4. The **restricted information** shall be used only for providing necessary security and protection for visiting officials and dignitaries;

5. The **restricted information** shall be purged within sixty days after the authorization for its collection expires, unless a unit commander certifies that the subject of the **information** poses, has posed, or has made a threat to the life or safety of a visiting official or dignitary; or the retention of the **information** may be necessary for pending or future civil or criminal litigation involving the city; and

6. The dignitary protection files shall be reviewed annually under the direction of the

Chief of the Department, and the **restricted information** deemed no longer relevant to protecting visiting officials and dignitaries shall be purged. Transfers to other uses may be made of **restricted information** collected under Sections 14.12.220 or 14.12.230 with an authorization under Sections 14.12.150, 14.12.160, and 14.12.170.
(Ord. 108333 § 19, 1979.)

14.12.220 Collecting restricted information without an authorization.

Departmental personnel assigned the duty of providing for the security and protection of visiting officials and dignitaries may, without an authorization:

1. Collect **restricted information** from records open for public inspection, newspapers and libraries, and written communications directed at the general public;
2. Collect **restricted information** about a demonstration or activity directly from a person who is planning the demonstration or activity in connection with a visiting official or dignitary and who is advised of the purpose of the inquiry;
3. Accept an unsolicited communication;
4. Collect **restricted information** from another criminal justice or governmental agency which was originally derived from public sources, direct communication with the subject of the **information**, or as an unsolicited communication; and/or
5. When time is of the essence, collect **restricted information** on the condition that it shall be purged within twenty-four hours after receipt, unless an authorization is granted under Sections 14.12.150 or 14.12.230.
(Ord. 108333 § 20, 1979.)

14.12.230 Authorizations for dignitary protection.

A. The Chief of the Department may authorize the collection of **restricted information** when there is a reasonable suspicion that the subject of the **restricted information** could pose a threat to the life or safety of a visiting official or dignitary. When time is of the essence, an authorization may be requested and given orally, but the authorization shall be reduced to writing within two business days. An authorization under this section shall limit the use of the **restricted information** collected to dignitary protection purposes, unless an authorization

granted under Sections 14.12.150/14.12.160 or 14.12.170 allows the **information** to be used for a criminal investigation.

B. An authorization for dignitary protection shall include:

1. The identity of the subject about whom the **restricted information** will be collected, if known;
2. The name of the visiting official or dignitary to be protected and his or her anticipated date of arrival;
3. An explanation of the **restricted information** likely to be sought;
4. The facts and circumstances that provide the Chief of the Department a reasonable suspicion that the subject of the **restricted information** could pose a threat to the life or safety of a visiting official or dignitary;
5. If an informant or infiltrator will be used to gather **restricted information**, the reasons why the use of an informant or infiltrator is deemed necessary for dignitary protection; and
6. An explanation of the protective measures to be taken to avoid unreasonable infringement upon the rights, liberties, and freedoms described in Section 14.12.010(A).

C. Notice of each authorization shall be given to the Auditor.

D. The collection of **restricted information** pursuant to an authorization for dignitary protection shall be limited to the scope stated in the authorization and shall conform to its protective measures.
(Ord. 108333 § 21, 1979.)

14.12.240 Receipt and transmission of restricted information.

A. Sections 14.12.190 and 14.12.200 controlling the receipt and transmission of **restricted information** from and to another criminal justice or governmental agency applies to the handling of **restricted information** by departmental personnel assigned the duty of providing for the security and protection of visiting officials and dignitaries, unless the information is collected and transmitted in conjunction with a task force. **Restricted information** collected for an operating task force may be transmitted or purged with other task force materials.

B. Departmental personnel serving on or working with a task force of cooperating law enforcement and governmental agencies to provide security and protection while a visiting official or dignitary is present, and/or for a period of

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up to ten days prior to his or her scheduled visit, may:

1. Collect **restricted information** from cooperating agencies, provided that the **information** shall be purged within ten days after the visiting official or dignitary departs, unless an authorization under Sections 14.12.150/14.12.160 or 14.12.170 or a certification under Section 14.12.210B5 allows its retention; and/or

2. Transmit **restricted information** collected by departmental personnel to other cooperating agencies provided that, wherever practical, the first page and each page containing **restricted information** in a document transmitted shall contain a prominent notice limiting dissemination or use of the **information** to the specific purposes for which the document was transmitted, unless otherwise authorized by the Chief of the Department.

