

ORDINANCE No.

118735

Mc

Law Department

COUNCIL BILL No.

11846

OK

The City

AN ORDINANCE relating to the Ethics and Elections Commission; providing for closed hearings on Ethics Code charges upon request of certain city employees, but providing for charges and decisions to be made public if a violation is found; authorizing and making provisions for appeals to Seattle Municipal Court of certain fines imposed by the Commission for violation of the Code of Ethics; making technical corrections; and amending sections 4.16.030, 4.16.090, and 4.16.100 of the Seattle Municipal Code in connection therewith.

Honorable President:

Your Committee on

to which was referred the within report that we have considered the

COMPTROLLER FILE No.

Introduced: AUG 13 1997	By: CHOE
Referred: AUG 25 1997	To: Finance & Budget Committee
Referred:	To:
Referred:	To:
Reported: 9-29-97	Second Reading:
Third Reading: 9-29-97	Signed: 9-29-97
Presented to Mayor: 9-29-97	Approved: OCT - 6 1997
Returned to City Clerk: OCT - 6 1997	Published: full RFP.
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

9-22-97 Full Council

9-29-97 Full Council

FILE

Department

PASSED, 1-0.

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

City President:

Committee on _____

_____ was referred the within Council Bill No. _____

_____ that we have considered the same and respectfully recommend that the same:

2-97 Full Council Action: Hold one week

97 Full Council Action: Pass As Amended 9-0



Committee Chair

ORDINANCE 118735

AN ORDINANCE relating to the Ethics and Elections Commission; providing for closed hearings on Ethics Code charges upon request of certain City employees, but providing for charges and decisions to be made public if a violation is found; authorizing and making provisions for appeals to Seattle Municipal Court of certain fines imposed by the Commission for violation of the Code of Ethics; making technical corrections; and amending sections 4.16.030, 4.16.090, and 4.16.100 of the Seattle Municipal Code in connection therewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1 . Subsections C and E of Section 4.16.030 of the Seattle Municipal Code are amended as follows:

4.16.030 Definitions

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

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

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 subsections 4.16.090G and 4.16.100B 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.

Section 2 . A new subsection H is added to Section 4.16.030 of the Seattle Municipal Code as follows:

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

3 Section 3 . Section 4.16.090 of the Seattle Municipal Code is amended as follows:

4 **4.16.090 Complaints, investigations, hearings, and enforcement.**

5 In addition to the powers of the Commission and its Executive Director under SMC Sections
6 3.70.100 and 3.70.160 to initiate an investigation, an investigation may also be initiated by filing a
7 complaint.

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

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

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

4 D. If the ((Administrator)) Executive Director determines, after investigation, that there are no
5 reasonable grounds to believe that a violation has occurred, or determines that the violation was inadvertent
6 and minor, the ((Administrator)) Executive Director shall dismiss the complaint. If the ((Administrator))
7 Executive Director does so dismiss the complaint, he or she shall do so in writing, setting forth the facts
8 and the provisions of law upon which the dismissal is based, and shall provide a copy of the written
9 dismissal to the complainant, to the person named in the complaint as the alleged violator and to the
10 ((Board)) Commission.

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

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

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

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

15 Section 4 . Section 4.16.100 of the Seattle Municipal Code is amended as follows:

16 **4.16.100 Penalty for violation, appeals of fines imposed by Commission.**

17 A. Violation of any provision of Section 4.16.070 or 4.16.080 of this chapter constitutes an
18 infraction for which a monetary fine, not to exceed Five Hundred Dollars (\$500.00) may be assessed.
19 Violation may be proven by a preponderance of evidence, and need not be proven beyond a reasonable
20 doubt.

21 B. 1. Except as provided in subsection C of this section, if the Commission imposes a
22 monetary fine for violation of any provision of this chapter, the City employee on whom the fine is
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1 imposed may appeal the fine, on the Commission's record, to the Seattle Municipal Court. The Seattle
2 Municipal Court shall uphold the Commission's decision if it determines the Commission's decision was
3 not for any arbitrary, capricious, or illegal reason, and the decision was supported by substantial evidence
4 in the Commission's record. Otherwise, the Court shall modify, reverse, or remand the matter to the
5 Commission, as the Court deems appropriate.

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

19 3. Within thirty (30) days after the notice of appeal has been properly filed, served, and a
20 copy delivered to the Executive Director, the appellant shall provide the Executive Director with a record
21 of proceedings, which the Executive Director shall, if it complies with this subsection, promptly file
22 with the Municipal Court so as to present the issues raised for review. Upon payment of the costs of
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1 copying, the Executive Director shall provide the appellant a copy of the relevant papers and exhibits,
2 which shall be included in the record. The record shall also include a transcript of those portions of the
3 testimony that are designated by the appellant or by the Executive Director, who shall each designate
4 what they believe necessary to resolve disputed issues. The appellant at his or her expense shall submit
5 to the Executive Director for review and approval, if accurate, the transcript of the designated portions of
6 the testimony, prepared by a certified court reporter. The typed transcript, when certified as accurate by
7 the Executive Director, shall constitute the record for review of the portion so transcribed. If all or a
8 designated part of a tape recording is not audible, the Executive Director may prepare and certify a
9 summary of that portion of the testimony in the proceedings based on his or her notes and memory.
10 Where the Executive Director and the appellant agree that the testimony or facts are not in dispute, they
11 may jointly prepare a narrative report of some or all of the evidence or a summary of some or all of the
12 testimony in order to reduce the amount of material transcribed and to make a more compact record.

