

Title 4

PERSONNEL

This title is intended for those provisions of the Code which relate to City employees.

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**Chapter 4.04
 PERSONNEL REGULATIONS**

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Cases: Amendment to City Charter Art. 16, and the personnel ordinance passed pursuant to it, were not void as conflicting with the Public Employees’ Collective Bargaining Act. City of Seattle v. Auto Sheet Metal, Etc., 27 Wn. App. 669, 620 P.2d 119 (1980).
 Personnel ordinance was not invalid even though it was not passed within the time limit set by the City Charter. City of Seattle v. Auto Sheet Metal, Etc., 27 Wn.App. 669, 620 P.2d 119 (1980).

4.04.010 Title.
 This chapter shall be entitled “The 1978 City of Seattle Personnel Ordinance.” It may be cited as the “Personnel Ordinance.” (Ord. 107790 § 1, 1978.)

4.04.020 Purpose.
 The purpose of this chapter is to establish for the City a system of personnel administration based upon merit principles as enumerated in the City Charter, Article XVI, Section 4 (as amended) and upon fair and uniform procedures for recruitment, selection, development and maintenance of an ef-

fective and responsible work force and to substantially accomplish the purposes of RCW 41.08, 41.12 and 41.56.
(Ord. 120658 § 1, 2001; Ord. 107790 § 2, 1978.)

4.04.030 Definitions.

Unless another meaning is clearly indicated from the context, as used in this title:

1. "Actual service" means the number of regular paid hours accumulated by an employee in a class or title.

2. "Appointing authority" means a person authorized by ordinance or Charter to employ others on behalf of the City, usually the head of a department.

3. "Certify" for Public Safety Civil Service employees means verify to the appointing authority that a list of names of candidates for employment has been selected from the list of persons tested and found eligible for employment.

4. "City" means The City of Seattle.

5. "City Council" means the City Council of The City of Seattle.

6. "Class" means any group of positions sufficiently similar that the same title may equitably be applied to all.

7. "Class series" means two (2) or more classes which perform similar tasks or work but which differ in degree of responsibility and difficulty.

8. "Days" means calendar days.

9. "Demotion" means the movement of an employee from a higher class to a lower class, for cause.

10. "Director" means the Personnel Director or his/her designated representative.

11. "Discharge" means a separation from employment for cause.

12. "Employee" means a person employed in a position on a full-time or part-time basis.

13. "Employing unit" means any department of the City and, within the Executive Department, any office created by ordinance.

14. "Exempt employee" means one who serves at the discretion of the appointing authority in a position which is exempted by the City Charter I or SMC Chapter 4.13 from compliance with this chapter regarding selection, discipline and discharge of employees, and appeals of personnel actions to the Civil Service Commission.

15. "Grant-funded position" means a position funded fifty (50%) percent or more by a categori-

cal grant to carry out a specific project or goal and all positions funded by public employment programs. For the purpose of this chapter, the term "categorical grant" shall not include financial assistance provided to the City in the form of Community Development Block Grant funds, Urban Development Action Grant funds, General Revenue Sharing funds, and any funds provided under a statutory entitlement or distributed on the basis of a fixed formula including but not limited to relative population.

16. "Grievance" means a dispute between an employee and his/her supervisor(s) or employing unit based upon the employee's good faith belief that an aspect of his/her employment has been adversely affected and desire for remedial action.

17. "Hourly employee" means one who is subject to the overtime provisions of the Fair Labor Standards Act (FLSA).

18. "Inappropriate pressure" means any suggestion (oral or written communication) to any City employee, the effect of which would either: (a) preclude job advertising and open consideration of qualified applicants, or (b) result in the selection of an employee for reasons other than relative ability, knowledge or skill.

19. "Layoff" means the discontinuation of employment and suspension of pay of any regular or probationary employee because of lack of work, lack of funds, or through reorganization.

20. "Misconduct" means the intentional violation of a standard of conduct established by statute, ordinance, rule, regulation, policy or directive, or common law, or the violation of such standard as a result of recklessness or gross negligence.

21. "Part-time position" means a position that has been designated as "part-time" in, and created by, the annual budget or by another ordinance and that requires an average of twenty (20) hours or more but less than forty (40) hours of work per week during a year.

22. "Probationary employee" means an employee who has been appointed to a position within the classified service but who has not completed a one (1) year period of probationary employment.

23. "Promotion" means any appointment to a higher level classification or position which occurs subsequent to an employee's initial appointment.

24. "Provisional employee" for Public Safety Civil Service employees means an employee who

was appointed to a position for which no register existed.

25. "Reduction" means the movement of an employee from a higher-paid position to a lower-paid position, not for cause.

26. "Register" for Public Safety Civil Service employees means a list of candidate for employment who have passed an employment examination, whose names may be chosen and certified by the Commission for submission to the appointing authority for consideration for employment.

27. "Regular employee" means an employee who has been appointed to a position within the classified service and who has completed a one (1) year probationary period of employment.

28. "Reinstatement" means reappointment of a regular employee from a reinstatement list to a position in a class in which regular status was previously held.

29. "Sabbatical leave" means an unpaid leave of absence for which an employee may apply upon completion of seven (7) continuous years of full-time service, after which leave the employee is entitled to return to the position from which the leave was granted or to a position in the same employing unit this is substantially similar in level of duties, responsibilities and compensation.

30. "Salaried employee" is one who is exempt from the provisions of the Fair Labor Standards Act (FLSA).

31. "Seniority" means a regular employee's length of continuous service in his or her present class and all higher classes since original regular appointment to that class, including all periods of unpaid leave of absence or suspension that are for less than fifteen (15) days.

32. "Suspension" means the temporary discontinuation of an employee from employment for a specified period for cause or pending determination of charges against said employee, which charges could result in discharge or demotion.

33. "Temporary worker" means a person who is employed to fill a temporary, emergency or short-term need. The term includes persons employed in seasonal or intermittent positions and workers employed less than an average of twenty (20) hours per week during a year. Except as may be provided by ordinance or labor contract, temporary workers shall be exempt from the provisions of this chapter.

(Ord. 120658 § 2, 2001; Ord. 119000 § 1, 1998; Ord. 118397 § 59, 1996; Ord. 117484 § 1, 1995; Ord. 117019 §1, 1994; Ord. 116037 § 2, 1992; Ord. 114314 § 1, 1989; Ord. 111582 § 1, 1984; Ord. 110852 § 1, 1982; Ord. 110302 § 1, 1981; Ord. 107790 § 3, 1978.)

1. Editor's Note: The Charter is set out at the front of this Code.

4.04.040 Administration.

A. There shall be a personnel system for the City, administered by the Director of Personnel. The Director shall be appointed, confirmed, and removed as provided in Section 3.24.030 C.

B. The duties of the Director include:

1. Promote the improvement of City personnel administration, and personnel standards within the City;

2. Lead City departments, offices, boards, and commissions, and their personnel offices, in the development of effective personnel programs. To help the Director perform this duty, the personnel offices of City departments shall keep the Director informed of their actions;

3. Act as the City's central agency for establishing standards for personnel practices which are uniform as is practicable from department to department;

4. At the Mayor's direction, develop, implement, and administer a centralized affirmative action program in conjunction with City rights agencies;

5. Develop and administer a system of classification of positions of employment in the City, and a wage and salary plan therefor;

6. Develop and administer centralized employee relations functions, relating to standard grievance procedures, collective bargaining, employee morale and motivation, and employee discipline and termination;

7. Develop and implement employee safety programs in addition to those which may be provided within departments, and develop safety programs in coordination with departments;

8. Develop, monitor, and/or approve departmental training plans.

9. Develop and administer a centralized system and regular procedures for recruitment and selection of City employees;

10. Conduct personnel research and staff resource planning for the City;

11. Develop and administer a regular system of performance evaluation of City employees;

12. Develop and administer benefit programs, other than retirement benefits administered by the Employee's Retirement Board, for City employees;

13. Assist various City departments in layoff and reinstatement actions;

14. Appoint, remove, and supervise the officers and employees of the Personnel Department;

15. Develop and maintain a personnel management information records system for all City employees regardless of category of employment or department to which appointed;

16. Design experimental programs in human resources management, for the Mayor's consideration;

17. Contract for special personnel services he/she deems necessary, upon approval of the City Council;

18. Review all City payrolls to ensure that each employee is receiving the proper pay.

C. With respect to employees of the Public Safety Civil Service system enumerated in SMC 4.08.060, the duties of the Director include:

1. Classify, for purposes of examination, all positions covered by said system. No appointments, promotions or transfers shall be made to or from positions covered by said system except as provided in SMC Chapters 4.04.040 C and 4.08.

2. Prepare and administer examinations, which shall be graded and open to all who meet appropriate job-related qualifications; provided that the Director may, by rule, designate other methods of examination based on merit when in the Director's judgment graded examination is not practicable. Such examinations may include tests of physical fitness and/or manual skill. The Director shall superintend and keep a record of all examinations. The Director may designate a suitable number of persons to be examiners to conduct such examinations. The Director shall charge a nonrefundable application fee of Twenty-five Dollars (\$25) for entry-level firefighter and police officer applicants. The Director shall waive this fee for indigent applicants upon submission by the applicant of a declaration of indigency.

Examinations for all classes shall be timely prepared and administered by the Director so as to provide at all times current registers for all classi-

fications. Eligible registers shall remain in effect for a time determined by the Director: provided, that no eligible register shall remain in effect for more than two (2) years.

3. Provide notice of the time and place and general scope of every examination to be held by publication in the City official newspaper not less than ten (10) days preceding such examination, and for promotional exams by posting in the Public Safety Civil Service Commission office and in Police and Fire Department offices for not less than ninety (90) days, and by other notice deemed reasonable or necessary by the Director.

4. Keep a record of all examinations held under his/her direction.

5. Prepare a register for each class of positions in this system from the returns or reports of the examiners of the persons whose standing upon examination for such class is not less than the minimum established by the Director. Persons, when graded, shall take rank upon the register as candidates in the order of their relative excellence as determined by competitive examination. Veteran's preference in examination and appointment shall be granted as required by federal and state law including RCW 41.08.040 and 41.12.040: provided a person shall be entitled to use such preference only once to successfully attain an appointment or promotion to a position.

6. When a vacant position is to be filled, certify to the appointing authority the names of candidates in the top twenty-five (25) percent of the eligible register, or the top five (5) candidates, whichever number is larger, subject to any current affirmative action requirements. Where more than one (1) position in a class is to be filled, certify one (1) additional name of the person standing next highest on the register for each additional position. The appointing authority shall fill such positions by appointment only from the persons certified by the Director.

If there are no registers for a class, authorize temporary, provisional appointment to the vacant position. A provisional appointment shall not continue for a period longer than four (4) months, and no person shall receive more than one (1) provisional appointment or serve more than four (4) months as provisional appointee in any twelve (12) month period.

7. Adopt suitable rules for examination, classification, eligibility, preparation of registers,

certification and appointments. Such rules may be amended, modified or rescinded from time to time, and all rules and amendments thereof shall be printed for free public distribution.

8. Comply with the applicable portions of the Rules of Practice and Procedure of the Public Safety Civil Service Commission in effect on January 1, 2002, until such time as the Personnel Director adopts rules to carry out the new duties assigned pursuant to SMC Section 4.08.020.

9. Comply with the procedures regarding the promotions of police officers and sergeants set forth in the effective collective bargaining agreement between the City and the exclusive bargaining agent of such employees, as approved by ordinance, to the extent such procedures are inconsistent with the terms of this ordinance as codified in this chapter, the rules adopted by the Director, or the rules of the Public Safety Civil Service Commission.

(Ord. 120658 § 3, 2001; Ord. 118397 § 60, 1996; Ord. 107790 § 4, 1978.)

4.04.045 Temporary employment service.

The Personnel Director is authorized to develop and implement a temporary employment service to provide temporary workers to City employing units upon request therefor and upon payment by the requesting employing unit of the cost of such service. Because an arbitrary limitation on the number of temporary workers to be hired to implement this authorization would impede the operation of such service, all positions to be occupied by such temporary workers are hereby created, and the Personnel Director is authorized, with approval of the Budget Director or his/her designee, to fill whatever number of positions he/she determines is necessary to operate such service for City employing units. The Personnel Director may delegate authority to department heads to fill temporary worker positions when such delegation would improve the quality of the temporary employment service or would result in cost efficiencies.

(Ord. 118404 § 1, 1996; Ord. 114811 § 1, 1989.)

4.04.050 Rule-making authority.

A. Pursuant to the Administrative Code of the City (Ordinance 102228),¹ the Personnel Director may promulgate, amend, or rescind rules for the administration of the personnel system of the City

generally, as well as specifically for the purpose delineated in this chapter.

B. The Mayor shall appoint a committee for the purpose of advising the Personnel Director regarding rules for the administration of the personnel system. The committee shall be comprised of at least five (5) City employees, none of whom may be an employee of the Personnel Division.
(Ord. 118397 § 61, 1996; Ord. 107790 § 5, 1978.)

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

Cases: Ordinance vesting rule-making authority in the Director of Personnel did not conflict with City Charter. *City of Seattle v. Auto Sheet Metal, Etc.*, 27 Wn.App. 669, 620 P.2d 119 (1980).

4.04.060 Emergency rules.

A. When the Director finds that there is the immediate need for a rule for administration of the personnel system in order to prevent a substantial loss to the City, or the impairment of its business, or undue hardship to its employees, the Director may make an emergency rule, upon identifying the emergency in writing, to the Mayor and City Council.

B. Emergency rules shall remain in effect only until a permanent rule, passed pursuant to Ordinance 102228,¹ becomes effective, or for sixty (60) days, whichever is shorter.
(Ord. 107790 § 6, 1978.)

1. Editor's Note: Ord. 102228 is codified in Chapter 3.02 of this Code.

4.04.070 Rights of employees.

A. Employees have the right to compete openly for positions on the basis of knowledge, skills, and abilities.

B. Employees have the right to a timely resolution of their grievances, and appeals.

C. Employees shall not be demoted, suspended, or discharged except only for cause, and they may appeal such adverse actions as specified in this chapter.

D. Employees have the right to fair and equal treatment as provided in Ordinance 102562, as amended (Seattle Fair Employment Practices Ordinance).¹

E. Employees may bargain collectively through representatives of their own choosing, pursuant to RCW Chapter 41.56.

F. Employees may examine their own personnel files and are entitled to a copy of anything contained therein, at the City's expense.

G. Employees may have outside employment as long as it does not interfere with their ability to carry out their duties for the City, subject to the provisions of the Ethics Ordinance (Ordinance 100435, as amended).²

H. Employees may engage in political activities, subject to RCW 41.06.250. Political activities of employees in operations which are financed primarily or totally by federal grant-in-aid funds are also subject to the Hatch Act, 15 USC/1501, et seq.

I. Employees have the right to report an "improper governmental action" to an "auditing official," another government official or a member of the public, to cooperate in an investigation, and to testify in a proceeding thereon, and to be protected from "retaliatory action" for doing so. (Each term in quotation marks is defined in Section 4.20.850.) (Ord. 115464 § 2, 1990; Ord. 107790 § 7, 1978.)

1. Editor's Note: The Fair Employment Practices ordinance is codified in Chapter 14.04 of this Code.
2. Editor's Note: The Ethics Ordinance is codified in Chapter 4.16 of this Code.

4.04.075 Alternative Dispute Resolution Program.

A. It is the policy of the City to use alternative dispute resolution as a tool to prevent or minimize the escalation of disputes in the workplace. The Personnel Director shall implement and administer the Alternative Dispute Resolution Program substantially in accord with The City of Seattle Alternative Dispute Resolution Program Management Plan, which is incorporated by this reference.

B. The Alternative Dispute Resolution Program (hereinafter referred to as the program) will consist of a mediation component to promote the resolution of disputes through mediation, conciliation and conversation facilitated by a neutral third party; a training component to develop conflict resolution skills in managers and employees; and a group facilitation component to provide problem-solving resources for workgroups in conflict.

C. An employee's participation in a program-sponsored mediation, facilitated conversation or related activity shall be confidential to the extent permitted under state and federal laws.

D. It is the policy of the City that participation in the program shall be on a voluntary basis. Participation in the program is not intended to deprive employees of their ability to exercise any other contractual or legal rights to seek resolution of their concerns.

E. Regularly appointed full-time and part-time employees, including exempt, probationary and regular employees, are eligible to participate in the program. Temporary workers, including seasonal, intermittent, on-call and contract employees and workers employed through City Personnel's Special Employment Programs Unit may not initiate a mediation or related activity through the program, but may, at the discretion of the Alternative Dispute Resolution Coordinator, participate in a mediation or related activity that has been initiated by a regularly appointed employee or employees.

F. Time spent in an official mediation or related activity shall be considered regular pay hours for compensation purposes. (Ord. 120278 § 1, 2001.)

4.04.080 Affirmative action.

The City shall have an affirmative action plan, as adopted by Ordinance 109112¹ and as subsequently amended, in order to provide its employees with a workplace free from discrimination, and to remedy the effects of past discrimination against women, minorities, handicapped and older workers. Personnel actions taken in accordance with this chapter shall be subject to and consistent with the affirmative action plan. (Ord. 109112 § 5, 1980; Ord. 107790 § 8, 1978.)

1. Editor's Note: The affirmative action plan provisions of Ord. 109112 are codified in Chapter 4.80 of this Code.

4.04.090 Affirmative action—Plan.¹

This section was eliminated through consolidation with Section 4.04.080 by Ordinance 109112 § 5.

1. Editor's Note: The affirmative action plan is codified in Chapter 4.80 of this Code.

4.04.100 Affirmative action—Monitoring and implementation.¹

This section was eliminated through consolidation with Section 4.04.080 by Ordinance 109112 § 5.

1. Editor's Note: The affirmative action plan is codified in Chapter 4.80 of this Code.

4.04.110 Handicapped persons.

A. The City's affirmative action plan, as adopted by Ordinance 109112¹ and as subsequently amended, shall contain provisions to encourage recruitment, hiring and retention of handicapped workers.

1. Editor's Note: The affirmative action provisions of Ord. 109112 are codified in Chapter 4.80 of this Code.

B. A preemployment physical which discloses existence of a disability that would affect job performance may result in the disqualification of that applicant for that particular job; provided that an applicant may be hired as long as the handicap or disability does not affect the proper performance of the job; provided further that the applicant may be hired if the job may be accommodated to the employee's limitations.
(Ord. 109112 § 6, 1980; Ord. 107790 § 9, 1978.)

4.04.120 Collective bargaining.

A. It is the policy of the City to meet and confer and/or negotiate with the bargaining representatives of the public employees of the City for the purpose of collective bargaining as contemplated by RCW Chapter 41.56 as amended.

B. There is established an Executive Labor Committee appointed by the Mayor. The City Council shall establish a City Council Labor Committee. There is established a Labor Relations Policy Committee consisting of the City Council's Labor Committee and the Mayor's appointees. The Committee may designate representatives of the Executive or Legislative or other departments or other persons to assist the City's negotiators.

C. The Labor Relations Policy Committee is further authorized upon the request of the Board of Library Trustees of the Seattle Public Library to meet, confer, and negotiate with bargaining representatives of the public employees of the Seattle Public Library for the purpose of collective bargaining as contemplated by RCW Chapter 41.56, and to timely recommend to the Board of Library Trustees proposed wages, hours, and other conditions of employment for the purposes of Library budgets and such collective bargaining agreement or agreements as may be required and authorized by the Board.

D. Agreements Confirmed by City Council. All labor agreements negotiated pursuant to RCW Chapter 41.56 shall be subject to confirmation by a majority of the City Council.

The Director of Labor Relations or his/her designee shall coordinate and chair all meetings with the bargaining representatives of the public employees of the City for the purpose of collective bargaining as contemplated by RCW Chapter 41.56; provided, however, that no binding oral or written agreements shall be entered into with the bargaining representative(s) of employees of the City relative to substantive changes in City policy toward wages, hours, or working conditions without the participation of the Director of Labor Relations or his designee, the concurrence of the Labor Relations Policy Committee, and approval by a majority of the City Council; and provided, further that no binding oral or written agreements involving the day-to-day administration of collective bargaining agreements or bargaining relations shall be entered into with the bargaining representative(s) of employees of the City by any City department without the prior approval of the Personnel Director or designee.

E. Confidentiality. All elected public officials and appointed City officers assigned the responsibility of proposing, reviewing, or determining labor relations policies shall maintain strict confidentiality during the period of negotiations.
(Ord. 107790 § 10, 1978.)

Cases: Amendment to City Charter Art. 16, and the personnel ordinance passed pursuant to it, were not void as conflicting with the Public Employees' Collective Bargaining Act. City of Seattle v. Auto Sheet Metal, Etc., 27 Wn.App. 669, 620 P.2d 119 (1980).

4.04.130 Classification.

A. The Personnel Director shall classify positions of employment in City government so as to group together positions sufficiently similar that the same title may equitably be applied to all, and may establish such classifications according to a wage and salary structure. Classification may be by budget title. Classification is not required for examination purposes, and need not precede examination for a position.

B. The Director may make rules for employees' transfers from one class to another without examination, provided, that such transfer shall not constitute a promotion; and provided, further,

that the similarity of such classes can be documented. (Ord. 110253 § 1, 1981; Ord. 107790 § 11, 1978.)

4.04.140 Employee compensation and benefits.

The Director is the administrator of employee compensation, incentives, and benefits, such as sick leave, health care, dental benefits, and vacation time, except for the retirement program, and shall administer each program according to the terms of the ordinance, resolution or contract which establishes it. The Director shall promulgate rules for the administration of benefits. (Ord. 107790 § 12, 1978.)

4.04.145 Policies concerning temporary employees.

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. Review. The City may work temporary employees beyond one thousand forty (1040) regular hours within any twelve (12) month period. However, the City shall not use temporary employees to supplant permanent positions. After a position has been filled by a temporary employee for nine hundred sixteen (916) regular hours or more in a calendar year and the City wants to continue to have that work performed, the City shall, in its ensuing budget process, review the circumstances of that job and determine if that position should be staffed by a permanent employee in the future.

C. Assignment/Scheduling. The City will not assign or schedule temporary employees (or fail to do so) solely to avoid accumulation of regular hours that will increase premium pay provided in Section 4.20.055, or solely to avoid considering creation of a permanent position as stated in subsections A and B above.

D. Annual Report. A report subject to public disclosure will be annually prepared showing how many regular hours are worked by temporary employees in each year. The report, arranged by payroll department and payroll titles within each payroll department, shall list employee name, payroll department, payroll title, date of hire, regular hours worked in that year, cumulative hours worked to date and bargaining unit code; and it shall be pre-

pared from the last payroll master file tape for each year.

E. Credit for Hours Worked. A temporary employee who has worked in excess of five hundred twenty (520) regular hours and who is appointed to a permanent position without a voluntary break in service greater than thirty (30) days shall have his or her time worked counted for purposes of salary step placement (where appropriate), and eligibility for medical and dental coverage. Section 4.34.100 provides credit for vacation accrual increases and Sections 4.36.103 and 4.36.125 provide for participation in the City Employees' Retirement System.

F. Enforcement. These provisions may be enforced by a lawsuit in the Superior Court. (Ord. 117301 § 1, 1994.)

4.04.150 Employee selection.

A. The Personnel Director shall approve selection procedures for upward movement of current City employees as well as access to the employment process by members of the public for employing units.

B. The Director shall establish a system for maintaining a pool of qualified applicants to fill staffing needs in employing units in a flexible, timely and responsive way.

C. 1. The Personnel Director shall coordinate official advertisements for all regular position vacancies.

2. Employees shall be notified of all regular position vacancies through internal City advertisement. The Director may waive this requirement upon written presentation by the appointing authority of sufficient reasons for doing so. Criteria which may establish the basis for granting such waiver shall be published by the Director prior to the effective date of the ordinance codified in this section.

D. The appointing authority of an employing unit shall specify the essential job functions, skills and availability requirements of a vacant position. Upon the request of the appointing authority, the Director shall evaluate applicants from the public to identify those who are qualified for employment. The evaluation shall be a job-related assessment of qualifications based on essential job duties to be performed.

E. The Personnel Director shall forward to the employing unit only names of applicants who meet the advertised criteria. Regular employees may

apply directly to the employing unit for consideration.

F. Final interviews and selection of regular employees will be conducted by the appointing authority according to procedures approved by the Personnel Director.

1. The Personnel Director shall audit the qualifications of each finalist prior to a final selection to ensure the individual selected meets the advertised qualifications.

G. The Personnel Director shall establish procedures governing the recall and reinstatement of employees who have been laid off, and may provide assistance programs to support the alternative placement of employees whose positions are targeted for layoff.

H. The Director may promulgate rules distinguishing various types of temporary employment according to the City's needs.

I. The Mayor, City Councilmembers, and their immediate staff shall not initiate any recommendations regarding candidates for City employment. However, the Mayor, City Councilmembers and their immediate staff may respond to requests for recommendations regarding their direct knowledge of a candidate's ability, knowledge and skill. No person shall use inappropriate pressure to effect the hiring of any candidate for City employment.

(Ord. 117019 § 2, 1994; Ord. 110302 § 2, 1981; Ord. 107790 § 13, 1978.)

4.04.160 Veteran's preference.

Veteran's preference in employment shall be granted only as required by state and federal law. If no state or federal law requires the City to grant a veteran's preference, then none shall be granted. (Ord. 107790 § 14, 1978.)

4.04.170 Residence.

City residence shall not be required, but preference in hiring may be accorded by rule to job applicants who reside in the City; and residency may be required of exempt employees. (Ord. 107790 § 15, 1978.)

4.04.180 Performance evaluation.

A. The Personnel Director shall develop and ensure compliance with a City-wide performance evaluation system, which may be adopted with the Director's approval to meet particular needs of de-

partments. Such system shall include, but not be limited to:

1. Written evaluations of every City employee by his/her supervisor, conducted at least annually, based on job-related performance;

2. Provision for written employee comment on the evaluation form;

3. Review of the evaluation by the rater's supervisor, and right of the employee to review of the evaluation, ultimately, to the department head. Rules shall provide for employee's representation as a part of the review process at the employee's option;

4. Procedures for checking the validity of the performance evaluation system.

B. The evaluation of an employee shall be a confidential portion of his/her personnel record.

C. Within two (2) years of the effective date of the ordinance codified in this chapter,¹ every City employee covered by the evaluation system shall be evaluated by his/her supervisor. The results of this first evaluation shall be used only for purposes of communication, and shall not be used as a basis for any personnel action; provided, that this subsection shall not apply to any employees who have been covered by a written performance evaluation system prior to the effective date of the ordinance codified in this chapter.

1. Editor's Note: Ord. 107790 became effective on January 10, 1979.

D. The results of evaluations conducted subsequent to the first evaluation contemplated in subsection C shall be used to:

1. Improve communications between employees;

2. Help identify and reward outstanding employee performance;

3. Help identify and correct inadequate employee performance; and

4. Help demonstrate cause for personnel actions.

(Ord. 107977 § 1, 1979; Ord. 107790 § 16, 1978.)

4.04.190 Employee incentives.

The Personnel Director shall develop proposals for employee incentive programs, including proposals for merit pay based upon employee performance evaluation, and shall report such proposals to the Mayor and City Council by July 1, 1979.

(Ord. 107790 § 17, 1978.)

4.04.200 Employee development.

A. The Personnel Director shall provide, consistent with funds appropriated therefor, City-wide training programs, and shall report to the Mayor and the City Council, via the Office of Management and Planning, on training expenditures and accomplishments. Such reports will be based on information received from departments to the Director in accordance with his or her directions. The Director also shall recommend to the Mayor and the City Council appropriate levels of funding for such training programs.

B. Apprenticeship.

1. The Director may establish programs of apprenticeship positions in the City's service. The programs may be established pursuant to RCW Chapter 49.04 at the Director's discretion.

2. a. There shall be a Joint Advisory Apprenticeship Committee to advise the Director concerning the need for apprenticeship programs in the City, and the need for legislation, administration and rules therefor. The Committee may, at the request of the Director, assist in recruiting, examining, selecting, training, evaluating, and disciplining apprentices, subject to personnel rules and the affirmative action plan of the City. Rules shall specify the relationship of the apprentice to his/her departmental supervisor.

b. The Joint Apprenticeship Advisory Committee shall consist of six (6) members, three (3) of whom shall represent organized labor. Members shall be appointed by the Mayor and confirmed by the City Council, and shall serve for staggered three (3) year terms. Members may be removed by the Mayor by filing a statement of reasons therefor with the City Council. The Mayor shall then appoint a successor for the unexpired term.

c. Apprentices shall be treated as probationary or regular employees under this chapter, except that the terms of their apprenticeship agreements shall govern the terms of their employment, in case of conflict.

(Ord. 117750 § 1, 1995; Ord. 107790 § 18, 1978.)

4.04.210 Upward mobility for City employees.

To maintain an effective City work force, it is essential to provide employees rewarding opportunities for career growth and upward mobility. To

this end, the Personnel System shall be designed to include career paths for all but the highest level of employment. To the extent practical under the City budget, the Director shall offer career counseling and job-related training:

A. To assist interested employees in competing for better positions; and

B. To assist departments in identifying employees who are interested in upward mobility and in encouraging their progress.

(Ord. 107790 § 19, 1978.)

4.04.220 Layoff.

A. Order of Layoff. Within an employing unit, the order for layoff in a given class shall be as follows:

1. Probationary employees;

2. Regular employees;

Provided, that temporary workers and interim employees shall be separated prior to the layoff of any probationary employee in the same employing unit and class.

Among regular employees, order of layoff shall be in order of seniority until a performance evaluation system as contemplated by this chapter is in effect. Thereafter, the regular employee having the lowest performance evaluation in the class shall be laid off first, but among employees whose performance is substantially the same, layoff shall be in the order of seniority.

In the event one (1) or more positions having different budget and class titles or having budget titles only and no class titles are scheduled to be abrogated for any reason and such abrogation will result in a layoff, the Director shall establish an order of layoff for regular employees that reflects their relative seniority in positions with the same budget title as such positions affected by the layoff.

B. Exceptions to Normal Order of Layoff.

1. Upon a showing by the appointing authority that the operating needs of an employing unit require such action, the Director may authorize an exception to the normal order of layoff and the retention in active employment of any employee who has some special experience, training or skill which is exceptional to the knowledges, skills and abilities expected of the population of employees for the positions affected by the layoff. Such exceptions to the normal order of layoff may be based upon documented recruiting and/or hiring

specifications, current job descriptions or similar documentation acceptable to the Director.

2. The Director shall modify the normal order of layoff in the smallest respect sufficient to prevent a negative disparate impact upon women, the disabled, or minorities when these conditions are present:

a. Five (5) or more employees in an Equal Employment Opportunity job category are to be laid off at one time in an employing unit;

b. The Director determines that women, the disabled, or minorities are substantially underrepresented in the EEO category affected by the layoff, or that any such protected group would become substantially underrepresented in the EEO category as a result of a layoff in normal order; and

c. A layoff in the normal order should have a negative disparate impact on any such protected group; provided, that no such modification shall affect a regular employee unless all probationary employees in the affected class or assignment level have been laid off.

d. For purposes of this permitted modification of the normal order of layoff, an impact upon minorities shall be evaluated, and corrective action shall be taken, for minorities as a single group that shall not be divided by ethnicity or other subclassifications.

C. Employee Options For Transfers to Avoid Layoff (Bumping). Insofar as the option is available, as determined by the Director, any regular employee subject to being laid off may displace within the same employing unit the employee who has the least seniority in the displacing employee's class, or if the order of layoff reflects seniority within a budget title pursuant to SMC Section 4.04.220 A above, in the displacing employee's budget title.

The least-senior regular employee who is laid off or is displaced pursuant to the immediately preceding paragraph may displace the employee having the least seniority in the next lower class in a class series, or next lower budget title when (1) the displacing employee has had an appointment to such lower class or budget title, and (2) the employee to be sequentially displaced has less seniority than the displacing employee.

Notwithstanding any other provision of this chapter, in all cases, to be eligible to displace another employee in order to avoid a layoff, the displacing employee must possess the skills re-

quired to perform the duties of the position held by the employee who would be displaced.

D. Reinstatement.

1. The names of all employees laid off from active employment shall be placed on a reinstatement list. Such list shall be for the class or budget title from which they have been laid off. The entire reinstatement list shall be sent to any appointing authority for use in filling a vacancy in a position of that class or budget title. An appointing authority may refuse to make an appointment from the reinstatement list only upon stating a reason therefor to the Director.

2. The Director may implement programs to refer laid-off employees to vacant City positions in any employing unit; provided, that each referred employee shall possess skills commensurate with the duties of the position to be filled, as determined by the Director, and provided, further, that no such referral shall result in a promotion for the affected employee unless the employee has been referred as a result of an appropriate qualifications audit. An appointing authority may refuse to hire a person so referred only upon stating, in writing, a reason therefor to the Director.

E. Notice of Layoff.

Where a regular employee is separated by reason of layoff, when possible, thirty (30) days' prior written notice shall be given the affected employee, and at least fifteen (15) days' prior written notice shall be given unless:

1. Delaying the layoff would cause the employing unit to exceed its revenue for personal services for the affected work or program; or

2. The layoff is one of a number of layoffs and delaying the layoff would cause serious financial detriment to the City; or

3. The layoff is caused by fire, storm damage, earthquake, destruction of property, strike, or any other such event that could not reasonably have been foreseen, or by preemptory state or federal legislation.

(Ord. 118121 § 1, 1996; Ord. 117360 § 1, 1994; Ord. 117327 § 1, 1994; Ord. 110852 § 2, 1982; Ord. 110253 § 2, 1981; Ord. 107790 § 20, 1978.)

4.04.225 Smoking in the work environment.

A. Definitions.

1. "Smoking" or "to smoke" means and includes inhaling, exhaling, or carrying any burn-

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ing tobacco or other plant matter, including but not limited to cigarettes, cigars or pipes.

2. "Smoking debris" includes but is not limited to cigarette or cigar butts, cigarette paper or product packaging, tobacco, smoke, ash, or any other residue resulting from smoking.

3. "Enclosed work area" means that area closed in by a roof and walls, with at least one (1) opening for ingress and egress, with the intended use primarily for and by officers and employees.

4. "Common areas" means that area enclosed by a roof and walls in facilities which are owned, leased or rented by the City, including but not limited to employee lounges, lunchrooms, stairways, elevators, and restrooms.

B. Uniform Smoking Policy. Smoking is prohibited in all City enclosed work and common areas, with the following exceptions:

1. Smoking is permitted in outdoor areas unless smoke would be drawn into the work or common areas.

2. City Vehicles. Persons may smoke in City vehicles when:

a. The vehicle is occupied only by persons who smoke; and

b. The employee under whose name the vehicle is assigned agrees to return the vehicle thoroughly aired with all smoking debris removed; and

c. Smoking is not otherwise prohibited for safety reasons.

3. Other Exceptions.

a. Represented Officers and Employees.

Where members of a bargaining unit determine that the uniform smoking policy creates a unique situation, with an impact peculiar to their particular bargaining unit, an exception request may be submitted to the Personnel Director, who will meet and confer and/or negotiate with the bargaining representative regarding an exception to the Citywide smoking policy.

b. Nonrepresented Officers and Employees. Any nonrepresented officer(s) or employee(s) who find that the uniform smoking policy creates a unique situation with an adverse impact on the employee(s) while in his/her usual place of work, may submit an exception request to his/her Department Director, who shall submit the request, along with the Director's recommendation, to the Personnel Director. The Personnel Director shall determine the feasibility of allowing an

exception to the policy in the employee's work area.

C. Applicability. The Citywide smoking policy shall apply in all enclosed work and common areas, whether in enclosed individual or shared office spaces, and shall apply to all persons who visit enclosed work and common areas, including all officers, employees, contractors, or visitors during all hours and days of the year.

D. Implementation.

1. Effective Date. The Citywide uniform smoking policy shall become effective within three (3) months after adoption of the ordinance codified in this section.¹

1. Editor's Note: Ordinance 113148 was passed by the City Council on October 20, 1986.

2. Notification. All City of Seattle Employment Bulletins shall include notification of the Citywide uniform smoking policy.

