

Title 3

PERSONNEL

CHAPTERS:

- 3.04 PURPOSE.**
- 3.08 DEFINITIONS.**
- 3.12 CODE OF ETHICS.**
- 3.13 DOMESTIC VIOLENCE IN THE WORKPLACE.**
- 3.14 WHISTLEBLOWER PROTECTION.**
- 3.15 WORKPLACE SAFETY AND VIOLENCE PREVENTION.**
- 3.16 EQUAL EMPLOYMENT OPPORTUNITY.**
- 3.17 DRUG FREE WORKPLACE.**
- 3.20 CAREER SERVICE ADMINISTRATION.**
- 3.24 SELECTION PROCESS.**
- 3.28 CERTIFICATION AND APPOINTMENT.**
- 3.32 CLASSIFICATION PLAN.**
- 3.36 SALARY PLAN.**
- 3.40 PERSONNEL BOARD APPEALS.**
- 3.44 EMPLOYEE RELATIONS.**
- 3.48 GRIEVANCE PROCEDURE.**
- 3.52 WORKING CONDITIONS.**
- 3.56 HEALTH INSURANCE.**
- 3.58 LIFE INSURANCE.**
- 3.60 INDUSTRIAL INSURANCE.**
- 3.64 ACCIDENT REPORTS.**
- 3.67 FAMILY AND MEDICAL LEAVE.**
- 3.68 SICK LEAVE.**
- 3.69 HUMANITARIAN CATASTROPHIC LEAVE BANK.**
- 3.70 SHARED SICK LEAVE.**
- 3.72 VACATION LEAVE.**
- 3.76 LEAVE OF ABSENCE WITH PAY.**
- 3.80 LEAVE OF ABSENCE WITHOUT PAY.**
- 3.81 MILITARY SERVICE.**
- 3.84 RETIREMENT.**
- 3.85 VOLUNTEER RESERVE DEPUTY SHERIFF RETIREMENT AND RELIEF BENEFITS.**
- 3.88 LONGEVITY BENEFITS.**
- 3.92 REIMBURSEMENT OF EXPENSES.**
- 3.96 DEFERRED COMPENSATION.**
- 3.98 DOMESTIC PARTNERSHIP BENEFITS.**

Chapter 3.04

PURPOSE

Section:

3.04.010 Purpose.

Cross-reference: Pierce County Charter Section 7.10

3.04.010 Purpose.

The Pierce County personnel system shall assure recruitment, selection and retention of County employees on the basis of merit; the development of a County Career Service; promotion on the basis of demonstrated ability; and compensation and personnel practices which will keep the County system competitive. (Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 84-38 § 1, 1984; prior Code § 6.02.010)

Chapter 3.08

DEFINITIONS

Sections:

- 3.08.010 Generally.**
- 3.08.020 Administrative Guidelines.**
- 3.08.030 Appointing Authority.**
- 3.08.040 Basis of Merit.**
- 3.08.050 Board.**
- 3.08.060 Charter.**
- 3.08.070 Class.**
- 3.08.080 Council.**
- 3.08.090 County.**
- 3.08.100 Department Director.**
- 3.08.105 E-Verify.**
- 3.08.110 Employee.**
- 3.08.120 Employment Positions.**
- 3.08.130 Executive.**
- 3.08.140 Grievance.**
- 3.08.150 Human Resources Director.**

3.08.010 Generally.

The following words and terms as used in this Title and its Administrative Guidelines shall have the meaning indicated in this Chapter unless the context clearly indicates otherwise. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.03 (part))

3.08.020 Administrative Guidelines.

"Administrative Guidelines" means those operational procedures promulgated by the Human Resources Director necessary to implement personnel policies or requirements consistent with this Code, the Charter, state and federal law. (Ord. 2004-7s § 2 (part), 2004; Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.060)

3.08.030 Appointing Authority.

"Appointing Authority" means persons empowered with lawful authority by ordinance, law or Charter to appoint and/or remove employees from positions in the County service, or persons delegated by such Appointing Authority to perform duties which legally may be delegated. Generally, the director of the department is the Appointing Authority. (Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.130)

3.08.040 Basis of Merit.

"Basis of merit" means the value, excellence or superior quality of an individual's work performance, as determined by a structured process comparing the employee's performance against defined standards, and/or where possible, the performance of other employees in the same or similar classification. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.150)

3.08.050 Board.

"Board" means the Pierce County Personnel Board as established by Section 7.40 of the Pierce County Charter. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.170)

3.08.060 Charter.

"Charter" means the Pierce County Charter, including any amendments thereto. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.190)

3.08.070 Class.

"Class" means a position or group of positions, established under the authority of this Title, sufficiently similar in respect to duties, responsibilities and authority thereof, that the same descriptive title may be used to designate each position allocated to the class; that essentially similar requirements as education, experience, ability and other qualifications should be required of the incumbents; that similar tests of fitness may be used to choose qualified employees; and that similar schedules of compensation can be made to apply with equity. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.200)

3.08.080 Council.

"Council" means the Pierce County Council as established by Article 2 of the Charter. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.240)

3.08.090 County.

"County" means the County of Pierce County and any other organization that is legally governed by the County with respect to human resources matters. (Ord. 2004-7s § 2 (part), 2004; Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.250)

3.08.100 Department Director.

"Department director" means an elected official or an employee appointed by the Executive and confirmed by the Council, or designee. (Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.280)

3.08.105 E-Verify.

"E-Verify" shall mean the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Pub. L. No. 104-208, Division C, Title IVY s. 403(a), as amended, and operated by the United States Department of Homeland Security, or a successor electronic verification of work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees pursuant to the Immigration Reform and Control Act of 1986, Pub. L. No. 99-603. (Ord. 2009-74s § 1 (part), 2009)

3.08.110 Employee.

"Employee" means a person whose status is one of the following:

- A. Exempt employee: An employee exempt from the Career Service as defined in subsection B. of Section 3.20.020.
- B. Potential Career Service employee: An employee whose status is one of the following:
 - 1. Provisional employee: An employee who possesses the minimum qualifications established for a class and who has been temporarily appointed, without a competitive examination, to fill a position in the absence of a current list of eligible applicants certified by the Human Resources Director. Such appointment is limited to 30 days after a list is established for the class or a maximum of 6 months, whichever occurs earlier;

2. Probationary employee: An employee who has been certified and appointed, but who has not completed the probationary period which is the final step in the competitive selection process for the Career Service. An appointment as a Career Service employee is not final until the employee successfully completes this period.
 - C. Career Service employee: an employee who was retained in a Career Service position after completion of a probationary period as provided in this Title.
 - D. Use of the term "employee" for County benefits: The following are either not considered to be employees of Pierce County or are exempt employees. None of the following are eligible for earning of County benefits (vacation leave, sick leave, holiday pay, health insurance, longevity pay, leave with or without pay, retirement, etc.) unless provided by State law or specific Code language:
 1. Independent contractors, employees of independent contractors, and employees of temporary employment services or agencies;
 2. All volunteer members of Boards and Commissions appointed by the Council or Executive;
 3. Extra hire employees;
 4. Limited duration employees.Elected officials are not employees and are not eligible for vacation leave, sick leave, and longevity benefits except as provided by State law.
- (Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.310)

3.08.120 Employment Positions.

- A. "Regular full-time position" means a position normally established on a permanent year-round basis requiring work on a regular schedule corresponding to the regular work schedule of the department.
- B. "Regular part-time position" means a position normally established on a permanent year-round basis requiring work on a regular schedule equal to or greater than 40 percent of the regular work schedule of the department per month, but less than full-time. Part-time employees shall be eligible for the same benefits provided to full-time employees on a prorated basis.
- C. "Extra-hire position" means a Career Service exempt temporary position without County benefits filled for a maximum duration of up to six months in a 12-month period, unless specifically extended by the Human Resources Director. Employees who work less than 40 percent of the regular work schedule of the department per month are to be considered extra-hire employees and may work for an indefinite period. Extra-hire positions are ordinarily used for seasonal peak workloads, emergency workloads, vacation relief, and other situations involving fluctuating staff.

Election worker positions for the Auditor's office are considered extra hire and shall ordinarily be employed according to the following schedule: August 1 through November 30 for the primary and general elections, and 30 workdays before and 15 workdays after special elections.

Extra-hire employment is intended to terminate before the end of the 6 month/182 calendar days, or other designated period unless the employee works less than 40 percent of the regular work schedule of the department. However, an extra-hire employee who exceeds the stated duration shall not automatically be awarded, and thereby entitled to, any different employment status or eligibility for County or other benefits.

- D. A "limited duration position" is defined as a position performing work for a specified time period related to a specific grant, capital improvement project, information systems technology project, temporary placement to backfill a regular position (due to the regular employee's temporary absence such as extended leave) or other project/substantial body of work for a total of greater than 6 months in a 12-month period, and need not work on a continual basis within that 12-month period.

Limited duration employees may be hired on approval of the Human Resources Director on a full-time or part-time basis, and need not work on a continual basis within that 12-month period. Employees may not be employed in limited duration positions longer than three years beyond the date of hire, except for grant funded projects where the grant is periodically renewed. Limited duration employees are not regular employees, are not members of the Career Service or Civil Service, and serve at the will of the Appointing Authority. However, they shall receive full employee benefits (or a prorated portion for part-time work), e.g., paid leave benefits and health insurance benefits including medical and dental (subject to any waiting periods and employee contributions) if they work on a regular schedule equal to or greater than 40 percent of the regular work schedule of the department per month. Benefit eligibility shall begin, subject to any waiting periods, only upon appointment to a limited duration position, regardless of prior status, and ends upon the completion of the designated project or assignment, regardless of subsequent employment, with the following exceptions:

1. When a Limited Duration employee is hired into another Limited Duration position or a regular, benefit eligible position without a break in service, the employee shall be allowed continued eligibility for health insurance benefits in accordance with plan sponsor rules.
2. When a Limited Duration position becomes a regular position (same position/same work) and the incumbent is selected for the regular position through a meritorious process without a break in service, the employee shall receive continued leave benefits, including accrual counters and balances.
3. At the time of regular appointment from a Limited Duration position, the Human Resources Director or designee shall determine proper step placement in the salary plan.

(Ord. 2011-28 § 1 (part), 2011; Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 99-98 § 1, 1999; Ord. 98-123 § 1 (part), 1998; Ord. 92-163 § 1 (part), 1993; Ord. 87-31 § 3, 1987; Ord. 84-35 § 1, 1984; Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.330)

3.08.130 Executive.

"Executive" means the Pierce County Executive or designee, as established by Article 3 of the Charter. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.360)

3.08.140 Grievance.

"Grievance" means a formal complaint initiated by an employee concerning the interpretation or application of the provisions of the Administrative Guidelines for Career Service. (Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.380)

3.08.150 Human Resources Director.

"Human Resources Director" means the Department Director of the Human Resources Department of Pierce County, or designee. (Ord. 2004-7s § 2 (part), 2004; Ord. 82-56 § 2 (part), 1982; prior Code § 6.03.440)

Chapter 3.12

CODE OF ETHICS

Sections:

- 3.12.010 Purpose.**
- 3.12.020 Definitions.**
- 3.12.030 Ethical Standards and Prohibited Practices Enumerated.**
- 3.12.035 Advisory Opinions.**
- 3.12.040 Financial Disclosure.**
- 3.12.050 Administration of Reports.**
- 3.12.054 Lobbyist Registration.**
- 3.12.056 Lobbyist Reporting.**
- 3.12.057 Exemptions.**
- 3.12.060 Hearing Officer.**
- 3.12.070 Ethics Commission.**
- 3.12.080 Enforcement Procedures.**
- 3.12.085 Breach of Confidentiality – Civil Infraction.**
- 3.12.090 Civil Penalties – Other Sanctions Preserved.**
- 3.12.100 Criminal Penalties.**
- 3.12.110 Miscellaneous Administrative Provisions.**
- 3.12.120 Limitation on Actions.**
- 3.12.130 Severability.**

3.12.010 Purpose.

- A. The Pierce County Council recognizes the need for integrity in government and recognizes that the people of Pierce County consider governmental service to be a public trust. Accordingly, it is the purpose of this Chapter to establish ethical standards of conduct for all officials and employees of the County, and for all people dealing with Pierce County government. This Chapter is not to be construed so as to impair the ability of County officials 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 County officials, employees, and persons dealing with Pierce County government.
- C. It is the policy of Pierce County to encourage the full participation and expression of interest of all of the people of Pierce County in the legislative process. The provisions of this Ordinance shall be liberally construed to promote full disclosure of lobbying in order to protect the openness and integrity of the legislative process.

(Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.010)

3.12.020 Definitions.

The following words and phrases as used in this Chapter shall, unless the context clearly indicates otherwise, have the meanings as follows:

- A. "Anything of value" means meals, lodging and travel other than that authorized by Chapter 3.92 PCC, entertainment, any real or personal property of any kind or the voluntary rendition of services of any kind or the promise of future employment or personal benefit whether or not such items are in the form of a gift, loan, political contribution or award, but shall not include the following:

1. Items from family members or friends provided that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;
 2. Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;
 3. Items exchanged among officials and employees or a social event hosted or sponsored by a County officer or County employee for coworkers;
 4. Payments by a governmental or nongovernmental entity, provided they are not a lobbyist or lobbyist's employer, of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
 5. Items a County officer or County employee is authorized by law to accept;
 6. Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution provided they are not a lobbyist or lobbyist's employer. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
 7. Items from which the recipient receives no personal benefit and which are returned by the recipient to the donor within 30 days of receipt;
 8. Campaign contributions reported under Chapter 42.17 RCW;
 9. Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group;
 10. Awards, prizes, scholarships, or other items provided in recognition of academic, scientific or other achievement;
 11. Any symbolic presentation the nature of which is not to financially benefit the recipient; and
 12. Relatively inexpensive items of personal property such as a box of candy or a bouquet of flowers which are given as a simple act of human kindness, thoughtfulness and appreciation.
- B. "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, consultant, holding company, joint stock company, receivership, trust or any legal entity organized for profit.
- C. "Business with which an individual is associated" means any business in which the person or a member of the person's immediate family:
1. Is a director, officer, partner, employee; or
 2. Knowingly owns, directly or indirectly, an interest (a) that exceeds one-tenth of one percent of the outstanding stock of all categories if the business is incorporated, or (b) that exceeds 1 percent of the net worth of an unincorporated business, or (c) that exceeds 1 percent of all debt obligations of the business, incorporated or unincorporated; or
 3. Attributes 5 percent or more of the net worth of the individual to ownership of a financial interest in the business.
- D. "Candidate" means any individual who seeks election to public office. Pursuant to RCW 42.17.020, an individual shall be deemed to seek election when he first:
1. Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or
 2. Announces publicly or files for office.

- E. "Compensation" means payment in any form for real or personal property or services of any kind; PROVIDED, That "compensation" shall not include per diem allowances or payments made by a sponsoring entity to reimburse a public official for expenses incurred while engaged in the official business authorized by the sponsoring entity.
- F. "Complainant" means any person filing a complaint of a violation of the Code as set forth in Section 3.12.080.
- G. "Confidential information" means information exempt from public inspection and copying pursuant to RCW 42.17.310, and information required under Sections 3.12.030 and 3.12.080.
- H. "De minimus" means small, slight or trifling.
- I. "Elected or appointed official" means any person elected at a general or special election to any executive, legislative or judicial County office and any person who is appointed to fill an elective County office. For purposes of this Code, Superior Court Judges are deemed State officials and are thus excluded from this definition.
- J. "Ethics Commission" or "Commission" means the Commission referred to in the Pierce County Charter, Section 9.50 and established in Section 3.12.070.
- K. "Executive" means the individual who serves as Chief Executive Officer of Pierce County pursuant to Pierce County Charter Section 3.20.
- L. "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, gift, contract, promise or agreement to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value. For the purposes of this Chapter, agreements to make expenditures, contracts and promises to pay may be reported as estimated obligations until actual payment is made.
- M. "Governmental body" means any department, office, commission, council, board, administration or other establishment in the administrative, legislative or judicial branch of County government over which County government may lawfully exercise its jurisdiction.
- N. "Hearing Officer" means that person designated in Sections 3.12.060 and 3.12.080 as the proper person to receive complaints of violations of this Ethics Code and to make an initial review of such complaints for the purposes and in the manner as set forth herein.
- O. "Honorarium" means money or thing of value offered to a County officer or county employee for a speech, appearance, article, or similar item or activity in connection with the County officer's or County employee's official role, but does not include reimbursement of expenses reasonably incurred.
- P. "Immediate family" means spouse (unless a legal separation exists), dependents, and any other individuals residing in the person's household.
- Q. "Lobby" and "lobbying" each mean attempting to influence, by communicating with Councilmembers or Council staff of the Pierce County Council to develop, adopt, modify or reject legislation, or attempting to influence, by communicating with the Executive or Executive staff, to approve or veto adopted legislation, or part thereof, presented to him or her.

For purposes of this Chapter, the terms "lobby" and "lobbying" do not include any of the following:

1. The act of communicating with the members of an association or organization by that same association or organization;
2. Communications or other actions made by a person related to a quasi-judicial proceeding before the Council;
3. Communications or actions made by a person related to proposed motions to confirm or reject appointments by the Executive;

4. Communications or actions made by a person related to proposed motions to exercise the Council's power of confirmation or removal;
 5. Communications or other actions related to proposed employment actions concerning legislative branch employees;
 6. Communications or other actions by any County employee acting within the scope of his or her employment with the County; or
 7. Communications or other actions by representatives of labor organizations related to existing or proposed collective bargaining agreement(s) with the County or other legislation which could affect specific existing or proposed collective bargaining agreements.
- R. "Lobbyist" means any person who lobbies for compensation.
- S. "Lobbyist's employer" means the person or persons by whom a lobbyist is employed or otherwise compensated for acting as a lobbyist. For purposes of this Chapter, the term "lobbyist's employer" includes, but is not limited to:
1. Every person who engages or utilizes the services of any other person to lobby, upon an agreement express or implied, for compensation or for other consideration; and
 2. The officers and employees of such person and/or any third party who is engaged, employed, or utilized by such person to lobby.
- T. "Person" means:
1. An individual;
 2. A partnership, limited partnership, public or private corporation, or joint venture;
 3. A nonprofit corporation, organization, or association, including but not limited to, a national, state, or local labor union or collective bargaining organization and a national, state, or local trade or professional association;
 4. A federal, state, or local governmental entity or agency, however constituted;
 5. A candidate, committee, political committee, bona fide political party, or executive committee thereof; and
 6. Any other organization or group of persons, however organized.
- U. "Pierce County employee" means any individual who holds a position listed in Section 3.08.120 PCC or who is responsible for taking or recommending Pierce County official action of a nonministerial nature with regard to:
1. Contracting or procurement;
 2. Administering or monitoring grants or subsidies;
 3. Planning or zoning;
 4. Inspecting, licensing, regulating or auditing any person;
 5. Any other activity where the official action has an economic impact of greater than a de minimus nature on the interests of any person.
- V. "Pierce County personnel" means any employee or elected or appointed official of Pierce County.
- W. "Political contribution" means any advance, conveyance, distribution, transfer of funds or anything of value, including personal and professional services for less than full consideration, loan, payment, pledge, forgiveness of indebtedness, forbearance, gift, deposit, subscription or purchase of a ticket to a testimonial or similar fund-raising affair in connection with a political campaign and any agreement or other obligation to make a political contribution.
- X. "Section X Entity" means any entity, organization, association or agency that receives \$100,000 or more from Pierce County in any fiscal year as compensation, in full or in part, for providing direct services to residents of Pierce County. The Ethics Commission shall appoint a task force which shall hold public hearings, develop criteria for

identifying Section X entities and recommend a list of entities, organizations, associations, and agencies that meet that criteria for adoption by the Ethics Commission. Said list may be amended from time to time by the Commission.

- Y. "Respondent" means any person who is named by a complainant as allegedly violating this Code.

(Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.020)

3.12.030 Ethical Standards and Prohibited Practices Enumerated.

- A. No County personnel shall, except for compensation as provided by law, use his or her office or any confidential information received thereby for any private purpose, including, without limitation: commercial purposes, financial gain, or present or future employment. Private purpose includes benefits received by the County personnel, members of his or her immediate family, domestic partners or members of the domestic partner's immediate family, and/or a business with which the County personnel is associated.
- B. 1. No person shall offer or give anything of value to County personnel, members of their immediate family, domestic partners or members of the domestic partner's immediate family, or business with which they are associated or to any candidate for elected County office, member of his or her immediate family or business with which he is associated based on any agreement or understanding that the vote or official action of any County personnel or any candidate for elected County office would be determined thereby.
2. No County personnel or candidate for elected County office shall solicit or accept anything of value based on any agreement or understanding that the vote or official action of any County personnel or any candidate for elected County office would be determined thereby.
- C. 1. No County personnel or candidate for elected County office shall solicit or encourage, directly or indirectly, any political contribution from any County personnel, nor knowingly accept any monetary contribution from County personnel in excess of \$100.00 per candidate per calendar year.
2. Subsection C.1. above shall not apply to contributions by County personnel who are members of the immediate family of the elected official or candidate; provided, further, that each such contribution by County personnel shall be clearly identified by the donor as having been made by County personnel so that the candidate and/or the candidate's political organization can verify that the funds received are not in excess of the \$100.00 per calendar year limitation. This limitation on contributions is not intended to prohibit County personnel from voluntarily participating during off-duty hours in political activities on behalf of a candidate for County office.
3. No County personnel or candidate for County office shall use the power or authority of his or her office or position and/or the prospect of future office or position in a manner intended to induce or coerce any other person to provide, directly or indirectly, anything of value to said personnel, candidate or any other person, other than that which results naturally from the lawful and proper performance of one's official duties.
- D. No County personnel shall accept anything of value, other than compensation as provided by law, for assisting any person to present a matter to a governmental body, or to any other County personnel.
- E. No County personnel shall accept anything of value, other than compensation provided by law, for rendering the services for which he or she is legally compensated.