C. A log of each written transmission shall be maintained which contains the name of the subject of the **restricted information** and the recipient agency.

D. Nothing in this section shall prevent departmental personnel from transmitting an evaluation of information or pooling information in a common investigation of a series of related incidents as long as **restricted information** is not disclosed.

(Ord. 108333 § 22, 1979.)

Subchapter VI Police Operations

14.12.250 Use of infiltrators.

No infiltrator shall be used or recruited to gather **restricted information** on a continuing basis from within and about a political or religious organization, an organization formed for the protection or advancement of civil rights or liberties, or an organization formed for community purposes, unless:

A. Use of the infiltrator is contemplated by an authorization to collect **restricted information** on the organization pursuant to Sections 14.12.150/14.12.160, 14.12.170, or 14.12.230;

B. The Chief of the Department approves in writing the use of the infiltrator and certifies that infiltrating the organization is necessary and that reasonable means have been designed to: (1) confine collection of the **restricted information** to matters contemplated by the authorization; (2) conduct the collection of the **information** in a manner consistent with the statement

of purpose, policies and provisions of this chapter; and (3) conform to protective measures specified by the authorization to avoid unreasonable infringement upon the rights, liberties, and freedoms described in Section 14.12.010(A); and

C. The Chief of the Department or his designee has established a procedure for review at the end of each authorization period to determine compliance with all rules, regulations, and procedures designed to minimize the acquisition, retention, and disclosure of **restricted information** which does not relate to the matter under investigation and to protect against unreasonable infringement upon the rights, liberties, and freedoms described in Section 14.12.010(A).

(Ord. 108333 § 23, 1979.)

14.12.260 Use of informants.

An informant paid by the city to collect **restricted information** shall be instructed that in carrying out an assignment he or she shall not:

A. Participate in unlawful acts of violence;

B. Use unlawful techniques to obtain information;

C. Initiate a plan to commit criminal acts; or

D. Participate in criminal activities of persons under investigation, except insofar as the supervisor over the investigation determines that such participation is necessary to obtain information needed for purposes of prosecution.

(Ord. 108333 § 24, 1979.)

14.12.270 Use of modus operandi (MO) files.

Restricted information about a person under a true name may only be added to an MO file where there is probable cause to suspect the subject of the **restricted information** has committed unlawful activity. This section does not limit indexing **restricted information** about an incident by subject matter.

(Ord. 108333 § 25, 1979.)

14.12.280 Prohibited activities.

Departmental personnel in the course and scope of their duties shall not willfully:

A. Incite any person to commit unlawful violent activity or engage another person to do so, provided that nothing in this section shall be interpreted to prohibit thwarting, detecting, or securing evidence of unlawful activity conceived by another, or the use of decoys; or

B. Communicate information known to be false or derogatory with the intention of disrupting any lawful political or religious activity, unless such communication occurs in the course of or in connection with a judicial proceeding, or serves a valid law enforcement purpose. (Ord. 108333 § 26, 1979.)

Subchapter VII Criminal Intelligence Section

14.12.290 Powers and functions.

Whenever appropriations for the Department's Criminal Intelligence Section are included in the city's annual operating budget, the Section shall be authorized to perform the following functions, subject to the provisions of this chapter:

A. To collect, evaluate, organize, and analyze data and specific investigative information about the existence, structure, activities, and operations of organized criminal activity which appears to involve regular coordination and organization among a number of individuals, and the participants in such activities;

B. To collect, evaluate, and classify information about incidents of unlawful activity, confirming the degree of accuracy of the information whenever possible; to store and/or disseminate only that information which appears to have a reasonable degree or reliability; and to purge information that is no longer relevant;

C. To coordinate such information into a centralized system of criminal intelligence information and to study, detect, and explain any meaningful patterns of unlawful activities;