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

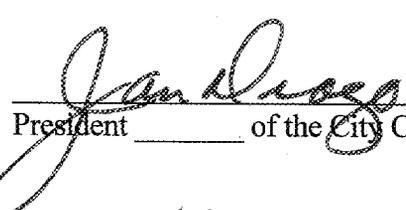
17 5. The Municipal Court shall appoint a judge pro tempore to hear appeals by employees of
18 the Municipal Court unless both the City employee and the Executive Director agree that a regular
19 Municipal Court judge may hear the case.

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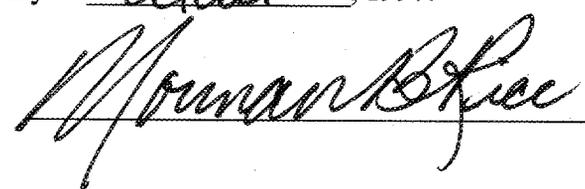
1 charges were filed had not reached written agreement with the City regarding the appeal to Municipal
2 Court of monetary fines imposed by the Commission. Persons for whom an appeal to Seattle Municipal
3 Court is not authorized by this section may seek review of a monetary fine imposed by the Commission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

5 Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its
6 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
7 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

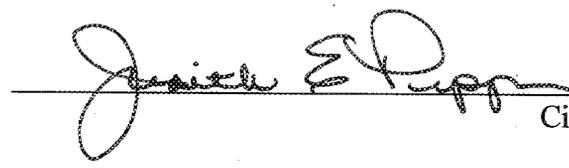
8 Passed by the City Council the 29th day of Sept, 1997, and signed by me in open
9 session in authentication of its passage this 29th day of September, 1997.

10
11 
12 _____
13 President _____ of the City Council

14 Approved by me this 6th day of October, 1997.

15 
16 _____
17 Mayor

18 Filed by me this 6 day of October, 1997.

19 
20 _____
21 City Clerk

22 (Seal)

SEATTLE CITY ATTORNEY

MARK H. SIDRAN

FAX COVER SHEET

>>>PRIVILEGED COMMUNICATION<<<

TO: Daniel Ichinaga FAX NO. 625-1052
Steve Lackich 684-4157
Bill Hauskins 684-4157
Carol Van Noy 684-8590

FROM: Sandra L. Cohen, Assistant City Attorney

DATE: September 26, 1997

CASE OR PROJECT NAME: Revised version of Ethics Code Ordinance

NUMBER OF PAGES (including cover sheet): 13

If you have any problems with this message, please contact the FAX Operator at (206) 684-8200.

MESSAGE:

Here is what I have drafted to correct the inconsistency Council member Pageler pointed out in the original between those who may request closed hearings and those who may appeal the fines to Municipal Court. We also realized that we (and the labor unions) probably intended that employees who quit or are fired between the time of the alleged violation and the hearing or fine should also be entitled to ask for a closed hearing or appeal a fine to Municipal Court. Therefore, I have added a new part to the definition of employee to include such persons for purposes of closing the hearing and appealing the fine only. (I did not want to include all former employees, since neither the City nor the unions ever talked about making these options available to former employees whose violations allegedly occurred after they had left City employment - such as contractors.) Please let me know ASAP if you see any problems with the attached.

The next 4 fax pages show the changes, and the last 8 are a clean revised version.

FAX: (206) 684-8284

IMPORTANT: The information contained in this facsimile is confidential attorney work product and may also be privileged from disclosure under the attorney-client privilege. The information is intended only for the named addressee. If you are not the intended recipient or making delivery to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. Inadvertent delivery does not waive our privilege against disclosure. If you have received the facsimile in error, please do not read it and immediately notify us by a collect telephone call to (206) 684-8200, and return the original message to us at the address above via the U.S. Postal Service. Thank you!

cc: Council members ~~Chae~~ and Pageler

CIVIL DIVISION

An equal employment opportunity - affirmative action employer
600 FOURTH AVENUE, 10TH FLOOR, SEATTLE, WASHINGTON 98104-1877
(206) 684-8200 TDD (206) 233-7206 FAX (206) 684-8284



City of Seattle

Norman B. Rice, Mayor

Executive Services Department
Dwight D. Dively, Director

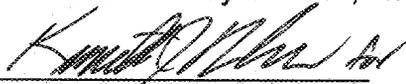
MEMORANDUM

August 8, 1997

TO: The Honorable Jan Drago, President
Seattle City Council

VIA: Honorable Norman B. Rice, Mayor
ATTN: Judy Bunnell, Acting OMP Director

FROM:


Dwight Dively
Executive Services Director


Sarah Welch
Personnel Director

SUBJECT: Proposed Legislation to Amend SMC 4.16.030, 4.16.090, and 4.16.100

The attached council bill proposes making technical corrections and amending Sections 4.16.030, 4.16.090, and 4.16.100 of the Seattle Municipal Code to provide for: closed hearings on Ethics Code charges upon request of certain City employees, charges and decision to be made public if a violation is found, and authorizing and making provisions for appeals to Seattle Municipal Court of certain fines imposed by the Seattle Ethics and Elections Commission (SEEC) for violation of the Code of Ethics.

