

**4.34.055 Use and scheduling of vacations.**

A. The minimum vacation allowance to be used by an employee shall be no more than one-half (½) day or, at the discretion of the appointing authority or his or her designated management representative, such lesser amount as may be deemed appropriate, but no less than fifteen (15) minutes.

B. The appointing authority shall arrange vacation time for employees on such schedules as shall least interfere with the functions of the employing unit.

C. 1. An employee may, with the prior approval of the appointing authority or his or her designated management representative, go on unpaid leave of absence for a period of no more than twelve (12) months, without first using accrued vacation credit or compensatory time off. The appointing authority or his or her designated management representative may deny the use of vacation to an employee who has exhausted his or her sick leave balance and requests further paid leave for medical reasons.

2. However, if an employee has City-provided long-term disability benefits and has accumulated a vacation, compensatory time, or sick leave balance in excess of that necessary to cover the long-term disability plan elimination period, he/she can choose either to receive the long-term disability benefits after the elimination period or to remain on vacation, compensatory time, or sick leave (with approval of the appointing authority or his or her designated management representative) until all such paid leave is exhausted and receive the appropriate long-term disability benefit.

D. In the event that the City cancels an employee's already scheduled and approved vacation, leaving no time to reschedule such vacation before the employee's maximum balance will be reached, the appointing authority or his or her designated management representative may allow the employee to exceed the normal maximum vacation balance and to continue to accrue vacation credit above the normal maximum credit balance for three (3) months after such maximum has been reached. No similar exception shall be authorized for such employee until twelve (12) months after the appointing authority's authorization.

E. Any employee receiving disability compensation pursuant to SMC Chapter 4.44 may exceed

the normal maximum vacation balance until such time as the employee ceases to receive such disability compensation. If the employee returns to regular pay status upon discontinuance or exhaustion of such disability compensation, such employee's vacation balance may exceed the normal maximum vacation balance specified in SMC Section 4.34.020 B for three (3) months after the date of such employee's return; otherwise, the employee shall be paid in a lump sum for any unused vacation credit balance.

F. Upon transfer, the employing unit receiving the employee shall grant any earned vacation due such employee at its expense, subject to the provisions set forth in this chapter.

(Ord. 118685 § 1, 1997; Ord. 118265 § 1, 1996; Ord. 115797 § 2, 1991; Ord. 111757 § 5, 1984.)

**4.34.065 Payment in lieu of use of vacation credit.**

A. An employee who assumes an elective office in the City, accepts appointment as a head of an employing unit, or transfers from a position in which he or she receives vacation benefits to a position in City employment in which he or she is not entitled to accrue annual vacation credit, shall be paid in a lump sum for any unused vacation credit balance upon leaving or transferring from his or her regular position.

B. An employee who is separated from the payroll shall be paid in a lump sum for all of his/her accrued vacation credit even though such employee may not have been able to use such vacation credit because of his/her ineligibility to do so pursuant to SMC Section 4.34.045; provided, that in the event such separation occurs as a consequence of the death of the employee, such payment shall be made to the employee's beneficiary.

(Ord. 111757 § 6, 1984.)

**4.34.100 Accrual rate—Temporary employees acquiring permanent status.**

A. Settlement Agreement. This section implements the Settlement Agreement dated June 5, 1989, in the case of **Scannell v. The City of Seattle**, King County Superior Court Cause No. 844600, and should be interpreted and applied accordingly.

B. Transition from Temporary to Permanent Status. For temporary employees who acquire

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permanent employee status the vacation accrual rate will be determined as follows:

1. Those Becoming Permanent Employees Before January 1, 1982. The vacation accrual rate for former temporary employees who became permanent employees before January 1, 1982, is based on calendar years of service until January 1, 1982 (effective date of 1982 amended vacation ordinance). Temporary employees who became permanent employees retained their vacation accrual rate earned in temporary service and continued to earn credit toward higher vacation accrual rates based on years of service until January 1, 1982. After January 1, 1982, they are entitled to receive subsequent increases in accrual rates based on cumulative hours worked from date of hire, as provided in the City's vacation ordinance, Chapter 4.34.

2. Those Becoming Permanent Between January 1, 1982, and August 1, 1984. The vacation accrual rate for former temporary employees who became permanent employees between January 1, 1982, and August 1, 1984 (the effective date of the 1984 amended vacation ordinance), is based on calendar years of service until the date they became permanent. After the date they became permanent, they retained their accrual rates earned in temporary service and are entitled to receive subsequent increases in accrual rates based on cumulative hours worked from date of hire, as provided in the City's vacation ordinance, Chapter 4.34.

3. Those Becoming Permanent On or After August 1, 1984. Temporary employees who did not become permanent employees before August 1, 1984, accrued credit toward higher vacation accrual rates based on calendar years of service until August 1, 1984. On August 1, 1984, and thereafter, temporary employees and former temporary employees who became permanent employees after August 1, 1984, retain their vacation accrual rates earned in temporary service. After August 1, 1984, they are entitled to receive subsequent increases in accrual rates based on cumulative hours worked from date of hire, as provided in the City's vacation ordinance, Chapter 4.34.

C. Accrual Rate. Employees within subsection B of this section retain any accrual rate attained based on calendar years of service and there will be no reduction in their accrual rate as a result of this transition from calculating vacation accrual

based on calendar years to accrual based on cumulative hours worked. Cumulative hours worked for accrual purposes will be based on total hours from last hire date, times a multiplier of 1.135 to account for paid leave which the employee did not receive and paid leave for which premium pay may be substituted.

D. Transitional Adjustment. Temporary employees and permanent employees who were formerly temporaries whose vacation premium pay or vacation credits were calculated without including the employees' previous temporary service, or were not increased in accordance with the vacation accrual rates specified herein, shall receive additional vacation pay or vacation credits based on the accrual rates set forth in subsection B of this section. The City shall receive credit for the actual amount of vacation premium pay or vacation previously received by the employee.

E. Break in Service. The accrual rate increases in this section are based on employment with the City without a voluntary break in service. For vacation accrual purposes, "voluntary break in service" must be greater than thirty (30) days and is defined as a quit, resignation, service retirement, separation of temporary employee as shown in the Personnel Payroll System, or failure to return from unpaid leave of absence. If an employee has not worked for at least one (1) calendar year, a voluntary break in service is presumed.

(Ord. 117301 § 3, 1994.)

### Chapter 4.36 CITY EMPLOYEES' RETIREMENT SYSTEM

#### Sections:

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**4.36.040**Definitions—Alphabetical "C" through "D."

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- 4.36.280 Payments in monthly installments.
- 4.36.290 Benefits not subject to garnishment or attachment.
- 4.36.295 Qualified domestic relations orders—Orders of State Department of Social and Health Services to withhold and deliver.
- 4.36.300 Estimate of length of service.
- 4.36.310 Retired members who are employed on salary.
- 4.36.320 Death benefits—Payment.
- 4.36.330 Death benefits—Specifications.
- 4.36.340 Appropriation for administration of retirement system.
- 4.36.350 Members eligible prior to January 1, 1941.
- 4.36.360 Trust fund.
- 4.36.370 Status of benefits in event of termination of system.
- 4.36.380 Maximum benefits payable.
- 4.36.385 Compliance with Internal Revenue Code.
- 4.36.400 Election to participate in RCW Chapter 41.54.
- 4.36.410 Administration of chapter—Construction—Severability.

Statutory Reference: For statutory provisions on retirement of personnel in first-class cities, see RCW Ch. 41.28; for Charter provisions authorizing the City to provide a retirement system for its officers and employees, see Charter Art. XXII, § 13.

Severability: If any one or more sections, subsections, subdivisions, sentences, clauses or phrases of this chapter are for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter, but the same shall remain in full force and effect.  
(Ord. 78444 § 27, 1949.)

#### **4.36.010 Purpose.**

The purpose of this chapter is to continue the retirement and pension system for superannuated and disabled officers and employees of the City and of the Seattle Public Library as authorized by Article XXII, Section 13 of the Charter<sup>1</sup> and by state law and established by Ordinance No. 57075 (as amended) and to establish a system of death benefits for such officers and employees.  
(Ord. 78444 § 1, 1949.)

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

#### **4.36.020 Employees' Retirement Fund created.**

A fund is created and established to be known as the "Employees' Retirement Fund" and shall consist of all the moneys paid into it in accordance with the provisions of this chapter, whether

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such moneys shall take the form of cash, securities or other assets.  
(Ord. 78444 § 8, 1949.)

#### 4.36.030 Definitions—Alphabetical “A” through “B.”

Unless a different meaning is plainly required by the context the terms used in this chapter shall have the following meanings:

A. “Accumulated additional contributions” means the sum of all additional contributions deducted from the compensation of a member, standing to the credit of his individual account, together with regular interest thereon.

B. “Accumulated contributions” means accumulated normal contributions plus accumulated additional contributions but shall not include death benefit assessments.

C. “Accumulated normal contributions” means the sum of all normal contributions, deducted from the compensation of a member, standing to the credit of his individual account, together with regular interest thereon.

D. “Actuarial equivalent” means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the Board.

E. “Additional contributions” means the contributions provided for in subdivision (d), Section 5, of this ordinance.<sup>1</sup>

F. “Annuity” means the payments derived from contributions made by a member as provided in Sections 4.36.210 and 4.36.230.

G. “Basic pension” means the annuity derived from normal contributions of members; the pension derived from matching contributions of the City and the pension for prior service, if any.

H. “Beneficiary” means any person in receipt of a pension, annuity, retirement allowance, disability allowance, or any other benefit provided in this chapter.

I. “Board” means “Board of Administration” as provided in Section 4.36.130.  
(Ord. 118497 § 1, 1997; Ord. 107228 § 1(part), 1978; Ord. 104572 § 1(part), 1975; Ord. 104156 § 1(part), 1974; Ord. 103175 § 1(part), 1974; Ord. 89073 § 1(part), 1960; Ord. 88897 § 1(part), 1960; Ord. 81521 § 1(part), 1952; Ord. 79403 § 2, 1950; Ord. 78444 § 2(e), (j), (o), (q), (r), (s), (u) and (aa), 1949.)

<sup>1</sup>Editor's Note: There is no subdivision (d) in § 5 of Ord. 78444, as amended.

#### 4.36.040 Definitions—Alphabetical “C” through “D.”

Unless a different meaning is plainly required by the context the terms used in this chapter shall have the following meanings:

A. “City” means The City of Seattle.

B. “City service” means service rendered to the City for compensation, and for the purpose of this chapter, a member shall be considered as being in the “City service” only while he or she is receiving compensation for such service or is on leave of absence on account of sickness or injury, or on family or medical leave under Chapter 4.26, and makes contributions covering such period as provided in Section 4.36.120 A.

C. “Compensation” means the salary or wage, exclusive of overtime, indicated on payrolls and/or vouchers. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall not be included in determining contributions or in determining benefits. This restriction does not apply to any individual who was a member prior to January 1, 1996.

D. “Compensation earnable” by a member means the average compensation as determined by the Board of Administration upon the basis of the average period of employment of members in the same group or class of employment and at the same rate of pay. Any other provisions of this chapter, particularly Section 4.36.110 B, insofar as in conflict herewith are hereby superseded.

E. “Continuous service” means uninterrupted employment by the City, except that discontinuance of City service of a member caused by layoff, sick leave under Chapter 4.24, family or medical leave under Chapter 4.26, leave of absence, suspension, or dismissal, followed by reentrance into City service within one (1) year, shall not count as a break in the continuity of service; provided, that for the purpose of establishing membership in the retirement system continuous service shall mean six (6) months' service in any one (1) year.

F. “Creditable service” means such City service as is evidenced by the record of normal contributions received from the employee plus prior service if credit for same is still intact or not

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lost through withdrawal of accumulated normal contributions as provided in Section 4.36.190.

G. "Death benefit" means the payment upon proof of death of a member provided for in Section 4.36.320.

H. "Death benefit assessment" means the payments required of members of the death benefit system under Sections 4.36.320 and 4.36.330. (Ord. 117978 § 1, 1995; Ord. 117241 § 2, 1994; Ord. 107228 § 1(part), 1978; Ord. 104572 § 1(part), 1975; Ord. 104156 § 1(part), 1974; Ord. 103175 § 1(part), 1974; Ord. 89073 § 1(part), 1960; Ord. 88897 § 1(part), 1960; Ord. 83744 § 1, 1955; Ord. 83534 § 1, 1954; Ord. 81521 § 1(part), 1952; Ord. 78444 § 2(d), (g), (i), (k), (l), (x), (y) and (z), 1949.)

**4.36.050 Definitions—Alphabetical "E" through "M."**

Unless a different meaning is plainly required by the context the terms used in this chapter shall have the following meanings:

A. "Employee" means all officers and employees of the City and of the Seattle Public Library eligible to membership in the retirement system pursuant to law.

B. "Final compensation" means the average annual compensation earnable by a member during his twenty-four (24) highest consecutive months prior to termination of employment with the City.

C. "Fiscal year" means any year commencing with January 1st and ending with December 31st next following.

D. "Member" means any person included in the retirement system as provided in Section 4.36.100.

(Ord. 107228 § 1(part), 1978; Ord. 104572 § 1(part), 1975; Ord. 104156 § 1(part), 1974; Ord. 103175 § 1(part), 1974; Ord. 99566 § 1, 1970; Ord. 94354 § 1, 1965; Ord. 89073 § 1(part), 1960; Ord. 88897 § 1(part), 1960; Ord. 81521 § 1(part), 1952; Ord. 78444 § 2(b), (c), (m) and (w), 1949.)

**4.36.060 Definitions—Alphabetical "N" through "Q."**

Unless a different meaning is plainly required by the context the terms used in this chapter shall have the following meanings:

A. "Normal contribution" means contribution at the rate provided for in Section 4.36.110 A.

B. "Pension" means payments derived from any contributions made by the City.

C. "Prior service" means City service of a member prior to July 1, 1929, except as follows: In the case of officers and employees of the Seattle Public Library prior to July 1, 1937; in the case of employees entering the classified civil service under the Charter Amendments of March 12, 1940, and March 13, 1945, prior to March 16, 1940, and March 16, 1945, respectively; and in case of employees entering such service under RCW 35.22.450, prior to September 1, 1943.

(Ord. 107228 § 1(part), 1978; Ord. 104572 § 1(part), 1975; Ord. 104156 § 1(part), 1974; Ord. 103175 § 1(part), 1974; Ord. 89073 § 1(part), 1960; Ord. 88897 § 1(part), 1960; Ord. 81521 § 1(part), 1952; Ord. 78444 § 2(h), (n) and (t), 1949.)

**4.36.070 Definitions—Alphabetical "R" through "Z."**

Unless a different meaning is plainly required by the context the terms used in this chapter shall have the following meanings:

A. "Regular interest" means interest compounded annually at such rate as shall have been adopted by the Board of Administration in accordance with the provisions of this chapter.

B. "Retirement allowance" means the pension plus the annuity.

C. "Retirement fund" means "Employees' Retirement Fund" created and established in Section 4.36.020.

D. "Retirement system" means the "City Employees' Retirement System" provided for in Section 4.36.080 and the system of death benefits established therein.

(Ord. 107228 § 1(part), 1978; Ord. 104572 § 1(part), 1975; Ord. 104156 § 1(part), 1974; Ord. 103175 § 1(part), 1974; Ord. 89073 § 1(part), 1960; Ord. 88897 § 1(part), 1960; Ord. 81521 § 1(part), 1952; Ord. 78444 § 2(a), (f), (p) and (v), 1949.)

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**4.36.080 Continuance of City Employees' Retirement System.**

The retirement system created and established effective July 1, 1929 by Ordinance No. 57075 (as amended) known as the "City Employees' Retirement System" is continued in full force and effect.

(Ord. 78444 § 3(part), 1949.)

**4.36.090 Death benefit system created.**

There is created and established in addition to the retirement system a death benefit system to become effective January 1, 1950.

(Ord. 78444 § 3(part), 1949.)

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#### **4.36.100 Membership in retirement system.**

Officers and employees of the City (except those excluded by subsection H of this section) and of the Seattle Public Library shall become members of the retirement system upon completion of six (6) months' continuous service, as follows:

A. **Mandatory Membership.** Every officer or employee of the City and of the Seattle Public Library, who enters City service on or after June 21, 1986, shall become a member of the retirement system upon completion of six (6) months' continuous service, except:

1. Elective officials exempt under subsection D of this section;

2. Individuals with a statutory right to continuation of their membership in a Washington State or federal government retirement system under subsection E of this section;

3. Certain officers in positions exempt from civil service under subsections C and F of this section;

4. Employees who are excluded under subsection H4 of this section; and

5. Temporary, interim, intermittent, provisional and part-time workers under Sections 4.36.103 and 4.36.195.

B. **Continuation of Current Membership.** All officers and employees of the City and of the Seattle Public Library, who on or after June 21, 1986, are or are required to become members of the retirement system, shall continue their membership or become members upon completion of six (6) months' City service. A member may not withdraw from membership in the system while in City employment.

C. **1986 Nonmembers.** An officer or employee with six (6) months' continuous City service, who on June 21, 1986, held an appointive position exempt from the classified civil service (1) could elect to join or rejoin the retirement system by completing and filing an election form with the Board of Administration on or before December 31, 1986, ("Option (1)"), or (2) after the effective date of this ordinance may elect to join or rejoin the retirement system as authorized by subsection F of this section ("Option (2)"). Option (1) also extended to officers and employees, who held such position before June 21, 1986, and on or before December 31, 1986, with respect to such a position (a) were recalled from a layoff status; (b) returned from an approved leave; or (c) completed six (6) months' continuous City service. An officer or employee within Option (1) could, on or before December 31, 1986, contract for credit for "prior service" (creditable service before December 31, 1986) in the retirement system in accord with

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subsection B of Section 4.36.190. An officer or employee, who failed to exercise his or her option under Option (1) of this subsection in a timely manner by December 31, 1986, may join the retirement system while holding a position exempt from civil service under Option (2) as authorized by subsection F of this section and may acquire creditable service only for City service performed after the date of his or her membership. This subsection does not apply to officers or employees covered by subsections D, E and G of this section, or subject to RCW 41.04.120, officers or employees re-entering City service after December 31, 1986.

D. Elective Officials. An elective official may elect to join the retirement system at any time during his or her City service, and may contract for credit for continuous "prior service" in accord with Seattle Municipal Code Section 4.36.190 B, provided that credit for such "prior service" shall not cover any period during which the City made payments to another retirement system on the official's behalf nor after December 31, 1987, shall a contract authorize more than five (5) years' "prior service" credit for prior City service.

E. Election Under Statutory Right. An officer or employee, who has a statutory right to continue his or her membership in a retirement system of the State of Washington or the United States of America during his or her City service may in lieu of membership in the City Employees' Retirement System arrange with the Personnel Director for a deduction from his or her pay and the City's payment for retirement system purposes to be paid directly to his or her other governmental retirement system.

F. Election by Officers Exempt from Civil Service. An officer, who holds a position exempt from the civil service system and is not already a member of the City Employees' Retirement System, may become a member of the system upon completion of six (6) months' continuous City service, by filing with the Executive Director of the City Employees' Retirement System his or her election to participate in the system. Such an officer shall receive "creditable service" for retirement system purposes only for City service accruing from and after the date of his or her membership. If an officer who is a member should leave City service and later return, the officer shall within sixty (60) days resume his or her membership by making a redeposit as con-

templated by Section 4.36.190 or become a member upon completion of six (6) months' continuous service on his or her returning employment with creditable service accruing thereafter. An officer or employee, who is a member of the retirement system at the time of his or her appointment or election to an exempt position, shall maintain his or her membership.

G. Re-Entry. An officer or employee who withdrew his or her deposit in the retirement system before or upon his or her separation from City service and later re-enters City service, shall either (a) within sixty (60) days resume his or her membership by making a redeposit as contemplated by Section 4.36.190, or (b) rejoin the retirement system upon six (6) months' continuous service after his or her re-entry with creditable service accruing thereafter. An officer or employee who is called to active duty in the armed forces of the United States of America or the State of Washington or who is given other military leave prior to completing six (6) months of continuous service may on re-entering City service include his or her active duty time in computing six (6) months of continuous City service for purpose of determining eligibility to join the retirement system. An officer or employee, who maintains his or her deposit in the retirement system during a separation from City service, shall continue his or her membership upon re-entry into City service.

H. The following employees shall not become members of the retirement system, except as contemplated by RCW 41.04.110:

1. Members of the Police Department entitled to the benefits of the Police Relief and Pension Fund under State law;

2. Members of the Fire Department entitled to the benefits of the Firemen's Relief and Pension Fund under State law;

3. Members of the Police Department and Fire Department entitled to the benefits of the Washington Law Enforcement Officers' and Fire Fighters' Retirement Fund;

4. Employees in positions established primarily to provide training leading to qualification for positions of Police Officer or Firefighter.

I. The head of each office or department of the City shall give immediate notice in writing to the Board of the change in status of any member of his office or department, resulting from transfer, promotion, leave-of-absence, family and

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medical leave, resignation, reinstatement, dismissal or death. The head of each office or department shall furnish such other information concerning any member as the Board may require.

J. Each member shall be subject to all the provisions of this chapter and the rules and regulations of the Board. Should any member be, in the opinion of the Board, permanently separated from City service or should the member die he or she shall thereupon cease to be a member.

K. Temporary, Interim, Intermittent, Provisional and Part-time Workers. See Sections 4.36.103 and 4.36.195, and for 1989-1990 opportunity, Section 4.36.197.

(Ord. 117018 § 1, 1994: Ord. 114592 § 1, 1989; Ord. 112833 § 1, 1986: Ord. 107164 § 1, 1978: Ord. 106588 § 1, 1977: Ord. 104382 § 1, 1975: Ord. 100918 § 1, 1972: Ord. 98597 § 1, 1970: Ord. 81727 § 1, 1953: Ord. 81521 § 2, 1952: Ord. 78444 § 4, 1949.)

**4.36.103 Membership—Temporary, interim, intermittent and part-time workers.**

A. Opportunities. A worker in active City service on and after January 1, 1989, who has a position that is classified as temporary, interim or intermittent, or a part-time position of less than twenty (20) hours per week over a one (1) year period, has the three (3) following opportunities to join the retirement system:

1. Within six (6) calendar months of completion of one thousand forty-four (1,044) hours of compensated straight-time service;

2. Upon appointment to an eligible full- or part-time position or election to a City office after completing six (6) months (one thousand forty-four (1,044) hours) of City service but before five and one-half (5 1/2) years (eleven thousand four hundred eighty-four (11,484) hours) of City service. Unless the position is elective or exempt under Section 4.36.100 D and F or the worker has an election under a statutory right under Section 4.36.100 E, membership in the retirement system is thereafter mandatory; and

3. Within six (6) calendar months of completion of five and one-half (5 1/2) years (eleven thousand four hundred eighty-four (11,484) hours) of continuous compensated straight-time service.

For purposes of this section and Sections 4.36.125, 4.36.195 and 4.36.197, “straight-time

service” means regular hours worked, including premium hours but excluding paid overtime hours.

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B. Waiting Period—Buy-in Option. If the worker elects to join the retirement system or becomes a member upon appointment to an eligible position, his or her first one thousand forty-four (1,044) hours of continuous City service are applied to his or her six (6) month waiting period and the worker accrues creditable service thereafter. After deducting hours applied to his or her waiting period, the worker may determine whether or not he or she will acquire (“buy in”) service credit for the remainder of his or her earlier service as a temporary, provisional, interim, intermittent, or part-time worker, as contemplated by Section 4.36.195.

C. Exercise of Option. To exercise an option to join the retirement system or to buy in prior service, a worker must file the documents reasonably required by the Board of Administration before the expiration date.

D. Expiration.

1. If not exercised, the opportunity to join the retirement system under subsection A1 of this section expires six (6) calendar months after the worker becomes eligible, and such a worker may only join the retirement system thereafter by becoming eligible under subsection A2 or A3 of this section; if not exercised, the opportunity under subsection A3 expires six (6) calendar months after the worker becomes eligible and such a worker may only become a member of the retirement system thereafter by appointment to an eligible full- or part-time position or by serving as an elective officer. If the opportunity under subsection A3 of this section has expired, the worker shall not receive creditable service for his or her City service in a temporary, interim, intermittent position or a part-time position of less than twenty (20) hours per week over a one (1) year period.

2. If not exercised, the opportunity for a worker under subsection A2 or A3 of this section to acquire (“buy in”) service credit for prior City service in a temporary, interim, intermittent position or a part-time position of less than twenty (20) hours per week over a one (1) year period expires six (6) calendar months after the worker becomes eligible for membership in the retirement system, and no creditable service shall thereafter be allowed therefor.

E. Coverage and Exclusions. This section extends to workers in active City service on or after January 1, 1989. Workers in active City service in temporary, interim, intermittent, and part-time positions of less than twenty (20) hours per week, who have exceeded the hours in Section 4.36.103 A3 on the effective date of the ordinance codified in this section<sup>1</sup> shall have six (6) months thereafter to acquire service credit for prior

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service in such positions. Except for the 1989-90 opportunity under Section 4.36.197, this section and Section 4.36.195 provide the exclusive methods for temporary, interim, intermittent, provisional workers or workers in part-time positions of less than twenty (20) hours per week over a one (1) year period to become members of the retirement system.

(Ord. 114592 § 4, 1989.)

1. Editor's Note: Ordinance 114592 was passed by the City Council on July 10, 1989.

#### **4.36.110 Contributions—City matching funds.**

A. Members of the retirement system shall make contributions to the retirement fund at the rate of 8.03% of the compensation of each such member; provided, that any member whose rate of contribution prior to June 23, 1972, was less than six percent (6%) shall have such rate increased by 2.03%; provided, further, that any reinstated member who has redeposited his/her withdrawn contributions plus interest as provided in Section 4.36.190 B, who was a member of the retirement system at any time prior to June 23, 1972, and whose rate of contribution at such prior time was less than six percent (6%) compensation shall have such rate increased by 2.03% of the compensation of such member. Contributions shall be calculated, at the rates established herein, on all compensation paid to members from and after the first pay period following January 1, 1984.