D. To furnish and exchange relevant criminal intelligence information with criminal justice agencies, to maintain liaison with other criminal intelligence agencies, and to initiate inquiries and conduct criminal investigations;

E. To support other Department activities and units by delivering pertinent criminal intelligence information and to coordinate information that involves multiple investigatory divisions or units, at the direction of the Chief of the Department;

F. Upon request and at the direction of the Chief of the Department, to assist law enforcement agencies, the City Attorney, the King County Prosecuting Attorney, and the United States District Attorney in developing evidence for purposes of criminal prosecution of organized criminal activities;

G. To develop training programs that assist the Department's tactical units in detecting and gathering information relevant to criminal investigations being conducted by the Criminal Intelligence Section; and

H. To develop methods for evaluating the effectiveness of the Criminal Intelligence Section in accomplishing its law enforcement purposes and safeguarding the constitutional rights and privacy of all individuals. (Ord. 108333 § 27, 1979.)

14.12.300 Responsibilities.

In performing their responsibilities, departmental personnel assigned to the Criminal Intelligence Section shall:

A. Maintain the integrity and security of all information contained in the Department's Criminal Intelligence Section filing system;

B. Follow ethical and legal police procedures in obtaining information, including, but not limited to, the provisions of this chapter; and

C. Whenever practical, avoid direct involvement in the conduct of tactical law enforcement operations.

(Ord. 108333 § 28, 1979.)

Subchapter VIII Auditing and Notice Requirements

14.12.310 Appointment and responsibilities of Auditor.

A. The Mayor shall appoint an auditor, subject to confirmation by the City Council, to monitor compliance with this chapter. The Auditor shall serve for a term of three years and may be reappointed by the Mayor, subject to confirmation by the City Council. The Auditor may be removed from office for cause by the Mayor by filing a statement of reasons for the removal with the City Council.

B. The Auditor should possess the following qualities and characteristics:

1. A reputation for integrity and professionalism, as well as the ability to maintain a high standard of integrity in the office;

2. A commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect basic constitutional rights;

3. A commitment to the statement of purpose and policies of this chapter;

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4. A history of demonstrated leadership experience and ability;

5. The potential for gaining the respect of departmental personnel and citizens of the city;

6. The ability to work effectively with the Mayor, the City Council, the City Attorney, the Chief of the Department, department personnel, public agencies, private organizations, and citizens; and

7. The ability to work effectively under pressure.

C. Except as limited as Section 14.12.320, the Auditor shall have access to all Department files and records, including nonconviction data pursuant to RCW 10.97.050(4). (Ord. 108333 § 29, 1979.)

14.12.320 Limitations on the Auditor.

A. The Auditor shall not examine the following:

1. Department personnel files;
2. Internal Investigation Section files;
3. Files of confidential communications as defined in Section 14.12.090;

4. Personal files of the Chief of the Department which are excluded from this chapter by Section 14.12.120A4; and

5. Specific case files which the King County Prosecuting Attorney personally certifies in writing need to be withheld from the Auditor's review because the files involve investigations of corruption or malfeasance in office of a governmental official or employee, a potential conflict of interest for the Auditor, or investigations of organized criminal activity conducted as a continuing enterprise solely for the purpose of obtaining monetary gain wholly or in part through racketeering, vice, narcotics, gambling, fencing, or similar economic criminal activity. As to each file, the Prosecuting Attorney's certificate shall state that he has personally reviewed the case file and found that the file complies with this chapter. The Prosecuting Attorney's certificate shall also include a summary apprising the Auditor of the scope and purpose of the investigation. With respect to the certified files, the Prosecuting Attorney shall exercise all the powers and discharge all the responsibilities normally exercised and discharged by the Auditor under the provisions of this chapter.

B. In discharging his or her responsibilities, the Auditor shall protect the confidentiality of

Department files and records and shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act (RCW 10.97), the Public Disclosure Act (RCW 42.17), and the provisions of RCW 43.43.856. The Auditor shall not identify the subject of an investigation in any public report required by this chapter. The Auditor shall not remove from Department facilities any record, extract, or other information, the disclosure of which is exempt from public disclosure under the Public Disclosure Act (RCW 42.17.310). Any violation of the confidentiality of Department files and records or the provisions of this chapter shall be sufficient cause for removal of the Auditor. (Ord. 108333 § 30, 1979.)