The proposed changes in this council bill are the results of negotiations between the City and Local 17 of the International Federation of Professional and Technical Engineers, Local 763 of the International Brotherhood of Teamsters, and Local 32 of the Plumber's Union, in settlement of actions currently pending before the Public Employment Relations Commission (PERC). The SEEC was involved in those negotiations.

These actions commenced in December 1992 when Local 17 filed an Unfair Labor Practice (ULP) charge with PERC alleging that the filing of charges against a member by the SEEC was a form of discipline and the City of Seattle had failed to negotiate beyond the "exclusive" method of discipline outlined in the collective bargaining agreements. In November 1995, a PERC hearing examiner found in favor of Local 17,

Personnel Division, Dexter Horton Building, 710 Second Avenue, 12th Floor, Seattle, WA 98104-1793

Tel. (206) 684-7664, TDD: (206) 684-7888, FAX: (206) 684-4157, <http://www.ci.seattle.wa.us>

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Honorable Jan Drago
Seattle City Council
August 8, 1997
Page 2

and the City appealed the decision to the PERC. In December 1995 and January 1996, Local 763 and Local 32, respectively, filed ULPs with PERC after the SEEC fined three of their Union members for violations of the Code of Ethics. All pending actions before PERC were held while the City and the three Unions entered into settlement discussions, the results of which are contained in this council bill. Adoption of this council bill will resolve all related actions before PERC and the Unions involved. I have attached letters of concurrence signed by the three Unions.

Your favorable consideration of this council bill will be appreciated. Please direct any questions to Bill Hauskins, Labor Negotiator, 4-7818.

SW/bhm

Attachments

cc: The Honorable Tina Podlowski, Chair
Technology and Labor Committee
Civil Service Commissioners
Seattle Ethics and Elections Commission
Monica Power, OMP
Sandra Cohen, Law
Leigh Ann Tift, Law
Dean Barnes, Municipal Court
Human Resource Representatives
Personnel Division Administrators
Policy Development Unit
Labor Relations
Marvin L. Schurke, PERC



City of Seattle

LABOR RELATIONS

AUG 6 1997

RECEIVED

Norman B. Rice, Mayor
Executive Services Department
Dwight D. Dively, Director

July 3, 1997

Joseph L. McGee
Executive Director
I.F.T.P.E., Local 17
2900 Eastlake Avenue E, Suite 300
Seattle, WA 98102

SUBJECT: Settlement Agreement/Draft Ordinance/Seattle Ethics and Elections Commission

Dear Joe:

Enclosed is a copy of the signed Settlement Agreement and a draft of the ordinance that will legislate the changes we have agreed to regarding SMC Chapter 4.16 (Code of Ethics).

Please review the ordinance and if you feel it reflects our agreement, sign this letter in the space provided below and return a copy to me for my file. If you have some concerns regarding the ordinance language changes, call me at 684-7818.

Once the ordinance is adopted and signed, I will provide you a copy and will also request that the Law Department notify the Public Employment Relations Commission that the City of Seattle is withdrawing its appeal filed in Case No. 10185-U-92-02332.

Thank you for your attention in this matter.

Sincerely,

Bill Hauskins
Labor Negotiator II

BH:jmh
Enclosures
g:\labor\bill\setagr17.doc
3-Jul-97 10:04 AM

I concur

Joseph L. McGee
Executive Director
I.F.T.P.E., Local 17

8/4/97
Date

Personnel Division, Dexter Horton Building, 710 Second Avenue, 12th Floor, Seattle, WA 98104-1793

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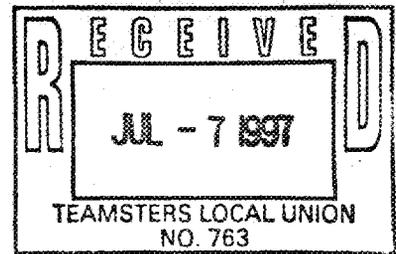
City of Seattle

Norman B. Rice, Mayor
Executive Services Department
Dwight D. Dively, Director
July 3, 1997

LABOR RELATIONS

JUL 23 1997

RECEIVED



Thomas J. Krett
Business Representative
Teamsters, Local 763
553 John Street
Seattle, WA 98109

SUBJECT: Settlement Agreement/Draft Ordinance/Seattle Ethics and Elections Commission

Dear Tom:

Enclosed are your copies of the signed Settlement Agreement and a draft of the ordinance that will legislate the changes we have agreed to regarding SMC Chapter 4.16 (Code of Ethics). Please review the ordinance and if you feel it does reflect our agreement, sign this letter in the space provided below and return a copy to me for my file. If you have some concerns regarding the ordinance language changes, call me at 684-7818.