- F. No County personnel shall accept honoraria for any action or activity which is within the scope and duty of his or her employment by Pierce County.
- G. No County officer or County employee may receive, accept, take, seek, or solicit, directly or indirectly, anything of value for a matter connected with or related to the officer's or employee's services as such officer or employee unless otherwise provided for by law.
- H. No former County personnel shall, during the period of one year after leaving County office or employment, disclose or use any information gained by reason of his/her County employment to obtain anything of value for himself or for any other person unless the information is a matter of public knowledge or is available to the public on request.
- I. No person and no County personnel shall:
 - 1. Use, request, or permit the use of County motor vehicles, equipment, materials, or property, except in the conduct of official business;
 - 2. Use, request, or permit the use of County employee services during County time except in the conduct of official business.
- J. No County personnel shall use his or her official influence to affect an illegal revaluation of any property in which he or she, the immediate family, domestic partners or members of the domestic partner's immediate family, or a business with which he or she is associated has an interest, except through a lawful appearance at a regularly constituted public hearing.
- K. No person and no County personnel shall engage in or aid and abet any act of reprisal against any person as a consequence of that person's having made a report of violation to the Hearing Officer. Institution of formal court proceedings shall not be considered an act of reprisal.
- L. No person and no County personnel shall commit or allow any breach of confidentiality as required by this Code of Ethics in connection with any report or investigation of a violation.
- M. No person and no County personnel shall knowingly and intentionally induce or coerce or attempt to induce or coerce anyone to violate any provision of this Code of Ethics.
- N. No person and no County personnel shall knowingly file a false charge or report of violation of this Code of Ethics with the Hearing Officer.
- O.
 - 1. No County personnel or candidate for elected County office may accept gifts with an aggregate value in excess of half the threshold amount established in RCW 42.17.170(f) from a single source in a calendar year or a single gift from multiple sources with a value in excess of half the threshold amount established in RCW 42.17.170(f). For purposes of this Section, "single source" means any person, as defined in PCC 3.12.020, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an employee or candidate's family member or guest shall be attributed to the employee or candidate for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.
 - 2. The following items (a.-g.) are presumed not to influence under Sections B., D. or E. when received from nonlobbyists and may be accepted within the value limit established by subsection 1. of this Section.

Only items a.-e. of this subsection are presumed not to influence under subsections B., D. or E. when received from a registered lobbyist or lobbyist's employer and may be accepted within the value limit established by subsection 1. of this Section. No County personnel or candidate for elected County office may accept any item in subsections f. and g. from any registered lobbyist or lobbyist's employer.

- a. Unsolicited flowers, plants, and floral arrangements;
 - b. Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
 - c. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
 - d. Informational material, publications, or subscriptions related to the recipient's performance of official duties;
 - e. Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.
 - f. Food and beverages consumed at hosted receptions where attendance is related to the employee or candidate's official or prospective duties;
 - g. Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and
3. The presumption in subsection 2. of this Section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.
 4. For purposes of subsections 1. and 2. of this Section, the definition of gift does not include political contributions otherwise permitted by law.
- P. Restrictions on Mailings by Elected or Appointed Officials.**
1. In any year of a general election for an office for which a county elected or appointed official is a candidate, the county elected or appointed official may not mail after May 31 through November 30 immediately following the General Election, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:
 - a. A county elected or appointed official may mail an individual letter to:
 - (1) an individual constituent who has contacted the county elected or appointed official regarding the subject matter of the letter during the county elected or appointed official's current term of office;
 - (2) an individual constituent who holds governmental office with jurisdiction over the subject matter of the letter; or
 - (3) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person.
 2. The mailing restriction in P.1. does not apply to mailings by an elected or appointed official that are legally required of the elected or appointed official, such as the distribution of a voter's pamphlet, ballots or tax statements.
 3. For purposes of this subsection, "county elected or appointed official" means a county elected or appointed official who is a "candidate", as defined in RCW 42.17.020, for any public office.
 4. For purposes of this subsection, persons residing outside Pierce County are not considered to be constituents, but students, military personnel, or others temporarily employed outside Pierce County who normally reside in Pierce County are considered to be constituents.

5. A violation of this subsection constitutes use of public facilities for the purpose of assisting or opposing a campaign under RCW 42.17.130.
(Ord. 2010-63s § 1, 2010; Ord. 2007-118s2 § 1 (part), 2008; Ord. 2007-108 § 2 (part), 2007; Ord. 2003-50 § 1, 2003; Ord. 93-21 § 1 (part), 1993; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.030)

3.12.035 Advisory Opinions.

- A. Any person subject to or affected by Section 3.12.030 of this Code of Ethics may request a written advisory opinion. The request must be in writing and shall explain all the pertinent facts and circumstances. Advisory opinions are intended to assist the person seeking advice and to guide future conduct.
- B. The Commission retains the sole discretion to determine in which cases an advisory opinion will be issued. Factors the Commission may consider when determining in which cases an advisory opinion will be issued include, but are not limited to whether the issue presented is one of general application, one that has been recently addressed by the Commission, or one that is likely to be the subject of controversy or dispute.
(Ord. 2007-118s2 § 1 (part), 2008)

3.12.040 Financial Disclosure.

- A. 1. All candidates for County elective office, within two weeks of becoming a candidate as defined under RCW 42.17.020, as enacted or hereafter amended and all persons recommended by a party central committee to the County Council for appointment to a vacant elective County office, within five days of acceptance of such recommendation; shall file with the County Auditor a copy of the completed report required to be filed under RCW 42.17.240, as enacted or hereafter amended, and commonly referred to as Form F-1 or F-1-A, which bears an original signature of the person filing the report. All elected or appointed officials, on or before the date provided by State law, shall file with the County Auditor a copy of the completed report required to be filed under RCW 42.17.240, as enacted or hereafter amended. These reports shall be public documents filed in the Auditor's office.
- 2. In addition to the persons enumerated in subsection A.1. above, the County Council may, by ordinance, require other County personnel to file with the County Auditor a copy of the report required to be filed by RCW 42.17.240, as enacted or hereafter amended, and commonly referred to as Form F-1, which bears an original signature of the person filing the report.
- B. It shall be sufficient to report amounts disclosed under subsection A. of this Section as within the ranges permitted by state law, Ch. 42.17 RCW and WAC 390-24:
- C. Council Administrators, the District Court Administrator, the Superior Court Administrator, the Executive's Chief of Staff, all Executive department directors, and appointees to Executive department director positions shall comply with the financial disclosure requirements of this Section.
- D. Chief Executive Officers, or the equivalent, of Section X entities shall make the financial disclosures required of County officials in this Section. This subsection shall not be implemented until the Ethics Commission has adopted its list of Section X entities as described in PCC 3.12.020 X.
(Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.040)

3.12.050 Administration of Reports.

With respect to those reports required to be filed under Section 3.12.040, the County Auditor shall:

- A. Provide forms for reports, statements, notices and other forms required, and furnish the same to persons required to file such statements and reports;
- B. Accept and file any information voluntarily supplied that exceeds the requirements;
- C. Make statements and reports filed available during regular office hours for public inspection and copying upon written and signed request, and make copying facilities available at a charge not to exceed actual cost;
- D. Compile and maintain an index of all reports and statements filed to facilitate public access to such reports and statements; and
- E. Preserve statements and reports filed for a period consistent with the period provided in RCW 42.17.450, as enacted or hereafter amended.
- F. Post an index of statements and reports filed on the Auditor's website.

(Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.050)

3.12.054 Lobbyist Registration.

- A. All lobbyists shall comply with the registration requirements set forth in RCW 42.17.150(1)a-h, (2), (3) and (4). All registration statements and notices required therein shall be public documents filed with the Pierce County Auditor.
- B. The registration filing fee shall be \$25.00.
- C. The Auditor shall provide copies of lobbyist registration forms upon request.
- D. The Auditor shall maintain a list of currently registered lobbyists on the Auditor's website.

(Ord. 2007-118s2 § 1 (part), 2008)

3.12.056 Lobbyist Reporting.

- A. Any lobbyist registered under PCC 3.12.054 shall file with the Auditor periodic reports of his or her activities signed by the lobbyist. The reports shall be made in the form and manner prescribed by the state Public Disclosure Commission pursuant to RCW 42.17.170.
- B. In addition to the information required by the Public Disclosure Commission in RCW 42.17.170(2), the periodic report shall contain:
 1. The subject matter of proposed legislation or other legislative activity or policy adoption and the county agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period.
 2. Such other information relevant to lobbying activities as the Ethics Commission shall prescribe. Information supporting such activities as are required to be reported is subject to audit.
- C. An index of all lobbyist reports and statements filed pursuant to this Chapter shall be posted on the Auditor's website.
- D. The reports required in this Section shall be Public Documents filed in the Auditor's Office.

(Ord. 2007-118s2 § 1 (part), 2008)

3.12.058 Exemptions.

The following persons and activities shall be exempt from registration and reporting under PCC 3.12.054 and 3.12.056.

- A. **Citizen Lobbyists.** Persons who lobby without compensation or with compensation or other consideration limited to reimbursement for minor incidental personal expenses, such as mileage, parking, meals, photocopying, telephone, and facsimiles, for acting as a lobbyist shall be considered citizen lobbyists and shall be exempt from registration. The exemption contained in this Section is intended to permit and encourage citizens of the County to lobby any Councilmember or the Executive without incurring any registration or reporting obligation. Any person exempt under this Section may, at his or her option, register and report under this Chapter.
- B. **Technical Experts.** It is understood that some entities or organizations may employ a specific person or persons as lobbyists. In addition, other employees of certain entities or organizations, or contracted experts, may have occasion to meet on an irregular basis with Councilmembers or the Executive or appear before public sessions of the Council or its committees to provide information or expert testimony. Such other employees or contracted experts shall not be required to register or report under this Chapter only if:
 - 1. They restrict their activities as defined in this Section to no more than six days or parts thereof during any quarter. Appearing before public sessions of the Council and committees of the Council are not counted towards the six days; and
 - 2. They are not registered as a lobbyist with the Washington State Public Disclosure Commission as a representative of the same client or organization for which they are an employee or contracted technical expert.Any person exempt under this Section may, at his or her option, register and report under this Chapter.
- C. **Governmental Officials, Officers and Employees.** Except for a person or persons specifically employed or otherwise retained by a governmental agency to lobby, elected officials, officers and employees of any local, state or federal government agency acting within the scope of their representation of or employment with such agency are not required to register or report under this Chapter.
- D. **Media Persons.** News or feature reporting activities and editorial comment by working members of the press, radio or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, on-line media person or television station shall be exempt from registration and reporting under this Chapter. Any person exempt under this Section may, at his or her option, register and report under this Chapter.

(Ord. 2007-118s2 § 1 (part), 2008)

3.12.060 Hearing Officer.

- A. There is established the position of "Hearing Officer" whose function will be to receive written complaints of alleged violations of this Ethics Code, and to investigate the complaints in order to make an initial threshold determination whether probable cause exists to believe that a violation of this Code has occurred, all as set forth in Section 3.12.080.
- B. The Hearing Officer shall be selected by the Ethics Commission by majority vote for a one year contract. The Hearing Officer's contract may be renewed by a majority vote of the Commission. The Hearing Officer shall be a member in good standing with the Washington State Bar Association, shall have been licensed to practice law in the State of Washington for a minimum of five years, and shall have prior judicial experience as a

member of the Superior Court or Appellate Court Bench. If an individual with prior judicial experience is unavailable to serve, this requirement may be waived. Because of its sensitive position, the Hearing Officer must avoid even the appearance of a conflict of interest. Therefore, the Hearing Officer shall be bound by the same restrictions as are set forth in Section 3.12.070 for members of the Ethics Commission.

- C. The Hearing Officer shall be compensated for the time devoted to the performance of his or her official duties at a rate to be negotiated between the Ethics Commission and the Hearing Officer, subject to the approval of the Executive. The Hearing Officer shall be reimbursed for reasonable and necessary expenses incurred in the performance of his or her official duties.
- D. Whenever a Hearing Officer selected under this Code is either temporarily or permanently unable to perform the duties of this position, the Commission shall select a temporary replacement or permanent successor in the manner provided for in subsection B. of this Section.

(Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.055)

3.12.070 Ethics Commission.

- A. There is established an "Ethics Commission" composed of five members appointed by the County Executive and subject to confirmation by a majority of the Council. These members shall serve without pay.
- B. At least one member of the Commission shall be licensed to practice law in the State of Washington and all members shall be registered voters in the State of Washington.
- C. At least three members of the Commission shall be employed in or retired from the private sector.
- D. The original members shall be appointed within 60 days after adoption of the ordinance codified in this Chapter. Two of the original five members shall serve initial terms of two years and one of the original members shall serve an initial term of one year, as determined by the drawing of lots. Thereafter, members of the Commission shall be appointed to three-year terms. Members shall serve until his or her successor is appointed or for 60 days following the expiration of the term, whichever is sooner.
- E. No member of the Commission, during his or her tenure, shall:
 - 1. Hold or campaign for elective office;
 - 2. Be an officer of any political party or political committee;
 - 3. Make contributions, or permit his or her name to be used in support of, or in opposition to, any candidate for County office;
 - 4. Lobby or employ or assist a lobbyist.
- F. No person shall be eligible for appointment to more than two three-year terms, except as provided in subsection G. of this Section.
- G. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds, and shall be eligible for appointment to two full three-year terms thereafter. Any vacancy occurring on the Commission shall be filled within 60 days in the manner in which that position was originally filled. A vacancy shall not impair the powers of the remaining members to exercise all the powers of the Commission.
- H. The Commission may select a presiding officer in the manner it deems appropriate.
- I. Three members of the Commission shall constitute a quorum and a vote of three members is required for any action or recommendation of the Commission. The Commission shall meet as frequently as it deems necessary, provided that ten days advance written notice is mailed to each Commission member and to any person who has filed a request to be notified of such meetings.

- J. In addition to the duties prescribed by the Code of Ethics, the Commission shall have the following powers:
 - 1. Following a determination of probable cause by the Hearing Officer, act as the primary investigative body for violations of the provisions of this Chapter;
 - 2. Preserve all files, statements, correspondence and records of proceedings for a period of seven years.
 - 3. To adopt procedures to govern the conduct of the Commission.
 - 4. To conduct investigations and hold hearings.
 - 5. To advise the Executive as to budget requirements and make expenditures in accordance with the annual budget.
 - 6. To request the services of the Prosecuting Attorney.
 - 7. To consider questions of ethical conduct if in the public interest, and to issue advisory opinions.
 - 8. To make recommendations to the County Executive and the County Council for amendments to this Chapter and for such other legislation affecting the subject matter of this Chapter as the Commission may deem necessary or desirable.
 - 9. To provide through coordination with the Human Resources Department, a continuing program of education, assistance, and information regarding ethical conduct to all county officers and employees.
 - K. When, in the judgment of the Executive, a member of the Ethics Commission has violated any provision of this Ethics Code or other law or has engaged in any of the activities prohibited in subsection E. of this Section, the Executive may recommend to the County Council that the member be removed. Upon concurrence of a majority of the Council the member shall be removed from the Commission, a vacancy declared and a new member appointed.
 - L. Members of the Ethics Commission shall not discuss any hearing or investigation regarding a violation or alleged violation of this Code of Ethics, nor divulge the identity of any complainant or respondent except through the process prescribed by this Code.
 - M. All meetings of the Ethics Commission shall comply with the Open Public Meetings Act, Chapter 42.30 RCW.
 - N. The County shall provide \$10,000.00 annually to the Commission, through the annual budget process, to cover the costs of staff assistance.
- (Ord. 2007-118s2 § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 2000-79 § 1 (2000); Ord. 93-21 § 1 (part), 1993; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.060)

3.12.080 Enforcement Procedures.

- A. Any person who has personal knowledge of a violation of this Ethics Code may file a complaint of the violation with the Hearing Officer. Complaints shall be submitted on a form prepared by the Ethics Commission and shall be delivered to the Hearing Officer at a location to be determined by the Hearing Officer in a sealed blank envelope. Complaints shall include, but not be limited to, the following:
 - 1. Identity of complainant;
 - 2. Identity of alleged Ethics Code violator;
 - 3. Detailed description of activity constituting violation including dates and locations of violations;
 - 4. Section of Ethics Code believed to be violated, if known;
 - 5. Identity of other persons with knowledge regarding alleged violation, if known;
 - 6. A statement by the complainant that he or she will maintain confidentiality regarding the fact that a complaint has been filed with the Ethics Commission, and that he or she understands that failure to maintain such confidentiality may jeopardize the

- process and result in an invalidation of the complaint. Breach of confidentiality by a complainant regarding the fact that a complaint has been filed constitutes a Class 1 civil infraction as defined by Chapter 1.16 PCC.
- B. If a complainant breaches confidentiality regarding the fact that a complaint has been filed, the complaint may be dismissed as provided in Section 3.12.090 C. unless the subject of the complaint files a request with the Commission to complete the investigation.
- C. Upon receipt of the above-described complaint, the Hearing Officer shall conduct such investigation of the allegations contained therein as he or she deems necessary and appropriate in order to make an initial determination as to whether probable cause exists to believe that a violation of this Ethics Code has occurred.
- D. If the Hearing Officer is satisfied that there is no probable cause to believe that a violation of this Ethics Code has occurred, he or she shall:
1. So notify the complainant and the subject of the complaint in writing. Written correspondence shall be deemed received within three days of the postmarked date;
 2. Prepare written findings and conclusions regarding the complaint stating the factual basis for the findings and the legal basis for the conclusions;
 3. File the findings, conclusions and a notice of no probable cause with the Ethics Commission;
 4. If he or she believes a criminal act of a type not covered by the Ethics Code was committed, submit his or her file to the appropriate law enforcement authorities;
 5. Take no further action other than as specified above and maintain confidentiality regarding his or her investigation.
- E. In the event complainant believes that the Hearing Officer did not fairly and impartially review his or her complaint prior to determining no probable cause, complainant may file, by mailing to the Ethics Commission, a request for reconsideration with the Chair of the Commission. A statement that the Hearing Officer did not make a fair and impartial review because of reasons of conflict of interest, bias or prejudice must be attached to the request for reconsideration.
1. The statement must set forth facts and reasons for the belief that the conflict of interest, bias or prejudice exists.
 2. The statement shall be postmarked no more than 20 calendar days after complainant is deemed to receive notice of the Hearing Officer's original finding of no probable cause.
 3. The Chair shall rule on the adequacy of the statement prior to referring the statement to the Commission. The Commission shall then review the original complaint, the statement, any other written materials which were considered by the Hearing Officer, and the Hearing Officer's findings and conclusions, to determine if probable cause exists. If four Commission members find that probable cause does exist, the Commission shall:
 - a. Prepare and file its own written findings and conclusions;
 - b. Proceed as set forth in subsection F. of this Section.
 4. Should it appear to the satisfaction of four members of the Commission at any time that any of the statements presented to it pursuant to this Section are presented in bad faith or solely for the purpose of harassing a respondent or prolonging the investigation, the Commission shall order the complainant submitting them to pay to the Commission and the respondent the amount of reasonable expenses which the filing of the statement caused it to incur, including reasonable attorneys fees, and shall declare no violation has occurred.

- F. If the Hearing Officer finds probable cause to believe an Ethics Code violation has occurred, he or she shall:
 - 1. Prepare written findings and conclusions regarding the complaint stating the factual basis for the findings and the legal basis for the conclusions;
 - 2. File the findings and conclusions and a notice of probable cause with the Ethics Commission;
 - 3. Submit his or her file to the appropriate law enforcement authorities if he or she believes a criminal act of a type not covered by the Ethics Code was committed;
 - 4. Take no further action other than as specified above and maintain confidentiality regarding the complaint, the investigation and findings.
- G. Except as set forth in this Section, the Hearing Officer and the Commission shall keep in strict confidentiality the fact that a complaint has been received, the contents of the complaint, the identity of the party making the complaint, the results of the investigation and the Hearing Officer's findings and conclusions.
- H. Upon receipt of the Hearing Officer's findings of probable cause, the Commission may choose between the two courses of action as follows:
 - 1. Refer the matter to the office of the Pierce County Prosecutor for criminal prosecution; provided, that upon a determination that the proof beyond a reasonable doubt necessary for criminal conviction is not available, the office of the County Prosecutor may refer the matter back to the Commission for proceedings consistent with the civil burden of proof; e.g., a simple preponderance of the evidence; or
 - 2. Retain the matter for its own formal investigation with a view toward the ultimate imposition of a civil penalty or penalties in the event it is determined an actual violation has occurred.
- I. Should the Commission decide to retain the matter for its own formal investigation pursuant to subsection H.2. above, the Commission shall notify, in writing, the complainant, and the respondent, of its decision to pursue a formal investigation by way of holding a hearing to determine if a violation has occurred.
- J. Respondents shall be informed as to their rights to have the hearing either open or closed to the public pursuant to the requirements of RCW 42.30.110(1)(f) and (2).
- K.
 - 1. Hearings conducted by the Commission shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law. The respondent may be represented by legal counsel and/or by his or her bargaining representative and may present and cross-examine witnesses and give evidence before the Commission. The Commission may call witnesses on its own motion and compel the production of books, records, papers or other evidence needed. To that end the Ethics Commission shall issue subpoenas and subpoenas duces tecum at the request of the Commission or the person complained against. All testimony shall be under oath administered by a member of the Commission. The Commission may adjourn its hearing from time to time in order to allow for the orderly presentation of evidence.
 - 2. Upon motion of respondent or upon its own motion, the Commission may temporarily stay or permanently suspend its investigation when, in its informed discretion, the manifest needs of justice and fairness will be better served thereby.
 - 3. Commission shall prepare an official record of the hearing, including all testimony which shall be recorded manually or by mechanical device, and exhibits; provided, the Commission shall not be required to transcribe such records unless an individual entitled to knowledge of the contents of the record presents a request accompanied by payment of the cost of transcription.

- L. Within 30 calendar days after the conclusion of the hearing, the Commission shall, based upon a preponderance of the evidence, make and fully record, in its permanent records, findings of fact, conclusions of law, and an order containing the final disposition including where appropriate the civil sanction(s) imposed. A copy of the findings, conclusions and order shall be forwarded by registered mail to the complainant and to the respondent at addresses provided by both persons to the Commission.
- M. Any person found, by final written order of the Commission, to be in violation of this Code of Ethics may appeal the Commission's decision in the manner and form as provided by State law.
- N. If no appeal is perfected within the 30 calendar days following the date of the Commission's final order, and voluntary compliance with the order does not occur, the County Prosecutor shall petition in Superior Court for enforcement of the Commission's order in a manner patterned after that which is currently provided for enforcement of orders entered by the State Public Disclosure Commission in RCW 42.17.397 (Laws of Washington, 1975-76 2d ex. s.c. 112-13).