B. Subject to the provisions of this chapter, the Board of Administration shall adopt rules and regulations governing the making of deductions from the compensation of employees and shall certify to the head of each office or department the normal rate of contribution for each member provided for in subsection A of this section. The head of each department shall apply the rate of contribution to the compensation of each member, exclusive of overtime, and shall certify to the City Finance Director on each and every payroll the amount to be contributed and shall furnish immediately to the Board a copy of each and every payroll; and each of the amounts shall be deducted by the City Finance Director and shall be paid into the retirement fund, provided for in this chapter, and shall be credited by the Board together with regular interest to an individual ac-

count of the member for whom the contribution was made.

Every member shall be deemed to consent and agree to the contribution made and provided for in this section, and shall receipt in full for his or her salary or compensation. Payment less said contributions shall be a full and complete discharge of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except his or her claim to the benefits to which he or she may be entitled under the provisions of this chapter.

C. The City shall match the normal contributions of members and the board shall determine the amount of normal contributions to be matched each month and shall notify the proper authorities when such matching contributions are due and payable. The proper authorities shall then provide for payment of the matching contributions into the retirement fund at the earliest time possible.

The City shall also contribute, in excess of the matching contributions, the actuarially determined City contribution to provide the moneys necessary to guarantee benefits payable under Sections 4.36.210 and 4.36.230.

D. No City or employee contribution shall be made for the first six (6) months of city service before an employee, who commences City service on or after January 1, 1988, becomes eligible for membership in the retirement system.

(Ord. 116368 § 97, 1992; Ord. 113847 § 1, 1988; Ord. 111303 § 2, 1983; Ord. 109514 § 1, 1980; Ord. 108612 § 1, 1979; Ord. 108009 § 1, 1979; Ord. 104572 § 2, 1975; Ord. 101024 § 1, 1972; Ord. 92193 § 1, 1963; Ord. 89420 § 1, 1960; Ord. 88897 § 2, 1960; Ord. 84566 § 1, 1955; Ord. 81521 § 1(part), 1952; Ord. 79403 § 2, 1950; Ord. 78444 § 5, 1949.)

#### **4.36.120 Modification of allowance for service.**

A. Subject to the following and all other provisions of this chapter, including such rules and regulations as the Board shall adopt in pursuance thereof, the Board, subject to the approval of the City Council, shall determine and may modify allowance for service.

Time during leave on account of sickness or injury, time during family and medical leave under Chapter 4.26, or time served in either the Police or Fire Departments, or time during which a member was under temporary or provisional appointment before becoming a member, or time

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during which a member was on extended leave of absence while serving as an officer of a labor organization the membership of which includes City employees, may be allowed in computing creditable service, provided such members shall pay into the retirement fund an amount equal to the normal contributions covering the period for which creditable service is claimed; and provided, further, that as to employees retiring after July 1, 1973, who commenced City service on or before December 31, 1987, the first six (6) months of such members' employment shall be allowed in computing creditable service without such payment. The first six (6) months of service of an employee who commences City service on or after January 1, 1988, and time during which a member is absent on leave without pay for reasons other than those specified in this section shall not be allowed in computing creditable service.

Each member shall file with the Board such information affecting his or her status as a member of the retirement system as the Board may require.

B. Credit for "prior service" as defined by this chapter shall be granted members entering the retirement system as of the dates specified in Section 4.36.060 C and to those members reentering after such dates if reentry is within one (1) year after City service prior to such dates. Such credit shall be granted those becoming members pursuant to RCW 41.28.250, in the same proportion as the amount of money deposited to cover service from July 1, 1929, to date of entry into the system, bears to the amount of money necessary to cover all service during that period, excluding, however, all service after the first of the month following attainment of age sixty-seven (67).

Provided, that the Board may grant credit for prior service to any eligible entering the retirement system after the dates above mentioned if he, because of sickness or other disability or while serving as an officer of a labor organization, the membership of which includes City employees, has been on leave of absence, regularly granted, since discontinuance of City service, regardless of the length of such leave.

C. Any member who shall make his normal contributions to the retirement system while on leave of absence under Section 1 of Ordinance 69816<sup>1</sup> or while absent in the active service of the United States Public Health Service in fulfillment of military service obligations under laws of the

United States, or who after his return to City service shall make the same in full or in monthly payments equal to his current normal contribution, shall for the period of such leave of absence be entitled to all rights, privileges and benefits allowable under such system, including the al-

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allowance of such time as creditable service. In addition, any member in the City service on December 27, 1972, who heretofore or who hereafter enters the active military or naval service after having been laid off from City employment and who reentered or reenters City service subsequent to such active military or naval service shall be entitled to all rights, privileges and benefits allowable under such system, including the allowance of such period of military or naval service as creditable service provided that such member pay to the retirement system his normal contributions for such period.

(Ord. 117241 § 1, 1994; Ord. 113847 § 2, 1988; Ord. 104912 § 1, 1975; Ord. 104244 § 1, 1975; Ord. 104156 § 2, 1974; Ord. 101615 § 1, 1972; Ord. 79798 § 1, 1951; Ord. 78444 § 6, 1949.)

1. Editor's Note: Ord. 69816 was repealed by Ord. 107790.

#### 4.36.125 Determination of creditable service.

A. A member in an eligible full-time position, with creditable service for every day, will accrue a creditable year of service for twelve (12) months' service. No additional credit is given for Leap Year's Day.

B. For a member in a temporary, intermittent or part-time position, eight (8) hours constitutes one (1) day; and a creditable year of service is measured as two hundred sixty-one (261) credited days or two thousand eighty-eight (2,088) hours of compensated service at straight-time pay.

C. When shown on the City's payroll, paid vacation, sick leave, military leave, funeral leave, and, if the employee pays his or her contribution, "time loss" on worker's compensation or time during family and medical leave under Chapter 4.26, are counted. Overtime (whether or not paid), unpaid leave, time not worked during a layoff, strike or disciplinary suspension, and service as a volunteer are not counted. Service on a temporary City assignment to another government or organization may be counted, in the discretion of the Board, if the member or the member's employer pays the employee contribution.

D. Creditable service is calculated by an employee's hours or time worked, as certified by the City Finance Director to the retirement system. When payroll records are available, the City Finance Director shall multiply the hours worked by a temporary, interim, seasonal, or provisional worker and a worker in a part-time position of less

than twenty (20) hours per week over a one (1) year period by a factor of one and one hundred thirty-five thousandths (1.135) in reporting creditable service to the retirement system, to account for paid leave which was not received and for premium pay which may be substituted for paid leave. The City Finance Director shall reduce the hours or days determined by application of the multiplier by the amount of any paid leave actually provided to the employee and counted in the hours or days worked.

E. No creditable service may accrue for City employment during which the City contributes to another retirement system on the employee's behalf or for a member's City employment after he or she retires on a service retirement and, except for the annual death benefit assessment, no deduction shall be made from his or her pay for retirement purposes.

(Ord. 117241 § 3, 1994; Ord. 116368 § 98, 1992; Ord. 114592 § 7, 1989.)

#### 4.36.130 Retirement System Board of Administration.

A. There is created and established a Retirement System Board of Administration which shall, under the provisions of this chapter and the direction of the City Council, administer the retirement and death benefit systems and the retirement fund created by this chapter. Under and pursuant to the direction of the City Council, the Board shall provide for the proper investment of the moneys in the retirement fund. The Board of Administration shall consist of seven (7) members as follows:

1. The Chair of the Finance Committee of the City Council;
2. The City Finance Director;
3. The City Personnel Director;
4. Three (3) persons who are members of the retirement system or who are retired members and who shall be elected by the members of the retirement system including retired members; provided, that persons who have elected upon termination of their employment to leave all their contributions in the retirement fund pursuant to the provisions of Section 4.36.200 C shall not be eligible to vote for or be elected to such positions; and provided, further, that at the time of such member's election to the Board, no more than one (1) Board member may be a retired member and no more than one (1) elected member may be

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employed in any single City department or other employment unit; and

5. One (1) member who shall be appointed by the other six (6) members; provided that such appointed member shall not be a City employee or a retired City employee and shall not be an employee of the Municipality of Metropolitan Seattle who has membership in the retirement system.

B. Elected members and the appointed member shall serve for a three (3) year term ending July 1st of the third year of such term, provided that the initial terms of the elected members expire July 1, 1971, July 1, 1972, and July 1, 1973; and the initial term of the appointed member shall expire July 1, 1973.

C. Elections for the members of the Board who are elected as provided in this section shall be administered by the Board. Ballots shall be accepted only if received by the Board's designated ballot counter on or before its close of business on the first Monday in June of each calendar year.

D. Any vacancy occurring in an elected position shall be filled by the City Council by appointment to such position of a member eligible to be elected thereto, and provided the member so appointed shall be retired or shall come from the same employing unit as the vacating member. The member so appointed shall serve until such vacancy is filled by the election for the unexpired term of a member eligible to be elected for a full term to such position at the next succeeding first Monday in June, unless the vacancy occurred less than one (1) year before the expiration of the term of such elected member, in which case the member so appointed shall serve for the remainder of the unexpired term. Any vacancy occurring in the appointed member position, shall be filled by appointment by the City Council for the unexpired term.

E. The Chair of the Finance Committee of the City Council shall be ex officio chair, the Personnel Director ex officio Secretary, and the City Finance Director ex officio Treasurer of the Board.

F. The investment of all or any part of the retirement fund shall be in accordance with RCW 35.39.060.

G. Subject to such provisions as may be prescribed by law for the deposit of municipal funds in banks, cash belonging to the retirement fund may be deposited in any licensed national bank or

banks in this state, or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of this state, and a clearing account may be maintained with a depository which holds securities as a nominee for funds received pending transmission to the retirement system as contemplated by RCW 35.39.070.

H. The Finance Director shall be the custodian of the retirement fund. All payments from said fund shall be made upon warrant duly executed by the Finance Director. As custodian, the City Finance Director with the approval of the Board of Administration, may cause securities of the retirement system to be registered in the name of a nominee and authorize the safekeeping of retirement system securities in the physical custody of the Federal Reserve System, a depository trust company, or a bank as contemplated by RCW 35.39.070.

I. Except as herein provided, no member and no employee of the Board shall have any interest, direct or indirect, in making of any investments from the retirement fund, or in the gains or profits accruing therefrom. And no member or employee of the Board, directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the Board; nor shall any member or employee of the Board become an endorser or surety or become in any manner an obligor for moneys invested by the Board.

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J. No City employee who is elected to the Board shall suffer a monetary loss or other penalty on account of his/her absence from his/her regular position during regular hours while attending meetings of the Board or its sub-committees.

(Ord. 116368 § 9, 1992; Ord. 113309 § 1, 1987; Ord. 111493 §§ 1—3, 1983; Ord. 111136 § 1, 1983; Ord. 111135 § 1, 1983; Ord. 107312 § 1, 1978; Ord. 101794 § 1, 1973; Ord. 101738 § 1, 1973; Ord. 100877 § 1, 1972; Ord. 98861 § 1, 1970; Ord. 98163 § 1, 1969; Ord. 83534 § 2, 1954; Ord. 78444 § 9, 1949.)

#### 4.36.135 Lending retirement system securities.

The Board of Administration, after consultation with the Investment Advisory Committee and the City Finance Director, is authorized to contract with a bank, which holds securities in its name for the retirement system as contemplated by RCW 35.39.070, for the lending of all or part of these securities to reputable brokers and financial institutions, for a fee, provided that collateral equal to at least one hundred two percent (102%) of the market value of the securities loaned is continuously maintained.

(Ord. 116368 § 99, 1992; Ord. 111493 § 5, 1983.)

#### 4.36.140 Powers and duties of Board.

The administration of the Retirement and Death Benefit System is vested in the Board of Administration created in Section 4.36.130. The Board shall exercise the powers and duties conferred upon it by said section, and in addition thereto:

A. The Board shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this chapter. At the end of the three (3) year period beginning with the year 1974, and at the end of every three (3) year period thereafter, the Board shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries as defined by this chapter; and shall further cause to be made an actuarial valuation of the assets and liabilities of the retirement fund, and upon the basis of such investigation and valuation and subject to the approval of the City Council, shall:

1. Make any necessary changes in the rate of interest;

2. Adopt for the retirement system such mortality, service, and other tables as shall be necessary;

3. Revise or change the rate of contribution by the City on the basis of such mortality, service and other tables as may be necessary;

4. Establish an investment advisory committee as contemplated by RCW 35.39.080 through 35.39.090. A copy of the investment policy contemplated by RCW 35.39.060 and the recommendation and report of the investment advisory committee required by RCW 35.39.090 shall be filed with the City Finance Director and the City Clerk.

B. The Board shall promptly transmit to the City Council a report covering the actuarial investigation and actuarial valuation provided for in subsection A of this section.

C. In addition to other records and accounts, the Board shall keep such detailed records and accounts as shall be necessary to show the financial condition of the retirement fund at all times.

D. The Board shall annually transmit to the City Council a report showing the financial condition of the fund established by this chapter.

E. Nothing in this section shall be construed to limit the right of the Board, subject to approval of the City Council, to make changes in rates of interest whenever the Board deems it necessary or advisable, or to secure actuarial reports more often than every three (3) years.

F. Whenever the Board deems it necessary or advisable, it may recommend that the City Council change the rates of contributions of members on the basis of mortality, service, and other tables adopted by the Board pursuant to subsection A of this section.

G. The Board may adopt rules deemed appropriate to carry out this chapter, and may delegate to the Executive Director the adoption of policies, procedures, and/or guidelines, which are consistent with its rules and with the ordinance codified herein.

(Ord. 116368 § 100, 1992; Ord. 112833 § 3, 1986; Ord. 111493 § 4, 1983; Ord. 105887 § 1, 1976; Ord. 104572 § 3, 1975; Ord. 102931 § 1, 1974; Ord. 101024 § 2, 1972; Ord. 99566 § 2, 1970; Ord. 78444 § 7, 1949.)

**4.36.145 Finality of Board decisions.**

A. A decision of the Board of Administration shall be final and conclusive on the following matters subject only to review by a court of record, and reversal if the decision is arbitrary or capricious or makes an error of law:

1. The eligibility or obligation of an officer or employee to participate in the Retirement System;

2. The accrual and amount of creditable service; the amount of contributions due to the Retirement System, the amount of contributions received, and the opportunity extended members to redeposit or buy-in of service credit, and the terms thereof;

3. The eligibility for, amount, and kind of benefits payable to any member or beneficiary;

4. A member's eligibility for disability retirement and recall to active duty;

5. The portability of retirement benefits;

6. Termination of benefits; and

7. Compliance with ordinance procedures and Board rules.

B. The Board may delegate the hearing of any of the foregoing to a committee consisting of at least three (3) members of the Board. A member, the Executive Director, if affected, or a City department aggrieved by a committee decision may appeal the decision to the Board within ten (10) days after receipt thereof, and the board shall hear the matter de novo.

(Ord. 116070 § 1, 1992.)

**4.36.155 Annual bonus dividend for current and future retirees.**

Each December, the Board of Administration shall declare and pay a bonus dividend to all retired members and beneficiaries receiving installment payments of accumulated contributions under Section 4.36.270 A. Such bonus dividends will be calculated and paid in accordance with the following formula:

A. One percent (1%) of the current annual pension allowance, for members who retired in the current and immediately preceding year;

B. Three percent (3%) of the current annual pension allowance, for members who have been retired from two (2) to five (5) years, inclusive;

C. Six percent (6%) of the current annual pension allowance, for members who have been retired from six (6) to nine (9) years, inclusive;

D. Nine percent (9%) of the current annual pension allowance, for members who have been retired from ten (10) to thirteen (13) years, inclusive;

E. Twelve percent (12%) of the current annual pension allowance, for members who have been retired from fourteen (14) to eighteen (18) years, inclusive;

F. Fifteen percent (15%) of the current annual pension allowance, for members who have been retired from nineteen (19) to twenty-three (23) years, inclusive;

G. Eighteen percent (18%) of the current annual pension allowance, for members who have been retired from twenty-four (24) to twenty-eight (28) years, inclusive;

H. Twenty-one percent (21%) of the current annual pension allowance, for members who have been retired twenty-nine (29) or more years.

(Ord. 111303 § 1, 1983.)

**4.36.160 Borrowing of money.**

The Board for and on behalf of the retirement system, is authorized to borrow money from time to time, in amounts not to exceed One Million Dollars (\$1,000,000.00) outstanding at any one time, and at interest rates not to exceed six percent (6%) per year and to execute the necessary notes and pledge as collateral securities held by the retirement system, all in connection with the investment of moneys in the retirement fund authorized by Section 4.36.130. Such notes or other evidence of indebtedness shall not constitute an indebtedness of the City, and shall be payable solely from the retirement fund.

(Ord. 87916 § 1, 1959; Ord. 78444 § 9-1, 1949.)

**4.36.170 Contributions by City.**

There shall be paid into the retirement fund by contributions of the City, the amounts necessary to pay all pensions as shall be actuarially determined from time to time and all other benefits allowable to members and their beneficiaries under the provisions of this chapter including death benefits, except such as are provided by the accumulated contributions and death benefit assessments of members. All contributions of the City from all of its departments are available for payment of obligations of the retirement system without segregation by employing departments.

(Ord. 114592 § 2, 1989; Ord. 104572 § 4, 1975; Ord. 78444 § 10, 1949.)

**4.36.175 Released-matching contributions by Transit Fund.**

Released-matching contributions of the Transit Fund in the Employees' Retirement Fund shall be identified in the records of the Employees' Retirement Fund and of the General Fund as assets of the General Fund, and the City Comptroller and the Board of Administration of the Employees' Retirement System are authorized and directed to make the necessary accounting transactions required to effect such identification. (Ord. 110257 § 1, 1981.)

**4.36.180 City obligations.**

A. The payments of the City due the retirement fund as provided for in this chapter are made obligations of the City except as provided in subsection B of this section. The Board shall annually, on or before the tenth day of July each year, prepare and submit to the City Council an estimate of the amounts necessary to meet such obligations, and the City Council shall provide for the raising of such amounts as are necessary to make such payments.

B. The City may at any time change, modify or repeal this chapter or any part thereof in respect to its future obligations to any member not at that time receiving or being eligible to a pension hereunder. It is specifically provided, however, and the City covenants and guarantees, that the City's obligation to those members receiving or eligible to a retirement allowance prior to such change, modification or repeal shall continue in full force and effect as provided in this chapter; and that the City's obligation to those members not receiving or being eligible to a pension at the time of such change, modification or repeal, will be a retirement allowance at pension age equal to the actuarial equivalent of the accumulated value of the member's contribution standing to his credit at date of pension, and the value of the City's obligation as actuarially determined under Section 4.36.170 to the date of such change, modification or repeal.

(Ord. 104572 § 5, 1975; Ord. 78444 § 11, 1949.)

**4.36.190 Discontinuance or reentrance of eligible employee.**

A. 1. Should the City service of a member not eligible for retirement under the provisions of this chapter, be discontinued, except by death, prior to completion of five (5) years' membership in the

retirement system, he shall be paid six (6) months after the date of discontinuance such part of his accumulated contributions as he shall demand; provided, however, that such member may apply to the Board and by unanimous vote the Board may grant a request for immediate withdrawal of contributions. If in the opinion of the Board such member is permanently separated from City service by reason of such discontinuance, he shall be paid forthwith all his accumulated contributions, with interest. Should the City service of an employee not eligible for retirement under subsections A and B of Section 4.36.200 who has been a member of the retirement system for at least five (5) years be discontinued, except by death, he may apply for immediate withdrawal of his accumulated contributions as hereinabove provided, or elect in writing within six (6) months after such termination to leave his accumulated contributions in the retirement fund, and thereafter, upon reaching the required age and making application therefor, he shall receive a retirement allowance as provided in Section 4.36.200 C; provided, that if discontinuance of City service is caused by intemperance, wilful misconduct or violation of law on the part of the member, of which the Board shall be the judge, the Board, in its discretion, may pay to the member, in one (1) lump sum, his accumulated contributions, in lieu of all other rights, privileges or benefits under this chapter; and such payment shall constitute full satisfaction of all obligations of the City to such member, and upon receipt of such payment he shall cease to be a member of the system.

2. Any member eligible for retirement under subsections A and B of Section 4.36.200 whose City service has been discontinued, except by death, and any member whose City service has been discontinued and who has elected to leave his accumulated contributions in the retirement fund, may, in the manner hereinabove provided, apply to the Board for withdrawal of contributions, but in such case the Board may, in its discretion, approve such request or disapprove the same and, if such member then be eligible, authorize his retirement. Upon withdrawal of contributions the full amount deposited by the City in the retirement fund for such member's benefit, plus interest, shall be available to meet the obligations of the City under this chapter.

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B. Redeposit.

1. Subject to rules and regulations established by the Board, any member or former member who reenters City service may redeposit in the retirement fund an amount equal to that which he or she previously withdrew therefrom at the last termination of his or her membership plus compound interest which would have accumulated on the amount, as determined by the Board, between the last termination of his or her membership and his or her reinstatement in the system. Such redeposit shall be paid into the retirement fund.

Within thirty (30) days after his or her re-entry into City service, a former member must redeposit the entire sum determined to be due or sign and file with the Board a redeposit contract in accord with subsection C in order to reestablish his or her "prior service" credit. If a member within thirty (30) days after reentering the retirement system after a termination of his or her membership does not make such a redeposit or file a properly executed redeposit contract, his or her credit for "prior service" shall not be reestablished and the rate of his or her contributions for future years shall be at the rate provided for in subsection A of Section 4.36.110. In the event such redeposit is made by a member, his rate of contribution shall be as determined under Section 4.36.110 A, and the City shall reinstate the "prior service" credit for such member.

2. Any former employee who prior to March 1, 1977, discontinued City service to accept other public employment and who because of such subsequent public employment was permitted to leave his contributions in the retirement fund and retain membership in the retirement system shall be eligible to receive a retirement allowance as provided in Section 4.36.200 C.

C. Redeposit Contract. These terms and conditions govern redeposit contracts for reentering City officers and employees and deposit contracts of officers and employees joining the system under subsections C and E of Section 4.36.110.

1. The unpaid balance shall accrue interest at the assumption rate established by the Board for actuarial purposes and in effect at the time the redeposit agreement is signed;

2. The redeposit must be completed within five (5) years from the date of the member's re-entry into City service;

3. After deducting any immediate redeposit, the balance shall be payable in approximately equal installments every pay period, computed by amortizing interest over the contract term, unless the Board by rule authorizes redeposit in installments of equal payments of principal with interest computed on declining balances;

4. Installment payments shall be deducted from the member's pay during each pay period; and

5. Redeposit agreements shall be subject to the approval of the Board.

The Board of Administration in its discretion may include supplemental terms and conditions by rule or by approving a form of agreement on the following subjects, among others:

a. A minimum installment payment per pay period;

b. The deferral of a redeposit of an installment during a member's layoff, military leave, or other approved leave, with catch-up redeposits upon the member's resumption of pay status;

c. Allocation of payments between interest and principal;

d. Appropriate arrangements in the event of a member's suspension or separation from City service, including the making of set-offs, acceleration of payments, continuation of payments from other sources during the interim, or adjusting "prior service" credit on a pro-rata basis;

e. Other terms and conditions as the Board may deem appropriate.

The Board may also require the execution of contracts by members, who are redepositing in installments through payroll deductions on August 31, 1986.

(Ord. 112833 § 2, 1986; Ord. 110219 § 1, 1981; Ord. 106272 § 1, 1977; Ord. 104572 § 6, 1975; Ord. 104156 § 3, 1974; Ord. 98122 § 1, 1969; Ord. 78444 § 12, 1949.)

**4.36.192 Discontinuance of membership of terminally ill member.**

A. Authority. The Board of Administration may in its discretion authorize an employee to discontinue his or her membership in the City Employee's Retirement System and it may refund all contribution that the employee has made, together with interest thereon, if the employee

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makes written application therefor and all the conditions in subsection B of this section are met.

B. Conditions and Application. The member's application shall be accompanied by the following documents:

1. Competent medical evidence that the member is suffering from a terminal illness or condition, that is, a disease or infirmity which will most probably cause his or her death within two (2) years, and the member's prospects of recovery or a longer life span are low;

2. The member's acknowledgment that by discontinuing his or her membership in the system, he or she will become ineligible for all retirement benefits under the system; for death benefits under Sections 4.36.320—4.36.330; and for reentry into the system under Section 4.36.190 for one (1) year, and then may reenter only with consent of the Board; that, if the member has a spouse, discontinuing membership will render his or her spouse ineligible for spousal benefits upon a member's death or disability; and that refund of his or her contributions may result in withholdings, taxes, and penalties under the International Revenue Code; and

3. If the member is married, a signed written consent of the member's spouse to his or her discontinuance of membership and withdrawal of contributions, including an acknowledgment that discontinuing the employee's membership may forgo spousal benefits in event of the employee's death.

C. Examination. The Board may require an applicant to undergo a physical examination by a physician selected by the Board and/or require the applicant to permit verification of his or her medical condition by allowing an examination of the applicant's medical records or an interview with his or her doctor or caregiver.

D. Reentry/Redeposit. After the lapse of one (1) year, the Board of Administration may in its discretion allow a member who has discontinued membership and recovers from his or her terminal illness to reenter the City Employee's Retirement System. If the member's application is granted, the member shall accrue service credit from the date of his or her reentry into the system, provided, that if the member's application for reentry occurs within three years after the date of the member's discontinuance of his or her membership, the Board may allow the member to make redeposit into the retirement fund of his or her withdrawn

contributions plus interest in the manner contemplated by Section 4.36.190, and, upon completing all such payments, thereby acquire creditable service for the earlier period.

E. Discretionary Determination. This section confers enabling authority on the Board to be exercised in extraordinary circumstances and it imposes no duty upon the Board to grant any particular application. The Board's decision upon an application shall be final. (Ord. 117302 § 1, 1994.)

#### **4.36.193 Election to rollover to an eligible retirement plan.**

Notwithstanding any provision of the City Employee's Retirement System to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Board of Administration to have any portion of any eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

The following definitions apply to this Section:

A. Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion, for net unrealized appreciation with respect to employer securities).

B. Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, and individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's

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eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse an eligible retirement plan is an individual retirement account or individual retirement annuity.