Once the ordinance is adopted and signed I will provide you a copy. At that time I would expect you to notify the Public Employment Relations Commission that case No. 12233-U-95-02887 has been resolved and that you are withdrawing all charges filed against the City in this matter. At the same time, I will request that the City create a warrant in the amount of one hundred forty dollars (\$140.00) payable to Cynthia Campbell, and that such warrant be sent to your office for distribution.

Sincerely,

Bill Hauskins
Labor Negotiator II

I concur

Thomas J. Krett
Business Representative
Teamsters, Local 763

Date

BH/jmh
Enclosures
g:\labor\bill\seec763.doc
3-Jul-97 10:07 AM

Personnel Division, Dexter Horton Building, 710 Second Avenue, 12th Floor, Seattle, WA 98104-1793

Tel. (206) 684-7664, TDD: (206) 684-7888, FAX: (206) 684-4157, <http://www.ci.seattle.wa.us>

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City of Seattle

Norman B. Rice, Mayor
Executive Services Department
Dwight D. Dively, Director
July 3, 1997

Tim Elwell
Business Representative
Plumbers, Local 32
595 Monster Road SW, Ste 213
Renton, WA 98055

SUBJECT: Settlement Agreement/Draft Ordinance/Seattle Ethics and Elections Commission

Dear Tim:

Enclosed is a copy of the signed Settlement Agreement and a draft of the ordinance that will legislate the changes we have agreed to regarding SMC Chapter 4.16 (Code of Ethics). Please review the ordinance and if you feel it does reflect our agreement, sign this letter in the space provided below and return a copy to me for my file. If you have some concerns regarding the ordinance language changes, call me at 684-7818.

Once the ordinance is adopted and signed I will provide you a copy. At that time I would expect you to notify the Public Employment Relations Commission that case No. 12299-U-96-02905 has been resolved and that you are withdrawing all charges filed against the City in this matter. At the same time, I will request that the City create two warrants: one in the amount of one thousand dollars (\$1,000.00) payable to Sean Corr; and one in the amount of two hundred and fifty dollars (\$250.00) payable to David Guarin and that such warrants be sent to your office for distribution.

Sincerely,

Bill Hauskins
Labor Negotiator II

BH/jmh
Enclosures

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3-Jul-97 10:35 AM

I concur

Tim Elwell
Business Representative
Plumbers, Local 32

7-10-97
Date

LABOR RELATIONS

RECEIVED JUL 10 1997

RECEIVED
JUL - 7 1997
U.A. LOCAL #32





City of Seattle

rec'd 8/18

97-215

Norman B. Rice, Mayor
Executive Department - Office of Management and Planning
Judy Bunnell, Director

August 15, 1997

OK ple 8/18/97

The Honorable Mark Sidran
City Attorney
City of Seattle

COPY RECEIVED
97 AUG 18 PM 3:49
SEATTLE CITY ATTORNEY

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING DEPARTMENT: Executive Services Department

SUBJECT: AN ORDINANCE relating to the Ethics and Elections Commission; providing for closed hearings on Ethics Code charges upon request of certain City employees, but providing for charges and decisions to be made public if a violation is found; authorizing and making provisions for appeals to Seattle Municipal Court of certain fines imposed by the Commission for violation of the Code of Ethics; making technical corrections; and amending sections 4.16.030, 4.16.090, and 4.16.100 of the Seattle Municipal Code in connection therewith.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Monica Power at 684-8076.

Sincerely,

Norman B. Rice
Mayor

by

JUDY BUNNELL
Director

h:\admin\legislation\power\ Seattle Municipal Building, 600 Fourth Avenue, Seattle, WA 98104-1826
Tel: (206) 684-8080, TDD (206) 684-8118, FAX: (206) 233-0085



ORDINANCE _____

1
2
3 AN ORDINANCE relating to the Ethics and Elections Commission; providing for closed hearings on
4 Ethics Code charges upon request of certain City employees, but providing for charges and
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7 the Code of Ethics; making technical corrections; and amending sections 4.16.030, 4.16.090, and
8 4.16.100 of the Seattle Municipal Code in connection therewith.

9
10 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

11 Section 1 . Subsection 4.16.030C of the Seattle Municipal Code is amended as follows:

12 **4.16.030 Definitions**

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

14 ***

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

17 Section 2 . A new subsection H is added to Section 4.16.030 of the Seattle Municipal Code as
18 follows:

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

21 Section 3 . Section 4.16.090 of the Seattle Municipal Code is amended as follows:

22 **4.16.090 Complaints, investigations, hearings, and enforcement.**

23 In addition to the powers of the Commission and its Executive Director under SMC Sections
24 3.70.100 and 3.70.160 to initiate an investigation, an investigation may also be initiated by filing a
complaint.