E. Discipline. Discipline shall be imposed on any City officer or employee violating the uniform smoking policy, in accordance with the particular employee's collective bargaining agreement, The Charter or the City Personnel Rules, whichever is applicable.² The primary objective of discipline with regard to the City's uniform policy governing smoking in the work environment shall be to correct behavior in violation of said policy, not to punish or penalize employees who smoke. (Ord. 120181 § 73, 2000; Ord. 118397 § 63, 1996; Ord. 113836 § 1, 1988; Ord. 113148 § 1, 1986.)

2. Editor's Note: The Charter is set out at the front of Volume I of this Code; the Personnel Rules are codified in Title 4 of this Code.

4.04.230 Progressive discipline.

A. In order of increasing severity, the disciplinary actions which his/her supervisor may take against an employee for inappropriate behavior or performance include:

1. A verbal warning, which shall be accompanied by a notation in the employee's personnel file;

2. A written reprimand, a copy of which must be placed in the employee's file;

3. Suspension up to thirty (30) days;

4. Demotion;

5. Discharge.

B. Which disciplinary action is taken depends upon the seriousness of the affected employee's

conduct; except, in the absence of mitigating circumstances, a verbal warning or a written reprimand shall not be given for a major disciplinary offense.

C. Suspension, demotion or discharge shall be approved by the employee's department head in writing. An hourly employee may be suspended up to one (1) day without the department head's approval for emergency situations, in accordance with rules promulgated by the Director. Suspensions of nonrepresented salaried employees shall be in increments of no less than one (1) week; provided, that when discipline is administered for major safety violations, suspensions of at least one (1) day but less than one (1) week may be approved.

D. Disciplinary actions shall be reported by the department head to the Personnel Director for records purposes, and the Personnel Director's use in compiling guidelines for like treatment of like behavior from department to department.

E. The Personnel Director may establish rules for application of discipline which are consistent for like behavior from department to department. A department may, by rule, be permitted to impose a more severe penalty than is otherwise sanctioned where misconduct which may be of minimal significance to other departments has a substantial impact on the operations, costs, or safety within that department.

F. The following is a nonexclusive list of major disciplinary actions where a verbal warning or written reprimand will not be appropriate in the absence of mitigating circumstances:

1. Assault or threat toward another person;
2. Being impaired or affected by and/or testing positive for alcohol or a controlled substance during working hours or using or possessing alcohol or a controlled substance at the workplace;
3. Use of City time, equipment or facilities for private gain or other non-City purpose;
4. Falsifying or destroying the business records of the employer at any time or place, without authorization;
5. Knowingly making a false statement on an application for employment or falsifying an employment related examination score;
6. Intentional damage to or theft of the property of the City, another employee, or others;
7. Carrying or otherwise possessing firearms or any type of weapon in the course of em-

ployment, except as authorized by the appointing authority;

8. Unauthorized absence;
9. Endangering the safety of, or causing injury to, the person or property of another through negligence or intentional failure to follow policies or procedures;
10. Making a bribe, accepting a bribe, or soliciting a bribe;
11. A knowing or intentional violation of the City Code of Ethics;
12. Conviction of any felony or misdemeanor crime that is or may be work related, or may impair the employee's ability to perform his/her job duties, whether committed at or away from the worksite or during or outside working hours;
13. Acts of racial/sexual harassment and/or acts of discrimination that are prohibited by federal, state, or local laws, or a failure to fulfill a responsibility to report incidents of harassment and/or discrimination to an appropriate City manager or Human Resources employee; or
14. Other offenses of parallel gravity.

G. Where an employee is accused of any action which, if proven, would be grounds for removal of that employee from his/her position of employment, the appointing authority may suspend the employee pending investigation of the matter. An employee who is suspended without pay and who is finally exonerated, shall be reinstated and awarded back pay and benefits.

H. Conviction of a crime shall not disqualify a person from City employment, except where the conviction is for conduct reasonably related to the work the applicant would be performing for the City, and the conviction is less than five (5) years old.

I. A department which takes a disciplinary action that is subject to appeal to the Civil Service Commission shall inform the employee in writing that:

1. He or she has the right to appeal to the Civil Service Commission;
2. To appeal, the employee must file a statement with the Civil Service Commission within twenty (20) days; and
3. The twenty (20) days begin to run on the date of delivery if the notice is given to the employee personally or delivered to his or her most recent address shown on departmental

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records; and on the third day after the date of mailing if the notice is mailed.
(Ord. 118830 § 1, 1997; Ord. 117959 § 1, 1995; Ord. 117483 § 1, 1995; Ord. 116037 § 1, 1992; Ord. 114267 § 1, 1988; Ord. 107790 § 21, 1978.)

4.04.240 Employee grievance procedure.

A. The Personnel Director shall establish rules for the presentation of non-exempt employee grievances in succession, to an employee's immediate supervisor, to the division manager, and to the head of the department for a written decision if necessary.

B. The Director may advise and assist the head of a department in resolving a grievance, and shall seek consistency of treatment of like grievances among the departments, offices, boards, and commissions of the City.

C. An employee who is represented under the terms of a collective bargaining agreement between the City and an authorized bargaining unit may use the employee grievance procedure authorized herein in lieu of the grievance procedure provided by his or her collective bargaining agreement only when the collective bargaining agreement does not include provisions governing the action the employee wishes to challenge. In no event shall an employee submit the same grievance under more than one recognized grievance procedure.
(Ord. 120936 § 1, 2002; Ord. 107790 § 22, 1978.)

4.04.250 Civil Service Commission.

A. 1. There shall be a three (3) member Civil Service Commission. One (1) Commissioner shall be appointed by the Mayor, one (1) Commissioner shall be appointed by the City Council, and one (1) Commissioner shall be elected by City employees as prescribed hereafter. The term of each Commissioner shall be three (3) years; provided, that the term of the first employee's Commissioner shall be three (3) years, the term of the first Mayor's Commissioner shall be two (2) years, and the term of the first Council's Commissioner shall be one (1) year. Each term shall begin on January 1st.

2. Appointments and elections to fill vacancies on the Commission shall be for the unexpired term. Two (2) Commissioners constitute a quorum.

B. Eligibility of Commissioners. In order that the independence of the Commissioners be assured, no person shall serve as Commissioner who

is also a member of the Mayor's office, the City Council staff, the Civil Service Commission staff, an elected official, a head of a City department, or an exempt City employee.

C. Election for Employee's Commissioner. All City employees who are regular or probationary employees of the City, except members of the Public Safety Personnel System, are eligible to vote for the employee-selected Commissioner. Elected, exempt, and temporary employees may not vote in that election.

D. Commissioner's Election, Administration. Election of the employees' designate to the Commission shall be administered by the City Clerk. Election shall be held during the week beginning on the first Monday in November, 1987, and every third year thereafter. The City Clerk shall give notice of such election and furnish ballots therefor. Balloting shall be permitted by mail postmarked between the hours of one minute past midnight (12:01 a.m.) Monday to twelve midnight (12:00 midnight) of the succeeding Friday of the election week. Ballots may also be deposited during regular office hours at polling places prescribed by the City Clerk.

E. Commissioner Candidacy. Not earlier than the first Monday in October of each year in which a Commissioner will be elected, nor later than the succeeding Friday, any person who is to become a candidate for Commissioner shall file a declaration of candidacy for office with the City Clerk, on a form furnished by the City Clerk.

F. Voting. The candidate receiving the majority of votes cast shall win the election. If no candidate receives a majority of the votes cast, the two (2) candidates receiving the highest and next highest number of votes cast shall be candidates in a runoff election held at a date and time to be determined by the City Clerk. The runoff election be scheduled so that completion of balloting and certification shall occur before five p.m. (5:00 p.m.) on the last business day of December of the election year. Notice and voting shall be the same as for regular Commissioner's election.

G. Commissioner Vacancies. Vacancies occurring in the office of the employee's designate to the Commission shall be filled at a special election to be called for such purpose by resolution of the City Council.

H. No City employee who is elected Commissioner shall suffer a monetary loss or other penalty

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on account of his/her absence from his/her regular position while performing the duties of Commissioner.

I. Campaign Reporting. Candidates for Commissioner shall comply with the terms of The City of Seattle (Ordinance 106653)¹ including, but not limited to, filing of disclosure statements regarding campaign financing.

J. Recall of Employee Member. The employee designate to the Commission may be recalled by a vote of a majority of the number of votes cast in a recall election.

Recall proceedings are instituted by filing with the City Clerk a demand for recall, stating good cause therefor. Within sixty (60) days of filing, the statement must be supported by a petition filed therewith, bearing the signatures of eligible employees equal in number to twenty-five percent (25%) of the number that voted in the last Commissioner's election; provided, no more than fifty percent (50%) may be signatures of the employees of a single department. Upon verification of sufficient signatures, the City Clerk shall announce a recall election as soon as is practicable.

K. Removal of Appointed Commissioners. The Mayor or the City Council may remove its appointed Commissioner by making a public statement setting forth the reasons therefor, and may appoint a replacement for the remainder of such Commissioner's unexpired term.

L. Duties. The duties of the Commission are as follows:

1. To appoint, remove, and supervise Commission staff;

2. To make rules for the conduct of Commission business pursuant to the Administrative Code of the City (Ordinance 102228);²

3. To hear appeals involving the administration of the personnel system. The Commission may administer oaths, issue subpoenas, receive evidence, compel the production of documents for such purposes, and may question witnesses at its hearings;

4. To conduct investigations and issue findings regarding any complaints that the Mayor, a City Councilmember, or a member of their immediate staff has initiated a recommendation regarding a candidate for City employment, or that any person has used inappropriate pressure to effect the hiring of any candidate for City employment. The Commission may administer oaths, is-

sue subpoenas, receive evidence, compel the production of documents for such purposes, and may question witnesses at its hearing;

5. To issue such remedial orders as it deems appropriate; provided, that no remedial order may supervene the exclusive authority of the City Council as it relates to the financial transactions of the City. The Commission shall have the power to reinstate employees. It may introduce legislation for lost wages and benefits, and may make recommendations to the Mayor and City Council;

6. To review and comment upon rules promulgated by the Personnel Director pursuant to the Administrative Code of the City (Ordinance 102228);²

7. Delegation of Powers. The Commission may delegate its powers, in whole or in part, to a hearing examiner who may be from the City Hearing Examiner's office. Decisions of a Hearing Examiner may be appealed to the Commission. The Commission may not delegate its powers to, or employ the services of, the Personnel Director or a member of the Personnel Division. (Ord. 118397 § 64, 1996; Ord. 118337 § 1, 1996; Ord. 117242 § 7, 1994; Ord. 116368 § 84, 1992; Ord. 112606 § 2, 1985; Ord. 111892 § 1, 1984; Ord. 107790 § 23, 1978.)

1. Editor's Note: The Fair Campaign Practices Ordinance is codified in Chapter 2.04 of this Code.

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

4.04.255 Determinations regarding exemptions from Civil Service.

Any question regarding whether the City's legislative authority has made a particular position of employment exempt from the Civil Service shall be determined solely by the Personnel Director only by reference to pertinent annual City budgets and exemptions ordinances and the records of the Personnel Department with respect to such position and the occupant thereof; the Civil Service Commission shall have no jurisdiction to determine such question.

(Ord. 120181 § 74, 2000; Ord. 118397 § 65, 1996; Ord. 114314 § 3, 1989.)

4.04.260 Appeals to Civil Service Commission.

A. A regular employee who is aggrieved thereby may appeal to the Civil Service Commission his/her demotion, suspension, termination of employment, or violation of this chapter or rules passed pursuant thereto; provided that the employee first exhausts his/her intradepartmental grievance remedies.

B. An appeal shall be in the form of a concise statement of the reason for appeal.

1. An appeal from an action other than a disciplinary action must be filed with the Commission within twenty (20) days of the action appealed from.

2. An appeal from a disciplinary action must be filed within twenty (20) days of giving to the employee notice of the action and the information that he or she has a right to appeal to the Civil Service Commission and twenty (20) days for filing an appeal.

3. The twenty (20) day limit for filing appeals begins to run on the date of delivery of the notice. "Date of delivery" means the date the notice is personally delivered to the employee or the third day after the date of mailing if the notice is mailed to the address shown on departmental records as the employee's most recent residence address or as the address supplied by the employee for receiving notices.

C. By submitting the same complaint to binding arbitration provided by a collective bargaining agreement, the employee waives his/her right to an appeal under this section.

D. A complaint alleging discrimination in violation of the City's Fair Employment Practices Ordinance¹ shall be referred by the Commission to the rights agency of the City having jurisdiction over such complaints for its recommendation as to appropriate settlement of the case.

E. An employee may be represented at a hearing before the Commission by a person of his/her own choosing at his/her own expense.

F. The Commission shall keep a record of its own proceedings, but the record need not include a written verbatim transcript.

G. The Commission shall accord appellants in disciplinary actions the right to cross-examine witnesses and to produce relevant evidence at hearings.

H. The Commission shall conduct hearings on a timely basis and render decisions on the issues presented at hearing within ninety (90) days after a hearing is completed.
(Ord. 114267 § 2, 1988; Ord. 107790 § 24, 1978.)

1. Editor's Note: The Fair Employment Practices Ordinance is codified in Chapter 14.04 of this Code.

4.04.265 Selection of Temporary Commission Member.

A. When the Civil Service Commission is acting in an adjudicative capacity and a commission seat is either vacant or a regular member is unable, for any reason, to participate in a proceeding involving a particular matter, the Commission may choose to act as a quorum of two members, or it may vote to appoint a temporary member to participate in the proceedings involving a particular matter.

B. When the Civil Service Commission is acting in a non-adjudicative capacity and a Commission seat is either vacant or a regular member is unable, for any reason, to participate in a proceeding involving a particular matter, the Commission may choose to act as a quorum of two members, or it may vote to appoint a temporary member to participate in the proceedings involving a particular matter. The Commission may not appoint a pro tem commissioner to hear internal Civil Service Commission personnel issues.

C. Should the temporary member be serving in place of a regular member, the member who is being replaced may not participate in the vote that determines which candidate is selected to serve as the temporary member.

D. After a candidate for temporary commissioner has been selected by vote, the Commission shall enter a written order identifying the name of the appointee and the scope and duration of the temporary appointment. The temporary member shall have the full speaking and voting rights of a regular member with respect to the particular matter for which the appointment is made. The temporary member shall not have any speaking or voting rights outside of the matter to which he or she was appointed.

E. To be considered for appointment as a temporary commissioner, all candidates must meet the eligibility requirements established in SMC 4.04.250(B), and the Commission may establish a

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roster of eligible names candidates from which appointees may be selected.

F. The Commission's proceedings with a temporary member shall be valid to all intents and purposes. The appointment of a temporary member shall not reduce the rights or privileges of the regular member, who is excused from acting on the particular matter, with respect to any other proceedings or matters of Commission business. (Ord. 120845 § 1, 2002.)

4.04.270 Transition.

This chapter effects major changes in the City's personnel system. In order that the business of the City may continue without major hiatus during implementation of this new personnel system, the following transitional provisions are authorized and made:

A. Upon the effective date of the ordinance codified in this chapter,¹ the appointment of each employee of the City is ratified and confirmed.

B. Upon the effective date of the ordinance codified in this chapter,¹ all regular employees of the City shall remain regular employees of the City, without loss of accrued vacation, sick leave, compensation time, or like benefit, if any, which is also recognized under the new personnel system.

C. Upon the effective date of the ordinance codified in this chapter,¹ probationary employees shall remain probationary employees without loss of accrued vacation, sick leave, compensation time, service time accrued toward regular employment, or like benefit, if any, which is also recognized under the new personnel system.

D. Upon the effective date of the ordinance codified in this chapter,¹ provisional employees shall become probationary employees of the City without loss of accrued vacation, sick leave, or compensation time or like benefit, if any, which is also recognized under the new system.

E. The accrued vacation, sick leave, compensation time, or like benefit of every employee, if such benefit exists, is preserved upon the effective date of the ordinance codified in this chapter;¹ provided, that such benefit is a sort recognized under the new system.

F. Upon the effective date of the ordinance codified in this chapter,¹ the Civil Service Commission shall assume jurisdiction over appeals previously made by employees, who are not members of the public safety personnel system, to the pre-

vious Civil Service Commission. The Commission shall hear such cases under its choice of previous Civil Service Laws and Rules or newer rules of the Personnel Director, whichever set of rules is deemed fairer to the employee.

G. Upon the effective date of the ordinance codified in this chapter,¹ the existing job classifications in the City are ratified and confirmed, and shall remain in effect until changed.

H. The responsibilities for administration of all the records, books, and papers of the Retirement Board relating to employee benefits other than those relating to the Retirement Program, the Group Term Life Insurance program, and the disability program established for members of the Retirement System (Ordinance 78444), namely, those records, books, and papers relating to employee health care (Ordinance 8384), vacation (Ordinance 86799), sick leave (Ordinance 88522), dental care (Ordinance 100862)² and all other employee benefits, are transferred to the Personnel Department.

I. The Civil Service Commission heretofore appointed pursuant to Charter Article XVI, prior to its 1977 amendments, is terminated. All of the offices, equipment, and properties of such Civil Service Commission, and all of its records, books, and papers are transferred to the Public Safety Commission established pursuant to the provisions of this chapter; provided, that records, books, and papers relating to employees and positions of employment not a part of the Public Safety Civil Service Commission are transferred to the Personnel Department established pursuant to Charter Article XVI³ and this chapter; except for such records as relate to employee grievances; and provided, further that all such records relating to grievances of employees not covered by the Public Safety Civil Service Commission are transferred to the Civil Service Commission established pursuant to Charter Article XVI as amended in 1977, and pursuant to the terms of this chapter.

J. Insofar as they are not in conflict with the terms of this chapter, the Civil Service Rules of the City adopted February 17, 1965, as amended as of December 31, 1978, are adopted as the rules of the Personnel Department established pursuant to the terms of Charter Article XVI as amended in 1977 and the terms of this chapter, until such rules are amended or repealed by the Personnel Director.

K. The adoption of this chapter and rules adopted pursuant hereto shall not affect the provi-

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sions of any existing collective bargaining agreement between an employee organization and the City.
(Ord. 107790 § 25, 1978.)

1. Editor's Note: Ordinance 107790 became effective on January 10, 1979.
2. Editor's Note: The following ordinances are codified in the following chapters of this Code:
 - Retirement System (Ord. 78444) Chapter 4.36
 - Health Care (Ord. 83834) Chapter 4.56
 - Vacations (Ord. 86799) Chapter 4.32
 - Sick Leave (Ord. 88522) Chapter 4.24
 - Dental Care (Ord. 100862) Chapter 4.60
3. Editor's Note: The Charter is included at the beginning of this Code.

Chapter 4.08 PUBLIC SAFETY CIVIL SERVICE

Sections:

- | | |
|-----------------|---|
| 4.08.010 | Title. |
| 4.08.020 | Purpose. |
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Statutory Reference: for Charter provisions regarding civil service regulations, see Charter Art. XVI.

Severability: The provisions of this chapter are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this chapter or the validity of its application to other persons or circumstances.
(Ord. 107791 § 21, 1978.)

4.08.010 Title.

This chapter shall be entitled "The 1978 City of Seattle Public Safety Civil Service Ordinance."
(Ord. 107791 § 1, 1978.)

4.08.020 Purpose.

The general purpose of this chapter is to establish a civil service commission to hear the appeals of employees in the Police and Fire Departments of the City, regarding appointments, promotions, promotional testing, layoffs, recruitment, retention, classifications, removals and discipline, pursuant to Charter Article XVI, which, together with applicable provisions of the Personnel System established by SMC Chapter 4.04, provide for a civil service system in the Police and Fire Departments in substantial compliance with RCW Chapters 41.08, 41.12, 41.56. All appointments and promotions to Police and Fire Department positions, retention therein and removal therefrom shall be based on merit and according to the policies and procedures hereinafter specified or according to the procedures regarding the promotions of police officers and sergeants set forth in the effective collective bargaining agreement between the City and the exclusive bargaining agent of such employees, as approved by ordinance, to the extent such procedures are inconsistent with those set forth herein.
(Ord. 120658 § 4, 2001; Ord. 107791 § 2, 1978.)

4.08.030 Definitions.

The following words and phrases shall have the meanings hereinafter described unless the context in which included clearly indicates otherwise:

A. "Appointing authority" means a person who is authorized to employ others on behalf of the City, which means: (1) the Fire Chief with respect to any Seattle Fire Department position included in this system, or (b) the Chief of Police with respect to any Seattle Police Department position included in this system.

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B. "Certify" means verify to the appointing authority that a list of names of candidates for employment has been selected from the list of persons tested and found eligible for employment.

C. "City" means The City of Seattle.

D. "City Council" means the City Council of The City of Seattle.

E. "Class" means a group of positions designated by the Commission as having similarity in duties and responsibilities, by reason of which the same examination may be used for each position in the group.

F. "Commission" means the Public Safety Civil Service Commission hereinafter created, and the term "Commissioner" means any one (1) member of said Commission.

G. "Demotion" means removal of an employee from a higher to a lower class of employment, for cause.

H. "Exempt position" means a position of City employment which is subject to civil service rules and regulation only to the extent provided in the Exemptions Ordinance,¹ and in which one serves at the discretion of the appointing authority. An exempt position must be established by a two-thirds (2/3) vote of the City Council.

I. "Probationary employee" means a person appointed from a register who has not yet completed one (1) year's employment.

J. "Provisional employee" means an employee who was appointed to a position for which no register existed.

K. "Reduction" means the removal of an employee from a higher class to a lower class of employment for reasons other than cause.

L. "Register" means a list of candidates for employment who have passed an employment examination, whose names may be chosen and certified by the Commission for submission to the appointing authority for consideration for employment.

M. "Regular employee" means a person appointed from a register who has satisfactorily completed a one (1) year period of probationary employment.

N. "Reinstatement" means reappointment of a regular employee to a position in a class in which he/she was a regular employee.

O. "Suspension" means temporary withdrawal of an employee from employment with or without pay, for cause, or pending determination of charges

against the employee which could result in discharge.

P. "Temporary employee" means a person appointed to fill an emergency, temporary or short-term need, or to fill a position for which no register is available.

Q. "Termination" means separation from employment for cause.
(Ord. 107791 § 3, 1978.)

1. Editor's Note: The Exemptions Ordinance is codified in Chapter 4.12 of this Code.

4.08.040 Public Safety Civil Service Commission.

A. There is created a Public Safety Civil Service Commission composed of three (3) members. One (1) member shall be appointed by the Mayor, one (1) by the City Council and one (1) elected by and representing employees. The term of each Commissioner shall be three (3) years; provided, that the term of the first Council Commissioner shall be two (2) years and the term of the first Mayor's Commissioner shall be one (1) year. Each term shall commence on January 1st, and appointments to fill vacancies shall be for the unexpired term. Two (2) Commissioners shall constitute a quorum. Commissioners may receive compensation for their services as may be fixed from time to time by ordinance.

B. Officers and employees in the Mayor's office, on the City Council staff, and on the Public Safety Civil Service Commission staff, and employees holding exempt positions shall be ineligible for the office of Commissioner.

C. All regular and probationary employees who are members of this system are eligible to vote for an employee-selected Public Safety Civil Service Commissioner.

D. Election shall be administered by the City Clerk. Election shall be held during the week beginning on the first Monday in November, 1987, and every third year thereafter. The City Clerk shall give notice of such election and furnish ballots therefor. Balloting shall be permitted by mail postmarked between the hours of one minute past twelve midnight (12:01 a.m.) Monday to twelve midnight (12:00 midnight) of the succeeding Friday of the election week. Ballots may also be deposited during regular office hours at polling places prescribed by the City Clerk.

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E. Not earlier than the first Monday in October of each year in which a Commissioner will be elected, nor later than the succeeding Friday, any person who is to become a candidate for Commissioner shall file a declaration of candidacy for office with the City Clerk, on a form furnished by the City Clerk.

F. The candidate receiving the majority of votes cast shall win the election. If no candidate receives a majority of the votes cast, the two (2) candidates receiving the highest and next highest number of votes shall be candidates in a runoff election at a date and time to be determined by the City Clerk. The runoff election be scheduled so that completion of balloting and certification shall occur before five p.m. (5:00 p.m.) on the last business day of December of the election year. Notice and balloting shall be the same as for a regular Commissioner's election.

G. Vacancies occurring in the office of the employee's Commissioner shall be filled at a special election to be called for such purpose by resolution of the City Council.

H. No City employee who is elected to the Public Safety Civil Service Commission shall suffer a monetary loss or other penalty on account of his/her absence from his/her regular position during regular hours while performing the duties of Commissioner.

I. Candidates for Public Safety Civil Service Commission shall comply with the terms of the Fair Campaign Practices Ordinance of the City (Ordinance 106653)¹ regarding filing of disclosure statements regarding campaign financing.

J. Pursuant to the City Charter Article XIX,² Commissioners may be removed for cause by the City Council following a hearing and the Mayor's appointee may also be removed by the Mayor upon filing a statement of reasons therefor. (Ord. 118337 § 2, 1996; Ord. 117242 § 8, 1994; Ord. 116368 § 85, 1992; Ord. 112606 § 1, 1985; Ord. 109358 § 1, 1980; Ord. 107791 § 4, 1978.)

1. Editor's Note: The Fair Campaign Practices Ordinance is codified in Chapter 2.04 of this Code.

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

4.08.050 Organization of commission— Executive Director.

A. Immediately after appointment, the Commission shall organize by electing one (1) Com-

missioner as Chairman and thereafter hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of duties.

B. The Commission shall appoint an Executive Director, who shall keep the records for the Commission, preserve all reports made to it, and perform such other duties as the Commission may prescribe.

C. Should the position of Executive Director be filled by appointment of a Public Safety Civil Service employee, such employee, if removed as Executive Director other than for cause, shall be appointed to the first available position in the class from which he/she was appointed to the position of Executive Director.

(Ord. 120658 § 5, 2001; Ord. 107791 § 5, 1978.)

4.08.060 Jurisdiction.

A. The Public Safety Civil Service system includes and is limited to, and the provisions of this chapter apply only to police special recruits, police recruits, police officers, police sergeants, police lieutenants, and police captains; and fire fighter prerecruits, fire fighters, fire lieutenants, fire captains, fire battalion chiefs, and fireboat pilots, fireboat engineers, and assistant fireboat engineers.

B. Appointments and promotions to the positions:

1. Above the rank and position of Battalion Chief in the Fire Department; and

2. Above the rank and position of Police Captain in the Police Department shall be made by assignment from the ranks and positions of Battalion Chief or Captain in the Seattle Fire Department for Fire Department ranks and positions, and Captain or Lieutenant in the Seattle Police Department for Police Department ranks and positions, at the sole discretion of the appointing authority. In the event of removal from the assigned position, the officer shall resume the rank and position from which he or she was so assigned.

(Ord. 112821 § 1, 1986; Ord. 109358 § 2, 1980; Ord. 107791 § 6, 1978.)

4.08.070 Powers and duties of Commission.

The Commission shall:

A. Make suitable rules to carry out the purposes of this chapter, and for promotions, transfers, demotions, reinstatements, suspensions, layoffs, dis-

charges and any other matters connected with the purposes of this chapter with the exception of matters related to examination, classification, eligibility, preparation of registers, certification and appointments. Such rules may be amended, modified or rescinded from time to time and all rules and amendments thereof shall be printed for free public distribution. The Commission shall initially be governed by the rules in the "Civil Service Laws and Rules" adopted February 17, 1965, as amended and in existence as of July 1, 1978. The Commission may thereafter supplement, amend, supersede or repeal such rules.

B. Make investigations concerning the enforcement and effect of this chapter and the rules prescribed hereunder; and inspect all offices, places, positions and employments affected by this chapter and ascertain whether this chapter and all such rules are being obeyed. Such investigations may be made by the Commission, or by any Commissioner or agent designated by the Commission for that purpose. Like investigation may be made on written petition of a person duly verified stating that irregularities or abuses exist, setting forth in concise language the necessity and grounds for such investigation. In the course of such investigation, the Commission shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production of books and papers relevant to such investigation. Alternatively, investigation or hearing may be conducted by a delegated agent of the Commission, whose investigation may be aided by subpoenas issued by the Commission.

C. To hear and determine appeals or complaints respecting the administration of this chapter and Section 4.04.040(C) of the Seattle Municipal Code.

D. Maintain a roster of employees of this system, and other records as may be necessary for proper administration of this chapter, and provide all necessary records to the Personnel Director for inclusion in the City's personnel management information records system.

E. Recommend from time to time such City legislation as the Commission may deem advisable for the betterment of this system and/or the administration thereof.

F. Comply with the procedures regarding the promotions of police officers and sergeants set forth in the effective collective bargaining agree-

ment between the City and the exclusive bargaining agent of such employees, as approved by ordinance, to the extent such procedures are inconsistent with those set forth herein.

(Ord. 120658, § 6, 2001; Ord. 119276 § 1, 1998; Ord. 118709 § 1, 1997; Ord. 107791 § 7, 1978.)

4.08.080 Affirmative action.

Personnel actions regarding employees covered by the system set forth in this chapter shall be subject to and consistent with the City's affirmative action plan as adopted by Ordinance 109112¹ and as subsequently amended.

(Ord. 109112 § 7, 1980; Ord. 107791 § 8, 1978.)

1. Editor's Note: The Personnel Ordinance is codified in Chapter 4.04 of this Code.

4.08.090 Qualifications of applicants.

An applicant for a position in the classified Public Safety Civil Service must meet the minimum qualifications prescribed by the Personnel Director, which standards shall be documented by the Personnel Director to be related to the physical and mental demands required to perform the duties assigned to the position to which the applicant seeks appointment.

(Ord. 120658 § 7, 2001; Ord. 107791 § 9, 1978.)

4.08.100 Tenure of employment— Removal for cause.

A. The tenure of every regular employee who is a member of this system shall be only during good behavior and acceptable job performance, and any such employee may be removed, suspended, demoted, or discharged for cause. Suspensions shall not exceed thirty (30) days. Any regular employee may be removed, suspended, demoted, or discharged by the appointing authority only upon the filing with the Commission of a statement in writing of the reasons therefor, a duplicate of which shall be served upon the employee. Any regular employee so removed, suspended, demoted, or discharged may within ten days from the date of service of such statement, file with the Commission a written demand for a hearing, whereupon, in due course, the Commission shall conduct such hearing. The hearing shall be confined to the determination of the question of whether such removal, suspension, demotion, or discharge was made in good faith for cause. After such hearing, the

Commission may affirm the action of the appointing authority, or if it shall find that the action was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted, or discharged. The Commission upon such hearing, in lieu of affirming the removal, may modify the order of removal, suspension, demotion, or discharge by directing a suspension, without pay, for up to thirty (30) days, and subsequent restoration to duty, or demotion in classification, grade or pay. The findings of the Commission shall be certified in writing by the appointing authority, and shall be forthwith enforced by such officer.

B. All hearings pursuant to this section shall be open to the public at the request of the employee. Hearings shall be held after due notice of the time and place of hearing to the affected employee. The employee has the right to representation of his/her choosing and at his/her own expense.

C. The Commission shall cause to be made a record of all such hearings. Upon request, the Commission shall furnish such record to the employee.

D. By submitting a grievance to binding arbitration under a collective bargaining agreement, the employee waives his/her right to demand a hearing under this section. A complaint alleging discrimination in violation of the City's Fair Employment Practices Ordinance¹ shall be referred by the Commission to the rights agency of the City having jurisdiction over such complaints for its recommendation as to appropriate settlement of the case.

(Ord. 107791 § 10, 1978.)

1. Editor's Note: The Fair Employment Practices Ordinance is codified in Chapter 14.04 of this Code.

4.08.110 Filling of vacancies— Probationary period.

A. Whenever a position covered by this system becomes vacant, the appointing authority, if it desires to fill the vacancy, shall make requisition upon the Personnel Director for the names and addresses of persons eligible for and willing and able to accept the appointment. The appointing authority shall fill such vacancies by appointment from the register of persons certified by the Personnel Director therefor. To facilitate the selection of ap-

pointees from the persons so certified, the appointing authority may require such persons to come before him/her and shall be entitled to inspect such persons' application and examination papers, and may fill such positions by appointment from the persons so certified without regard to their order of certification.

B. No appointment, employment or promotion in this system shall be deemed complete until after the expiration of a period of one year's probationary service. Before the expiration of the period of probation, the appointing authority may discharge or, in the case of a promotion, demote an appointee upon filing in writing the reasons therefor with the Director of Personnel and the Commission. If an appointee is not then discharged or demoted, his/her appointment shall be deemed complete.

(Ord. 120658 § 8, 2001; Ord. 107791 § 11, 1978.)

4.08.120 Performance evaluation.

The performance of employees covered by this system shall be evaluated in accordance with rules adopted by the respective appointing authorities. (Ord. 107791 § 12, 1978.)

4.08.130 Training programs.

The appointing authorities shall from time to time adopt and administer training programs for their respective departments, subject to provisions of the affirmative action plan.¹

(Ord. 107791 § 13, 1978.)

1. Cross-reference: The affirmative action program is codified in Chapter 4.80 of this Code.

4.08.140 Rights of employees.

A. Employees have the right to compete openly for positions on the basis of knowledge, skills, and abilities.

B. Employees have the right to a timely resolution of their grievances, and appeals.

C. Employees shall not be demoted, suspended, or discharged except only for cause, and they may appeal such adverse actions as specified in this chapter.

D. Employees have the right to fair and equal treatment as provided in Ordinance 102562, as amended (Seattle Fair Employment Practices Ordinance).¹

E. Employees may bargain collectively through representatives of their own choosing, pursuant to RCW Chapter 41.56.

F. Employees may examine their own personnel files and are entitled to a copy of anything contained therein, at the City's expense.

G. Employees may have outside employment as long as it does not interfere with their ability to carry out their duties for the City, subject to the provisions of the Ethics Ordinance (Ordinance 100435, as amended).²

H. Employees may engage in political activities, subject to RCW 41.06.250. Political activities of employees in operations which are financed primarily or totally by federal grant-in-aid funds are also subject to the Hatch Act, 15 USC/1501, et seq.

I. Employees have the right to report an "improper governmental action" to an "auditing official," another government official or a member of the public, to cooperate in an investigation, and to testify in a proceeding thereon, and to be protected from "retaliatory action" for doing so. (Each term in quotation marks is defined in Section 4.20.850.) (Ord. 115464 § 3, 1990; Ord. 107791 § 14, 1978.)

1. Editor's Note: The Fair Employment Practices Ordinance is codified in Chapter 14.04 of this Code.
2. Editor's Note: The Ethics Ordinance is codified in Chapter 4.16 of this Code.

4.08.150 Salary or wages not paid except to those lawfully appointed.

The Director of Executive Administration shall not approve, or pay any salary or wages to any person for services as an officer or employee in the Police and Fire Departments unless such person is occupying an office or place of employment according to law and is entitled to payment therefor. (Ord. 120794 § 49, 2002; Ord. 116368 § 86, 1992; Ord. 107791 § 15, 1978.)

4.08.160 Prohibited employee conduct.

A. It is unlawful for anyone to wilfully or corruptly, by himself or in collusion with one (1) or more persons, to deceive or obstruct any person in respect to his or her right of examination, or corruptly or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in doing so, or wilfully or corruptly make any false representation concerning the same or concerning the person ex-

amined, or wilfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospect or chances of any person so examined, or to be examined, to be appointed, employed or promoted.

B. It is unlawful for any person to:

1. Solicit political support from City employees during the employee's working hours; or

2. Grant or promise to grant any act or thing of value to a City employee in return for the employee's giving him/her special consideration in the course of the employee's business; or

3. Withhold or threaten to withhold any right or benefit of an employee, or to bring or threaten to bring any disciplinary charge conditioned on the employee's according special consideration to that person, in the employee's course of business; or

4. To use City property or materials to engage in solicitations other than for City purposes, or for political campaign purposes; or

5. If a City employee, solicit for other than City purpose or engage in political campaigning, on City time.

(Ord. 107791 § 16, 1978.)

4.08.170 Cooperation of City officers and employees.

All officers and employees of the City shall afford to the Commission reasonable access to and reasonable facilities for the inspection and copying of all books, papers, documents and accounts in any way pertaining to any office, place, position or employment under the jurisdiction of the Commission and shall also produce the books, papers, documents and accounts and attend and testify whenever requested by the Commission to do so.