14.12.330 Audit procedures and standards.

A. The Auditor shall conduct an in-place audit of Department files and records at unscheduled intervals not to exceed one hundred eighty days since the last audit. The Department shall provide temporary space for the Auditor to conduct the audit in secure areas close to the records to be reviewed by the Auditor.

B. The audit shall be prepared and published pursuant to the following provisions:

1. In conducting an audit, the Auditor shall:

- a. Review each authorization granted pursuant to Sections 14.12.150/14.12.160, 14.12.170, or 14.12.230, together with investigative files associated with the authorizations;
- b. Perform a random check of Department files and indexes;
- c. Review files and records containing private sexual or restricted information designated for purging; and

d. Prepare and forward a written report of the audit to the Mayor, the City Council, the City Attorney, and the Seattle Comptroller for filing as a public record.

2. The Auditor's report shall contain a general description of the files and records reviewed and a discussion of any substantial violation of this chapter discovered during the audit. A preliminary report shall be delivered by the Auditor to the Chief of the Department for review and comment. The Chief of the Department shall review and comment on the preliminary report within twenty days after receipt of the report. The Auditor shall submit the final report within thirty days after receipt of the Chief's comments.

3. The Chief of the Department shall:

a. Forward to the Mayor, the City Council, the City Attorney, and the City Comptroller within ten working days of receipt of the Auditor's final report the Chief's written comments on the report; and

b. Cause an immediate investigation into the circumstances of any apparent violations of this chapter reported by the Auditor. (Ord. 108333 § 31, 1979.)

14.12.340 Notice of substantial violations.

The Auditor shall notify by certified mail any person about whom **restricted information** has been collected where the Auditor has a reasonable belief that the **restricted information** was collected in violation of this chapter and would create civil liability under Section 14.12.350. Notice shall be sent to the person's last known address within six months after the expiration of the last authorization, or within sixty days after the Department, the City Attorney, or the King County Prosecuting Attorney determines that no prosecution will be brought as a result of the unlawful activity prompting the investigation, whichever date is earlier. The Auditor's notice does not constitute an admission of fact or liability by the city. (Ord. 108333 § 32, 1979.)

Subchapter IX Civil Liability, Enforcement, and Penalties

14.12.350 Civil liability.

A. Subject to the limitations of this section and Section 14.12.360, a person shall have a right of action against the city based on this chapter for injuries proximately caused by departmental personnel willfully in the scope and course of their duties:

1. Collecting **private sexual information** when Section 14.12.130 prohibits collection of such information;

2. Collecting **restricted information** where the prohibition of Section 14.12.150 applies, no authorization was obtained, and under the facts and circumstances known to departmental personnel, no authorization could validly have been granted; or, alternatively, the **restricted information** collected was both outside the scope of the authorization granted and was not relevant to an investigation of unlawful activity, the making of an arrest, or a judicial proceeding;

3. Using an infiltrator with the intention of collecting restricted information from within and about a political or religious organization, an organization formed for the protection or advancement of civil rights or liberties, or an organization formed for community purposes in violation of Section 14.12.250 where there is no reasonable suspicion that the subject of the restricted information has engaged in, is engaging in, or is about to engage in unlawful activity, or that the restricted information will lead to the subject's arrest;

4. Inciting another person to commit unlawful violent activity or engaging another person to do so in violation of Section 14.12.280A; and/or

5. Communicating information known to be false or derogatory with the intention of disrupting any lawful political or religious activity in violation of Section 14.12.280B, provided no cause of action may be based upon an arrest based upon probable cause or an order to disperse an assemblage made in accordance with Section 12A.12.020 of this Code.

B. Absent evidence establishing a greater amount of damages, the damages payable in event of an injury proximately caused by collection of **private sexual or restricted information** in violation of this chapter, as contemplated by subsections A1 or A2, shall be Five Hundred Dollars (\$500.00) to each subject of the **private sexual or restricted information** for all such information collected, and for the use of an infiltrator in violation of Section 14.12.250, as contemplated by subsection A3, shall be One Thousand Dollars (\$1,000.00) aggregate for the organization and all its members as a class. The payment of damages under subsection A3 to the organization, or its members as a class, is in addition to any rights of any person within the organization under subsections A1 or A2.