(Ord. 2007-118s2 § 1 (part), 2008; Ord. 93-21 § 1 (part), 1993; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.070)

3.12.085 Breach of Confidentiality – Civil Infraction.

Any complainant who breaches confidentiality regarding the fact that a complaint has been filed with the Ethics Commission shall be subject to a Class 1 civil infraction citation pursuant to Chapter 1.16 PCC. (Ord. 93-21 § 1 (part), 1993)

3.12.090 Civil Penalties – Other Sanctions Preserved.

- A. Whenever the Commission determines that a violation of any provision of this Code has occurred, it may issue an order to the violator to comply with any one or more of the following requirements:
 - 1. To cease and desist violation of this Chapter;
 - 2. To file any reports or other documents or information required by this Chapter;
 - 3. To pay a civil penalty of not more than \$500.00, or an amount not exceeding three times the economic value of anything received or sought in violation of this Chapter, whichever is greater;
 - 4. To pay any damages sustained by the County which are caused by the conduct constituting the violation; or
- B. The violation or failure to comply with Section 3.12.040 shall constitute a civil infraction for which a monetary fine of up to \$1,000.00 shall be assessed. Each violation shall be a separate violation and shall be subject to the fine. Any action seeking to establish the fact of a violation and imposition of a monetary fine under this Section shall be commenced by the Ethics Commission. In assessing the monetary fine, the Commission may consider the circumstances surrounding the violation including, but not limited to, the history of past violations.
- C. Violators shall be subject to the penalties as set forth in this Code of Ethics, but may be subject to other liabilities to the extent that their conduct violates other provisions of the law, including without limitation, RCW 9A.68.010 through 9A.68.050 (Bribery and Corrupt Influence) and RCW 9A.80.010 (Abuse of Office), and to such extent criminal penalties shall be imposed in accordance with State law.
- D. In addition to the above sanctions, should the complainant violate the confidentiality provisions of subsection J. of Section 3.12.030, the Ethics Commission shall order dismissal of the complaint unless otherwise requested by the subject of the complaint.

- E. Any sanction imposed under this Chapter is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law or equity, including removal or recall from office, employee disciplinary action, or injunctive relief to ensure that any violation of this Chapter cease and desist and/or that any statement or other information required by this Code of Ethics be filed.
- F. The violation or failure to comply with Section 3.12.054 or 3.12.056 shall constitute a civil infraction for which a monetary fine of up to \$1,000.00 shall be assessed. Each violation shall be a separate violation and shall be subject to the fine. Any action seeking to establish the fact of a violation and imposition of a monetary fine under this Section shall be commenced by Pierce County.

(Ord. 2007-118s2 § 1 (part), 2008; Ord. 93-21 § 1 (part), 1993; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.080)

3.12.100 Criminal Penalties.

- A. A misdemeanor, as used in this Section, is punishable by imprisonment in the County jail for not more than 90 days, or by a fine of not more than \$1,000.00, or by both.
- B. Any person or County personnel who knowingly violates any provision of subsections C.3., L., and/or N. of Section 3.12.030 (Ethical Standards and Prohibited Practices Enumerated) shall be guilty of a misdemeanor.

(Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.090)

3.12.110 Miscellaneous Administrative Provisions.

It shall be the responsibility of all elected or appointed officials to distribute this Code of Ethics to each employee under his or her official authority. Distribution must be made within 90 days of the adoption hereof. Each employee receiving a copy shall initial a list indicating receipt of the Code. The Human Resources Department shall be responsible for maintaining the lists as public documents. The responsibility of distributing Ethics Codes shall be continuous, requiring present and future elected officials to distribute true copies to all new employees and to require written indication of receipt of such copies. (Ord. 2007-118s2 § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.100)

3.12.120 Limitation on Actions.

- A. Prosecutions for misdemeanors as set forth in this Code of Ethics must be commenced within one year after the date when the violation occurred.
- B. Any other action brought under the provisions of this Ethics Code must be commenced within two years after the date when the violation occurred. For purposes of this limitation, the filing of a complaint with the Hearing Officer shall be deemed to have "commenced" an action.

(Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.110)

3.12.130 Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances shall not be affected. (Ord. 89-155 § 5, 1989)

Code Revisor's Note: Chapter 3.12 PCC was most recently amended by Ordinance No. 2007-118s2. Ordinance No. 2007-118s2 does not go into effect until June 1, 2008; however, the changes proposed therein are reflected in this version of Chapter 3.12 PCC.

Chapter 3.13

DOMESTIC VIOLENCE IN THE WORKPLACE

Sections:

3.13.010 Policy.

3.13.020 Definitions.

3.13.030 Responsibilities.

3.13.040 Dissemination of Policy.

3.13.010 Policy.

The safety and security of the employees of Pierce County and members of the public seeking or receiving County services or using County facilities is of the utmost importance. Pierce County is committed to creating and maintaining a workplace free of acts of domestic violence to employees or by employees:

- A. The County will not tolerate domestic violence in the workplace, or that affects the workplace. The County may, as appropriate, make reasonable effort, when circumstances of domestic violence are known, to:
 1. Take precautions to prevent incidents of domestic violence in the workplace;
 2. Take measures to address the safety and security of employees in the workplace;
 3. Encourage employees who are victims of domestic violence to seek assistance and provide referrals, where appropriate; and
 4. Post information about domestic violence and available resources in County buildings.
- B. The County shall take corrective or disciplinary action up to and including termination against an employee in cases where there is cause to believe the employee:
 1. Used County resources to perpetrate domestic violence; or
 2. Threatened or committed an act of domestic violence in the workplace; or
 3. Engaged in off duty domestic violence that affects job performance or has a nexus (relationship) to the employee's employment as determined by the Human Resources Department.
- C. The fact that an employee is or has been a victim of domestic violence shall not subject the employee to penalty or discipline. However, employee victims of domestic violence will be held to the same standards in regard to personnel policies and disciplinary procedures.
- D. The County shall ensure that managers, supervisors and Human Resources professionals receive information on domestic violence.

(Ord. 2006-12 § 1 (part), 2006)

3.13.020 Definitions.

The following definitions apply to this Chapter only:

- A. **Domestic Violence.** Any physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault upon a family or household member; sexual assault of one family or household member by another; or stalking as defined in RCW 9A46.110 of one family or household member by another family or member.

- B. **Family or Household Member.** Spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons 16 years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.
- C. **Dating Relationship.** A social relationship of a romantic nature. Factors that may be considered in making this determination include the length of time the relationship has existed, the nature of the relationship, and the frequency of interaction between the parties.
- D. **Workplace.** County facilities, County vehicles, County premises, employer-sponsored, or authorized events, or locations visited while conducting County business. For purposes of this policy only, telecommuting work sites are not included in the definition of "workplace".

(Ord. 2008-106s § 1 (part), 2008; Ord. 2006-12 § 1 (part), 2006)

3.13.030 Responsibilities.

No County officer or employee shall commit any act of domestic violence and shall be responsible for reporting any act of domestic violence in the workplace, whether or not physical injury occurs. Officers or employees who observe, or are informed of, or have reason to believe an act of domestic violence occurred in the workplace shall immediately notify their supervisor, department director, management representative or the Human Resources Department. Insofar as possible, any report of an act of domestic violence shall include the name of the reporting party; the date, time and place of the act; the name or identity of the person alleged to have committed the act; a description of the act; and the names of any witnesses.

All employees, including managers and supervisors, are responsible for using safe work practices, for following all directives, policies and procedures, including, but not limited to the Workplace Violence Policy (see Chapter 3.15, Workplace Safety and Violence Prevention), and for assisting in maintaining a safe and secure work environment free from domestic violence.

A. Employee Responsibilities.

1. Employees who are the victims of domestic violence are encouraged to take the following steps, as appropriate:
 - a. If threat of imminent danger exists, call 911;
 - b. Ask for assistance from a supervisor, manager, or Human Resources professional;
 - c. Notify the supervisor, manager, or Human Resources professional of any safety or security concerns related to your employment, your work assignment or workstation;
 - d. Contact the Employee Assistance Program (EAP), Domestic Violence Help Line and/or other resources for assistance; and
 - e. If a court order has been issued that prohibits the perpetrator from contacting the employee as a result of an act of domestic violence, provide a copy of the order to the supervisor, manager, or Human Resources professional. Submit a recent photograph or detailed description of the perpetrator to the supervisor, manager, or Human Resources professional.

2. Employees who believe they have witnessed or learn of domestic violence occurring in the workplace shall immediately notify a manager, supervisor, or Human Resources professional.
3. Employees who believe they have witnessed or learned of domestic violence involving an employee outside the workplace are encouraged to notify a manager, supervisor, or Human Resources professional.
4. Employees who have been charged by the Prosecuting Attorney in criminal proceedings in a matter which would constitute domestic violence under the Definitions Sections A., B., and C. of this policy have a duty to report the fact of the charge to a supervisor, manager, or County Human Resources professional within three working days of the charge.

B. Manager/Supervisor Responsibilities.

1. **Employees as Victims.** Managers or supervisors, who become aware that an employee is a victim of domestic violence in the workplace, or affecting the workplace, should take the following steps as appropriate:
 - a. If threat of imminent danger exists, call 911;
 - b. Consult with a County Human Resources professional and, if appropriate, the Employee Assistance Program (EAP), for advice and assistance in developing a strategy for approaching the victim and, if necessary, offering assistance;
 - c. Where appropriate, develop a workplace safety plan in consultation with the employee who is a victim of domestic violence, the Employee Assistance Program (EAP), the Human Resources professional, or other appropriate resources;
 - d. Encourage the employee who is a victim of domestic violence to seek assistance from the Employee Assistance Program (EAP), Domestic Violence Help Line and/or other resources;
 - e. For safety or security reasons, or to allow an employee who is a victim of domestic violence to obtain assistance, provide reasonable assistance when requested, if consistent with business needs, including the following possible assistance:
 - (1) Adjust or change the employee's work schedule;
 - (2) Change the employee's work site;
 - (3) Grant use of accrued or unpaid leave within the provisions of the Administrative Guidelines to allow employees who are victims of domestic violence to obtain medical treatment counseling, legal assistance, to leave the area, or to make other arrangements to create a safer situation for themselves; and
 - (4) Other assistance as may be deemed appropriate by management.
 - f. If provided with a current court order prohibiting the perpetrator from contacting the employee victim, take reasonable measures to facilitate compliance with the order within the workplace; and
 - g. To the extent possible, treat information about an employee victim, including the victim's whereabouts, as confidential. Where necessary, apply confidentiality restrictions to internal telephones, electronics, information, department and County publications, etc., to the extent allowed by law.

2. **Employees as Perpetrators.** Managers, supervisors, or Human Resources professionals who become aware that an employee may be a perpetrator of domestic violence in or outside the workplace should take the following possible steps as appropriate:
 - a. If imminent danger exists, call 911;
 - b. Take steps to provide for the safety of persons present in the workplace;
 - c. If there is reason to believe a crime has been committed, call the police and cooperate with any police investigation;
 - d. If there is reason to believe that there is a nexus with the individual's employment or if the manager is uncertain, contact the Human Resources Department;
 - e. Refer to appropriate officials for investigation and/or to conduct an employment investigation, if appropriate, in instances where it will not interfere with a police investigation;
 - f. Upon completion of the employment investigation, impose discipline as warranted; and
 - g. Provide referrals to the Employee Assistance Program (EAP) and other resources, as appropriate.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2006-12 § 1 (part), 2006)

3.13.040 Dissemination of Policy.

The Human Resources Department will assist in the dissemination of this policy, providing information, resources, and training on issues of domestic violence in the workplace, assisting managers and supervisors in implementing and following this policy, and posting information about domestic violence and available resources in County buildings where appropriate. (Ord. 2008-106s § 1 (part), 2008; Ord. 2006-12 § 1 (part), 2006)

Chapter 3.14

WHISTLEBLOWER PROTECTION

Sections:

3.14.010 Definitions for the Purpose of Chapter 3.14.

3.14.020 Whistleblower Policy – Purpose.

3.14.030 Reporting Improper Governmental Action – Employee Protection.

3.14.040 Reporting Procedures.

Cross-Reference: Chapter 42.41 RCW

3.14.010 Definitions for the Purpose of Chapter 3.14.

- A. "Improper governmental action" means any action or proposed action by a County officer or employee that is undertaken in the office or which is related to an employee's performance of his or her official duties, and
1. Violates any state or federal law or County ordinance; or
 2. Constitutes an abuse of authority; or
 3. Creates a substantial and specific danger to the public health or safety; or
 4. Results in a gross waste of public funds.

"Improper governmental action" excludes personnel actions, including but not limited to: employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, re-employments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of Civil Service laws, violations of the Pierce County Code Title 3, violations of the Pierce County Administrative Guidelines for the Career Service, or alleged violations of agreements with labor organizations under collective bargaining. A properly authorized County program or activity does not become an "improper governmental action" because an employee or auditing official dissents from the County policy or considers the expenditures unwise.

- B. "Retaliatory action" means any unwarranted adverse change in a County employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action taken on account of, or with motivation from the employee's action protected under Section 3.14.030.

- C. "Emergency" means a circumstance that if not immediately changed may cause damage to person or property.

(Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 93-12 § 1 (part), 1993)

3.14.020 Whistleblower Policy – Purpose.

Unless prohibited by law, County employees are encouraged to report improper governmental action in good faith in accordance with the procedures set forth in this Chapter to the Pierce County Human Resources Director, the Prosecuting Attorney, the County Council, the Pierce County Executive, the Pierce County Ethics Commission, or the Pierce County Sheriff.

These entities shall forward the complaint to the Pierce County Human Resources Director for evaluation and action as appropriate. Reports of improper action may also be made to the Tacoma Police Department, or the State Auditor for allegations of violations of City of Tacoma laws or State statute as appropriate. To assist such reporting, Section 3.14.030 provides County employees protection from interference and retaliatory action, for reporting and cooperating in the investigation, and/or prosecution of improper governmental action in accordance with this Chapter. (Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 98-123 § 1 (part), 1998; Ord. 93-12 § 1 (part), 1993)

3.14.030 Reporting Improper Governmental Action – Employee Protection.

- A. Every County officer or employee shall have the right to report, in good faith in accordance with the procedures set forth in this Chapter, information concerning improper governmental action. Provided, however, that except in the case of an emergency, an employee shall submit a written report to the Pierce County Human Resources Director, or one of the entities listed in Section 3.14.020, before an employee provides information about an improper governmental action to a person or entity not listed in Section 3.14.020. No emergency exists under this subsection where prompt attention and reporting by the employee could have avoided the perceived need to report immediately to a person not listed in Section 3.14.020. An employee who fails to make a good faith attempt to follow this policy shall not receive the protections of this Chapter.
- B. The Pierce County Human Resources Director shall promulgate procedures for reporting improper governmental action to Pierce County Officials and shall cause a copy of the procedures along with a summary of the protections against retaliatory action to be permanently posted so that all employees will have reasonable access to them. A copy of the same shall be made available to any employee upon request.
- C. Limitations. This Section does not authorize a County officer or employee to report information that is subject to an applicable privilege against disclosure by law (e.g., RCW 5.60.060 Privileged Communications), unless waived, or to make disclosure where prohibited by law. An employee's reporting of his or her own improper action does not grant an employee immunity from discipline or termination insofar as his or her improper action would be cause for discipline.
- D. Retaliatory Action Prohibited. It is unlawful for any County official or employee to take retaliatory action against an employee because he or she (or another acting pursuant to his or her request):
 - 1. Provided information in good faith in accordance with the provisions of this Chapter that an improper governmental action occurred; or
 - 2. Cooperated in a lawful investigation related to improper governmental action; or
 - 3. Testified in a proceeding or prosecution arising out of a complaint of improper governmental action.
- E. The identity of any person filing a complaint under this Chapter shall be treated as confidential to the extent possible under law unless the employee authorizes the disclosure of his or her identity in writing.
- F. No County officer or employee shall use his or her official authority or influence, directly or indirectly, to threaten, intimidate or coerce an employee for the purpose of interfering with that employee's right to disclose information concerning an improper governmental action in accordance with the provisions of this Chapter.

- G. Penalty. Any County officer, or employee who shall engage in retaliatory action is subject to discipline up to and including suspension without pay, demotion, or discharge in addition to any penalties which might imposed by an administrative law judge pursuant to state law.
- H. If a County officer or employee feels that he or she has been retaliated against for reporting improper governmental action, he or she shall file written notice with the Human Resources Director in accord with Chapter 44, Washington Laws, 1992 (Chapter 42.41 RCW) and as stipulated in Section 3.14.040. Upon receipt of such report, the Human Resources Director shall cause an appropriate response to be filed in accord with Chapter 44, Washington Laws, 1992.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 98-123 § 1 (part), 1998; Ord. 93-12 § 1 (part), 1993)

3.14.040 Reporting Procedures.

Unless prohibited by law and except in cases of emergency, the following procedures shall be followed:

- A. **Reporting Improper Governmental Action.** If an employee desires to file a complaint within Pierce County Government, the complaint shall be submitted in writing on the appropriate complaint form to the Pierce County Human Resources Director or other County entity listed in Section 3.14.020. Such complaint form may be submitted either in person or by mail, may be signed or unsigned, and shall specify the inappropriate governmental action alleged. Complaint forms shall be provided by the Human Resources Department and shall be available through the Human Resources Department, the office of the County Executive, and at each departmental timekeeper location. Forms shall be provided via U.S. Mail from the Human Resources Department upon the request of the employee.
 - 1. Where the employee reasonably believes the improper governmental action involves the Human Resources Director, the employee may submit the complaint form directly to the County Executive.
 - 2. The Human Resources Director or County Executive, as the case may be, shall take prompt action to determine if a prima facie complaint has been filed and, if so, to investigate or to cause an investigation into the complaint to be initiated by referring the complaint to the appropriate authority.
 - 3. The Pierce County authority to whom the complaint of improper governmental action was referred shall ensure that the complainant is sent a timely response.
- B. **Reporting Retaliatory Action.**
 - 1. An employee alleging retaliatory action for exercising their rights under this Chapter must file a written complaint with the Pierce County Human Resources Director or Pierce County Executive, if the complaint involves the Pierce County Human Resources Director. The written complaint may be in the form of a letter or memorandum and:
 - a. Must specify the alleged retaliatory action; and
 - b. Must specify the relief requested; and
 - c. Not later than 30 calendar days after the occurrence of the alleged retaliatory action, the complaint must be delivered to the Human Resources Director or to the Pierce County Executive if the complaint involves the Pierce County Human Resources Director.
 - 2. Pursuant to RCW 42.41.040(3), the County must respond to the charge of retaliation within 30 calendar days after receipt of the charge and request for relief, unless additional time is agreed to by the employee.

3. Upon receipt of either the response from the County or after the last day upon which the County could respond, the employee may request a hearing to establish that a retaliatory action occurred and to obtain appropriate relief as defined in RCW 42.41.040. The request for a hearing shall be delivered to the Human Resources Director within 15 calendar days of delivery of the response from the County or within 15 calendar days of the last day on which the County could respond.
4. Within five working days of receipt of the request for a hearing, the County shall apply to the State Office of Administrative Hearings under the provisions of RCW 42.41.040(5). The hearing and determination therefrom shall comply with the provisions of RCW 42.41.040(6) through (9).

(Ord. 2010-14 § 1 (part), 2010)

Chapter 3.15

WORKPLACE SAFETY AND VIOLENCE PREVENTION

Sections:

3.15.010 Policy.

3.15.020 Definitions.

3.15.030 Responsibilities.

3.15.040 Dissemination of Policy.

3.15.010 Policy.

This policy is intended to ensure that all employees adhere to work practices designed to make the workplace more secure and to refrain from verbal threats or physical actions which may create a safety or security hazard for others in the workplace.

The safety and security of the employees of Pierce County and members of the public seeking or receiving County services or using County facilities is of the utmost importance. Pierce County is committed to creating and maintaining a workplace free of unsafe acts and/or acts of violence. Unsafe acts and/or acts of violence including: threats of violence, intimidation or intimidating acts, threatening acts or other acts of violence by employees, co-workers, supervisors, managers or members of the public will not be tolerated and will not be ignored. Any of these prohibited acts committed by employees or members of the public while on premises owned or leased or work sites otherwise occupied by Pierce County will be prosecuted as appropriate and/or will cause the use of any appropriate managerial, administrative or disciplinary measure in order to provide a workplace free from unsafe acts and/or acts of violence.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2002-15 § 1 (part), 2002)

3.15.020 Definitions.

- A. **Unsafe Act.** Includes, but is not limited to, any deliberate act or behavior which jeopardizes the safety or security of oneself, another person, or County property; or the failure to act, where there is a duty to act and/or take safety precautions or where such failure would reasonably be known to jeopardize the safety or security of oneself, another person or County property. An unsafe act may include physical contact, such as "horseplay" and is prohibited, whether or not an injury, safety violation, or actual harm results.
- B. **Acts of Violence.** Includes, but is not limited to, any deliberate act or behavior which:
1. Results in a physical assault against a person such as hitting, pushing, kicking, holding/restraining, spitting on, or blocking the movement of another person.
 2. Constitutes a directly or indirectly communicated or reasonably perceived threat to cause harm, injure, intimidate or frighten another individual;
 3. Endangers the safety of oneself or another individual, whether or not an injury results;
 4. Would be reasonably perceived to constitute a threat of inflicting physical harm which in any way interferes with a person's safety, or consists of a directly or indirectly communicated or perceived threat to destroy property through the use of a weapon, firearm or other means;
 5. Would constitute the violation of a protective or restraining order which lists County locations as being protected areas; or
 6. Interferes with the orderly conduct of Pierce County operations.

An unsafe act and/or act of violence does not include communicated direction by a supervisor to require appropriate performance on the job, the imposition of disciplinary action, or warnings that discipline could occur, or law enforcement employees acting within the scope and authority of their position.