(Ord. 107791 § 18, 1978.)

4.08.180 Collective bargaining.

The adoption of this chapter shall not affect the provisions of any existing collective bargaining agreement.

(Ord. 107791 § 19, 1978.)

4.08.190 Transition.

In order that the business of the City may continue without major hiatus during implementation of this new civil service ordinance, the following transitional provisions are authorized and made:

A. Upon the effective date of the ordinance codified in this chapter,¹ the appointment of each

employee covered by this system is ratified and confirmed.

B. Upon the effective date of the ordinance codified in this chapter,¹ all regular employees covered by this system shall remain regular employees, without loss of accrued service time, or accrued vacation, sick leave, compensatory time or like benefit, if any, which is also recognized under this chapter.

C. Upon the effective date of the ordinance codified in this chapter,¹ probationary employees covered by this system shall remain probationary employees without loss of accrued vacation, sick leave, compensatory time, service time accrued toward regular employment, or like benefit, if any, which is also recognized under this chapter.

D. Provisional appointments to positions covered by this system shall on May 1, 1979, be deemed vacant and the incumbent thereof shall not be reappointed to such position except as provided in this chapter.

E. Upon the effective date of the ordinance codified in this chapter,¹ the Commission shall assume jurisdiction over appeals previously made by employees who are members of this system to the previous Civil Service Commission. The Commission shall hear such cases under its choice of previous Civil Service Laws and Rules or the Commission's newer rules, if any, whichever set of rules is deemed fairer to the employee.

F. Upon the effective date of the ordinance codified in this chapter,¹ the existing job classifications in this system are ratified and confirmed, and shall remain in effect until changed.
(Ord. 107791 § 20, 1978.)

1. Editor's Note: Ord. 107791 became effective on January 10, 1979.

4.08.200 Temporary replacements.

The Public Safety Civil Service Commission may appoint a temporary replacement to participate in its proceedings on a particular matter with full speaking and voting rights of a member when:

A. The Commission is hearing an appeal under Section 4.08.100 or otherwise acting in an adjudicatory capacity; and

B. The member is disqualified from acting by reason of interest or other cause or is excused in order to preserve fairness or an appearance of fairness to the Commission's proceedings.

Commission's proceedings with a temporary replacement shall be valid to all intents and purposes. The appointment of a temporary replacement shall not reduce the rights or privileges of the regular member, who is excused from acting on the particular matter, with respect to any other matters or proceedings of the Commission.

(Ord. 108077 § 1, 1979; Ord. 107791 § 23, 1978.)

4.08.210 Penalties.

Any person who violates any of the provisions of Section 4.08.160 shall, upon conviction thereof, be fined in an amount not to exceed Five Hundred Dollars (\$500) and/or imprisoned in the City Jail for a period not to exceed one hundred eighty (180) days. In addition, such violation shall constitute good cause for dismissal or other discipline at the discretion of the appointing authority.

(Ord. 107791 § 17, 1978.)

Chapter 4.10

LIMITED DUTY ASSIGNMENTS— PREGNANCY

Sections:

4.10.010

4.10.020

4.10.030

4.10.040

Purpose—Policy.

Procedure—Accommodation.

Limitations.

Departmental operating procedures.

4.10.010 Purpose—Policy.

It is the policy of The City of Seattle to recognize pregnancy as a normal occurrence in a woman's life and to provide female employees an opportunity to continue to participate in the work force during a normal pregnancy.
(Ord. 113597 § 1(part), 1987.)

4.10.020 Procedure—Accommodation.

A. Notwithstanding other provisions of Title 4 of this Code, a female employee who, upon advice of her physician and/or a physician employed by the City, may not safely perform all of the normal duties of her job due to pregnancy and who indicates a desire to continue working prior to taking sick leave or maternity leave for which she may otherwise be eligible, shall, upon concurrence of the City, receive consideration for temporary reassignment. The employing department shall reason-

ably accommodate such a pregnant employee's desire for medically approved continued employment during pregnancy via one (1) or more of the alternatives listed below within the employing department, with the first alternative having preference, as long as such accommodation can be reasonably made:

1. Temporary reassignment to limited duties within the employee's job classification;
2. Temporary reassignment of the employee to a similar classification with equal pay for which the employee is qualified;
3. Temporary reassignment of the employee to another classification for which the employee is qualified but with lesser pay to be assigned to the pay step closest to that which the employee was receiving in her normal job classification.

B. Because of the separate and unique retirement system for uniformed police officers and firefighters, the temporary reassignment for pregnant firefighters or police officers shall only be provided as in subsection A1 of this section. (Ord. 113597 § 1(part), 1987.)

4.10.030 Limitations.

A. Temporary reassignments made pursuant to SMC Section 4.10.020 of this Code shall be limited to the period of temporary incapacity caused by normal pregnancy both before childbirth and upon return to work but prior to the time when released by the employee's physician or a consulting physician retained by the City, to return to full duty.

B. "Temporary incapacity," for purposes of this section, is the period during which the employee cannot perform all of her regular duties, but is capable of performing a temporary limited duty assignment provided by the City as contemplated in SMC Section 4.10.020.

C. Female employees shall continue to be eligible for paid leave and leave without pay pursuant to the personnel laws and rules regarding such matters in order to provide for the period of temporary disability (illness) attributable to pregnancy and pregnancy-related conditions.

D. Leaves of absence associated with maternity and parenting shall be authorized pursuant to Personnel Rules concerning Leaves of Absence Without Pay, Maternity Leave and Parenting Leave as shall be promulgated by the Personnel Director.

(Ord. 113597 § 1(part), 1987.)

4.10.040 Departmental operating procedures.

Based upon guidance provided by the Personnel Director, each department shall promulgate a departmental operating procedure to implement this policy.

(Ord. 118397 § 66, 1996: Ord. 113597 § 1(part), 1987.)

Chapter 4.13 EXEMPTIONS FROM CIVIL SERVICE SYSTEMS¹

Sections:

- 4.13.010 Exemptions from the Civil Service and Public Safety Civil Service Systems.**
- 4.13.020 System-wide exemptions from the Civil Service and Public Safety Civil Service Systems.**

1. Editor's Note: Attachment A of Ordinance 113579 is on file with the ordinance in the City Clerk's office.

4.13.010 Exemptions from the Civil Service and Public Safety Civil Service Systems.

In addition to those positions exempted by statute, City Charter, or other ordinance provision (elected officers, officers appointed pursuant to the City Charter, assistant City attorneys, heads of employing units, members of boards and commissions established by the City Charter,¹ members of boards and commissions established by ordinance, positions excluded from the Public Safety Civil Service System pursuant to SMC Section 4.08.060, system-wide exemptions provided for in SMC Section 4.13.020, and library employees), the positions of City employment listed in the subsections of this section requiring a particularly high degree of professional responsiveness and individual accountability, or requiring a confidential or fiduciary relationship with the appointing authority, or being judicial positions requiring insulation as a third branch of government, are hereby declared to be exempt from the Seattle Municipal Code Chapters 4.04, 4.08, and the rules of the Personnel Department and the Public Safety Civil Service

Commission regarding examination, selection, discipline, termination, and appeals.

Employing Unit	Titles of Exempt Positions	Employing Unit	Titles of Exempt Positions
1. All Employing Units	Administrative Secretary		(SPO) (PosNo. 00020490)
	Assistant to the Superintendent		Administrative Staff Analyst (SPO) (PosNo. 00026357)
	Executive Assistant/Secretary		Administrative Staff Assistant (OED) (PosNo. 00024286)
	All legal advisors and associate legal advisors to employing units		Administrative Staff Assistant (OIR) (PosNo. 00015325)
	Executive 1		Administrative Staff Assistant (OOH) (PosNo. 00017417)
	Executive 2		All directors of offices in the Executive Department
	Executive 3		All positions in the Office of the Mayor
	Executive 4		All positions in the Office of Policy and Management
	Information Technology Professional A, Exempt		Executive Assistant (OCR) (PosNo. 00024628)
	Information Technology Professional B, Exempt	8. Finance	Claims Adjuster I-Finance Claims Adjuster II-Finance Claims Manager Investment Officer, Assistant
	Information Technology Professional C, Exempt	9. Fire	All Positions included in the Public Safety Civil Service Administrative Staff Assistant (PosNo. 00007594)
	Manager 1, Exempt	10. Fleets and Facilities	
	Manager 2, Exempt	11. Hearing Examiner, Office of	All positions in the Office of Hearing Examiner, except clerical positions classified in the Administrative Support and Accounting Support class series
	Manager 3, Exempt	12. Human Services	
	Office/Maintenance Aide Strategic Advisor 1, Exempt	13. Information Technology, Department of	Computer Services Manager
	Strategic Advisor 2, Exempt		Executive Assistant, Senior (PosNo. 00026709)
	Strategic Advisor 3, Exempt	14. Law	All positions in the Law Department, except clerical positions classified in the Administrative Support and Accounting Support class series
2. Arts Commission		15. Legislative	Administrative Specialist II (PosNo. TBD) (OPARB staff)
3. Auditor, Office of the City	All positions in the Office of the City Auditor except clerical positions classified in the Administrative Support class series		
4. City Light	Power Marketer		
5. Civil Service Commission	Administrative Staff Assistant (PosNo. 00025687)		
6. Design, Construction and Land Use	Special Projects Facilitator (PosNo. 00021848)		
	Administrative Staff Assistant (PosNo. 00014435)		
7. Executive	Administrative Staff Analyst		

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Employing Unit	Titles of Exempt Positions	Employing Unit	Titles of Exempt Positions
16. Municipal Court	All positions in the Legislative Department, except other clerical positions classified in the Administrative Support and Accounting Support class series	22. Public Safety Civil Service Commission	Warrant Officer, Senior
	All Municipal Judges, Magistrates, and Commissioners	23. Retirement	Warrant Officer, Supervisor
	All positions in the Probation Counselor class series	24. Seattle Center	Administrative Staff Assistant (PosNo. 00009024)
	Administrative Staff Assistant (PosNo. 00021316, 00011448)	25. Seattle Ethics and Elections Commission	All positions in the office of the Seattle Ethics and Elections Commission
	Administrative Specialist I (PosNo. 00023563)	26. Seattle Public Utilities	
	Administrative Specialist II (PosNo. 00011478)	27. Transportation	Administrative Staff Assistant (PosNo. 00007689)
	Bailiff		Executive Assistant, Senior (PosNo. 00008596)
	Bailiff, Chief		
	Executive Assistant (PosNo. 00016207)		
	Municipal Court Marshal		
	Municipal Court Marshal, Senior		
	Municipal Court Marshal, Supervisor		
17. Neighborhoods	Administrative Staff Assistant (PosNo. 00022313)		
18. Parks and Recreation	Administrative Staff Assistant (PosNo. 00010227)		
19. Personnel	Administrative Staff Assistant (PosNo. 00025346)		
20. Planning Commission, Office of the			
21. Police	Administrative Assistant to Chief of Police		
	All positions included in the Public Safety Civil Service		
	Executive Assistant, Senior (PosNo. 00006333)		
	Police Chief, Assistant		
	Police Department Clinical Psychologist		
	Warrant Officer		

(Ord. 120819 § 3, 2002; Ord. 120790 § 2, 2002; Ord. 120773 § 37, 2002; Ord. 120725 § 3, 2002; Ord. 120649 § 1, 2001; Ord. 120581 § 2, 2001; Ord. 120483 § 3, 2001; Ord. 120354 § 2, 2001; Ord. 120261 § 4(part), 2001; Ord. 120166 § 1, 2000; Ord. 120142 § 3, 2000; Ord. 119863 § 2, 2000; Ord. 119763 § 1, 1999; Ord. 119373 § 6, 1999; Ord. 119329 § 1, 1999; Ord. 119299 § 7, 1998; Ord. 119247 § 1, 1998; Ord. 119016 § 6, 1998; Ord. 119167 § 5, 1998; Ord. 119100 § 5, 1998; Ord. 118970 § 9, 1998; Ord. 118912 § 25(part), 1998; Ord. 118786 § 1, 1997; Ord. 118779 § 1, 1997; Ord. 118766 § 9, 1997; Ord. 118693 § 5, 1997; Ord. 118686 § 12, 1997; Ord. 118572 § 1, 1997; Ord. 118561 § 8, 1997; Ord. 118499 § 13, 1997; Ord. 118394 § 1, 1996; Ord. 118392 § 19, 1996; Ord. 118014 § 8, 1996; Ord. 117907 § 1, 1995; Ord. 117844 § 8, 1995; Ord. 117748 § 7, 1995; Ord. 117728 § 2, 1995; Ord. 117613 § 11, 1995; Ord. 117395 § 1, 1994; Ord. 117242 § 1, 1994; Ord. 117169 §§ 12, 142(part), 1994; Ord. 117132 § 8, 1994; Ord. 116933 § 1, 1993; Ord. 116914 § 5, 1993; Ord. 116873 § 6, 1993; Ord. 116859 § 3, 1993; Ord. 116749 § 4, 1993; Ord. 116641 § 1, 1993; Ord. 116310 § 3, 1992; Ord. 116265 § 8, 1992; Ord. 116239 § 7, 1992; Ord. 116236 § 1, 1992; Ord. 116005 § 7, 1991; Ord. 115987 § 9, 1991; Ord. 115941 § 1, 1991; Ord. 115749 § 3, 1991; Ord. 115693 § 3, 1991; Ord. 115673 § 1, 1991; Ord. 115545 § 3,

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1991; Ord. 115532 § 1, 1991; Ord. 115501 § 1, 1991; Ord. 115420 § 1, 1990; Ord. 114513 § 1, 1989; Ord. 113579 § 1, 1987.)

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

4.13.020 System-wide exemptions from the Civil Service and Public Safety Civil Service Systems.

In addition to those positions exempted by statute, City Charter,¹ or other provisions of this chapter, all positions of City employment, regardless of classification, that are required to fill temporary, emergency, or short-term needs, including but not limited to those occupied by Student Accountants—Intermittent, Student Engineers and Student Engineers—Intermittent, Municipal Government Interns, Cooperative Interns, Youth Work Training Enrollees and Youth Employment Enrollees—Summer, work study program enrollees, interim employees and temporary workers, including intermittents, as defined in the Personnel Ordinance,² are hereby made exempt from the Civil Service; and all provisions regarding examination, selection, discipline, termination and appeals in the Seattle Municipal Code Chapters 4.04 and 4.08 and the rules of the Personnel Department, the Civil Service Commission, and the Public Safety Civil Service Commission shall be inapplicable to the occupants of all such exempt positions. (Ord. 114314 § 4, 1989; Ord. 113579 § 2, 1987.)

1. Editor's Note: The Charter is included at the beginning of this Code.
2. Editor's Note: The Personnel Ordinance is set out at Chapter 4.04 of this Code.

**Chapter 4.14
EXECUTIVE RECRUITING**

Sections:

- 4.14.100 Payment for travel expenses.**
- 4.14.110 Eligibility for payment of travel expenses.**
- 4.14.120 Claims for payment of travel expenses.**
- 4.14.130 Funds for payment of authorized expenses.**
- 4.14.140 Payment of moving expenses for certain employees.**
- 4.14.150 Moving expenses defined.**

4.14.100 Payment for travel expenses.

When the appointing authority of an employing unit deems it necessary for the successful recruitment of qualified persons for key positions, he or she may, upon the approval of the Director of Executive Administration and the filing of a claim therefor, authorize payment of reasonable and necessary expenses incurred by applicants from out of the City for traveling to and from Seattle for the purpose of being interviewed for employment by the City in that unit. All authorized travel expenses are subject to the rules, policies, and procedures established by the Director of Executive Administration or his/her designee. Payment of authorized expenses may be made in advance by the employing unit for the applicant(s), or the applicant(s) may be reimbursed for authorized expenses paid out of pocket. Authorized expenses shall include lodging, meals, incidentals, and transportation from such applicant's place of residence to Seattle and return to such place of residence, or mileage in accordance with the mileage reimbursement rate established in SMC Chapter 4.70; provided that, payment for mileage shall not exceed the round-trip airfare of a common carrier. No payment shall be authorized for expenses deemed disallowable pursuant to rules, policies, and procedures established by the Director of Executive Administration or his/her designee.

(Ord. 120794 § 50, 2002; Ord. 120181 § 75, 2000; Ord. 119578 § 12, 1999; Ord. 117258 § 1(part), 1994.)

4.14.110 Eligibility for payment of travel expenses.

The appointing authority may approve payment of travel expenses for applicants for positions which meet the following criteria:

A. Positions identified in the Salary Ordinance (Ordinance 97330 as amended)¹ by salary range 40.0 and above, or a salary equivalent to the top step of range 40.0 and above when no range is provided; or

B. Positions under salary range 40.0, or the equivalent thereto, for which the employing unit is unable to successfully recruit qualified candidates in the immediate employment area because the position qualifications are rare in the general population; or

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C. All positions assigned to the Accountability Pay for Executives Program, the Manager Compensation Program, or the Strategic Advisor Program. (Ord. 118778 § 1, 1997; Ord. 117258 § 1(part), 1994.)

1. Editor's Note: The Salary Ordinance is set out at Chapter 4.20 of this Code.

4.14.120 Claims for payment of travel expenses.

Authorized claims for payment of expenses other than for mileage and incidentals shall be submitted to the Director of Executive Administration or his/her designee by the employing unit in accordance with that Director's rules, policies, and procedures.

(Ord. 120794 § 51, 2002; Ord. 119578 § 13, 1999; Ord. 117258 § 1(part), 1994.)

4.14.130 Funds for payment of authorized expenses.

To provide for the payment of expenses as authorized in Section 4.14.110, the employing unit authorized to fill the position for which the applicants were interviewed is authorized to use unexpended and unencumbered budgeted funds available therefor.

(Ord. 117258 § 1(part), 1994.)

4.14.140 Payment of moving expenses for certain employees.

A. If necessary to obtain the services of a particular individual, the following persons may have moving expenses, incurred by them in relocating to the City (from a distance consistent with the Internal Revenue Service Distance Test for moving expense deductions), reimbursed or advanced by the City upon presentation of verifying documents and upon the additional conditions set forth below:

1. Department, office, and agency heads appointed by the Mayor, upon confirmation by the City Council of such appointments, when payment or reimbursement is authorized by the Mayor;
2. Executive Director of the Legislative Department, upon appointment by the City Council, when such payment or reimbursement is authorized by the President of the City Council;
3. The following positions, when reimbursement is authorized by the head of the employing unit and the Budget Director, and when condi-

tions specified by the administrative guidelines issued by the Personnel Director are met:

a. Positions identified in the Salary Ordinance (Ordinance 97330, as amended)¹ by salary range 40.0 and above, or a salary equivalent to or higher than the top step of range 40.0 when no range is given; provided that such positions are not represented under the terms of a collective bargaining agreement, or

b. Positions under salary range 40.0, or the equivalent thereto, for which the employing unit was unable to recruit persons in the immediate employment area who possess the unique skills, expertise and/or educational qualifications therefor, provided that such positions are not represented under the terms of a collective bargaining agreement, or

c. Positions assigned to the Accountability Pay for Executives Program, the Manager Compensation Program, or the Strategic Advisor Compensation Program, that do not otherwise meet any of the eligibility criteria in this section.

(Ord. 118778 § 2, 1997; Ord. 117258 § 1(part), 1994.)

1. Editor's Note: The Salary Ordinance is set out at Chapter 4.20 of this Code.

4.14.150 Moving expenses defined.

For purposes of implementing this chapter, the phrase "moving expenses" includes expenses incurred for transportation to Seattle to secure housing, as well as food and lodging expenses for a period not to exceed five (5) days, incurred while engaged in securing housing. In addition, moving expenses shall include all lodging, food, and transportation expenses of family and household goods and personal effects which are incurred solely for the purpose of relocating, from departure of such family and goods from place of current residence until the time that family and possessions arrive in the City, unless such expenses have been otherwise reimbursed; provided, that nothing in this section shall prohibit the payment of other types of moving and related expenses as approved by the appointing authority but in no case shall moving expenses in total exceed the maximum as provided for in subsection A of this section.

A. Effective January 1, 1994, the authorized maximum rate for moving expenses as defined herein shall be Eleven Thousand Nine Hundred

and Eight Dollars (\$11,908). The authorized rate shall be adjusted each year by the annual percentage change in the Seattle-Tacoma Consumer Price Index for the twelve (12) month period ending the previous June 30th, rounded to the nearest dollar. The revised maximum shall take effect January 1st each year.

B. Payment for such reimbursement, when authorized, shall be made from unexpended and unencumbered balances accumulating in the budgets of the employing units which eligible persons head or in which such persons serve, and the Director of Executive Administration is authorized to pay the necessary warrants. If the applicable fund is solvent at the time payment is ordered, the Director of Executive Administration may elect to make payment by check.

C. The appointing authority shall transact an agreement with an individual for whom travel and moving expenses are extended, which shall stipulate that, should such individual leave the City's employ within twelve (12) months of initial appointment to a position, he or she shall reimburse the employing unit for all such expenses.

D. The appointing authority shall report all moving expense authorizations to the Personnel Director. The Personnel Director shall provide a summary report to the City Council annually demonstrating how department authorization for moving expenses met the administrative guidelines.

(Ord. 120794 § 52, 2002; Ord. 120114 § 7, 2000; Ord. 118324 § 1, 1996; Ord. 117258 § 1(part), 1994.)

Chapter 4.16 CODE OF ETHICS

Sections:

- 4.16.010** Code of Ethics.
- 4.16.020** Purpose.
- 4.16.030** Definitions.
- 4.16.070** Prohibited conduct.
- 4.16.075** Prohibited conduct after leaving City.
- 4.16.080** Statements of financial interests.
- 4.16.090** Complaints, investigations, hearings, and enforcement.
- 4.16.100** Action on violation.

4.16.105 Employee appeal of fine.

4.16.110 Severability. The invalidity of any section, subsection, provision, clause, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

(Ord. 109950 § 4.16.110, 1981; Ord. 108882 § 11, 1980.)

4.16.010 Code of Ethics.

This chapter shall be known as the "Code of Ethics" and may be cited as such.

(Ord. 109950 § 1(part), 1981; Ord. 108882 § 4.16.010, 1980.)

4.16.020 Purpose.

A. The City finds that the proper operation of democratic representative government requires that public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical standards of conduct for all officers and employees of the City, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the City; and to provide effective means for enforcement thereof. This chapter is not to be construed so as to impair the ability of City officers and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.

B. This chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for City officers and employees.

C. This Code shall be interpreted and applied in a manner consistent with the maxim that "De minimis non curat lex" and to allow inadvertent minor violations to be corrected and cured without full hearing in conformance with the spirit and purpose of this Code.

(Ord. 115548 § 1, 1991; Ord. 109950 § 1(part), 1981; Ord. 108882 § 4.16.020, 1980.)

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4.16.030 Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

A. "Administrator" means the Executive Director of the Seattle Ethics and Elections Commission.

B. "Assist" shall have the meaning set forth at RCW 42.18.050.

C. "Board of Ethics" or "Board" or "Commission" means the Seattle Ethics and Elections Commission established by Section 3.70.010.

D. "City agency" means every department, office, board, commission, or committee of the City, or any subdivision thereof, but excludes public corporations and ad hoc advisory committees.

E. "City officer or employee" means every individual elected or appointed to an office or position of employment in any City agency, whether such individual is paid or unpaid. For purposes of Sections 4.16.090 G and 4.16.100 B only, "City employee" also includes every individual who was a City employee at the time of the act or omission that is alleged to have violated this chapter, even though he or she is not a City employee at the time of the hearing or appeal provided under those subsections.

F. "Immediate family" means:

1. A spouse or domestic partner as contemplated by Sections 4.30.010—4.30.020;

2. Any dependent parent, parent-in-law, child or son-in-law or daughter-in-law; or

3. Any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of the City officer or employee.

G. "Person" means individual, association, corporation, or other legal entity.

H. "Executive Director" means the Executive Director of the Seattle Ethics and Elections Commission.

(Ord. 118735 §§ 1, 2, 1997; Ord. 116377 § 4, 1992; Ord. 116005 § 8, 1991; Ord. 115552 § 1, 1991; Ord. 109950 § 1(part), 1981; Ord. 108882 § 4.16.030, 1980.)

4.16.070 Prohibited conduct.

No current City officer or employee shall:

1. Disqualification From Acting On City Business.

a. Engage in any transaction or activity, which is, or would to a reasonable person appear to

be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties and fail to disqualify him or herself from official action in those instances where the conflict occurs;

b. Have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, in any matter upon which the officer or employee is required to act in the discharge of his or her official duties, and fail to disqualify himself or herself from acting or participating;

c. Fail to disqualify himself or herself from acting on any transaction which involves the City and any person who is, or at any time within the preceding twelve (12) month period has been a private client of his or hers, or of his or her firm or partnership;

d. Have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, in any contract or transaction to which the City or any City agency may be a party, and fails to disclose such interest to the appropriate City authority prior to the formation of the contract or the time the City or City agency enters into the transaction; provided, that this paragraph shall not apply to any contract awarded through the public bid process in accordance with applicable law.

2. Improper Use Of Official Position.

a. Use his or her official position for a purpose that is, or would to a reasonable person appear to be primarily for the private benefit of the officer or employee, rather than primarily for the benefit of the City; or to achieve a private gain or an exemption from duty or responsibility for the officer or employee or any other person;

b. Use or permit the use of any person, funds, or property under his or her official control, direction, or custody, or of any City funds or City property, for a purpose which is, or to a reasonable person would appear to be, for other than a City purpose; provided, that nothing shall prevent the private use of City property which is available on equal terms to the public generally (such as the use of library books or tennis courts), the use of City property in accordance with municipal policy for the conduct of official City business (such as the use of a City automobile), if in fact the property is

used appropriately; or the use of City property for participation of the City or its officials in activities of associations of governments or governmental officials;

c. Except in the course of official duties, assist any person in any City transaction where such City officer or employee's assistance is, or to a reasonable person would appear to be, enhanced by that officer or employee's position with the City; provided that this subsection 4.16.070 A1c shall not apply to: any officer or employee appearing on his or her own behalf or representing himself or herself as to any matter in which he or she has a proprietary interest, if not otherwise prohibited by ordinance;

d. Regardless of prior disclosure thereof, have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in a business entity doing or seeking to do business with the City, and influence or attempt to influence the selection of, or the conduct of business with, such business entity by the City.

3. Accept Gifts or Loans.

a. Solicit or receive any retainer, gift, loan, entertainment, favor, or other thing of monetary value from any person or entity where the retainer, gift, loan, entertainment, favor, or other thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by such officer or employee in his or her official capacity; provided, that nothing shall prohibit contributions which are solicited or received and reported in accordance with applicable law.

4. Disclose Privileged Information.

a. Disclose or use any privileged or proprietary information gained by reason of his or her official position for a purpose which is for other than a City purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request.

5. Hold Financial or Beneficial Interest in City Transaction.

a. Regardless of prior disclosure thereof hold or acquire a beneficial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract which, in whole or in part, is, or which may be, made by, through,

or under the supervision of such officer or employee or which may be made for the benefit of his or her office; or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person or entity beneficially interested therein, in violation of Chapter 42.23 RCW;

b. Regardless of prior disclosure thereof, be beneficially interested, directly or indirectly, in any contract or transaction which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract or transaction from any other person beneficially interested therein. This subsection shall not apply to the furnishing of electrical, water, other utility services or other services by the City at the same rates and on the same terms as are available to the public generally.

(Ord. 116377 § 5, 1992; Ord. 115548 § 2, 1991; Ord. 109950 § 1(part), 1981; Ord. 108882 § 14.16.070, 1980.)

4.16.075 Prohibited conduct after leaving City.

A. No former officer or employee shall disclose or use any privileged or proprietary information gained by reason of his/her City employment unless the information is a matter of public knowledge or is available to the public on request;

B. No former officer or employee shall, during the period of one (1) year after leaving City Office or employment:

1. Assist any person in proceedings involving the agency of the City with which he/she was previously employed, or on a matter in which he or she was officially involved, participated or acted in the course of duty;

2. Represent any person as an advocate in any matter in which the former officer or employee was officially involved while a City officer or employee;

3. Participate as a competitor in any competitive selection process for a City contract in which he or she assisted the City in determining the project or work to be done or the process to be used.

C. A City officer, who contracts with a former City officer or employee for expert or consultant services within one (1) year of the latter's leaving

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City office or employment, shall promptly inform the Administrator about the agreement.

D. The prohibitions of Sections 4.16.075 B1 and 4.16.075 B2 shall not apply to former employees acting on behalf of a governmental agency unless such assistance or representation is adverse to the interest of the City.

(Ord. 116377 § 6, 1992; Ord. 115548 § 3, 1991.)

4.16.080 Statements of financial interests.

A. Officers and Employees Subject to RCW 42.17.240. Every officer or employee of the City subject to the reporting requirements of RCW 42.17.240 shall file a duplicate copy of the report required to be filed under SMC Section 2.04.165 with the Ethics and Elections Commission (the Commission) at the same time the original report is required to be filed with the Public Disclosure Commission.

B. Officers and Employees Not Subject to RCW 42.17.240—Reporting Person—Reporting Requirement.

1. The Commission shall adopt by rule a list of the City officers and employees, identified by job title, pocket number, position description, or other means that provide adequate specificity, who shall file a statement of financial interests with the Commission. The list may be amended by rule from time to time, and shall include: (a) every head of a City department and every division manager reporting directly to the head of a City department; (b) every Assistant City Attorney; (c) each Deputy Mayor and each other member of the Mayor's staff with authority to direct the expenditure of City resources; (d) the City Clerk, City Auditor, and every employee in the City Auditor's office who conducts or supervises the conduct of audits; (e) employees identified by department heads as having had decision-making authority over the preceding one (1) year period for (i) the purchase of goods or (ii) the purchase of equipment or (iii) the negotiation of contracts or (iv) the execution of contracts, the purchases or contracts having a total value of Five Thousand Dollars (\$5,000) or more; (f) each employee who supervises, directly or through others, an employee listed pursuant to subsection B1e of this section; and (g) every member of a City committee, City board, or City commission, that administers, interprets or executes City ordinances, whether a member is paid or unpaid. Each head of a City department shall identify the

employees within that department fitting the categories in this subsection in accordance with procedures adopted by the Commission.

2. Each person listed or described on the then-current list of the Commission adopted under this section and each person taking on the duties or assuming the position of such a person (a reporting person) shall file a statement of financial interests within two (2) weeks of employment or appointment; and in addition, after January 1st and before April 15th of each year. The statement shall be for the preceding calendar year.

3. Each statement of financial interests filed under this section shall provide complete information with respect to the reporting person and each member of the immediate family of the reporting person.

4. Each statement of financial interests filed under this section shall be sworn as to its truth and accuracy.

C. Officers and Employees Not Subject to RCW 42.17.240—Contents of the Statement of Financial Interests Required by Section 4.16.080 B.

1. Every head or listed division manager of a City department, every Assistant City Attorney, the employees designated in subsection B1c of this section in the Office of the Mayor and the employees designated in subsections B1d, e, and f of this section shall file with the Commission the information required in subsections C3a—d of this section.

2. Every member of a City committee, City board, or City commission, that administers, interprets or executes City laws, whether a member is paid or unpaid, shall file with the Commission the information required in subsections C3a—c of this section. In addition, every member of the Landmarks Preservation Board and every member of a special review district shall file with the Commission the information required in subsections C3a—d of this section.

3. The financial interests statement shall contain the following information:

a. The name and address of each person engaged in any transaction or activity with the City, excluding the purchase of utilities, from whom the reporting person, or a member of the reporting person's immediate family, has received compensation in any form of a total value of Two Thousand Five Hundred Dollars (\$2,500) or more,

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excluding campaign contributions reported in accordance with applicable law, and the name of each City agency involved in the transaction or activity, if known;

b. The name and address of each person engaging in any transaction or activity with the City, excluding the purchase of utilities, in which the reporting person or a member of the reporting person's immediate family held a direct financial interest with a value of One Thousand Five Hundred Dollars (\$1,500) or more; provided that policies of insurance and amounts on deposit in accounts with banks, savings and loan associations or credit unions shall not constitute a direct financial interest within the meaning of this section, and the name of each involved City agency, if known;

c. If a reporting person or a member of his or her immediate family holds a position in an entity engaged in any transaction with the City, the name of the person holding office and the title of office, directorship, or trusteeship held. The reporting person shall include the name and address of the entity and, if known, the name of each City agency with which the entity was involved. The reporting person may exclude an entity whose only transactions with the City consist of the purchase of utilities.

d. A list, including either addresses or legal descriptions of all real property in the City in which the reporting person or a member of the reporting person's immediate family held a direct financial interest; and if the facilities and properties of a City agency which employs the reporting person extend beyond the City limits, the list shall include all real property located within the county or counties within which such City agency has property or facilities, except that a member of a special review district need only report as to property within the district. No property shall be identified on the statement as being the home or personal residence of the reporting person.

D. Officers and Employees Not Subject to RCW 42.17.240—Suspension or Modification of Reporting Requirements. After hearing, the Commission may by order suspend or modify a reporting requirement in a particular case if it finds that literal application of the requirement would cause a manifestly unreasonable hardship and that such suspension or modification will not frustrate the purposes of this chapter.

(Ord. 119442 § 3, 1999; Ord. 117056 § 1, 1994; Ord. 109950 § 1(part), 1981; Ord. 108882 § 4.16.080, 1980.)

4.16.090 Complaints, investigations, hearings, and enforcement.

In addition to the powers of the Commission and its Executive Director under SMC Sections 3.70.100 and 3.70.160 to initiate an investigation, an investigation may also be initiated by filing a complaint.

A. Any person may file a complaint alleging a violation of this chapter. If such complaint is filed by a member of the Commission, he or she is then disqualified from participating in any proceedings that may arise from the complaint.

B. The complaint shall be in writing and shall be signed by the complainant. The written complaint shall state the nature of the alleged violation(s), the date(s), time and place of each occurrence, and name of the person(s) alleged to have violated this chapter. The complaint shall be filed with the Executive Director. The complainant shall provide the Executive Director with all available documentation or other evidence to demonstrate a reason for believing that a violation has occurred.

C. Within thirty (30) days after receipt of a complaint, the Executive Director shall conduct a preliminary investigation to determine whether a complaint, on its face, alleges facts that, if true, would constitute a violation of Chapter 4.16. At the request of the Executive Director, the Commission may, for good cause shown, extend the time for completion of the preliminary investigation. If the Commission determines that the preliminary investigation must be completed in less than thirty (30) days in order to avoid prejudice or irreparable harm to the person alleged to have violated this chapter, the Commission shall order the Executive Director to complete the preliminary investigation in a shorter period of time, and the Executive Director shall comply.

D. If the Executive Director determines, after investigation, that there are no reasonable grounds to believe that a violation has occurred, or determines that the violation was inadvertent and minor, the Executive Director shall dismiss the complaint. If the Executive Director does so dismiss the complaint, he or she shall do so in writing, setting forth the facts and the provisions of law upon which the dismissal is based, and shall provide a copy of the

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written dismissal to the complainant, to the person named in the complaint as the alleged violator and to the Commission.

E. If, after investigation, the Executive Director has reason to believe that a material violation of Chapter 4.16 has occurred, the Executive Director shall initiate an enforcement proceeding by issuing to the alleged violator a charging document which includes the provisions of Chapter 4.16 allegedly violated and the conduct that constitutes the violation(s), and shall issue a copy of the charging document to the Commission and schedule a hearing before the Commission. No hearing shall be scheduled, however, while an Executive Director's recommendation for a settlement is awaiting action by the Commission.

F. The Commission shall commence a hearing within thirty (30) days from the date that the Executive Director schedules the hearing. The Commission shall issue a written determination stating whether the chapter has been violated and setting forth the facts and the provisions of law upon which this determination is based. A copy of said determination shall be delivered to the complainant, if any, to the person charged with the violation and, where appropriate, to the person's superior.