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

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

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

19 D. If the ~~((Administrator))~~ Executive Director determines, after investigation, that there are no
20 reasonable grounds to believe that a violation has occurred, or determines that the violation was inadvertent
21 and minor, the ~~((Administrator))~~ Executive Director shall dismiss the complaint. If the ~~((Administrator))~~
22 Executive Director does so dismiss the complaint, he or she shall do so in writing, setting forth the facts
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1 and the provisions of law upon which the dismissal is based, and shall provide a copy of the written
2 dismissal to the complainant, to the person named in the complaint as the alleged violator and to the
3 ~~((Board))~~ Commission.

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

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

17 G. All hearings hereunder shall be conducted as "contested case" hearings under the
18 Administrative Code, Seattle Municipal Code Chapter 3.02 (Ordinance 102228) and the ~~((Board))~~
19 Commission's rules and regulations. All hearings under this section shall be open to the public unless
20 closed upon the request of the City employee who is the subject of the charges being heard, except that all
21 hearings on charges against (1) City officials elected by the public, (2) the deputy mayor, if any, (3) heads
22 of departments and executive department offices, (4) members of boards and commissions, and (5) those

1 City employees who are represented by a labor union that, on the date the charges were filed, had not
2 reached written agreement with the City concerning closing hearings on request, shall be open to the
3 public. Regardless of whether the hearing was closed, if the Commission determines this chapter was
4 violated, the charges, all recordings or transcripts of hearings that were made by the Commission, and the
5 Commission's written findings of fact and conclusions of law shall be made public.

6 H. If the ((Board)) Commission determines that a City officer or employee has violated the
7 provisions of this chapter, the ((Board)) Commission may recommend that the officer or employee be
8 subject to disciplinary action. In addition to any other penalty herein or otherwise provided by law, a
9 violation shall be cause for suspension, discharge, or removal from office, or such other disciplinary action
10 as may, by the appropriate City authority, be deemed necessary and proper, and consistent with personnel
11 ordinances and rules. A written report of the disciplinary action taken as a result of the ((Board))
12 Commission recommendation shall be made by the appropriate City authority to the ((Board))
13 Commission within fourteen (14) calendar days after receipt of the ((Board)) Commission's
14 recommendation; provided, that this section shall not derogate from employee rights under any collective
15 bargaining agreement or City personnel ordinance, or rules promulgated thereunto. If the appropriate City
16 authority determines that the written report of disciplinary action taken as a result of the ((Board))
17 Commission recommendation required in the section cannot be made to the ((Board)) Commission within
18 fourteen (14) calendar days after receipt of the ((Board)) Commission's recommendation, because of
19 procedures prescribed under any collective bargaining agreement, personnel ordinance, or rule promulgated
20 thereunto, the appropriate City authority shall so report to the ((Board)) Commission within fourteen (14)
21 calendar days after receipt of the ((Board)) Commission 's recommendation, stating the date on which the
22 written report of disciplinary action taken will be submitted to the ((Board)) Commission. If the violation

1 involves prohibited conduct of a former officer or employee, the ((Board)) Commission may recommend
2 to the administering City authority that no contract be made or that the contract be terminated and that
3 proceedings be begun anew in order to prevent injury to the City or to avoid an unfair advantage accruing
4 to a competitor by reason of the violation. Upon receipt of the written report of the disciplinary action
5 taken, or in the event no report is received, the ((Board)) Commission shall review such matter and make
6 such further recommendation as may be appropriate.

7 Section 4 . Section 4.16.100 of the Seattle Municipal Code is amended as follows:

8 **4.16.100 Penalty for violation, appeals of fines imposed by Commission.**

9 A. Violation of any provision of Section 4.16.070 or 4.16.080 of this chapter constitutes an
10 infraction for which a monetary fine, not to exceed Five Hundred Dollars (\$500.00) may be assessed.
11 Violation may be proven by a preponderance of evidence, and need not be proven beyond a reasonable
12 doubt.

13 B. 1. Except as provided in subsection C of this section, if the Commission imposes a
14 monetary fine for violation of any provision of this chapter, the person on whom the fine is imposed may
15 appeal the fine, on the Commission's record, to the Seattle Municipal Court. The Seattle Municipal Court
16 shall uphold the Commission's decision if it determines the Commission's decision was not for any
17 arbitrary, capricious, or illegal reason, and the decision was supported by substantial evidence in the
18 Commission's record. Otherwise, the Court shall modify, reverse, or remand the matter to the
19 Commission, as the Court deems appropriate.