C. Distributee: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.

D. Direct rollover: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(Ord. 117978 § 2, 1995.)

#### **4.36.195 Buy-in of creditable service by temporary, interim, intermittent, provisional and part-time workers.**

These terms and conditions apply to workers acquiring ("buying in") creditable service under Sections 4.36.103 and 4.36.197 for earlier work in temporary, interim, intermittent and provisional positions or part-time positions of less than twenty (20) hours per week during the course of the year.

A. Eligible Services. Only hours in continuous City service as shown on City payrolls can be counted subject to the multiplier in Section 4.36.125. A break in the continuity of City service excludes hours before the break. Such a break in on-call, seasonal or intermittent service occurs if a worker:

1. Removes his or her name from a roster or listing for work assignments;
2. In seasonal employment, declines the opportunity to work for a season; or, in other employment, fails to work at least one hundred (100) hours in any twelve (12) month period;
3. Takes other actions indicating that he or she has stopped or suspended for a year providing his or her services to the City; or
4. Is discharged from City employment.

B. Amount of Creditable Service. Creditable service shall be granted only for the hours for which both the worker and the City make contributions to the retirement system at the rate contemplated by Section 4.36.110. To receive creditable service for prior City service, such a worker

shall deposit into the retirement system an amount determined by the Board of Administration equal to the sum that he or she would have paid had he or she become a member when first eligible and had deductions been made from his or her pay warrants, through the years, for creditable service, together with interest thereon. Interest shall accrue at the Board's assumption rate established for actuarial purposes from the date of the wage or salary payment to the date of deposit and shall be compounded annually.

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C. **Waiting Period, Service Before 1988.** A worker, who began his or her continuous City service on or before December 31, 1987 and has not already received such credit, shall receive creditable service for the first one thousand forty-four (1,044) hours, or portion thereof, of continuous service that he or she worked before January 1, 1988. This is a transitional exception to subsection B of Section 4.36.103.

D. **Administration.** The Board, in its discretion, may delegate to the Executive Director the calculation of the amount of contribution for such a worker to acquire ("buy in") in prior creditable service and may authorize its Executive Director to use an approximate formula to simplify computations and/or to determine credit for vacation and other paid leave when City records are not available therefor. For example, for hourly workers, who have held the same or similar positions over the duration of the buy-back period, the Board may determine the amount due by:

1. Classifying the worker's creditable hours by the contribution rate in effect at the time the hours were worked;

2. Multiplying the creditable hours in each rate classification by the worker's current hourly wage rate and by the applicable contribution rate; and

3. Adding the total of the products of all such classifications together.

E. **Maintenance of Membership.** Such a worker who joins the retirement system shall maintain his or her membership in the retirement system for the duration of his or her City service until retirement. A member of the retirement system, who has not retired from the City and who accepts temporary, intermittent, or part-time work, shall continue to make his or her contributions to the retirement system.

F. **Deposit Contract.** The Board may authorize such a worker to make his or her deposit under an agreement for installment payments under the following terms and conditions:

1. The deposit must be completed within five (5) years from the date of the member's eligibility to join the retirement system, except current workers may be allowed until August 30, 1994 to complete their deposits.

2. After deducting any immediate deposits, the balance shall be payable in approximately equal amortized installments unless the Board authorizes otherwise. Installments shall be de-

ducted from the worker's pay whenever practical. By rule the Board may establish a minimum initial deposit and allowable installment payment and may include other appropriate terms and conditions in the agreement.

3. A member may accelerate and prepay all or part of his or her deposits at any time before he or she dies, retires, or discontinues City service, whichever may be sooner. In the event of extenuating circumstances that preclude an earlier payment, the Executive Director may allow a member up to ten (10) days after his or her retirement or discontinuance of City service to make a lump sum payment of the balance.

4. If a member dies, retires, or discontinues city service before completion of the contract, the member shall receive creditable service on his or her buy-in on a pro rata basis.

5. The member is responsible for making any adjustments appropriate under the Internal Revenue Code with respect to individual retirement accounts and privately administered retirement plans.

G. **City Matching Money.** The City shall match the member's contributions and deposits, including interest, in the same manner as other members. If the worker provided services in two (2) or more departments, the City Finance Director shall apportion the amount of the City contribution among the employing departments. The City Finance Director's apportionment shall be final.

(Ord. 116368 § 101, 1992; Ord. 114592 § 5, 1989.)

#### **4.36.1971989-90 buy-in of prior service.**

A. Within four (4) months after the date of mailing of notice of buy-in rights in the settlement in **Scannell v. City of Seattle**, King County Cause No. 844600, a member who was in active service on or after January 1, 1989 and who had worked one thousand forty-four (1,044) hours or more as a temporary, intermittent, interim, provisional, seasonal or part-time worker before becoming a member, may secure creditable service for his or her continuous City service, worked directly and without a break in service before his or her becoming a member, by making the member's contribution plus interest for the creditable service in accordance with Section 4.36.195, provided that no creditable

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service shall be allowed for such hours as are used to reduce the six months (one thousand forty-four (1,044) hours) of City service required for membership after January 1, 1988 and the member's contribution must cover at least one thousand forty-four (1,044) hours.

B. Within four (4) months after the date of mailing of notice of buy-in rights in the settlement in **Scannel v. City of Seattle**, King County Cause No. 844600, a member, who on or after January 1, 1984 has retired or separated from City service with his or her accumulated contributions on deposit, and had worked ten thousand four hundred forty (10,440) hours or more as a temporary, intermittent or seasonal worker or in a part-time position of less than twenty (20) hours per week over a one (1) year period may secure creditable service for his or her continuous City service, worked directly and without a break in service, before his or her becoming a member by making the member's contribution plus interest for the creditable service in accordance with Section 4.36.195. A retired member, who augments his or her retirement benefits under this subsection, may not change his or her selection of a retirement option under Section 4.36.210. The increased payments shall first take effect for periods after his or her deposit.

C. The opportunities under this section are not available to heirs or beneficiaries of members or employees who died before May 15, 1989. The opportunities under this section are available to members of the retirement system, who retired on or before December 31, 1988 and to former City employees, who have left City service, whether or not members, only as expressly provided by this section.

(Ord. 114592 § 6, 1989.)

#### **4.36.200 Retirement of a member for service by Board.**

Retirement of a member for service shall be made by the Board as follows:

A. Any member in the City service may retire by filing with the Board a written application, stating when he desires to be retired, such application to be made at least thirty (30) days prior to date of retirement; provided, however, that the member, at the time specified for his retirement, shall have completed five (5) years of City service as defined in this chapter, and shall have attained the age of sixty-two (62) years, or shall have

completed ten (10) years of City service, and shall have attained the age of fifty-seven (57) years, or shall have completed twenty (20) years of City service and shall have attained the age of fifty-two (52) years, or shall have completed thirty (30) years of City service as defined

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in this chapter. Permanent discontinuance of City service after the member has become eligible for a retirement allowance under the provisions of this chapter shall entitle such member to his retirement allowance: Provided that if discontinuance of City service is caused by intemperance, wilful misconduct or violation of law on the part of the member, of which the Board shall be the judge, the Board of Administration, in its discretion, may pay to the member, in one lump sum, his accumulated contributions, in lieu of a retirement allowance, and such payment shall constitute full satisfaction of all obligations of the City to such member, and upon receipt of such payment he shall cease to be a member of the system.

B. Any member of the retirement system who, upon termination of his employment with the City after at least five (5) years' membership in the retirement system, elects to leave all his contributions in the retirement fund pursuant to Section 4.36.190 A shall be eligible to receive a retirement allowance upon reaching the age of sixty-two (62) years; provided, that if such member completed ten (10) years of service prior to termination of his employment, he shall be eligible to receive a retirement allowance upon reaching the age of fifty-seven (57) years, and if such member completed twenty (20) years of service prior to termination of his employment, he shall be eligible to receive a retirement allowance upon reaching the age of fifty-two (52) years. Such person shall file with the Board a written application, stating the date when he wishes the payment of his retirement allowance to commence, at least thirty (30) days prior to said date. He shall thereupon be awarded a retirement allowance as provided for members in Section 4.36.210, and shall be eligible to elect in lieu thereof any of the options provided in Section 4.36.260; provided, that any person leaving the City service prior to qualifying for retirement under subsection A shall not be eligible for the alternative retirement allowance computations provided in subsections D and E of Section 4.36.210, nor shall he be eligible to receive any disability retirement allowance under Sections 4.36.230, 4.36.240 and 4.36.250, nor shall his estate or his beneficiaries receive the death benefit provided in Section 4.36.320; provided further, that persons leaving the City service prior to qualifying for retirement under subsection A of Section 4.36.200 shall, if and when eligible to receive a retirement allowance as provided in this subsection, be

eligible for the alternative allowance computation provided in subsection F of Section 4.36.210, based upon his age at the time of commencement of payment of such member's retirement allowance, and in the event any such former employee dies before commencement of his retirement allowance pursuant to this subsection, the provisions of Section 4.36.270 B shall be applicable to such person's spouse, if named as beneficiary, and if there is no surviving spouse, the provisions of Section 4.36.270 C shall be applicable to such person's child or children under the age of eighteen (18) years, if named as beneficiary.

C. Any former employee who prior to March 1, 1977, discontinued his City service to accept other public employment and who, because of such subsequent public employment, was permitted to leave his contributions in the retirement fund, shall be eligible to receive a retirement allowance upon reaching the age of sixty-five (65) years; provided, that if such former employee completed five (5) years of City service, he shall be eligible to receive a retirement allowance upon reaching the age of sixty-two (62) years, and if such former employee completed ten (10) years of City service, he shall be eligible to receive a retirement allowance upon reaching the age of fifty-seven (57) years; and if such former employee completed twenty (20) years of City service, he shall be eligible to receive a retirement allowance upon reaching the age of fifty-two (52) years. Such person shall file with the Board a written application, stating the date when he wishes the payment of his retirement allowance to commence, at least thirty (30) days prior to said date. He shall thereupon be awarded a retirement allowance as provided for members in Section 4.36.210, and shall be eligible to elect in lieu thereof any of the options provided in Section 4.36.260; provided, that any former employee to whom this subsection is applicable shall not be eligible for the alternative services allowance computation provided in subsections D and E of Section 4.36.210, nor shall he be eligible to receive any disability retirement allowance under Sections 4.36.230, 4.36.240 and 4.36.250, nor shall his estate or his beneficiaries receive the death benefit provided in Section 4.36.320; provided further, that such former employees shall, if and when eligible to receive a

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retirement allowance as provided in this subsection, be eligible for the alternative allowance computation provided in subsection F of Section

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4.36.210, based on his or her age at the time of commencement of payment of such member's retirement allowance, and, in the event any such person dies before commencement of his retirement allowance pursuant to this subsection, the provisions of Section 4.36.270 B shall be applicable to such person's spouse, if named as beneficiary, and if there is no surviving spouse, the provisions of Section 4.36.270 C shall be applicable to such person's child or children under the age of eighteen (18) years, if named as beneficiary.

(Ord. 110219 § 2, 1981; Ord. 107164 § 2, 1978; Ord. 106272 § 2, 1977; Ord. 104382 § 2, 1975; Ord. 104156 § 4, 1974; Ord. 99566 § 3, 1970; Ord. 98122 § 2, 1969; Ord. 84510 § 1, 1955; Ord. 78444 § 13, 1949.)

Cases: Seattle ordinance establishing a retirement system for superannuated officers and employees of the City and setting the age limit at sixty-seven years was valid. **Browning v. Seattle**, 50 W.2d 813,314 P.2d 648 (1957).

**4.36.210 Retirement allowances designated.**

A. A member, upon retirement from service, shall receive a retirement allowance subject to the provisions of subsection B of this section, which shall consist of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

2. A pension purchased by the contributions of the City, equal to the annuity purchased by the accumulated normal contributions of the member.

3. For any member having credit for prior service, an additional pension purchased by the contributions of the City equal to one and one-third percent (1 1/3%) of the final compensation multiplied by the number of years of prior service credited to the member, if total prior service credit at such rate shall amount to sixteen and two-thirds percent (16 2/3%) or more of final compensation; if such total prior service credit shall not equal sixteen and two-thirds percent (16 2/3%) of final compensation such additional pension shall be increased by one-third (2/3) of one percent (1%) of final compensation, multiplied by the number of years of prior service credited to the member for the period between July 1, 1919, and July 1, 1929, but such prior service credit for the member shall not exceed a total of sixteen and two-thirds percent (16 2/3%) of final compensation; provided, further, that if a member

shall retire before attaining the age of sixty-two (62) years the total additional pension computed as above shall be reduced by the following percentages:

At age 61	6.48	At age 55	36.18
At age 60	12.48	At age 54	39.92
At age 59	18.02	At age 53	43.38
At age 58	23.12	At age 52	46.52
At age 57	27.85	At age 51	49.52
At age 56	32.12	At age 50	52.30

Appropriate reductions shall be made in case of retirement, under age fifty (50) consistent with the above schedule.

B. If at the time of retirement the basic pension, as defined herein, is in excess of sixty percent (60%) of final compensation then the retirement allowance of the member shall be limited to sixty percent (60%) of final compensation, allowing full credit for prior service as provided in this chapter and applying accumulated normal contributions of the member and of the City in equal amounts to make up the sixty (60%) percent of final compensation. Any residue of the accumulated normal contributions of the member over the amount so applied shall be considered as accumulated additional contributions and may be subject to such rules as the Board may have adopted governing the same. Any residue of the accumulated contributions of the City over the amount so applied shall remain in the retirement fund to be applied to the City's obligations to the fund.

All retirement allowances shall be limited to sixty (60%) percent of final compensation except that increases in retirement allowances after retirement may be received without limitation; and further, that where an allowance is One Hundred Ten Dollars (\$110.00) per month or less, the sixty percent (60%) of final compensation limit shall not apply.

C. The monthly benefits of all members retired for service or disability prior to January 1, 1974, and the monthly benefits payable to any person as the result of the death of any member who was retired for service or disability prior to January 1, 1974, shall be increased as of January 1, 1975, by the percentage indicated in the following table opposite the year of retirement of the member upon whose service such benefits are

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based:

Year of retirement	Percentage increase of monthly benefit payable immediately prior to January 1, 1975
1973	1%
1972	2
1971	3
1970	5
1969	7
1968	9
1967	11
1966	13
1965	15
1964	17
1963	19
1962	21
1961	23
1960	25
1959	27
1958	29
1957	31
1956	33
1955	35
1954	37
1953	39
1952	41
1951	43
1950	45
1949	47
1948	49
1947	51
1946	53
1945	55
1944	57
1943	59
1942	61
1941	63
1940	65
1939	67
1938	69
1937	71
1936	73
1935	75
1934	77
1933	79
1932	81
1931	83
1930	85
1929	87;

Provided, that the increases herein shall not be applicable to persons receiving benefits as the result of the death of a member who elected "Option B" as provided in Section 4.36.260. The increases provided herein shall be paid from available retirement system funds or from contributions of the City. Nothing in this subsection shall affect the amount of any bonus dividend declared pursuant to Section 4.36.150, nor shall any such bonus dividend be considered as a part of monthly benefits for the purpose of computing the percentage increases authorized in this subsection.

D. For members retiring for service subsequent to January 1, 1951, there is established the following scale of minimum retirement allowances, subject to subsection G of this section and subject to the member being sixty (60) years of age or over and having at least ten (10) years of creditable service. The amounts shown in the scale shall be subject to pro rata adjustments for service and/or age but for half (1/2) year fractions only.

**LENGTH OF SERVICE IN YEARS**

Attained Age	10	11	12	13	14
65	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00
64	56.00	58.00	60.00	60.00	60.00
63	47.00	50.00	54.00	58.00	60.00
62	43.00	45.00	47.00	49.00	53.00
61	38.00	40.00	43.00	47.00	49.00
60	37.00	39.00	41.00	44.00	47.00

**LENGTH OF SERVICE IN YEARS**

Attained Age	15	16	17	18	19	20
65	\$60.00	\$60.00	\$63.00	\$66.00	\$69.00	\$73.00
64	60.00	60.00	61.00	64.00	67.00	71.00
63	60.00	60.00	60.00	62.00	65.00	69.00
62	56.00	58.00	59.00	61.00	63.00	67.00
61	53.00	56.00	58.00	59.00	62.00	65.00
60	50.00	52.00	55.00	57.00	60.00	63.00

The pension payable over and above the basic pension shall be purchased by contributions of the City.

E. For members retiring for service subsequent to January 1, 1953, there is established the following "dollar" scale which may be used in fixing the amount of a service retirement allowance but when used the allowance indicated shall

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not be in excess of One Hundred Ten Dollars (\$110.00) per month which shall be subject to subsection G and shall not be subject to the limitation of sixty (60%) percent of final compensation except when such final compensation is more than Two Hundred Dollars (\$200.00) per month. The pension payable over and above the basic pension shall be purchased by contributions of the City.

For Each Year of Creditable Service

\$3.65 for each year at age 65 or over

3.55 for each year at age 64  
 3.45 for each year at age 63  
 3.35 for each year at age 62  
 3.25 for each year at age 61  
 3.15 for each year at age 60

F. For members retiring for service after December 31, 1974, there is established the "percentage" scale in Table 4.36.210 F which may be used in fixing the amount of a service retirement allowance, to be computed by multiplying the number of years of creditable service by the indicated percentage of final compensation; provided that such scale may also be used in determining benefits of surviving spouses of employees receiving disability retirement benefits under Section 4.36.230 E but shall not add more than One Hundred Thirty Dollars (\$130.00) per month to the basic pension upon which such surviving spouses' benefits are based; provided, further, that such scale may also be used in determining benefits payable under Section 4.36.270 B to the surviving spouse of any member who was at least forty-eight (48) years of age at the time of such member's death. Use of this scale is subject to subsection G and to the limitation of sixty percent (60%) of final compensation except where final compensation is less than Two Hundred Dollars (\$200.00) per month, in which case the retirement allowances may not exceed One Hundred Ten Dollars (\$110.00) per month. The pension payable over and above the basic pension shall be purchased by contributions of the City.

The application of the scales herein established and in subsections D and E shall be at the option of the members.

G. Any member who has heretofore elected or who may hereafter elect to receive one of the options provided for in Section 4.36.260 and whose retirement allowance will be increased by the foregoing provisions, shall receive only the proper actuarial equivalent of such increase.

H. The alternative retirement allowance computations set forth in subsections D and E shall be available only to members who remain in City service until they attain age sixty (60) and shall not be available to members who retire or are otherwise separated from City service prior to age sixty (60). Except as provided in Sections 4.36.200 C and D, no person leaving the service of the City prior to attaining the age of forty-eight (48) shall be eligible for the alternative retirement

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allowance computation provided in Section 4.36.210 F; provided, that the surviving spouse of an employee retired for disability shall be entitled to the benefits under Section 4.36.230 E based upon the alternative retirement allowance computation provided in accordance with subsection F if such employee attained the age of forty-eight (48) prior to death.

I. The "final compensation" of a member who retires from a temporary, interim, provisional, intermittent or part-time position is determined by multiplying the member's average hourly rate during his or her highest consecutive four thousand one hundred seventy-six (4,176) hours of service by two thousand eighty-eight (2,088) hours.

(Ord. 114592 § 3, 1989; Ord. 108009 § 2, 1979; Ord. 106272 § 3, 1977; Ord. 104572 § 7, 1975; Ord. 104244 § 2, 1975; Ord. 104156 §§ 5, 6, 1974; Ord. 100792 § 3, 1972; Ord. 99566 §§ 4, 5, 6, 1970; Ord. 98543 § 1, 1970; Ord. 98122 § 3, 1969; Ord. 97303 §§ 1, 2, 1968; Ord. 96293 § 1, 1967; Ord. 95183 § 1, 1966; Ord. 94354 § 2, 1965; Ord. 90730 § 1, 1961; Ord. 86133 § 1, 1957; Ord. 84566 § 3, 1955; Ord. 83534 § 3, 1954; Ord. 81521 § 1(part), 1952; Ord. 79403 § 3, 1950; Ord. 78444 § 14, 1949.)

**4.36.220 Retirement for disability.**

A. Any member may be retired for permanent and total disability, either ordinary or accidental, occurring while in City service and not connected with any illness or disability existing prior to entering City service, upon examination as hereinafter set forth, if such employee meets either of the following requirements:

1. The disability of such member arose out of and in the course of his employment as an employee of the City; or

2. Such member had, at the time of occurrence of such disability, at least ten (10) years of City service, over a period of not to exceed fifteen (15) years immediately preceding retirement, provided that City service lost while on previous disability retirement shall not be considered in determining if the applicant has City service in the limits specified.

B. Any member while in the City service, or within three (3) months after the discontinuance of City service, or while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinu-

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services and advice such compensation as the Board shall

deem reasonable.

D. The provisions of this section shall not be applicable to employees pensioned for permanent and total disability, as defined in and pursuant to state law.

(Ord. 115600 § 1, 1991; Ord. 101274 § 1, 1972; Ord. 89419 § 1, 1960; Ord. 78444 § 15, 1949.)

**4.36.230 Disability allowances designated.**

A. Upon retirement for disability, as provided in Section 4.36.220, provided the disability is not due to intemperance, wilful misconduct or violation of law, of which the Board shall be the judge, a member shall receive a retirement allowance calculated as follows:

One and one-half percent (1½%) of final compensation multiplied by years of creditable service, if such retirement allowance exceeds one-third (⅓) of his final compensation; otherwise one and one-half percent (1½%) of final compensation multiplied by years of service which would be creditable to him were his services to continue until attainment of age sixty-two (62) but such alternative disability retirement allowance shall not exceed one-third (⅓) of such final compensation; provided, that no disability retirement allowance shall exceed sixty percent (60%) of final compensation. Notwithstanding any provision of this section to the contrary, the minimum retirement allowance shall be One Hundred Forty Dollars (\$140.00) per month.

The retirement allowance as above calculated shall consist of:

1. An annuity which shall be the actuarial equivalent of the member's accumulated normal contributions;
2. A pension which shall be the actuarial equivalent of the City's matching contributions;
3. A pension for prior service, if any, calculated at the rate of one and one-half percent (1½%) of final compensation for each year of prior service, which shall be provided by contributions of the City;
4. An additional pension, provided by contributions of the City, should the calculation of the allowance show that subsections 1, 2 and 3 above are not enough to produce the retirement allowance indicated;
5. When use of proper annuity and pension rates results in a retirement allowance amounting to more than would be realized by adherence to the formula indicated in the second

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paragraph of this section the Board shall allow the higher amount.

B. The disability allowances of all members retired for disability prior to January 1, 1971, shall on January 1, 1971, be increased by Twenty Dollars (\$20.00) per month over the monthly benefit payable immediately prior to January 1, 1971, but no such pension of members retired for disability shall be less than One Hundred Forty Dollars (\$140.00) per month as of such date. Nothing in this subsection shall affect the amount of any bonus dividend declared pursuant to Section 4.36.150. Such increases shall be paid from available retirement system funds or from contributions of the City; provided, that such increases shall not be applicable to persons retired for disability on and after September 1, 1970 and on and before December 31, 1970 who pursuant to Ordinance 99271<sup>1</sup> select benefits applicable to persons who retire on and after January 1, 1971.

C. If disability is due to intemperance, wilful misconduct, or violation of law, on the part of the member, the Board in its discretion, may pay to the member, in one lump sum his accumulated contributions in lieu of a retirement allowance; and such payment shall constitute full satisfaction of all obligations of the City to such member; and upon receipt of such payment he shall cease to be a member of the system.

D. Upon the death of a member, while in receipt of a disability retirement allowance, the member's accumulated contributions, as they were at the date of his or her retirement, less any annuity payments made to him or her, shall be paid to the member's estate, or to such persons as he or she shall have nominated by written designation duly executed and filed with the Board; provided, that:

1. Such refund of contributions may be made in monthly payments if requested by the beneficiary and approved by the Board; and

2. If the member's estate is not being probated, the Board, in its discretion, may as an alternative to making payment to his or her estate, authorize payment to an heir who would inherit if the estate were probated, such as a surviving spouse named under a community property agreement or in the member's will.

E. Any surviving spouse of a member receiving a disability retirement allowance may, if named as beneficiary, elect to receive and thereupon shall be paid in lieu of benefits under Sec-

tion 4.36.230 D a monthly benefit the equivalent of a survivor's "Option E" retirement allowance computed on the basis of the member's age at date of death, years of creditable service, and normal and matching contributions reduced by all sums theretofore paid the deceased member as annuity on normal contributions and pension on matching contributions, and, if applicable, by payments to an alternate payee under a court or department order as contemplated by Section 4.36.295. The Board may in its discretion authorize such payments to a surviving spouse, who is not named as a beneficiary, if (a) the surviving spouse is the principal beneficiary of the member's estate and named under a community property agreement or in the member's will, or (b) the member died without leaving a will and the retirement allowance was the property of the marital community and the surviving spouse. The spouse may elect to receive a cash payment of not to exceed one-half ( $1/2$ ) of the deceased member's remaining normal contributions, and such cash payment shall effect a reduction of the survivor's monthly benefit by the amount of annuity such payment would have purchased.

(Ord. 116802 § 2, 1993; Ord. 116069 § 2, 1992; Ord. 107228 § 2, 1978; Ord. 100792 § 4, 1972; Ord. 99566 §§ 8, 9, 1970; Ord. 95183 §§ 2, 3, 1966; Ord. 88897 § 3, 1960; Ord. 83534 § 4, 1954; Ord. 81521 § 1(part), 1952; Ord. 79403 § 4, 1950; Ord. 78444 § 16, 1949.)

1. Editor's Note: Ord. 99271 is a previous amendment to this chapter.

#### **4.36.240 Examination of disability beneficiary—Cancellation of allowance.**

A. The Board may require any disability beneficiary, under age sixty-two (62) years, to undergo medical examination by a physician or surgeon, appointed by the Board at a place to be designated by the Board. Upon the basis of such examination the Board shall determine whether such disability beneficiary is still totally and permanently incapacitated, either physically or mentally, for City service. If the Board shall determine that the beneficiary is no longer so incapacitated, he shall be returned to City service at the earliest opportunity in accordance with civil service rules and regulations and upon such return his retirement allowance shall be cancelled.