G. All hearings hereunder shall be conducted as "contested case" hearings under the Administrative Code, Seattle Municipal Code Chapter 3.02 (Ordinance 102228) and the Commission's rules and regulations. All hearings under this section shall be open to the public unless closed upon the request of the City employee who is the subject of the charges being heard, except that all hearings on charges against (1) City officials elected by the public, (2) the Deputy Mayor, if any, (3) heads of departments and Executive Department offices, (4) members of boards and commissions, and (5) those City employees who are represented by a labor union that, on the date the charges were filed, had not reached written agreement with the City concerning closing hearings on request, shall be open to the public. Regardless of whether the hearing was closed, if the Commission determines this chapter was violated, the charges, all recordings or transcripts of hearings that were made by the Commission, and the Commission's written findings of fact and conclusions of law shall be made public.

H. If the Commission determines that a City officer or employee has violated the provisions of this chapter, the Commission may recommend that the officer or employee be subject to disciplinary action. In addition to any other penalty herein or otherwise provided by law, a violation shall be cause for suspension, discharge, or removal from office, or such other disciplinary action as may, by the appropriate City authority, be deemed necessary and proper, and consistent with personnel ordinances and rules. A written report of the disciplinary action taken as a result of the Commission recommendation shall be made by the appropriate City authority to the Commission within fourteen (14) calendar days after receipt of the Commission's recommendation; provided, that this section shall not derogate from employee rights under any collective bargaining agreement or City personnel ordinance, or rules promulgated thereunto. If the appropriate City authority determines that the written report of disciplinary action taken as a result of the Commission recommendation required in the section cannot be made to the Commission within fourteen (14) calendar days after receipt of the Commission's recommendation, because of procedures prescribed under any collective bargaining agreement, personnel ordinance, or rule promulgated thereunto, the appropriate City authority shall so report to the Commission within fourteen (14) calendar days after receipt of the Commission's recommendation, stating the date on which the written report of disciplinary action taken will be submitted to the Commission. If the violation involves prohibited conduct of a former officer or employee, the Commission may recommend to the administering City authority that no contract be made or that the contract be terminated and that proceedings be begun anew in order to prevent injury to the City or to avoid an unfair advantage accruing to a competitor by reason of the violation. Upon receipt of the written report of the disciplinary action taken, or in the event no report is received, the Commission shall review such matter and make such further recommendation as may be appropriate.

(Ord. 118735 § 3, 1997; Ord. 116377 § 7, 1992; Ord. 115548 § 4, 1991; Ord. 109950 § 1(part), 1981; Ord. 108882 § 4.16.090, 1980.)

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4.16.100 Action on violation.

The Commission may take one (1) or more of the following actions for violation of any provision of Chapter 4.16:

A. Recommend prosecution or other remedy to the appropriate authorities;

B. Impose a monetary fine of up to five thousand dollars (\$5,000) per violation or three (3) times the economic value of any thing sought or received in violation of Chapter 4.16, whichever is greater;

C. Require reimbursement for damages of up to ten thousand dollars (\$10,000) sustained by the City that were caused by the violation and were not recovered by the City;

D. Require costs, including reasonable investigative costs, that do not exceed the amount of any monetary fine;

E. Recommend to the Mayor and the appropriate agency that they request the City Attorney to bring an action to cancel or rescind the result of action taken by the violator, upon a Commission finding that:

1. The violation has substantially influenced the City action, and

2. Interests of the City require cancellation or rescission.

Each act that violates one or more provisions of Chapter 4.16 may constitute a separate violation. Violation may be proven by a preponderance of evidence, and need not be proven beyond a reasonable doubt.

(Ord. 120118 § 1, 2000: Ord. 118735 § 4, 1997: Ord. 109950 § 1(part), 1981: Ord. 108882 § 4.16.100, 1980.)

4.16.105 Employee appeal of fine.

A. Except as provided in subsection F of this section, if the Commission imposes a monetary fine for violation of any provision of this chapter, the City employee on whom the fine is imposed may appeal the fine, on the Commission’s record, to the Seattle Municipal Court. The Seattle Municipal Court shall uphold the Commission’s decision if it determines the Commission’s decision was not for any arbitrary, capricious, or illegal reason, and the decision was supported by substantial evidence in the Commission’s record. Otherwise, the Court shall modify, reverse, or remand the matter to the Commission, as the Court deems appropriate.

B. In order to appeal a monetary fine imposed under this chapter by the Seattle Ethics and Elections Commission, the City employee on whom the fine is imposed must file a notice of appeal with the Clerk of the Municipal Court, serve it upon The City of Seattle, and deliver a copy to the Executive Director of the Commission, all within twenty (20) days after the date of the Commission’s decision. In order to file the notice of appeal, the City employee must pay to the Clerk of the Municipal Court a filing fee in the amount set by statute or court rule for a civil action filed in the District Courts. The filing fee and the costs of preparing the record of the proceedings of the Commission may be taxed as costs against the nonprevailing party, as the Municipal Court may direct, but each party shall bear its own attorney’s fees. The notice of appeal shall be in writing and shall include the mailing address and, if different, the street address where papers may be served on the appellant. The notice of appeal shall contain, in separate numbered paragraphs, statements of the specific findings of fact, conclusions of law, or aspects of the fine on which the appellant seeks review, the basis for the appeal, and a brief statement of the relief requested. The appellant shall attach a copy of the written decision of the Commission being appealed.

C. Within thirty (30) days after the notice of appeal has been properly filed, served, and a copy delivered to the Executive Director, the appellant shall provide the Executive Director with a record of proceedings, which the Executive Director shall, if it complies with this subsection, promptly file with the Municipal Court so as to present the issues raised for review. Upon payment of the costs of copying, the Executive Director shall provide the appellant a copy of the relevant papers and exhibits, which shall be included in the record. The record shall also include a transcript of those portions of the testimony that are designed by the appellant or by the Executive Director, who shall each designate what they believe necessary to resolve disputed issues. The appellant at his or her expense shall submit to the Executive Director for review and approval, if accurate, the transcript of the designated portions of the testimony, prepared by a certified court reporter. The typed transcript, when certified as accurate by the Executive Director, shall constitute the record for review of the portion so transcribed. If all or a designated part of

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a tape recording is not audible, the Executive Director may prepare and certify a summary of that portion of the testimony in the proceedings based on his or her notes and memory. Where the Executive Director and the appellant agree that the testimony or facts are not in dispute, they may jointly prepare a narrative report of some or all of the evidence or a summary of some or all of the testimony in order to reduce the amount of material transcribed and to make a more compact record.

D. Except where inconsistent with this section, the procedural rules of the Civil Rules for Courts of Limited Jurisdiction (CRLJs), as they may be amended from time to time, shall govern procedure related to the appeal in the Municipal Court, but no new evidence may be submitted to or taken by the Municipal Court.

E. The Municipal Court shall appoint a judge pro tempore to hear appeals by employees of the Municipal Court unless both the City employee and the Executive Director agree that a regular Municipal Court judge may hear the case.

F. This section shall not apply to (1) City officials elected by the public, (2) the Deputy Mayor, if any, (3) heads of departments and Executive Department offices, (4) members of boards and commissions, and (5) those City employees who are represented by a labor union that, on the date the charges were filed had not reached written agreement with the City regarding the appeal to Municipal Court of monetary fines imposed by the Commission. Persons for whom an appeal to Seattle Municipal Court is not authorized by this section may seek review of a monetary fine imposed by the Commission in King County Superior Court as provided in state law.

(Ord. 120118, § 2, 2000; Ord. 118735 § 4, 1997; Ord. 109950 § 1 (part), 1981; Ord. 198882 § 4.16.100, 1980.)

Chapter 4.18
ENFORCEMENT OF FEDERAL
IMMIGRATION LAWS

Sections:

- 4.18.010 Cooperation with enforcement of federal immigration laws.**
- 4.18.020 Mayor reports to Council.**
- 4.18.030 City Attorney enforcement duties.**

Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of its application to other persons or circumstances.
(Ord. 113192 § 7, 1986.)

4.18.010 Cooperation with enforcement of federal immigration laws.

City officers and employees are directed to cooperate with, and not hinder, enforcement of federal immigration laws.
(Ord. 113192 § 4, 1986.)

4.18.020 Mayor reports to Council.

The Mayor shall report to the City Council and the people on a quarterly basis, beginning thirty (30) days from November 4, 1986, as to the actions taken and being taken in support of the ordinance codified in this chapter and Initiative 30.¹
(Ord. 113192 § 5, 1986.)

- 1. Editor's Note: The full text of Sections 1, 2 and 3 of Ordinance 113192 is set out below for the convenience of the Code users.

Section 1. To carry out Initiative 30, passed by the electorate at a General Election held November 4, 1986, Resolution 27402, entitled—

A RESOLUTION declaring Seattle a City of Refuge urging fair and impartial enforcement of federal immigration law as it pertains to persons who fit the definition of refugee as defined in the Refugee Act of 1980 and in particular those of Central America, and recognizing the courage and personal convictions of Seattle residents who offer sanctuary to such persons.

is hereby rescinded effective December 3, 1986.

Section 2. As of December 3, 1986, Sections 2 and 4 of Ordinance 111256, entitled—

AN ORDINANCE providing for the submission to the voters of The City of Seattle at an election on November 8, 1983 of Initiative Measure 28 (C.F. 292402), which bears the caption "For Peace in Central America"; providing for certification of such initiative to the King County Director of Records and Elections, and prescribing the ballot title therefor.

and of Initiative 28 with the following ballot title—

"Should Seattle petition Congress to make more federal funds available to cities by eliminating expenditures for war in Central America?"

are hereby repealed, and the Citizens' Commission on Central America convened thereby is dissolved.

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Section 3. Terms of members of the Citizens' Commission on Central America appointed pursuant to Resolution 27081, entitled—

A RESOLUTION appointing members of the Citizens' Commission on Central America.

and other resolutions shall expire upon dissolution of the Commission.

4.18.030 City Attorney enforcement duties.

Consistent with and subject to Article XIII of the City Charter² and the Code of Professional Responsibility, the City Attorney is requested to defend every action brought to declare invalid any section of Initiative 30³ and the ordinance codified in this chapter, and maintain actions enforcing provisions of said Initiative 30 and this chapter. (Ord. 113192 § 6, 1986.)

- 2. Editor's Note: The Charter is set out at the front of Volume I of this Code.
- 3. Editor's Note: The full text of Ordinance 113160 on Initiative 30, is set out below:

AN ORDINANCE 113160

INITIATIVE 30 FOR RESPONSIBLE IMMIGRATION

WHEREAS the conduct of foreign policy is primarily the responsibility of the President of the United States with the advice and consent of the Congress, and

WHEREAS the Seattle City Council and Mayor should devote their attention to the problems facing Seattle and avoid diversions of their time and city funds for the consideration or obstruction of foreign policy and immigration matters, and

WHEREAS sister city relationships should be directed to cultural not political purposes, but it instead appears that the Managua sister city relationship has been used to advance the political views of the Marxist-Leninist government of Nicaragua, and

WHEREAS it appears that the Citizens' Commission on Central America has become or been used as a platform for political activities sympathetic to anti-democratic governments and political movements seeking to discredit or obstruct American policies and laws;

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1

The people of the City of Seattle favor legal immigration to the United States and believe that federal immigration laws and policies of this country are generally fair and just and should not be defied or hindered by public authorities and employees, including those of the City of Seattle.

SECTION 2

The Seattle City Council and Mayor shall, within thirty (30) days of the passage of this initiative, rescind the so-called "City of

Refuge" Resolution 27402 and its provisions, dissolve the Citizens' Commission on Central America, refrain from creating similar resolutions, and direct city authorities to cooperate with, and not hinder, enforcement of federal immigration laws.

SECTION 3

The people of the City of Seattle urge the City Council and Mayor to devote their attention to the problems facing Seattle and to avoid diversions of their time and City funds for the consideration of foreign policy and immigration matters, and that sister city relationships be directed primarily to cultural rather than political purposes.

SECTION 4

The Mayor shall report to the City Council and the people on a quarterly basis, beginning thirty (30) days from the passage of this initiative, as to the actions taken and being taken in support of this initiative.

SECTION 5

If any provision of this initiative or its application to any person or circumstance is held invalid, the remainder of the initiative, or the application of the provision to other persons or circumstances, is not affected. The City Attorney shall defend every action brought to declare invalid any section of this initiative, and the City Attorney shall maintain all action to enforce the provisions of this initiative. Nothing in this section shall prohibit any person from bringing or participating in any action involving the validity or enforcement of the provisions of this initiative.

SECTION 6

This ordinance shall take effect at the earliest date authorized under Article 4, Section 1 of the City Charter.

Deadline May 30

**Chapter 4.20
COMPENSATION AND WORKING
CONDITIONS GENERALLY**

Sections:

Subchapter I General Compensation Regulations

- 4.20.010** Positions and compensation generally.
- 4.20.020** Position titles and compensation to be fixed by ordinance.
- 4.20.030** Salary upon appointment.
- 4.20.040** Time periods for automatic salary increases.
- 4.20.050** Temporary help in mechanical trades.
- 4.20.055** Premium pay for temporary City employees.
- 4.20.060** Credit for unpaid absences.

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Seattle Municipal Code
December 2015 code update file
Text provided for historical purposes only.
See the City of Seattle's website for the most current text, graphics, and other information.
this is a draft file.

4.20.065 Administrative reassignment.
4.20.070 Effective date of salary increase.
4.20.080 Changes in incumbent status.
4.20.082 Definitions for implementation of Management Compensation Study.
4.20.085 Step increases for employees included in the Management Compensation Study.
4.20.090 Payment for employee working less than full-time.
4.20.100 Firefighters' compensation.
4.20.110 Biweekly pay periods.
4.20.120 Appointment authority.
4.20.130 Substitution of lower class position.
4.20.140 Filling positions for limited periods in excess of those established.
4.20.150 Use of allowances for vacation and sick relief.
4.20.160 Personnel Director to check payrolls.
4.20.170 Eight-hour day—Five-day week.
4.20.190 Holiday pay or time off.
4.20.200 Holiday pay—Employee to work day preceding or following.
4.20.210 Payment for work on a holiday.
4.20.220 Jury duty or subpoena as witness—No loss of pay.
4.20.225 Testimony at Civil Service Commission hearing—Compensation conditions.
4.20.230 Overtime work defined.
4.20.240 Overtime work—When authorized.
4.20.250 Overtime work—Rates of pay.
4.20.260 Overtime work—Police officers.
4.20.270 Overtime work—Firefighters.
4.20.280 Compensatory time off in lieu of overtime pay.
4.20.290 Overtime work—Payroll records.
4.20.300 Payment for performance of out-of-class duties.

4.20.315 Overtime for eligible professional, administrative and executive employees.
4.20.320 Executive leave for eligible employees.
4.20.325 Overtime-related meal compensation.
4.20.330 Coveralls to be furnished for certain personnel.
4.20.340 Conflict between subchapter and collective bargaining agreement.
4.20.350 Request for creation of new position.
4.20.370 Purchase of fare media.
4.20.375 Parking of privately-owned motor vehicles by City Officials.
4.20.380 Accountability Pay for Executives Program—Base pay and incentives.
4.20.390 Manager and Strategic Advisor Compensation Program.
4.20.430 Information Technology Professional (ITP) Compensation Program—Description.
4.20.440 Power Marketing Compensation Program—Description.
Subchapter II Miscellaneous Provisions
4.20.510 Compensation for temporary work at other than regular location.
4.20.520 Employees under I.B.E.W. agreement—Day off for family emergency.
4.20.530 Police holidays.
4.20.540 Police working special events or emergency situations.
4.20.550 Days off for police officers and firefighters.
4.20.600 Contributions to LEOFF; PERS—Adjustment for federal income tax purposes.
4.20.610 Contributions to City Employees' Retirement System—Adjustment for federal income tax purposes.

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4.20.700 Pay warrants or checks under one dollar.

**Subchapter III Reporting—
Whistleblower Protection**

- 4.20.800 Policy—Purpose.**
- 4.20.810 Reporting improper governmental action—
Employee protection.**
- 4.20.820 Confidentiality.**
- 4.20.830 Investigation.**
- 4.20.840 Civil penalty.**
- 4.20.850 Definitions.**
- 4.20.860 Reporting and adjudicating
retaliation.**

Statutory Reference: For Charter provisions regarding salaries, see Charter Art. XVII.

**Subchapter I General Compensation
Regulations**

4.20.010 Positions and compensation generally.

From and after the first day of January 1989, except as otherwise specified in Section 3 of the ordinance codified herein,¹ the positions of the officers and employees in the various employing units of the City government, hereinafter named, shall be defined and designated as set forth in the Salary Schedule and Compensation Plan—September 1988, attached to the ordinance codified herein as Exhibit A, as modified by the Management Compensation Study payroll title and salary level actions described in the attached Exhibit B, and the compensation to be paid said officers and employees, under authority of this chapter shall not exceed the amounts indicated in such modified schedule and plan; provided, that nothing herein contained shall be construed as requiring the continued employment of any officer or employee. The 1988 Salary Range Table included in Exhibit A, as modified by Exhibit B, shall be used to determine the salary rates applicable to various positions of employment with the City where such salary is identified by reference to a particular salary range.
(Ord. 114529 § 1, 1989; Ord. 97330 § 1, 1968.)

1. Editor's Note: Section 3 of Ord. 114529 pertains to implementation of the ordinance provisions and is not codified. It is on file with the ordinance, and Exhibits A and B of the ordinance, in the office of the City Clerk.

4.20.020 Position titles and compensation to be fixed by ordinance.

The titles and schedules of compensation for the positions of officers and employees of the City shall be as established by ordinance.
(Ord. 109564 § 1(part), 1980; Ord. 107172 § 1(part), 1978; Ord. 105939 § 1(part), 1976; Ord. 105843 § 1(part), 1976; Ord. 105333 § 1(part), 1976; Ord. 101614 § 1(part), 1972; Ord. 99859 § 1(part), 1971; Ord. 98292 § 1(part), 1969; Ord. 97410 § 1(part), 1969; Ord. 97330 § 46.1, 1968.)

4.20.030 Salary upon appointment.

A. Every employee, upon initial appointment to any position in the classified service that is not assigned to a compensation program that grants the appointing authority the discretion for setting base salary, shall receive the minimum rate of the salary range fixed for the position, except as provided herein. When the application of this section results in inadequate recognition of a job candidate's qualifications, or when competitive recruiting so requires, payment at other than the prescribed step may be authorized by the appointing authority, in accordance with rules promulgated by the Personnel Director.

B. Any position that is exempt from the classified service; or is included within a compensation program that grants the appointing authority the discretion for setting base salary; may be compensated without further review:

1. At other than the minimum rate of the appropriate salary range, market group, or pay zone, on initial appointment to the City; and
2. At a step or rate other than that prescribed by promotion rules, for subsequent appointments between such positions.

C. The Personnel Director shall provide a summary report to the City Council annually demonstrating how department authorizations for salary step exceptions met the administrative guidelines, as well as his or her analysis of whether any such exception demonstrated a need for adjustment to the assigned salary range of the relevant position title.
(Ord. 119329 § 2, 1999; Ord. 118776 § 1, 1997; Ord. 118469 § 1, 1997; Ord. 117257 § 1, 1994;

Ord. 109564 § 1(part), 1980: Ord. 107172 § 1(part), 1978: Ord. 105939 § 1(part), 1976: Ord. 105843 § 1(part), 1976: Ord. 105333 § 1(part), 1976: Ord. 101614 § 1(part), 1972: Ord. 99859 § 1(part), 1971: Ord. 98292 § 1(part), 1969: Ord. 97410 § 1(part), 1969: Ord. 97330 § 46.2, 1968.)

4.20.040 Time periods for automatic salary increases.

A. An employee shall be granted the first automatic step increase in salary rate upon completion of six (6) months of service when hired at the first step of the salary range, and succeeding automatic step increases shall be granted after twelve (12) months of “actual service” from the date of eligibility for the last step increase to the maximum of the range; provided, that officers and employees in the following position classes shall be paid on the basis of the applicable criteria designated for each class, position, or program title:

Accountability Pay for Executives Program. The Personnel Director shall recommend to the City Council the assignment of included positions to and within one (1) of four (4) market groups. The appointing authority shall have the discretion to pay individual employees a salary within the recommended market group. The appointing authority may petition the Mayor for discretion to place individual employees in a market group other than the recommended placement, and the Mayor is authorized to approve, deny or modify such petitions, within the parameters of the Accountability Pay for Executives Program, codified at Section 4.20.380 SMC. Subsequent increases or modifications to the individual’s base salary shall be in accordance with the Program.

Manager Compensation Program, Strategic Advisor Compensation Program, Information Technology Professional Compensation Program. The Personnel Director shall recommend to the City Council the allocation of included positions to one (1) of three (3) pay zones. The appointing authority shall have discretion to pay a Manager, Strategic Advisor, or Information Technology Professional a salary within the appropriate zone. Subsequent increases or modifications to an individual’s base salary shall be in accordance with the appropriate Program, codified at Section 4.20.400, Section 4.20.420, and Section 4.20.430 SMC, respectively.

Strategic Advisor—Legislative, Executive Manager—Legislative and Strategic Advisor—Audit.

The appointing authority shall have the discretion to pay a Strategic Advisor—Legislative, Executive Manager—Legislative, or a Strategic Advisor—Audit a salary within the pay band established by ordinance for each title.

Legislative Assistants. The City Councilmember to whom a Legislative Assistant reports shall have discretion for salary placement and modification, within the parameters of the base salary structure designed for the title.

Power Marketer. The appointing authority shall have the discretion to pay a Power Marketer a salary within the pay zone established for the title.

Student Accountant and Planning Intern. The first step of the respective salary range shall be paid to third-year college or university students and the second step shall be paid to those who have completed their third year of such academic training.

Student Engineer. The first step of the salary range shall be paid to students who have actually commenced a course of studies leading to an engineering degree, the second step to students who have completed their first year of such studies, the third step to students who have completed their second year, and the fourth step to students who have completed the third year of such academic training.

Auto Machinist Apprentice, Electrician Constructor Apprentice, Lineman Apprentice. Beginning apprentices shall receive the first step of the salary range assigned to the class to which appointed and shall receive a salary step increase each six (6) months unless otherwise recommended in writing by the Joint Advisory Apprenticeship Committee and the Personnel Director and approved by the City Council.

Assistant Corporation Counsel. Assistants Corporation Counsel shall be paid such step in the salary range assigned to the position as may be determined by the Corporation Counsel.

Job Trainee Program. Beginning trainees shall receive the first step of the salary range assigned to the job class to which appointed and shall receive a salary step increase each six (6) months unless otherwise recommended by the Personnel Director.

Recreation Personnel. Employees in temporary or intermittent positions titled:

- Recreation Leader
- Recreation Attendant
- Life Guard, Beach and Pool

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Manager, Beach and Pool Pianist shall receive the salary step in the range assigned to the class in which employed as determined by the Superintendent of Parks and Recreation, subject to approval by the Budget Director.

Seasonal Tour Guides and Forest Guards. Employees filling seasonal positions of Tour Guide or Forest Guard shall receive the first step of the salary range assigned to the class for the first period of employment and shall receive a step increase each additional season employed in such capacity until the maximum salary step is reached.

B. For employees assigned salary steps other than the beginning step of the salary range, subsequent salary increases within the salary range shall be granted after twelve (12) months of "actual service" from the appointment or increase, then at succeeding twelve (12) month intervals to the maximum of the salary range established for the class. (Ord. 119329 § 3, 1999; Ord. 119089 § 2, 1998; Ord. 118849 § 1, 1997; Ord. 118776 § 2, 1997; Ord. 118572 § 3, 1997; Ord. 109564 § 1(part), 1980; Ord. 107172 § 1(part), 1978; Ord. 105939 § 1(part), 1976; Ord. 105843 § 1(part), 1976; Ord. 105333 § 1(part), 1976; Ord. 101614 § 1(part), 1972; Ord. 99859 § 1(part), 1971; Ord. 98292 § 1(part), 1969; Ord. 97410 § 1(part), 1969; Ord. 97330 § 46.3, 1968.)

4.20.050 Temporary help in mechanical trades.

Whenever it becomes necessary to employ temporary help as Journeymen, Foremen or Helpers in any of the generally recognized mechanical trades, the employment of such help under civil service rules is authorized, payment for such service to be made at current prevailing rates for similar work in private employment as determined by the Personnel Director.

(Ord. 118912 § 26, 1998; Ord. 109564 § 1(part), 1980; Ord. 107172 § 1(part), 1978; Ord. 105939 § 1(part), 1976; Ord. 105843 § 1(part), 1976; Ord. 105333 § 1(part), 1976; Ord. 101614 § 1(part), 1972; Ord. 99859 § 1(part), 1971; Ord. 98292 § 1(part), 1969; Ord. 97410 § 1(part), 1969; Ord. 97330 § 46.4, 1968.)

4.20.055 Premium pay for temporary City employees.

A. The City will pay all temporary City employees the following prospective benefits, based on cumulative nonovertime hours worked by each employee:

1. Hour 1 through hour 520: five (5) percent premium pay;
2. Hour 521 through hour 1,040: ten (10) percent premium pay;
3. Hour 1,041 through hour 2,080: fifteen (15) percent premium pay; however, if an employee worked eight hundred (800) hours or more in the previous twelve (12) months, premium pay shall instead be twenty (20) percent;
4. Hour 2,081 and up: twenty (20) percent premium pay; however, if an employee worked eight hundred (800) hours or more in the previous twelve (12) months, premium pay shall instead be twenty-five (25) percent.

B. The calculations of hours to attain the foregoing levels, eligibility for medical and dental insurance benefits, work on holidays, vacation pay, and other fringe benefits shall be as provided in the Settlement Agreement, dated June 5, 1989, in the case of Scannell v. The City of Seattle, King County Superior Court Cause No. 844600, Section 3. (Ord. 117301 § 2, 1994.)

4.20.060 Credit for unpaid absences.

In determining "actual service" for advancement in salary step, authorized absence for nondisciplinary reasons for which an employee does not receive compensation will be credited at the equivalent of two hundred forty (240) regular pay hours per year. For the purposes of this section, time lost by reason of disability for which an employee is compensated by Workers' Compensation or Charter disability provisions shall not be considered absence. An employee who returns after layoff, or who is reduced in rank to a position in the same or another department, may be given credit toward actual service for such prior service.

(Ord. 118266 § 1, 1996; Ord. 109564 § 1(part), 1980; Ord. 107172 § 1(part), 1978; Ord. 105939 § 1(part), 1976; Ord. 105843 § 1(part), 1976; Ord. 105333 § 1(part), 1976; Ord. 101614 § 1(part), 1972; Ord. 99859 § 1(part), 1971; Ord. 98292 § 1(part), 1969; Ord. 97410 § 1(part), 1969; Ord. 97330 § 46.5, 1968.)

4.20.065 Administrative reassignment.

A. "Administrative reassignment" means paid leave status which an appointing authority may authorize for any City officer or employee in his or her department or office, when such employee is the cause of or subject of, or otherwise significantly affected by an active official investigatory process related to alleged violations of personnel rules, City ordinances, or state or federal laws and/or regulations, or an investigation intended to determine the employee's fitness for duty. Administrative reassignment shall not be considered discipline.

B. The appointing authority of each City department or his/her designated management representative for this purpose shall have the sole authority to make an administrative reassignment of an employee when, and only when, such employee's absence from his or her regular work unit is deemed to be in the best business interest of the department, and there is no other work unit to which the employee can be assigned. Administrative reassignment may only be made after the appointing authority determines that it is the only reasonable course of action available within the department for such employee. The appointing authority shall complete the investigation as expeditiously as possible to limit the length of the administrative reassignment.

C. In each instance where administrative reassignment has been authorized, the appointing authority shall record the circumstances and/or business justification necessitating the reassignment. Such documentation shall be reasonably available to the Personnel Director for purposes of assessing and evaluating use patterns. The Personnel Director shall provide a summary report of the use of administrative reassignment to the City Council on a regular basis.

(Ord. 120298 § 1, 2001: Ord. 118717 § 1, 1997: Ord. 117424 § 1, 1994.)

4.20.070 Effective date of salary increase.

Any increase in salary based on service shall become effective upon the first day immediately following completion of the applicable period of service.

(Ord. 109564 § 1(part), 1980: Ord. 107172 § 1(part), 1978: Ord. 105939 § 1(part), 1976: Ord. 105843 § 1(part), 1976: Ord. 105333 § 1(part), 1976: Ord. 101614 § 1(part), 1972: Ord. 99859

§ 1(part), 1971: Ord. 98292 § 1(part), 1969: Ord. 97410 § 1(part), 1969: Ord. 97330 § 46.6, 1968.)

4.20.080 Changes in incumbent status.

Salary step placement for employees affected by an employment action, classification action, or compensation action shall be calculated as provided below, except that incumbents in positions assigned to compensation programs under which the appointing authority retains discretion for all base salary placement decisions shall be excluded from the provisions of this section for purposes of movement between positions in the same program or between two (2) such programs.

A. Transfers. An employee transferred to another position in the same class or having an identical salary range shall continue to be compensated at the same rate of pay until the combined service requirement is fulfilled for a step increase, and shall thereafter receive step increases as provided in Section 4.20.040 until the maximum step is reached.

B. Promotions. An employee appointed to a position in a class having a higher maximum salary shall be paid at the appropriate step in the higher range which shall result in an increase in pay equivalent to at least one (1) salary step; provided that such increase shall not exceed the maximum step established for the higher paying position; provided further that this provision shall apply only to appointments of employees from regular full-time positions and shall not apply to appointments from positions designated as "intermittent" or "as needed," nor to temporary assignments providing pay "over regular salary while so assigned."

C. Demotions. An employee demoted because of inability to meet established performance standards from a regular full-time position to a position in a class having a lower salary range shall be paid the salary step in the lower range determined as follows:

1. If the rate of pay received in the higher class is above the maximum salary for the lower class, the employee shall receive the maximum salary of the lower range;

2. If the rate of pay received in the higher class is within the salary range for the lower class, the employee shall receive that salary rate for the lower class which, without increase, is nearest to the salary rate to which such employee was entitled in the higher class; provided that the em-

ployee shall receive not less than the minimum salary of the lower range.

An employee reduced because of organizational change or reduction in force from a regular full-time position to a position in a class having a lower salary range shall be paid the salary rate of the lower range which is nearest to the salary rate to which he was entitled in his former position without reduction provided that such salary shall in no event exceed the maximum salary of the lower range.

If an employee who has completed twenty-five (25) years of City service and who within five (5) years of a reduction in lieu of layoff to a position in a class having a lower salary range is again reduced in lieu of layoff to a position in a class having a lower salary range, such employee shall receive the salary he or she was receiving prior to such second reduction as an "incumbent" for so long as he or she remains in such position or until the regular salary for the lower class exceeds the "incumbent" rate of pay.

D. **Reclassifications.** When a position is reclassified by ordinance to a new or different class having a different salary range the employee occupying the position immediately prior to and at the time of the reclassification shall receive the salary rate which shall be determined in the same manner as for a promotion; provided, that if the employee's salary prior to reclassification is higher than the maximum salary of the range for such new or different class, he shall continue to receive such higher salary as an "incumbent" for so long as he remains in such position or until the regular salary for the classification exceeds the "incumbent" rate of pay.

E. **Change in the Number of Steps Assigned to a Salary Range.** When the number of steps in a salary range is increased, the incumbent of a position affected by such change shall receive the salary step of the new salary range which has the same relationship to the maximum of such new range as the step received in the prior range had to the maximum of such prior range.

When the number of steps in a salary range is reduced, the incumbent of a position affected by such change shall receive the salary step of the new range as if such new range had been in effect at the time of appointment to the position. (Ord. 118849 § 2, 1997; Ord. 118776 § 3, 1997; Ord. 109564 § 1(part), 1980; Ord. 107172

§ 1(part), 1978; Ord. 105939 § 1(part), 1976; Ord. 105843 § 1(part), 1976; Ord. 105333 § 1(part), 1976; Ord. 101614 § 1(part), 1972; Ord. 99859 § 1(part), 1971; Ord. 98292 § 1(part), 1969; Ord. 97410 § 1(part), 1969; Ord. 97330 § 46.7, 1968.)

4.20.082 Definitions for implementation of Management Compensation Study.

For purposes of implementing the Management Compensation Study, clarifying the timing and impacts of the salary changes effected by the ordinance codified in this section, and identifying the salary rates established for the positions of employment listed in the attached Exhibit B,¹ which is a complete list, by employing unit, of all positions of employment included in the Management Compensation Study, the following phrases have the meanings set forth below:

A. "Actual service" means and includes all regular straight-time hours of work as well as paid time off such as vacation time, holiday time off, and sick leave. "Actual service" does not mean or include hours of work outside of regular straight-time hours for overtime pay. Except as limited herein, "actual service" shall be calculated as provided in SMC Section 4.20.060, but the rates stated therein for crediting unpaid absences for purposes of advancement in salary step shall be treated as being applicable to full-time employment and shall be adjusted proportionately for service in a part-time position as defined in the Personnel Ordinance.

B. "Anniversary date" means the date on which an employee who was not at the top step of the former salary range would have been eligible for a step increase had this legislation not been adopted.

C. "Downgrade" means the establishment, with respect to a particular position of employment, of a new salary range that has a lower top step established with respect to such employment position's former salary range, regardless of either the creation of a new title for, or any change in the particular payroll title assigned to, a given position of employment as of the effective date of the ordinance codified in this section.²

D. "Former salary range" means the salary range for the particular payroll title assigned to a given position of employment as of December 31, 1988, for upgrades, and as of the day immediately

preceding the effective date of the ordinance codified herein² for downgrades.

E. "New salary range" means the salary range for the particular payroll title assigned to a given position of employment as of January 1, 1989, for upgrades, and as of the effective date of the ordinance codified herein² for downgrades.

F. "Salary range" means all of the salary steps applicable to a particular payroll title.

G. "Salary Range Table" means the chart included in Exhibit A of the ordinance codified in this section,¹ in which various salary steps are individually identified by a combined number and letter designation, and are grouped together into various series, each of which is identified by another combined number and letter designation.

H. "Upgrade" means the establishment, with respect to a particular position of employment, of a new salary range that has a higher top step than the top step established with respect to such employment position's former salary range, regardless of either the creation of a new title for, or any change in the particular payroll title assigned to, a given position of employment as of January 1, 1989. (Ord. 114529 § 2, 1989.)

1. Editor's Note: Exhibits A and B are on file with Ord. 114529 in the office of the City Clerk.
2. Editor's Note: Ord. 114529 was passed by the City Council on May 22, 1989.
3. Editor's Note: The Personnel Ordinance is set out at Chapter 4.04 of this Code.

4.20.085 Step increases for employees included in the Management Compensation Study.

In the event of any inconsistency with any other provision in this chapter, the following subsections shall govern the providing of step increases in salary to employees occupying, both immediately prior to and on the effective date of the ordinance codified in this section,¹ a position of employment listed in Exhibit B:²

A. Study Implementation Resulting in an Upgrade in Salary.

1. Where the dollar amount specified for the salary step attained, on or by December 31, 1988, by any such employee is the same as any salary step of the new salary range associated with the position of employment held by such employee as of January 1, 1989, such employee shall be placed at, and treated as having attained, that equal

dollar amount-salary step in the new salary range. Any such employee who had not attained, on or by December 31, 1988, the top step of such employee's former salary range shall be provided, as of such employee's next anniversary date, a step increase within such employee's new salary range so long as one (1) or more additional salary steps within the new salary range can be attained. Any such employee who had attained, on or by December 31, 1988, the top step of such employee's former salary range (a) after six (6) months of actual service, if the top step of the former salary range is equal to the first step of the new salary range; or (b) after one (1) additional year of actual service, if the top step of the former salary range is equal to any step other than either the first or top step of the new salary range.

2. Where the dollar amount specified for the salary step attained, on or by December 31, 1988, by any such employee is not the same as that for any salary step of the new salary range associated with the position of employment held by such employee as of January 1, 1989, such employee shall be placed at, and treated as having attained, the step of the new salary range that increases such employee's salary by the smallest amount over the salary step attained by such employee on or by December 31, 1988. Each such employee shall be provided a step increase (a) after six (6) months of actual service, where such employee is placed at the first step of the new salary range; or (b) after one (1) additional year of actual service, where such employee is placed at any step other than either the first or top step of the new salary range; provided, that any employee who will receive a smaller total 1989 salary increase through implementation of the ordinance codified in this section than he/she would have received without the upgrade provided hereby, shall be provided an additional step increase on his/her 1989 anniversary date.