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

11 3. Within thirty (30) days after the notice of appeal has been properly filed, served, and a
12 copy delivered to the Executive Director, the appellant shall provide the Executive Director with a record
13 of proceedings, which the Executive Director shall, if it complies with this subsection, promptly file
14 with the Municipal Court so as to present the issues raised for review. Upon payment of the costs of
15 copying, the Executive Director shall provide the appellant a copy of the relevant papers and exhibits,
16 which shall be included in the record. The record shall also include a transcript of those portions of the
17 testimony that are designated by the appellant or by the Executive Director, who shall each designate
18 what they believe necessary to resolve disputed issues. The appellant at his or her expense shall submit
19 to the Executive Director for review and approval, if accurate, the transcript of the designated portions of
20 the testimony, prepared by a certified court reporter. The typed transcript, when certified as accurate by
21 the Executive Director, shall constitute the record for review of the portion so transcribed. If all or a
22 designated part of a tape recording is not audible, the Executive Director may prepare and certify a
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1 summary of that portion of the testimony in the proceedings based on his or her notes and memory.

2 Where the Executive Director and the appellant agree that the testimony or facts are not in dispute, they
3 may jointly prepare a narrative report of some or all of the evidence or a summary of some or all of the
4 testimony in order to reduce the amount of material transcribed and to make a more compact record.

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

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

12 C. Subsection B of this section shall not apply to (1) City officials elected by the public, (2) the
13 deputy mayor, if any, (3) heads of departments and executive department offices, (4) members of boards
14 and commissions, and (5) those City employees who are represented by a labor union that, on the date the
15 charges were filed, had not reached written agreement with the City regarding the appeal to Municipal
16 Court of monetary fines imposed by the Commission. Persons for whom an appeal to Seattle Municipal
17 Court is not authorized by this section may seek review of a monetary fine imposed by the Commission in
18 King County Superior Court as provided in state law.

19 Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its
20 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
21 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

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Passed by the City Council the 11 day of September 1997, and signed by me in open session in authentication of its passage this 12 day of September, 1997.

President _____ of the City Council

Approved by me this _____ day of _____, 1997.

Mayor

Filed by me this _____ day of _____, 1997.

City Clerk

(Seal)

Shows changes from introduced version (pp. 1, 5, 6, 7)

ORDINANCE _____

AN ORDINANCE relating to the Ethics and Elections Commission; providing for closed hearings on Ethics Code charges upon request of certain City employees, but providing for charges and decisions to be made public if a violation is found; authorizing and making provisions for appeals to Seattle Municipal Court of certain fines imposed by the Commission for violation of the Code of Ethics; making technical corrections; and amending sections 4.16.030, 4.16.090, and 4.16.100 of the Seattle Municipal Code in connection therewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 4.16.030Cs C and E of Section 4.16.030 of the Seattle Municipal Code is are amended as follows:

4.16.030 Definitions

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

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

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 subsections 4.16.090G and 4.16.100B 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.

Section 2. A new subsection H is added to Section 4.16.030 of the Seattle Municipal Code as follows:

1 bargaining agreement or City personnel ordinance, or rules promulgated thereunto. If the appropriate City
2 authority determines that the written report of disciplinary action taken as a result of the ((Board))
3 Commission recommendation required in the section cannot be made to the ((Board)) Commission within
4 fourteen (14) calendar days after receipt of the ((Board)) Commission's recommendation, because of
5 procedures prescribed under any collective bargaining agreement, personnel ordinance, or rule promulgated
6 thereunto, the appropriate City authority shall so report to the ((Board)) Commission within fourteen (14)
7 calendar days after receipt of the ((Board)) Commission 's recommendation, stating the date on which the
8 written report of disciplinary action taken will be submitted to the ((Board)) Commission. If the violation
9 involves prohibited conduct of a former officer or employee, the ((Board)) Commission may recommend
10 to the administering City authority that no contract be made or that the contract be terminated and that
11 proceedings be begun anew in order to prevent injury to the City or to avoid an unfair advantage accruing
12 to a competitor by reason of the violation. Upon receipt of the written report of the disciplinary action
13 taken, or in the event no report is received, the ((Board)) Commission shall review such matter and make
14 such further recommendation as may be appropriate.

15 Section 4 . Section 4.16.100 of the Seattle Municipal Code is amended as follows:

16 **4.16.100 Penalty for violation, appeals of fines imposed by Commission.**

17 A. Violation of any provision of Section 4.16.070 or 4.16.080 of this chapter constitutes an
18 infraction for which a monetary fine, not to exceed Five Hundred Dollars (\$500.00) may be assessed.
19 Violation may be proven by a preponderance of evidence, and need not be proven beyond a reasonable
20 doubt.

21 B. 1. Except as provided in subsection C of this section, if the Commission imposes a
22 monetary fine for violation of any provision of this chapter, the personCity employee on whom the fine is
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1 imposed may appeal the fine, on the Commission's record, to the Seattle Municipal Court. The Seattle
2 Municipal Court shall uphold the Commission's decision if it determines the Commission's decision was
3 not for any arbitrary, capricious, or illegal reason, and the decision was supported by substantial evidence
4 in the Commission's record. Otherwise, the Court shall modify, reverse, or remand the matter to the
5 Commission, as the Court deems appropriate.