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B. Should a disability beneficiary reenter City service his retirement allowance shall be cancelled and he shall immediately become a member of the retirement system, his rate of contribution for future years being that established for his age at the time of such reentry. His individual account shall be credited with his accumulated normal contributions less the annuity payments made to him, except as provided in Section 4.36.240 C. Such member shall receive credit for prior service in the same manner as if he had never been retired for disability.

C. Should any disability beneficiary under age sixty-two (62) refuse to submit to medical examination, his pension may be suspended and should refusal continue for one (1) year, his retirement allowance may be cancelled. Should any such disability beneficiary engage in a gainful occupation he shall immediately report his gross monthly income to the Board and upon receipt of such information the Board shall reduce the retirement allowance to an amount, which when added to the compensation earned by him in such occupation, shall not exceed the amount of the salary or wages presently attached to the regular position held by the disability beneficiary at the time of his retirement.

Should any such disability beneficiary fail to report his gainful occupation the Board shall, whenever information regarding such gainful occupation is received, cause his retirement allowance to be suspended either partially or in full, for the period of time necessary to make up for disability retirement allowance payments drawn by him during the time suspension should have been in effect and should such a beneficiary die before suspended disability retirement allowance payments have equaled payments illegally drawn, the Board shall recover such payments from any benefits which would otherwise be payable to his estate or to a designated beneficiary. Suspension of a disability retirement allowance under such circumstances may be made even after such a disability beneficiary has attained age sixty-two (62). Should such disability beneficiary reenter City service the Board may reduce the accumulated contributions which would otherwise be credited to his account, as contemplated in Section 4.36.240 B, to compen-

sate for payments drawn during time suspension should have been in effect.

When any disability beneficiary reaches age sixty-two (62) his retirement allowance shall be established at the amount which would normally be payable to him and shall not be modified for any cause except as provided in this chapter.

D. Should the retirement allowance of any disability beneficiary be cancelled for any cause other than reentrance into City service, he shall be paid his accumulated contributions, less annuity payments made to him.

If, in the judgment of the Board, a disability beneficiary has failed to properly report his earnings from gainful occupation, the Board may cancel his disability retirement allowance.

E. Should any disability beneficiary who was eligible to receive a service retirement allowance at the time he was retired for disability, desire to convert his disability retirement allowance into the service retirement allowance he was eligible to at time of retirement on disability, the Board may grant his petition so to do.

(Ord. 104572 § 8, 1975; Ord. 78444 § 17, 1949.)

#### 4.36.250 Temporary total disability.

A. Any member who has not attained the age of sixty-five (65) and who has at least ten (10) years of City service over a period of not to exceed fifteen (15) years may, upon his application therefor, be retired by the Board for temporary total disability occurring while in City service and not connected with any illness or disability existing prior to entering such service. Such temporary total disability shall include only a physical or mental incapacity which the Board finds and determines temporarily and totally incapacitates such member for City service.

B. Temporary total disability retirement allowances shall be computed and paid until such disability has ceased, in the same manner and amounts as for permanent and total disability, and shall commence immediately after termination of all payments to the member on account of sick leave, vacation, accumulated time, industrial insurance benefits, and disability payments under Charter Article XVI, Section 24,<sup>1</sup> or any other such benefits.

C. Upon determining that any such temporary total disability has ceased, the Board shall terminate the temporary total disability retirement, and the retirement allowance therefor shall be can-

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celled; or if a member is otherwise eligible, the Board shall convert such temporary total disability retirement to a permanent total disability retirement or a service retirement.

D. In determining eligibility for temporary total disability retirement and termination thereof, the Board may secure such medical assistance as it deems necessary.

E. Upon termination of any temporary total disability retirement, a member who returns to active City service shall be reinstated as a nonretired member of the retirement system and his accumulated contributions less annuity payments shall be credited to his account and he shall contribute at the rate applicable to him at the time he was retired. Any member who does not return to City service after termination of temporary total disability retirement shall be entitled to his accumulated contributions less any annuity payments made to him.

F. Periods during which a member is retired for temporary total disability shall not be recognized as creditable service on any subsequent retirement.

(Ord. 89752, 1960; Ord. 78444 § 17-1, 1949.)

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

#### **4.36.260 Optional lesser retirement allowances.**

A member may elect to receive, in lieu of the retirement allowance provided for in Section 4.36.210, its actuarial equivalent in the form of a lesser retirement allowance, payable in accordance with the terms and conditions of one (1) of the options set forth in Options A through E of this section. Options F and/or G may be elected alone or in conjunction with one (1) of the options set forth in Options A through E. The election of Option F or G will result in the actuarial equivalent of the retirement allowance otherwise payable. Option G includes the lump sum payment of a partial refund. If a combination is elected, the lesser retirement allowance shall be determined by first applying the Option G factor, if applicable, then the Option F factor, if applicable, and then finally the Option A—E factor. Upon the death of a retired member, any death benefits will be payable in accordance with the provisions of the options elected under this section if any. Election of any option must be made by written application filed with the Board of Ad-

ministration at least thirty (30) days in advance of retirement as provided in Section 4.36.200, and shall not be effective unless approved by the Board prior to retirement of the member. The amount paid to a member, a beneficiary or a surviving spouse shall be reduced by payments made to an alternate payee under a court or department order as contemplated by Section 4.36.295.

OPTION A. The lesser retirement allowance shall be payable to the member throughout his life; provided, that if he dies before he receives in annuity payments pursuant to Section 4.36.210 A1 a total amount equal to the amount of his accumulated contributions as of the date of his retirement, the balance of such accumulated contributions shall be paid in one (1) lump sum to his estate or to such person as he shall nominate by written designation duly executed and filed with the Board.

OPTION B. The lesser retirement allowance shall be payable to a member throughout his life provided that if he dies before he receives in annuity payments pursuant to Section 4.36.210 A1 a total amount equal to the amount of his accumulated contributions as of the date of his retirement, the annuity payments resulting from his accumulated contributions shall be continued and paid to his estate or to such person as he shall nominate by written designation duly executed and filed with the Board, until the total amount of annuity payment shall equal the amount of his accumulated contributions as it was at the date of his retirement.

OPTION C. The member shall elect a "guaranteed period" of any number of years. If he dies before the lesser retirement allowance has been paid to him for the number of years elected by him as the "guaranteed period," the lesser retirement allowance shall be continued to the end of the "guaranteed period," and during such continuation shall be paid to his estate or to such person as he shall nominate by written designation duly executed and filed with the Board.

OPTION D. The lesser retirement allowance shall be payable to the member throughout life, and after the death of the member, one-half ( $\frac{1}{2}$ ) of the lesser retirement allowance shall be continued throughout the life of and paid to the wife or husband of the member. If the spouse predeceases the member, then upon receipt of written notice of such death by the Board, the member's retirement

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allowance shall increase to the amount that would have been provided as if the member had not selected this option.

OPTION E. The lesser retirement allowance shall be payable to the member throughout life, and after death of the member it shall be continued throughout the life of and paid to the wife or husband of the member. If the spouse predeceases the member, then upon receipt of written notice of such death by the Board, the member's retirement allowance shall increase to the amount that would have been provided as if the member had not selected this option.

OPTION F. A member who retires from service prior to the age of becoming eligible for retirement payments under the federal system, commonly known as Social Security, and who at the time of retiring is fully insured under the federal system, may elect to have his retirement allowance payable during his or her life only, increased prior to the age at which the member could elect an unreduced Social Security retirement benefit and reduced after such age by amounts which have equivalent actuarial values. Prior to retirement, the member shall obtain, and provide to the Board, a written estimate of his Old-Age Benefit for the age at which the member could elect an unreduced Social Security benefit. If Option F is elected and the member's death occurs prior to the age at which the member could have elected an unreduced Social Security retirement benefit, any death benefit payable under any other option after the date the member would have attained such age, shall reflect the expected lesser amount of Option F.

OPTION G. The member may elect to receive a lump sum payment upon retirement, of either fifty (50) percent or one hundred (100) percent of his or her accumulated contributions. The member's retirement allowance as provided for in Section 4.36.210 shall be reduced by the actuarial equivalent of the withdrawn lump sum.

(Ord. 118497 § 2, 1997; Ord. 116069 § 3, 1992; Ord. 107228 § 3, 1978; Ord. 78444 § 18, 1949.)

#### **4.36.270 Death of member who is not retired.**

A. Upon the death of any member who has not been retired pursuant to the provisions of this chapter, such member's accumulated contributions less any payments therefrom already made to such member shall be paid to such member's surviving spouse, or if the deceased member does not have a

surviving spouse, or if the surviving spouse prior to the death of such member consented in writing to the naming as hereafter provided of a different beneficiary or beneficiaries and waived in writing all rights to benefits under Section 4.36.270 B, then to such member's estate, or to such person or persons as such member shall have nominated by written designation duly executed and filed with the Board. Such payment may be made in one lump sum or may be paid in installments over a period of not to exceed five (5) years, as may be designated by the member or his beneficiary, with such rate of interest as may be determined by the Board.

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B. Any surviving spouse, of a member not retired but having at the date of death at least ten (10) years of creditable service as defined in this chapter, who is entitled to receive such deceased member's accumulated contributions as provided in Section 4.36.270 A, may elect to receive and thereupon shall be paid in lieu of benefits under Section 4.36.270 A, a benefit the equivalent of a survivor's "Option E" retirement allowance. The spouse may, however, elect to receive in lieu of either the above retirement allowance or the benefits under Section 4.36.270 A, a lesser retirement allowance to cease at such spouse's death and in addition a cash payment not to exceed one-half ( $\frac{1}{2}$ ) of the deceased member's accumulated normal contributions. However, such withdrawal shall not serve to reduce such lesser retirement allowance except by the amount of annuity which such withdrawal would have purchased.

C. If there be no surviving spouse at the time of death of a member not retired, but having at least ten (10) years of creditable service as defined in this chapter, and such member has surviving one (1) or more children under the age of eighteen (18) years, and if such child or children are named as beneficiary or if the contributions of the deceased member are payable to such member's estate under the provisions of Section 4.36.270 A, then the legal guardian of such child or children may elect for such child or children a monthly benefit as hereinafter provided, which monthly benefit shall be paid in lieu of the benefits payable under Section 4.36.270 A. Such monthly benefits shall be equal to the monthly benefit which would have been paid to the last spouse of such deceased member if such last spouse had been living and married to the deceased member at the time of his death and was otherwise eligible for and elected to receive the benefits provided in Section 4.36.270 B equivalent to a survivor's "Option B" retirement allowance without a cash payment of a portion of the deceased member's accumulated normal contributions. The guardian may, however, elect to receive in lieu of either the above benefits or the benefits under Section 4.36.270 A, a lesser retirement allowance which will continue until such child or children reach the age of eighteen (18) years and in addition a cash payment not to exceed one-half ( $\frac{1}{2}$ ) of the deceased member's accumulated normal contributions. However, such

Seattle Municipal Code  
June, 1998 code update  
Text provided for historical reference only.

See ordinances creating and amending sections for complete accuracy of and tables and to consult this source file.

withdrawal shall not serve to reduce such lesser allowance except by the amount of annuity which such withdrawal would have purchased. All benefits payable under this subsection shall be paid to the legal guardian of such child or children under the age of eighteen (18) years until all of such children have reached the age of eighteen (18) years, and shall be for the benefit of such minor children.

D. The amount paid to a member's estate, beneficiary or surviving spouse may be reduced by payments made to an alternate payee under a court or department order as contemplated by Section 4.36.295.

E. If the member's estate is not being probated, the Board, in its discretion, may as an alternative to making payment to his or her estate, authorize payment to an heir who would inherit if the estate were probated, such as a surviving spouse named under a community property agreement or in the member's will.

(Ord. 116802 § 1, 1993; Ord. 116069 § 4, 1992; Ord. 107228 § 4, 1978; Ord. 106798 § 1, 1977; Ord. 106587 § 1, 1977; Ord. 88897 § 4, 1960; Ord. 79403 § 5, 1950; Ord. 78444 § 19, 1949.)

#### **4.36.280 Payments in monthly installments.**

A pension, annuity, or a retirement allowance granted under the provisions of this chapter, unless otherwise specified herein, shall be payable in monthly installments, and each installment shall be for the current calendar month.

(Ord. 78444 § 20, 1949.)

#### **4.36.290 Benefits not subject to garnishment or attachment.**

The right of a person to a death benefit, pension, an annuity or a retirement allowance, to the return of contributions, the death benefit, pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this chapter specifically provided.

(Ord. 78444 § 21, 1949.)

For current SMC, contact  
the Office of the City Clerk

**4.36.295 Qualified domestic relations orders—Orders of State Department of Social and Health Services to withhold and deliver.**

A. Authority. The Director may make payments to:

1. A spouse, former spouse, child, or other dependent of a member as directed in an order of the court that constitutes a qualified domestic relations order under 26 U.S.C. § 414 (p); and/or

2. The Washington State Department of Social and Health Services as directed in an order to withhold and deliver under RCW 70.20A.080, each subject to the terms and conditions of this section, and to supplemental requirements that may be adopted by the Director by rule consistent with state and federal law to implement the ordinance codified in this section.

The term “order” as used in this section means either or both of the foregoing orders, and the term “alternate payee” means the recipient of payment on account of an order.

B. Limitations.

1. Any payment to an alternate payee pursuant to an order shall reduce by a like amount the payment of benefits or withdrawal of contributions that would otherwise have been payable to or on account of the member without the order. Payment of an order shall first commence when benefits or a withdrawal of contributions is made to or on account of the member. The amount paid shall not exceed the benefits payable under this chapter and the retirement option selected by the member, or in the case of a withdrawal of accumulated contributions, the amount on deposit to the credit of the member.

2. A payment to the alternate payee shall cease if the payment to a member would end on account of his or her death under a retirement option (Sections 4.36.210 through 4.36.260) or the member's reemployment (Sections 4.36.240 and 4.36.310) in the absence of the order. The Director may not, on account of such an order, limit or coerce the decision of an eligible member to accept a disability allowance (Sections 4.36.220 through 4.36.230) or, if on disability retirement, to return to City employment (Sections 4.36.240 and 4.36.250), or to convert to a service retirement allowance (Section 4.36.240); to withdraw accumulated contributions or to leave his or her contributions on deposit (Section 4.36.190), or to

select a payment option (Sections 4.36.210 through 4.36.260).

C. Formula for Determination.

1. If the member is already receiving benefits or has arranged to receive payment at a proximate date, the order must identify the alternate payee and the amount to be paid as:

a. A precise sum to be paid in a single payment or in equal monthly installments and the duration of the installment payments; or

b. A fixed percentage of the member's “disposable earnings” as defined in RCW 74.20A.090 or “disposable benefits” as defined in RCW 41.50.500(2), which are payable under the payment option that the member has selected.

2. If the member is not yet receiving benefits or has not arranged to receive payment at a proximate date, the order may also determine the amount payable to an alternate payee by a formula or ratio that becomes complete upon the Director supplying the member's creditable or gross contributions; for example, a ratio that measures the member's creditable service on the date of the order to the member's creditable service at the time of retirement, or the member's contributions at a stated date, or a stipulated amount to the member's total contributions at the time benefits commence, or a withdrawal of accumulated contributions occurs. The City will not increase payments by an interest factor or adjust dollar values by a price index in calculating the payment to an alternate payee.

D. Rounding of Numbers. A percentage of “disposable benefits” or a ratio on a formula must be capable of being expressed as a decimal to no more than three (3) places; fractions extending beyond the third decimal place will be rounded to the nearest number at the third decimal place and the amount of any warrant rounded to the nearest cent.

E. Filing of Orders for Future Use. The Director may keep orders on file until such time as the member makes a withdrawal of accumulated contributions or draws benefits. If such an order is on file as to a member, the Director may delay payment of benefits or of accumulated contributions for up to thirty (30) days in order to determine whether or not the order is current and in effect.

F. Alternate Payee's Responsibility. An alternate payee has the responsibility of supplying and

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maintaining with the Director a current mailing address for making payments; if payments are to commence upon occurrence of an event, informing the Director when the event occurs; and in the event of an erroneous overpayment, returning to the City the warrant for issuance of another in the correct amount. Warrants returned on account of an incorrect address may be held as unclaimed property.  
(Ord. 116069 § 1, 1992.)

designation duly executed and filed with the Board.

#### 4.36.300 Estimate of length of service.

If it shall be impracticable for the Board to determine from the records the length of service, the compensation, or the age of any member, the Board may estimate for the purpose of this chapter, such length of service, compensation or age.  
(Ord. 78444 § 22, 1949.)

#### 4.36.310 Retired members who are employed on salary.

Effective January 1, 1953 annuity payments shall be paid to retired members who are in City service, but all pension payments shall be suspended while such retired members are employed on salary by the City, except as to the amount such pension payments may exceed the salary for the same period; provided, that such pension part of retirement allowances shall not be suspended as to any member who is temporarily employed in City service for periods not to exceed 1040 hours in any one (1) year.

(Ord. 107164 § 3, 1978; Ord. 81521 § 1(part), 1952; Ord. 79403 § 6, 1950; Ord. 78444 § 23, 1949.)

#### 4.36.320 Death benefits—Payment.

A. Upon proof of the death on or subsequent to January 1, 1960, of a member of the retirement system who has paid all death benefit assessments as hereinafter provided and who has not been retired, the sum of Two Thousand Dollars (\$2,000.00) as a death benefit shall be paid to such member's surviving spouse or if such deceased member does not have a surviving spouse, or if the surviving spouse prior to the death of such member consented in writing to the naming as hereinafter provided of a different beneficiary or beneficiaries, then to such member's estate or to such person or persons as such member shall have nominated by written

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B. Any member of the retirement system may elect to continue in the death benefit system and pay the death benefit assessments: provided, that such payment shall not be required of a member retiring for disability until age sixty (60), whereupon such member shall be required to pay all death benefit assessments thereafter accruing if he or she desires to continue in the death benefit system. Upon proof of the death of such a member of the retirement system before the effective date of this amendatory ordinance,<sup>1</sup> who has elected to continue in the death benefit system and has paid all death benefit assessments required, there shall be paid to such member's surviving spouse, or if the deceased member does not have a surviving spouse, or if the surviving spouse prior to the death of such member consented in writing to the naming as hereinafter provided of a different beneficiary or beneficiaries, then to such member's estate, or to such person or persons whom such member shall have nominated by written designation duly executed and filed with the Board, the sum of One Thousand Dollars (\$1,000.00), and an additional One Thousand Dollars (\$1,000.00) where death of such member occurs within twelve (12) months from the date such member retires. Upon proof of the death of such member after such effective date, the payment shall be Two Thousand Dollars (\$2,000.00). (Ord. 114543 § 1, 1989; Ord. 106798 § 2, 1977; Ord. 88901 § 1, 1960; Ord. 85562 § 1, 1956; Ord. 78444 § 24, 1949.)

1. Editor's Note: "This amendatory ordinance" indicates Ord. 114543, passed by the City Council on June 12, 1989.

#### **4.36.330 Death benefits—Specifications.**

A. All moneys paid into or out of the retirement fund on account of the death benefit system shall be accounted for by double entry separately in the records of the retirement system in such a manner as to reveal currently the amount of money held for payment of death benefits.

B. Death benefit assessments shall become due and payable January 1st of each year and collectible by payroll deduction or otherwise as directed by the Board. In order to insure coverage of members laid off or on leave of absence or on family or medical leave under Chapter 4.26, the Board is authorized to transfer amounts necessary to pay assessments due from such members from their normal contributions as temporary loans to

be repaid by such members on return to City service.

Death benefit assessments shall be in such amount as shall be determined by the Board but shall not exceed the sum of Twelve Dollars (\$12.00) in any calendar year.

C. An employee becoming a member of the system during the year shall pay the death benefit assessment fixed for that year if such membership is effective prior to October 1st, which assessment shall be collectible by payroll deduction when the first normal contribution is made. Employees becoming members in October, November and December shall pay only one-half ( $1/2$ ) of that annual assessment.

D. The City shall match all death benefit assessments collected from members and such matching payments shall become due and payable immediately following determination of the amount necessary, and should the death benefit system require payments by the City of more than the amount necessary to match an assessment of not to exceed Twelve Dollars (\$12.00), as determined by the Board on advice of its actuary, the same may be made from undivided earnings of the City and the employee in the retirement fund not otherwise obligated. All payments by the City shall be due and payable annually on January 1st. Assessments collected from retired members shall be matched by funds from departments from which such members retired.

E. Upon establishment of the death benefit system as of January 1, 1950, the Board shall recognize as beneficiaries thereunder all persons previously nominated to receive refund of accumulated contributions under Section 4.36.270 A unless a different designation is filed with regard to payment of death benefits.

F. Membership in the death benefit system shall terminate when any member resigns, quits or is discharged and no refund of any portion of death benefit assessments shall be made by reason thereof. Should the Board determine that a member of the retirement system not in City service was maintaining membership for the sole purpose of possibly receiving retirement benefits in the future, the Board shall deny participation in the death benefit system to such member.

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G. The Board of Administration shall make all rules and regulations necessary to supplement the death benefit provisions of this chapter. (Ord. 117241 § 4, 1994; Ord. 114543 § 2, 1989; Ord. 88901 § 2, 1960; Ord. 85562 § 2, 1956; Ord. 78444 § 25, 1949.)

**4.36.340 Appropriation for administration of retirement system.**

The City Council shall appropriate annually from the retirement fund the amount it deems necessary for the purpose of paying the expenses of administering the retirement system. The Board of Administration shall annually submit to the City Council its estimate of the amount necessary to pay such expenses. (Ord. 78444 § 26, 1949.)

**4.36.350 Members eligible prior to January 1, 1941.**

A. In view of the covenants set forth in Section 4.36.180 B, any member eligible to a retirement allowance prior to the effective date of the change or modification effective January 1, 1941, shall elect whether to come under the provisions of Sections 4.36.110 A, 4.36.210 A3 and 4.36.160 B as amended January 1, 1941, or to remain under the provisions of such sections prior to such change or modification.

B. Such election shall be made by written declaration upon a form specified by the Board and filed with the Board within ninety (90) days of the effective date of such change or modification. (Ord. 78444 § 27(a), 1949.)

**4.36.360 Trust fund.**

A. The retirement fund shall be a trust fund for the exclusive benefit of the members of the City Employees' Retirement System and their beneficiaries. No part of the corpus or income of the retirement fund shall be used for or diverted to, purposes other than for the exclusive benefit of the members of the system or their beneficiaries and the payment of fees and expenses of maintaining and administering the system.

B. This section shall be interpreted to allow the following:

1. A return of a contribution to the City or its application as a credit on future contributions, after the Board determines that the City has paid or overpaid the contribution under a mistake of fact;

2. The making of refunds required by law; and

3. Termination of the retirement system and distribution of its assets after all liabilities with respect to the members of the retirement system and their beneficiaries have been satisfied. (Ord. 111992 § 4, 1984.)

**4.36.370 Status of benefits in event of termination of system.**

If the City terminates or partially terminates the retirement system, members shall have a nonforfeitable right to benefits accrued prior to the date of such termination or partial terminations to the extent funded as of that date, or the amounts credited to the employees' accounts. As used in this section, "terminate" means to discontinue the system completely without a comparable replacement plan; "partially terminate" means to exclude a segment of employees from coverage without the provision of a comparable replacement; and "nonforfeitable" means that a member's or beneficiary's right to an immediate or deferred benefit that arises from the member's City service is unconditional and legally enforceable against the retirement system to the extent then accrued, except that rights to a benefit based upon the City's contribution and completion of a minimum term of City service may be lost by death of the member before the term has expired. (Ord. 111992 § 5, 1984.)

**4.36.380 Maximum benefits payable.**

A. The maximum benefits payable to any member shall not exceed the limitation for defined benefit plans for qualified pension trusts estab-

lished by 26 U.S.C. § 415, a copy of which is attached hereto as Appendix "A" and by this reference incorporated herein.<sup>1</sup>

B. The Board of Administration shall determine this limitation, advise members on inquiry as to its amount, and include a general description of the limitations in its annual report to members. (Ord. 111992 § 6, 1984.)

<sup>1</sup>Editor's Note: Appendix A, attached to Section 4.36.380, and Ordinance 111992 adopting these provisions are on file in the office of the City Clerk.

**4.36.385 Compliance with Internal Revenue Code.**

This chapter shall be administered in a manner to comply with the requirements of 26 U.S.C. Section 401(a)(8), (9), (16), (17), (25), and (31), and the Board shall promulgate rules designed to assure said compliance. (Ord. 117978 § 3, 1995.)

**4.36.400 Election to participate in RCW Chapter 41.54.**

As authorized by RCW 41.54.061, the City irrevocably elects to participate in the portability of public retirement systems as contemplated by RCW Chapter 41.54, and to pay for the additional cost it may incur as a result of the benefits provided.

The eligibility of members for the portability of public retirements benefits, the benefits available thereunder, the limitations (including RCW 41.54.080), and the procedures shall be as set out in RCW Chapter 41.54. A member may aggregate service credit in two (2) or more retirement systems for the purpose of determining the percentage factor to be used in calculating a service retirement allowance pursuant to SMC Section 4.36.210 F.

(Ord. 118498 § 2, 1997; Ord. 116810 § 1, 1993.)

**4.36.410 Administration of chapter—Construction—Severability**

A. The retirement plan created by this chapter shall be administered so as to comply with the federal Internal Revenue Code, Title 26 U.S.C., where applicable, and specifically with plan qualification requirements imposed on governmental plans by Section 401(a) of the Internal Revenue Code.

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B. Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy requirements imposed on governmental plans by Section 401(a) of the Internal Revenue Code.

C. If any section or provision of this chapter is found to be in conflict with the plan qualification requirements for governmental plans in Section 401(a) of the Internal Revenue Code, the conflicting part of this chapter is hereby inoperative solely to the extent of the conflict, and such finding shall not affect the operation of the remainder of this chapter.  
(Ord. 118497 § 3, 1997.)