- C. **Weapon.** Includes, but is not limited to: firearms, knives, daggers, dirks, switchblades, swords, spears, javelins, bow and arrows, crossbows, darts, blow guns, slingshots, other devices designed to hurl or throw a missile or other object, martial arts devices capable of being used to inflict bodily injury, brass knuckles, striking or clubbing instruments, explosives or blasting caps, electronic stun devices, and any other object used as a weapon to create an unsafe workplace or commit an act of violence.
- D. **Firearms.** Any weapon capable of discharging a projectile by means of compressed air or chemical combustion.
- E. **Workplace.** Any building or area constituting the place where work is performed or assigned; common areas such as reception areas, halls and private or personal work areas; and any other area where employees engage in official County business, including field locations, County parking lots, vehicles either employer owned or leased or privately owned when used on County business.
- F. **Member of the Public.** Any person who has no legitimate employment-related relationship with the County, including: strangers who have no legitimate business relationship with the County; customers or clients who currently or previously have received services from the County or who have or have had a custodial relationship with the County including inmates, criminal suspects or prisoners; and individuals who have or had and personal relationships with County employees such as a current or former spouse, lover, relative, friend or acquaintance.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2002-15 § 1 (part), 2002)

3.15.030 Responsibilities.

No County officer or employee shall commit an unsafe act and/or an act of violence and all officers and employees shall be responsible for reporting any unsafe act and/or act of violence in the workplace, whether or not physical injury occurs. Officers or employees who believe an unsafe act and/or an act of violence has occurred, observe or are informed of such an act, shall immediately notify their supervisor, department director or management representative. Insofar as possible, any report of an unsafe act and/or an act of violence shall include the name of the reporting party; the date, time and place of the act; the name or identity of the person alleged to have committed the act; a description of the act; and the names of any witnesses.

All employees, including managers and supervisors, are responsible for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

A. Employee Responsibilities:

1. If an unsafe act and/or an act of violence causes an immediate threat or danger:
 - a. Immediately retreat and contact 911 and give your name and location along with other information requested. Departments and offices housed in the County-City Building should immediately retreat and contact Courthouse Security (798-7530, after 4:00 p.m. – pager 596-9812).
 - b. Notify the immediate supervisor and others in the area of the imminent threat.
 - c. Evacuate the area if feasible.
 - d. Await appropriate response/instructions from the emergency management officials or supervisor.

- e. After the threat/danger has passed, complete an incident report form and forward to the Human Resources Department or Risk Management and Insurance Department for investigation.
2. If an unsafe act and/or an act of violence does not cause an immediate threat or danger:
 - a. Notify the immediate supervisor.
 - b. Complete an incident report form and forward to the Human Resources Department or Risk Management and Insurance Department for investigation.
3. Employees who obtain a protective or restraining order which lists County locations as being protected areas or which prohibits contact with the employee while at work, shall immediately advise their supervisor, department director or management representative and provide a copy of the granted order and a description of the person identified in the order.
4. Report concerns about their personal safety or violations of County policy that may impact employee safety to their supervisor, manager or department director.
5. Immediately notify their supervisor, manager or department director if they have reason to believe they may become a victim of an unsafe act and/or an act of violence in the workplace or where verbal threats of physical violence against the employee have been made.

Under no circumstances should employees put themselves at risk in a dangerous situation. Once the situation has been secured by proper authorities, employees shall then cooperate with supervisors, investigators, law enforcement personnel and any others as they conduct follow-up reviews of the incident.

B. Department Directors, Managers and Supervisors' Responsibilities:

1. Provide this policy and educational opportunities to their employees about workplace safety and violence prevention and make workplace safety and violence prevention training and education programs available to all employees.
2. Immediately notify Risk Management (798-7462), the Human Resources Department (798-7480) and their appropriate director of any incidents involving unsafe acts and/or acts of violence.
3. Address employee workplace safety concerns and ensure that such concerns are investigated. Safety concerns, and any other situation where an employee has been subjected to or threatened with an unsafe act and/or an act of violence, should be reported to the Human Resources Director, Labor Relations Manager or Assistant Human Resources Director.
4. Take immediate steps to diffuse or mitigate any situation that has potential to escalate into an unsafe act and/or an act of violence.
5. Forward a copy of the protective or restraining order to the Human Resources Department.
6. Notify appropriate law enforcement agencies about persons who violate a granted protective or restraining order and require the violator to leave the premises immediately.

C. Human Resources Department Responsibilities:

1. Promulgate procedures and forms for reporting, assessing and investigating all alleged unsafe acts and/or acts of workplace violence as may be appropriate.
2. Provide or make available appropriate training and education about workplace safety and violence prevention, how to identify potentially unsafe acts and/or violent situations, and how to deal with them.
3. Maintain confidentiality of complaints and concerns to the extent allowed by law.

4. Receive and, in conjunction with the Risk Management Department, investigate all reports of unsafe acts and/or acts of workplace violence, or threats of the same, made by a County employee.
5. Recommend to the Appointing Authority what, if any, administrative or disciplinary action should be taken when an employee is found to have committed an unsafe act and/or an act of violence.
6. Upon completion of any investigation, notify employees affected by the unsafe act and/or act of violence or threat of the same that the matter has been concluded and that appropriate action has or will be taken.

D. Risk Management and Insurance Department Responsibilities:

1. Receive and, in conjunction with the Human Resources Department, investigate all reports of unsafe acts and/or workplace violence or threats of the same made by a member of the public.
2. Report the results of the investigation to the Human Resources Director, the department director, and appropriate law enforcement or other official.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 2002-15 § 1 (part), 2002)

3.15.040 Dissemination of Policy.

- A. This policy shall be distributed to all current employees, shall be provided to members of the public on request and without a charge, and to all new County employees at orientation.
- B. The Human Resources Department shall prepare and disseminate for permanent posting on employee bulletin boards, a summary of this policy and reporting requirements.
- C. The Human Resources Department shall develop an employee training program designed to inform and orient persons working for Pierce County on this policy including means and measures for protecting themselves and co-workers against unsafe acts and/or workplace violence.
- D. Department directors and/or supervisors shall make available a copy of this policy to all persons working in their area including interns, contractors, extra-hires, volunteers, work study students, employees of temporary employment services and all others performing work for Pierce County and, when the need arises, discuss the policy with all persons performing work for Pierce County including the above and all regular employees.
- E. A copy of this policy shall be made available upon request to all employees by each manager, supervisor and/or the Human Resources Department.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 2002-15 § 1 (part), 2002)

Chapter 3.16

EQUAL EMPLOYMENT OPPORTUNITY POLICY

Sections:

- 3.16.010 Equal Employment Opportunity Policy.**
- 3.16.020 Program Administration.**
- 3.16.030 Prohibition of Discrimination and Harassment.**
- 3.16.040 Acquired Immunodeficiency Syndrome (AIDS) Policy.**
- 3.16.050 Employment of Persons with Disabilities Policy.**
- 3.16.060 Employment of Military Veterans Policy.**
- 3.16.070 Employee Responsibilities.**
- 3.16.080 Investigation and Resolution of Complaints.**
- 3.16.090 Retaliation Prohibited.**
- 3.16.100 Employment Monitoring.**
- 3.16.110 Policy Dissemination.**
- 3.16.120 Affirmative Action Plan Superseded.**

3.16.010 Equal Employment Opportunity Policy.

- A. It is the policy of Pierce County that no person shall be subjected to employment discrimination because of race, creed, religion, color, national origin, sex, sexual orientation, marital status, age, disability, veterans status, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a disabled person. Pierce County reaffirms its policy of equal employment opportunity regardless of race, creed, religion, color, national origin, sex, age, sexual orientation, marital status, physical, mental or sensory disability or veteran's status. Pierce County is committed to maintaining an environment free from discrimination, harassment and intimidation based on any status protected herein.

This policy applies to all levels and departments of County government. Pierce County Appointing Authorities shall reasonably accommodate the needs of qualified disabled applicants and employees in compliance with the provisions of the Americans with Disabilities Act of 1991, Chapter 49.60 RCW, and other applicable laws. The Human Resources Director shall ensure that disabled persons have reasonable access to all employment processes and shall provide for interpreters (sign language), readers, or alternate testing methods in order to remove barriers to the employment of qualified disabled persons who otherwise meet the requirements of the classification sought.

- B. Employees will be held individually accountable for complying with the provisions of this Chapter. Violations will not be tolerated and are subject to disciplinary action up to and including termination of employment.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2002-17s § 1 (part), 2002; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.04.010)

3.16.020 Program Administration.

Administration and implementation of these policies is the responsibility of the Pierce County Executive or designee. The legislative branch, judicial branch, executive branch, and the office of the Prosecuting Attorney shall cooperate in the administration of these policies to the fullest extent possible. (Ord. 2002-17s § 1 (part), 2002; Ord. 84-74 § 2 (part), 1984; Ord. 82-56 § 2 (part), 1982; prior Code § 6.04.020)

3.16.030 Prohibition of Discrimination and Harassment.

Pierce County's policy is to maintain a work environment that is free from discrimination, harassment and intimidation based on a status protected by the Equal Employment Opportunity Policy. No employee shall be subjected to discrimination or harassment based on their sex, sexual orientation, marital status, race, age, disability, national origin, religion, or other status protected by law.

- A. **Harassment Defined.** Harassment is behavior that is objectively offensive to another person which is motivated by a misguided, and often malicious point of view embracing offensive sexual, racial, gender-based, national origin, religious, age-based or other class associated stereotypes and perceptions of social behaviors.

Harassment can be verbal, non-verbal or physical. It is not necessary that individuals intend their conduct to be harassing or act with a malicious or mean-spirited motive.

Any behavior in the work place that is based on an individual's or a group's membership in a protected class may be interpreted negatively. Such impermissible conduct could include, but is not limited to, sexual, racial or ethnic jokes, mocking an accent or manner of speech, denigrating an individual because of membership in or affiliation with a protected class, displaying cartoons or literature embracing racially, sexually, or ethnically offensive clichés, or outright threat that a job or a job benefit would be denied because of membership in or affiliation with a protected class.

- B. **Prohibition of Sexual Harassment/Inappropriate Behavior of a Sexual Nature.** It is the policy of Pierce County that no employee, co-worker, supervisor, manager, citizen, vendor, client, customer, or other person frequenting County facilities shall sexually harass or engage in inappropriate behavior of a sexual nature toward any County employee. Sexual harassment is unlawful where the conduct:
- a. is unwelcome; and
 - b. is because of sex or gender; and
 - c. unreasonably interferes with an employee's work performance; or
 - d. creates an intimidating, hostile or offensive working environment.

"Sexual Harassment" is deliberate or repeated behavior of a sexual nature or based on gender, which is unwelcome and which unreasonably interferes with an employee's work performance. It can be verbal, nonverbal, or physical, and may include behaviors or combinations of behaviors such as unwanted sexual comments or advances, suggestive looks or leers, pats, squeezes, repeatedly brushing against another's body, jokes of a sexual nature, sexual epithets, nude or suggestive pictures, calendars, or materials displayed in the workplace, or threats or suggestions that a job or job benefit is dependent upon submission to or tolerance of such behavior.

"Inappropriate Behavior of a Sexual Nature" is behavior that, while not amounting to sexual harassment, has a sexual component and, in the judgment of the County, is unacceptable and has the potential to lower morale and productivity. Occasional compliments of a socially acceptable nature and conduct or actions that arise out of a personal or social relationship and do not have a discriminatory effect on employment may not be viewed as inappropriate behavior of a sexual nature.

Employees are cautioned that any type of sexual or gender-based behavior in the work place may be interpreted negatively. Sexual behaviors include flirting, courting, unwelcome sexual advances, offensive comments, jokes, obscene or lewd suggestions, inappropriate touching, or sexual joking or innuendo. Employees are expected to refrain from all behaviors which, although not ill-intentioned, may be interpreted as sexual in nature.

- C. **Notice of Discrimination/Harassment.** If employees believe that they are being subjected to or have witnessed discriminatory treatment or harassment, they should unequivocally advise those individuals engaged in the offensive behavior that their behavior is regarded as being offensive and to stop. Additionally, persons who feel they have been a victim of or witnessed discrimination or harassment in any manner must follow the Employee Responsibilities set forth in Section 3.16.070 of this Chapter.
- D. **Remedial Action.** Differential treatment or harassment of fellow employees, members of the public or other employees of Pierce County will not be tolerated where such discrimination or harassment is because of the individual's protected status. All employees are required to comply with the provisions of the Equal Employment Opportunity Policy as set forth in this Chapter. Discrimination and harassment are serious matters and employees engaging in conduct determined by the County to be in violation of this Policy will be subject to severe discipline up to and including termination.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2002-17s § 1 (part), 2002; Ord. 92-163 § 1 (part), 1993; Ord. 89-9 § 1, 1989; Ord. 86-153 § 2, 1986; Ord. 85-147 § 2, 1985; Ord. 84-74 § 2 (part), 1984; Ord. 82-56 § 2 (part), 1982; prior Code § 6.04.030)

3.16.040 Acquired Immunodeficiency Syndrome (AIDS) Policy.

The right to equal employment opportunity for all persons, including those with physical, mental or sensory disabilities, shall be preserved. Acquired Immunodeficiency Syndrome and other AIDS virus-related conditions are considered to be disabilities protected by law. No employee or applicant for employment shall be treated in a discriminatory manner because of the fear of AIDS or an AIDS virus-related condition. County employees shall provide courteous and fair treatment to clients, applicants for employment and other employees without regard to the perception of or the presence of AIDS or an AIDS virus-related condition. Information and knowledge about the presence of AIDS and/or an AIDS virus-related condition or the perception of such shall be treated in a strictly confidential manner and disseminated only to those with a bona fide need to know. (Ord. 2002-17s § 1 (part), 2002)

3.16.050 Employment of Persons with Disabilities Policy.

No qualified disabled person shall, on the basis of disability, be excluded from participation, denied the benefits of, or otherwise subjected to unlawful discrimination under any program or activity administered by the County. The County shall reasonably accommodate the employment of qualified disabled persons and promote equal opportunity for the disabled. Employment policies concerning, but not limited to, hiring, classification, compensation, promotion, demotion, transfer, layoff, discipline and termination shall be administered equally for disabled and non-disabled employees.

- A. **Reasonable Accommodation.** Pierce County will reasonably accommodate the known physical, sensory and mental disabilities of any employee or otherwise qualified applicant for employment. Reasonable accommodation may include making County facilities accessible to disabled persons, job restructuring, job transfer, modified work schedules, equipment or devices, provision of readers or interpreters, or reassignment to a vacant position for which the person is qualified.

An accommodation is not considered reasonable if it would impose undue hardship on the County. Judgments concerning the reasonableness of providing an accommodation shall be made by the County on a case by case basis. It is the County's responsibility to determine if a proposed accommodation is effective and reasonable.

B. Transfer/Rehire as Reasonable Accommodation. Employees who become unable to perform the essential functions of their position with or without reasonable accommodation shall not be considered qualified for the position and shall be transferred to a vacant non-promotional position which they are able to perform with or without reasonable accommodation, provided such a position is available and the employee is otherwise qualified. Such transfers will be made without regard to the branch of government in which the employee was formerly employed. The initial competitive hiring shall be deemed to satisfy such Career Service requirements. Transfers into Civil Service positions in the Sheriff's Department may only be made in accordance with the provisions of RCW 41.14.

A new probationary period must be satisfactorily served in the new position. If a probationary employee was never qualified to satisfactorily perform the essential functions of their current position, with or without reasonable accommodation, they are not eligible to transfer to a vacant position.

If there is no vacant position for which the disabled employee is qualified at the time they become unable to perform the essential functions of the current position, the employee shall be separated from their current position and placed on a re-employment register for upcoming vacant positions for which the employee is otherwise qualified and expresses interest. The employee must cooperate in the rehire process. The employee shall remain on this list for a period of one year or until an offer of employment for a vacant position is made, whichever occurs first. Once an employee is offered an alternative position, the County's obligation to provide this form of reasonable accommodation ends, whether or not the employee accepts the new position. (Ord. 2008-106s § 1 (part), 2008; Ord. 2002-17s § 1 (part), 2002)

3.16.060 Employment of Military Veterans Policy.

Pierce County will provide employment opportunities for qualified disabled and military veterans in accordance with applicable state and federal statutes. (Ord. 2002-17s § 1 (part), 2002)

3.16.070 Employee Responsibilities.

Employees who believe they have received or witnessed treatment in violation of this Chapter must immediately notify their supervisor, manager, department director, Pierce County EEO/ADA Specialist, or the Pierce County Human Resources Director of the alleged action. It is the employee's option to decide the individual to whom the action will be reported. While written reports are encouraged, it is not required that complaints be made in writing. All complaints of improper treatment must be made as soon as possible, but in any case not more than 180 calendar days from the date of the incident in order to be investigated under this Chapter. However, the County may take appropriate remedial action even when complaints are not brought within this time period.

As an employee, you must take action to report if you believe you have been subject to discrimination or harassment. Your report is the best and often the only notice to the County that corrective action may be necessary. (Ord. 2008-106s § 1 (part), 2008; Ord. 2002-17s § 1 (part), 2002)

3.16.080 Investigation and Resolution of Complaints.

Any person who is notified of alleged treatment in violation of this Chapter shall immediately contact the County's EEO/ADA Specialist or the Human Resources Director. An investigation by the EEO/ADA Specialist or other person designated by the Human Resources

Director shall be promptly conducted. The County will seek to protect all persons who participate in the investigation from retaliation, false accusations, or future improper treatment and, where indicated, will take reasonably prompt and effective remedial measures.

A. **Duty to Participate.** All employees, including the complainant, co-workers, potential witnesses, and others must participate in and cooperate fully in the investigation of complaints. Failure to do so may result in disciplinary action.

B. Complaints of violation of this Chapter shall not be subject to the appeal or grievance procedures of Chapters 3.40 or 3.48 PCC and the Administrative Guidelines.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 2002-17s § 1 (part), 2002)

3.16.090 Retaliation Prohibited.

Retaliation is an adverse employment action, taken against an individual because they have exercised a right protected under the law such as complaining about discrimination or harassment or assisting with or participating in the resolution or investigation of such a complaint in the workplace. Any form of retaliation against a person who participates in a complaint or investigation is specifically prohibited, will not be tolerated, and will be subject to severe disciplinary action up to and including termination of employment. (Ord. 2002-17s § 1 (part), 2002)

3.16.100 Employment Monitoring.

In order to monitor Pierce County employment practices and trends and to comply with federal reporting requirements, the Human Resources Department shall compile statistical information comparing the County's workforce to the available workforce in the community by race, sex, national origin and job category. (Ord. 2004-7s § 2 (part), 2004; Ord. 2002-17s § 1 (part), 2002)

3.16.110 Policy Dissemination.

This policy shall be distributed to all current and future Pierce County employees and shall be provided to members of the public on request and without charge. (Ord. 2002-17s § 1 (part), 2002)

3.16.120 Affirmative Action Plan Superseded.

This Chapter supersedes all previous EEO-Affirmative Action Policies. (Ord. 2002-17s § 1 (part), 2002)

Chapter 3.17

DRUG FREE WORKPLACE

Sections:

3.17.010 Purpose.

3.17.020 Drug Free Workplace Policy.

3.17.030 Sanctions.

3.17.040 Dissemination and Implementation.

3.17.010 Purpose.

To provide a workplace free from unlawful use, possession, distribution, manufacture or dispensing of illegal drugs and controlled substances, and to comply with the provisions of the Drug Free Workplace Act of 1988, 28 CFR Part 67 of the Federal Omnibus Drug Act of 1988, and further to help ensure a safe place for employees to work, the following policy and administrative measures are implemented effective immediately. For purposes of this policy, the "workplace" shall include any County facility, County vehicles, private vehicles while on County business, County office, or other location while on County business. Certain employees are also subject to the drug and alcohol testing provisions of the County's Commercial Drivers License (CDL) Program. (Ord. 2008-106s § 1 (part), 2008)

3.17.020 Drug Free Workplace Policy.

The unlawful manufacture, distribution, dispensing, possession or use of an illegal drug or controlled substance in or on any County facility, vehicle or while on County business is strictly prohibited. County facilities or vehicles include those owned, rented or leased for use in the conduct of Pierce County operations and programs. (Ord. 2008-106s § 1 (part), 2008)

3.17.030 Sanctions.

Employees who violate this policy shall be subject to sanctions. This listing shall not be construed to limit the County's other disciplinary options, up to and including termination, if in the County's discretion the circumstances surrounding the use or conviction warrant disciplinary action in addition to the treatment directive.

A. Unlawful Use or Possession.

1. Employees either convicted of using a controlled substance in the workplace, found to be under the effects of a controlled substance in the workplace, found to be in possession of or convicted of possessing a controlled substance in the workplace, shall on the first occurrence be required to at a minimum participate satisfactorily in a drug assistance or rehabilitation program and shall be referred to the County's Employee Assistance Program. Employees who refuse referral to the Employee Assistance Program or do not participate satisfactorily in the drug assistance or rehabilitation program shall be terminated from Pierce County employment. However, an employee may be subject to more severe disciplinary action for a first occurrence up to and including termination.
2. Employees either convicted of using a controlled substance in the workplace, found to be under the effects of a controlled substance in the workplace, found to be in possession of a controlled substance in the workplace, or convicted of possession of a controlled substance in the workplace on a second occurrence shall be terminated from employment with Pierce County.

3. The manufacturing, sale, dispensing or distribution of a controlled substance in the workplace shall be cause for termination from employment with Pierce County.
4. Any employees convicted of any Criminal Drug Statute violation occurring in the workplace shall notify their respective supervisors within five working days after such conviction. Any employee failing to notify the supervisor shall be subject to disciplinary action up to and including termination from employment with Pierce County.

(Ord. 2008-106s § 1 (part), 2008)

3.17.040 Dissemination and Implementation.

A. Dissemination.

1. All employees shall be provided with a copy of this policy and shall agree by their signature that they have received this policy and that they will abide by terms and conditions herein. Failure to so agree by signature shall be considered to be an insubordinate act and shall be cause for disciplinary action.
2. The Human Resources Department shall distribute copies of this policy to all County employees and shall publish the policy statement and sanctions for mandatory posting on all employee bulletin boards.