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

20 3. Within thirty (30) days after the notice of appeal has been properly filed, served, and a
21 copy delivered to the Executive Director, the appellant shall provide the Executive Director with a record
22 of proceedings, which the Executive Director shall, if it complies with this subsection, promptly file
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1 with the Municipal Court so as to present the issues raised for review. Upon payment of the costs of
2 copying, the Executive Director shall provide the appellant a copy of the relevant papers and exhibits,
3 which shall be included in the record. The record shall also include a transcript of those portions of the
4 testimony that are designated by the appellant or by the Executive Director, who shall each designate
5 what they believe necessary to resolve disputed issues. The appellant at his or her expense shall submit
6 to the Executive Director for review and approval, if accurate, the transcript of the designated portions of
7 the testimony, prepared by a certified court reporter. The typed transcript, when certified as accurate by
8 the Executive Director, shall constitute the record for review of the portion so transcribed. If all or a
9 designated part of a tape recording is not audible, the Executive Director may prepare and certify a
10 summary of that portion of the testimony in the proceedings based on his or her notes and memory.
11 Where the Executive Director and the appellant agree that the testimony or facts are not in dispute, they
12 may jointly prepare a narrative report of some or all of the evidence or a summary of some or all of the
13 testimony in order to reduce the amount of material transcribed and to make a more compact record.

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

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

21 C. Subsection B of this section shall not apply to (1) City officials elected by the public, (2) the
22 deputy mayor, if any, (3) heads of departments and executive department offices, (4) members of boards
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"Clean" new version.

ORDINANCE _____

AN ORDINANCE relating to the Ethics and Elections Commission; providing for closed hearings on Ethics Code charges upon request of certain City employees, but providing for charges and decisions to be made public if a violation is found; authorizing and making provisions for appeals to Seattle Municipal Court of certain fines imposed by the Commission for violation of the Code of Ethics; making technical corrections; and amending sections 4.16.030, 4.16.090, and 4.16.100 of the Seattle Municipal Code in connection therewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1 . Subsections C and E of Section 4.16.030 of the Seattle Municipal Code are amended as follows:

4.16.030 Definitions

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

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

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 subsections 4.16.090G and 4.16.100B 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.

Section 2 . A new subsection H is added to Section 4.16.030 of the Seattle Municipal Code as follows:

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

3 Section 3 . Section 4.16.090 of the Seattle Municipal Code is amended as follows:

4 **4.16.090 Complaints, investigations, hearings, and enforcement.**

5 In addition to the powers of the Commission and its Executive Director under SMC Sections
6 3.70.100 and 3.70.160 to initiate an investigation, an investigation may also be initiated by filing a
7 complaint.

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

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

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

4 D. If the ((Administrator)) Executive Director determines, after investigation, that there are no
5 reasonable grounds to believe that a violation has occurred, or determines that the violation was inadvertent
6 and minor, the ((Administrator)) Executive Director shall dismiss the complaint. If the ((Administrator))
7 Executive Director does so dismiss the complaint, he or she shall do so in writing, setting forth the facts
8 and the provisions of law upon which the dismissal is based, and shall provide a copy of the written
9 dismissal to the complainant, to the person named in the complaint as the alleged violator and to the
10 ((Board)) Commission.

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

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

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

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

15 Section 4 . Section 4.16.100 of the Seattle Municipal Code is amended as follows:

16 **4.16.100 Penalty for violation, appeals of fines imposed by Commission.**

17 A. Violation of any provision of Section 4.16.070 or 4.16.080 of this chapter constitutes an
18 infraction for which a monetary fine, not to exceed Five Hundred Dollars (\$500.00) may be assessed.
19 Violation may be proven by a preponderance of evidence, and need not be proven beyond a reasonable
20 doubt.

21 B. 1. Except as provided in subsection C of this section, if the Commission imposes a
22 monetary fine for violation of any provision of this chapter, the City employee on whom the fine is
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1 imposed may appeal the fine, on the Commission's record, to the Seattle Municipal Court. The Seattle
2 Municipal Court shall uphold the Commission's decision if it determines the Commission's decision was
3 not for any arbitrary, capricious, or illegal reason, and the decision was supported by substantial evidence
4 in the Commission's record. Otherwise, the Court shall modify, reverse, or remand the matter to the
5 Commission, as the Court deems appropriate.

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

19 3. Within thirty (30) days after the notice of appeal has been properly filed, served, and a
20 copy delivered to the Executive Director, the appellant shall provide the Executive Director with a record
21 of proceedings, which the Executive Director shall, if it complies with this subsection, promptly file
22 with the Municipal Court so as to present the issues raised for review. Upon payment of the costs of
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1 copying, the Executive Director shall provide the appellant a copy of the relevant papers and exhibits,
2 which shall be included in the record. The record shall also include a transcript of those portions of the
3 testimony that are designated by the appellant or by the Executive Director, who shall each designate
4 what they believe necessary to resolve disputed issues. The appellant at his or her expense shall submit
5 to the Executive Director for review and approval, if accurate, the transcript of the designated portions of
6 the testimony, prepared by a certified court reporter. The typed transcript, when certified as accurate by
7 the Executive Director, shall constitute the record for review of the portion so transcribed. If all or a
8 designated part of a tape recording is not audible, the Executive Director may prepare and certify a
9 summary of that portion of the testimony in the proceedings based on his or her notes and memory.
10 Where the Executive Director and the appellant agree that the testimony or facts are not in dispute, they
11 may jointly prepare a narrative report of some or all of the evidence or a summary of some or all of the
12 testimony in order to reduce the amount of material transcribed and to make a more compact record.