**Chapter 4.38  
DEFERRED COMPENSATION PLAN**

**Sections:**

**4.38.010 Adoption of Deferred Compensation Plan.**

**Article I Eligibility and Definitions of Plan**

**4.38.101 Compliance with Internal Revenue Code.**

**4.38.102 Plan.**

**4.38.103 Definitions and citations.**

**Article II Enrollment and Deferral**

**4.38.201 Participation.**

**4.38.202 Enrollment.**

**4.38.203 Deferrals.**

**4.38.204 Limits on annual deferrals.**

**4.38.205 Investment selections.**

**4.38.206 Investment transfers.**

**4.38.207 Forms and methods.**

**4.38.208 Transfers within an investment selection in the City's Deferred Compensation Plan.**

**Article III Administration, Accounts and Reports**

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**4.38.010Adoption of Deferred Compensation Plan.**

The City of Seattle hereby adopts the following deferred compensation plan for City officers and employees (called the "Plan Document"):

**THE CITY OF SEATTLE VOLUNTARY DEFERRED COMPENSATION PLAN**

**Plan Overview**

If you enroll in this Plan, The City of Seattle (called the "City") will retain ("defer" paying) a part of your salary or wages. The City will then deposit or invest the money retained (called the "deferred amounts") in accord with agreements of the City made from time to time with a Plan administrator, insurance company, investment underwriter, and/or financial institution. After you leave the service of the City, retire or die, the Plan will pay you, or your beneficiaries, benefits based on the invested value of the deferred amount. If you change your employment to another Washington government with an eligible plan, the City may transfer your amounts to your new employee's Plan. The invested value will be based on the amount deferred, less expenses, plus gain or minus losses, and, when applicable deductions for withdrawal ("surrender") fees. An earlier withdrawal may only occur if you suffer an unforeseeable financial emergency. All deferred amounts will belong to the City until benefits are paid.

(Ord. 112516 § 1(part), 1985.)

4.38.101 PERSONNEL

**Article I Eligibility and Definitions of Plan**

**4.38.101 Compliance with Internal Revenue Code.**

This Plan is designed to qualify as an eligible

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deferred compensation plan under the United States Internal Revenue Code (1954) (called the "Code") Section 457 [26 U.S.C. § 4571] and RCW 41.04.250, each as now existing or later amended or replaced. It is subject to all eligibility standards established by the Code for eligible deferred compensation plans (called "Code requirements"). Code requirements take precedence over any conflicting provision in this Plan Document or any ordinance implementing the Plan, and all provisions of this Plan shall be interpreted and applied in a manner to conform with Code requirements.

(Ord. 112516 § 1(part), 1985.)

#### **4.38.102 Plan.**

This Plan Document is supplemented by implementing ordinances enacted from time to time. These ordinances provide for the Plan's administration, reports and fees, and terms and conditions useful in carrying out the Plan. This Plan Document and the implementing ordinances may be amended from time to time in accord with Article VII.

(Ord. 112516 § 1(part), 1985.)

#### **4.38.103 Definitions and citations.**

Article X defines words and terms used in this Plan. Brackets in the text contain citations to the Code or to the Code's implementing regulations [Regs. § 1.457] in order to assist in understanding and applying the section.

(Ord. 112516 § 1(part), 1985.)

### **Article II Enrollment and Deferral**

#### **4.38.201 Participation.**

Only City officers and employees may enroll in the Plan.

(Ord. 112516 § 1(part), 1985.)

#### **4.38.202 Enrollment.**

By enrolling, you accept the terms and conditions of this Plan, authorize the City to defer paying a part of your salary or wages for each pay period, and consent to applying the deferred amount in accord with this Plan.

(Ord. 112516 § 1(part), 1985.)

#### **4.38.203 Deferrals.**

When enrolling, you set an amount to be deferred from your salary or wage for each pay

period. You may later increase or decrease the amount, or stop and resume further deferrals, each as authorized by ordinance. A deferral and an authorization to increase your deferral takes effect in the following month [Code § 457(b)(4)]. Your authorization to begin a deferral, to increase or decrease the amount, or to stop or resume deferrals applies to salary or wages you earn afterward, a change or stoppage will not cause any refund or return of any amount already deferred.

(Ord. 112516 § 1(part), 1985.)

#### **4.38.204 Limits on annual deferrals.**

You may defer as much under the Plan in any year as Code § 457 allows for an eligible deferred compensation plan. Unless the "catch-up" provision applies, the most you may now defer of your compensation for any taxable year is the lesser of Seven Thousand Five Hundred Dollars (\$7,500.00) or one-third ( $\frac{1}{3}$ ) of your "includable compensation" (see Section 10.05). This amount is called the "plan ceiling." Under the "catch-up" provision, during your last three (3) years before the year in which you reach "normal retirement age" (see Section 4.38.402), you may defer the lesser of Fifteen Thousand Dollars (\$15,000.00), or the amount of the "plan ceiling" for the current year plus so much of the "plan ceiling" for earlier taxable years as you failed to use. Any deferral during the year you made under another eligible deferred compensation plan established under Code § 457 will be counted in applying these limits. You may use the "catch-up" provision only once; you cannot invoke the higher limits a second time by resetting your retirement age or returning to City service after you retire [regs. § 1.457-2(e)(3)].

(Ord. 117151 § 1, 1994; Ord. 112516 § 1(part), 1985.)

#### **4.38.205 Investment selections.**

When enrolling, you need to make an investment selection from among alternatives offered by the City. Your selection will serve as an index to measure the current value of your account (see Section 4.38.302). You may change your investment selection from time to time.

(Ord. 112516 § 1(part), 1985.)

#### 4.38.206 PERSONNEL

##### **4.38.206 Investment transfers.**

You may transfer amounts already deferred from one investment selection to another as authorized by ordinance. A transfer will be based on the current value of the previous investment selection, including any gains or less any losses that had already been credited or debited to your account (see Section 4.38.302) and may involve a fee or charge.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.207 Forms and methods.**

To enroll, to change or stop a deferral, or to make an investment selection, you need to sign and file a written form. Your authorization and your investment selection continue in effect for future pay periods until you direct otherwise by signing and filing another written form. An ordinance or administrative rules will provide for the forms, their filing, and when authorizations take effect.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.208 Transfers within an investment selection in the City's Deferred Compensation Plan.**

Securities (mutual funds, money market accounts annuities): A participant, or after a participant's death, a beneficiary, may transfer funds between securities and annuities within an investment selection orally or by computer communication subject to written confirmation by the Plan Administrator in the manner that securities transactions are conducted under the rules of the New York Stock Exchange or the National Association of Securities Dealers, and subject to the terms and conditions for crediting subaccount values in the City's contract with the Plan Administrator. For cause, the Plan Administrator may require that transfers be authorized in writing in advance.

(Ord. 118327 § 5, 1996; Ord. 117151 § 4, 1994.)

### **Article III Administration, Accounts and Reports**

##### **4.38.301 Administration.**

To carry out the Plan, the City will deposit or invest the deferred amounts and any earnings from them in a manner authorized by state law and the Washington Constitution. The City may in its discretion assign functions to one or more City

officials, establish a committee to make decisions or exercise powers, contract with a plan administrator to manage day-to-day operations and keep records, deposit or invest funds with an insurance company, an investment underwriter or financial institution, and delegate any or all duties or responsibilities under the Plan (except making the deferral, itself), to any or all of them.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.302 Accounts.**

An account will be kept for everyone who participates in the Plan. Like all others, your account will be credited with a sum equal to the amounts deferred from your salary or wages; it will be adjusted as if the deferred amounts were invested according to your investment selection; and your account will be reduced by fees charged to your account as authorized by Section 4.38.303 or emergency withdrawals under Section 4.38.407. The adjustment will reflect interest, dividends, and other distributions received; gains or losses from market fluctuations; investment losses; and/or any default by an investment underwriter, each if and when occurring, and, if applicable, a withdrawal ("surrender") fee. The current value of your account will determine the amount of benefits paid under Article IV.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.303 Fees.**

The costs of carrying out the Plan will be borne by those participating through reasonable fees set by ordinance for administrative, recordkeeping, investment and other services performed and for appropriate expenses incurred. A fee may take the form of an assessment calculated as a percentage of the current value of your account, a deduction measured by a payment or transaction, and/or a fixed charge for a service, among other reasonable methods.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.304 Time lag.**

A reasonable time may elapse between the making of a deferral from your salary or wage and its crediting to your account. Interest earned pending transfer of funds or making the credit to your account (sometimes known as earnings on

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the “float”) may be applied toward paying expenses of administering the Plan.  
(Ord. 112516 § 1(part), 1985.)

#### **4.38.305 Annual account report.**

You will be given a written report of the current value of your account at least annually. Unless you take exception to the information supplied, your annual statement will establish the current value of your account as of the account date.

(Ord. 112516 § 1(part), 1985.)

#### **4.38.306 Annual Plan report.**

An annual report on the operation and condition of the Plan (including a schedule of receipts and disbursements during the preceding year) will be filed with the City Clerk as a public record.

(Ord. 116368 § 102, 1992; Ord. 112516 § 1(part), 1985.)

#### **4.38.307 Access to Plan records.**

Upon reasonable notice you may inspect records maintained for the Plan generally by the City or a Plan administrator and your account during normal business hours.

(Ord. 112516 § 1(part), 1985.)

### **Article IV Benefits**

#### **4.38.401 Earliest payment allowed.**

The Plan will not pay or make benefits available before the earliest of the following events: you retire from City service on or after you reach “normal retirement age” (see Section 4.38.402); you make a permanent separation from City service; the start of the calendar year in which you reach age seventy and one-half (70½); or you die. (Section 4.38.408 provides for temporary departures.) An earlier payment may be authorized for an “unforeseeable emergency” (see Section 4.38.407) [Code § 457(e)(9); Regs. §1.457-2(h)].  
(Ord. 117151 § 2, 1994; Ord. 114697 § 2, 1989; Ord. 114095 § 1, 1988; Ord. 112516 § 1(part), 1985.)

#### **4.38.402 Normal retirement age.**

“Normal retirement age” means the range of ages ending not later than when you reach seventy and one-half (70½) and not sooner than the time when you have the right to retire without the City’s consent, and become eligible by age, length of

service, or both to retire and receive immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age, under the City Employees’ Retirement System, the Law Enforcement Officers’ and Fire Fighters’ Retirement System, or the Washington Public Employees’ Retirement System, whichever be applicable to you; or, if none apply, the time you would have been eligible for unreduced retirement benefits by age, length of service, or both had you been eligible for and had you joined the City Employees’ Retirement System. If you continue to work beyond this age, you may set a later date or age; the later date or age must come not later than the calendar year in which you reach age seventy and one-half (70½) or you leave City service, which is later [Code §§ 457 (d)(2)(A) and 401 A 9 (c); Regs. § 1.457-2(f)(4)].

(Ord. 117151 § 3, 1994; Ord. 114697 § 3, 1989; Ord. 114095<sup>1</sup> § 3, 1988; Ord. 113136 § 1, 1986; Ord. 112516 § 1(part), 1985.)

1.Editor’s Note: The amendment to Section 4.38.402 enacted by Section 3 of Ordinance 114095 became effective January 1, 1989. The amendment by Section 3 of Ordinance 114697 became effective October 19, 1989.

#### **4.38.403 Benefit selections.**

A. You may select the method of payment from among alternatives made available by ordinance in the case of your retirement or an earlier separation from City service before payment benefits commence; if you should die your beneficiary may select a death settlement from among the alternatives offered before benefits are paid.

B. You (or your beneficiary) may postpone making your selection as long as your choice is made in the time and manner authorized by ordinance and before any benefits become available. You may not revoke a selection after benefits commence [Regs. § 1.457-1].  
(Ord. 112516 § 1(part), 1985.)

#### **4.38.404 Scheduling benefits.**

Payment of benefits shall begin on or before the later of the end of sixty (60) days after the end of the calendar year in which you (a) reach (or would have reached) “normal retirement age” (see Section 4.38.402) or (b) leave City service permanently. The payment of benefits must be scheduled so that the amounts do not increase substantially after the first year; at least one (1)

#### 4.38.404 PERSONNEL

payment occurs every year; and most of them will go to you rather than your beneficiary. For example, at the time payment of benefits begin, the present value of scheduled payments to you over your life expectancy must exceed sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the total present value of all payments due [Code § 457 (d)(2); Regs. § 1.457-2(i)].

(Ord. 114095<sup>1</sup> § 4, 1988; Ord. 112516 § 1(part), 1985.)

1. Editor's Note: The amendment to Section 4.38.404 enacted by Section 4 of Ordinance 114095 becomes effective January 1, 1989.

#### 4.38.405 Designating a beneficiary.

You have the right and duty to designate a beneficiary to receive benefits under this Plan if you die. You may change your beneficiary from time to time on a form and in the manner authorized by ordinance. If you die without having a properly designated beneficiary, or your beneficiary cannot be readily located from the information you have supplied, Plan benefits may be made to your estate or paid into the registry of a court for disposition. If you do not designate any beneficiary at all and you die without any heirs, Plan benefits will be deposited in the City's General Donation and Gift Trust Account as a bequest in your name.

(Ord. 112516 § 1(part), 1985.)

#### 4.38.406 Payments to beneficiaries.

If you die before drawing benefits or before all benefits are paid, benefits shall be paid to your beneficiary over a period of fifteen (15) years or less, or if your beneficiary is your surviving spouse, for his/her life or any shorter period [Regs. § 1.457-2(i)(3)]. Payments must be sufficiently rapid to satisfy the requirements of Code § 457(d)(2) and Code § 401(a)(9) [Code § 457(d)(2)]. To qualify for benefits your beneficiary must survive ten (10) days after your death.

(Ord. 117151 § 5, 1994; Ord. 112516 § 1(part), 1985.)

#### 4.38.407 Unforeseeable emergency.

Upon application, the City may authorize a payment to you in an amount reasonably needed to meet an "unforeseeable emergency." An "unforeseeable emergency" is a severe financial hardship to you resulting from a sudden and unexpected illness or accident to you or a depen-

dent, loss of your property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control. No payment can be made to the extent that your hardship may be relieved through reimbursement, compensation by insurance or otherwise; a sale of your assets without causing severe financial hardship; or suspending your deferrals. The payment may not exceed the lesser of the current value of your account (see Section 4.38.302) or the amount required to satisfy your emergency need [Regs. § 1.457-2(h)(4-5)]. Your account will be reduced by an amount equal to any payment made; and any balance remaining in your account after the payment will be paid as benefits in accordance with Section 4.38.401. This is the only payment of deferred amounts, which the City may authorize while you are below your retirement age in active City service.

(Ord. 112516 § 1(part), 1985.)

#### 4.38.408 Temporary interruption of service.

Unless you declare and make your departure permanent or Section 4.38.406 applies, your account will continue to be maintained during the following absences although deferrals cease: A layoff for lack of work; military service while reemployment rights are maintained; an extended authorized leave of absence; and transfer to other employment while you maintain your membership within the City Employees' Retirement System or the Law Enforcement Officers' and Fire Fighters' Retirement System.

(Ord. 112516 § 1(part), 1985.)

### Article V Ownership of Investments/Your Status

#### 4.38.501 City ownership.

The City will make all contracts and register all assets purchased with deferred amounts or earnings from them in its own name as owner. All assets under the Plan, including all deferred amounts, all property and rights purchased with deferred amounts, and all means attributed to such amounts, property or rights shall be and remain (until made available to the participant or other beneficiary) solely the property and right of the City (without being restricted to the provision of benefits under the Plan) and subject to the claims of the City's general creditors [Code § 457(b)(6)].

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(Ord. 112516 § 1(part), 1985.)

**4.38.502 Your status.**

You have an unsecured right to the benefits provided by Article IV as a general creditor of the City measured by the current value of your account. You have no preferred, guaranteed, secured or special interest in any deferred amounts or assets acquired with or as a result of them; the Plan does not create a trust fund, an escrow account, or any other form of segregation of assets for the benefit of those who enroll in the Plan. By enrolling, you acknowledge that your rights are those of a general creditor of the City, and that in any lawsuit, your rights and remedies would be limited to those of such a general creditor.

(Ord. 112516 § 1(part), 1985.)

**4.38.503 Attachment.**

Neither you nor your beneficiary, or any of your creditors or their creditors (if any), shall have any claim or right to any assets of the City under the Plan nor shall the same be subject to attachment, execution, or other judicial relief for your benefit or their benefit.

(Ord. 112516 § 1(part), 1985.)

4.38.503 PERSONNEL

**Seattle Municipal Code**  
**June, 1998 code update file**  
**Text provided for historic reference only.**

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**4.38.504 Transfers between government plans.**

This Plan will accept plan-to-plan transfers of deferred compensation accounts for employees who enter City service from another employer with an eligible deferred compensation plan established under Code § 457. Conversely, if you leave City service to take a position with another employer with an eligible deferred compensation plan under Code § 457, the City will automatically transfer your account to your new employer for deposit in its plan as long as the receiving plan accepts such transfers [Regs. § 1.457-2(k)]. (Ord. 114095 § 2, 1988; Ord. 112516 § 1(part), 1985.)

**Article VI Implementation and Interpretation**

**4.38.601 Rules.**

The City may promulgate, amend, and revoke rules controlling the operation and administration of the Plan. (Ord. 112516 § 1(part), 1985.)

**4.38.602 Priority.**

This is a group plan. The concerns of the City and the need to accommodate all participants as a whole comes first in Plan administration, adopting rules, setting fees and charges, and in making decisions that could affect many even though a practice, rule, charge or decision in a particular situation may seem unjust or arbitrary or cause hardship. (Ord. 112516 § 1(part), 1985.)

**4.38.603 Interpreting and applying the Plan.**

The decisions and actions of the City, or its officials or committee administering the Plan in interpreting terms, finding facts, and applying the Plan shall be final and binding. If in doubt, the City, or an authorized agent, may, in its discretion, postpone or suspend a payment until satisfied of its correctness or until the matter is determined in a court of law. (Ord. 112516 § 1(part), 1985.)

**Article VII Amendment and Termination**

**4.38.701 Amendment/termination.**

The City may at any time amend, modify, or terminate the Plan with or without your consent (or of any beneficiary) or of all participants. The City reserves the power to participate in the State of Washington Plan pursuant to RCW 41.04.250 through 41.04.260; the Library Board reserves the same authority as to Library personnel, and the authority to establish its own Plan. (Ord. 112516 § 1(part), 1985.)

#### 4.38.801 PERSONNEL

##### **4.38.702 Notice.**

Amendments to the Plan ordinance will be enacted in the manner contemplated by the City Charter for City ordinances. Wherever practical advance notice of amendments to the Plan Document shall be provided, a public hearing will be held at which participants may be heard, and a copy of the amendment will be supplied afterward.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.703 Limitation on amendments.**

No amendment will deprive you of any benefits to which you are entitled under the Plan with respect to deferred amounts credited to your account before the effective date of the amendment.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.704 Result of termination.**

If the Plan is terminated or further deferrals stopped for all participants, the City will provide for retaining amounts already deferred and the making of payment in accordance with Article IV. If the City elects to participate on the State of Washington plan under RCW 41.04.250, the City may transfer all deferred amounts to the State as long as participants receive credit with the state plan for their accounts balances with the City; the Library Board reserves the same authority as to Library personnel.

(Ord. 112516 § 1(part), 1985.)

#### **Article VIII Disclaimers and Limitations**

##### **4.38.801 Employment unaffected.**

Enrolling in the Plan will not give you any right to continue your service with the City nor restrict in any way the City's rights to terminate your service. Deductions for Social Security purposes (Federal Insurance Contributions Act), the City Employees' Retirement System, workers' compensation and other state or City benefits, shall be based upon the salary or wages you

receive as if no deferrals are made.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.802 Disclaimer as to tax impact.**

The City makes no representation of any kind as to the benefits of the Plan or the tax consequences that may occur to you. You should consult your own counsel on these matters.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.803 Assumption of risks.**

You accept and assume all risks that adhere in the Plan and its administration. The City will not be liable for any loss due to market fluctuations, failure of investments, default by an investment underwriter or annuity carrier, or errors or misappropriations by any Plan administrator. Any Plan administrator, insurance company, investment underwriter, or financial institution will be an independent contractor responsible for its own actions.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.804 Prohibition of assignment.**

No contract right or payment to you or your beneficiary under this Plan shall be assignable or transferable. Neither you nor your beneficiary shall have any right to sell, assign, transfer or otherwise convey any right to receive any payment under this Plan, nor insofar as the City can prohibit the same, shall any such right be subject to involuntary transfer.

(Ord. 112516 § 1(part), 1985.)

#### **Article IX General Provisions**

##### **4.38.901 Number.**

The singular of a noun or verb covers the plural, and the plural number applies to the singular, too.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.902 Captions.**

Captions are for convenient reference only and do not limit or comment upon the text of a section or article.

(Ord. 112516 § 1(part), 1985.)

##### **4.38.903 Successors.**

This Plan shall be binding on the parties, all beneficiaries, and anyone claiming through any of them.

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(Ord. 112516 § 1(part), 1985.)

**4.38.904Entire agreement.**

The Plan Document, as supplemented by implementing ordinances enacted from time to time, constitutes the entire agreement between you and the City. You may not rely upon any oral statements.

(Ord. 112516 § 1(part), 1985.)

without taking into account Washington's community property laws [Code § 457(d)(5); Regs. § 1.457-2(e)(2)].

(Ord. 112516 § 1(part), 1985.)

1.Editor's Note: Ordinance 11992 added Sections 4.20.600, 4.20.610, 4.36.360, 4.36.370 and 4.36.380 to the Seattle Municipal Code.

**4.38.1006Investment underwriter.**

"Investment underwriter" means a financial institution; a mutual fund, a securities manager,

**Article X Glossary**

**4.38.1000Definitions generally.**

The following words and terms have the meanings stated in this article.

(Ord. 112516 § 1(part), 1985.)

**4.38.1001City.**

"City" means The City of Seattle.

(Ord. 112516 § 1(part), 1985.)

**4.38.1002Code.**

"Code" means the United States Internal Revenue Code as now existing or later amended or replaced.

(Ord. 112516 § 1(part), 1985.)

**4.38.1003Code requirements.**

"Code requirements" means the eligibility standards established by the United States Internal Revenue Code for eligible deferred compensation plans, as now existing or amended or replaced. See 26 USC § 457 for Code requirements in effect upon adoption of this Plan.

(Ord. 112516 § 1(part), 1985.)

**4.38.1004Deferred amount.**

"Deferred amount" means the part of your wage or salary which the City retains pursuant to this Plan.

(Ord. 112516 § 1(part), 1985.)

**4.38.1005Includable compensation.**

"Includable compensation" means your compensation from the City reported to the United States Internal Revenue Service for federal income tax purposes, reduced by deferrals under this plan and payments made on your behalf for retirement system purposes under Ordinance 111992<sup>1</sup> and 26 USC § 414(h). It is determined

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**Seattle Municipal Code**  
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trust, or dealer; or any other organization, except the City, itself, which invests and manages deferred amounts.

(Ord. 112516 § 1(part), 1985.)

**4.38.1007 Normal retirement age.**

“Normal retirement age.” See Section 4.38.402.  
(Ord. 112516 § 1(part), 1985.)

**4.38.1008 Participant.**

“Participant” means each and everyone who enrolls in the Plan.

(Ord. 112516 § 1(part), 1985.)

**4.38.1009 Pay period.**

“Pay period” means the regular calendar interval of City employment by which your salary or wages are paid.

(Ord. 112516 § 1(part), 1985.)

**4.38.1010 Plan administrator.**

“Plan administrator” means a City official or office, or an organization that manages the day to day operation of the Plan by providing such services as the following: Preparing informational material, presenting the Plan to City employees, enrolling participants, processing forms and keeping records and accounts, and providing information, answering questions, and giving advice about the Plan, making reports to participants, coordinating with investment underwriters, participating in selecting them, and overseeing their performance, and directing payment of benefits. This listing illustrates the type of tasks performed; a plan administrator may perform some, all, or other tasks, as determined by ordinance.

(Ord. 112516 § 1(part), 1985.)

**4.38.1011 Plan ceiling.**

“Plan ceiling” is the lesser of Seven Thousand Five Hundred Dollars (\$7,500.00) or one-third ( $\frac{1}{3}$ ) of a participant's “includable compensation.” See Section 4.38.204.

(Ord. 112516 § 1(part), 1985.)

**4.38.1012 Plan Document.**

“Plan Document” means “The City of Seattle Voluntary Deferred Compensation Plan,” Articles I through X, inclusive.

(Ord. 112516 § 1(part), 1985.)

**4.38.1013 Regs.**

“Regs.” is an abbreviation for the Regulations implementing the Internal Revenue Code, Title 26, Code of Federal Regulations.

(Ord. 112516 § 1(part), 1985.)

4.40.010 PERSONNEL

**4.38.1014 Unforeseeable emergency.**

“Unforeseeable emergency” means the circumstances defined in Section 4.38.407 when payment may be made to participants who remain in City service.  
(Ord. 112516 § 1(part), 1985.)

**4.38.1015 You.**

“You” means each and everyone who enrolls and participates in the Plan.  
(Ord. 112516 § 1(part), 1985.)

**Article XI Plan Document**

**4.38.1500 Codification.**

Each section of the Plan Document contained in Sections 4.38.101 through 4.38.1015 is a separate subsection for codification and amendment purposes.  
(Ord. 112516 § 2, 1985.)

**4.38.1510 Amendments.**

The Plan Document may be amended from time to time in the manner contemplated by the City Charter for City ordinances. Wherever practical, advance notice shall be provided to participants, a public hearing will be held at which participants in the Plan may be heard, and a copy of any amendment adopted will be supplied to participants.  
(Ord. 112516 § 3, 1985.)

**Chapter 4.40  
CITY UNEMPLOYMENT INSURANCE  
PROGRAM**

**Sections:**

- 4.40.010 Unemployment insurance program—Generally.**
- 4.40.020 Unemployment insurance subfund established.**
- 4.40.030 Excluded employees.**
- 4.40.040 Repayment of benefits to which one is not entitled.**

**4.40.050 Violation—Penalty.**

Statutory Reference: For statutory provisions making the State Employment Security Act applicable to political subdivisions, see RCW Ch. 50.44.