B. Study Implementation Resulting in a Downgrade in Salary.

1. Where the dollar amount specified for the salary step attained, on or by the day immediately preceding the effective date of the ordinance codified in this section,¹ by any such employee is within the new salary range associated with the position of employment held by such employee as of the effective date of said ordinance, such employee's salary shall remain unchanged

(except for any 1989 general increase in salary that may be provided) until his/her next anniversary date, as of which date such employee shall be placed at, and treated as having attained, the step of the new salary range that increases such employee's salary by the smallest amount over the salary provided to such employee immediately prior to such anniversary date.

2. Where the dollar amount specified for the salary step attained, on or by the day immediately preceding the effective date of the ordinance codified in this section,¹ by any such employee is greater than the top step of the new salary range associated with the position of employment held by such employee as of the effective date of said ordinance, such employee shall continue to receive such higher salary as an "incumbent" for so long as he/she remains in such position or until the regular salary for such position exceeds the "incumbent" rate of pay; and each such employee shall also receive whatever 1989 general increase in salary is provided to other employees listed in Exhibit B.²

C. Step Placement for Police Chief and Assistant Police Chiefs. Because of the salary compression between the position of Major and the positions of Assistant Police Chief and Police Chief created through the April 22, 1988 arbitration between the Seattle Police Management Association and The City of Seattle, all employees who had attained the third step of the former salary range for Assistant Chief on or by December 31, 1988, shall be placed at, and treated as having attained, the fourth step of the new salary range for Assistant Police Chief, and the Police Chief shall be placed at, and treated as having attained, the third step of the new salary range for Police Chief. (Ord. 114529 § 4, 1989.)

1. Editor's Note: Ord. 114529 was passed by the City Council on May 22, 1989.
2. Editor's Note: Exhibit B is on file with Ord. 114529 in the office of the City Clerk.

4.20.090 Payment for employee working less than full-time.

An employee on a forty (40) hour workweek schedule whose pay is established on a monthly or annual rate and who works less than full-time in a position shall be paid for actual hours worked at an hourly rate of pay equal to the established salary for a twelve (12) month period divided by the

number of regularly scheduled paid hours, determined as the total of eight (8) hour workdays falling on Mondays through Fridays, within such twelve (12) month period.

(Ord. 109564 § 1(part), 1980: Ord. 107172 § 1(part), 1978: Ord. 105939 § 1(part), 1976: Ord. 105843 § 1(part), 1976: Ord. 105333 § 1(part), 1976: Ord. 101614 § 1(part), 1972: Ord. 99859 § 1(part), 1971: Ord. 98292 § 1(part), 1969: Ord. 97410 § 1(part), 1969: Ord. 97330 § 46.8, 1968.)

4.20.100 Firefighters' compensation.

Firefighters who work, or are otherwise entitled to pay, for all scheduled shifts in a work schedule that averages 45.7462 hours per week on an annual basis shall be paid for 91.4924 hours a pay period regardless of the number of hours actually worked. The biweekly pay of firefighters who are absent from scheduled work and are in a nonpay status for less than four (4) shifts during the pay period shall be computed by subtracting the number of hours absent from 91.4924 and multiplying by the hourly rate of pay. When the absence extends for one (1) or more full shifts, twelve (12) hours will be subtracted for each full shift not worked. When unpaid absence equals four (4) or more scheduled working shifts in one (1) pay period, payment will be made only for time worked with each full shift counted as twelve (12) hours. The hourly rate of pay for firefighters shall be determined as follows:

$$\begin{aligned} \text{Monthly salary} \times 12 &= \text{Annual salary} \\ \text{Annual salary} / 26.0714 &= \text{Biweekly salary} \\ \text{Biweekly salary} / 2 &= \text{Weekly salary} \\ \text{Weekly salary} / 45.7462 &= \text{Hourly rate} \\ & \text{(Combat)} \end{aligned}$$

or

$$\begin{aligned} \text{Weekly salary} / 40 &= \text{Hourly rate (40-hour)} \\ \text{(Ord. 109564 § 1(part), 1980: Ord. 107172} \\ & \text{§ 1(part), 1978: Ord. 105939 § 1(part), 1976: Ord.} \\ & \text{105843 § 1(part), 1976: Ord. 105333 § 1(part),} \\ & \text{1976: Ord. 101614 § 1(part), 1972: Ord. 99859} \\ & \text{§ 1(part), 1971: Ord. 98292 § 1(part), 1969: Ord.} \\ & \text{97410 § 1(part), 1969: Ord. 97330 § 46.9, 1968.)} \end{aligned}$$

4.20.110 Biweekly pay periods.

Biweekly pay periods for all officers and employees of all departments of the City including the Library are authorized on the following basis:

A. Each biweekly pay period shall end on a Tuesday and except for such advances on earned

salary from "Contingent Fund A" as may be specifically authorized by ordinance, warrants or checks shall be delivered to those concerned after three (3:00) p.m. on the day before the payday, which payday shall be one (1) week from the Friday following said Tuesday; provided, that such payday may be advanced to Thursday if Friday is a legal holiday or to Tuesday or Wednesday if Christmas or New Year's Day falls on a Wednesday or Thursday. When payday is advanced, the Director of Executive Administration is authorized to distribute the warrant or check, on that advanced payday or the day before payday. Furthermore, the Director of Executive Administration is authorized to designate the employees to be paid each week so as to distribute the warrants or checks payable as near equally as possible on the day before each payday.

B. All payrolls shall be subject to ratification, in accordance with Chapter 42.24 RCW, by the City Council, and appropriation by ordinance of such funds as may be required.
(Ord. 120794 § 53, 2002; Ord. 120114 § 8, 2000; Ord. 116368 § 88, 1992; Ord. 109564 § 1(part), 1980; Ord. 107172 § 1(part), 1978; Ord. 105939 § 1(part), 1976; Ord. 105333 § 1(part), 1976; Ord. 101614 § 1(part), 1972; Ord. 98292 § 1(part), 1969; Ord. 97410 § 1(part), 1969; Ord. 97330 § 46.10, 1968.)

4.20.120 Appointment authority.

The heads of departments are authorized to make appointments under personnel rules to the positions herein specified whenever vacancies exist, subject to provisions of Section 4.20.010.
(Ord. 97330 § 47.1, 1968.)

4.20.130 Substitution of lower class position.

The heads of departments, at their discretion and with approval of the Budget Director may, when a position is provided for herein substitute therefor a position of lower class in the same line of work temporarily and may fill that position as provided by personnel rules. The heads of departments, at their discretion, may terminate this substitution of lower class position and reinstate the higher position; such position also to be filled in accordance with personnel rules.
(Ord. 97330 § 47.2, 1968.)

4.20.140 Filling positions for limited periods in excess of those established.

The Director of Finance may, within the limits of moneys appropriated for "salaries," authorize filling positions for limited periods in excess of those established in the current budget and may authorize the use of unencumbered salary funds as a reimbursement for trainee positions budgeted in the Personnel Department.
(Ord. 120181 § 76, 2000; Ord. 118397 § 67, 1996; Ord. 97330 § 47.3, 1968.)

4.20.150 Use of allowances for vacation and sick relief.

Allowances for vacation and sick relief may be used to replace employees indicated on the payroll as being on vacation, sick, or other type of leave and for such other employment as may be authorized by the Budget Director.
(Ord. 97330 § 47.4, 1968.)

4.20.160 Personnel Director to check payrolls.

The Personnel Director is authorized and directed to check all payrolls of City departments as to the right of each employee to draw the rate of pay, appearing opposite his name on the payroll, and to report the result of such check to the City Council. Other payroll audit functions shall be performed by the Director of Executive Administration except that payments from the contingent fund to employees released between pay days shall be made by the Director of Executive Administration only after certification by the Director of Finance of the amount due.
(Ord. 120794 § 54, 2002; Ord. 116368 § 88, 1992; Ord. 97330 § 48, 1968.)

4.20.170 Eight-hour day—Five-day week.

Eight (8) hours shall constitute a day's work and five (5) days a week's work for all except eligible employees of the City. Provided, work schedules may be promulgated for other than an eight (8) hour day or a five (5) day week, with corresponding change in time off, and any such schedule heretofore arranged and promulgated is ratified and confirmed.
(Ord. 116867 § 1, 1993; Ord. 105961 § 1(part), 1976; Ord. 101026 § 1(part), 1972; Ord. 99752

§ 1(part), 1971: Ord. 98849 § 1(part), 1970: Ord. 98316 § 1(part), 1969: Ord. 97330 § 49.1, 1968.)

4.20.190 Holiday pay or time off.

A. Employees, except uniformed police and fire personnel, shall be entitled to ten (10) legal holidays and two (2) personal holidays each calendar year, or days off in lieu thereof occurring Monday to Friday inclusive, without salary deduction. Employees hired for short terms of employment of thirty (30) days or less and temporary employees shall not be qualified to receive paid holiday time off for personal holidays or for legal holidays falling during their term of employment. The provisions of this section shall not apply to any employee whose compensation is set by a collective bargaining agreement unless the labor organization representing such employee agrees to be bound solely by provisions of this section with respect to the subject matter hereof. The Personnel Director is hereby authorized to promulgate rules providing alternative holiday pay or time off for employees not covered by collective bargaining agreements whose work schedules are other than five (5) eight (8) hour days in a payroll workweek.

B. Effective January 1, 1993, legal holidays shall be observed as follows:

New Year's Day	January 1st
Martin Luther King Jr.'s Birthday	Third Monday in January
Presidents's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veterans' Day	November 11th
Thanksgiving Day	Fourth Thursday in November
The day immediately following Thanksgiving Day	
Christmas Day	December 25th

C. When a legal holiday falls on a Sunday, the holiday shall be observed on the following Monday. When a legal holiday falls on a Saturday, the holiday shall be observed on the preceding Friday. (Ord. 116475 § 1, 1992: Ord. 111890 § 1, 1984: Ord. 108481 § 1, 1979: Ord. 105961 § 1(part), 1976: Ord. 101026 § 1(part), 1972: Ord. 99752 § 1(part), 1971: Ord. 98849 § 1(part), 1970: Ord. 98316 § 1(part), 1969: Ord. 97330 § 49.3, 1968.)

4.20.200 Holiday pay—Employee to work day preceding or following.

An employee must be on pay status on the regularly scheduled workday immediately preceding or immediately following a holiday to be entitled to holiday pay and new employees and employees returning from nonpay leave starting work the day after a holiday shall not be entitled to pay for the holiday preceding their first day of work; provided, that short authorized absences of not to exceed four (4) days' duration shall not be considered in the application of the preceding portion of this section, and provided further that no combination of circumstances whereby two (2) holidays are affected by the foregoing provisions may result in payment for more than one (1) of such holidays. Employees who work less than a full calendar year shall be entitled only to those holidays Monday to Friday inclusive, which fall within their work period. Employees quitting work or discharged for cause shall not be entitled to pay for holidays following their last day of work.

(Ord. 105961 § 1(part), 1976: Ord. 101026 § 1(part), 1972: Ord. 99752 § 1(part), 1971: Ord. 98849 § 1(part), 1970: Ord. 98316 § 1(part), 1969: Ord. 97330 § 49.4, 1968.)

4.20.210 Payment for work on a holiday.

A. As of January 1, 1971, employees, except police officers and police recruits and firefighters and eligible employees, regularly scheduled to work on any recognized paid holiday shall be paid for the holiday at their straight-time rate of pay and in addition shall be paid at the rate of one and one-half (1½) times their straight-time rate of pay for hours worked during scheduled shift.

B. Employees, except police officers and police recruits and firefighters whose work assignments do not normally require holiday work but who are specifically called for emergency work on any recognized paid holiday, shall be paid at the double-

time rate for the actual hours worked, in addition to the straight-time holiday pay. Extra pay pursuant to the foregoing shall be paid in cash unless the department head and the employee mutually agree to payment in the form of paid time off.

C. Firefighters, including Battalion and Deputy Chief regularly scheduled for combat duty on the following holidays shall be paid one and one-half (1½) times their straight-time rate of pay for each hour worked during said holidays:

New Year's Day: Commencing 1800 hours December 31st and ending 1800 hours January 1st;

Memorial Day: Commencing 0800 hours on the holiday and ending 0800 hours the following day;

Labor Day: Commencing 0800 hours on the holiday and ending 0800 hours the following day;

Thanksgiving Day: Commencing 0800 hours on the holiday and ending 0800 hours the following day;

Day After Thanksgiving Day: Commencing 0800 hours on the holiday and ending 0800 hours the following day;

Christmas Day: Commencing 1800 hours December 24th and ending 1800 hours December 25th.

(Ord. 116867 § 2, 1993: Ord. 108481 § 2, 1979: Ord. 105961 § 1(part), 1976: Ord. 101026 § 1(part), 1972: Ord. 99752 § 1(part), 1971: Ord. 98849 § 1(part), 1970: Ord. 98316 § 1(part), 1969: Ord. 97330 § 49.5, 1968.)

4.20.220 Jury duty or subpoena as witness—No loss of pay.

An employee working on other than an intermittent basis shall suffer no monetary loss while on jury duty or while under subpoena on behalf of the state or any political subdivision thereof to appear as a witness in court in a criminal or civil action. The total amount of money received from the court while on jury duty during the employee's normal work schedule, and the amount of any witness fees received for appearing in court for the state or any political subdivision thereof in a criminal or civil action during the employee's normal work schedule, except for transportation allowance, either shall be deducted from the gross pay due the employee for such period or the money, less the amount paid for transportation allowances, shall be collected from the employee; provided, that an employee excused from service as a juror or from appearing as a witness by the court on any day fall-

ing within his normal schedule shall notify his supervisor and if so directed, report for work for the balance of his normal shift.

(Ord. 112990 § 1, 1986: Ord. 99944 § 1, 1971: Ord. 99829 § 1, 1971: Ord. 97330 § 50, 1968.)

4.20.225 Testimony at Civil Service Commission hearing— Compensation conditions.

All City employees subpoenaed by the Civil Service Commission to testify at a Commission hearing, or a hearing delegated by the Commission to the Office of the Hearing Examiner, on behalf of the appellant or the responding department during the employee's regular work hours shall be released by the employing department to testify at the hearing without loss of the compensation otherwise due. Paid release time shall include reasonable travel time to and from the hearing and such time as is required from the employee's arrival at the hearing, as specified in the subpoena, through the time spent giving testimony. If an employee receives witness expenses for testimony, he or she shall remit the sum to the employing department in order to receive his or her regular compensation.

B. Any City employee who is an appellant in a hearing before the Civil Service Commission, or a hearing delegated by the Commission to the Office of the Hearing Examiner, shall be released by the employing department to attend the hearing without loss of compensation otherwise due under the following conditions:

1. When such hearing is scheduled during the employee's normal work hours and the employee is on regular pay status; and

2. Paid release time is limited to a maximum of sixteen (16) hours per appeal.

C. In order for the affected employee to attend the hearing during normal work hours without loss of compensation, the Civil Service Commission shall notify the employing department in advance of the hearing and shall schedule testimony with due regard for the impact of the employee's absence from his or her work duties on City business. (Ord. 119120 § 1, 1998: Ord. 112987 § 1, 1986: Ord. 110202 § 1, 1981.)

4.20.230 Overtime work defined.

"Overtime work" is defined to be work performed in excess of the time regularly required or scheduled for the performance of the duties of a

particular position. Overtime work shall be of two types, "extraordinary" and "ordinary." Extraordinary overtime is defined as work necessitated by emergency caused by fire, flood, or danger to life or property; or work so urgently necessary that its nonperformance will cause serious loss or damage to the City. All overtime which is not covered by the foregoing definition of "extraordinary" overtime shall be "ordinary" overtime.
(Ord. 98316 § 1(part), 1969; Ord. 97552 § 1(part), 1969; Ord. 97330 § 51.1, 1968.)

4.20.240 Overtime work—When authorized.

No employee shall be ordered to perform overtime work unless an emergency exists, as defined in Section 4.20.230, or such work is authorized by the head of the department, or some person duly authorized by him.
(Ord. 98316 § 1(part), 1969; Ord. 97552 § 1(part), 1969; Ord. 97330 § 51.2, 1968.)

4.20.250 Overtime work—Rates of pay.

Employees, except police officers and firefighters, and eligible employees, when ordered to work "extraordinary" overtime, shall be paid at the rate of double time for all such overtime worked and when ordered to work "ordinary" overtime shall be paid at the rate of time-and-one-half; provided, however, that part-time employees and temporary workers shall be paid at their straight-time rate for all hours worked up to and including forty (40) per week. When overtime is not an extension of a normal shift, the minimum credit shall be for two (2) hours.
(Ord. 116867 § 3, 1993; Ord. 110979 § 1, 1983; Ord. 98316 § 1(part), 1969; Ord. 97552 § 1(part), 1969; Ord. 97330 § 51.4, 1968.)

4.20.260 Overtime work—Police officers.

Police officers ordered to work "extraordinary" overtime shall be paid at the rate of time-and-one-half for all such overtime worked.
(Ord. 98316 § 1(part), 1969; Ord. 97552 § 1(part), 1969; Ord. 97330 § 51.4, 1968.)

4.20.270 Overtime work—Firefighters.

Firefighters ordered to work overtime shall be paid at the rate of time-and-one-half for all such overtime worked, either in cash or in the form of compensatory time off as the employee may elect.

(Ord. 98316 § 1(part), 1969; Ord. 97552 § 1(part), 1969; Ord. 97330 § 51.5, 1968.)

4.20.280 Compensatory time off in lieu of overtime pay.

When mutually agreed by the employee and the head of his department, compensatory time off equivalent to the amount of overtime earned may be taken off in lieu of overtime pay.
(Ord. 98316 § 1(part), 1969; Ord. 97552 § 1(part), 1969; Ord. 97330 § 51.6, 1968.)

4.20.290 Overtime work—Payroll records.

All overtime shall be separately itemized on the payroll and a separate list of such employees, and the amount of such overtime to be paid or credited to compensatory time shall be signed by the head of the department and one (1) copy transmitted to the Auditing Committee and one (1) copy to the Budget Director prior to date of issuance of the payroll warrants.
(Ord. 98316 § 1(part), 1969; Ord. 97552 § 1(part), 1969; Ord. 97330 § 51.7, 1968.)

4.20.300 Payment for performance of out-of-class duties.

- A. Definitions.
1. "Continuous out-of-class assignment" means a regularly scheduled part-time or full-time ongoing out-of-class assignment to perform and receive compensation for the duties of the same higher-paying title.
 2. "Discretionary pay program" means a compensation program in which the appointing authority, in accordance with guidelines and procedures established by the Personnel Director, is granted discretion to set pay within the pay zone.
 3. "Hourly employee" means an employee who is compensated on an hourly basis for each hour of work performed, including time in excess of forty (40) hours per workweek.
 4. "Out-of-class assignment" means the temporary assignment of one or more employees to perform the normal ongoing duties and responsibilities associated with a higher-paying title.
 5. "Proper authority" means the appointing authority or his or her designated management representative.
 6. "Salaried employee" means an employee who is not eligible for overtime and who each pay period regularly receives a predetermined

amount constituting all or part of his or her compensation.

7. "Threshold" means the amount of time an employee must perform out-of-class duties prior to being compensated for the performance of those duties. The threshold shall consist of consecutive work hours or work days. The threshold must be satisfied for each out-of-class assignment.

B. Except as otherwise provided in authorized collective bargaining agreements, qualified employees assigned by proper authority to perform the ongoing duties and accept the responsibilities of a higher-paying title in order to avoid a significant interruption of work or services shall be paid as provided herein while performing such duties. Each out-of-class assignment is limited to six (6) months unless an extension is authorized by the appointing authority, except that an out-of-class assignment to be the head of an employing unit is limited to twelve (12) months following the occurrence of a vacancy and for up to ninety (90) days after a City Council rejection of a nominee to fill the vacancy. Appropriate reasons for the assignment of out-of-class duties include:

1. Absence of a position incumbent;
2. Peak workload periods;
3. Position vacancy; or
4. Completion of a special project.

C. An employee whose primary title is not included in a discretionary pay program may be assigned to work out-of-class in a higher-paying title that is not included in a discretionary pay program; or may be assigned to work out-of-class in a title that is associated with a discretionary pay program.

1. Payment for the out-of-class assignment to a title that is not associated with a discretionary pay program shall be determined as in promotion (SMC subsection 4.20.080 B).

2. Payment for an out-of-class assignment to a title that is associated with a discretionary pay program must use the designated out-of-class pay rates established for the particular program. Within such out-of-class pay structure, the appointing authority or designated management representative shall have discretion for placement.

3. Cumulative hours worked in an out-of-class assignment will be credited toward salary step placement in the event the employee who was so assigned is appointed, or his or her position reclassified, to the same title as the out-of-class assignment, within twelve (12) months of the end of

such out-of-class assignment; except that hours worked in an out-of-class assignment to a title in a discretionary pay program shall not be counted toward salary placement in the event of appointment or reclassification to a title in a discretionary pay program.

4. An employee with a continuous out-of-class assignment to a title that is not associated with a discretionary pay program will receive a step increment each two thousand and eighty-eight (2088) straight-time hours while so assigned; provided, that he or she has not already received an increment because of increases to the primary pay rate; provided further, that such increment does not exceed the top step of the higher salary range.

D. An employee who is regularly appointed to a position with a title included in a discretionary pay program may be assigned by proper authority to perform the duties associated with another position in the same pay zone and his or her salary temporarily adjusted in accordance with the base salary-setting rules associated with that program.

E. An employee whose position is assigned to a discretionary pay program may be assigned by proper authority to perform the duties associated with another pay zone in the same program or with another title in a different compensation program, and compensated as provided in subsections C1 or C2 or this section.

F. The threshold for compensation for out-of-class assignments shall be four (4) hours for hourly employees and ten (10) days for salaried employees.

(Ord. 120653 § 6, 2001; Ord. 120181 § 77, 2000; Ord. 119776 § 7, 1999; Ord. 119033 § 1, 1998; Ord. 118470 § 1, 1997; Ord. 117961 § 1, 1995; Ord. 116867 § 4, 1993; Ord. 113147 § 2, 1986; Ord. 110503 § 1, 1982; Ord. 110507 § 1, 1982; Ord. 104561 § 1, 1975; Ord. 98316 § 1(part), 1969; Ord. 97330 § 51A, 1968.)

4.20.315 Overtime for eligible professional, administrative and executive employees.

A. Regular professional, administrative and executive officers and employees who are assigned to a classification with a top salary step less than the top salary step of pay range 36.5 and who, pursuant to specific directions of the department director or such director's designee, are ordered to work more than forty (40) hours in one (1) workweek

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shall be compensated at the rate of time-and-one-half for all hours worked in excess of forty (40), unless excluded by subsection B, below.

B. The following employees shall be excluded from the provisions of Section 4.20.315 A:

1. Employees who are exempt from or are not otherwise covered by provisions of the Fair Labor Standards Act who work in the Executive Department, the Legislative Department, or the Law Department;

2. Department Directors who receive vacation allowance pursuant to SMC Section 4.34.030;

3. Employees of the Municipal Court who are not covered by the Fair Labor Standards Act;

4. Employees who are working pursuant to a collective bargaining agreement;

5. All employees employed by the Seattle Public Library.
(Ord. 117259 § 1, 1994; Ord. 116864 § 1, 1993; Ord. 116825 § 1, 1993; Ord. 116809 § 1, 1993; Ord. 116714 § 1, 1993; Ord. 116643 § 2(part), 1993.)

4.20.320 Executive leave for eligible employees.

A. Definitions.

1. "Eligible employee" is any regular, salaried, professional, administrative, or executive employee who is exempt from the Fair Labor Standards Act, and not otherwise excluded by this section. Eligible employees are those assigned to a classification or position which receives a top salary step equal to or greater than the top salary step of pay range 36.5, and those assigned to the Accountability Pay for Executives Program, Manager Compensation Program, or Strategic Advisor Program, regardless of pay group or zone, and are not entitled to receive overtime compensation or compensatory time for hours worked in excess of forty (40) in one (1) workweek.

2. "Emergency response employee" shall be defined as an employee who occupies a position with a title that is exempt from the provisions of the Fair Labor Standards Act, is assigned to a classification which receives a top salary step that is equal to or greater than the top salary step of pay range 36.5, and is uniformly subject to call back to work to respond to emergency situations after completing the regular work shift. Only employees

working in the position titles listed below shall be designated as Emergency response employees:

Title

Electrical Construction and Maintenance Supervisor
Electrical Workload Supervisor
Generation Supervisor
Power Dispatcher Supervisor
Power Station Operations Supervisor
Power Supply Engineer
Power Supply Engineer, Assistant
Station Construction and Maintenance Supervisor I
Station Construction and Maintenance Supervisor II
Substation Operators Supervisor
Transmission/Distribution Services Supervisor
Water Maintenance Supervisor
Water Pipe District Supervisor
Water Quality Lab Supervisor
Water Transmission Supervisor
Water Treatment Supervisor
Water Supply Supervisor

3. "Executive leave" shall be defined as time off with pay and shall be in addition to earned vacation benefits. Eligible employees may not receive cash in lieu of executive leave.

4. "Merit leave" shall be defined as leave which may be awarded to an eligible employee for outstanding, meritorious and/or extraordinary work performance, which is in addition to executive leave.

B. Policy.

1. Executive leave: Unless specifically excluded in subsection C below, all eligible employees shall receive four (4) days of executive leave at the beginning of each calendar year. Executive leave must be used in the calendar year for which it is given.

2. Eligible employees are expected to fulfill their professional responsibilities with no expectation of receiving overtime or compensatory time off in lieu of overtime, regardless of the actual time it takes to perform assigned tasks. Eligible employees should be allowed discretion in structuring their workday to ensure that assigned tasks are completed. Eligible employees are not required to use paid vacation or sick leave to cover occasional absences of less than four (4) hours dur-

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ing any one (1) workday, and shall be paid their regular salary despite such absences. Eligible employees are expected to notify supervisors in advance of such absences and are expected to schedule such absences in a manner which will cause the least impact on work within their work unit.

3. Merit leave: A Department Director may, at his or her discretion, award to eligible employees up to six (6) days of merit leave during the month of December of each year. Eligible employees must use any awarded merit leave in the subsequent calendar year and may not receive cash in lieu of merit leave.

4. Out-of-class assignment: Employees who are otherwise eligible for overtime compensation who work out-of-class in an executive leave eligible position shall be eligible for executive and merit leave according to a minimum hour threshold and formula established and published by the Personnel Director and shall not receive overtime compensation when so assigned. This provision may apply to represented employees provided their bargaining agent has concurred in its application. Part 2 of this subsection becomes applicable to employees who work out-of-class in an executive leave eligible position after a specified threshold is reached as defined by the Personnel Director.

C. Exclusions.

1. Employees who are not covered by or are otherwise exempt from provisions of the Fair Labor Standards Act and work in the Executive Department, the Legislative Department, the Law Department and Department Directors who receive vacation allowance pursuant to SMC Section 4.34.030 shall be excluded from Sections 4.20.315 and 4.20.320. Officers and employees of the Seattle Municipal Court who are exempt from, or not otherwise covered by the Fair Labor Standards Act; and employees who are working pursuant to a collective bargaining agreement shall also be excluded from Sections 4.20.315 and 4.20.320 except as provided for in subsection B4 of this section. All employees employed by the Seattle Public Library are specifically excluded from all provisions of Sections 4.20.315 and 4.20.320.

2. Emergency Response Employees. In order to ensure continued effective response to public emergencies, all emergency response employees who work in position titles designated in SMC Section 4.20.320 A2 shall be eligible for overtime or compensatory time at the rate of time-

and-one-half for all hours worked in excess of forty (40) during one (1) workweek. Emergency response employees shall not receive executive or merit leave benefit(s).

3. Class Series Exception. If at least one (1) position title in a class series is below the 36.5 salary range, then all position titles in the class series up through and including the "senior" level will be eligible for overtime and shall not receive executive or merit leave benefit(s).

D. Review. It is recognized that executive and merit leave are new personnel practices in The City of Seattle, and that it may be necessary to adjust aspects of this policy from time to time. Therefore, it shall be the responsibility of the Personnel Director to study the impact of the executive leave policy and, when appropriate, make recommendations to the Council regarding its impact, and propose any appropriate rules to implement the provisions of this act. The Personnel Director shall make a report to the Council regarding implementation of this policy twenty-four (24) months after the effective date of the ordinance codified in Sections 4.20.315 and 4.20.320.

(Ord. 118776 § 4, 1997; Ord. 117259 § 2, 1994; Ord. 116864 § 2, 1993; 116825 § 1, 1993; Ord. 116809 § 1, 1993; Ord. 116714 § 1, 1993; Ord. 116643 § 2(part), 1993.)

4.20.325 Overtime-related meal compensation.

A. Any full-time City officer or employee who, pursuant to specific directions of the head of the employing unit to which such worker is assigned, or of such head's designee, works for a total of two (2) or more consecutive overtime hours beyond either (1) such worker's normal working hours, or (2) a reasonably continuous period of overtime equal to the length of such worker's normal shift, shall be compensated as specified in subsection B, hereof, for one (1) meal that such worker purchased reasonably contemporaneously with such overtime. In the event the head of the employing unit to which such worker is assigned, or his or her designee, has certified in writing, to the Director of Executive Administration, that because of emergency circumstances, the worker was required to work overtime on an immediate and continuous basis without the opportunity to plan and take normal meal breaks, then such worker shall be compensated as specified in subsection B hereof,

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for such additional number of meals as are indicated in such certification.

B. If such worker provides to his/her supervisor, no later than the beginning of such worker's next regular shift, the purchased meal receipt(s), such worker shall be eligible for the reimbursement of the actual cost of the meal(s), but not more than the average cost for such meal(s) as reflected in a national comparative cost index such as the Runzheimer Meal-Lodging Cost Index; but if such receipt(s) are not provided as specified herein, then such worker shall be eligible only for meal compensation in the sum of Five Dollars (\$5) per meal for which compensation has been authorized as provided herein.

(Ord. 120794 § 55, 2002; Ord. 116368 § 89, 1992; Ord. 111768 § 1, 1984.)

4.20.330 Coveralls to be furnished for certain personnel.

Coveralls will be furnished as needed to Auto Machinist Foremen, Auto Machinists, Equipment Servicemen, and certain employees working for the Sewerage and Garbage Utilities as determined by the various heads of the departments.

(Ord. 97330 § 52, 1968.)

4.20.340 Conflict between subchapter and collective bargaining agreement.

In the event of a conflict between the provisions of this subchapter and those of a properly authorized collective bargaining agreement, the provisions of the agreement shall prevail insofar as members of the bargaining unit covered by the agreement are concerned and for the duration of the period of time covered by the agreement.

(Ord. 98316 § 1(part), 1969; Ord. 97330 § 52A, 1968.)

4.20.350 Request for creation of new position.

When any City department head requests the creation of a new or additional position of more than sixty (60) days' duration, or a change in allocation of an existing position, he shall address his request for such consideration to the Budget Director, accompanied by a statement of the duties and the responsibility and qualification requirements of the position. A complete copy of such request and statement shall at the same time be furnished to the City Council and the Personnel Director.

(Ord. 97330 § 53, 1968.)

4.20.370 Purchase of fare media.

To encourage commuting by municipal employees in other than single occupancy vehicles, and in accordance with the agreements authorized by Section 1 of Ordinance 116682, as a condition of municipal employment, the City shall pay Fifteen Dollars (\$15) a month per employee toward the purchase of monthly transit passes, monthly transit/ferry combination passes, and ferry walk-on frequent user books by a City officer or employee. The fare media shall be purchased from the Director of Executive Administration for use in commuting to and from work or during working hours, and any incidental personal use thereafter, for so long as an appropriation has been made by ordinance or the City budget to provide for any deficit resulting to the City from such sales. The net price of the fare media to the officer or employee shall be the established rate less the City's Fifteen-Dollar (\$15) payment.

(Ord. 120794 § 56, 2002; Ord. 116682 § 2, 1995.)

4.20.375 Parking of privately-owned motor vehicles by City Officials.

A. For purposes of this section, "City Officials" shall mean Seattle City Councilmembers, elected Seattle Municipal Court judges, and the Seattle City Attorney.

B. City Officials who choose to park privately-owned motor vehicles in the Municipal Building garage, or in any other City-owned parking facilities in which other City officers or employees must pay for the parking of such vehicles, shall pay for such parking. Neither the City nor any of its departments shall pay for, reimburse, or otherwise subsidize such payments made by City Officials. Rates for such parking by City Officials shall be established by the Fleets and Facilities Director pursuant to Seattle Municipal Code Section 3.18.030(G), and shall be established in an amount that is consistent with fees charged to other City officers and employees for comparable parking privileges. City Officials also shall be eligible for other types of parking permits, including but not limited to carpool parking permits, on the same terms and pursuant to the same rates as are applicable to other City officers and employees; and may request the issuance of occasional City-paid one-day parking passes, on the same basis as those

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are available to other City officers and employees, when it is necessary to park privately-owned motor vehicles in such garage or facilities for purposes that are solely related to City business. City Officials also are eligible to use City motor-pool vehicles pursuant to Seattle Municipal Code Section 3.18.140.

C. City Council Positions 1, 3, 5, 7 and 9 shall become subject to subsection B of this section at the time of commencement of the next term of office in January, 2000. All other City Council positions shall become subject to subsection B of this section at the time of commencement of the next term of office in January, 2002.

The City Attorney shall become subject to subsection B of this section at the time of commencement of the next term of office in January, 2002.

The elected Seattle Municipal Court judges shall become subject to subsection B of this section at the time of commencement of the next term of office in January, 2003.

Nothing in this section shall be construed so as to prevent City Officials from voluntarily paying for parking privileges in the Municipal Building garage or other City-owned parking facilities in which other City officers or employees must pay for the parking of privately-owned motor vehicles prior to such effective dates, and the Director of Executive Administration shall be authorized to collect such voluntary payments prior to such effective dates, and to establish a payroll check-off or deduction system to facilitate such collection. (Ord. 120794 § 57, 2002; Ord. 120188 § 1, 2000; Ord. 120181 § 78, 2000; Ord. 119775 § 1, 1999.)

4.20.380 Accountability Pay for Executives Program—Base pay and incentives.

A. There is established an Accountability Pay for Executives Program (hereinafter referred to as the APEX Program) having a base salary structure consisting of one (1) “executive pay band” with four (4) pay zones. The Personnel Director or his or her designated management representative shall determine positions to be in the APEX Program. Each position included in the APEX Program shall be exempt from the classified service pursuant to Article XVI, Section 3 of the Charter of The City of Seattle and Seattle Municipal Code Chapter 4.13. Positions will be designated by the Personnel Director to Executive titles. The appointing author-

ity shall have the discretion to set and/or modify an executive’s base salary anywhere within the pay zone for any such position under his or her direction within formal budget and spending limits established by the Mayor and the City Council. The appointing authority may also petition the Mayor or Personnel Director as his/her designated representative for authorization to pay any APEX Program employee under his or her direction in a pay zone other than that determined by the Personnel Director, and the Mayor or designee may accept, modify or decline such a request. The Personnel Director is authorized to administer the APEX Compensation Program and to develop and maintain a plan document that describes the program’s elements. Any revisions to the program elements must be approved by the Mayor and the City Council. The Personnel Director shall recommend to the City Council for approval adjustments to the salary structure based on a biennial labor market analysis of selected benchmark titles. The appointing authority may award to each APEX employee under his or her direction a base salary increase up to the maximum approved market adjustment; provided, no APEX incumbent shall be eligible for such an adjustment if his or her performance in the most recent evaluation cycle failed to be described as “satisfactory” or better. Other adjustments to base salaries must be made in accordance with program guidelines and within budget and spending guidelines.