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

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

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

5 Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its
6 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
7 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

8 Passed by the City Council the ____ day of _____, 1997, and signed by me in open
9 session in authentication of its passage this ____ day of _____, 1997.

10
11 _____
12 President _____ of the City Council

13 Approved by me this ____ day of _____, 1997.

14 _____
15 Mayor

16 Filed by me this ____ day of _____, 1997.

17 _____
18 City Clerk

19 (Seal)
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TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Martina Chase

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

85628
City of Seattle, City Clerk

-ss.

No. ORDINANCE IN

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 118735

was published on

10/10/97

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

R. Patterson

Subscribed and sworn to before me on

10/10/97

W. McAlister

Notary Public for the State of Washington,
residing in Seattle

PROBATE NOTICES

cluded here are many notices relating to settlements of estate matters: Notices to Creditors, Notices of Hearings, Notices of Sale, etc.

NOTICE TO CREDITORS

Estate of
JOHN P. XITCO
IN THE SUPERIOR COURT
- King County, Washington.
In the Matter of the Estate of
John P. Xitco, Deceased. No. 97-
14610-3 SEA. Notice to Creditors.

The personal representative named below has been appointed and has qualified as personal representative of this estate. Persons having claims against the decedent must, prior to the time such claims would be barred by any otherwise applicable statute of limitations, serve their claims on the personal representative or the attorney of record at the address stated below and file an executed copy of the claim with the Clerk of this Court within four (4) months after the date of first publication of this notice or within four (4) months after the date of the filing of the copy of this Notice with the Clerk of the Court, whichever is later or, except under those provisions included in RCW 11.40.011 or RCW 11.40.013, the claim will be forever barred. This bar is effective as to claims against both the probate assets and nonprobate assets of the decedent.

Date of filing copy of Notice to Creditors with Clerk of the Court: October 9, 1997.

Date of first publication: October 10, 1997.

RICHARD C. JOHNSON,
Trident Seafood Corp.,
Personal Representative.
Address: 5303 Shilshole Avenue N. W., Seattle, WA 98107.
Telephone: (206) 783-3818.

BYRON D. CONEY, WSBA
-7, Attorney for Estate. Address: 1047 Belmont Place East, Seattle, WA 98102. Telephone: (206) 324-6133. 10/24(856670)

NOTICE TO CREDITORS

Estate of

King County.
In the Matter of the Estate of
Clarence A. Olson, Deceased.
Probate No. 97-4-04604-9 SEA. Notice to Creditors.

The personal representative named below has been appointed and has qualified as personal representative of this estate. Persons having claims against the decedent must, prior to the time such claims would be barred by any otherwise applicable statute of limitations, serve their claims on the personal representative or the attorney of record at the address stated below and file an executed copy of the claim with the Clerk of this Court within four months after the date of first publication of this notice or within four months after the date of the filing of the copy of this Notice with the Clerk of the Court, whichever is later or, except under those provisions included in RCW 11.40.011 or RCW 11.40.013, the claim will be forever barred. This bar is effective as to claims against both the probate assets and nonprobate assets of the decedent.

Date of filing copy of Notice to Creditors with Clerk of the Court: October 9, 1997.

Date of first publication: October 10, 1997.

Personal Representative:
MRS. JOHANNA E. DORR,
c/o MR. ROBERT W. LINTOTT,
9256 26th Avenue S. W.,
Seattle, WA 98106.

Attorney for Estate: **ROBERT W. LINTOTT,** 9256 26th Avenue S. W., Seattle, WA 98106.
Telephone: (206) 768-9560.
10/24(856659)

NOTICE TO CREDITORS

Estate of
GENEVIEVE C. DORAN
IN THE SUPERIOR COURT

for the State of Washington in
and for the County of King.

In re the Matter of the Estate
of Genevieve Catherine Doran,
Deceased. No. 97-4-04565-
4SEA. Notice to Creditors.

The Personal Representative named below has been appointed and has qualified as personal representative of this estate. Persons having claims against the decedent must, prior to the time such claims would be barred by any otherwise applicable statute of limitations, serve their claims on the Personal Representative or the attorney of record at the address below stated and file an executed copy of the claim with the Clerk of this Court within four months after the date of first publication of this notice or within four months after the date of the filing of the copy of this Notice with the Clerk of the Court, whichever is later or, except under those provisions included in RCW 11.40.011 or RCW 11.40.013, the claim will be forever barred. This bar is effective as to claims against both the probate assets and nonprobate assets of the decedent.