**4.40.010 Unemployment insurance program—Generally.**

A. A program of unemployment insurance is established for eligible employees of the City, including all such eligible employees of the Seattle Public Library upon adoption by the Board of Trustees of the Seattle Public Library of a resolution providing therefor. Employees whose service and pay are interrupted by layoff for lack of work or funds after November 1, 1974, including temporary employees who have completed a stipulated period of employment, and who were employed full time by the City continuously for a period of one (1) year immediately preceding such layoff, and who are not excluded by Section 4.40.030, and who provide evidence that they are available for and actively seeking employment, shall be entitled to receive unemployment compensation benefits for a maximum benefit period of twenty-six (26) weeks in an amount not less than Seventeen Dollars (\$17.00) per week nor more than fifty percent (50%) of the statewide average weekly wage as determined annually by the Washington State Department of Employment Security, under the conditions established in and as more fully described in C.F. 280329.<sup>1</sup> An employee who has been on leave of absence during the year immediately prior to layoff shall be deemed in continuous employment immediately preceding such layoff for purposes of eligibility for unemployment compensation benefits as provided herein, but such leave time when taken without pay shall not be included in the computation of the one (1) year requirement.

B. The Director of Personnel is authorized and directed to administer the unemployment insurance program, and in such connection may promulgate administrative regulations from time to time in the manner provided in the Administrative Code (Ordinance 102228)<sup>2</sup> to carry out the intent and purpose of this chapter. The Director is further authorized to contract for necessary consulting services, for reinsurance, and for such other services as may be necessary from time to time to administer the unemployment insurance program.

(Seattle 3-96)

C. Beginning January 1, 1978, the Director of Personnel shall administer an unemployment insurance claims management system. The Director shall have the authority to employ such persons, in accordance with civil service laws and rules, make such expenditures, require such reports, make such investigations and to take such other action as he deems necessary or suitable in limiting the City's unemployment compensation liability and in operating a claims management system. The Director shall also coordinate and manage all recordkeeping and reporting functions required under the State Employment Tax Act and the Director is designated as the liaison for unemployment insurance purposes between the City, state and/or federal officials and agencies. All department heads are directed to cooperate with and aid the Director of Personnel in the operation of a successful claims management system.

D. Beginning January 1, 1978, the program of unemployment insurance shall be continued for all eligible employees of the City by virtue of the mandates and pursuant to the provisions of the State Employment Security Act (RCW Chapter 50). This subsection has been enacted to comply with the provisions of RCW Chapter 50, which mandate unemployment insurance coverage for political subdivisions. This subsection shall remain in effect only for so long as such mandatory coverage provisions of RCW Chapter 50 remain effective.

E. In the event the mandatory coverage ceases to be effective, then the section or subsections of this amendatory chapter, to the extent that they apply to unemployment insurance coverage of City employees under the State Employment Security Act (RCW Chapter 50), shall be deemed nullified and the language of the sections being amended shall be reinstated.

F. Represented employees, where the City has agreed so under current effective bargaining agreements, shall be assured of a weekly benefit amount under the state's program which is equivalent to the weekly benefit amount provided under subsection A of this section.

G. No employee of the City shall be entitled to collect City unemployment compensation benefits while drawing unemployment compensation benefits from another source. The intent of this subsection is to prevent an employee from collecting more than the maximum weekly bene-

fit amount, regardless of the source, assured under subsections B and D of this section for the same base year wages.

(Ord. 107063 § 1, 1977; Ord. 104749 § 1, 1975; Ord. 104083 § 1, 1974.)

1.Editor's Note: C.F. 280329 (Comptroller's File) is not included in this Code. Copies are available for public inspection in the office of the City Clerk.

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

#### **4.40.020 Unemployment insurance subfund established.**

There is established in the City Treasury, as a special subfund of the General Fund, an "Unemployment Insurance Subfund." The unemployment insurance program established by this chapter shall be funded by annual and other appropriations, provided that the Lighting and Water Departments, the Engineering Department as to employees assigned to the Sewerage and Solid Waste Utilities, and all departments with respect to those eligible employees of such departments whose salaries were funded by state or federal grants, shall pay into the unemployment insurance fund amounts paid or expected to be paid during the calendar year for benefits to eligible persons laid off from each such department, together with a proportionate share of the cost of administering the program, upon appropriate billings from the Director of Personnel. Claims for benefits under the unemployment insurance program and all costs of administering the program shall be paid from the subfund upon vouchers approved by the Director of Personnel or his or her designee and the necessary appropriations are made.

(Ord. 117977 § 4, 1995; Ord. 116368 § 103, 1992; Ord. 107063 § 2, 1977; Ord. 104083 § 2, 1974.)

#### **4.40.030 Excluded employees.**

The following City employees are excluded from the City unemployment insurance program and shall not be entitled to benefits under the program, provided that beginning January 1, 1978 this section shall only apply according to the provisions of subsections D and E of Section 4.40.010:

A. Employees represented by the Police Officers Guild;

B. Employees represented by the International Association of Fire Fighters, Local No. 27;

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C. Employees of the City who are employed under personal service contracts;

D. Employees whose salaries are funded by state or federal grants, except:

1. Where employees are included in the program by collective bargaining agreements with the City, or

2. Where the agency making the grant agrees to fund the costs incurred by participation in the program, or

3. Where the conditions of the grant provide that employees funded by the grant must be afforded benefits to the same extent as other employees.

(Ord. 107063 § 3, 1977; Ord. 105990 § 1, 1976; Ord. 104083 § 3, 1974.)

**4.40.040 Repayment of benefits to which one is not entitled.**

Anyone receiving a payment from the City pursuant to this chapter to which he or she is not entitled shall promptly repay the same to the City Finance Director.

(Ord. 116368 § 104, 1992; Ord. 107063 § 4, 1977; Ord. 104083 § 4, 1974.)

**4.40.050 Violation—Penalty.**

A. Anyone who knowingly makes any false statement or representation with intent to secure benefits to which he or she is not entitled under this chapter, and anyone who retains any payments made pursuant to this chapter knowing that he or she is not entitled to retain the same, shall be guilty of a violation of this chapter, and upon conviction thereof may be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars (\$500), but a conviction of a violation shall not give rise to any disability or legal disadvantage based on the conviction of a criminal offense.

B. Notwithstanding the civil nature of the penalty provided herein, nothing in this section shall deny any constitutional rights which a defendant would have were the penalty deemed criminal.

(Ord. 107063 § 5, 1977; Ord. 104083 § 5, 1974.)

(Seattle 12-97)

**Chapter 4.44  
DISABILITY COMPENSATION**

**Sections:**

**4.44.010 Deductions from employee's earnings.**

**4.44.020 City compensation additional to State Industrial Insurance and Medical Aid.**

**4.44.030 Compensation for holidays and earned vacation.**

**4.44.040 Employment of disabled person in other suitable duties.**

**4.44.050 Authority to make rules and regulations.**

**4.44.060 Industrial Insurance Subfund established.**

**4.44.070 City's self-insurance program.**

**4.44.080 Eligibility for continued benefits.**

Statutory Reference: For statutory provisions on industrial insurance, see RCW Title 51.

**4.44.010 Deductions from employee's earnings.**

The City Finance Director is authorized and directed to deduct and pay from the earnings of any City employee, in accordance with RCW 41.04.030 and pursuant to written authorization therefor signed by such employee and filed with the City Finance Director in accordance with RCW 41.04.020, such amounts for disability insurance premiums, other than retroactive premiums, to such insurance groups or companies as shall be specifically designated therein; provided, that no deduction or payment shall be made unless:

A. Such insurance group or company shall provide authorization forms without expense to the City, which authorizations shall save the City harmless from any liability in connection with the making or failure to make any deduction or payment, and shall further specifically recognize that the City does not endorse the insurance group or company to which such payment is made and that such deduction and payment does not constitute sponsorship of the program; and

B. As to insurance groups or companies providing such insurance on an individual basis or on a group basis for groups of less than twenty-five (25) individuals, such insurance group or company, for reimbursement to the City of its costs in connection with such deductions and

payment, shall pay to the City upon quarterly billings by the City Finance Director Ten Cents (\$.10) for each payroll deduction for each employee who has authorized as provided herein deduction and payment of disability insurance premiums to such insurance group or company. (Ord. 116368 § 105, 1992; Ord. 103015 § 1, 1974.)

**4.44.020 City compensation additional to State Industrial Insurance and Medical Aid.**

A. Any City officer or employee otherwise entitled to sick leave and vacation benefits and for whom State Industrial Insurance and Medical Aid is provided, who shall be disabled in the discharge of his or her duties, and whose disablement results in absence from his or her regular duties, shall receive compensation, except as otherwise hereinafter provided, from the City in the amount his or her normal pay exceeds any state disability compensation to equal eighty percent (80%) of the employee's normal hourly rate of pay, not to exceed two hundred sixty-one (261) regularly scheduled workdays counted from the first regularly scheduled workday on or after the fourth calendar day following the injury; provided, the disability sustained must qualify the employee for benefits under State Industrial Insurance and Medical Aid Acts. Such compensation shall be authorized by the Personnel Director, or his or her designee, with the advice of such employee's department head, on request from the employee supported by satisfactory evidence of medical treatment of the illness or injury giving rise to such employee's claim for compensation under this chapter. Such employee shall continue to receive compensation at the rate provided for herein until such employee returns to full-time active duty or such employee exhausts his or her benefits hereunder, whichever occurs first.

B. Whenever an employee is injured on the job and compelled to seek immediate medical treatment, the employee shall be compensated in full for the remaining part of the day of injury without effect to his or her sick leave or vacation account. Scheduled workdays falling within only the first three (3) calendar days following the day of injury shall be compensable through accrued sick leave. Any earned vacation may be used in a like manner after sick leave is exhausted, provided that, if neither accrued sick leave nor accrued

vacation is available, the employee shall be placed on no pay status for these three (3) days; provided, further, that this shall constitute the only authorized use of sick leave or vacation by an employee whose disability claim is subsequently approved. If the period of disability equals or extends beyond fourteen (14) calendar days, then (1) any accrued sick leave or vacation leave utilized that results in absence from his or her regular duties (up to a maximum of eighty (80) percent of the employee's normal hourly rate of pay per day) shall be reinstated by Workers Compensation; or (2) if no sick leave or vacation leave was available to the employee at that time, then the employee shall thereafter be compensated for the three (3) calendar days at the eighty (80) percent compensation rate described in subsection A of this section. The days reimbursed or thereafter compensated shall then count toward the two hundred sixty-one (261) day maximum.

#### 4.44.070 PERSONNEL

C. An employee's department head may recommend to the Personnel Director denial of the employee's claim for benefits under the State Industrial Insurance and Medical Aid Acts and under this chapter, and the Personnel Director shall evaluate such recommendation and, if the Director concurs in such recommendation, request denial by the State Department of Labor and Industries of the employee's claim under said state acts. If the Personnel Director requests such denial, the employee shall be continued on the payroll of his or her department receiving continuous pay at a rate to be determined by the Personnel Director pursuant to applicable state law and City ordinances, until the State Department of Labor and Industries has reviewed and denied such claim.

(Ord. 118703 § 1, 1997; Ord. 115771 § 1, 1991; Ord. 111756 § 1, 1984; Ord. 104878 § 1, 1975; Ord. 91144 § 1, 1962; Ord. 90881 § 1, 1962.)

#### 4.44.030 Compensation for holidays and earned vacation.

Compensation for holidays and earned vacation falling within a period of absence due to such disability shall be at the normal rate of pay including any state disability benefit, but such days shall not be considered as regularly scheduled work days as applied to the time limitations set forth in Section 4.44.020, and disabled employees affected by the provisions of this chapter shall continue to accrue vacation and sick leave as though actively employed.

(Ord. 104878 § 2, 1975; Ord. 90881 § 2, 1962.)

#### 4.44.040 Employment of disabled person in other suitable duties.

Any employee eligible for the benefits provided by this chapter whose disability prevents him from performing his regular duties but, in the judgment of his physician could perform duties of a less strenuous nature, shall be employed at his normal rate of pay in such other suitable duties as the department head shall direct, with the approval of such employee's physician, until the Personnel Director requests closure of such employee's claim pursuant to this chapter or state law.

(Ord. 104878 § 3, 1975; Ord. 90881 § 3, 1962.)

#### 4.44.050 Authority to make rules and regulations.

The Personnel Director is authorized to make such rules and regulations as are necessary for the

administration of the provisions of Sections 4.44.020, 4.44.030, and 4.44.040.

(Ord. 104878 § 4, 1975; Ord. 90881 § 4, 1962.)

#### 4.44.060 Industrial Insurance Subfund established.

There is established in the City Treasury, as a subfund of the General Fund, an "Industrial Insurance Subfund" into which shall be paid all amounts charged to departments for workers' compensation for departmental employees and from which shall be paid all costs and expenses arising from self insurance by the City of workers' compensation.

(Ord. 117977 § 3, 1995; Ord. 116368 § 106, 1992; Ord. 101715 § 1, 1972.)

#### 4.44.070 City's self-insurance program.

The Personnel Director shall administer the City's self-insurance program for worker's compensation; establish rules and procedures for the administration of benefits; in consultation with the City Finance Director adjust rates of contributions from the respective City departments to reflect their cost experience; contract for consulting services; and, through the Executive Services Director, contract for reinsurance and other services and similar items as may be required to administer such program.

(Ord. 118397 § 68, 1996; Ord. 116368 § 107, 1992; Ord. 104878 § 5, 1975; Ord. 101715 § 3, 1972.)

**4.44.080 Eligibility for continued benefits.**

To remain eligible for the City's supplemental benefits, an employee must be eligible for benefits under Title 51, Revised Code of Washington, and must comply with all Department of Labor and Industries rules and regulations and related City of Seattle and employing unit policies and procedures, including:

A. Be responsive to attempts to schedule, and attend:

1. All medical appointments, treatments, and meetings related to vocational rehabilitation; and

2. Any work hardening, conditioning, or other treatment arranged by the City and authorized by the attending physician.

B. Accept modified or alternative duty assigned by his or her supervisor when released to perform it by the attending physician.

C. Attend all meetings scheduled by The City of Seattle Workers' Compensation Unit or the employing unit concerning the employee's status or claim; provided, that the City or the employing unit provides at least five (5) working days' advance notice of such meeting and provided, further, that the meeting date and time do not conflict with scheduled medical treatment. The employee shall provide at least twenty-four (24) hours' notice of his or her inability to attend a scheduled meeting with the Workers' Compensation Unit or the employing unit because the meeting time conflicts with medical treatment.

D. Workers' Compensation supplemental benefits will be terminated for an employee who fails to attend two (2) meetings or medical appointments as described in this section. The Workers' Compensation Unit will provide a minimum of seven (7) days' notification to the employee prior to terminating benefits.

(Ord. 118703 § 2, 1997.)

**Chapter 4.50  
ADMINISTRATION OF BENEFIT  
PROGRAMS**

**Sections:**

**4.50.010 Administration of certain benefit programs.**

**4.50.010 Administration of certain benefit programs.**

Consistent with Annual Budgets of the City and other applicable City law, the Personnel Director is hereby authorized and directed to:

A. Enter into agreements for dental, life, long-term disability, and voluntary accidental death and dismemberment insurance benefits with such providers as he or she may determine to be the most responsive providers for such benefits;

B. Administer and make such nonmaterial modifications to the City's group dental, life, long-term disability, and voluntary accidental death and dismemberment insurance coverages for the betterment of eligible City officers' and employees' health and welfare as he or she deems necessary or advisable;

C. Enter into agreements with one (1) or more medical and hospitalization benefits providers, at least one (1) of which shall be a health maintenance organization; and

D. Administer and make such nonmaterial modifications to the City's medical plans, for the betterment of eligible City officers' and employees' health and welfare as he or she deems necessary or advisable.

(Ord. 115365 § 1, 1990.)

**Chapter 4.64  
DEFENSE OF CITY OFFICERS AND  
EMPLOYEES**

**Sections:**

**4.64.010 Investigation and defense.**

**4.64.015 Limitations and reservations.**

**4.64.016 Administrative proceedings.**

**4.64.017 Punitive damages.**

**4.64.020 Determination of acts within scope  
of duty.**

**4.64.030 Vehicle accidents.**

**4.64.100 Defense of claims against  
volunteers.**

**4.64.110 Limitations and reservations.**

**4.64.010 Investigation and defense.**

It shall be a condition of employment of City officers and employees that in the event there is made against such officers or employees any claims and/or litigation arising from any conduct, acts or omissions of such officers or employees in the scope and course of their City employment, the City Attorney shall, at the request of or on behalf of the officer or employee, investigate and defend such claims and/or litigation and, if a claim be deemed by the City Attorney a proper one or if judgment be rendered against such officer or employee, the claim or judgment shall be paid by the City in accordance with procedures established in this chapter for the settlement of claims and payment of judgments; provided that, the officers or employees shall, in the event of any incident or course of conduct giving rise to a claim for damage and/or litigation, as soon as practicable give the Law Department written notice thereof, identifying the officers or employees involved and containing information with respect to time, place and circumstances thereof and the names and addresses of persons allegedly injured or otherwise damaged thereby and of available witnesses and shall forward to the Law Department every demand, notice, summons or other process relating to any such incident or course of conduct, and received by him or his representative and shall cooperate with the City Attorney and the Law Department and, upon request, assist in making settlements in the conduct of suits and in enforcing any claim or any right of contribution or indemnity against any person or organization who may be liable to the City because of any damage or alleged loss arising from the incident or course of conduct and the

officers or employees shall attend interviews, depositions, hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses, and the officers and employees shall not, except at their own cost, voluntarily make any payment, assume any obligation or incur any expense other than for first-aid to others at the time of any incident or course of conduct giving rise to any such alleged loss or damage; provided further, that in the event any such officer or employee fails or refuses to cooperate as specified in the above proviso or elects to provide his own legal representation with respect to any such claims and/or litigation, then the provisions of this chapter will be inapplicable and of no force and effect with respect to any such claim and/or litigation.

(Ord. 105637 § 1, 1976; Ord. 104526 § 1, 1975.)

**Seattle Municipal Code**

DEFENSE OF CITY OFFICERS AND EMPLOYEES 4.64.010

**June, 1998 code update file**  
**Text provided for historic reference only.**

**See ordinances creating and amending sections for complete text, graphics, and tables and to confirm accuracy of this source file.**

**For current SMC, contact the Office of the City Clerk**

4-76c

(Seattle 12-97)

Seattle Municipal Code  
June, 1998 code update  
Text provided for historical reference only.

See ordinances creating new sections for complete and tables and to conform to this source file.

#### **4.64.015 Limitations and reservations.**

The City's undertakings and obligations under Section 4.64.010 are subject to these limitations and reservations:

A. Section 4.64.010 does not apply to, and the City shall have no obligation to defend or indemnify with respect to, claims and/or litigation arising from any dishonest, fraudulent, criminal or malicious acts or omissions of officers or employees of the City. A determination as to whether this limitation upon the City's obligation to defend or indemnify applies shall be made by the relevant department head or the City Attorney as part of the determination required pursuant to SMC Section 4.64.020.

B. Nothing contained in this chapter shall be construed to modify or amend any provision of any policy of insurance wherein the City or any official or employee thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provision shall be controlling; provided, however, that nothing contained in this section shall be deemed to limit or restrict any employee's or official's rights to full coverage pursuant to this chapter, it being the intention of this section to provide complete coverage outside and beyond insurance policies which may be in effect while not compromising the terms and conditions of such policies by any conflicting provision contained in this chapter.

C. If a bargaining unit contract covers any of the provisions of this chapter, all employees under such contract shall be governed by the provisions thereof, rather than by the provisions of this chapter, and where any conflict exists between the provisions of any such contract and this chapter, such contract shall control.

D. Nothing in Section 4.64.010 shall preclude the City from undertaking an officer or employee's defense under a reservation of rights.

(Ord. 117655 § 1, 1995.)

#### **4.64.016 Administrative proceedings.**

In the event there is made against any City officers or employees any administrative charge of misconduct which is the subject of any proceedings before any administrative tribunal of any City, state, or federal agency which may lead to the administrative imposition of a monetary penalty, the making of any recommendation regarding the City employment of the officer or employee, or the imposition of any discipline or sanction related to a professional license, the officer or employee shall be entitled to request that the City defend the officer or employee in such administrative proceedings. The Mayor or

For current SMC  
the Office of the City

subordinate departmental employees shall make their request for defense to the Chief of the Civil Division of the Law Department. Thereafter, the Chief of the Civil Division of the Law Department shall, after receiving a report and recommendation regarding the request from the relevant department head, make a determination as to whether the acts or omissions which form the basis of the administrative charge and proceeding arose in the course and scope of City employment. Department heads and the presiding officers of City boards or commissions shall make their request for defense to the Mayor, who shall, after receiving a report and recommendation regarding the request from the Chief of the Civil Division of the Law Department, make the determination as to whether the acts or omissions which form the basis of the administrative charge and proceeding arose in the course and scope of City employment. If the determination is made that such acts or omissions arose in the course and scope of City employment then the City shall defend the officer or employee in such administrative proceedings, including any judicial review of such proceedings. There shall be no appeal from such determinations made by the Mayor or the Chief of the Civil Division of the Law Department. If the determination is made that the City will defend in administrative proceedings the City will indemnify the officer or employee with respect to any monetary penalty imposed.

The duty to defend in administrative proceedings is subject to the limitations and reservations contained in SMC Section 4.64.015. (Ord. 117655 § 2, 1995.)

#### **4.64.017Punitive damages.**

When an officer or employee of the City has been represented in a claim or litigation by the City pursuant to SMC Section 4.64.010 and punitive damages are pled or sought against the officer or employee, the City Attorney shall investigate and defend against any such allegations regarding punitive damages.

When an officer or employee of the City other than the Mayor or a City Councilmember has been represented in a claim and/or litigation by the City pursuant to SMC Section 4.64.010, and a judgment is rendered against such officer or employee for punitive damages, the officer or employee may make a request to the Mayor that the City pay the award of punitive damages on

behalf of the officer or employee. Upon receiving a request made by or on behalf of a City officer or employee that the City should pay an award of punitive damages, the Mayor shall receive a report and recommendation from the officer or employee's department head. Following receipt of the report and recommendation of the relevant department head, the Mayor shall determine whether the best interests of the City and justice will be served by payment by the City of the award for punitive damages, from which determination there shall be no appeal. The Mayor shall communicate his determination with respect to the officer or employee's request that the City pay the award of punitive damages to the officer or employee and to the City Attorney. Thereafter, the City Attorney shall authorize payment of a punitive damages award or decline to pay a punitive damages award, in conformity with the Mayor's determination.

If a punitive damages award is made against the Mayor under the circumstances above described, the determination as to whether the best interests of the City and of justice will be served by payment by the City of the award shall be made by the City Attorney. If a punitive damages award is made against a City Councilmember under the circumstances above described, the determination as to whether the best interests of the City and of justice will be served by payment by the City of the award shall be made by the President of the City Council, unless an award of punitive damages has been made against such President of the Council, in which case the determination shall be made by the Councilmember next in succession to the Presidency of the Council not subject to any punitive damages award.

When an officer or employee of the City has been represented in a claim and/or litigation by the City pursuant to SMC Section 4.64.010, and an award of punitive damages is pled or sought against the City officer or employee, at any time the City officer or employee may make a request that the City indemnify the officer or employee against any award of punitive damages. Any such prejudgment request for indemnity against punitive damages should be made to the official and under the conditions applicable to a post-judgment request for payment by the City of a judgment for punitive damages, and the official who will make a prejudgment determination regarding

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indemnity for punitive damages will be the same as for post-judgment determinations.

Determinations with respect to payment by the City of an award of punitive damages and determinations with respect to prejudgment requests for indemnity against punitive damages shall be subject to the limitations and reservations contained in SMC Section 4.64.015. (Ord. 117655 § 3, 1995.)

**4.64.020 Determination of acts within scope of duty.**

The determination whether the officer or em-

ployee was acting within the scope and course of his employment by the City shall be made by his department head, and in the case of such a claim or litigation against a department head such determination shall be made by the City Attorney. (Ord. 104526 § 2, 1975.)

**4.64.030 Vehicle accidents.**

The City Attorney is authorized to prosecute and secure collection of all claims for damage to City property arising from accidents involving the City's vehicle fleet. (Ord. 104526 § 3, 1975.)

**4.64.100 Defense of claims against volunteers.**

To encourage the participation of volunteers in carrying out City projects and activities for the public, the City shall appear and defend a claim or action made against a volunteer personally and pay the claim if judgment is rendered against the volunteer or a settlement is made requiring a payment from the volunteer when all these conditions are met:

A. The department head determines that the claim arises out of the actions or omissions of the volunteer in the scope and course of carrying out an assignment for a City project or activity or out of the actions or omissions of the volunteer in carrying out an assignment under the direction of a City officer for a joint project or activity of the City and another association or corporation;

B. The volunteer has registered in writing with the responsible City department and has been authorized to perform the assignment or such assignments;

C. The volunteer gives the City information about the accident or claim as soon as practicable. This includes the time, place and circumstances of the damage or injury, the persons or property involved, the extent of the injuries or damages, the names of witnesses, and other facts requested by the City Attorney; and

D. The volunteer authorizes the City to defend the claim on his or her behalf and to represent him or her in any litigation that may arise; and the volunteer cooperates fully and assists the City Attorney in its defense. This condition includes forwarding to the City Attorney any and every demand, notice, summons or other process received which may relate to the incident or lawsuit; attending interviews, depositions, hearings and trials; assisting in securing evidence and the

attendance of witnesses; filing and enforcing claims against others who may be liable; and obeying instructions of the City Attorney related to the defense of the claim.

The City's defense of a claim made against a volunteer includes claims made against a volunteer and his or her marital community on account of the volunteer's actions or omissions in the scope and course of carrying out a City assignment and it covers claims or lawsuits made against the City and the volunteer jointly. (Ord. 112997 § 1, 1986.)

**4.64.110 Limitations and reservations.**

The City's undertakings and obligations under Section 4.64.100 are subject to these limitations and reservations:

A. Section 4.64.100 does not apply to claims arising out of the volunteer's use of a motor vehicle. Eligibility for City defense and payment of claims against a volunteer arising from his or her use of a motor vehicle will be determined under Seattle Municipal Code Section 4.68.030.