B. Implementation.

1. There shall be established a drug free awareness program to inform employees about the dangers of drug use and abuse in the workplace, the County policy on maintaining a drug free workplace, available drug counseling, rehabilitation and the Employee Assistance Program, and the sanctions contained herein.
2. Departments receiving federal grants shall, within ten days after receiving notice under Sanctions, A.4. above from an employee or otherwise receiving notice of a conviction, so notify their granting agency.
3. The implementation of this policy shall not be considered to institute any policy providing for random drug testing or searches of County employees.
4. This policy applies only to unlawful use, possession, distribution, manufacture or dispensing of a controlled substance in the workplace. "Controlled substance" does not include alcohol.

(Ord. 2008-106s § 1 (part), 2008)

Chapter 3.20

CAREER SERVICE ADMINISTRATION

Sections:

- 3.20.010 Responsibility for Administration.**
- 3.20.020 Classes of Employees.**
- 3.20.030 Career Service System.**
- 3.20.035 Recordkeeping.**
- 3.20.040 Status of Employment.**
- 3.20.050 Participation in E-Verify.**

3.20.010 Responsibility for Administration.

- A. The Executive shall be responsible for the administration of the County personnel system in accordance with the policies and standards established by ordinance and Code. This Title and Code establishes a personnel system for the County which assures recruitment, selection and retention of County employees on the basis of merit; the development of a County Career Service; promotion on the basis of demonstrated ability; and compensation and personnel practices which will keep the County system competitive.
- B. The Human Resources Director as the Executive's designee shall be responsible to administer the personnel system and directly related affairs of the County to include collective bargaining; provided, that such role will not infringe upon the authority of the County Executive to exercise supervisory authority on those matters. The Human Resources Director may promulgate Administrative Guidelines (rules) to supplement this Code, provided such Administrative Guidelines shall not be in conflict with the Code.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 82-56 § 2 (part), 1982; prior Code § 6.05.010)

3.20.020 Classes of Employees.

- A. County employees shall be either members or potential members of the Career Service, or be exempt from Career Service.
- B. The following are exempt employees and shall serve "at will" unless otherwise provided:
 - 1. No more than two appointed positions in each department of an elected official of the Executive Branch;
 - 2. Those employees of the Prosecuting Attorney and Superior and District Courts according to State law; provided the above independent elected officials may request and the Council and Executive may grant, by ordinance, modifications to this exemption;
 - 3. Those employees of the Executive Department of the Sheriff;
 - 4. The Chief Officer of each Executive Department;
 - 5. All employees of the Council;
 - 6. Extra-hire employees;
 - 7. Limited duration employees;

8. All employees of the Executive Branch of government on the managerial and legal grids of the Salary and Classification Plan;
 9. Other employees as may be necessary as determined by the Council or by other statute.
- C. The following are not considered to be County employees:
1. Elected officials;
 2. Independent contractors, employees of independent contractors and employees of temporary employment services or agencies;
 3. All volunteer members of Boards and Commissions appointed by the Council or Executive.
- D. The following are not eligible for County benefits unless specifically provided by State law or specific Code Sections:
1. Independent contractors, employees of independent contractors, and employees of temporary employment services or agencies;
 2. All volunteer members of boards and commissions appointed by the Council or Executive;
 3. Extra-hire employees.

Elected officials are not eligible for these specific County benefits: vacation leave, sick leave, Shared Sick Leave, Humanitarian Leave, Catastrophic Leave, and longevity benefits except as provided by State law.

(Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.05.020)

3.20.030 Career Service System.

The recruitment, selection and promotion of Career Service employees shall be competitive and shall be based upon merit and demonstrated ability. Career Service employees shall have such rights, working conditions and benefits as are specified by ordinance, Code and any Administrative Guidelines. County employees exempt from the Career Service under the provisions of 3.20.020 B.2., 3., 5., 7. and 8., and the appointees of elected officials under 3.20.020 B.1., are eligible for employment in the Career Service through the competitive promotional examination process. If the employee was hired through the meritorious process through the Human Resources Department, such employees shall be eligible, whether or not the appointment would be a promotion, but shall not be eligible for appointment to the Career Service through non-competitive placement processes such as transfer, demotion or layoff. (Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 82-56 § 2 (part), 1982; prior Code § 6.05.030)

3.20.035 Recordkeeping.

- A. The official personnel file for each employee shall be maintained and retained by the Human Resources Director in the Human Resources Department. Such record shall include the employee's application for initial County employment; application for transfers or promotions obtained; applications and amendments for benefits; performance evaluations; record of training received; records of commendation both from within the County structure and from without; record of disciplinary action; other records which reflect changes to the employee's pay grade or step or leaves of absence without pay; and any other records which may be determined necessary or appropriate by the Human Resources Director. Such records shall be a permanent part of the personnel file.

- B. Personnel files and records, including medical files and training records, shall be confidential and shall not be released for public information except as provided by law. Personnel files may be inspected by the Human Resources Director and members of the Human Resources Department, the employee or employee's authorized representative, the County Executive or designee, the employee's department director or supervisor, departmental training contact for training records, any other department director or Appointing Authority to which the employee has been referred for consideration for transfer or re-employment or certified for consideration for promotion, or other similar circumstance as approved by the Human Resources Director. The Human Resources Department shall record the names of all persons, except employees of the Human Resources Department, who access individual personnel files, but not including electronically generated and maintained files, and the date of access.

(Ord. 2008-106s § 1 (part), 2008)

3.20.040 Status of Employment.

- A. Career Service employees may be removed only for cause, as specified by ordinance; provided, that such cause need not be demonstrated where an employee is retired or laid off in accordance with the provision of this Code and Administrative Guidelines.
- B. Exempt employees serve at the pleasure of the Appointing Authority.
- C. A probationary or provisional employee may, without cause, be terminated or demoted to a prior class in which the employee held a Career Service status.
- D. An extra-hire employee works in a temporary position without County benefits and is not included in the Career Service. An extra-hire employee serves at the pleasure of the Appointing Authority.
- E. Employees eligible for earning of County benefits shall be able to transfer their County benefit accruals and earning rate if transferred to another County department.
- F. Nothing in this Section shall derogate from the County's authority to abolish positions and/or lay off employees because of reductions in force and/or reorganization.

(Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.05.040)

3.20.050 Participation in E-Verify.

The County shall enroll and participate in E-Verify. The Human Resources Director shall ensure that it is applied to all persons to be hired by the County as County employees. (Ord. 2009-74s § 1 (part), 2009)

Chapter 3.24

SELECTION PROCESS

Sections:

3.24.010 Selection Procedure.

3.24.020 Examination Defined.

3.24.010 Selection Procedure.

The Human Resources Director shall establish competitive examination and selection procedures for filling existing and anticipated vacant positions in the Career Service, Examinations for Career Service positions may be "open" and/or "promotional," as determined by the Human Resources Director, depending upon which will best serve the interests of the County. (Ord. 2004-7s § 2 (part), 2004; Ord. 82-56 § 2 (part), 1982; prior Code § 6.11.010)

3.24.020 Examination Defined.

Examinations include all rating factors used to evaluate and select candidates for employment or promotion with the County. Examinations may consist of one or more of the following forms of competition:

- A. Written examination;
- B. Oral examination;
- C. Evaluation of education, training and experience;
- D. Performance of tasks required;
- E. Reference checks;
- F. Assessment center;
- G. Any other valid method of examination.

(Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.11.020)

Chapter 3.28

CERTIFICATION AND APPOINTMENT

Sections:

3.28.010 Appointment.

3.28.020 Probationary period.

3.28.010 Appointment.

The appointment of Career Service employees within the Executive Branch shall be accomplished by the Appointing Authority. The Appointing Authority is the official empowered with lawful authority by ordinance, law or Charter to appoint employees to positions in the County Career Service, or persons delegated by such Appointing Authority to perform those duties which legally may be delegated. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.13.010)

3.28.020 Probationary Period.

The probationary period is a period of time constituting the final step of the competitive process for potential Career Service employees, normally constituting a period of thirteen accruable pay cycles or as otherwise established, unless extended up to a maximum of seven additional pay cycles at the request of the Appointing Authority and approval of the Human Resources Director. A probationary employee may, without cause, be terminated or demoted to prior class in which the employee held Career Service status if a position is available. (Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.13.020)

Chapter 3.32

CLASSIFICATION PLAN

Section:

3.32.010 Scope of Classification Plan.

3.32.010 Scope of Classification Plan.

All employment positions which do not have their salary set by State law or Charter language shall be part of a comprehensive classification plan established by the Human Resources Director which provides for the grouping of positions into a system of classifications; the description and minimum requisite qualifications of positions in class specifications; assignment to a salary range; rules and procedures which provide for maintenance of the plan in a current status. Each employment position shall be classified by the Human Resources Director and allocated or reallocated in accordance with the character, difficulty and responsibility of its designated duties. The Human Resources Director may add, delete, or revise the classification pay plan with the written approval of the Executive within budgeted funds, excluding elected officials and employees of the Council. (Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord, 82-56 § 2 (part), 1982; prior Code § 6.15.010)

Chapter 3.36

SALARY PLAN

Section:

3.36.010 Salary Ordinance.

3.36.020 Salary of Prosecuting Attorney.

3.36.010 Salary Ordinance.

The Executive shall periodically prepare and submit a recommended salary ordinance to the Council, for adoption. The ordinance shall establish standardized salary schedules for employees, excluding employees who have their salaries set by State law. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.16.010)

3.36.020 Salary of Prosecuting Attorney.

The salary of the Pierce County Prosecuting Attorney shall be the same as that set from time to time for Superior Court Judges by the Washington Citizen's Commission on Salaries for Elected Officials or as otherwise provided by law. (Ord. 2005-99 § 1, 2005)

Chapter 3.40

PERSONNEL BOARD APPEALS

Sections:

- 3.40.010 Personnel Board.**
- 3.40.020 Role of Personnel Board.**
- 3.40.025 Procedural Rules.**
- 3.40.030 Appeals.**
- 3.40.040 Cause for Suspension, Demotion, Reduction, Withholding of Salary Step or Dismissal.**
- 3.40.050 Written Notice of Disciplinary Action.**
- 3.40.060 Withdrawal or Amendment of Disciplinary Action.**
- 3.40.065 Withdrawal of Appeal.**
- 3.40.070 Hearing.**
- 3.40.080 Rights of Parties on Appeals.**
- 3.40.090 Notice of Hearing.**
- 3.40.100 Report of Hearing.**
- 3.40.110 Witness Oath.**
- 3.40.120 Expenses for Witnesses.**

3.40.010 Personnel Board.

There shall be a Personnel Board, consisting of five resident and qualified voters, three to be appointed from the County at large by the Executive, ratified by the Council, and two to be elected by the Career Service employees of the County in a manner of their choosing. (Pierce County Charter, Section 7.40) (Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982: prior code § 6.20.010)

3.40.020 Role of Personnel Board.

The role of the Personnel Board is:

- A. To submit a written report at least once a year to the County Executive and County Council concerning the operation of the personnel system with any recommendations for its improvement.
- B. To conduct hearings on appeal(s) by any member of the Career Service from any action pertaining to the methods of examination, appointment or promotion; from any suspension for more than 20 working days, disciplinary demotion, or dismissal for cause; provided further, employees serving in positions covered by a union agreement shall be subject to the terms and grievance provisions of their contract for their appeals. The Personnel Board shall hold a hearing to consider the appeal and shall issue such orders as it deems proper including but not limited to reversal of the action, with or without the loss of benefits and pay. The employee shall have the right to request a closed hearing. The decision of the Personnel Board on an appeal shall be final and binding unless reviewed by a court of competent jurisdiction by action of a party in interest including the Appointing Authority.
- C. To conduct grievance hearings, under the provisions of Chapter 3.48, filed by any member of the Career Service relating to the interpretation of specific rights, or benefits conferred by any provision of the Administrative Guidelines for the Career Service.

(Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.020)

3.40.025 Procedural Rules.

The Personnel Board is authorized to adopt standing rules of procedure that are consistent with the Administrative Guidelines for the Career Service and any applicable law. (Ord. 2011-28 § 1 (part), 2011)

3.40.030 Appeals.

In the case of an appeal by a Career Service employee to the Personnel Board, written notice of appeal shall be filed by the employee directed to the Human Resources Director within five working days of an employee having been notified of the disciplinary action. For appeals not involving disciplinary action, the applicable period shall be ten working days from the action from which the appeal is taken, or ten working days from the time the employee should have reasonably known of the action, whichever is longer. The written notice of appeal by the employee shall contain a statement of the following:

- A. The action or alleged action from which the appeal is taken;
- B. The grounds for appeal; and
- C. The relief requested.

The Personnel Board may only hear appeals which are within its jurisdiction as defined in this Chapter.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.030)

3.40.040 Cause for Suspension, Demotion, Reduction, Withholding of Salary Step or Dismissal.

- A. An employee with regular status in the Career Service may be demoted, suspended, reduced in salary step, have an automatic salary step withheld, or dismissed for cause. The following are declared to be causes for such action, although charges may be based upon causes other than those listed herein:
 1. Failure to meet reasonable work performance standards and requirements;
 2. Discourteous treatment of the public or other employees;
 3. Willful or negligent disobedience of any law, ordinance, County rule, departmental policy or regulation, or a superior's lawful order;
 4. Misappropriation, theft, damage of public property, or waste of public funds or property through negligent or willful misconduct;
 5. Conduct unbecoming of an employee of the County;
 6. Absence without approved leave;
 7. Excessive tardiness or absenteeism;
 8. Deception or fraud in securing of a job appointment or promotion;
 9. Failure to supply full information as required in the employment process, which if known prior to the time of the appointment, might have resulted in disqualification of the employee for the position to which appointment was made;
 10. Falsification of a relevant official statement or document;
 11. Physical or mental incapacity to perform essential job functions;
 12. Failure to cooperate with the implementation and application of the Equal Employment Opportunity Policy;
 13. Possessing or using narcotics, illegal drugs, or alcohol in County offices or being at work under the effects of same, or otherwise violating the Drug Free Workplace Policy;
 14. Insubordination;

15. Making threats or exhibiting threatening behavior, committing acts of intimidation or violence toward another employee, visitors or other users of County services, or otherwise violating the Workplace Safety and Violence Prevention Policy or Domestic Violence in the Workplace Policy;
16. Misuse of medical or personal health information.
17. Failure to cooperate in responding to public records requests.
- B. Nothing in this Section shall derogate from the County's authority to abolish positions and/or lay off employees because of reductions in force and/or reorganization.
- C. Salaried employees exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act may be suspended for less than one week in response to major safety violations. All other suspensions of such salaried employees shall only be made in weekly increments.

(Ord. 2011-28 § 1 (part), 2011; Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.040)

3.40.050 Written Notice of Disciplinary Action.

In any disciplinary action against a Career Service employee, other than verbal reprimand (oral warning), pertinent information shall be reduced to written form by the Appointing Authority. A copy shall be filed with the Human Resources Director and a copy shall be delivered personally to the Career Service employee or mailed to the employee's last known address by certified mail, return receipt requested. The employee shall be deemed notified of the disciplinary action upon personal notification, or five days after mailing of such notification. Notice of the disciplinary action shall state the following:

- A. The cause for discipline;
- B. The reasons and/or facts supporting the cause;
- C. The form of discipline to be imposed;
- D. The effective date of the discipline (if applicable);
- E. The right of the Career Service employee to appeal to the Personnel Board within five working days of notification of the action, a disciplinary action resulting in:
 1. a suspension of more than 20 working days,
 2. demotion, or
 3. dismissal.
- F. The right of the Career Service employee to grieve any other disciplinary action to the appropriate authorities through the initiation of the grievance procedure, set forth in Chapter 3.48 or through the provisions of a collective bargaining agreement, if provided.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.050)

3.40.060 Withdrawal or Amendment of Disciplinary Action.

After filing of the written notice of disciplinary action, it may be withdrawn by the Appointing Authority at any time prior to the final decision of the Personnel Board. An amended notice may be filed by the Appointing Authority at any time prior to the commencement of the hearing before the Personnel Board. If an amended notice of disciplinary action presents new causes for discipline, the employee shall be afforded a reasonable opportunity to prepare the defense thereto and must file an amended answer within ten working days of the receipt of the amended notice. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.060)

3.40.065 Withdrawal of Appeal.

The Personnel Board may deem an appeal withdrawn in the event the appellant fails to timely comply with a Personnel Board rule pertaining to deadlines, hearings, or disclosure of witnesses or exhibits. (Ord. 2011-28 § 1 (part), 2011)

3.40.070 Hearing.

- A. If the appellant's appeal is timely filed and in conformance with Section 3.40.030, the Personnel Board or Chairperson shall fix the time and date of hearing the appeal. The time and date may be changed by the Personnel Board, or Chairperson, upon stipulation of the parties for continuance or for good cause. The parties are defined as the appellant employee and the Appointing Authority.
- B. The appellant employee or a representative of such employee and the Appointing Authority or representative of the Appointing Authority shall attend the hearing. Failure of the employee or employee's representative to appear at the time and place set for hearing shall be deemed a withdrawal of the employee's appeal, unless otherwise excused by the Personnel Board.

(Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.070)

3.40.080 Rights of Parties on Appeals.

Each party shall have the right to:

- A. Choose a representative;
- B. Testify under oath;
- C. Make a request to the Personnel Board to have specific witnesses and/or documents subpoenaed, subject to the rules of evidence and privilege. If approved, each party shall then be responsible for issuance of its own subpoenas;
- D. Question witnesses;
- E. Present evidence;
- F. Argue a case.

(Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.080)

3.40.090 Notice of Hearing.

At least ten calendar days prior to hearing, the Personnel Board shall mail notice of the time and place of hearing to the parties. Notice to counsel or the party's representative of record shall constitute notice to the party. (Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.090)

3.40.100 Report of Hearing.

- A. Hearings before the Personnel Board shall be electronically recorded. Either party to the hearing shall have the right to supply a court reporter on its initiative and shall provide for the payment of the same. Costs for transcripts and/or recordings shall be borne by the party requesting the transcript.
- B. The names and addresses of all witnesses and exhibits shall be made part of the record. The Personnel Board shall have the power to exclude witnesses not under examination and to admonish witnesses to refrain from discussing the subject of their testimony with other witnesses or potential witnesses. The parties and their representatives shall be permitted to remain in the hearing room at all times prior to submission of the matter for decision, even though they may be called upon to testify as witnesses.

(Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.100)

3.40.110 Witness Oath.

The Personnel Board shall require all witnesses to testify under oath or affirmation. The oath shall read as follows:

Do you solemnly swear (or affirm) that the testimony you are about to give in this matter shall be the truth, the whole truth, and nothing but the truth?
(Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.110)

3.40.120 Expenses for Witnesses.

The expenses of witnesses and case presentation, including attorney fees, for either side shall be borne by the parties respectively. (Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.20.120)

Chapter 3.44

EMPLOYEE RELATIONS

Sections:

3.44.010 Employer/Employee Relations.

3.44.020 Collective Bargaining.

3.44.010 Employer/Employee Relations.

Employer/employee relations shall be maintained and conducted in a manner which assures the rights of employees and at the same time ensures the orderly process of governmental operations. Department directors may allow authorized agents of a certified bargaining unit (union) to utilize a reasonable amount of available space on bulletin boards for transmittal of information subject to approval by the Human Resources Director. Such authorized agents may also have reasonable access, as determined by the Human Resources Director, to other bargaining unit members in County offices for transmittal of the information, adjusting disputes, and ascertaining compliance with the collective bargaining agreement. Such access shall be limited to periods before work, after work, during lunch breaks, or other times as provided by collective bargaining agreement as long as the work of County employees and the service to the public is unimpaired. Prior to making contact with members in County offices, such authorized agents shall make arrangements with the department director. (Ord. 2004-7s § 2 (part), 2004; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.25.010)

3.44.020 Collective Bargaining.

When a collective bargaining agreement establishes a condition of employment, benefit or procedure which directly conflicts with the condition, benefit or procedure established by County Code or the Administrative Guidelines, the collective bargaining agreement shall take precedence with respect to those employees covered by the agreement, so long as the following conditions are met:

- A. The condition of employment, benefit or procedure created by the agreement is lawful;
- B. If the agreement is in conflict with the County Code, and then adopted by the Council by ordinance, such an adoption shall be deemed to be an amendment of the Code with respect to the affected employees and subject condition, benefit or procedure. If such agreement has been signed by the Executive, it shall act as an amendment of the Administrative Guidelines only with respect to affected employees and subject condition, benefit or procedure.

(Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.25.020)

Chapter 3.48

GRIEVANCE PROCEDURE

Sections:

3.48.010 Policy.

3.48.020 Withdrawal of Grievance.

3.48.010 Policy.

The County recognizes the importance and desirability of settling grievances of Career Service employees promptly and fairly in the interest of continued good employee relations and morale. To accomplish this, efforts will be made to settle grievances at the lowest possible level of supervision. Employees shall be unimpeded and free from restraint, interference, coercion, discrimination or reprisal in seeking administrative review of their grievances pursuant to the procedures set forth in the Administrative Guidelines or collective agreements. (Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.30.005)

3.48.020 Withdrawal of Grievance.

The Personnel Board may deem a grievance withdrawn in the event the appellant fails to timely comply with a Personnel Board rule pertaining to deadlines, hearings, or disclosure of witnesses or exhibits. (Ord. 2011-28 § 1 (part), 2011)

Chapter 3.52

WORKING CONDITIONS – CONFLICT OF INTEREST

Sections:

- 3.52.010 Working Conditions.**
- 3.52.020 Conflict of Interest.**
- 3.52.030 Work Week.**
- 3.52.033 Pay Deductions.**
- 3.52.040 Legal Holidays and Furlough.**
- 3.52.050 Compensatory Time – Overtime.**
- 3.52.060 Benefits Reinstatement for Rehired Employees.**
- 3.52.070 Inclement Weather or Conditions.**
- 3.52.080 Weapons Policy.**
- 3.52.085 Employee Incentive and Recognition.**

3.52.010 Working Conditions.

All employees shall hold their positions subject to the conditions stated in this Title and the Administrative Guidelines promulgated hereunder. Nothing contained in this Title and Administrative Guidelines shall prevent, relieve, or otherwise excuse any employee from the performance of any duty imposed by any law of the State of Washington and/or ordinance of Pierce County or from rendering of services at such times and places as are necessary in order to properly perform the functions of their office or employment. (Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.35.010)

3.52.020 Conflict of Interest.

- A. No employee may engage in any occupation or outside activity which is incompatible with the proper discharge of official County duties or which may impair independence of judgment or action in the performance of such official duties.
- B. A conflict of interest shall be deemed to exist when any employee has the authority or practical power to directly supervise, appoint, remove, discipline, or is responsible for auditing the work of or where other circumstances exist which would reasonably place the employee and one of the relatives listed herein in a situation of actual or potential conflict. The relatives to whom this Section applies are as follows:
 - 1. Mother, father, son, daughter, brother, sister, husband, wife, aunt, uncle, niece, nephew, grandfather, grandmother, grandson, granddaughter, daughter-in-law, son-in-law, father-in-law, mother-in-law, sister-in-law, brother-in-law, stepbrother, stepsister, stepson, stepdaughter, stepmother and stepfather, domestic partner or a like relative of the domestic partner.
 - 2. The existence of a conflict of interest shall preclude the continued employment of one of the parties when such conflict is created after the effective date of the ordinance codified in this Title. When it is necessary to terminate or transfer an employee because of a conflict, the persons involved shall be given the opportunity to determine who shall have or retain employment. In the event the persons involved cannot agree, the decision shall be made by the Appointing Authority.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2007-108 § 2 (part), 2007; Ord. 98-123 § 1 (part), 1998; Ord. 82-56 § 2 (part), 1982; prior Code § 6.35.020)

3.52.030 Work Week.

- A. Except as otherwise determined by department directors, the normal work week shall consist of five consecutive working days for all full-time employees. Except as otherwise designated by the Human Resources Director, the standard work week shall be the 7-day period beginning at 12:01 a.m. on a Monday and ending at 12:00 (midnight) on a Sunday.
- B. It shall be the duty of each department director to arrange the work of that particular department so each full-time employee therein shall work not more than five days of each week; however, a department director may require any employee in such department to perform service in excess of five days per week when public necessity or convenience so requires. All department directors are authorized and empowered to stagger, rearrange and adjust the hours of employment of the various employees in such a manner as to enable them to keep their offices open at all times required. Department directors are responsible for maintaining accurate attendance records for their employees.

(Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.35.040)

3.52.033 Pay Deductions.

- A. It is the County's policy for all employees whether or not they are members of the Career Service that no improper deductions shall be made from an employee's pay. In the event an improper deduction is made from an employee's paycheck, the employee shall immediately bring the error to the attention of the timekeeper. If the discrepancy is not resolved by the timekeeper, the employee shall submit a written request for review to the Human Resources Department.
- B. When the County determines that an employee was overpaid wages, the employee will be served a written notice of the amount of the overpayment, the basis for the claim, a demand for payment within 20 calendar days of the date on which the employee received the notice, and the rights of the employee under this Section.
 - 1. The notice may be delivered to the employee in person or be mailed to the employee at his or her last known address by certified mail, return receipt requested.
- C. Within 20 calendar days after receiving the notice that an overpayment has occurred, the employee may request, in writing, to the Human Resources Department that the County review its finding that an overpayment has occurred. The employee may choose to have the review conducted through written submission of information challenging the overpayment or through a face-to-face meeting with the employer. If the request is not made within the 20-day period as provided in this subsection, the employee may not further challenge the determination of overpayment and has no right to further agency review, an adjudicative proceeding, or judicial review.
- D. Upon receipt of an employee's written request for review of the overpayment, the County shall review the employee's challenge to the overpayment. Upon completion of the review, the employer shall notify the employee in writing of the employer's decision regarding the employee's challenge. The notification must be mailed to the employee at his or her last known address by certified mail, return receipt requested.
- E. If the employee is dissatisfied with the employer's decision regarding the employee's challenge to the overpayment, the employee may request an adjudicative proceeding to the Pierce County Personnel Board, pursuant to Chapter 3.48 PCC and Section 3.48.020 (Step 4) of the Administrative Guidelines.

1. The employee's application for an adjudicative proceeding must be in writing, state the basis for contesting the overpayment notice, and include a copy of the employer's notice of overpayment. The application must be served on and received by the Human Resources Department within 28 calendar days of the employee's receipt of the employer's decision following review of the employee's challenge. The employee must serve the Human Resources Department by certified mail, return receipt requested.
 2. For represented employees, any dispute relating to the occurrence or amount of the overpayment shall be resolved using the procedures contained in the collective bargaining agreement or this procedure, but not both.
- F. If the employee does not request an adjudicative proceeding within the 28-day period, the amount of overpayment provided in the notice shall be deemed final and the County may proceed to recoup the overpayment from the employee's regular paycheck or by other collection action.
- G. Where an adjudicative proceeding has been requested, the Personnel Board shall determine the amount, if any, of the overpayment received by the employee.
- H. If the employee fails to attend or participate in the adjudicative proceeding, upon a showing of valid service, the presiding or reviewing officer may enter an administrative order declaring the amount claimed in the notice sent to the employee after the employer's review of the employee's challenge to the overpayment to be assessed against the employee by a payroll deduction and subject to collection action by the County.
- I. Failure to make an application for a review by the County as provided in subsections C. and D. of this Section or any adjudicative proceeding within 28 calendar days of the date of receiving notice of the employer's decision after review of the overpayment shall result in the establishment of a final debt against the employee in the amount asserted by the County, which shall be collected as a payroll deduction or by other collection action.
- (Ord. 2011-28 § 1 (part), 2011; Ord. 2008-106s § 1 (part), 2008)

3.52.040 Legal Holidays and Furlough.

- A. Regular full-time, regular part-time employees and employees occupying limited duration positions will be granted legal holidays off with pay as set forth below, unless otherwise provided by collective bargaining agreements, provided the employee is in a paid wage status of at least 70 percent of their normally scheduled hours, on the normal workday preceding and following such holiday. Regular part-time employees and employees occupying limited duration positions, regularly scheduled to work an amount equal to or greater than 40 percent of the regular work schedule of the department per month, shall be eligible for a pro-rata portion of holiday pay based on their standard weekly hours worked during the cycle in which the holiday occurs, provided they worked at least 70 percent of their standard work hours. The number of hours compensated as holidays off with pay and the pro-rata portion for regular part-time employees and employees occupying limited duration positions shall be calculated by dividing the employee's standard weekly hours by five.
1. If a legal holiday occurs on a non-exempt employee's regularly scheduled day off, the employee shall receive an alternative day off with pay which shall be scheduled with the department director and should be taken within the first 30 days following the holiday. Holidays occurring during a period of vacation or sick leave shall be paid as they occur and the employee shall not be charged with vacation or sick leave for the holiday.

2. If a non-exempt employee is required to work on a legal holiday which falls on the employee's regularly scheduled workday, one of the following shall occur:
 - a. The employee shall be compensated for the holiday at the straight-time rate and shall be compensated at time and one-half for hours worked; or
 - b. The employee shall be compensated for hours worked on the holiday at the straight-time rate and shall take an alternative day off within the calendar year.
3. Furlough. Employees who are required to work in a facility or department that operates on a 24/7 basis:
 - a. With the approval of the Human Resources Director, employees may be designated by the County to receive furlough days in lieu of holidays. Such furlough days will be scheduled and taken within the calendar year.
 - b. Designated furlough days shall be available for use on January 1 and must be scheduled, using the same procedure as used for scheduling vacation, within the calendar year, unless extended by the Human Resources Director. Before the occurrence of any holidays for which a furlough day was accrued and used, the employee shall be required to reimburse the County for the value of the unearned day(s).
 - c. Employees assigned to receive furlough days in lieu of holidays will receive one and one-half times the straight hourly rate of pay when they are required to work on the following holidays: New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas. This shall mean the actual holiday, not the day the County observes as the holiday for pay purposes.
 - d. Employees hired or terminated during the calendar year shall be entitled to furlough days or must reimburse the employer for used furlough days based upon the holidays remaining when they are hired or terminated. Unused furlough days will be lost and will not be compensated if the employee terminates or transfers to another department.

Employees shall not begin a leave of absence (with or without pay) with a negative furlough balance. Employees will be required to reimburse the employer for all negative furlough balances prior to going on a leave of absence.
- B. Legal holidays include: New Year's Day, January 1st; Martin Luther King Jr. Day, 3rd Monday in January; President's Day, 3rd Monday in February; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, 1st Monday in September; Veterans' Day, November 11; Thanksgiving Day, 4th Thursday in November; the day after Thanksgiving Day; and Christmas Day, December 25.
- C. Paid Personal Holiday.
 1. Regular full-time, regular part-time employees, and employees occupying limited duration positions, shall also receive two additional paid "personal" holidays. Each paid personal holiday shall accrue on January 1 of each year and must be taken during the calendar year in which it was accrued or the day will lapse except when an employee has requested and been approved use of the personal holiday and the approval is later canceled by the County. In such instances, with the recommendation of the Appointing Authority, the Human Resources Director may authorize the personal holiday to be used within the month of January during the following calendar year. A personal holiday carried forward in such manner may not be compensated in any form upon the separation of employment. Personal holidays may be taken in less than full day increments in accordance with County timekeeping standards.

2. Regular full-time, regular part-time employees, and employees occupying limited duration positions, hired on January 1 or the first work day following January 1 shall accrue and be eligible to use the paid personal holidays during that year. Employees hired after the first work day of the year shall not be eligible to accrue or use paid personal holidays during that year.
3. Employees eligible to use a paid personal holiday must request and receive approval by the appropriate supervisor to utilize the personal holidays. Once the personal holiday has been accrued, it may be used without regard to the requirement for paid status on the day before and after usage since paid status before and after was required for the holiday to be accrued.
4. Employees, except new employees beginning work on January 1 or the first workday following January 1, must have been in a paid wage status of at least 70 percent on the workday immediately preceding and immediately following January 1 in order to accrue the holidays. Effective January 1, 1999, employees not in a paid wage status who are receiving time-loss payments under the County's Workers' Compensation program shall also accrue the paid personal holidays.

- D. No holidays including personal holidays falling or accruing during unpaid leaves shall be compensated.

(Ord. 2010-14 § 1 (part), 2010; Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 97-1 § 2, 1997; Ord. 94-117 § 1, 1994; Ord. 93-11 § 1, 1993; Ord. 92-163 § 1 (part), 1993; Ord. 83-5 § 4, 1983; Ord. 82-56 § 2 (part), 1982; prior Code § 6.35.070)

3.52.050 Compensatory Time – Overtime.

Unless otherwise set forth and agreed upon in a current collective bargaining agreement, it shall be the policy of the County to allow department directors to authorize for all employees not exempted by State law Chapter 49.46 RCW as further defined in the Administrative Guidelines or exempt from the overtime provisions of the Fair Labor Standards Act, to receive either:

- A. Time and a half pay or compensatory time for hours worked in excess of 40 hours compensated per week; and
- B. Compensatory time for hours worked in excess of their regular work week at the rate of one hour off for each hour of overtime worked up to and including 40 hours per week; or
- C. Regular pay at the employee's regular hourly wage for time worked in excess of normal workday but less than 40 hours worked per week; or
- D. Compensatory time accrued or taken must be recorded on the employee's payroll time record to the nearest one-tenth hour. The maximum amount of compensatory time that may be carried over from one pay cycle to another pay cycle shall be ten days, provided that, with the approval of the Appointing Authority or designee and the Human Resources Director, compensatory time in excess of ten days may be carried over into the next pay cycle. Compensatory time accrual shall be paid at the employee's hourly pay rate plus longevity, if any, upon separation.

(Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.35.080)

3.52.060 Benefits Reinstatement for Rehired Employees.

- A. Laid off employees who are rehired within 12 months of their layoff date shall be reinstated to their same accrual rates for earning of County benefits provided the period of layoff will not count toward the computation of the amount of continuous time in service. Such employees shall be able to buy back their prior sick leave balance by paying a monetary amount equal to the amount paid upon their separation. Said buy back must be within two months of rehire. Employees hired on or after September 1, 1991, or other date as specified by a collective bargaining agreement and who have passed their initial probationary period who were not eligible to receive compensation for accrued sick leave upon layoff shall be credited with the amount of sick leave accrued at the time of layoff.
- B. Employees on an authorized unpaid leave of absence shall not be considered separated; however, the period of unpaid leave of absence shall not be counted toward the computation of the amount of continuous time in service.
- C. Effective July 1, 2007, employees who separate from employment in good standing and who are rehired within five years of their effective resignation date, shall be reinstated to their same accrual rates for earning of County vacation leave benefits, provided the period of non-county employment will not count toward the computation of benefit levels. Such employees shall otherwise be considered new hires and their prior period of employment shall not count toward seniority, computation of the amount of time in continuous service, or for any other purpose unless required by other applicable law, such as retirement benefits.

(Ord. 2011-28 § 1 (part), 2011; Ord. 2010-14 § 1 (part), 2010; Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.35.090)

3.52.070 Inclement Weather or Conditions.

In the event of difficult driving conditions caused by flooding, snow, ice, windstorm, or other severe weather condition which may create difficult or hazardous driving conditions, the County Executive, or designee, may declare an inclement weather condition to exist. Upon that declaration, the following conditions shall apply:

- A. Absence due to an employee's inability to report for scheduled work because of severe inclement weather or conditions caused by severe inclement weather shall be charged to the following, in the order listed:
 - 1. Any accrued compensatory time;
 - 2. Any accrued personal holiday hours;
 - 3. Any accrued vacation leave;
 - 4. Accrued sick leave up to a maximum of three days in any calendar year;
 - 5. Leave without pay.
- B. Although the types of paid time off shall be used in the order listed in A., and each type shall be exhausted before the next in succession is used, employees may use leave without pay, rather than pay status, at their request.
- C. Tardiness due to an employee's inability to report for scheduled work because of inclement weather or conditions due to weather will be allowed for up to one hour at the beginning of the work day. Inclement weather tardiness in excess of the one hour shall be charged as provided in A., above.
- D. The provisions of this Section apply only to the start of employee work shifts and do not apply to any other time during a shift.

(Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 92-163 § 1 (part), 1993)

3.52.080 Weapons Policy.

With the exception of authorized employees of the Pierce County Prosecutor's Office, Pierce County Department of Assigned Counsel, and Sheriff's Department, including Correctional Deputies, no employee of Pierce County shall possess firearms, whether licensed or not, or any other weapon while on premises or property owned or leased by Pierce County or in County vehicles while on County business or while otherwise conducting County business. Employees who carry firearms and/or weapons in their personal vehicles shall comply with all applicable federal, state and local laws regarding weapons. (Ord. 2011-28 § 1 (part), 2011; Ord. 2008-106 § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998)

3.52.085 Employee Incentive and Recognition.

The County Executive is authorized to create and provide funding for programs designed to create good will, provide incentives to encourage excellence, and recognize employee accomplishments and tenure with the County. Recognition programs may include, but are not limited to, banquets, award certificates, and items of appreciation. Funding for Countywide programs may be included in the County's annual budget. Funding for departmental programs may be included in departmental budgets. (Ord. 2001-6 § 1, 2001)

Chapter 3.56

HEALTH INSURANCE

Section:

3.56.010 Eligibility.

3.56.010 Eligibility.

- A. Specific employees and elected County officials occupying regular full-time, regular part-time, and limited duration positions shall be eligible for participation in the current health insurance plans and contribution provided by the County, for each month the employee is compensated excluding overtime and other special pays, in a 70 percent pay status, based on their regular schedules. Employees who work less than full-time and elect insurance coverage will be required to pay a prorated percentage of the premium contribution. Less than full-time employees who do not elect insurance coverage shall not be entitled to receive any compensation for the portion of premiums that would otherwise have been paid by the County. The specific language of the health carrier contracts with the County shall control waiting periods, premiums, coverage and benefits provided, but shall include health care coverage for an eligible employee's domestic partner and eligible dependents of the domestic partner on a basis equal to the health care benefits provided to an employee's spouse and eligible dependents.
- B. "Health insurance," as used in this Chapter, means any dental, prescription, vision, or other health care benefit included in the health care contracts entered into by the County, at the County's discretion.
- C. The spouse, domestic partner, and dependents of an employee who dies as a result of an industrial accident or illness or otherwise in the line of duty, and who were eligible for and enrolled in one of the County's health insurance plans at the time of the employee's death, shall continue to be covered by the health insurance benefit and the percentage of the premium shall be paid by the County until such time as they become statutorily ineligible for the health insurance benefit under the provisions of the Consolidated Omnibus Reconciliation Act of 1986 (COBRA) or the group medical plan by:
 - 1. Becoming covered by another group health plan by reason of employment; or
 - 2. Becoming entitled to receive Medicare benefits; or
 - 3. The spouse becoming remarried or the domestic partner becoming the domestic partner or spouse of another person and covered by a group medical plan by virtue of the remarriage/new domestic partnership; or
 - 4. The termination of the County's group medical or health insurance plan; or
 - 5. Termination of coverage for cause provided in the County's group medical plan or health insurance plan; or
 - 6. Unmarried dependent children attaining the age of 23 unless otherwise provided in the group medical or health insurance plan; or
 - 7. Otherwise becoming ineligible for the group medical or health insurance coverage as provided in the plans.

Any premium for such health insurance benefits shall be borne by the County at the percentage paid before the employee's death, upon the approval of the County Executive and County Council.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2007-108 § 2 (part), 2007; Ord. 98-123 § 1 (part), 1998; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.36.010)

Chapter 3.58

LIFE INSURANCE

Sections:

3.58.010 Eligibility.

3.58.010 Eligibility.

Employees occupying regular full-time, regular part-time, and limited duration positions shall be eligible for participation in the current life insurance plans and contribution provided by the County, for each month the employee is compensated excluding overtime or special pays, in a 70 percent pay status based on their regular schedules. The specific language of the life carrier contracts with the County shall control waiting periods, coverage and benefits provided. (Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993)

Chapter 3.60

INDUSTRIAL INSURANCE

Sections:

3.60.010 Coverage for all Employees.

3.60.020 Reporting On-the-Job Injuries.

3.60.010 Coverage for all Employees.

The Executive is authorized to adopt and provide industrial insurance coverage through the Washington State Industrial Insurance Coverage Program or any other State approved coverage including self-insurance for all employees of Pierce County. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.37.010)

3.60.020 Reporting On-the-Job Injuries.

All on-the job injuries shall be immediately reported to the employee's immediate supervisor and the Risk Management Department. The immediate supervisor and/or the Risk Management Department will provide the employee any required County or state forms to be filed. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.37.020)

Chapter 3.64

ACCIDENT REPORTS

Section:

3.64.010 Reports of Accidents Required.

3.64.010 Reports of Accidents Required.

All employees involved in, or who observe automobile accidents involving County vehicles or any other kind of accident in which the County may have potential liability, or be sued, are required to make and place on file with the Risk Management Department, a written report of such accident, giving all details, names of witnesses, time, place, and circumstances. This report is to be filed with the Risk Management Department within 24 hours of the incident, excluding weekends and County holidays. (Ord. 2008-106s § 1 (part), 2008; Ord. 82-56 § 2 (part), 1982; prior Code § 6.38.010)

Chapter 3.67

FAMILY AND MEDICAL LEAVE

Sections:

- 3.67.010 Authorization and Implementation.**
- 3.67.020 Eligibility.**
- 3.67.025 Military Family Leave.**
- 3.67.030 Payment for Family Leave.**
- 3.67.040 Notification and Certification.**
- 3.67.050 Discontinuance of Family Leave.**
- 3.67.060 Maintenance of Benefits.**
- 3.67.070 Restoration of Employment.**
- 3.67.080 Exemptions.**
- 3.67.090 Posting Requirement.**
- 3.67.100 Severability.**

3.67.010 Authorization and Implementation.

Family leave is provided as required by and in accordance with the provisions of Chapter 49.78 RCW (hereafter State law) and the Federal Family and Medical Leave Act of 1993 (hereafter FMLA). It is intended that so far as possible, the benefits of each will be applied concurrently except in those instances where State law and FMLA leave provide differing benefits in which case the Human Resources Director shall ensure employees are afforded the full benefits as provided by law. The Human Resources Director shall promulgate implementing Administrative Guidelines as necessary and shall administer the family leave program in accordance with the provisions of each as amended. Definitions will be as found in the State law or FMLA as appropriate. The Human Resources Department shall be responsible to determine employee eligibility based on the date the leave is to commence. In instances where State law and FMLA offer substantially similar benefits/provisions, the FMLA shall prevail. (Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 98-123 § 1 (part), 1998)

3.67.020 Eligibility.

Eligibility for family leave shall be as follows:

- A. State Law: To be eligible, employees must have been employed on a continuous basis for the previous 52 weeks for at least 35 hours per week.
- B. FMLA: To be eligible, employees must have been employed for at least 12 months and have been compensated for at least 1,250 hours during the 12-month period preceding the commencement of the leave.
- C. An eligible employee may take up to 12 work weeks of family leave under the following qualifying conditions:
 - 1. State Law: Twelve weeks are allowed during any consecutive 24-month period (the 24-month period is calculated on a rolling basis) for the following reasons:
 - a. Care for a newborn or adopted child under the age of six at the time of placement for adoption. This leave is in addition to any leave for sickness or temporary disability because of pregnancy or childbirth. Leave for birth or adoption must be completed within 12 months; or
 - b. Care for a child under the age of 18 with a health condition that requires treatment or supervision; or over the age of 18 if incapable of self-care due to mental or physical disability.