B. The Personnel Director will recommend measures of performance and establish performance recognition guidelines for the APEX Program. Using these guidelines, the appointing authority may award to an APEX Program executive a lump sum payment of up to eight (8) percent of base salary, in addition to base salary, for recognition of the accomplishment of goals and work outcomes at the completion of an annual evaluation period. Any lump sum payment made pursuant to this subsection shall be considered a part of regular compensation, prorated annually, for purposes of withholding retirement contributions and determining retirement benefits for affected employees who are members of the City Employees Retirement System.

C. The Personnel Director shall recommend subsequent allocations of positions into or out of the APEX Program in accordance with established rules and procedures.

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(Ord. 120819 § 5, 2002; Ord. 119706 § 1, 1999; Ord. 118782 § 1, 1997.)

4.20.390 Manager and Strategic Advisor Compensation Program.

A. There is established a Manager and a Strategic Advisor Compensation Program under which positions allocated to “Manager” and “Strategic Advisor” shall be compensated. The Personnel Director is authorized to administer the Strategic Advisor and Manager Compensation Programs and to develop and maintain plan documents that describe each program’s elements. Any revisions to the program elements must be approved by the Mayor and the City Council. The Personnel Director shall allocate positions into and out of Manager and Strategic Advisor titles in accordance with established rules and procedures.

B. The salary structure for the Manager and Strategic Advisor Compensation Programs shall each consist of one (1) pay band with three (3) pay zones. Pay zone assignment shall constitute the classification for all relevant provisions of the Seattle Municipal Code and the Personnel Rules. Where occupational groups have been designated, the occupational group shall constitute the class series. The appointing authority shall have the discretion to set and/or modify base salary anywhere within the pay zone for any Manager or Strategic Advisor under his or her direction, within formal budget and spending limits established by the Mayor and the City Council. The Personnel Director shall recommend to the City Council for approval market adjustments to the salary structure based on a biennial labor market analysis of selected benchmark titles. The appointing authority may award to each Strategic Advisor or Manager under his or her direction a base salary increase up to the maximum approved market adjustment; provided, that no Manager or Strategic Advisor shall be eligible for such an adjustment if his or her performance in the most recent evaluation cycle failed to be described as “satisfactory” or better. Other adjustments to base salaries must be made in accordance with Program Guidelines and within budget and spending guidelines.

C. The Personnel Director will establish performance recognition guidelines for the Manager and Strategic Advisor Compensation Program. The appointing authority may award to a Manager or Strategic Advisor under his or her direction a lump

sum payment of up to eight (8) percent of base salary, in addition to base salary, for recognition of the accomplishment of goals and work outcomes at the completion of an annual evaluation period. Any lump sum payment made pursuant to this section shall be considered a part of regular compensation, prorated annually, for purposes of withholding retirement contributions and calculating retirement benefits for affected employees who are members of the City Employees Retirement System.

(Ord. 120819 § 6, 2002; Ord. 119705 § 1, 1999.)

4.20.430 Information Technology Professional (ITP) Compensation Program—Description.

A. There is established an Information Technology Professional Compensation Program to which positions identified as “Information Technology Professional” are assigned. The Personnel Director is authorized to administer the Information Technology Professional Compensation Program and to develop and maintain a plan document that describes the program elements.

B. The Personnel Director shall recommend to the City Council for approval, market adjustments to the pay zones annually. The market adjustment will be based upon labor market analysis of selected benchmark positions to be conducted as needed, and/or at least every two (2) years with the biennial budget. Program incumbents will receive an adjustment to their base salary to retain a competitive position in the labor market. No ITP incumbent shall be eligible for such an adjustment if his or her performance in the most recent evaluation cycle failed to be described as “satisfactory” or better. Other adjustments to base salaries must be made in accordance with Program Guidelines and within budget and spending guidelines.

C. The Personnel Director will assign positions within the Information Technology Professional category to a pay zone.

D. Each employee in the Information Technology Professional Compensation Program will be assigned a base rate of pay within the pay zone by the appointing authority, upon the Personnel Director’s approval. If during the initial program implementation in January 2000 the rate of pay received by an incumbent immediately prior to assignment to the Information Technology Professional Compensation Program is higher than the

upper limit of the pay zone recommended by the Personnel Director, or is higher than the rate established for the position by the appointing authority, the employee will retain an incumbency rate of pay in such position until any market adjustments to the pay zone equal or exceed the incumbency rate; provided, the incumbency rating shall be maintained only as long as the duties assigned to the position are commensurate with the rate of pay.

E. The appointing authority may recommend a premium of up to twenty-five (25) percent of base salary, not to exceed one hundred twenty-five (125) percent of the maximum rate of Pay Zone A to any employee appointed to an IT Professional A exempt position in the Information Technology Professional Compensation Program. The Personnel Director has the authority to approve or discontinue the premium. The premium shall be considered part of regular compensation for purposes of withholding retirement contributions and determining retirement benefits for affected employees who are members of the City Employees Retirement System.

F. For positions in the Information Technology Professional Compensation Program that are included in the City's classified service, "Information Technology Professional" shall constitute the class series and the pay zone shall constitute the classification for all relevant provisions of the Seattle Municipal Code and Personnel Rules. (Ord. 120718 § 1, 2002; Ord. 120187 § 6, 2000; Ord. 119776 §§ 5, 6, 1999; Ord. 119411 § 1, 1999.)

4.20.440 Power Marketing Compensation Program—Description.

A. There is established a Power Marketing Compensation Program to which positions identified as "Power Marketer" will be assigned. The Personnel Director is authorized to implement the Power Marketing Compensation Program substantially in accord with the "Power Marketer Classification, Compensation and Sales Revenue Reward Plan Summary," which is incorporated by this reference. Revisions to titles and compensation components must be approved by the City Council. The title and pay zone established for the Power Marketer Compensation Program are:

Title	Pay Zone
Power Marketer	\$24.90—\$43.20

B. The Personnel Director shall recommend to the City Council for approval a market adjustment to the pay zone based on a labor market analysis to be conducted at least biennially.

C. The Personnel Director will recommend to the City Council the assignment of each position within the Power Marketer category to this pay zone, and will establish criteria for subsequent allocation of positions to and withdrawal of positions from the Power Marketing Compensation Program.

D. Each employee appointed to a position within the Power Marketing Compensation Program will be assigned a base rate of pay within the pay zone by the appointing authority. If the rate of pay received by an incumbent immediately prior to assignment to the Power Marketing Compensation Program is higher than the upper limit of the pay zone recommended by the Personnel Director, or is higher than the rate established for the position by the appointing authority upon program implementation, the employee will retain an incumbency rate of pay until any market adjustments to the pay zone equal or exceed the incumbency rate; provided, the incumbency rating shall be maintained only as long as the duties assigned to the position are commensurate with the rate of pay.

E. Establishing Sales Revenue Reward Plan. Up to ten (10) percent of individual base pay may be awarded as a Power Marketing Team Reward in accordance with the "Sales Revenue Reward Plan," which is incorporated by this reference. The specific provisions of awarding performance pay are outlined in the Sales Revenue Reward Plan. Any lump sum payment made pursuant to this section shall be considered a part of regular compensation, prorated annually for purposes of withholding retirement contributions and determining retirement benefits for affected employees who are members of the City Employees Retirement System. (Ord. 119351 § 1, 1999.)

Subchapter II Miscellaneous Provisions

4.20.510 Compensation for temporary work at other than regular location.

All employees of the City who are temporarily assigned to work at a location other than their

regular place of employment shall receive additional compensation which shall be the equivalent of one (1) hour's compensation at the normal rate of pay, for each night of required absence from their regular place of employment, if the department head concerned determines that the site of such assignment is beyond reasonable commuting distance from the employee's regular place of employment; provided that such additional compensation shall not be paid to any employee in a position to which is assigned duties which regularly include travel to and performance of work at locations other than his regular place of employment without specific assignment by a superior.
(Ord. 97185 § 1, 1968.)

4.20.520 Employees under I.B.E.W. agreement—Day off for family emergency.

Employees covered by those certain collective bargaining agreements entered into between the City and I.B.E.W. Local No. 77 pursuant to the authority of Ordinance 98887 and Ordinance 98977¹ shall, subject to approval by the department head, be allowed one (1) day off each year without salary deduction for the purpose of meeting a family emergency caused by serious illness or accident disabling a member of such employee's immediate family and necessitating such employee's presence at home. For the purpose of this section, "immediate family" means the spouse, children, and/or parents of such employee, who regularly occupy the same residence as such employee.
(Ord. 100112 § 1, 1971.)

1. Editor's Note: Ordinances 98887 and 98977 are on file in the office of the City Clerk.

4.20.530 Police holidays.

Uniformed Police personnel shall be allowed nine (9) holidays off per year with pay, or nine (9) days off in lieu thereof, at the discretion of the Chief of Police.
(Ord. 95256 § 1, 1966.)

4.20.540 Police working special events or emergency situations.

Payment on a straight-time basis is authorized for overtime ordered and worked by police personnel during special events or emergency situations,

as determined by the Chief of Police and approved by the Chairman of the Finance Committee.
(Ord. 88419 § 1, 1959.)

4.20.550 Days off for police officers and firefighters.

Police officers shall be allowed two (2) days off in eight (8) with pay and police officers and firefighters shall be allowed an additional nine (9) days off with pay per year at the convenience of the respective department heads.
(Ord. 80528 § 1, 1951.)

4.20.600 Contributions to LEOFF; PERS—Adjustment for federal income tax purposes.

To carry out the City's election to take advantage of the opportunities extended by 26 U.S.C. § 414 (h) and Chapter 227, Laws of 1984 for deferral of federal income taxes upon members' contributions to the Law Enforcement Officers and Fire Fighters' Retirement System and to the Washington Public Employees' Retirement System, the City will pay those members' contributions under RCW 41.26.080(1) and 41.26.450 and RCW 41.40.330(1) and 41.40.650 respectively for pay warrant dates commencing on or after January 1, 1985, and will reduce the member's wages or salary by the amount of the City's contribution so paid. The foregoing payment and wage/salary reduction is made under these conditions and limitations:

A. This arrangement is made for purposes of federal income taxation. An employee's wages or salary for purposes of the Federal Insurance Contributions Act (social security tax), the City salary and wage ordinances, and other purposes shall be computed as if the foregoing contribution and corresponding salary or wage reduction had not been made; and

B. The City may withdraw its election to make such adjustments as contemplated by Section 3(2) of Chapter 227, Laws of 1984, and no affected member shall be entitled to continuance of the adjustment thereafter.
(Ord. 111992 § 1, 1984.)

4.20.610 Contributions to City Employees' Retirement System—Adjustment for federal income tax purposes.

A. The City hereby elects to extend to members of the City Employees' Retirement System the tax

deferral benefits allowed by 26 U.S.C. § 414(h) and Chapter 27, Laws of 1984. For such purposes, the City will pay the member's contributions to the City Employees' Retirement System contemplated by SMC Section 4.36.110 for pay warrant dates commencing on or after January 1, 1985, and will reduce the member's wages or salary by the amount of the City's contribution so paid. The City contribution made under this section, plus accumulated interest, shall be paid to a member upon the withdrawal of the member's documented contributions pursuant to SMC Section 4.36.190.

B. An employee's wage or salary for purposes of the Federal Insurance Contributions Act (social security tax), for purposes of workers' compensation, and for all purposes other than federal income taxation shall be computed as if the foregoing contribution and corresponding reduction in a member's wage or salary had not been made.

C. The City reserves the right to discontinue this arrangement for a City contribution and corresponding wage or salary reduction at any time as to compensation earned afterwards. No affected member shall have any contract right to compel the City to continue the arrangement should the City decide to pay the member his or her full salary or wage and then require that the member pay to the City Employees' Retirement System the member's contribution contemplated by SMC Section 4.36.110.

(Ord. 111992 § 2, 1984.)

4.20.700 Pay warrants or checks under one dollar.

It is City policy and a condition of City employment to draw pay warrants or checks only when the net pay is One Dollar (\$1) or more. Whenever payment is authorized to a City employee and the net pay amount is less than One Dollar (\$1), the amount shall be added to the employee's next pay warrant or check or severance pay warrant or check. If no further pay warrants or checks are contemplated, payment shall only be made to an employee who makes demand and appears in person for payment.

(Ord. 120114 § 9, 2000; Ord. 113872 § 1, 1988.)

Subchapter III Reporting—Whistleblower Protection

4.20.800 Policy—Purpose.

Unless prohibited by state law, City employees are encouraged to report on improper governmental action to the appropriate City or other governmental official, depending on the nature of the improper governmental action. To assist such reporting and to implement Sections 42.41.030 and 42.41.040 of the Revised Code of Washington ("RCW"), Sections 4.20.800 through 4.20.860 provide City employees a process for reporting improper governmental action and protection from retaliatory action for reporting and cooperating in the investigation and/or prosecution of improper governmental action in good faith in accordance with this subchapter.

(Ord. 117039 § 1(part), 1994; Ord. 116368 § 90, 1992; Ord. 116005 § 9, 1991; Ord. 115464 § 1(part), 1990.)

4.20.810 Reporting improper governmental action—Employee protection.

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

B. Limitations.

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

2. Except in cases of emergency where the employee believes in good faith that substantial damage to persons or property will result unless a report is made immediately to a person or entity who is not the appropriate auditing official listed in Section 4.20.850 A, an employee shall, before making a report to a person who is not the appropriate auditing official, first make a written report of the improper governmental action to the appro-

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appropriate auditing official. No emergency under this subsection exists where prompt attention and reporting under this subchapter by the employee could have avoided the perceived need to report immediately to a person not the appropriate auditing official.

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

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

C. Employee Protections and Protected Conduct.

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

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

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

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

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

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

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

(Ord. 118392 § 20, 1996; Ord. 117039 § 1(part), 1994; Ord. 116368 § 91, 1992; Ord. 116005 § 10, 1991; Ord. 115464 § 1(part), 1990.)

4.20.820 Confidentiality.

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

(Ord. 117039 § 1(part), 1994; Ord. 115464 § 1(part), 1990.)

4.20.830 Investigation.

A. Referral or Retention. The Executive Director of the Ethics and Elections Commission, upon receiving a report alleging improper governmental action, shall refer the complainant to the appropriate auditing official listed in Section 4.20.850 A if the Executive Director is not the appropriate auditing official. If the Executive Director is the appropriate auditing official, and the report alleges a violation of the Elections Code or the Code of Ethics, the Executive Director shall handle that allegation according to the ordinances and rules applicable to the code alleged to have been violated. If the Executive Director is the appropriate auditing official and the report alleges improper governmental action that does not fall within the prohibitions of the Ethics Code or the Elections Code, the Executive Director may refer the report to the chief elected official of the branch of government implicated in the allegation, who shall ensure that the

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appropriate officer or agency responds to the complainant in writing within thirty (30) days of receipt of the report by the appropriate auditing official, with a copy of the response to the Executive Director. If the Executive Director does not refer the report to another official, or if the other official's response is not timely or satisfactory to the Executive Director, the Executive Director may conduct an investigation. The procedures in subsections B through E of Section 4.20.830 shall apply only to the Executive Director of the Ethics and Elections Commission when he or she is investigating an improper governmental action that does not fall within the prohibitions of the Ethics Code or the Elections Code and that should not have been referred to another auditing official under the first sentence of this subsection; other auditing officials investigating allegations of improper governmental action appropriately referred to them are not bound by these procedures.

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

Within thirty (30) days after receiving information about an "improper governmental action" from a City employee, the Executive Director shall conduct a preliminary investigation, and provide the complainant with a written report of the general status of the investigation which may include matters for further research or inquiry.

C. Completion and Reports. Upon completion of the investigation, the Executive Director shall notify the complainant in writing of any determinations made. If the Executive Director determines that an improper governmental action has occurred, the Executive Director shall report the nature and details of the activity to the complainant; to the head of the department with responsibility for the action; and if a department head is implicated, to the Mayor and City Council; and to such other governmental officials or agencies as the Executive Director deems appropriate. If satisfactory action to follow up the report is not being taken

within a reasonable time, the Executive Director shall report his or her determination to the Mayor and advise the City Council.

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

E. Decisions of the Executive Director under this section are not appealable to the Ethics and Elections Commission.
(Ord. 117039 § 1(part), 1994; Ord. 116368 § 92, 1992; Ord. 116005 § 11, 1991; Ord. 115464 § 1(part), 1990.)

4.20.840 Civil penalty.

A violation of subsection C of Section 4.20.810 is a civil offense. A person who is guilty thereof may be punished in the Seattle Municipal Court by a civil fine or forfeiture not to exceed Five Hundred Dollars (\$500.00).
(Ord. 117039 § 1(part), 1994; Ord. 115464 § 1(part), 1990.)

4.20.850 Definitions.

As used in Sections 4.20.800 through 4.20.860, the following terms shall have these meanings:

A. "Auditing official" means, each in connection with a report of improper governmental action within his, her, or its respective jurisdiction, the Executive Director of the Seattle Ethics and Elections Commission; a person to whom sexual harassment was properly reported according to City policy; the Office for Civil Rights; the Washington State Commission on Judicial Conduct; the Police Department's Internal Investigations Section; the county prosecuting attorneys of the State of Washington; and any authorized assistant or representative of any of them in cases within their respective appropriate jurisdictions.

B. "Employee" means anyone employed by the City, whether in a permanent or temporary position, including full-time, part-time, and intermittent workers. It also includes members of appointed boards or commissions, whether or not paid.

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

- a. Violates any state or federal law or rule or City ordinance, and, where applicable, King County ordinances, or
- b. Constitutes an abuse of authority, or
- c. Creates a substantial or specific danger to the public health or safety, or
- d. Results in a gross waste of public funds.

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

3. A properly authorized City program or activity does not become an “improper governmental action” because an employee or auditing official dissents from the City policy or considers the expenditures unwise.

D. “Retaliate,” and its kindred nouns, “retaliation” and “retaliatory action,” mean to make, because of an activity protected under Section 4.20.810, any unwarranted adverse change in an employee’s employment status or the terms and conditions of employment including, but not limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unsubstantiated letters of reprimand or unsatisfactory performance evaluations; demotion, reduction in pay; denial of promotion; transfer or reassignment; suspension or dismissal; or other unwarranted disciplinary action.

E. “Executive Director” means the Executive Director of the Seattle Ethics and Elections Commission. (Ord. 118392 § 21, 1996; Ord. 117039 § 1(part), 1994; Ord. 116368 § 93, 1992; Ord. 116005 § 12, 1991; Ord. 115464 § 1(part), 1990.)

4.20.860 Reporting and adjudicating retaliation.

A. Complaint. In order to seek relief, an employee who believes he or she has been retaliated

against in violation of Section 4.20.810 C must file a signed written complaint within thirty (30) days of the occurrence alleged to constitute retaliation. The complaint shall be filed with the Office of the Mayor and must specify the alleged retaliatory action and the relief requested.

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

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

(Ord. 117039 § 2, 1994.)

**Chapter 4.21
STANDBY DUTY**

Sections:

- 4.21.010 Standby duty—Definitions.**
- 4.21.020 Standby duty responsibilities.**
- 4.21.030 Determination of eligibility for standby duty.**
- 4.21.040 Standby pay—Rates.**
- 4.21.050 Standby pay not concurrent with regular or overtime pay.**
- 4.21.060 Standby duty schedules.**
- 4.21.070 Resolution of conflict with collective bargaining agreements.**

4.21.080 Reporting of standby pay.

(Ord. 117321 § 1(part), 1994: Ord. 112666 § 1(part), 1986.)

4.21.010 Standby duty—Definitions.

As used in this chapter, the following terms shall mean:

A. "Eligible employee" means an employee eligible for overtime compensation who is not working pursuant to a collective bargaining agreement.

B. "Standby duty" means the formal assignment, by the head of an employing unit or his/her designated representative, to an employee of responsibility to respond to emergencies and other problems during the employee's non-working hours. The act of carrying a pager or other such communication device does not, in itself, constitute standby duty.

C. "Standby pay" means the monetary compensation paid to an employee who is assigned to standby duty.
(Ord. 117321 § 1(part), 1994: Ord. 112666 § 1(part), 1986.)

4.21.020 Standby duty responsibilities.

An eligible employee on standby duty must remain contactable through some communications device (such as by carrying a pager) and be in a state of readiness to direct and/or participate in any City response to an emergency or other problem, through telephone response or personal appearance at some predetermined location, within fifteen (15) minutes after communication contact is made by the employing unit. The appointing authority may establish time parameters within which the employee assigned to standby duty must report to such work location when the occasion requires the employee's presence.

(Ord. 117321 § 1(part), 1994: Ord. 112666 § 1(part), 1986.)

4.21.030 Determination of eligibility for standby duty.

The appointing authority may assign eligible employees to perform standby duty, based upon reasonable criteria which shall include: the likelihood of the occurrence of an off-hours emergency, the nature of the emergency, and the consequences of delaying response to the emergency until normal working hours or of assigning the emergency response to an employee who is already on regular duty or standby status.

4.21.040 Standby pay—Rates.

A. An eligible employee assigned by proper authority to be on standby duty to perform the duties of his or her position title shall be paid ten percent (10%) of his or her regular straight-time hourly rate of pay for each hour served on standby duty.

B. An eligible employee assigned to standby duty to perform the duties of another position title shall be paid ten percent (10%) of the regular straight-time hourly rate of pay of the salary step for each hour served on standby duty as follows:

1. If the employee's actual rate of pay is within the salary range of the applicable position title, standby pay shall be computed on his or her actual rate of pay.

2. If the employee's actual rate of pay is higher than that top step of the salary range of the applicable position title, standby pay shall be computed using the top step of the salary range of the applicable position title.

3. If the employee's actual rate of pay is lower than the first step of the salary range of the applicable position title, standby pay shall be computed using the first step of the salary range of the applicable position title.

(Ord. 117321 § 1(part), 1994: Ord. 112666 § 1(part), 1986.)

4.21.050 Standby pay not concurrent with regular or overtime pay.

When an eligible employee on standby duty responds to an emergency or other problem, standby pay shall be discontinued when regular or overtime pay commences.

(Ord. 117321 § 1(part), 1994: Ord. 112666 § 1(part), 1986.)

4.21.060 Standby duty schedules.

The appointing authority shall maintain standby duty schedules so that the affected employees have adequate advance notice as to when they are scheduled for assignment to standby duty. Eligible employees may volunteer for assignment to standby duty, and the schedules may consist of a mix of voluntary and nonvoluntary standby duty assignments.

(Ord. 117321 § 1(part), 1994; Ord. 112666 § 1(part), 1986.)

4.21.070 Resolution of conflict with collective bargaining agreements.

In the event of any conflict between this chapter and the terms of any collective bargaining agreement entered into by the City, the terms of the collective bargaining agreement shall prevail for those employees covered by the collective bargaining agreement.

(Ord. 117321 § 1(part), 1994; Ord. 112666 § 1(part), 1986.)

4.21.080 Reporting of standby pay.

The appointing authority shall report as directed to the Personnel Director all authorizations for standby pay and how each satisfied the criteria as stipulated in this chapter. The Personnel Director shall provide a summary report of this information to the City Council on an annual basis.

(Ord. 117321 § 1(part), 1994.)

**Chapter 4.24
SICK LEAVE**

Sections:

Subchapter I General Provisions

- 4.24.005 Definitions.**
- 4.24.010 Computation of sick leave—Exemptions.**
- 4.24.030 Change in position or department.**
- 4.24.035 Paid sick leave—Use.**
- 4.24.040 Sick leave reporting—Payment.**
- 4.24.050 Temporary employees.**
- 4.24.060 Refusal of approval by department head—Review by Personnel Director.**
- 4.24.070 Designation of beneficiary.**
- 4.24.080 Authority to make rules—Recordkeeping.**
- 4.24.090 Report on denial of paid sick leave.**
- 4.24.100 Sick leave transfer program.**

Subchapter II Retirement Accounts

- 4.24.200 Establishment of account.**
- 4.24.210 Payment in lieu of account.**

- 4.24.220 Notification of unused sick leave and rates of pay.**
- 4.24.230 Administration.**

Subchapter I General Provisions

4.24.005 Definitions.

Terms used in this chapter shall have the meaning indicated therefor in the Personnel Ordinance (Seattle Municipal Code Chapter 4.04) unless another meaning is clearly indicated below or from the context:

A. “Basic living expenses” means the cost of basic food, shelter and any other expenses of a domestic partner which are paid at least in part by a program or benefit for which the partner qualified because of the domestic partnership. The individuals need not contribute equally or jointly to the cost of these expenses as long as they agree that both are responsible for the cost.

B. “Dependent child” means a child under the age of eighteen (18) who is:

1. The natural offspring of;
2. An adopted or step child of;
3. Under the legal guardianship, legal custody or foster care of;
4. Financially dependent on; or
5. A resident in the dwelling unit of;

an officer or employee or an officer’s or employee’s spouse or domestic partner.

C. “Domestic partner” means an individual designated as such by an officer or employee in an Affidavit of Domestic Partnership or otherwise as provided by Seattle Municipal Code Section 4.30.010.

D. “Health care professional” means a person whose services are of a type for which compensation is paid under any City health care plan.

E. “Parent” means and includes one’s natural or adoptive father or mother, stepfather or stepmother or foster father or foster mother.

(Ord. 114648 § 1, 1989; Ord. 112088 § 1, 1984.)

4.24.010 Computation of sick leave—Exemptions.

Cumulative sick leave with pay computed at the rate of .046 hours for each hour on regular pay status as shown on the payroll, but not to exceed forty (40) hours a week, and all benefits of this subchapter shall be granted to all City officers and employees over whom the legislative authority has

jurisdiction in this respect: provided, that members of the Police and Fire Departments who were members of the Washington State Law Enforcement and Fire Fighters Retirement System (the "LEOFF" System) as of or before September 30, 1977, and those employees specifically excluded by provisions of salary ordinances shall not be included; provided further, that persons who became members of the LEOFF System on or after October 1, 1977 and who are represented by the Fire Fighters' Union, the Police Officers' Guild, or an equivalent labor organization for labor negotiation purposes, shall receive whatever benefits of the City's sick leave program as are established in the labor contract between the City and such organization. Officers and employees shall accumulate sick leave credits from the date of entering City service and shall be entitled to sick leave with pay after thirty (30) calendar days of employment. (Ord. 107905 § 2, 1978: Ord. 101861 § 1, 1973: Ord. 101720 § 1, 1972: Ord. 100879 § 1, 1972: Ord. 99422 § 1, 1970: Ord. 96867 § 1, 1968: Ord. 93066 § 1, 1964: Ord. 89939 § 1, 1961: Ord. 88522 § 1, 1959.)

4.24.030 Change in position or department.

Change in position or transfer to another City department included in the sick leave plan shall not result in a loss of sick leave accumulated under this subchapter or as a Seattle Public Library employee. An officer or employee reinstated or re-employed in the same or another department included in this plan after termination of service, except after dismissal for cause, resignation or quitting, shall be credited with all unused sick leave accumulated prior to such termination. (Ord. 93257 § 1, 1964: Ord. 88522 § 3, 1959.)

4.24.035 Paid sick leave—Use.

A. An officer's or employee's request for paid sick leave may be granted when the officer or employee is required to be absent from work because of:

1. A personal illness, injury or medical disability incapacitating the officer or employee for the performance of duty, or personal medical or dental appointments; or
2. An illness, injury, or medical or dental appointment of an officer's or employee's spouse, domestic partner, or the parent or dependent child

of such officer or employee or his or her spouse or domestic partner when the officer or employee has established his or her eligibility for a non-personal sick leave use as contemplated by SMC Chapter 4.30 and the absence of the officer or employee from work is required, or when such absence is recommended by a health care professional.

B. An officer or employee may participate in City-sponsored blood drives as a non-compensated donor without deduction of pay or paid leave balances. Such participation will include the time required to travel from the work site to the blood drive location and return to the work site, and a reasonable recuperation period, but may not exceed three (3) hours per occurrence.

C. 1. Officers and regularly appointed employees shall be eligible for up to five (5) workdays or forty (40) hours, whichever is less, of absence from their usual worksite without reduction in pay or use of paid leave to the extent their absence is medically necessary for the purpose of being a transplant donor, as that term is defined in this subsection. "Transplant donor" means a regularly appointed employee or officer who:

- a. Voluntarily donates his or her bone marrow, other tissue, or organ to a human recipient for whom that particular donation has been medically matched and determined to be uniquely suited or critical to a successful outcome in a medical procedure intended to save the recipient's life;
 - b. Receives no compensation and has no ability to direct any compensation to any other person or entity for the officer or employee's donation or participation as a donor;
 - c. Provides to his or her appointing authority reasonable advance written notice of his or her need to be absent from the usual worksite as well as the reason for and expected duration of the absence;
 - d. Provides written documentation satisfactory to his or her appointing authority from an accredited medical institution, organization or individual of the need for the officer or employee to participate as a donor; and
 - e. Has not been a transplant donor under this subsection C for a different medical procedure within the twelve (12) months immediately preceding the date when the absence under this subsection would commence.
2. A transplant donor for whom an absence in excess of the time allowed in subsection

C1 is documented as being medically necessary shall be eligible to use any appropriate available leave balance or take unpaid leave in accordance with existing City ordinances and rules.

3. No absence is authorized under this subsection C for tests or for other predonation appointments.

(Ord. 120747 § 1, 2002; Ord. 117958 § 1, 1995; Ord. 114648 § 2, 1989; Ord. 112088 § 2, 1984.)

4.24.040 Sick leave reporting—Payment.

Compensation for absence of an officer or employee from duty for any reason contemplated in Section 4.24.035 shall be paid upon approval of such absentee's appointing authority or that authority's designee. In order to receive compensation for such absence, an officer or employee shall make himself or herself available for such investigation, medical or otherwise, as such appointing authority or the Personnel Director deems appropriate. Either such appointing authority or the Personnel Director may require a supporting report of a health care professional from the officer or employee. Compensation for absences beyond four (4) days shall be paid only after approval by such absentee's appointing authority or that authority's designee, of a request from the officer or employee supported by a report of the health care professional treating the officer or employee or an individual identified in SMC Section 4.24.035 A2, or by a health care professional selected by the Personnel Director.

(Ord. 114648 § 3, 1989; Ord. 112088 § 3, 1984; Ord. 107905 § 3, 1978; Ord. 885 § 4, 1959.)

4.24.050 Temporary employees.

Employees on a temporary basis and not otherwise excluded who work on a definite and predetermined schedule over an extended period may receive sick leave compensation for scheduled work periods only, on the same basis as regular City employees. Determination as to an employee's eligibility under this provision shall be made by the Personnel Director.

(Ord. 107905 § 4, 1978; Ord. 88522 § 5, 1959.)

4.24.060 Refusal of approval by department head—Review by Personnel Director.

At the request of the employee concerned the Personnel Director shall review the refusal of a

department head to approve a request for sick leave and the decision of the Personnel Director shall be final.

(Ord. 107905 § 5, 1978; Ord. 88522 § 6, 1959.)

4.24.070 Designation of beneficiary.

Any City officer or employee eligible for sick leave benefits under this subchapter may designate a beneficiary to receive a cash payment in an amount equal to twenty-five (25) percent of such officer's or employee's accumulated and unused sick leave, which designation shall be in writing and filed with the Personnel Director and in the event of the death of such officer or employee while employed by the City, such payment shall be made to the designated beneficiary at the rate of pay of such officer or employee in effect on the day prior to his death; provided, that the provisions of this section shall not apply to officers and employees of the Police and Fire Departments who are members of the Washington Law Enforcement Officers' and Fire Fighters' Retirement System.

(Ord. 107905 § 6, 1978; Ord. 105991 § 1, 1976; Ord. 105005 § 1, 1975; Ord. 88522 § 6.1, 1959.)

4.24.080 Authority to make rules—Recordkeeping.

The Personnel Director is authorized to make the necessary rules and regulations to enforce and administer the provisions of this subchapter, to furnish the necessary forms and to keep the necessary records, provided that the Director of Executive Administration shall maintain all records of accumulated sick leave of active officers and employees.

(Ord. 120794 § 58, 2002; Ord. 116368 § 94, 1992; Ord. 107905 § 7, 1978; Ord. 88522 § 7, 1959.)

4.24.090 Report on denial of paid sick leave.

The heads of departments shall report as to the final disposition of all cases when an employee has been included on the payroll for paid sick leave which subsequently is denied and shall make such other reports and keep such records as the Personnel Director and the Director of Executive Administration shall require.

(Ord. 120794 § 59, 2002; Ord. 116368 § 95, 1992; Ord. 107905 § 8, 1978; Ord. 88522 § 8, 1959.)

4.24.100 Sick leave transfer program.

A. The Personnel Director shall implement by rule a sick leave transfer program allowing for the transfer of accumulated sick leave hours from the account of any officer or employee who desires to participate in such program to the accumulated sick leave hours account of another officer or employee designated by the donor-officer or -employee. Such sick leave transfer program shall include at least the following elements:

1. The sick leave being transferred shall be translated into a dollar figure based upon the donor-officer's or -employee's straight-time rate of pay.

2. An officer or employee may receive sick leave from a donor-officer or -employee if the appointing authority of the receiving officer or employee finds that:

a. The receiving officer or employee presently suffers from an illness, injury, impairment, or physical or mental condition, and it has caused, or is likely to cause, the receiving officer or employee to:

- (1) Go on leave without pay, or
- (2) Leave City employment;

b. The receiving officer's or employee's absence and the use of contributed leave are justified;

c. Depletion of the receiving officer's or employee's available accumulated sick leave has occurred or is imminent;

d. The receiving officer or employee has diligently attempted to accrue sick leave reserves; and

e. The receiving officer or employee is not eligible for benefits under SMC Chapter 4.44 or under the State Industrial Insurance and Medical Aid Acts.

3. The Personnel Director shall establish, by rule, limits for:

a. The maximum number of hours of sick leave a receiving officer or employee may personally have accrued before such officer or employee may receive sick leave hours from another officer or employee;

b. The minimum number of sick leave hours a donor-officer or -employee must have accrued and must retain if allowed to transfer additional accrued sick leave hours to another officer or employee;

c. The maximum number of accrued sick leave hours that a donor-officer or -employee may transfer to another officer or employee; and

d. The maximum number of sick leave hours, as equated to the receiving officer's or employee's straight-time rate of pay, that a receiving officer or employee may receive, which number, in no event, shall exceed five hundred sixty (560) hours.

4. The donor-officer or -employee and the receiving officer or employee shall each file with the appointing authority for their respective employing units their affidavit or declaration, in a form provided by the Personnel Director, acknowledging that such sick leave transfer is intended to be a gift and has been or will be accomplished for no, or without the exchange of any, compensation or consideration whatsoever.

5. Hours of donated sick leave shall no longer be used by the receiving officer or employee once the medical or mental condition upon the basis of which donated sick leave was received ceases to exist. Unused donated sick leave remained in the receiving officer's or employee's account shall be returned to the donor-officer(s) or -employee(s) in accordance with rules established by the Personnel Director.

B. The appointing authority of an officer or employee who requests to receive donated sick leave shall report in a manner to be prescribed by the Personnel Director, the approval for and receipt of any such sick leave and/or the denial of any such request to receive donated sick leave.

(Ord. 115851 § 1, 1991; Ord. 114648 § 4, 1989.)

Subchapter II Retirement Accounts

4.24.200 Establishment of account.

Upon the retirement of any member of the City Employees' Retirement System or any Health Department employee who has retained membership in the State Retirement System under Ordinance 83017, or upon the award of a retirement allowance in accordance with Section 13(c) of Ordinance 78444¹ to a member whose employment with the City has been terminated by layoff, or, at the election of a member of such system, upon retirement after transfer of such member to another governmental entity under any agreement for merger or consolidation of governmental services between the City and such other governmental entity, the

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Board of Administration of the City Employees' Retirement System shall establish for such member an account to which it shall credit an amount equal to twenty-five (25) percent of such employee's unused and accumulated sick leave, while employed by the City, at the rate of pay of such member in effect on the day prior to his retirement or layoff, as the case may be.