B. The City's defense of a claim and its obligation to pay a judgment or settlement shall be of no force and effect if the volunteer fails or refuses to cooperate fully and assist in the City's defense of the claim.

C. To the extent that the City makes payment on a claim for the benefit of the volunteer, the City will succeed to rights and claims of the volunteer against others, who may be responsible in whole or in part for the damages or injury.

D. When the volunteer is a spouse or a member of the immediate family of a department head or the department head is disqualified or declines to make the determination contemplated by Section 4.64.100 A, the City Attorney will make the determination for the City.

E. The City Attorney may retain counsel to represent the volunteer rather than undertake the representation through the Law Department.

F. Section 4.64.100 does not apply to prosecutions to enforce criminal or civil penalties for violations of law or City ordinances. (Ord. 112997 § 2, 1986.)

**Chapter 4.68**

**USE OF VEHICLES BY CITY OFFICERS AND EMPLOYEES<sup>1</sup>**

**Sections:**

- 4.68.020 Persons who may use City vehicles—Adoption of rules.**
- 4.68.030 Defense for agent of City in event of accident.**
- 4.68.040 Annual reports of expenses.**
- 4.68.050 Reimbursement for special driver's license.**
- 4.68.090 No reimbursement for travel between residence and work.**
- 4.68.100 General policies.**
- 4.68.110 Authorization for use of private vehicle.**
- 4.68.120 Procedure for checking out vehicles.**
- 4.68.130 Administration of Sections 4.68.100 through 4.68.120.**
- 4.68.140 Payroll deductions for automobile insurance.**

1. Editor's Note: For additional provisions on use of vehicles for municipal business see Section 3.18.140 of this Code.

**4.68.020 Persons who may use City vehicles—Adoption of rules.**

No City owned or leased motor vehicles shall be rented or loaned, except to City departments, to duly registered and authorized volunteer workers in the furtherance of approved City programs, to persons providing service to the City under contract and in accordance with the terms of their contract, or to other governmental agencies or associations of cities, towns or governmental agencies, or in conformance with mutual aid agreements. The Executive Services Director is authorized and directed to prepare and adopt rules and regulations to secure adequate consideration for the use of City owned or leased motor vehicles rented or loaned pursuant thereto, and to secure the return of such motor vehicles in proper condition.

(Ord. 118397 § 69, 1996: Ord. 104667 § 1, 1975: Ord. 102666 § 1, 1973: Ord. 101372 § 1, 1972: Ord. 100458 § 2, 1971.)

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**4.68.030 Defense for agent of City in event of accident.**

A. Whenever a City owned or leased motor vehicle shall be rented or loaned to or used by a person or persons providing service to the City under a contract of employment or pursuant to an agreement for the performance of volunteer services, the department head executing such contract or agreement shall have authority to execute therein in accordance with rules and regulations adopted by the Executive Services Director that in the event of an accident arising out of an authorized use of the vehicle, the employee or volunteer will be considered an agent of the City and afforded a defense for any action or claim arising from the accident and the City shall pay any proper claims or judgments against the employee or volunteer in connection therewith.

B. Procedures for investigating and processing or defending the claims or actions shall be those set forth by ordinance authorizing the representation and defense of City officers and employees in connection with any claims for damage and/or litigation arising from conduct, acts or omissions of such officers and employees in the scope and course of employment.

(Ord. 118397 § 70, 1996; Ord. 104531 § 1, 1975; Ord. 102666 § 2, 1973.)

**4.68.040 Annual reports of expenses.**

A. The various departments of the City government using and operating motor-driven vehicles, are required and directed to make yearly reports to the City Council giving full and complete information and data relating to the cost and expense connected with the operation and maintenance of all motor vehicles owned and used by said departments.

B. A copy of the reports required in this section shall also be posted yearly in a conspicuous place in the shops or offices of each department for the information of the officers and employees thereof and the general public.

(Ord. 39520 § 1, 1919.)

**4.68.050 Reimbursement for special driver's license.**

As of July 1, 1968 any City employee required as a part of his duties to operate a vehicle requiring special skills and for which a special driver's license endorsement is required under RCW 46.20.440 shall be reimbursed in the amount of

the fee paid for obtaining such special driver's license endorsement; such reimbursement to be payable on voucher approved by the head of the department concerned.

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(Ord. 96956 § 1, 1968.)

**4.68.090 No reimbursement for travel between residence and work.**

Except as otherwise specifically provided in collective bargaining agreements between the city and particular bargaining units providing for reimbursement for travel for certain employees when called back to work in the event of an emergency, reimbursement for private automobile use under the terms of Sections 4.68.060 through 4.68.080 shall not be made for travel by an employee between his usual place of residence and his usual place of work.

(Ord. 101483 § 3, 1972; Ord. 95751 § 3-A, 1967.)

**4.68.100 General policies.**

It is the policy of the city that:

A. All vehicles shall be purchased in accordance with applicable Charter and ordinance provisions, shall be as economical as is reasonable consistent with their intended use, and shall be maintained in a condition meeting current federal standards relating to air pollution.

B. An adequate number of larger cars to be used for transporting department heads, officers and employees on official business to destinations which are a substantial distance outside of the city shall be available.

C. Except for special equipment needed for particular types of city work or determined by the Executive Services Director to be necessary for best resale value or decreasing maintenance costs, City-owned motor vehicles shall not be equipped with optional or extra equipment.

D. No promise of having the exclusive use of a City owned or leased vehicle shall be made to any person seeking or being recruited for City employment, and any such promise made prior to the passage of the ordinance codified in this section<sup>1</sup> is hereby rescinded.

E. Vehicles assigned to the use of a City department and not in regular daily use shall be returned to the Executive Services Department for pool use or reassignment to other City departments requiring the use of such vehicle.

(Ord. 118397 § 71, 1996; Ord. 100458 § 3, 1971.)

<sup>1</sup>Editor's Note: Ord. 100458 was passed by the City Council on November 22, 1971.

**4.68.110 Authorization for use of private vehicle.**

Where the use of a City employee's private automobile is determined by a City department head to be more economical than the use of a City owned or leased vehicle and upon written justification therefor submitted by the department head requiring such use to the Executive Services Director, such department head may authorize the use of such private automobile by such employee solely on City business and such employee shall be reimbursed for such use in accordance with the applicable rate schedule, payable monthly on vouchers approved by the head of the department concerned; provided, that unless such use includes transportation to a destination or destinations a substantial distance outside the City, the use of a private automobile by employees other than those covered by that certain collective bargaining agreement entered into between the City and Professional and Technical Engineers Association, Local No. 17 pursuant to the authority of Ordinance 100881, shall not be determined to be more economical if the amount of reimbursement will exceed the monthly rental rate applicable to a standard motor pool vehicle.

(Ord. 118397 § 72, 1996; Ord. 101484 § 1, 1972; Ord. 100458 § 4, 1971.)

**4.68.120 Procedure for checking out vehicles.**

The Executive Services Director shall develop and implement a procedure for checking out City owned or leased vehicles and billing City departments for the use thereof, which procedure shall limit availability of such vehicles to such officers and employees as shall have been properly authorized to use the same.

(Ord. 118397 § 73, 1996; Ord. 100458 § 5, 1971.)

**4.68.130 Administration of Sections 4.68.100 through 4.68.120.**

The administration of Sections 4.68.100 through 4.68.120 shall be vested primarily in the Mayor, provided that it shall be the duty of the Executive Services Director and other department heads to assist the Mayor in such administration and to furnish to the Mayor and the City Council any information concerning the violation of any of the provisions thereof.

(Ord. 118397 § 74, 1996; Ord. 100458 § 6, 1971.)

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**4.68.140 Payroll deductions for automobile insurance.**

A. The City Finance Director is authorized and directed to deduct and pay from the earnings of any City employee in accordance with written authorization therefor signed by such employee and filed with the City Finance Director, such amounts for automobile insurance premiums, other than retroactive premiums, to such insurance groups or companies as shall be specifically designated therein; provided that no such deduction or payment shall be made unless:

1. There shall be filed with the City Finance Director not less than four hundred (400) individual written authorizations as to any one (1) insurance group or company;

2. Such insurance group or company shall be licensed by the state and shall have been sponsored by a recognized City employee organization, provided that such sponsorship shall not include or grant any right to the use of City facilities to solicit membership in any insurance program;

3. Such insurance group or company shall provide authorization forms without expense to the City which authorizations shall save the City harmless from any liability in connection with the making or failure to make any deduction or payment, and shall further specifically recognize that the City does not endorse the insurance group or company to which such payment is made and that such deduction and payment does not constitute sponsorship of the program;

4. Such insurance group or company shall guarantee the insurability and noncancelability of all City employees having a valid Washington State driver's license;

5. Such insurance group or company shall pay to the City upon quarterly billings by the City Finance Director Ten Cents (\$0.10) for each payroll deduction for each employee who has authorized as provided in this section automobile insurance deductions to such insurance group or company, to reimburse the City its costs in connection with the deductions and payments authorized in this section.

B. In the event the number of written authorizations as to any one insurance group or company shall be reduced to less than four hundred (400) for a period of three (3) months, the deduction and payment authorized in this section shall be discontinued as to such insurance group or company.

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(Ord. 116368 § 108, 1992; Ord. 102743 § 1, 1973; Ord. 100219 § 1, 1971.)

**Chapter 4.70  
REIMBURSEMENT FOR USE OF  
PERSONAL AUTOMOBILES**

**Sections:**

**4.70.010 Reimbursement authorized when.**

**4.70.025 Personnel Director to establish reimbursement rate.**

**4.70.010 Reimbursement authorized when.**

Each City officer or employee who is required by the City to provide and use a non-City-owned automobile for City business, and whose compensation is not otherwise fixed by a collective bargaining agreement, shall be reimbursed at the rate fixed pursuant to SMC Section 4.70.025.

(Ord. 114965 § 1, 1990; Ord. 110451 § 2, 1982.)

**4.70.025 Personnel Director to establish reimbursement rate.**

The Personnel Director is authorized and directed to establish annually, after consultation with the Budget Director, a standard mileage rate at which the City shall reimburse any City officer or employee whose compensation is not otherwise fixed by a collective bargaining agreement, providing and using for City business purposes a non-City-owned automobile (including a van, pickup or panel truck) without following the rule-making procedures of the Administrative Code. The standard mileage rate shall be set at a level to cover the average cost of providing and using such automobiles, provided that the standard mileage rate shall not exceed the standard business-purposes mileage rate periodically prescribed by the Commissioner of Internal Revenue. (Ord. 116980 § 1, 1993; Ord. 114965 § 2, 1990.)

**Chapter 4.72  
TRAVEL EXPENSES**

**Sections:**

**Subchapter I City Officers and Employees**

- 4.72.010 Reimbursement for reasonable and necessary expenses.**
- 4.72.020 Claims for reimbursement—Invoices and receipts.**
- 4.72.030 Convention and education purposes.**
- 4.72.040 Approval of claims.**
- 4.72.050 Advance cash allowances—When allowed.**
- 4.72.060 Advance cash allowances—Accounting or repayment time.**
- 4.72.070 Disallowed expenses—Exceptions.**
- 4.72.080 Rules and regulations for reimbursement.**
- 4.72.090 Reports.**

**Subchapter II. (Reserved)**

**Subchapter III Lighting Department Officers and Employees**

- 4.72.180 Reimbursement—Generally.**
- 4.72.190 Reimbursement—In addition to other actual expenses.**

**Subchapter I City Officers and Employees**

**4.72.010 Reimbursement for reasonable and necessary expenses.**

City officers and employees, and when authorized in writing by the department head before expenses are incurred, volunteers on assignment shall be reimbursed for all reasonable and necessary expenses incurred in the conduct of City business as described below.

A. Expenses Involving Travel Outside the City for Period of Less Than Twenty-four (24) Hours and Not Requiring Overnight Lodging. Reimbursement shall be made for actual expenses for:

1. Registration fees for conventions, seminars and similar events;
2. Transportation to destination and return or mileage in accordance with Ordinance 95751, as amended,<sup>1</sup> provided that reimbursement for mileage shall not exceed the round-trip coach-class air fare of a common carrier;

3. Meals, when travel outside the City is not a routine or normal part of an employee's job, provided that reimbursement shall not exceed the amount established by the City Finance Director by rule as hereafter authorized; and

4. Other reasonably necessary expenses incurred related to the conduct of City business including, but not limited to, writing materials, reading materials and telephone and telegraph communications.

B. Expenses Involving Travel for Periods Requiring Overnight Lodging. Reimbursement shall be made for actual expenses incurred for:

1. Registration fees for conventions, seminars and similar events;
2. Transportation to destination and return or mileage in accordance with Ordinance 95751<sup>1</sup> as amended, provided that reimbursement for mileage shall not exceed the round-trip coach-class air fare for a common carrier;
3. Automobile rental;
4. Other local ground transportation;
5. Lodging, provided that the reimbursement shall not exceed the amount established by the City Finance Director by rule as hereafter authorized;

6. Meals, provided that reimbursement shall not exceed the amount established by the City Finance Director by rule as hereafter authorized; and

7. Other reasonably necessary expenses incurred related to the conduct of City business including, but not limited to, writing materials, reading materials and telephone and telegraph communications.

C. Expenses Within the City Not Involving Travel. Reimbursement shall be made for actual expenses incurred for registration fees for a convention, seminar or similar event. If the sponsor of the event so provides and such registration fee includes as a part of the minimum charge the cost of a meal or meals or if, during the meal or meals, integral parts of the program of such convention, seminar or similar event are conducted, reimbursement shall be made for such meal or meals.

(Ord. 116368 § 109, 1992; Ord. 111786 § 1, 1984; Ord. 109702 § 1, 1981; Ord. 107447 § 1, 1978; Ord. 106525 § 1, 1977; Ord. 106437 § 1, 1977; Ord. 104601 § 1, 1975; Ord. 101295 § 1, 1972.)

<sup>1</sup>.Editor's Note: Ord. 95751 is codified in Section 4.68.090 of this Code.

*For current SMC, contact the Office of the City Clerk*

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**4.72.020 Claims for reimbursement—Invoices and receipts.**

A. Claims for reimbursement of expenses other than mileage and incidentals shall be accompanied by invoices and/or receipts showing payment of such claimed expenses, provided that the cost of air or railroad travel, and convention, seminar or other registration fees, may be billed directly to the appropriate City department. Invoices and/or receipts showing payment of overnight lodging expenses shall have clearly identified thereon the single occupancy rate for the accommodations utilized. Invoices and/or receipts shall be required for food expenses incurred within and outside the City. Upon written request and explanation stating sufficient reasons for failure to submit required invoices and/or receipts, the City Finance Director may waive such requirement.

B. The expenses of seminars, workshops, meetings, and similar events organized or contracted for by the City and conducted primarily for the benefit of City officers and employees may be paid for as departmental expenses upon vouchers approved by department heads without separate claims submitted by individual officers or employees, provided funds have been made available therefor in a department's budget or by separate ordinance. In organizing and arranging such events, department heads shall make all reasonable efforts to use available City, state, county, federal or other governmentally owned or controlled facilities. Expenses may include the cost of meals provided to participants in the event who are City officers or employees if it is impractical for participants to make individual arrangements for meals, and if an integral part of the program occurs during the meal. Food and beverage expenses paid out of city funds shall not exceed any per meal maximum established for reimbursement of meal expenses pursuant to SMC Section 4.72.010 B6.

(Ord. 118416 § 1, 1996; Ord. 118013 § 1, 1996; Ord. 116368 § 110, 1992; Ord. 109702 § 2, 1981; Ord. 106525 § 2, 1977; Ord. 104601 § 2, 1975; Ord. 101295 § 2, 1972.)

**4.72.030 Convention and education purposes.**

A. Reimbursement for actual expenses incurred for convention and/or education purposes shall be allowed only when authorized by the appropriate department head, in writing, prior to the date of incurring the expense; provided, that such advance authorization shall not be required for elected officials or for officers and employees of the Library Department.

B. For purposes of this section and Section 3.114.040 the term "department head" includes directors of duly established departments and directors of agencies within the Executive Department.

(Ord. 107447 § 2, 1978; Ord. 106525 § 3, 1977; Ord. 104601 § 3, 1975; Ord. 101295 § 3, 1972.)

**4.72.040 Approval of claims.**

No claim for reimbursement for expenses or any per diem allowance shall be paid unless approved by the appropriate department head; provided, that claims by the Secretary and Chief Examiner of the Civil Service Department shall be approved by the Chairman of the Civil Service Commission, claims by the Chief Librarian shall be approved by the Chairman of the Library Board of Trustees, claims by the Executive Secretary of the City Employees' Retirement System shall be approved by the Chairman of the Board of the retirement system and claims by elected City officers shall be authorized and approved by each such officer.

(Ord. 107447 § 3, 1978; Ord. 106525 § 4, 1977; Ord. 105124 § 1, 1975; Ord. 101295 § 4, 1972.)

**4.72.050 Advance cash allowances—When allowed.**

All officers and employees of the City may receive advance cash allowances covering anticipated, reimbursable expenses to be incurred in the course of conducting City business involving travel outside the City. Such advance allowances shall be made upon the prior request of such officers and employees approved by the City Finance Director where the nature and duration of travel justifies such advance or failure to make such advance would result in economic inconvenience to such officer or employee. Requests for advances shall be made on such form as shall be prescribed by the City Finance Director who shall issue warrants therefor not more than five

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(5) days prior to commencement of the authorized travel; provided, that advances to officers and employees of the Lighting and Water Departments may be made by the respective heads of such departments from the appropriate revolving funds. (Ord. 116368 § 111, 1992; Ord. 106525 § 5, 1977; Ord. 104601 § 4, 1975; Ord. 101295 § 5, 1972.)

#### 4.72.060 Advance cash

##### **allowances—Accounting or repayment time.**

Cash allowances advanced pursuant to Section 4.72.050 shall be accounted for and/or repaid within ten (10) days following the completion of travel, and failure so to do shall render the officer or employee receiving such advance personally liable for the full unpaid amount plus interest at ten percent (10%) per year until repaid. No advance shall be made to any officer or employee who is delinquent in accounting for or repaying a prior advance. Under no circumstances shall any advance be considered as a personal loan to any officer or employee and any unauthorized expenditure of any such advance shall be deemed a misappropriation of public funds.

(Ord. 106525 § 6, 1977; Ord. 104601 § 5, 1975; Ord. 101295 § 6, 1972.)

#### 4.72.070 Disallowed expenses—Exceptions.

A. No reimbursement shall be authorized or allowed for:

1. Fines, penalties, and/or forfeitures;
2. Tobacco, alcoholic beverages, entertainment, clothing, sundries, gratuities except as hereafter provided, personal telephone calls or telegrams, or other like personal items;
3. Meals or lodging in lieu of other meals and/or lodging the expense of which is included in a convention or other registration fee;
4. First-class travel accommodations unless coach or economy accommodations were not available; provided that upon written request and explanation stating sufficient reasons therefor, the City Finance Director may waive this limitation;
5. Meals in lieu of other meals or food service provided during periods of travel by a carrier and included in the fare charged; and
6. Meals sponsored by business, community or service organizations.

B. Exceptions. Gratuities: Payment for table service at a restaurant, commonly known as a

“tip,” not to exceed fifteen percent (15%) of the restaurant price of the meal, including applicable taxes, is reimbursable as a reasonable and necessary part of the cost of a meal.

(Ord. 116368 § 112, 1992; Ord. 109702 § 3, 1981; Ord. 104601 § 6, 1975; Ord. 101295 § 7, 1972.)

#### 4.72.080 Rules and regulations for reimbursement.

The City Finance Director is authorized to promulgate rules and regulations, consistent with this chapter<sup>1</sup> and the City's Administrative Code (Chapter 3.02, Seattle Municipal Code; Ordinance 102228, as amended), establishing standards and procedures for effectively carrying out the requirements of this chapter. In establishing reimbursement rates for meals and lodging, the City Finance Director shall be guided by the following principles:

A. Rates of reimbursement for meals and lodging shall be based upon and not exceed the average cost for meals and lodging (single occupancy) reflected in a national comparative cost index, such as the Runzheimer Meal Lodging Cost Index, for the city visited by the officer or employee requesting reimbursement; if such indices do not list a particular city or other locale, the City Finance Director shall establish reimbursement rates based upon listings for cities or other locales having comparable cost-of-living rates or other accepted comparative economic indices.

B. If the hotel or other lodging facility serves as the location for a convention, seminar or similar event which is the purpose of the City business, or if the event sponsor arranges lodging at a hotel or other lodging facility for event participants, the allowable reimbursement per diem for lodging shall not exceed the cost of lodging arranged by the sponsors of such event.

C. If notice of City business was not adequate to allow the officer or employee to find lodging at the rate established by the City Finance Director, reimbursement for lodging may exceed such reimbursement amount up to ten percent (10%).

D. When the State Legislature is in session, employees occupying the positions of Intergovernmental Affairs Coordinator and State Legislative Advocate, or successor positions comparable thereto, shall receive, in lieu of reimbursement for meals and lodging in the manner and at the rates provided above, an amount equal to the per diem

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established for Washington State Legislators pursuant to RCW 44.04.080, as now or hereafter amended or succeeded. No portion of such funds may be used for promotional hosting. (Ord. 116368 § 113, 1992; Ord. 109702 § 3, 1981; Ord. 101295 § 8, 1972.)

1.Editor's Note: Ord. 109702 was passed by the City Council on February 17, 1981.

4.72.090 Reports.

The City Finance Director shall annually prepare and provide to the Mayor and the City Council a report regarding expenditures authorized by this chapter. (Ord. 116368 § 114, 1992; Ord. 109702 § 4, 1981; Ord. 101295 § 9, 1972.)

**Subchapter II. (Reserved)**

**Subchapter III Lighting Department Officers and Employees**

4.72.180 Reimbursement—Generally.

As authorized by Chapter 116, Laws of Washington 1965, such officers and employees of the Lighting Department as may be designated in writing from time to time by the Superintendent of Lighting may, in lieu of other methods of reimbursement authorized by law, be reimbursed for meals, lodging and other related expenses incident to the performance of duty on the following per diem basis:

A. Where such expenditures are incurred within or without the City, but do not require overnight lodging: Fifteen Dollars (\$15.00) per day or any portion thereof;

B. Where such expenditures are incurred and require overnight lodging: Thirty-five Dollars (\$35.00) per day or any portion thereof. (Ord. 95244 § 1, 1966.)

4.72.190 Reimbursement—In addition to other actual expenses.

The per diem rates for reimbursement authorized in Section 4.72.180 shall be in addition to reimbursement for actual expenditures for transportation, registration fees and similar purposes. (Ord. 95244 § 2, 1966.)

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**Chapter 4.76  
MOVING AND SECURITY EXPENSES  
FOR CERTAIN EMPLOYEES**

**Sections:**

**Subchapter I. (Reserved)**

**Subchapter II Protection and Security  
4.76.100 Protection of Mayor.**

**Subchapter I. (Reserved)**

**Subchapter II Protection and Security**

**4.76.100 Protection of Mayor.**

The Chief of Police shall provide such protection of the Mayor's person, family and residence as the Mayor and the Chief deem necessary to prevent personal injury and property damage; and for this purpose and with appropriations made therefor, the Chief of Police, acting through the City's procurement officials, may install lighting, walls or fences, alarms and security systems, and other protective improvements at the Mayor's residences, in City offices, and in the Mayor's personal vehicles. Before improvements are installed at the Mayor's residence or in the Mayor's personal vehicle, the Chief of Police, in consultation with the President of the City Council, shall execute an agreement for and on behalf of The City of Seattle, with the Mayor, for the disposition of the equipment upon the Mayor's departure from office or transfer of the residence, including, among other things, removal or sale of equipment to be removed and payment for improvements that are permanently affixed and add to the value of the premises as a betterment.

(Ord. 116368 § 118, 1992; Ord. 115962 § 1, 1991.)

**Chapter 4.77  
DRUG-FREE WORKPLACE AND DRUG  
AND ALCOHOL TESTING**

**Sections:**

**4.77.010 Title.**

**4.77.020 Purpose and authority.**

**4.77.030 Policy.**

Seattle Municipal Code  
June, 1998 Code update file  
Text prepared for historical reference only.  
See ordinance, statute and amendment sections for complete information.  
this code is to be used for historical reference only.  
DRUG-FREE WORKPLACE AND DRUG AND ALCOHOL TESTING 4.77.050

**4.77.040A drug-free workplace and drug and alcohol testing program manual.**

**4.77.050 Contract for testing service provider.**

**4.77.010 Title.**

This chapter shall be entitled "The Drug-free Workplace and Drug and Alcohol Testing Ordinance." (Ord. 117418 § 1 (part), 1994.)

**4.77.020 Purpose and authority.**

The Personnel Director shall adopt a "Drug-free Workplace and Drug and Alcohol Testing Plan" consistent with applicable state and federal laws and City policies including but not limited to the Drug-free Workplace Act of 1988 (P.L. 100-690, 41 USC § 701 et seq.); regulations of federal agencies, 54 Federal Register 4947 et seq. and 49 CFR 6363-4; provisions of the Omnibus Transportation Employee Testing Act of 1991 (Title XII, P. L. 99-570, 49 USC § 3120) for drug and alcohol testing of certain employees, the implementing regulations of the Department of Transportation, 49 CFR 382 et al., 49 CFR Part 40, and regulations of other federal agencies applicable to City employees under that law; and the Washington State Industrial Safety and Health Act, RCW 49.17 and regulations of the Department of Labor, WAC 296.24.073. (Ord. 117418 § 1 (part), 1994.)

**4.77.030 Policy.**

The City of Seattle has a significant interest in the health and safety of its employees and the citizens of the City of Seattle. It is the policy of the City to take those steps necessary to ensure that its employees perform their duties and responsibilities free of the influence of unlawful drugs and unimpaired by alcohol. The City also complies with all federal, state and local law in furtherance of those objectives.

In accordance with federal law, the City of Seattle is required to implement alcohol and drug testing and training programs for certain defined employees. Strict compliance with this policy is a condition of City employment. Violations will result in disciplinary action up to and including termination.

The City of Seattle maintains an Employee Assistance Program which can provide confiden-

tial and professional counseling on problems associated with alcohol or chemical dependency. All employees who suspect they may have an alcohol or drug abuse problem are encouraged to use the employee assistance program resources before the problem affects their employment status.