- c. State law family leave may be taken on a reduced leave schedule only with the prior approval of the Appointing Authority.
 - d. State law family leave is available in addition to any leave for sickness or disability due to pregnancy or childbirth.
 - e. Spouses, both employed by Pierce County, are collectively entitled to a total of 12 work weeks of State law family leave during any 24-month period.
2. FMLA: Twelve weeks are allowed during any consecutive 12-month period (the 24-month period is calculated on a rolling basis) for the following reasons:
- a. Care for a newborn child, newly adopted child, or newly placed foster child. There is no age limit on adopted children. Leave for birth or adoption must be completed within 12 months. Employees may use FMLA leave for birth, placement for adoption or foster care intermittently by taking leave in blocks of time or by reducing their normal weekly or daily work schedule subject to the approval of the Appointing Authority and the Human Resources Director; or
 - b. Care for an immediate family member including the employee's spouse (but excluding unmarried domestic partners), biological or adopted or foster children under the age of 18 with a health condition that requires treatment or supervision, or over the age of 18 if incapable of self-care due to mental or physical disability, or parent and like relatives of the employee's spouse, providing the immediate family member has a serious health condition. Employees may use FMLA leave intermittently by taking leave in blocks of time or by reducing their normal weekly or daily work schedule whenever it is medically necessary to care for a seriously ill family member.
 - c. Care for self if unable to perform the essential functions of their position due to a serious health condition unless the medical condition is of such severity that the employee is not expected to return to work in which case the employee is not eligible for family leave. Employees may use FMLA leave intermittently by taking leave in blocks of time or by reducing their normal weekly or daily work schedule when the employee is seriously ill and unable to work.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 98-123 § 1 (part), 1998)

3.67.025 Military Family Leave

- A. **Family Leave for Military Spouses.** During a military conflict, an employee who is the spouse of a servicemember who has been notified of an impending call or order to active duty or who has been deployed is entitled to a total of 15 days of unpaid leave per deployment after the spouse has been notified and before deployment, or when the military spouse is on leave from deployment, or as otherwise provided by law. Accrued paid leave which an employee is otherwise entitled to use may be substituted.
- B. **Military Caregiver Leave.** A federal FMLA eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember, or as otherwise provided by law. This military caregiver leave is combined and included as part of the 12-week total FMLA leave available to employees.

(Ord. 2008-106s § 1 (part), 2008)

3.67.030 Payment for Family Leave.

- A. All family leave shall include paid leave, compensatory time, paid legal holidays, if any, or unpaid leave. Family Leave shall be charged to accrued sick leave, accrued vacation leave, accrued compensatory time, accrued furlough days, accrued but unused personal holidays, or humanitarian catastrophic leave, and may be charged through an automated payroll default system at the County's option.
- B. An employee may not take paid leave unless it has been earned/accrued.
- C. Unpaid leave as family leave shall be authorized only after the exhaustion of all other paid leaves as specified above. However, at the point of the application for or designation of family leave, whichever is earlier, an employee may elect to retain up to ten times his or her scheduled daily hours, to a maximum of 80 hours of sick leave, and up to 10 times his or her scheduled hours, and to a maximum of 80 hours of vacation, for a maximum total of 160 hours.
- D. Family leave used as time-loss due to an industrial accident or illness is exempt from the requirement to exhaust leaves prior to using unpaid leave.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2008-106s § 1 (part), 2008; Ord. 2001-64 § 1, 2001; Ord. 98-123 § 1 (part), 1998)

3.67.040 Notification and Certification.

Employees planning to take family leave shall provide their department director and immediate supervisor with written notice on application forms provided by the Human Resources Department at least 30 days in advance of the anticipated need. Notification shall include the anticipated starting date of leave and requested ending date and, if applicable, any sick leave or vacation leave to be retained as set forth in subsection 3.67.030 C.

- A. For childbirth, adoption or foster care placement, all absences shall be considered to be family leave. The 30-day advance notification may be waived if the birth is premature; or the employee takes custody of the newly adopted or place foster child at an unanticipated time and is unable to give 30 days advance notice; or the Appointing Authority, employee's supervisor and employee agree to lesser notice.
- B. In an emergency situation, the advance notice is waived provided employees must schedule leave so as not to unduly disrupt operations.
- C. Periodic reports, including updated physician certification regarding the employee or family member's status and intent to return to work, may be required as deemed necessary by the Appointing Authority
- D. Medical Certification Required: Each employee requesting family leave, except for childbirth, adoption or placement of a foster child shall provide a certification of the attending physician or medical practitioner on the Pierce County Certification of Physician or Practitioner or other approved form. Submission of the medical certification should be made at the time of application but in emergency or unforeseen circumstances shall be submitted not later than 15 calendar days after application is made. Failure to provide the medical certification within the required 15 days after application, or when the leave was foreseeable, shall be cause to deny Family Leave until such time as an acceptable medical certificate is provided or obtained. The medical certification must certify a serious health condition which requires inpatient care in a hospital, hospice or residential medical care facility or which requires continuing treatment, as defined by FMLA, by a health care provider.

- E. If the validity of the medical condition is disputed or unclear, the County may require the employee to obtain a second opinion by a provider of the County's choice and at the County's expense. In the event of a dispute between the two providers, the County may require the opinion of a third provider selected in accordance with State Law or FMLA as appropriate. The cost of the third opinion shall be borne by the County. The opinion of the third provider shall be binding.
- F. All requests for family leave require the approval of both the employee's department director and the Human Resources Director. However, nothing shall derogate from the County's authority under the FMLA to determine any period of qualifying leave to be family leave in which case the Human Resources Director shall so notify the employee in writing.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 98-123 § 1 (part), 1998)

3.67.050 Discontinuance of Family Leave.

In the event the family member for whom the family leave was taken dies, authorization for family leave shall cease. The employee shall be entitled to bereavement leave in accordance with Chapter 3.76 or applicable collective bargaining agreement as appropriate. (Ord. 98-123 § 1 (part), 1998)

3.67.060 Maintenance of Benefits.

During periods of FMLA leave, Pierce County will maintain employee and dependent coverage under the group health plan(s) under which the employee was enrolled at the time leave commenced and shall make premium payments at the same level as was made prior to leave commencement. Benefits may be maintained during periods of State Law family leave by the employee paying the appropriate premiums as directed by the County. Except in the event of the unexpected death of the employee while on family leave or if the employee is unable to return as previously expected due to a serious health condition of the employee or eligible family member, should the employee fail to return to work on the conclusion of authorized family leave, Pierce County may recover any premiums paid for maintaining group health coverage under this Section. In order to be considered to have returned to work, the employee must return to a pay status for not less than 30 calendar days and must comply with all appropriate leave policies. (Ord. 98-123 § 1 (part), 1998)

3.67.070 Restoration of Employment.

Upon return from FMLA leave, if the employee is able to perform the essential functions of the job, the employee shall be restored to the classification and position held upon commencing FMLA leave, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. If the department's circumstances have so changed that the employee cannot be reinstated to the same position, or a position of equivalent pay and benefits, the employee shall be reinstated in any other position which is vacant and for which the employee is qualified.

Restoration of employment is not required if any of the following conditions exist:

- A. The employee's position is eliminated by a bona fide restructuring, or reduction-in-force;
or
- B. The employee's workplace is permanently or temporarily shut down for at least 30 days;
or
- C. The employee's workplace is moved to a location at least 60 miles from the location of the workplace when leave commenced; or
- D. The employee on family leave takes another job; or
- E. The employee fails to provide timely notice of family leave as required, or fails to return on the established ending date of leave; or

- F. Any other reason that would have resulted in discharge or denial of reinstatement had the employee not be on leave; or
 - G. Any other reason as provided under the provisions of State Law or FMLA.
- (Ord. 98-123 § 1 (part), 1998)

3.67.080 Exemptions.

- A. The County may elect to designate up to ten percent of its work force as key personnel who shall be ineligible to participate in this family leave program. Any positions bearing such designation must be conspicuously posted and the exemption shall not be effective until 30 days after such posting. The designation of key personnel may only be changed once in any 12-month period.
- B. The use of family leave will not alter or amend the benefit accrual policies of Pierce County. The use of intermittent leave may affect benefit accruals if it prevents the employee from being in a pay status at least 70 percent of the employee's standard pay cycle as defined by County policy.
- C. Salaried executive, administrative and professional employees exempt from minimum wage and overtime provisions of the Fair Labor Standards Act may use unpaid FMLA leave or, if authorized, intermittent FMLA leave in less than full-day increments without jeopardizing their FLSA exempt status.

(Ord. 98-123 § 1 (part), 1998)

3.67.090 Posting Requirement.

The County shall distribute notifications explaining rights and responsibilities under the FMLA and State law for permanent posting on bulletin boards maintained for employee information. (Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 98-123 § 1 (part), 1998)

3.67.100 Severability.

The County Executive may modify or discontinue all or part of the family and medical leave program in the event of repeal or suspension in whole or in part of either the State law family leave act or FMLA or both. (Ord. 98-123 § 1 (part), 1998)

Chapter 3.68

SICK LEAVE

Sections:

- 3.68.005 Intent.**
- 3.68.010 Eligible Employees.**
- 3.68.020 Permissible Uses of Sick Leave.**
- 3.68.021 Abuse, Misuse and Excessive Use of Sick Leave.**
- 3.68.030 Qualifying for Use of Sick Leave.**
- 3.68.040 Workers' Compensation – Sick Leave.**
- 3.68.050 Payment Upon Separation.**
- 3.68.052 Reports – Corrections/Verifications.**
- 3.68.054 Limitation of County Obligation to Pay for Sick Leave.**
- 3.68.060 Sick Leave Incentive Program.**

3.68.005 Intent.

Sick leave is provided as an employee benefit to aid employees. Its use must be restricted to qualifying situations and employees are encouraged to accumulate sick leave to carry them through unforeseen and lengthy illness. (Ord. 92-163 § 1 (part), 1993; Ord. 91-97 §§ 1, 2, (part), 1991)

3.68.010 Eligible Employees.

Regularly scheduled full-time employees in a 70 percent accruable pay status per cycle shall earn sick leave at the rate of 12/26 of a day per cycle no upper limit. Regular part-time positions shall earn a pro-rata portion of the sick leave based upon their authorized scheduled weekly hours divided by 5 excluding overtime and standby pay, provided they work at least 70 percent of their standard work hours per cycle. Sick leave shall be earned and accrued upon the completion of each accruable pay cycle. Sick leave will not be payable to new eligible employees until they have completed 13 accruable pay cycles of employment; if they are separated prior to completion of the 13 pay cycles, no payment is due. (Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.39.010)

3.68.020 Permissible Uses of Sick Leave.

- A. Sick leave shall be paid at the employee's regular straight time base hourly rate of pay plus longevity pay, if any, for the employee's own needs for the following conditions:
 - 1. Bona fide illness or injury which incapacitates the employee from performing normal duties; or
 - 2. Employee's disability due to pregnancy or recovery therefrom; or
 - 3. Medical or dental care of the employee; or
 - 4. Medical treatment or hospitalization of an employee required for participation in an organ donor, bone marrow transplant or other humanitarian medical process when verified by written statement from competent attending medical authority. Approval may be granted by the Appointing Authority dependent upon operational necessity and work demands.

- B. Sick leave shall be paid at the employee's regular straight time base hourly rate of pay plus longevity pay, if any, for absences required due to bona fide illness or injury to those family members whose principal residence is with the employee. The family members to whom this Section applies include mother, stepmother, father, stepfather, son, stepson, daughter, stepdaughter, brother, stepbrother, sister, stepsister, husband, wife, grandparent, domestic partner and like relatives of the domestic partner whose principal residence is with the employee, grandchild, an individual for whom the employee is the legal guardian, foster children, children placed for adoption, or other person with whom the employee had lived "in loco parentis", and like relatives of the employee's spouse.
- C. Family Care Leave. Sick leave or other paid leave as chosen by the employee shall be paid at the employee's regular straight time base hourly rate of pay plus longevity, if any, subject to the provisions of this Chapter regarding sick leave and under the following circumstances.
 - 1. Any health condition affecting a covered employee's child under the age of 18 years, or for a child age 18 or older and incapable of self-care, which requires treatment or supervision including:
 - a. Health conditions requiring medication which cannot be self administered;
 - b. Medical or mental health conditions which would endanger the child's safety or recovery without the presence of a parent or guardian;
 - c. Any condition warranting preventive health care such as physical, dental, optical or immunization services when a parent must be present to authorize;
 - d. Any other circumstance which would constitute a permissible use of sick leave for the employee.
 - 2. A serious health condition or emergency condition of a spouse, parent, parent-in-law, grandparent of the employee, domestic partner, parent of the domestic partner, or child age 18 or older and incapable of self care, which requires the employee's presence. Such leave shall only be approved for the duration of the condition.
- D. For purposes of this Chapter, "in loco parentis" shall mean those persons who had day-to-day responsibility to care for and financially support the employee, on a long-term basis, when the employee was a child. Proof of such relationship may be required. A biological or legal relationship is not necessary.
- E. Sick leave may be paid in accordance with Chapter 3.67, Family and Medical Leave. (Ord. 2008-106s § 1 (part), 2008; Ord. 2007-108 § 2 (part), 2007; Ord. 2003-3s § 1 (part), 2003; Ord. 98-123 § 1 (part), 1998; Ord. 92-163 § 1 (part), 1993; Ord. 87-31 § 1, 1987; Ord. 83-5 § 4, 1983; Ord. 82-56 § 2, (part), 1982; prior Code § 6.39.020)

3.68.021 Abuse, Misuse, and Excessive Use of Sick Leave.

- A. Abuse and misuse (impermissible use and/or pattern of use) of sick leave are grounds for disciplinary action, up to and including discharge.
- B. The employer has the right at any time to request the employee provide certification from a physician attesting to such illness, injury, or other reason for leave. (Ord. 2003-3s § 1 (part), 2003; Ord. 92-163 § 1 (part), 1993)

3.68.030 Qualifying for Use of Sick Leave.

In order to qualify for sick leave pay, employees must report the reason for their absence no later than the beginning of the scheduled working day with notice as soon as feasible of the anticipated date of return to work. The employees shall keep their department director informed with a written certification from a physician which shall be filed if sick leave exceeds five working days. The physician's certificate shall state the kind and nature of the illness or injury

and that the employee is incapacitated from work during the period of absence or the required reason for care of a family member, and the estimated length of absence. The physician's letter may be required to be updated every week in writing during an extended sick leave. (Ord. 2003-3s § 1 (part), 2003; Ord. 91-97 §§ 1, 2 (part), 1991; Ord. 83-5 § 4, 1983; Ord. 82-56 § 2 (part), 1982; prior Code § 6.39.030)

3.68.040 Workers' Compensation – Sick Leave.

In the instance where an illness or injury qualifies an employee for Workers' Compensation, the County will pay only the difference between the employee's straight time base hourly wage and the amount paid the employee by the Workers' Compensation benefits to the extent of accrued unused sick leave during the period of disability. (Ord. 91-97 §§ 1, 2 (part), 1991; Ord. 82-56 § 2 (part), 1982; prior Code 6.39.040)

3.68.050 Payment Upon Separation.

- A. Effective January 1, 2008, eligible employees who have completed 13 accruable pay cycles and who are separated from service due to death, retirement or disability, shall be paid for unused accrued sick leave as follows:
 1. For the first 75 days or less, an amount equal to 25 percent of the employee's straight time hourly rate of pay plus longevity, if any, for unused accrued sick leave days.
 2. For the next 75 days (76 through 150), an amount equal to 50 percent of the employee's straight time hourly rate of pay plus longevity, if any, for unused accrued sick leave days.
 3. For the next 50 days (151 through 200), an amount equal to 75 percent of the employee's straight time base hourly rate of pay plus longevity, if any, for unused accrued sick leave days.
- B. In no event shall such compensation exceed 200 days.
- C. Effective January 1, 2008, an employee who is separated from employment in "good standing" for reasons other than death, retirement, or disability shall be compensated at ten percent of the employee straight time base hourly rate of pay plus longevity, if any, for unused accrued sick leave days to the date of separation not to exceed 200 days. Compensation for sick leave in any form is not allowable for employees who are separated from employment in any status other than in good standing.
- D. Eligible employees are considered to be retired for purposes of sick leave payment on separation and early retirement for medical insurance when they have received and have provided a written confirmation notice from the Department of Retirement Systems that indicates that they have met the required qualifications for service retirement under their State of Washington Retirement System and have elected to receive either a lump-sum payment in lieu of retirement or elected to receive a service or disability retirement benefit.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2007-115 § 1 (part), 2007; Ord. 2003-3s § 1 (part), 2003; Ord. 92-163 § 1 (part), 1993; Ord. 91-97 §§ 1, 2 (part), 1991; Ord. 82-56 § 2 (part), 1982; prior Code § 6.39.050)

3.68.052 Reports – Corrections/Verifications.

- A. Accrued sick leave shall be reported on the employee's warrant stub in hours and/or hours and parts thereof. The numbers of sick leave hours shall be divided by the employee's standard number of work day hours to determine the number of sick leave days available.
- B. The employee shall have the responsibility of reporting any discrepancy on the warrant stub to their immediate supervisor or timekeeper.

- C. Department directors or elected officials shall be responsible to verify the sick leave accrual and use each pay cycle and notify the Budget and Finance Department of any discrepancies.
- D. Department directors or elected officials shall be responsible for initiating a report certifying the number of unused sick leave hours available for compensation upon termination of an employee for any reason.

(Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 91-97 §§ 1, 2 (part), 1991)

3.68.054 Limitation of County Obligation to Pay for Sick Leave.

- A. The extent of the County's obligation to pay for sick leave shall be limited in those instances where the right to sick leave accrues by reason of an injury or illness which qualifies the employee for time-loss benefits under the County's Workers' Compensation program, to the difference between the time-loss payment received by the employees from the County and their actual wages. Sick leave shall be charged against an employee's accrued sick leave only in such proportion as the County's obligation to pay sick leave is utilized.
- B. Sick leave shall not be authorized when the employee's physical injury or illness occurred during and was related to employment with an entity other than Pierce County.
- C. Employees who are found to have claimed or used sick leave not in compliance with Section 3.68.054 A. above and employees whose employment terminates for any reason and who have claimed or utilized sick leave in excess of the amount of sick leave accrued, shall reimburse the County for the excess sick leave used or claimed through time card. If reimbursement is not made prior to the issuance of the final paycheck, recovery may be made using available legal means.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2003-3s § 1 (part), 2003; Ord. 91-97 §§ 1, 2 (part), 1991)

3.68.060 Sick Leave Incentive Program.

Effective January 1, 2008, eligible employees, including employees serving a probationary period for any part of the year, shall be awarded additional vacation leave as follows, whichever is more generous to the employee: if one day or less of sick leave is used in any calendar year, an employee will be awarded two additional days of vacation leave; if two days or less of sick leave is used in any calendar year, an employee will be awarded one additional day of vacation leave. This program shall be accomplished by the Budget and Finance Department, payroll section, as soon as practicable after the end of the calendar year. Only employees who have been in a pay status for the complete calendar year shall be eligible for this sick leave incentive program.

A complete calendar year shall begin on January 1 and end December 31 and shall include all regularly scheduled workdays for the employee (including observed holidays). In order to qualify as a complete calendar year, an employee must not have been in a leave of absence without pay status for two full work days or longer. New employees must begin work on the first work day in January, exclusive of January 1 (New Year's Day), and up to the next two days if such comprise a "weekend" for the employee's work site, in order to be eligible to have been in a pay status for the complete calendar year.

All references to "day" in this Section refer to the employee's standard hours per day (weekly hours divided by five), to a maximum of eight hours.

(Ord. 2007-115 § 1 (part), 2007; Ord. 2003-3s § 1 (part), 2003; Ord. 92-163 § 1 (part), 1993; Ord. 83-50 § 3, 1983; prior Code § 6.39.060)

Chapter 3.69

HUMANITARIAN CATASTROPHIC LEAVE BANK

Sections:

- 3.69.010 Eligible Employees.**
- 3.69.020 Permissible Uses of Humanitarian Catastrophic Leave.**
- 3.69.030 Qualifying for Use of Humanitarian Catastrophic Leave.**
- 3.69.040 State Workers' Compensation/Sick Leave.**
- 3.69.050 Creation of Humanitarian Catastrophic Leave Bank.**
- 3.69.060 Method of Payment.**
- 3.69.070 Limitation of County's Obligation to Pay Humanitarian Catastrophic Leave.**
- 3.69.080 Severability.**

3.69.010 Eligible Employees.

- A. Members and potential members of the County Career Service, exempt employees of the Legislative Branch of government, and exempt employees of the Executive Branch of government on the managerial and legal grids including employees of the Prosecuting Attorney's Office, Superior and District Courts, provided such employees are eligible to accrue and use sick leave benefits.
- B. The following are not eligible for Humanitarian Catastrophic Leave, unless specifically provided by State law or specific Code sections:
 - 1. Independent Contractors and employees of a contract employment service;
 - 2. Volunteers and members of boards and commissions appointed by the Council or Executive;
 - 3. Extra hire employees.
- C. Elected Officials are not eligible for these specific benefits except as provided by State law.
- D. The use of Humanitarian Catastrophic Leave shall not be available to employees covered by a separate pool or similar program established through a collective bargaining agreement.

(Ord. 92-63 § 1 (part), 1993; Ord. 88-21S § 1 (part), 1990)

3.69.020 Permissible Uses of Humanitarian Catastrophic Leave.

Subject to the limitation of available hours in the employee's Humanitarian Catastrophic Leave bank, leave drawn from the humanitarian catastrophic leave bank shall be paid, in accordance with these regulations at the employee's regular straight time base rate of pay for the following conditions:

- A. A catastrophic medical condition, illness or injury which incapacitates the employee from performing his or her work; or
- B. Absence for medical or dental care directly related to a catastrophic medical condition, illness or injury; or
- C. Absence because of catastrophic medical condition, illness or injury to those relatives living with and dependent upon the employee.

D. Definitions:

1. "Catastrophic medical condition, illness or injury" shall be defined as:
A physician certified death eminent case or a medical condition, illness, or injury which is of an extraordinary or severe nature, which requires a physician's ongoing care, and which has caused, or is likely to cause, the employee to: (i) be incapacitated and unable to work in excess of five working days; or (ii) otherwise be required to terminate County employment due solely to the absence of any available leave. Notwithstanding the above, Catastrophic leave will not be approved if, based on the physician's certification and consideration of the employee's condition, the employee is not expected to return to County employment.
2. "Relatives living with and dependent upon the employee" shall be defined as: Those persons listed and approved as dependents on the employee's medical insurance beneficiary designation form at the time of application for benefits under this Section.