Such account shall be used only to pay health care benefit premiums of such member and spouse at the time of retirement or award of such retirement allowance, to such carrier or carriers as shall be designated by such member. The Board of Administration shall pay such health care benefit premiums from the Health Care Fund, charge the respective members' accounts in the amount thereof, and cease payments on behalf of any such member when the balance in his or her account has been exhausted, or upon the deaths of such member and spouse, whichever shall occur first. The Board of Administration shall periodically notify the departments from which members are retired or laid off and for whom such health care premiums have been paid, of the amount of premiums so paid and the Health Care Fund shall be reimbursed for such premium payments from the proper funds. Upon written request of a participating member at any time after retirement, the remaining balance of such member's account may be paid to said member and the Board of Administration shall cease payment of health care benefit premiums for said member. In the event of the member's death, his or her designated beneficiary may request and receive a refund of any remaining account balance.

(Ord. 118826 § 1, 1997: Ord. 104100 § 1, 1974: Ord. 102366 § 1, 1973: Ord. 101720 § 2, 1972: Ord. 100879 § 2, 1972: Ord. 93631 § 1, 1965: Ord. 93065 § 1, 1964: Ord. 90789 § 1, 1961.)

1. Editor's Note: Section 13(c) of Ord. 78444 is codified in Section 4.36.200 C of this Code.

4.24.210 Payment in lieu of account.

In lieu of the establishment of the account and the crediting thereto of the amount provided in Section 4.24.200, any such member of the City Employees' Retirement System or Health Department employee who has retained membership in the State Retirement System under Ordinance 87017,¹ upon retirement, award of retirement allowance, or upon retirement after transfer of such

member to another governmental entity under any agreement for merger or consolidation of governmental services between the City and such other governmental entity, as the case may be, may by written request to the head of the City department in which such person is employed elect to receive a cash payment of an amount equal to the amount provided in Section 4.24.200; provided, that, in the event such member is transferred under any agreement for merger or consolidation of governmental services between the City and another governmental entity, such written request shall be directed to the Executive Secretary of the retirement system. Upon receipt of such written request, the head of the department in which such person was employed, or the Executive Secretary of the retirement system, as the case may be, is authorized to pay such amount to such person and for such purpose to use unexpended and unencumbered budget salary funds accumulating in the budget of such department, or such other funds as may be appropriated therefor.

(Ord. 104100 § 2, 1974: Ord. 102965 § 1, 1974: Ord. 102366 § 2, 1973: Ord. 101720 § 3, 1972: Ord. 100879 § 3, 1972: Ord. 99754 § 1, 1971: Ord. 98848 § 1, 1970: Ord. 90789 § 1.1, 1961.)

1. Editor's Note: Ordinance 87017 is on file in the City Clerk's office.

4.24.220 Notification of unused sick leave and rates of pay.

The Personnel Director of the City, or other responsible boards or commissions shall notify the Board of Administration of the City Employees' Retirement System in writing of the unused and accumulated sick leave and the applicable hourly rate of pay of retiring members of the retirement system.

(Ord. 107905 § 10, 1978: Ord. 90789 § 2, 1961.)

4.24.230 Administration.

The Board of Administration of the City Employees' Retirement System shall administer the provisions of this subchapter and may make necessary rules to effectuate the same.

(Ord. 90789 § 3, 1961.)

Chapter 4.26
FAMILY AND MEDICAL LEAVE

Sections:

- 4.26.005** Definitions.
- 4.26.010** Leave provisions.
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- 4.26.040** Medical certification requirement.
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4.26.005 Definitions.

Unless another meaning is clearly indicated from the context, as used in this chapter:

- A. "City" means The City of Seattle.
- B. "Days" means calendar days.
- C. "Domestic partner" means an individual designated by a City officer or employee in an affidavit filed pursuant to Seattle Municipal Code Section 4.30.020 and qualified under Section 4.30.010.
- D. "Eligible employee" means an individual who has completed six (6) months of City employment.
- E. "Group health plan" means health insurance coverage for medical and dental care provided as an incident of employment and on existing terms and conditions as provided to employees similarly situated.
- F. "Health care provider" means any provider included within Seattle Municipal Code Section 4.24.005 D.
- G. "Medical leave" means leave requested to recuperate, recover or treat a serious health condition for the son, daughter, spouse/domestic partner, parent, or employee.
- H. "Parent" means the parent of an employee or the parent of an employee's spouse/domestic partner, or an individual who stood in loco parentis to an employee or the employee's spouse/domestic partner when the employee or the employee's spouse/domestic partner was a son or daughter.
- I. "Reduced leave schedule" means a leave schedule that reduces the usual number of hours

per workweek, or hours per workday, of an employee.

J. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- 1. Inpatient care in a hospital, hospice, or residential, medical care facility; or
- 2. Continuing treatment by a health care provider.

K. "Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

- 1. Under eighteen (18) years of age; or
- 2. Eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.

L. "Spouse" means a husband or wife.
(Ord. 119030 § 1, 1998; Ord. 116761 § 1(part), 1993.)

4.26.010 Leave provisions.

Eligible employees are entitled to up to ninety (90) calendar days of unpaid leave in addition to any paid leave to which they may otherwise be entitled during any twelve (12) month period for one or more of the following:

A. The birth of a son or daughter of the employee and in order to care for such son or daughter.

B. The placement of a son or daughter with the employee for adoption or foster care.

C. To care for the spouse/domestic partner, or a son or daughter, or parent, of the employee or spouse/domestic partner, if such spouse/domestic partner, son, daughter, or parent has a serious health condition.

D. A serious health condition that makes the employee unable to perform the functions of the position of such employee.

Expiration of entitlement. The entitlement to leave under subsections A and B above for birth or placement of a son or daughter shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement.

(Ord. 116761 § 1(part), 1993.)

4.26.020 Notice.

A. In any case in which the necessity for leave under subsection A or B of Section 4.26.010 is foreseeable based on an expected birth or placement,

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the employee shall provide the City with at least thirty (30) days' notice, before the date of leave is to begin, of the employee's intention to take leave, except that if the date of birth or placement requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.

B. In any case in which the necessity for leave under subsection C or D of Section 4.26.010 is foreseeable based on planned medical treatment, the employee shall:

1. Make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the City, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse/domestic partner, or parent, as appropriate; and

2. Provide the City with not less than thirty (30) days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection, except that if the date of the treatment requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.

C. Failure to provide notice as prescribed in this section shall be grounds to deny leave. (Ord. 116761 § 1(part), 1993.)

4.26.030 Leave taken intermittently or on a reduced leave schedule.

A. Leave under subsection A or B of Section 4.26.010 shall not be taken by an employee intermittently or on a reduced schedule unless the employee and City agree otherwise.

Leave under subsection C or D of Section 4.26.010 may be taken intermittently or on a reduced leave schedule when medically necessary. Medical necessity shall be determined and certified by a health care provider as provided in subsection F or G or Section 4.26.040.

B. If an employee requests intermittent leave, or leave on a reduced leave schedule, under subsection C or D of Section 4.26.010, that is foreseeable based on planned medical treatment, the City may require such employee to transfer temporarily to an available alternative position offered by the City for which the employee is qualified and that:

1. Has equivalent base pay and benefits; and

2. Better accommodates recurring periods of leave than the regular employment position of the employee.

(Ord. 116761 § 1(part), 1993.)

4.26.040 Medical certification requirement.

Medical certification is required for medical leave under subsection C or D of Section 4.26.010. The medical certification must be issued by the health care provider of the eligible employee or of the son, daughter, spouse/domestic partner, or parent, as appropriate, of the employee. Certification should include:

A. The date on which the serious health condition commenced;

B. The probable duration of the condition;

C. The appropriate medical facts within the knowledge of the health care provider regarding the condition;

D. A statement that the eligible employee is needed to care for the son, daughter, spouse/ domestic partner, or parent, or a statement that the employee is unable to perform the functions of the position of the employee;

E. In the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

F. In the case of certification for intermittent leave, or leave on a reduced leave schedule, under Section 4.26.010 D, a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

G. In the case of certification for intermittent leave, or leave on a reduced leave schedule, under Section 4.26.010 C, a statement that the employee's intermittent leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse/domestic partner who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

The City may require, at the expense of the City, that the eligible employee obtain the opinion of a second health care provider designated or approved by the City concerning any information certified as provided above.

When the second opinion differs from the opinion in the original certification, the City may require, at the expense of the City, that the employee obtain the opinion of a third care provider designated or approved jointly by the City and the employee.

The opinion of the third health care provider concerning the information certified above shall be considered to be final and shall be binding on the City and the employee.

The City may require that the eligible employee obtain subsequent recertifications on a reasonable basis.
(Ord. 116761 § 1(part), 1993.)

4.26.050 Employment and benefit protection.

Eligible employees who have been granted leave under this chapter shall be entitled, on return from such leave, to be restored by the City to the position of employment held by the employee when the leave commenced if that position is vacant. If that position is not vacant, the employee shall be restored to an equivalent position with equivalent employment benefits, base pay, and other terms and conditions of employment in effect at the time the leave commenced.

Taking family leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

The City shall maintain coverage under any group health plan for the duration of an approved leave at the level, and under the conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.
(Ord. 116761 § 1(part), 1993.)

4.26.060 Failure to return to work.

The City may recover the premium that the City paid for maintaining coverage for the employee under a group health plan during any period of unpaid leave under this chapter if the employee fails to return from the leave, after the period of leave to which the employee is entitled has expired, for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the control of the employee.
(Ord. 116761 § 1(part), 1993.)

4.26.070 Paid leave.

Notwithstanding Seattle Municipal Code Section 4.20.360,¹ an employee need not exhaust his or her accrued sick leave, compensatory time and/or vacation leave prior to requesting or taking family or medical leave under this chapter.
(Ord. 116761 § 1(part), 1993.)

1. Editor's Note: Section 4.20.360 was repealed in 1996 by Ord. 118265.

4.26.080 Rulemaking.

The Personnel Director is authorized to promulgate such rules as are necessary to apply or interpret this chapter.
(Ord. 116761 § 1(part), 1993.)

**Chapter 4.28
FUNERAL LEAVE**

Sections:

- 4.28.010 Granting of funeral leave.**
- 4.28.020 Definitions.**
- 4.28.030 Certification to Director of Executive Administration.**

4.28.010 Granting of funeral leave.

All City officers and employees over whom the legislative authority has jurisdiction in this respect, except employees in temporary positions specified by provisions of salary ordinances as not entitled to vacations, holidays, sick leave or health care, and except employees covered by that certain collective bargaining agreement entered into between the City and Seattle Police Officers' Guild shall be allowed one (1) day off without salary reduction for the purpose of attendance at the funeral of any close relative of such officer or employee; provided, that where such attendance requires total travel time of two hundred (200) miles or more, one (1) additional day with pay shall be allowed; provided further, that department heads may when circumstances require and upon application stating the reasons therefor authorize for such purpose not to exceed an additional four (4) days chargeable to the sick leave account of any such officer or employee, but no combination of paid absence under this section shall exceed five (5) days for any one (1) period of absence. In like circumstances and upon like application department heads may au-

thorize for the purpose of attending the funeral of a relative other than a close relative, not to exceed five (5) days chargeable to the sick leave account of any such officer or employee.
(Ord. 107905 § 11, 1978; Ord. 100916 § 1, 1972; Ord. 99963 § 1, 1971; Ord. 99753 § 1, 1971.)

4.28.020 Definitions.

A. For the purpose of this chapter, the term “close relative” means the spouse or domestic partner, child, mother, father, brother, sister, grandchild, grandfather or grandmother of an officer or employee or of the spouse or domestic partner of such officer or employee. “Relative other than close relative” means the uncle, aunt, cousin, niece, or nephew of such officer or employee; or the spouse or domestic partner of the brother, sister, child or grandchild of such officer or employee; or the uncle, aunt, cousin, niece, nephew, spouse or domestic partner of the brother or sister of the spouse or domestic partner of such officer or employee.

B. For the purpose of this chapter, the term “domestic partner,” when used in reference to a person other than the domestic partner of an officer or employee, means a person identified by the officer or employee as the relative’s domestic partner in an affidavit or declaration of domestic partnership in form prescribed therefor by the Personnel Director.

(Ord. 114648 § 5, 1989; Ord. 111620 § 1, 1984; Ord. 107905 § 12, 1978; Ord. 100916 § 2, 1972; Ord. 99963 § 3, 1971; Ord. 99753 § 3, 1971.)

4.28.030 Certification to Director of Executive Administration.

Upon certification by the appropriate department head that sick leave was allowed to an officer or employee for the purpose of attendance at a funeral in accordance with this chapter, the Director of Executive Administration shall correspondingly reduce such officer’s or employee’s sick leave balance on the payroll record.

(Ord. 120794 § 60, 2002; Ord. 116368 § 96, 1992; Ord. 99753 § 4, 1971.)

Chapter 4.30

DOCUMENTATION OF ELIGIBILITY FOR CERTAIN USES OF SICK LEAVE AND FUNERAL LEAVE

Sections:

4.30.010 Establishment of eligibility for certain funeral leave and nonpersonal sick leave uses.

4.30.020 Affidavit of marriage/domestic partnership.

4.30.030 Notice of termination of domestic partnership.

4.30.010 Establishment of eligibility for certain funeral leave and nonpersonal sick leave uses.

A. Any officer or employee who, on or after the effective date of the ordinance codified in this chapter:¹

1. Commences service for the City; or
2. Recommences City service following a break in such service; or

3. Becomes another person’s spouse or domestic partner; may use sick leave under SMC Chapter 4.24 for the care of his or her spouse, domestic partner, parent, or the parent or child of his or her spouse or domestic partner, and funeral leave under SMC Chapter 4.28 in connection with the death of his or her spouse or domestic partner or any other person added by this chapter, or family and medical leave under the terms and conditions of Chapter 4.26 by filing with the appointing authority for his or her employing unit, within a period specified in subsection C of this section, an affidavit as contemplated in SMC Section 4.30.020.

B. The Personnel Director shall specify, by rule, what documentation, if any, that a person who is a City officer or employee¹ and who is (1) married, or (2) participating in a domestic partnership, must provide to the appointing authority of such officer’s or employee’s employing unit to establish City knowledge of such officer’s or employee’s participation in a marriage or domestic partnership and the eligibility of that officer or employee to use sick leave under SMC Chapter 4.24 for the care of his or her spouse, domestic partner, or the parent or child of his or her spouse or domestic partner, and funeral leave under SMC Chapter 4.28

in connection with the death of a spouse or domestic partner or any other person added by this chapter, or family and medical leave under the terms and conditions of Chapter 4.26.

C. An officer or employee may file the documentation required under subsections A or B of this section only:

1. Within the first thirty (30) days after the commencement date of his or her marriage or domestic partnership;

2. Within the first thirty (30) days after the commencement or recommencement of such officer's or employee's service; and

3. During an open enrollment period of ninety (90) days as specified by the Personnel Director following the effective date of the ordinance codified herein¹ and, thereafter, during a regular annual open enrollment period as specified by the Personnel Director.

(Ord. 116761 § 2, 1993; Ord. 114648 § 6(part), 1989.)

1. Editor's Note: Ordinance 114648 was passed by the Council on August 14, 1989.

4.30.020 Affidavit of marriage/domestic partnership.

The documentation sufficient to qualify an officer or employee to use sick leave or funeral leave or family and medical leave as contemplated in subsection A of SMC Section 4.30.010 shall consist of an affidavit in a form prescribed and furnished by the Personnel Director, on which such officer or employee dates and signs his or her name and:

A. Attests:

1. If married, that he or she is currently married to the individual identified by name on said form; or

2. If participating in a domestic partnership, that:

a. He or she and his or her domestic partner (who shall be identified, by name, on such form) share the same regular and permanent residence, have a close personal relationship, and have agreed to be jointly responsible for basic living expenses incurred during the domestic partnership,

b. They are not married to anyone,

c. They are eighteen (18) years of age or older,

d. They are not related by blood closer than would bar marriage in the State of Washington;

e. They were mentally competent to consent to contract when their domestic partnership began,

f. They are each other's sole domestic partner and are responsible for each other's common welfare; and

g. Any prior domestic partnership in which he or his or her domestic partner participated with a third party was terminated not less than ninety (90) days prior to the date of such affidavit, or by the death of that third party, whichever was earlier, and, if such earlier domestic partnership had been acknowledged pursuant to subsection A or B of SMC Section 4.30.010, that notice of the termination of such earlier domestic partnership was provided to the City pursuant to SMC Section 4.30.030 not less than ninety (90) days prior to the date of such affidavit;

B. Agrees to notify the City if there is a change of the circumstances attested to in the affidavit; and

C. Affirms, under penalty of law, that the assertions in the affidavit are true.

(Ord. 116761 § 3, 1993; Ord. 114648 § 6(part), 1989.)

4.30.030 Notice of termination of domestic partnership.

For the purposes of this chapter, a domestic partnership that has been acknowledged as contemplated in subsection A or B of SMC Section 4.30.010 shall be effectively terminated upon the death of a domestic partner or on the ninetieth day after notice of the termination thereof was provided to the City in the form prescribed therefor by the Personnel Director, whichever is earlier.

(Ord. 114648 § 6(part), 1989.)

Chapter 4.33

SABBATICAL LEAVE PROGRAM

Sections:

4.33.010 Sabbatical Leave Program established.

4.33.020 Sabbatical leave—Conditions and benefits.

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4.33.010 Sabbatical Leave Program established.

The Personnel Director is authorized to modify or promulgate personnel rules to establish and administer a Citywide Sabbatical Leave Program consistent with the following provisions:

A. Any employee who has been regularly appointed, either to a position in the classified service or to an exempt position, and who has completed the equivalent of seven (7) continuous years of full-time City service is eligible to apply for a sabbatical leave (as defined in Seattle Municipal Code Section 4.04.030), not to exceed twelve (12) months duration; provided, that the provisions of this section shall not apply to any employee whose compensation is set by a collective bargaining agreement unless the labor organization representing such employee has agreed to be bound by provisions of this section with respect to the subject matter thereof.

B. Eligibility for application for each successive sabbatical leave shall be based upon completion of an additional seven (7) years of continuous service from the date of return from the last such leave granted.

C. Nothing in this chapter nor any rule promulgated pursuant to it shall create any right to a sabbatical leave. The requesting employee's employing unit shall have sole discretion to grant or deny his or her request for a sabbatical leave. (Ord. 118958 § 1(part), 1998.)

4.33.020 Sabbatical leave—Conditions and benefits.

A. The City may, where consistent with applicable law and agreements between the City and its health care providers or insurers, continue to pay the employer's portion of an employee's medical and dental benefits while such employee is on an approved sabbatical leave, not to exceed one (1) month of covered benefits for each completed year of service. For purposes of calculating eligibility for covered benefits, each year of completed service will be counted only once.

B. An employee who is on an approved sabbatical leave may elect to take as a lump sum cash out any or all of his or her accumulated and unused sick leave balance above two hundred forty (240) hours at the rate of one (1) hour of regular hourly pay for each four (4) hours of sick leave balance cashed.

C. An employee who has been granted a sabbatical leave shall be returned, at the end of the sabbatical leave period, to the position from which the leave was granted, if vacant, or to a position in the same employing unit that is substantially similar in level of duties, responsibilities, and compensation; provided, that the employee shall be subject to any changes in status or standing resulting from changes to his or her prior position as a result of budget action or reorganization. (Ord. 118958 § 1(part), 1998.)

**Chapter 4.34
VACATIONS**

Sections:

- 4.34.005** Definitions.
- 4.34.010** Annual vacations provided—Exemptions.
- 4.34.020** Vacation credit accrual rate.
- 4.34.030** Vacation allowance for department heads.
- 4.34.040** Fire Department employees' vacation allowance.
- 4.34.045** Eligibility for use of accrued vacation credit.
- 4.34.055** Use and scheduling of vacations.
- 4.34.065** Payment in lieu of use of vacation credit.
- 4.34.100** Accrual rate—Temporary employees acquiring permanent status.

4.34.005 Definitions.

As used in this chapter, the following terms shall have the meanings indicated unless another meaning is clearly indicated from the context:

A. "Employee" means an individual who works for wages or a salary in the service of the City other than (1) a person elected or appointed to a term of office, or (2) a person who, individually or with others, is the head of an employing unit. It includes full-time and part-time personnel, interim employees, and temporary workers.

B. "Employing unit" means any department of the City, and within the Executive Department, the Division of Purchases and any office created by ordinance; and any City board or commission that is an appointing authority.

C. "Interim employee" means an employee appointed to fill a permanent position for which no certification is available.

D. "Regular pay status" means regular straight-time hours of work and includes paid time off such as vacation time, holiday time off and sick leave. It excludes hours of work outside regular straight-time hours for overtime pay.

E. "Service year" means the period of time between an employee's date of hire and the one (1) year anniversary date of the employee's date of hire, and thereafter, the period of time between any two (2) consecutive anniversaries of the employee's date of hire.

F. "Temporary worker" means an employee who is hired to fill a temporary, emergency or short-term need. It includes an employee who occupies a seasonal or intermittent position or who works less than an average of twenty (20) hours per week during a year.
(Ord. 111757 § 1, 1984.)

**4.34.010 Annual vacations provided—
Exemptions.**

Annual vacations with pay or premium pay in lieu of paid vacation shall be provided to City employees in accordance with the provisions of this chapter, except as otherwise provided in authorized collective bargaining agreements.
(Ord. 111757 § 2, 1984; Ord. 110195 § 2(part), 1981.)

4.34.020 Vacation credit accrual rate.

A. Basic Structure. Except as provided in SMC 4.34.055 D and E, City employees shall accrue annual vacation credit at the rate and up to the maximum vacation balance shown in the "Accrual Rate and Maximum Accumulation Table" in SMC 4.34.020 B for each hour worked on regular pay status as shown on the payroll.

B. Accrual Rate and Maximum Accumulation Table. The vacation accrual rate shall be determined in accordance with rates set forth in Column No. 1 of Table 4.34.020 B. Column No. 2 depicts the corresponding equivalent annual vacation creditable to a full-time employee. Column No. 3 depicts the normal maximum number of hours of vacation credit that can be accrued and accumulated at any time.

C. Maximum Accrual. No employee may accrue credit for annual vacation time for more than eighty (80) hours per pay period except employees in the Health Department paid through the King County payroll system, who may accrue credit for annual vacation time up to eighty-seven (87) hours per pay period. Except as is provided in SMC 4.34.055 D and E, accrual and accumulation of vacation time shall cease at the time an employee's vacation credit balance reaches the normal maximum balance and shall not resume until the employee's vacation credit balance is below the normal maximum balance.
(Ord. 111757 § 3, 1984; Ord. 111621 § 1, 1984; Ord. 110195 § 2(part), 1981.)

**4.34.030 Vacation allowance for
department heads.**

For department heads, the annual vacation allowance shall be thirty (30) days in each calendar year. Unused days may not be carried over into subsequent years.
(Ord. 110195 § 2(part), 1981.)

**4.34.040 Fire Department employees'
vacation allowance.**

For uniformed Fire Department employees, annual vacation allowances shall be as follows:

TABLE FOR SECTION 4.34.020 B		
Column No. 1	Column No. 2	Column No. 3
Accrual Rate	Equivalent Annual Vacation Creditable to a Full-Time Employee	Normal Maximum Vacation Balance*

Hours on Regular Pay Status	Vacation Accrued Per Hour	Years of Service	Working Days Per Year	Hours	(Hours)
Less than 08321 ...	.0460	0 through 4	12	(96)	192
8321 through 18720 ...	.0577	5 through 9	15	(120)	240
18721 through 29120 ...	.0615	10 through 14	16	(128)	256
29121 through 39520 ...	.0692	15 through 19	18	(144)	288
39521 through 41600 ...	.0769	20.	20	(160)	320
41601 through 43680 ...	.0807	21.	21	(168)	336
43681 through 45760 ...	.0846	22.	22	(176)	352
45761 through 47840 ...	.0885	23.	23	(184)	368
47841 through 49920 ...	.0923	24.	24	(192)	384
49921 through 52000 ...	.0961	25.	25	(200)	400
52001 through 54080 ...	.1000	26.	26	(208)	416
54081 through 56160 ...	.1038	27.	27	(216)	432
56161 through 58240 ...	.1076	28.	28	(224)	448
58241 through 60320 ...	.1115	29.	29	(232)	464
60321 and over ...	.1153	30.	30	(240)	480

* SMC Section 4.34.055 D and E authorize temporary exceptions to this maximum balance.

A. Uniformed Fire Department employees who work an average workweek of 45.7 hours and are working on a twenty-four (24) hour shift schedule shall accrue vacation allowances as follows:

1 through 6 years' service	5 shifts	(24-hour shifts)
7 through 14 years' service	6 shifts	(24-hour shifts)
15 through 19 years' service	7 shifts	(24-hour shifts)
19 through 20 years' service	8 shifts	(24-hour shifts)
21 through 24 years' service	9 shifts	(24-hour shifts)
25 years' service	10 shifts	(24-hour shifts)
26 or more years' service	11 shifts	(24-hour shifts)

Uniformed Fire Department employees who work an average workweek of 45.7 hours and are working on a schedule of ten (10) hour day shifts and fourteen (14) hour night shifts, shall accrue vacation as follows:

1 to 7 years' service	10 shifts	(12 hours average shift)
7 to 15 years' service	12 shifts	(12 hours average shift)
15 to 20 years' service	14 shifts	(12 hours average shift)
20 to 21 years' service	16 shifts	(12 hours average shift)
21 to 22 years' service	18 shifts	(12 hours average shift)
22 to 23 years' service	18 shifts	(12 hours average shift)
23 to 24 years' service	18 shifts	(12 hours average shift)

24 to 25 years' service	18 shifts	(12 hours average shift)
25 to 26 years' service	20 shifts	(12 hours average shift)
26 years and over	22 shifts	(12 hours average shift)

B. Uniformed Fire Department employees who work an average workweek of less than 45.7 hours shall receive vacation allowances based on service in proportion to the equivalent hours of vacation allowance provided herein for uniformed fire personnel who work an average workweek of 45.7 hours.

C. Uniformed Fire Department employees may, following one (1) full calendar year of employment, carry over and/or accumulate two (2) shifts of vacation annually, provided, the number of vacation days carried over and/or accumulated shall not exceed the number of annual vacation days for which such employee is currently eligible.

D. Increased vacation allowance for uniformed Fire Department employees who have seven or more years of service shall accrue on January 1st of the year in which the service requirement is met. (Ord. 110195 § 2(part), 1981.)

4.34.045 Eligibility for use of accrued vacation credit.

A. Except as provided in SMC Section 4.34.065 B, upon attaining eligibility for the same, a City employee may use accrued vacation credit, with approval of the head of the employing unit. An employee shall attain eligibility for the use of vacation credit by completing more than one thousand forty (1040) hours of work or more than six (6) months of continuous service, whichever is earlier, each on regular pay status with the City.

B. The hours of work and continuous service requirements of SMC Section 4.34.045 A, shall be measured from (1) the date of a regularly appointed full-time or part-time employee's initial regular appointment unless a break in service occurs prior to the attainment of eligibility, in which case such measurement shall be from such employee's most recent regular appointment; (2) the date of an interim employee's most recent interim appointment; and (3) the date of a temporary worker's most recent temporary appointment. In measuring six (6) months of continuous service, no credit shall be given an employee for any single period of fifteen (15) days or more during which he or she was excused from work by an unpaid

leave of absence or was suspended from work for disciplinary purposes. (Amended during 12-96 supplement; Ord. 111757 § 4, 1984.)

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 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**

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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 Charter¹ 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 such moneys shall take the form of cash, securities or other assets. (Ord. 78444 § 8, 1949.)

4.36.030 Definitions—Alphabetical "A" through "B."1

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. "Actuarial present value" means the value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of actuarial assumptions.

F. "Adjusted benefit" means the initial benefit plus the cumulative cost of living adjustments provided for in subsection 4.36.215 B1.

G. "Annuity" means the payments derived from contributions made by a member as provided in Sections 4.36.210 and 4.36.230.

H. "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.

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

J. "Board" means "Board of Administration" as provided in Section 4.36.130.

(Ord. 120684 § 1, 2001; Ord. 120656 § 1, 2001; Ord. 119275 § 1, 1998; 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.)

1. Pursuant to Ordinance 120656, effective January 1 of the year the Retirement Board files with the City Clerk notification that the funding ratio of the retirement fund is ninety-five (95) percent or higher, subsection 4.36.030 F shall read as follows:

F. "Adjusted benefit" means the initial benefit plus the cumulative cost of living adjustments provided for in Section 4.36.215A. The adjusted benefit of employees who retired prior to January 1, 1998, shall be calculated on January 1 of the year that Section 1 of Ordinance 120656 becomes effective as if a cumulative cost of living adjustment of 1.5% per year had been in effect from the date of retirement to the date that Section 1 of Ordinance 120656 becomes

effective and then adjusted annually as provided in Section 4.36.215A. There will be no retrospective benefit payments for employees who retired prior to January 1, 1998, only prospective adjusted benefit payments from and after January 1 of the year that Section 1 of Ordinance 120656 becomes effective.

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

G. "Current benefit" means the annual payment currently paid on behalf of a member. It includes, where applicable, the permanent benefit increase granted by Ordinance 99566 and Ordinance 104156. It takes into account any reductions based on options selected by the member under Section 4.36.260. It shall also mean payments of accumulated contributions made under Section 4.36.270 A, and payments received by a beneficiary as a result of an option selected under Section 4.36.260. It shall not include the cumulative cost of living adjustments provided for in Section 4.36.215 B1.

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

I. "Death benefit assessment" means the payments required of members of the death benefit system under Sections 4.36.320 and 4.36.330.

J. "Domestic partner" as used in this chapter means an individual designated by an unmarried City officer or employee in an affidavit filed pursuant to Seattle Municipal Code Sections 4.30.020 and 4.36.185 and qualified under Section 4.30.010. (Ord. 119707 § 1, 1999; Ord. 119275 § 2, 1998; Ord. 119220 § 1, 1998; 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. 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.

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

D. "Funding Ratio" means the ratio of the actuarial value of assets over the actuarial accrued liabilities as determined by an actuarial valuation ordered by the Retirement Board.

E. "Indexed benefit" means the initial benefit payable on behalf of a member, adjusted for inflation in an amount equal to the ratio of the June Seattle-Tacoma-Bremerton ("STB") Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W") for the current year over the STB CPI-W for the first half of the calendar year in which a benefit payable on behalf of a member was first paid. If the benefit was first paid during a year in which this index did not exist, the Board shall establish a similar index value to represent the June index value based on published Consumer Price Index information for the Seattle area.

F. "Initial benefit" means the retirement allowance as calculated to be effective on the date of the member's retirement. It takes into account any reductions based on options selected by the member under Section 4.36.260. It shall also mean payments of accumulated contributions made under Section 4.36.270 A, and payments received by a beneficiary as a result of an option selected under Section 4.36.260.

G. "Member" means any person included in the retirement system as provided in Section 4.36.100. (Ord. 120656 § 2, 2001; Ord. 120358 § 1, 2001; Ord. 119275 § 3, 1998; Ord. 119220 § 2, 1998; 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 annual amount payable to the member, and shall be equal to the sum of the member's 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. 119220 § 3, 1998; 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.)

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.)

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, except that six (6) months' continuous service shall not be required for officers and employees to whom subsection L of this section applies:

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 with-

draw 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 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 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. However, a member may purchase creditable service for City service previously rendered but not credited if the member pays into the retirement fund at the time of resignation or at retirement, the actuarial present value of the resulting increase in his or her benefit. Terms and conditions of the purchase shall be in accordance with the provisions of SMC 4.36.190 B4. If an officer who is a member should leave City service and later return, the officer shall resume his or her membership by making a redeposit as contemplated by Section 4.36.190 or become a member upon 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) resume his or her membership by making a redeposit as contemplated by Section 4.36.190, or (b) rejoin the retirement system 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

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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 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.

L. Membership On and After January 1, 1999. The six (6) months' continuous service requirement shall not apply to any officer or employee, including any part-time employee authorized to become a member pursuant to Section 4.36.103, who would otherwise be obliged or have the option to become a member of the retirement system upon completion of six (6) months' continuous service, if such officer or employee enters City service on or after January 1, 1999, or has been in City service less than six (6) months as of January 1, 1999.

Officers and employees who have been in City service less than six (6) months as of January 1, 1999 may become members as of January 1, 1999. (Ord. 120684 § 2, 2001: Ord. 119291 § 1, 1998; 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.)

4.36.101 Use of other Plan funds for purchase of service credit.

A. Direct Transfers. Effective January 1, 2002, the retirement fund possesses the specific authority to enter into direct transfer of assets agreements with the trustees of an eligible plan under Section 457 of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or from a plan under Section 403(b) of the Internal Revenue Code, for the purchase of creditable service otherwise available pursuant to SMC Chapter 4.36.

B. Other Rollovers. Effective January 1, 2002, the retirement fund may accept participant rollover contributions and/or direct rollovers of distributions from other retirement plans which are eligible retirement plans described in Internal Revenue Code Section 402(c)(8)(B) to the extent allowed by the Internal Revenue Code. The fund may accept rollovers from such sources and may develop such procedures and rules as it deems necessary or desirable to comply with the requirements and guide its decisions regarding participant rollover contributions and/or direct rollovers of distributions it will accept. Such rollover contributions and direct rollovers may be used for the purchase of service credit otherwise available pursuant to SMC Chapter 4.36. (Ord. 120684 § 3, 2001.)

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

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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 (5½) 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 (5½) 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.

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 shall have six (6) months thereafter to acquire service credit for prior 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 (6) percent shall have such rate increased by 2.03%; provided, further, that any reinstated member who has redeposited his/her withdrawn contri-

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butions 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 (6) percent 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 Director of Executive Administration 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 Director of Executive Administration 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 account 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, except when an officer or employee becomes a member during the first six (6) months of City service as authorized by subsection L of Section 4.36.100.

(Ord. 120794 § 61, 2002; Ord. 119291 § 2, 1998; 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 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 69816¹ 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 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.

D. A member of the City Employees' Retirement System who has entered into an irrevocable separation incentive agreement with the City pursuant to the terms of either of the ordinances introduced as Council Bills 114257 and 114258 may purchase up to four (4) years of service credit from the Retirement System. To acquire such service credit:

1. The member shall, within fourteen (14) days of payment of the net proceeds of the separation incentive payment, pay a lump sum into the retirement fund representing the employee's and the employer's contributions otherwise required to receive such service credit pursuant to Seattle Municipal Code Chapter 4.36; and

2. The member may include in this lump sum additional personal resources to the extent permitted by law in order to purchase the full four (4) years of service credit. Direct transfers and other rollovers of funds from other retirement plans under Municipal Code Section 4.36.101 must be made prior to the member's separation from City employment; and

3. All purchases under this subsection are subject to all other limitations on total service credit and benefits allowable under SMC Chapter 4.36.

(Ord. 120891 § 1, 2002; 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.

4.36.124 Purchase of creditable service for military service.

A member may purchase creditable service for past active duty in the armed forces of the United States of America or the State of Washington, by paying into the Retirement Fund, at the time of resignation from City service or at the time of retirement, the actuarial present value of the resulting increase in his or her benefit. Terms and conditions of purchase shall be in accordance with the provisions of SMC subsection 4.36.190 B4. In no instance shall military service in excess of five (5) years be credited under this chapter. In no instance shall military service be credited to any member

who is receiving full military retirement benefits pursuant to Title 10, United States Code. (Ord. 120684 § 4, 2001)

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 Director of Executive Administration to the retirement system. When payroll records are available, the Director of Executive Administration 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 Director of Executive Administration 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. 120794 § 62, 2002; 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 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 Director of Executive Administration 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 Director of Executive Administration shall be the custodian of the retirement fund. All payments from said fund shall be made upon warrant duly issued by the Director of Executive Administration in the name of the City Director of

Finance or, if the fund is solvent at the time payment is ordered, by check. As custodian, the City Director of Executive Administration 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.

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. 120794 § 63, 2002; Ord. 120114 § 10, 2000; 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 Director of Executive Administration, 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 (102) percent of the market value of the securities loaned is continuously maintained.

(Ord. 120794 § 64, 2002; 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 Director of Finance, the Director of Executive Administration, 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. 120794 § 65, 2002; 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,

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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.)

4.36.150 1975 Increase in existing retirement allowances.

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 based:

Year of retirement	Percentage increase of monthly benefit payable immediately prior to January 1, 1975
1973	1 percent
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

Year of retirement	Percentage increase of monthly benefit payable immediately prior to January 1, 1975
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 4.36.155, 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.
(Ord. 120358 § 2, 2001.)