The City administers procedures to implement applicable federal drug testing regulations. All testing and procedures will be conducted in accordance with such regulations to ensure that test results are accurate and reliable. The City of Seattle will carry out this policy in a manner which respects the dignity and confidentiality of those involved. (Ord. 117418 § 1 (part), 1994.)

**4.77.040A drug-free workplace and drug and alcohol testing program manual.**

The Personnel Director shall be responsible for the development and administration of programs and procedures necessary to implement the purposes of this chapter including but not limited to the "Drug-free Workplace and Drug and Alcohol Testing Plan" and shall develop a drug and alcohol testing program manual to implement the federal regulations and other aspects of the plan that may require drug and alcohol testing. (Ord. 117418 § 1 (part), 1994.)

**4.77.050 Contract for testing service provider.**

The Personnel Director is authorized to enter into an agreement with an alcohol and drug testing service provider. The service provider must meet or exceed applicable standards and qualifications as set forth in state and federal regulations as provided for in Section 4.77.020. (Ord. 117418 § 1 (part), 1994.)

**Chapter 4.80  
AFFIRMATIVE ACTION PLAN**

**Sections:**

**4.80.010 Title.**

**4.80.020 Policy.**

**4.80.030 Findings.**

**4.80.040 Plan adopted.**

For current SMC, contact  
the Office of the City Clerk

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**Seattle Municipal Code**  
**June, 1998 code update file**  
**Text provided for historic reference only.**

**See ordinances creating and amending sections for complete text, graphics, and tables and to confirm accuracy of this source file.**

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**For current SMC, contact  
the Office of the City Clerk**

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Cases: Affirmative action program used by Fire Department and City in hiring and promotion of personnel held valid. **Maehren v. City of Seattle**, 92 Wn.2d 480, 599 P.2d 1255 (1979).

**4.80.010 Title.**

This chapter shall be entitled "The Affirmative Action Plan Ordinance."  
(Ord. 109112 § 1, 1980.)

**4.80.020 Policy.**

It is the policy of the City to provide a workplace for its employees that is free from discrimination on the basis of race, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap. It is also the policy of the City to take strong affirmative action to remedy the effects of past discrimination against minorities, women, handicapped and older workers, and to avoid practices which are suspect and capable of abuse or which have an adverse impact on the opportunities of such groups where it reasonably can to produce an efficient system. By doing so, the City will then be able to provide equal employment and advancement opportunities for all qualified persons and obtain a workforce in which such groups are fairly represented.  
(Ord. 109112 § 2, 1980.)

**4.80.030 Findings.**

A. The City Council has considered the analysis of the City's present and past employment practices contained in the Appendix of the attached Affirmative Action Plan, incorporated in this chapter by reference,<sup>1</sup> and other materials presented to it and previously before it relative to the need for affirmative action, and finds that affirmative action to improve the progress of such groups and remove impediments to their employment opportunities within the City continues to be necessary and proper.

B. The City Council recognizes that two (2) Washington State Superior Courts have already found certain of the City's past practices to be discriminatory against minorities and have determined not only that affirmative action within the City was necessary but was required under the circumstances evidenced as late as 1976 to eliminate the effects of such practices, and that those decisions were affirmed on appeal in **Lindsay v. Seattle**, 86 Wn.2d 698, 548 P.2d 320 (1976) and **Maehren et al. v. Seattle, et al.**, 92 Wn.2d 480, 599 P.2d 1255 (1979).  
(Ord. 109112 § 3, 1980.)

<sup>1</sup> Editor's Note: The appendix to the Affirmative Action Plan is on file in the office of the City Clerk.

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### 4.80.040 Plan adopted.

The "Affirmative Action Plan" attached to Ordinance 109112<sup>1</sup> incorporated in this chapter by reference, is adopted. City officials and employees will act in accordance with the duties and procedures set forth in the adopted plan. (Ord. 109112 § 4, 1980.)

<sup>1</sup>Editor's Note: The ordinance codified in this chapter and its attachments are on file in the office of the City Clerk.

## Chapter 4.84 ANNUAL AWARD PROGRAM

### Sections:

#### 4.84.010 Purpose.

The City Council finds and declares that there are exceptional employees in City government who contribute added enthusiasm, unusual insight, superior courage, or other extra dimension to their work, and it is therefore desirable to foster excellence in public service and heighten employee morale through an annual award program to acknowledge superior contributions of employees to the City and the community. (Ord. 103767 § 1, 1974.)

#### 4.84.020 Eligibility.

All permanent employees of the City with the exception of elected officials and department heads, are eligible for receipt of an award; provided that no employee who is or has been subject to disciplinary action for engaging in an act of harassment and/or discrimination which is prohibited by federal, state, or local laws, or who fails to fulfill a responsibility to report incidents of harassment and/or discrimination to an appropriate City manager or Human Resources employee is eligible for consideration for receipt of an award. (Ord. 118829 § 1, 1997; Ord. 103767 § 2, 1974.)

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### 4.84.030 Award categories.

Awards shall be made annually in the following categories:

A. Employee of the Year Award;

B. Distinguished Service Awards:

1. Clerical,
2. Technical and Professional,
3. Labor and Mechanical,
4. Administrative,
5. General;

C. Community Service Award.

(Ord. 103767 § 3, 1974.)

### 4.84.040 Nominations.

The Personnel Director shall be responsible for establishing nominations criteria and guidelines, and for soliciting departmental participation in the award program. The Director shall act as a clearinghouse in the preparation and dissemination of any printed material related to this program. (Ord. 118397 § 75, 1996; Ord. 103767 § 4, 1974.)

### 4.84.050 Employee Award Selection Committee.

There is created the Employee Award Selection Committee to consist of eleven (11) members designated by the Mayor and approved by the City Council. One Committee position shall be filled by a person who shall be representative of the functions and concerns of the Personnel Director and the remaining ten positions shall be filled by persons who are representative of the various functions and concerns of City government, including but not limited to the following:

Public Safety and Health;

Utilities;

Physical Services: Transportation, Executive Services,

Parks;

Support Services;

Executive;

Legislative;

Staff Services.

Each member so appointed shall serve a term of one (1) year.

(Ord. 118397 § 76, 1996; Ord. 103767 § 5, 1974.)

### 4.84.060 Duties of Employee Award Selection Committee.

A. The Employee Award Selection Committee shall be responsible for screening nominations,

selecting the top three candidates for each award, and performing other duties related to award presentation consistent with the guidelines and criteria established pursuant to Section 4.84.040.

B. The Employee Award Selection Committee shall designate three Seattle citizens to serve each year as an independent and impartial selection panel to determine final award recipients from the top three (3) nominees in each category. Panel members shall be selected on the basis of their maturity, judgment, and objectivity. No member of the panel shall be, or have been, employed by the City.

(Ord. 103767 § 6, 1974.)

### Chapter 4.88 SERVICE AWARD PROGRAM

#### Sections:

**4.88.010 Program adopted.**

**4.88.020 Administration.**

#### **4.88.010 Program adopted.**

The City further adopts the following program of awards in recognition of service by officers and employees of the City, including those in the Library Department subject to the approval of the Library Board, in accordance with the following rules and regulations:

A. Service Recognized. To be eligible for an award an officer or employee must have completed a minimum of five (5) years' service or a multiple thereof, up to and including forty-five (45) years. Service recognition for fifty (50) years and beyond is to be recognized by special action of the City Council but not inconsistent with the general plan provided for in this chapter. Length of service is to be determined by the Personnel Director.

B. Awards. The award shall consist of an emblem of the City of Seattle Seal with the years-of-service numerically represented upon it. The emblem may be presented as a lapel pin, tie clasp, tie tack, or bracelet charm. The award shall be of gold plate and the years-of-service colors shall be green for five (5), ten (10), and fifteen (15), black for twenty (20) and twenty-five (25), blue for thirty (30), thirty-five (35), and forty (40), and purple for forty-five (45) and fifty (50) years.

In addition to such service emblem those with twenty-five (25), thirty (30), thirty-five (35),

forty (40), forty-five (45) and fifty (50) years' service shall be awarded an appropriately worded

#### 4.92.010 PERSONNEL

certificate showing the full period of service, signed by the Mayor and the President of the City Council and certified by the Personnel Director. In conjunction with the presentation of awards and certificates recognizing employees with twenty-five (25) or more years of service, each department may also present individualized awards to such employees. Such awards shall not exceed the cost of the service award itself and shall be consistent with the provisions of this ordinance and the administrative rules of the program. The purchase, storage, and distribution of awards and certificates to the departments shall be the responsibility of the Executive Services Department.

C. Service Award Lists. The Personnel Director shall annually prepare and furnish a list of employees eligible to receive service awards in the upcoming year to each City department not later than sixty (60) days prior to the end of each year.

D. Presentation. The departments shall present the service awards at departmental ceremonies scheduled for this purpose or in conjunction with other departmental employee recognition ceremonies and programs. The Mayor and Council President shall be invited to attend ceremonies honoring employees with twenty-five (25) years or more of service.

E. Certificates of Retirement. Those officers and employees who retire because of age or service shall be awarded an appropriately worded certificate showing the full number of years of service, signed by the Mayor, President of the City Council, and the Personnel Director.

(Ord. 118397 § 77, 1996; Ord. 116585 § 1, 1993; Ord. 95390 § 1, 1966; Ord. 86662 § 1, 1957; Ord. 81698 § 1, 1953.)

#### 4.88.020 Administration.

The administration of this program is vested with the Personnel Director and shall be carried out in accordance with the provisions of SMC Section 4.04.050.

(Ord. 118397 § 78, 1996; Ord. 116585 § 2, 1993; Ord. 81698 § 2, 1953.)

### Chapter 4.92 SUGGESTION AWARD PROGRAM

(Seattle 3-98)

#### Sections:

**4.92.010 Criteria for submission of suggestions.**

**4.92.020 Administration—Suggestion Award Board.**

**4.92.030 Procedure for making and considering suggestions.**

**4.92.040 Departmental representatives.**

#### 4.92.010 Criteria for submission of suggestions.

The City continues a program of awards adopted by Ordinance 79944, as amended, to reward suggestions of City employees that are of benefit to the City. Participation therein shall be limited to those employees who submit such suggestions in accordance with the following regulations:

A. To be eligible for a money award a suggestion must make possible an extension of public service commensurate with the expense involved or an elimination or reduction of City expenditures without substantially impairing such service, or provide a desirable safety factor. Suggestions submitted to a departmental program, but for which the suggesters did not receive money awards, may be submitted for consideration by the Suggestion Award Board. Suggestions that have received a money reward from another City award program are not eligible.

B. Exclusion. Elected officials, heads of employing units, and managers who report directly to a head of employing unit, or employees whose job involves the identification of improvement in the operations of the City are not eligible for an award under the program. Employees shall not be eligible for an award for suggestions pertaining to subjects assigned to them for research and/or development or as a result of problems assigned for solution, either as part of their regular duties or as a special assignment. Provided further, no employee shall be eligible for such an award who is or has been subject to disciplinary action for engaging in harassment and/or discrimination prohibited by federal, state or local law, or who has failed to fulfill a responsibility to report incidents of harassment and/or discrimination to an appropriate City manager or Human Resources employee.

C. The suggestion must propose a change which was not under active consideration by the City agency affected at the time the suggestion was made.

D. If duplicate suggestions are submitted, only the first received shall be eligible for an award.

E. A suggestion which has been put into effect by the City agency concerned must be submitted for award consideration within ninety (90) days of its adoption; provided that this requirement may be waived by the City Council upon recommendation of the Suggestion Award Board.

F. Each suggester shall execute the following agreement:

“In consideration of my participation in the Suggestion Award Program I hereby agree that the use by The City of Seattle of my suggestion concerning . . . shall not be the basis of a claim of any nature against The City of Seattle by me, my heirs, executors or assigns.”

G. Appropriate commendation of an employee whose adopted suggestion does not merit a cash award may be recommended by the Board.

H. Insofar as may be equitable and practicable the total amount of a money award shall be approximately ten (10) percent of the estimated value to the City of the suggestion during the first year following its adoption. If the foregoing formula in the judgment of the Suggestion Award Board does not suitably measure the merits of a suggestion, the Board shall determine the amount it deems equitable and recommend same to the City Council.

(Ord. 118829 § 2, 1997; Ord. 116595 § 1, 1993; Ord. 86927 § 1, 1958.)

**4.92.020 Administration—Suggestion Award Board.**

A. The administration of the Suggestion Award Program is hereby vested in a Suggestion Award Board of nine (9) members who shall be appointed by the Mayor and whose appointments shall be approved by the City Council. The following departments shall be represented on the Board: Police, Fire, two (2) Utility departments, and five (5) General Fund departments, excluding the Legislative and Executive departments. Every effort shall be made to ensure representation in terms of supervisory and nonsupervisory staff and represented and nonrepresented personnel.

B. The terms of the members of said Board shall be four (4) years and until their successors are appointed.

C. The Board shall elect annually a Chair and a Vice-Chair from among its members. The Personnel Director shall assign an Administrative

Coordinator to keep minutes of Board meetings and such other records as may be required, coordinate the evaluation of suggestions by working with department representatives, schedule Board meetings, coordinate action by the Board, and coordinate logistics for awards presentations by the City Council. The Board shall meet in regular session once a month. Additional meetings may be called by the Chair as the needs of the City service require. The Board Chair may cancel any scheduled meeting. Meetings shall be public and interested persons shall be given reasonable opportunity to be heard, and a majority of the active members of the Board shall constitute a quorum, and a majority vote of the members present at any meeting is required to carry an action of the Board. Any Board member who is absent from five (5) or more meetings per year, or four (4) consecutive meetings, shall be considered to have resigned from the Board.

(Ord. 118397 § 79, 1996; Ord. 116595 § 2, 1993; Ord. 116368 § 119, 1992; Ord. 104424 § 1, 1975; Ord. 86927 § 2, 1958.)

**4.92.030 Procedure for making and considering suggestions.**

The following procedure for making and consideration of suggestions is established:

A. Suggestions must be submitted on prescribed forms to the Board.

B. Suggestions must be signed, but names will remain undisclosed until consideration of the suggestion has been completed, unless the right to confidentially is waived by the suggester.

C. The Board shall receive, record and acknowledge receipt of suggestions; shall advise the suggester of any undue delay in the consideration thereof and shall notify the suggester of action taken as soon as final consideration has been made.

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D. Suggestions shall be referred to the City agency or departments affected, which shall within sixty (60) days thereafter report its findings and recommendations to the Board. The departmental report shall indicate whether or not a suggestion has been adopted and the actual or estimated reduction of expenditures or the value thereof to the City.

E. The Board shall evaluate each suggestion, taking into consideration department action and the objective of the suggestion award program; and it shall formulate and transmit to the City Council an official recommendation covering the merits of the suggestion, whether the same justifies an award and the type and amount thereof.

F. The City Council, upon approval of a recommendation of the Board, may authorize a money award or an appropriate commendation.

G. A suggester may file written request for reconsideration of a suggestion which had been rejected but subsequently adopted. Such request for reconsideration must be made within three (3) months of adoption of the suggestion. To be eligible for reconsideration, a suggestion must have been adopted within three (3) years of the date of rejection.

H. All communications to the Board shall be addressed in care of the Administrative Coordinator.

I. The Board may adopt such administrative policies and procedures as deemed necessary, as long as they do not conflict with the specific of this chapter.

(Ord. 116595 § 3, 1993; Ord. 86927 § 3, 1958.)

**4.92.040 Departmental representatives.**

The head of each department and agency of the City government shall encourage employees to submit suggestions to the Board and each shall designate one (1) or more employees who shall serve as representative(s) to the Board. Said representative(s) shall coordinate the suggestion award program for their department and ensure that evaluated suggestions are returned to the Board within sixty (60) days.

(Ord. 116595 § 4, 1993; Ord. 86927 § 4, 1958.)

**Chapter 4.94**

**SAFETY AND PERFORMANCE AWARDS**

(Seattle 6-98)

**Sections:**

**4.94.010 Purpose.**

**4.94.020 Award program authorized.**

**4.94.030 Administration.**

**4.94.040 Criteria.**

**4.94.050 Awards.**

**4.94.060 Reports.**

**4.94.070 Condition of employment.**

**4.94.080 Performance awards not included in retirement calculations.**

Severability: If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter, or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such decision shall not affect the validity, applicability, or effectiveness of the remaining portions of this chapter, and to this end the provisions of this chapter are declared to be severable.

(Ord. 114056 § 3, 1988.)

**4.94.010 Purpose.**

It is hereby found that a performance award program will promote exceptional performance by City employees and will encourage safety, efficiency and economy in the performance of the functions of City government. For the purpose therefore of encouraging safe and exceptional performance by employees in the City's work places, the City hereby authorizes Safety and Performance Award Programs to be established as provided herein by the heads of employing units (for purposes of this chapter, such heads shall be referred to as "department heads" and such employing units as "departments").

(Ord. 114056 § 1(part), 1988.)

**4.94.020 Award program authorized.**

A. Safety Award Programs. Department heads are authorized to develop and establish Safety Award Programs with incentive awards. The goal of each safety program will be to reduce industrial injuries and time loss and to improve work practices.

B. Performance Award Programs. Department heads are authorized to develop and establish criteria and standards for awards to be made on a basis of outstanding performance of specific job assignments which significantly reduce costs or improve operations or services. (Ord. 114056 § 1(part), 1988.)

#### 4.94.030 Administration.

The administration of the safety and performance award programs shall be vested in department heads. Rules, standards, criteria guidelines and programs developed by each department shall be transmitted to the Personnel Director for approval, prior to implementation, as to compliance with generally applicable cost benefit criteria, and for approval as to compliance with generally applicable personnel standards. The Personnel Director shall monitor the programs at least annually to assure continued compliance with these criteria, and be satisfied that the benefits of the program are real and not the result of any practice or occurrence which the Director decides has made it incorrectly appear that a savings or increase in level of service has occurred.

(Ord. 118912 § 27, 1998; Ord. 117408 § 17, 1994; Ord. 114056 § 1(part), 1988.)

#### 4.94.040 Criteria.

Participating department heads and the Personnel Director shall consider as appropriate bases for awards those benefits including, but not limited to, the following:

- A. Reductions in overtime;
- B. Elimination of consultant fees;
- C. Production at a higher standard of efficiency than expected;
- D. Completion of assignment in advance of scheduled date;
- E. Reductions in use of temporary help;
- F. Improvement of quality of work environment resulting in enhanced efficiency;
- G. Improved systems and procedures;
- H. Better development and utilization of personnel;

I. Elimination of unnecessary travel;

J. Elimination of unnecessary printing and mailing;

K. Elimination of waste, duplication, and operations of doubtful value;

L. Improved space utilization;

M. Improved safety records resulting in fewer absences due to accidents and decreased time-loss payments; and

N. Exemplary efforts resulting in reduced liability.

Provided, no employee who is or has been subject to disciplinary action for engaging in an act of harassment and/or discrimination prohibited by federal, state or local law, and/or who has failed to fulfill a responsibility to report incidents of harassment and/or discrimination to an appropriate City manager or Human Resources employee is eligible to receive a Safety and Performance Award.

(Ord. 118912 § 28, 1998; Ord. 118829 § 3, 1997; Ord. 117408 § 18, 1994; Ord. 114056 § 1(part), 1988.)

#### 4.94.050 Awards.

Safety and performance award recipients shall be designated by department heads who shall transmit such information and all supporting documentation to the Personnel Director and to the Chair of the City Council Finance Committee.

Award recipients shall receive awards of not to exceed Two Thousand Five Hundred Dollars (\$2,500) in value or not more than five (5) days special personal leave with pay to be used in accordance with the vacation ordinance (SMC Chapter 4.34).

Participating departments shall include appropriate amounts and provisions in their annual budget requests to fund safety and performance award programs and such programs shall continue for as long as authorization therefor is contained in the City's annual budget ordinances.

(Ord. 118912 § 29, 1998; Ord. 117408 § 19, 1994; Ord. 114056 § 1(part), 1988.)

#### 4.94.060 Reports.

Participating department heads and the Personnel Director are directed to file a report with the Mayor and with the Chair of the Finance Committee of the City Council on or before March 31st of each year setting forth in detail the ad-

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ministration of the award programs for the previous year.  
(Ord. 118912 § 30, 1998; Ord. 117408 § 20, 1994; Ord. 114056 § 1(part), 1988.)

**4.94.070 Condition of employment.**

It is a condition of employment with the City that employees meeting the requirements of the program, as set forth in this chapter and as implemented by the department heads and the Personnel Director, shall be entitled to receive the benefits of the program.

(Ord. 118912 § 31, 1998; Ord. 117408 § 21, 1994; Ord. 114056 § 1(part), 1988.)

**4.94.080 Performance awards not included in retirement calculations.**

Performance awards provided under this chapter shall not be included for the purpose of computing a retirement allowance under the City's retirement system.

(Ord. 114056 § 1(part), 1988.)

**Chapter 4.96  
RECOGNITION OF VOLUNTEERS**

**Sections:**

**4.96.010 Policy.**

**4.96.020 Policy implementation.**

**4.96.030 Refreshments.**

**4.96.010 Policy.**

It shall be the policy of The City of Seattle to allow recognition and expression of its appreciation, in a manner appropriate for a governmental agency, to those who volunteer their time or services by serving on committees, carrying out assignments, or otherwise assisting in the performance of City functions, as well as to those City officers and employees who, because of similar service, are deserving of such recognition.

(Ord. 115303 § 1, 1990; Ord. 111787 § 1, 1984.)

**4.96.020 Policy implementation.**

A. To implement Section 4.96.010, the head of any City employing unit may arrange and present recognition ceremonies (such as tours, receptions, and entertainment activities), and present to outstanding volunteers, and in satisfaction of a condition of employment, to City officers and employees symbols of recognition (such as a letter, medal, plaque, pin or tie clip, jacket or cap,

bouquet of flowers or an ornamental plant, or other object or experience demonstrating gratitude and acknowledgment of merit) that convey the City's appreciation. Separate ceremonies may be held for different divisions or activities.

B. These general guidelines shall apply in undertaking any such recognition program:

1. The cost and expenses of providing such recognition and appreciation for volunteers shall be budgeted, or noted in the City's annual budget, as an identified sum;

2. The recipients shall be selected upon an objective basis, that reflects time, effort or skills donated or applied for the furtherance of City functions;

3. The primary value of the memento or apparel presented on the occasion shall be in the

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# Seattle Municipal Code

June, 1998 code update file

Text provided for historic reference only.

See ordinances creating and amending sections for complete text, graphics, and tables and to confirm accuracy of this source file.

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For current SMC, contact  
the Office of the City Clerk

4-91/4-94

**Seattle Municipal Code  
June, 1998 code update file  
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Seattle Municipal Code  
June, 1998 code update  
Text provided for historical reference only.  
See ordinances creating amendments,  
and tables and to consult accuracy of  
this source file.

thought expressed rather than in the intrinsic worth of the object or the food or entertainment provided; and

4. The ceremony and presentations shall be in keeping with the pattern and practices of governmental agencies and public service organizations that solicit and draw upon donated services and contributions, in giving recognition and showing appreciation to their compensated staff and to people who volunteer their time or skill for the support of City programs and activities. (Ord. 115303 § 2, 1990: Ord. 111787 § 2, 1984.)

#### **4.96.030 Refreshments.**

A. To assist in performance of assigned activities or to show appreciation of time and service donated or of meritorious compensated service, the heads of City employing units may provide light refreshments to volunteers and, as a condition of employment, to compensated City staff, or any of the same, during or immediately after the performance of their duties if (1) funds are appropriated in the City's annual budget for the employing unit for providing refreshments to volunteers and such staff, or (2) the refreshments are donated to the City for such purposes. For this purpose, the head of a city employing unit may authorize an organization that regularly provides or coordinates volunteers, to maintain furniture, machines and/or equipment for dispensing light refreshment to volunteers and to compensated City staff, and subject to the authorization of the Purchasing Agent, contract with such an organization for providing volunteers and such staff with light refreshments as authorized in this section.

B. The term, "light refreshments," is illustrated by these examples: coffee, tea, milk, hot chocolate, fruit juices, soft drinks and nonalcoholic beverages; doughnuts, cakes, pies, cookies, fruit, sandwiches, and light snacks; and when donated to the City for an activity or to assist volunteers and further motivate compensated City staff and volunteers, the food and drink supplied by the donor.

(Ord. 115303 § 3, 1990: Ord. 111787 § 3, 1984.)

### **Chapter 4.100 SALARY REDUCTION AGREEMENTS**

#### **Sections:**

**4.100.010 Salary Reduction Agreements for dependent care assistance and other eligible expenses.**

**4.100.020 Plan, policies and administration.**

For current SMC, contact  
the Office of the City Clerk

4.100.020 SALARY REDUCTION AGREEMENTS

**4.100.010 Salary Reduction Agreements for dependent care assistance and other eligible expenses.**

The City of Seattle, as a condition of employment, may enter into salary reduction agreements with employees pursuant to the Internal Revenue Code, 26 U.S.C. Sections 125 and 129, for the purpose of making it possible for employees to select on a “before-tax basis” certain taxable and nontaxable benefits. The Mayor is authorized for and on behalf of the City to execute an agreement or agreements with labor organizations representing City employees to the extent necessary to implement any such program including but not limited to Dependent Care Assistance Program for those City employees represented by local unions for purposes of collective bargaining. The City may at its discretion terminate such program after prior notice to affected employees and labor organizations representing City employees for purposes of collective bargaining. (Ord. 118321 § 1(part), 1996; Ord. 114160 § 1(part), 1988.)

**4.100.020 Plan, policies and administration.**

The Personnel Director shall be responsible for developing a plan, policies, and procedures to guide, implement, administer and monitor the salary reduction program authorized in Section 4.100.010 of this chapter, including but not limited to the Dependent Care Assistance Program. (Ord. 118397 § 80, 1996; Ord. 118321 § 1(part), 1996; Ord. 114160 § 1(part), 1988.)

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**Seattle Municipal Code  
June, 1998 code update file  
Text provided for historic reference only.**

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sections for complete text, graphics,  
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