C. No cause of action may be based upon the activity of departmental personnel in complying with a court order, or an action taken pursuant to and within the scope of an authorization under Sections 14.12.150/14.12.160, 14.12.170, 14.12.230 or 14.12.250.

D. The city reserves all defenses at law consistent with this chapter, including but not limited to consent, privilege, participation, and waiver, and as to departmental personnel or a city official, any defense arising in the employer/employee or principal/agent relationship.

(Ord. 108333 § 33, 1979.)

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14.12.360 Liability of officers and employees.

No cause of action may be based upon this chapter against the Mayor, the Chief of the Department, any departmental personnel, or any other city officer or employee, individually, for any action or omission made in good faith in the scope and course of his or her duties. In the event such a lawsuit is brought against a city officer or employee, individually, for such an action or omission, and the officer or employee cooperates fully in defense of the lawsuit, the City Attorney may represent the individual and defend the litigation. If the claim is deemed a proper one or judgment is rendered against the city officer or employee individually, the judgment shall be paid by the city in accordance with its procedures for the settlement of claims and payment of judgments.
(Ord. 108333 § 34, 1979.)

14.12.370 Rules and regulations.

A. Consistent with the statement of purpose, policies, and provisions of this chapter, the Chief of the Department shall promulgate rules and regulations to implement this chapter in accordance with the procedures of Ordinance 102228 (the City's Administrative Code),¹ as amended, or a successor ordinance. The rules and regulations shall be designed to protect constitutional rights and personal privacy, so that investigations are conducted without an unreasonable degree of intrusion and that private sexual and restricted information obtained in the course of an investigation is properly authorized under this chapter.

B. The Chief of the Department shall also promulgate rules and regulations to govern the use of informants, infiltrators, and photographic surveillance relating to restricted information, consistent with the statement of purpose, policies, and provisions of this chapter, and may promulgate rules and regulations governing other investigatory techniques to the extent he deems necessary to carry out the statement of purpose, policies, and provisions of this chapter.
(Ord. 108333 § 35, 1979.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

14.12.380 Department reporting.

The Chief of the Department shall submit an annual report on the implementation of this chapter to the Mayor, the City Council, and the

City Comptroller for filing as a public record. The annual report shall indicate the number of authorizations granted under Sections 14.12.150/14.12.160, 14.12.170, or 14.12.230; the number of certifications issued under Section 14.12.210B5; the number of files withheld from the Auditor by the King County Prosecuting Attorney under Section 14.12.320A5; the number of authorizations involving the use of infiltrators and informants; a statistical analysis of the purposes for which authorizations were granted, the types of unlawful activity involved, the number of prosecutions based thereon, the number of visiting officials or dignitaries for whom security precautions were involved, and other meaningful information; a summary of any internal disciplinary action taken to enforce this chapter; and a description of other actions taken to implement this chapter. The foregoing information may be included in the Department's annual report.
(Ord. 108333 § 36, 1979.)

14.12.390 Administrative penalties.

Any departmental personnel in an office or other place of employment of the city who violates this chapter, or any implementing rule or regulation of the Chief of the Department, shall be subject to the disciplinary proceedings and punishment authorized by the City Charter, Article XVI,¹ including reprimand, suspension without pay, and discharge, or provided by Ordinance 107790, as amended (the City's Public Safety Personnel Ordinance),² or a successor ordinance.
(Ord. 108333 § 37, 1979.)

1. Editor's Note: The City Charter is included at the beginning of this Code.

2. Editor's Note: Ord. 107790 is codified in Title 4 of this Code.

14.12.400 Administrative penalties for supervisors.

An official authorizing the collection of restricted information shall be subject to administrative discipline, as contemplated in Section 14.12.390, for misconduct of a subordinate officer in collecting the information authorized or failing to comply with all protective measures established in this chapter.
(Ord. 108333 § 38, 1979.)