4.36.155 Annual bonus dividend for current and future retirees.¹

Each January, the Board of Administration shall declare a supplemental monthly dividend payable to all members and beneficiaries who will receive a current benefit during that year as described in subsection I of this section. Each December, the

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Board of Administration shall declare and pay to all retired members and beneficiaries receiving a current benefit the base annual bonus dividend described in subsections A through H, inclusive, plus the supplemental dividend adjustment described in subsection I of this section, if applicable. Such dividends will be calculated and paid in accordance with the following formula:

A. One (1) percent of the current benefit, payable on behalf of members who retired in the current and immediately preceding year;

B. Three (3) percent of the current benefit, payable on behalf of members who have been retired from two (2) to five (5) years, inclusive;

C. Six (6) percent of the current benefit, payable on behalf of members who have been retired from six (6) to nine (9) years, inclusive;

D. Nine (9) percent of the current benefit, payable on behalf of members who have been retired from ten (10) to thirteen (13) years, inclusive;

E. Twelve (12) percent of the current benefit, payable on behalf of members who have been retired from fourteen (14) to eighteen (18) years, inclusive;

F. Fifteen (15) percent of the current benefit, payable on behalf of members who have been retired from nineteen (19) to twenty-three (23) years, inclusive;

G. Eighteen (18) percent of the current benefit, payable on behalf of members who have been retired from twenty-four (24) to twenty-eight (28) years, inclusive;

H. Twenty-one (21) percent of the current benefit, payable on behalf of members who have been retired twenty-nine (29) or more years;

I. This subsection applies to members, or beneficiaries receiving payments on behalf of any such member, who retired before January 1, 1998. If the sum of that beneficiary's current benefit plus the base annual bonus dividend as established in subsections A through H of this section above is less than sixty (60) percent of the beneficiary's indexed benefit, then the beneficiary's total annual bonus dividend shall be equal to the difference between the current benefit and sixty (60) percent of the beneficiary's indexed benefit. However, in no year may the amount of the total annual bonus dividend be less than the amount of the total annual bonus dividend paid in the previous calendar year. The total annual bonus dividend is paid as the base annual bonus dividend plus supplemental monthly

dividends and a supplemental dividend adjustment to the base annual bonus dividend. Each year in January the Retirement Board shall compute the supplemental monthly dividend based upon the total supplemental dividends paid during the previous calendar year divided by twelve (12). In December of each year, a supplemental dividend adjustment shall be computed equal to the difference between the sum of the supplemental monthly dividends paid in January through November of that calendar year and the total supplemental dividend payable for that calendar year.

(Ord. 120685 § 2, 2001; Ord. 120656 § 4, 2001; Ord. 119360 § 1, 1999; Ord. 119275 § 4, 1998; Ord. 119220 § 4, 1998; Ord. 111303 § 1, 1983.)

1. Pursuant to Ordinance 120656, effective January 1 of the year the Retirement Board files with the City Clerk notification that the funding ratio of the retirement fund is ninety-five (95) percent or higher, subsection 4.36.155 of the Seattle Municipal Code is repealed.

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) outstanding at any one (1) time, and at interest rates not to exceed six (6) percent 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.

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(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.)

4.36.185 Beneficiaries—Domestic partners.

An unmarried officer or employee may designate his or her domestic partner as his or her beneficiary for purposes of the benefits set forth in Sections 4.36.200, 4.36.210, 4.36.230, 4.36.260, 4.36.270 and 4.36.320 of this chapter upon the following terms and conditions.

A. The officer or employee shall file an affidavit of domestic partnership as described in Section 4.30.010 and 4.30.020 of the Seattle Municipal Code and file a copy of said affidavit with the Executive Director of the Retirement System. If the member is no longer an officer or employee of the City, he or she may designate his or her domestic partner by signing an affidavit as described in Section 4.30.020 of the Seattle Municipal Code and filing said affidavit with the Executive Director of the Retirement System.

B. A member who is married may not file an affidavit of domestic partnership. If a member has filed an affidavit of domestic partnership and is married, or thereafter becomes married, such affidavit shall be considered void. A member who has filed an affidavit of domestic partnership pursuant to this section shall immediately notify the Executive Director in writing if he or she has married and shall promptly file with the Executive Director a termination of the affidavit of domestic partnership. Termination of domestic partnership shall otherwise be as provided in Section 4.30.030 of the Seattle Municipal Code provided that the member shall also file a notice of termination of domestic partnership with the Executive Director.

C. Nothing in this chapter shall be construed as granting to a domestic partner a property right to retirement benefits of a member. A member who has filed an affidavit of domestic partnership with the Executive Director does not need the consent of his or her domestic partner to take action with respect to his or her retirement benefits, including selection of a retirement option.

The Retirement Board is authorized to promulgate such rules as it deems necessary to implement this section.

(Ord. 119707 § 2, 1999.)

4.36.190 Discontinuance or reentrance of eligible employee—Purchase of creditable service.

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.

B. Redeposit and Purchase of Creditable Service.

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, or some part thereof, plus compound interest, at the actuarial assumed rate of investment return, which would have accumulated on the amount, as determined by the Board, between the date of his or her last termination of his or her membership and the date of redeposit. Within two (2) years after his or her re-entry into City service, a former member must redeposit the entire sum determined to be due to purchase all, or part of, their former creditable service, or sign and file with the Board a redeposit contract in accord with subsection C in order to reestablish all or part of his or her former creditable service. In the event such redeposit is made by a member, the City shall reinstate all or that part of the former creditable service purchased by the member.

2. 2001-2002 window period. During the period December 1, 2001 through December 31, 2002, a current member may redeposit into the retirement fund an amount equal or some part thereof, to that which he or she previously withdrew therefrom at the date of his or her last termination of membership plus compound interest, at the actuarial assumed rate of investment return which would have accumulated on the amount as determined by the Board, between the date of his or her last termination of membership and the date of redeposit. In the event such redeposit is made by a member, the City shall reinstate all, or part of, the former creditable service purchased by the member.

3. If a member within two (2) years 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, he or she may purchase all, or some part of, his or her former creditable service only by paying into the retirement fund the amount, or some part

thereof, he or she previously withdrew plus compound interest as determined by the Board. The following provisions apply to redeposits made pursuant to this subsection SMC 4.36.190 B3:

a. Determination of applicable interest rates. The interest rate for each year since the date of withdrawal of contributions shall be the greater of the rate the retirement fund has earned, net of fees, as reported by the Retirement System's Investment Performance Consultant, or the interest rate equivalent to the actuarial assumed rate of investment return at the time of executing the redeposit contract.

b. Calculation of "accumulated contributions." For purposes of determining a member's accumulated contributions pursuant to SMC Section 4.36.030 B, only a portion of the total amount deposited shall be considered. The portion to be considered as the member's accumulated contributions shall be only the amount previously withdrawn as the member's contributions including interest, plus interest calculated at the actuarial assumed rate of investment return.

c. Withdrawal of contributions limited. The total amount deposited for the purchase of said former creditable service will be available for withdrawal by the member only if the member terminates employment with the City and withdraws his or her total accumulated contributions prior to retirement or dies and benefits are not payable under subsections 4.36.270 B and C. In the event such redeposit is made by a member, his rate of contribution shall be as determined under subsection 4.36.110 A, and the City shall reinstate all, or that part of, the former creditable service purchased by the member.

4. Unless otherwise stated, members allowed to purchase creditable service pursuant to SMC Chapter 4.36, shall pay as a single lump sum payment at the time of retirement, the actuarial present value of the resulting increase in their benefit as provided in this subsection SMC 4.36.190 B4.

a. The actuarial present value shall be calculated by the Retirement Board using the current actuarial assumptions as approved by the Retirement Board.

b. For purposes of determining the member's accumulated contributions pursuant to SMC Section 4.36.030 B, only a portion of the total amount deposited shall be considered. The por-

tion to be considered as the member's accumulated contributions shall be calculated at the employee's current hourly rate times the current contribution rate times the number of hours to be purchased.

c. If a member elects to pay at resignation from City service, the actuarial present value will be estimated at the time of resignation and adjusted at retirement for factors existing at the time of retirement, if necessary, according to rules established by the Retirement Board.

d. In the event such payment is made by a member, the City shall consider such City service previously rendered as creditable service for the member.

5. Unless otherwise stated, the purchase price for the purchase of creditable service must be paid in full to the retirement fund prior to the time of resignation from City service or retirement, whichever occurs first.

C. Redeposit and Purchase Contracts. These terms and conditions govern redeposit contracts for reentering City officers and employees, deposit contracts of officers and employees joining the system under subsections C and E of Section 4.36.110 and the purchase of creditable service for past City service.

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 ten (10) 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 creditable service being purchased 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. 120921 § 2, 2002; Ord. 120684 § 5, 2001; 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.)

4.36.191 Purchase of creditable service for initial six months of City service.¹

A. Buy-back. Employees who were hired during the period 1988 through 1998 who have not purchased creditable service for the initial six (6) months of employment may purchase said creditable service by paying into the retirement fund, at the time of resignation or retirement from City service, the actuarial present value of the resulting increase in their benefit. The terms and conditions of purchase shall be in accordance with the provisions of SMC subsection 4.36.190 B4.

B. One-year Window. During a window period of one (1) year, beginning on the effective date of this section, employees who were hired during the period 1988 through 1998 who have not purchased creditable service for the initial six (6) months of City employment may purchase said creditable service by paying the purchase price, as determined by the Board, into the retirement fund, or signing a creditable service purchase contract pursuant to SMC subsection 4.36.190 C and filing it with the Retirement Board. The creditable service may be purchased based on the following price formula:

(current hourly rate) x (current member contribution rate) x (amount of hours to be purchased).

C. City Matching Contributions under Section 4.36.191 B. As matching contributions pursuant to SMC subsection 4.36.110 A, each year the employing department shall pay into the retirement fund the matching amount equivalent to any member lump sum payment made pursuant to this section or, if a member purchased pursuant to a contract under subsection 4.36.190 C, the member's current year buy back payments all as billed by the Retirement office.

(Ord. 120684 § 6, 2001.)

1. Pursuant to Ordinance 120684, Section 4.36.191 does not become effective until December 1 of the year the Retirement Board files with the City Clerk notification that the funding ratio of the retirement fund is ninety-five (95) percent or higher.

4.36.191.5 Purchase of creditable service by past employees.

A. This Section allows members who are City employees on December 1, 2001, to purchase creditable service after termination of City employment.

B. The creditable service purchase provisions established by Council Bill 113988, Ordinance 120684 shall be available to said employees until December 31, 2002, except for the purchase provisions of SMC subsection 4.36.191 B which shall be available to said employees during the entire window period described therein.

C. Creditable service purchased pursuant to this section must be paid in full by lump sum payment by the earlier of December 31, 2002, or by the date of retirement except purchases made pursuant to SMC subsection 4.36.191 B. Purchases made pursuant to SMC subsection 4.36.191 B must be paid in full by lump sum payment by the end of the window period established in said subsection or the date of retirement, whichever occurs first.

(Ord. 120684 § 7, 2001.)

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 makes writ-

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ten 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 or domestic partner, discontinuing membership will render his or her spouse or domestic partner ineligible for spousal or domestic partner 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 Internal 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. 119707 § 3, 1999; 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 eligible rollover dis-

tribution. 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.

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 deducted 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.

H. Members who have otherwise failed to exercise an option to purchase creditable service for prior service previously rendered as a temporary worker, as that term is defined at SMC 4.04.030(30), shall be allowed to purchase creditable service for service previously rendered but not credited as a temporary worker, by paying into the

retirement fund, at the time of resignation from City service or at retirement, the actuarial present value of the resulting increase in his or her benefit. The terms and conditions of purchase shall be in accordance with the provisions of SMC 4.36.190(B)(4).

(Ord. 120684 § 8, 2001; Ord. 116368 § 101, 1992; Ord. 114592 § 5, 1989.)

4.36.197 1989-90 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 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 **Scannell 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.)

4.36.199 Zoo employees transitioning to Woodland Park Zoological Society employment.

A. Authority. Notwithstanding any other provision of this Chapter 4.36, a member separating from City employment with the Department of Parks and Recreation, Zoo Program, pursuant to the ordinance introduced as Council Bill 114313, shall be eligible for those benefits to which he or she is entitled under the provisions of this chapter, or, in lieu of such benefits, such member may elect to take the lump sum payout as provided in this section. If such member elects to take the lump sum payout as provided herein, he or she must make written application therefor. If all of the conditions set forth herein are met, the Board of Administration shall, consistent with its rules and procedures, provide the member with a lump sum payout equal to the member's accumulated contribution plus interest calculated at 5.75% per annum, plus an additional amount (approximating the City's contributions on behalf of that member) equal to the member's accumulated contributions plus interest calculated at 5.75% per annum. The member may elect to have the payment made directly to a specified eligible retirement plan pursuant to Section 4.36.193.

B. Conditions and Application. The member's application shall be filed with the Board of Administration no later than December 3, 2002 and accompanied by proof that the member has irrevocably elected to separate from City employment under the terms of the Separation Incentive Program—Zoo Program established pursuant to the ordinance introduced as Council Bill 114313.
(Ord. 120921 § 1, 2002.)

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 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

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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 of this section shall not 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 B 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 or domestic partner, if named as beneficiary, and if there is no surviving spouse or domestic partner, 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 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 retirement allowance as provided in this subsection, be eligible for the alternative allowance computation provided in subsection B of Section 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 or domestic partner, if named as beneficiary, and if there is no surviving spouse or domestic partner, 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. 120358 § 3, 2001; Ord. 119707 § 4, 1999; 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.

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B. The “percentage” scale in Table 4.36.210 B 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 bene-fits of surviving spouses and domestic partners of employees receiving disability retirement benefits under Section 4.36.230 E provided, further, that such scale may also be used in determining benefits payable under Section 4.36.270 B to the surviving spouse and domestic partner 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 the limitation that the retirement allowance of a member shall not exceed sixty (60) percent of the member’s final compensation. The retirement allowance payable over and above the basic pension shall be purchased by contributions of the City. The application of the scale herein established shall be at the option of the member.

(Ord. 120358 § 4, 2001: Ord. 119707 § 5, 1999; 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.)

4.36.215 Annual cost of living adjustment.¹

A. Applicability. This section applies to all members, and beneficiaries receiving payment on behalf of any such member, who retired on or after January 1, 1998.

B. Annual Adjustment.

1. As of December 1st of each year, a member’s or beneficiary’s adjusted benefit shall be increased by one and one-half (1½) percent, except as otherwise provided in this section.

2. For any calendar year, the member or beneficiary shall receive the greater of:

- a. The adjusted benefit; or

b. The sum of the initial benefit plus the base annual bonus dividend provided for in SMC Section 4.36.155; or

c. Sixty (60) percent of the indexed benefit; or

d. The benefit paid in the prior calendar year.

(Ord. 126085 §§ 2, 3, 2001: Ord. 120656 § 4, 2001: Ord. 119360 § 2, 1999: Ord. 119275 § 5, 1998.)

- 1. Pursuant to Ordinances 120656 and 120685, effective January 1 of the year the Retirement Board files with the City Clerk notification that the funding ratio of the retirement fund is ninety-five (95) percent or higher, Section 4.36.215 shall read as follows:

4.36.215 Annual cost of living adjustment.

A. Effective with the retirement allowance payable on or about December 1st of each year, a member’s or beneficiary’s adjusted benefit shall be increased by one and one-half (1½) percent, except as otherwise provided in this section.

B. For any calendar year, the member or beneficiary shall receive the greater of:

- 1. The adjusted benefit; or
- 2. Sixty-five (65) percent of the indexed benefit.

Pursuant to Ordinance 120685, effective January 1 of the year the Retirement Board files with the City Clerk notification that the funding ratio of the retirement fund is one hundred (100) percent or higher, subsection 4.36.215 B2 shall read “Seventy (70) percent of the indexed benefit.”

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 inca-

capacity has been continuous from discontinuance of City service, shall be examined by a physician or surgeon, appointed by the Board of Administration, upon the application of the head of the office or department in which the member is employed, or upon application of the member, or a person acting in his behalf, stating that the member is permanently and totally incapacitated, either physically or mentally, for the performance of duty and ought to be retired. If such medical examination shows, to the satisfaction of the Board, that the

member is permanently and totally incapacitated either physically or mentally for the performance of duty and ought to be retired, the Board shall retire the member for disability forthwith.

C. The Board shall secure such medical services and advice as it may deem necessary to carry out the purpose of this section and of Section 4.36.240, and shall pay for such medical services and advice such compensation as the Board shall deem reasonable.

TABLE FOR SECTION 4.36.210 B

Years of Service	Retirement Age (or, for Surviving Spouse's Benefits, Deceased Member's Age at Death)									
	48	49	50	51	52	53	54	55	56	57
30 or more	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
29	1.70	1.80	1.90	2.00	2.00	2.00	2.00	2.00	2.00	2.00
28	1.60	1.70	1.80	1.90	2.00	2.00	2.00	2.00	2.00	2.00
27	1.50	1.60	1.70	1.80	1.90	2.00	2.00	2.00	2.00	2.00
26	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.00	2.00	2.00
25	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.00	2.00
24	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.00
23	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	1.90
22	1.00	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.80
21	.90	1.00	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.70
20	.82	.90	1.00	1.10	1.20	1.30	1.40	1.50	1.60	1.60
10—19	.82	.89	.96	1.03	1.10	1.20	1.30	1.40	1.50	1.50
	57	58	59	60	61	62	63	64	65	
30 or more	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
29	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
28	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
27	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
26	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
25	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
24	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
23	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
22	1.90	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
21	1.80	1.90	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
20	1.70	1.80	1.90	2.00	2.00	2.00	2.00	2.00	2.00	2.00
10—19	1.52	1.58	1.64	1.70	1.76	1.82	1.88	1.94	2.00	2.00
5—9	—	—	—	—	—	1.82	1.88	1.94	2.00	2.00

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**Seattle Municipal Code
December 2002 code update file
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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 (1½) percent 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 (1½) percent 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 (60) percent of final compensation. Notwithstanding any provision of this section to the contrary, the minimum retirement allowance shall be One Hundred Forty Dollars (\$140) 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 (1½) percent 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 A1, 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 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) 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) per month as of such date. Nothing in this subsection shall affect the amount of any bonus dividend declared pursuant to Section 4.36.150.¹ 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 99271² 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 or domestic partner 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 Section 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 spouse or domestic partner may elect to receive a cash payment of not to exceed one-half (½) 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.

The Board may in its discretion authorize such payments to a surviving spouse, who is not named as a beneficiary, if (1) 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 (2) the member died without leaving a will and the retirement allowance was the property of the marital community and the surviving spouse.

(Ord. 119707 § 6, 1999; 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: SMC Section 4.36.150 was repealed by Ord. 111303 and replaced by SMC Section 4.36.155.
2. 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.

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 compensate 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 estab-

lished 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 24,¹ 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 cancelled; 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 Administration 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 (½) of the lesser retirement allowance shall be continued throughout the life of and paid to the individual who was the spouse or domestic partner of the member at the time of retirement. If the spouse or domestic partner 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 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 individual who was the spouse or domestic partner of the member at the time of retirement. If the spouse or domestic partner 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. 119707 § 7, 1999; 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 domestic partner, or if the deceased member does not have a surviving spouse or domestic partner, 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.

B. Any surviving spouse or domestic partner, 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 or domestic partner 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 or domestic partner's death and in addition a cash payment not to exceed one-half (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 or domestic partner 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 survi-

vor'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 (1/2) of the deceased member's accumulated normal contributions. However, such 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 or domestic partner 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. 119707 § 8, 1999; 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 ben-

efit, 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.)

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 pay-

ment 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 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 or check for issuance of another in the correct amount. Warrants or checks returned on account of an incorrect address may be held as unclaimed property.

(Ord. 120114 § 11, 2000; Ord. 116069 § 1, 1992.)

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) as a death benefit shall be paid to such member's surviving spouse or domestic partner or if such deceased member does not have a surviving spouse or domestic partner, 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 designation duly executed and filed with the Board. 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.

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 member, the payment shall be Two Thousand Dollars (\$2,000).

(Ord. 119707 § 9, 1999; 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) in any calendar year.

C. An employee becoming a member of the system during the year shall pay the death benefit

4.36.340 **Error! No text of specified style in document.**

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), 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.

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.)

4.36.360 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 established by 26 U.S.C. § 415, a copy of which is attached hereto as Appendix "A" and by this reference incorporated herein.¹

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.)

1. 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 applicable requirements of 26 U.S.C. Section 401(a) and the Board is authorized to promulgate rules as it deems necessary to effectuate such compliance.
(Ord. 119590 § 1, 1999; Ord. 117978 § 3, 1995.)

4.36.400 Election to participate in RCW Chapter 41.54.

A. 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.

B. 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 subsection 4.36.210 B.

C. During the period December 1, 2001, through December 31, 2002, an active dual member, as defined at RCW 41.54.010(4), who has failed to restore creditable service pursuant to RCW 41.54.020(2), may redeposit in the retirement fund an amount equal to that which he or she

previously withdrew therefrom at the date of his or her last termination of membership plus compound interest, at the actuarial assumed rate of investment return, which would have accumulated on the amount as determined by the Board, between the date of his or her last termination of his or her membership and the date of redeposit.

D. Beginning January 1, 2003, a dual member, as defined at RCW 41.54.010(4), who has failed to restore creditable service pursuant to RCW 41.54.020(2), or subsection C of this section, may redeposit in the retirement fund an amount equal to that which he or she previously withdrew therefrom at the date of his or her last termination of membership plus compound interest as determined by the Board. The terms and conditions of purchase shall be in accordance with the provisions of subsection 4.36.190 B3.

(Ord. 120684 § 11, 2001; Ord. 120358 § 7, 2001; 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.

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 City of Seattle voluntary deferred compensation plan.

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4.38.010 City of Seattle voluntary deferred compensation plan.

The City of Seattle hereby adopts the deferred compensation plan and trust for City employees as stated in The City of Seattle Voluntary Deferred Compensation Plan and Trust ("Plan and Trust Document"), which shall be filed with the City Clerk. The administration and investment of employee deferrals shall be governed by the provisions of the Plan and Trust Document. (Ord. 119159 § 12, 1998.)

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 Dol-

lars (\$17) per week nor more than fifty (50) percent 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. 280329.1 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) 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.

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 benefit 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 appropriate billings from the Personnel Director to all departments with eligible employees and such other revenues as may be authorized by ordinance.

From this subfund shall be paid all costs and expenses, including administrative costs, arising from the unemployment insurance program and such other expenditures as may be authorized by ordinance.

(Ord. 120489 § 1, 2001; 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;

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 Director of Executive Administration.

(Ord. 120794 § 66, 2002; 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.

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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.)

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 Director of Executive Administration 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 Director of Executive Administration 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 Director of Executive Administration, 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. 120794 § 67, 2002; 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 (80) percent 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.

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 for the administrative costs of the Citywide safety program and such other revenues as may be authorized by ordinance. From this Subfund shall be paid all costs and expenses arising from self insurance by the City for workers' compensation, and for the administrative costs of the Citywide safety program and such other expenditures as may be authorized by ordinance.

(Ord. 120489 § 2, 2001; 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 Director of Executive Administration adjust rates of contributions from the respective City departments to reflect their cost experience; contract for consulting services; and, through the Director of Executive Administration, contract for reinsurance and other services and similar items as may be required to administer such program.

(Ord. 120794 § 68, 2002; Ord. 120181 § 79, 2000; 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.

4.50.020 Health Care Subfund.

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 medical, vision, dental, health care programs, 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 modifications to the City’s group life, long-term disability, and voluntary accidental death and dismemberment insurance coverages for the betterment of eligible City officers’ and employees’ health and welfare for represented employees whose unions have negotiated benefit changes, and for nonrepresented employees as the Personnel Director deems appropriate, provided such modifications fall within biennial budget limitations established by the City Council;

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;

D. Administer and make such modifications to the City’s medical plans and group dental plans, for the betterment of eligible City officers’ and employees’ health and welfare as may be agreed upon by the Joint Labor-Management Health Care Committee for employees whose union representatives are a party to the memorandum of understanding forming that committee, for represented employees whose unions are not a party to the memorandum of understanding but have negotiated benefit changes otherwise, and for nonrepresented employees as the Personnel Director deems appropriate, provided such modifications fall within biennial budget limitations established by the City Council; and

E. Administer medical and dental health care plans on a self-insured basis pursuant to authority of Chapter 48.62 RCW. (Ord. 119762 § 2, 1999; 119214 § 1, 1998; Ord. 115365 § 1, 1990.)

4.50.020 Health Care Subfund.

There is hereby created in the City treasury, as a subfund of the general fund, a "health care subfund" into which are paid all City employee and eligible retiree contributions to the medical, vision, dental, employee assistance, flexible spending accounts including dependent care assistance and health care spending, and any additional health care programs contemplated by ordinance, all money otherwise accruing to the City under such programs, and such other revenues as may be authorized by ordinance, and from which special funds shall be paid all liabilities incurred by the City by reason of such medical, vision, dental, employee assistance, flexible spending accounts including dependent care assistance and health care spending, and any additional health care programs, and such other expenditures as may be authorized by ordinance. A separate reserve of the health care subfund is hereby created to hold the reserves necessary to obtain and maintain approval by the State of Washington Risk Manager for the City's self-insured medical care program authorized under Chapter 48.62 RCW. The reserve shall maintain a balance which is equal to at least two (2) months and ten (10) days of projected health care claims and non-City administrative costs under the self-insured plans, and shall be administered in compliance with applicable law, including State of Washington self-insurance regulations, Chapter 236-22 WAC. (Ord. 120861 § 1, 2002; Ord. 120626 § 2, 2001.)

**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

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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.)

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 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.)

4.64.017 Punitive 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 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 employee 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

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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 EMPLOYEES¹**

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 Fleets and Facilities 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. 120181 § 80, 2000; Ord. 118397 § 69, 1996; Ord. 104667 § 1, 1975; Ord. 102666 § 1, 1973; Ord. 101372 § 1, 1972; Ord. 100458 § 2, 1971.)

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 provide therein in accordance with rules and regulations adopted by the Fleets and Facilities 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. 120181 § 81, 2000; 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 main-

tenance 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.

(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 Fleets and Facilities Director to be necessary for

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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 section¹ is hereby rescinded.

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

(Ord. 120181 § 82, 2000; Ord. 118397 § 71, 1996; Ord. 100458 § 3, 1971.)

1. 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 Fleets and Facilities 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. 120181 § 83, 2000; Ord. 118397 § 72, 1996; Ord. 101484 § 1, 1972; Ord. 100458 § 4, 1971.)

4.68.120 Procedure for checking out vehicles.

The Fleets and Facilities 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. 120181 § 84, 2000; 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 Fleets and Facilities 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. 120181 § 85, 2000; Ord. 118397 § 74, 1996; Ord. 100458 § 6, 1971.)

4.68.140 Payroll deductions for automobile insurance.

A. The Director of Executive Administration 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 Director of Executive Administration, 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 Director of Executive Administration 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 mak-

ing 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 Director of Executive Administration 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. (Ord. 120794 § 69, 2002; 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 Allowable and disallowable expenses.**
- 4.72.080 Rules and regulations for reimbursement.**

Subchapter II. (Reserved)

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 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,¹ 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 Director of Executive Administration or his/her designee, 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 telecommunications.

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 95751¹ 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 Director of Finance or his/her designee, by rule as hereafter authorized;
6. Meals; provided that, reimbursement shall not exceed the amount established by the Director of Finance or his/her designee 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 telecommunications.

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. 120794 § 70, 2002; Ord. 120181 § 86, 2000; Ord. 119578 §§ 1, 2, 1999; 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.)

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

4.72.020 Claims for reimbursement— Invoices and receipts.

A. Claims for reimbursement of certain expenses will be permitted in accordance with the rules, policies, and procedures established by the Director of Executive Administration or his/her designee.

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. 120794 § 71, 2002; Ord. 120181 § 87, 2000; Ord. 119578 § 3, 1999; 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 or his/her designee. Claims by employees of the City's Boards and Commissions shall be approved by the Chairperson, Board of Administrators or his/her designee. Claims by elected City officers shall be authorized and approved by each such officer.

(Ord. 119578 § 4, 1999; 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 Director of Executive Administration 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 Director of Executive Administration who shall issue warrants therefor not more than five (5) days prior to commencement of the authorized travel. If the applicable fund is solvent at the time payment is ordered, the Director of Executive Administration may elect to make payment by check. Provided, that ad-

vances to officers and employees of Seattle City Light and Seattle Public Utilities may be made by the respective heads of such departments from the appropriate revolving funds.

(Ord. 120794 § 72, 2002; Ord. 120181 § 26 (part), 2000; Ord. 120114 § 12, 2000; Ord. 119578 § 5, 1999; 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.

Repayment of advance cash allowances for travel on City business will be subject to the rules, policies, and procedures established by the Director of Executive Administration or his/her designee.

(Ord. 120794 § 73, 2002; Ord. 120181 § 89, 2000; Ord. 119578 § 6, 1999; Ord. 106525 § 6, 1977; Ord. 104601 § 5, 1975; Ord. 101295 § 6, 1972.)

4.72.070 Allowable and disallowable expenses.

Allowable and disallowable expenses shall be determined pursuant to the rules, policies, and procedures established by the Director of Executive Administration or his/her designee.

(Ord. 120794 § 74, 2002; Ord. 120181 § 90, 2000; Ord. 119578 § 7, 1999; 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 Director of Executive Administration or his/her designee is authorized to promulgate rules, policies, and procedures, consistent with this chapter. The rules, policies, and procedures promulgated by the Director of Executive Administration or his/her designee shall be made available from his/her office or from other identified locations.

A. Rates of reimbursement for meals and lodging shall be determined by the Director of Executive Administration or his/her designee and shall be identified in the rules, policies, and procedures promulgated by the Director of Executive Administration or his/her designee. 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 or the Federal Per Diem

4.76.100 **Error! No text of specified style in document.**

Index, for the city visited by the officer or employee requesting reimbursement.

B. When the State Legislature is in session, in lieu of reimbursement for meals and lodging in accordance with the rules, policies, and procedures established by the Director of Executive Administration or his/her designee, claims approved for employees in the Office of Intergovernmental Relations, shall receive an amount equal to the per diem established for the Washington State Legislature 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. 120794 § 75, 2002; Ord. 120181 § 91, 2000; Ord. 119578 § 8, 1999; Ord. 116368 § 113, 1992; Ord. 109702 § 3, 1981; Ord. 101295 § 8, 1972.)

Subchapter II. (Reserved)

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.

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.**
- 4.77.040 A 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 unim-

paired 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 confidential 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.)

4.77.040 A 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 4.78

WORKPLACE VIOLENCE PREVENTION PROGRAM

Sections:

4.78.010

Policy.

4.78.020

Workplace Violence Prevention Program authorized.

4.78.010 Policy.

The City of Seattle is committed to providing a safe and secure workplace and will not tolerate violence, threats of violence, harassment, intimidation, and other disruptive behaviors directed at its employees or members of the public while engaged in City business.

(Ord. 120938 § 1(part), 2002.)

4.78.020 Workplace Violence Prevention Program authorized.

The Personnel Director is authorized to develop, implement and promulgate rules for the administration of a Workplace Violence Prevention Program. The Program shall include but not be limited to: security assessment; violence prevention and control; training; reporting and investigation of and response to workplace violence incidents; and program evaluation.

(Ord. 120938 § 1(part), 2002.)

Chapter 4.80

AFFIRMATIVE ACTION PLAN

Sections:

4.80.010

Title.

4.80.020

Policy.

4.80.030

Findings.

4.80.040

Plan adopted.

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 **Error! No text of specified style in document.**

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, color, sex, marital status, sexual orientation, gender identity, 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. 119628 § 23, 1999; 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,¹ 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.)

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

4.80.040 Plan adopted.

The "Affirmative Action Plan" attached to Ordinance 109112¹ 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.)

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

**Chapter 4.86
SEATTLE WORKS! EXCELLENCE
AWARDS PROGRAM**

Sections:

- 4.86.010 Program purpose.**
- 4.86.020 Administration.**
- 4.86.030 Eligibility.**
- 4.86.040 Awards.**

4.86.010 Program purpose.

The Seattle Works! Excellence Awards Program shall emphasize the City's commitment to outstanding public service, teamwork in finding innovative solutions to problems, and delivering results to citizens. It shall provide for the recognition of individual City employees and employees teams for exceptional performance or achievement.
(Ord. 118966 § 3(part), 1998.)

4.86.020 Administration.

The Personnel Director or a designated representative will administer the Seattle Works! Excellence Awards Program, including establishing a nomination process, and convening an interdepartmental awards selection committee. The awards selection committee will establish award categories, accept nominations, and select award recipients based on the relative merit of their achievements. The committee may revise the award categories as needed to reflect the City's values and business objectives.
(Ord. 118966 § 3(part), 1998.)

4.86.030 Eligibility.

Only regularly appointed classified service or exempt employees may participate in the program. To be eligible for a monetary award, an employee or employee group must be responsible for performance that:

- A. Is above and beyond normal expectations; or
 - B. Represents the resolution of an extraordinary problem, the achievement of a significant and difficult goal, or the implementation of an idea for a process or system that enhances the City's performance; or
 - C. Improves the cost-effectiveness or efficiency of service delivery, brings positive recognition to the City, or adds value to a public service commensurate with the expense involved.
- (Ord. 118966 § 3(part), 1998.)

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.

4.86.040 Awards.

Each individual or group award recipient will receive a cash award or time off with pay. Effective May 1, 1998, the maximum individual monetary award shall be Five Hundred Dollars (\$500), to a maximum of Two Thousand Dollars (\$2,000) per employee group, or two (2) days off with pay. Thereafter, the amount of the monetary award may be adjusted to reflect inflationary factors and shall be provided for in the biennial budget ordinance. In addition to a cash award or time off with pay, recipients will receive certificates of appreciation and other nonmonetary mementos and honors as appropriate.

(Ord. 118966 § 3(part), 1998.)

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 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 Department of Executive Administration.

**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.

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. 120794 § 76, 2002; Ord. 118397 § 77, 1996; Ord. 116585 § 1, 1993; Ord. 95390 § 1, 1966; Ord. 86662 § 1, 1957; Ord. 81698 § 1, 1953.)

4.88.020 **Error! No text of specified style in document.**

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 4.94

SAFETY AND PERFORMANCE AWARDS

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.**

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, within the previous year, 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. 119951 § 1, 2000; 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 administration 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.

4.96.030 **Error! No text of specified style in document.**

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 or the occasion shall be in the 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 Director of Executive Administration, 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. 120794 § 77, 2002; Ord. 115303 § 3, 1990; Ord. 111787 § 3, 1984.)

Chapter 4.100

SALARY REDUCTION AGREEMENTS

Sections:

4.100.010 Salary Reduction Agreements.

4.100.020 Plan, policies and administration.

4.100.010 Salary Reduction Agreements.

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, 129, and 132 for the purpose of making it possible for employees to select on a "before-tax basis" certain taxable and nontaxable benefits such as dependent care assistance or qualified transportation fringe 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 programs 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. 120705 § 1, 2001; Ord. 118321 § 1(part), 1996; Ord. 114160 § 1(part), 1988.)

4.100.020 Plan, policies and administration.

The Finance and Personnel Director shall be responsible for developing plans, policies, and procedures to guide, implement, administer and monitor those salary reduction programs authorized in Section 4.100.010 of this chapter. The Personnel Director shall bill and collect from City departments and offices on a monthly, quarterly or annual basis the FICA and Medicare savings realized from salary reduction agreements entered into between employees and the City for the dependent care and health care savings accounts (i.e., flexible spending accounts) pursuant to the Internal Revenue Code, 26 U.S.C. Sections 125 and 129. FICA and Medicare revenue collected under this

authority shall be deposited into the Health Care Subfund to offset the administrative costs of the salary reduction agreements.
(Ord. 120861 § 2, 2002; Ord. 120705 § 2, 2001; Ord. 118397 § 80, 1996; Ord. 118321 § 1(part), 1996; Ord. 114160 § 1(part), 1988.)

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