- E. As with all sick leave, abuse and misuse of catastrophic leave are grounds for disciplinary action, up to and including discharge. The employee is required to keep the employer informed of any changes in medical status and/or limitations. The employer has the right at any time to require the employee to provide certification from a physician attesting to such medical condition, illness or injury.

(Ord. 2008-106s § 1 (part), 2008; Ord. 88-21S § 1 (part), 1990)

3.69.030 Qualifying for Use of Humanitarian Catastrophic Leave.

Use of Humanitarian Catastrophic Leave is limited to the available leave hours established by Pierce County for employees as specified in this Chapter. This program is designed to create a bank of leave hours for Pierce County employees to cover catastrophic medical conditions, illnesses or injuries after an employee has exhausted all other accrued leave.

- A. In order to qualify for Humanitarian Catastrophic Leave pay, the employee must first exhaust available sick leave benefits provided pursuant to Chapter 3.68 of the Pierce County Code, all vacation leave available to the employee pursuant to Chapter 3.72 of the Pierce County Code, compensatory time earned, personal holidays and/or accrued furlough, and any applicable leave of absence with pay as specified in Chapter 3.76 of the Pierce County Code. Upon exhaustion of the benefits referred to above, the employee, or the employee's guardian or legal representative, in the event the employee is incapacitated or otherwise physically incapable of making the request for humanitarian catastrophic leave, shall make a written request, upon forms available from the Pierce County Human Resources Department, to the employee's department director for Humanitarian Catastrophic Leave. Upon receipt by the department director the catastrophic leave request shall be forwarded to the Human Resources Department.
1. Approval for leave shall be made by the Human Resources Director or designee, and the employee's department director or elected official, or that person's designee. In the event of a tie in the vote, the Executive or the Executive's designee shall cast the tie breaking vote.
 2. The committee should consider the following matters when determining whether to approve a leave request pursuant to this Chapter:
 - a. The nature of the medical condition, illness or injury;
 - b. Any history of excessive use of sick leave by the employee requesting leave or a pattern of abuse of sick leave;
 - c. The likelihood that the employee will be medically able to return to work.

- d. Such other factors as may be relevant to evaluation of the request.
 - B. Employees utilizing catastrophic leave shall keep the Human Resources Department informed with written certification from a physician. The physician's certificate shall state the nature of the medical condition, illness or injury, the prognosis for recovery, and the estimated length of the absence. The County may require that the physician's letter be updated every week, in writing, during a period of catastrophic leave bank usage.
 - C. "Relatives living with and dependent upon the employee" means those persons listed and approved as dependents on the employee's medical insurance beneficiary designation form at the time of application for benefits under this Section.
- (Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 88-21S § 1 (part), 1990)

3.69.040 State Workers' Compensation/Sick Leave.

In the instance where an illness or injury qualifies or may qualify an employee for State Workers' Compensation, the employee shall first make application for Workers' Compensation benefits and then the employee's access to Humanitarian Catastrophic Leave shall only be for the difference between the employee's straight time base hourly wage and the amount paid the employee by the State Workers' Compensation benefits, to the extent of available Humanitarian Catastrophic Leave, if any. (Ord. 2008-106s § 1 (part), 2008; Ord. 88-21S § 1 (part), 1990)

3.69.050 Creation of Humanitarian Catastrophic Leave Bank.

- A. After completion of six months of regular County employment eligible employees shall be credited to their account a Humanitarian Catastrophic Leave Bank of (480) hours of Humanitarian Catastrophic Leave. This leave account shall be a one time benefit established by the County for use by the employee in accordance with the regulations specified in this Chapter. This is not a vested benefit and the County Council may repeal this Chapter at any time and any leave balances shall revert to the County. Once an employee exhausts available Humanitarian Catastrophic Leave Bank hours the employee will only be eligible for an unpaid leave of absence in accordance with County procedures. In the event an employee leaves County employment and is later reemployed by the County, any Humanitarian Catastrophic Leave Hours used by an employee prior to separation from County employment shall be deducted from the Humanitarian Catastrophic Leave Bank in effect at the time of reemployment, if any, in accordance with the regulations in effect at the time of reemployment.
- B. Upon receipt of a request for participation in the Humanitarian Catastrophic Leave Bank program, the department director shall forward to the Pierce County Human Resources Director the request for Humanitarian Catastrophic Leave for the determination of whether the incident specified in the request qualifies for participation in the program.
 - 1. **Waiver of Privacy Interest.** An individual making a request for Humanitarian Catastrophic Leave request hereby expressly waives any privacy interest relating to the information contained in the humanitarian leave request and shall hold harmless Pierce County, its agents and assigns, from any and all claims relating to disclosures the County determines are necessary for the employees' application for or use of Humanitarian Catastrophic Leave. However, information provided in connection with Humanitarian Catastrophic Leave requests shall be treated as sensitive and confidential and unauthorized disclosure shall be grounds for disciplinary action.
 - 2. The minimum time awarded shall be 5 workdays and the maximum award at a single request shall be 20 workdays. A "workday" shall be defined as one-fifth of the employee's normally scheduled work week hours. Supplemental requests may be made directly to the Human Resources Director upon a separate request form.

Unless specifically limited by the review committee, the Human Resources Director may approve supplemental requests without presenting the supplemental request to the review committee. The maximum duration of any employee's utilization of Humanitarian Catastrophic Leave is limited to the employee's available approved Humanitarian Catastrophic leave hours.

3. When an employee has been granted Humanitarian Catastrophic Leave and the basis for the leave ceases to qualify for leave, any unused leave hours available to the employee shall revert to the employee's Humanitarian Catastrophic Leave Bank.
4. When an employee has been granted Humanitarian Catastrophic Leave and the employee subsequently receives compensation from a collateral source for the same injury covering the same period of time, the employee will be required to reimburse the County for such Humanitarian Catastrophic Leave.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 88-21S § 1 (part), 1990)

3.69.060 Method of Payment.

Employees participating in the Humanitarian Catastrophic Leave Program shall be paid, subject to available leave hours, according to the employee's normal pay period, in accordance with the employee's regular straight time base hourly rate of pay. Humanitarian Catastrophic Leave balances may not be cashed out as provided in Section 3.68.050. When an eligible employee ceases to be an eligible employee of Pierce County any unused Humanitarian Catastrophic Leave shall revert to Pierce County.

- A. Subject to available hours of approved Humanitarian Catastrophic Leave, such leave shall be paid by the County at the employee's base rate of pay plus longevity, if any, or as otherwise provided herein.
- B. Subject to available hours of approved Humanitarian Catastrophic Leave, an employee using such leave shall receive all benefit accruals and other entitlements as if the employee were using sick leave.
- C. Any probationary period shall be extended by the length of time an employee in a probationary capacity is off work utilizing Humanitarian Catastrophic Leave.

(Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 88-21S § 1 (part), 1990)

3.69.070 Limitation of County's Obligation to Pay Humanitarian Catastrophic Leave.

- A. Humanitarian Catastrophic Leave shall not be authorized when the employee's physical injury or illness occurred during and was related to employment with an entity other than Pierce County.
- B. The maximum duration of the employee's participation in the program is limited to 480 hours. After the exhaustion of available Humanitarian Catastrophic Leave Hours, unless employment with Pierce County has resumed, or a Leave of Absence Without Pay is granted, the employee/employer relationship is terminated and the employee is only entitled to such other relief as may be provided in the Pierce County Code or State law.
- C. This is not a vested benefit and the County Council may repeal this Chapter at any time and any leave balances shall revert to the County.

(Ord. 2008-106s § 1 (part), 2008; Ord. 88-21S § 1 (part), 1990)

3.69.080 Severability.

The provisions of this Chapter are severable. If any provision or provisions are declared to be unlawful, unconstitutional or invalid, such provision(s) shall not affect the constitutionally or validity of any other provision of this Chapter. (Ord. 88-21S § 1 (part), 1990)

Chapter 3.70

SHARED SICK LEAVE PROGRAM

Sections:

- 3.70.010 Purpose.**
- 3.70.020 Policy.**
- 3.70.030 Definitions.**
- 3.70.040 Permissible Uses of Shared Sick Leave Bank.**
- 3.70.050 Eligibility for Shared Sick Leave.**
- 3.70.060 Qualifying for Use of Donated Sick Leave.**
- 3.70.070 Application Process.**
- 3.70.080 Criteria for Approval.**
- 3.70.090 Donation of Hours.**
- 3.70.100 Administration.**
- 3.70.110 Criteria for Use.**

3.70.010 Purpose.

To provide a method for employees to donate their sick leave hours to other employees in order to provide additional paid leave for eligible employees who would otherwise be in an unpaid status who are affected by a catastrophic medical condition, illness, injury or impairment. (Ord. 2002-71s § 1 (part), 2002)

3.70.020 Policy.

- A. Pierce County has established a plan whereby employees may transfer sick leave hours to provide additional paid leave for an eligible employee to cover catastrophic medical conditions, illness, injuries or impairments of the employee or the employee's family member (as defined below under "Relatives living with and dependent upon the employee") after that employee has exhausted all other available leave and is unable to work.
- B. This program is meant to supplement Humanitarian Catastrophic Leave (HCL) and Humanitarian Catastrophic Leave must be exhausted prior to the use of Shared Sick Leave.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2002-71s § 1 (part), 2002)

3.70.030 Definitions.

- A. "Shared Sick Leave Program (SSLP)" means a program of donated hours for an employee who has exhausted all other forms of paid leave due to the employee's (or family member's) qualifying catastrophic medical condition, illness, injury or impairment.
- B. "Catastrophic Medical Condition, Illness, Injury or Impairment" means a physician certified death eminent case or a medical condition, illness, injury which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to: (i) be incapacitated and unable to work in excess of five working days; (ii) or otherwise be required to terminate County employment due solely to the absence of any available leave. Notwithstanding the above, Shared Sick Leave will not be approved if based on the physician's certification and consideration of the employee's condition, the employee is not expected to return to County employment.

- C. "Relatives living with and dependent upon the employee" means those persons listed and approved as dependents on the employee's medical insurance beneficiary designation form at the time of application for benefits under this Section.
(Ord. 2008-106s § 1 (part), 2008; Ord. 2002-71s § 1 (part), 2002)

3.70.040 Permissible Uses of Shared Sick Leave Bank.

Subject to the limitation of available hours in the sick leave bank, leave drawn from the Shared Sick Leave bank shall be paid in accordance with these regulations at the employee's regular straight time base rate of pay, plus longevity if any, for the following conditions:

- A. A catastrophic medical condition, illness or injury which incapacitates the employee from performing his or her work; or
- B. Absence for medical or dental care directly related to a catastrophic medical condition illness or injury; or
- C. Absence because of a catastrophic medical condition, illness or injury to those relatives living with and dependent upon the employee.

(Ord. 2002-71s § 1 (part), 2002)

3.70.050 Eligibility for Shared Sick Leave.

- A. To be eligible for the Shared Sick Leave Program an employee must have completed six continuous months of regular employment with Pierce County, based on date-of-hire, as a regular employee.
- B. Employees on new employee probation, extra hires, limited duration employees, contract employees, and volunteers are not eligible for the Shared Sick Leave Program.
- C. An employee must have exhausted all available vacation hours, sick leave hours, personal holiday hours, compensatory time, and Humanitarian Catastrophic Leave, before being eligible for the Shared Sick Leave Program.
- D. Application for the Shared Sick Leave Program may be made during or after the pay cycle during which accrued paid leave hours are being exhausted.
- E. Employees eligible for and collecting Workers' Compensation benefits under Chapter 51.32 RCW, Social Security benefits, or Long Term Disability benefits are not eligible for this program. Employees who are waiting for Long Term Disability benefits and/or Social Security benefits to begin may be eligible.
- F. The Shared Sick Leave Program shall apply only to members and potential members of the County Career Service, exempt employees of the Legislative Branch of government, and exempt employees of the Executive Branch of government on the managerial and legal grids including employees of the Prosecuting Attorney's Office, Superior and District Courts, and employees represented by bargaining units to the extent agreed upon through collective bargaining.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2002-71s § 1 (part), 2002)

3.70.060 Qualifying for Use of Donated Sick Leave.

- A. An employee must first exhaust all available and accrued vacation, sick leave, personal holiday hours, compensatory time, and Catastrophic Humanitarian Leave, before Shared Sick Leave will be granted.
- B. An employee using Shared Sick Leave will not accrue additional sick leave and vacation hours by virtue of Shared Sick Leave, but may continue to be eligible for health care coverage and other benefits as if the employee were in a regular paid status.
- C. Any use of Shared Sick Leave will be counted toward the 12 week allowance for Family and Medical Leave (FMLA), if applicable.

- D. Shared Sick Leave is not a vested benefit and Pierce County may repeal this leave bank at any time and any leave balances shall revert to Pierce County upon revocation.
- E. No benefit will be paid for unused hours of Shared Sick Leave upon separation from employment for any reason.
- F. Once an employee's available Shared Sick Leave hours are exhausted, and no more have been donated, the employee will only be eligible to apply for an unpaid leave of absence.
- G. If an unpaid leave is not granted and there is not a reasonable expectation that the employee will be able to resume employment, the employee will be terminated.

(Ord. 2002-71s § 1 (part), 2002)

3.70.070 Application Process.

- A. Upon exhaustion of all other available accrued benefits, the employee (or the employee's guardian or legal representative in the event the employee is incapacitated or otherwise physically incapable of making the request for leave) will make a written request upon forms available from the Human Resources Department, to the employee's department director. Such request shall be accompanied by a physician's certification, which shall include appropriate medical documentation of the necessity for the leave and an estimate of when the employee can reasonably be expected to return to work.
- B. An employee making a request for Shared Sick Leave expressly waives any privacy interest relating to the information contained in the leave request, and all medical information related to the need for leave, and shall hold harmless Pierce County, its agents and assigns, from any and all claims relating to disclosures the County determines are necessary to process the employee's application for or use of the leave bank. However, information provided in connection with the leave request will be treated as sensitive and confidential, and unauthorized disclosure may be grounds for disciplinary action.
- C. Upon receipt of an application for Shared Sick Leave, the employee's department director will confer with the employee's supervisor, will provide appropriate comments supporting or rejecting the recommendation, and will then forward the completed form to the Human Resources Director.
- D. A decision to deny Shared Sick Leave shall not be grievable under the terms of current collective bargaining agreements or any article of the Administrative Guidelines for the Career Service, nor shall there be an appeal process except as provided in Section 3.70.080 A.
- E. Subsequent, supplemental requests for granting of donated leave arising from the same qualifying use, may be made directly to the Human Resources Director or designee.

(Ord. 2004-7s § 2 (part), 2004; Ord. 2002-71s § 1 (part), 2002)

3.70.080 Criteria for Approval.

- A. Approval for Shared Sick Leave shall be made by the Human Resources Director or the Human Resources Director's designee, and the employee's department director or elected official, or that person's designee. In the event of a tie in the vote the Executive or the Executive's designee shall cast the tie breaking vote.
- B. Realizing the importance and urgency of the Shared Sick Leave request, the County will attempt to decide within three working days of receipt of the completed formal leave request whenever possible.
- C. The following matters should be considered when determining whether to approve a request for Shared Sick Leave:

1. The nature and seriousness of the medical condition, illness, injury or impairment;
2. Whether the request qualifies for participation in Pierce County's Shared Sick Leave Program according to the Administrative Guidelines;
3. Any history of excessive use of sick leave by the employee requesting leave, or a pattern of abuse or misuse of sick leave;
4. The likelihood that the employee will be medically able to return to work;
5. Such other factors as may be relevant to the evaluation of the leave request as determined by the County.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 2002-71s § 1 (part), 2002)

3.70.090 Donation of Hours.

- A. An employee may donate sick leave hours as follows:
 1. Regular employees may donate their annual sick leave accrued in seven hour, seven and one-half hour, or eight hour increments, up to a maximum of forty hours per calendar year. The assignment of hours will occur upon written request and approval of the donating employee and approval by the Human Resources Director or designee.
 2. Donating full-time employees must maintain a sick leave balance of no less than 30 days. Part-time employees must maintain a sick leave balance equivalent to 30 days of leave.
- B. Donated sick leave hours must be used within 60 calendar days of the date of donation or it will be returned to the donor.

(Ord. 2004-7s § 2 (part), 2004; Ord. 2002-71s § 1 (part), 2002)

3.70.100 Administration.

- A. Upon approval for Shared Sick Leave, the Human Resources Department will distribute a notice that donations of sick leave are being accepted to assist an employee. Such notice will include a deadline by which donation must be made. An employee receiving no donations during the donation period may apply for a leave without pay.
- B. Donation of sick leave is strictly voluntary. Employees are prohibited from soliciting, offering, or receiving monetary or any other compensation or benefits in exchange for donating sick leave hours.
- C. Donations are designated for a specific person and are not for a general pool.
- D. Sick leave hours shall be transferred on an hour-for-hour basis without regard for differences in base hourly rate of pay between the donating employee and the recipient employee.
- E. The Budget and Finance Department will be responsible for adjusting the accrued leave balances of both the donor and the recipient.
- F. All hourly donations are to be credited to the recipient on an "as needed basis" each pay cycle.
- G. Donated Shared Sick Leave hours are excluded from any payoff provisions contained in the Pierce County Administrative Guidelines for the Career Service and relevant provisions of collective bargaining agreements.
- H. The recipient of Shared Leave will be taxed for receipt of compensable earnings to the extent authorized in Chapter 41.40 RCW and prevailing IRS regulations.
- I. Donated sick leave will be applied on a first in, first out basis.

- J. When an employee has been granted Shared Sick Leave and the employee subsequently receives compensation from a collateral source, for the same injury, covering the same period of time, the employee will be required to reimburse the County for such Shared Leave.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 2002-71s § 1 (part), 2002)

3.70.110 Criteria for Use.

- A. Employees utilizing the Shared Sick Leave Program will keep their department director and immediate supervisor(s) informed with periodic written certification from a health care provider. The health care provider's certification will state the nature of medical condition, illness, injury or impairment, the prognosis for recovery, and the estimated length of absence. Pierce County Human Resources may require that the health care provider's certification be updated in writing periodically. An employee maybe required to allow a representative from the Human Resources Department to speak with the health care provider in order to gather sufficient information or clarification.
- B. Subject to eligibility and the limitation of hours defined herein, sick leave hours will be paid at the employee's current straight-time rate of pay, plus longevity, if any, for the reasons listed in Section 3.70.040, "Permissible Uses of Shared Sick Leave Bank".
- C. When an employee has been granted Shared Sick Leave and the basis for the leave ceases to exist or qualify, no additional hours will be made available and any unused hours will be returned to donating employees on a last in, first out basis.
- D. As with all sick leave, abuse, misuse and falsification of facts regarding Shared Sick Leave may be grounds for disciplinary action, up to and including termination.
- E. Pierce County has the right at any time to request that the employee provide certification from a health care provider attesting to the medical condition, illness, injury or impairment of the employee or qualifying family member.
- F. Shared Sick Leave will not be authorized when the employee's condition, illness, injury or impairment occurred during and was related to employment with an entity other than Pierce County.

(Ord. 2004-7s § 2 (part), 2004; Ord. 2002-71s § 1 (part), 2002)

Chapter 3.72

VACATION LEAVE

Sections:

- 3.72.010 Accrual of Vacation Leave.**
- 3.72.020 Eligible Employees.**
- 3.72.030 New Employees.**
- 3.72.040 Vacation Carry-Over.**
- 3.72.050 Use and Payment of Vacation Leave.**
- 3.72.060 Payment for Vacation Leave Upon Separation.**

3.72.010 Accrual of Vacation Leave.

- A. Regular full-time employees hired on or after January 1, 1983, shall be granted vacation benefits in accordance with the following schedule as of anniversary dates falling on or after the dates indicated, provided they are compensated at least 70 percent of their standard work hours per pay cycle:

During the Applicable Continuous Accrualable	Paid Vacation
<u>Year of Employment</u>	<u>Days</u>
1st through 3rd year.....	12 days
4th through 7th year	16 days
8th through 13th year	20 days
14th through 18th year	23 days

An additional day per year to a maximum of 30 days per year.

- B. Effective January 1, 1982, employees who have earned and qualified for vacation leave that exceeds 30 days per year shall maintain the number of vacation days earned as of January 1, 1982. All other employees who are not qualified for 30 days as of January 1, 1983, shall maintain the number of vacation days earned as of January 3, 1983, then earn an additional day of vacation at the completion of every other year to a maximum of 30 days per year or until they are entitled to additional vacation day accrual as set forth in the schedule in subsection A. of this Section.
- C. The County Executive may authorize the accrual of vacation benefits in excess of the initial accrual rate in subsection A. above when such exception is based upon an applicant's possession of extraordinary qualifications or is required for recruitment purposes and if necessary to attract and hire highly qualified employees. Employees hired at a higher accrued rate shall be considered to be hired with the minimum eligibility and shall be eligible to advance to the next higher accrual level when they have been employed for the number of years required by subsection 3.72.010 A. By example, if hired at the 16 day accrual level, the employee would be eligible to move to the next higher accrual rate after four years of service. Such employees may not use vacation leave until they have completed 13 accrualable pay cycles.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2003-4 § 1, 2003; Ord. 98-123 § 1 (part), 1998; Ord. 83-5 § 4, 1983; Ord. 82-56 § 2 (part), 1982; prior Code § 6.40.010)

3.72.020 Eligible Employees.

- A. Employees occupying regular part-time positions shall be entitled to a pro-rata portion of vacation benefits based on hours compensated exclusive of overtime pay.
- B. Employees occupying regular full-time positions are eligible to accrue vacation leave benefits.
- C. The actual number of pay status hours reported in a pay cycle for an eligible employee must be at least 70 percent of their standard number of hours for the pay cycle to be considered an accruable pay cycle for earning vacation leave.
- D. One twenty-sixth of the eligible employee's yearly accruable vacation leave shall accrue upon the completion of each accruable pay cycle and shall be available for use once accrued.
- E.
 - 1. Superior Court court reporters and judicial assistants in regular positions shall be entitled to such paid judicial leave as their judge and shall take their judicial leave when the judge schedules his or her vacation leave. The Superior Court administrator shall be entitled to paid judicial leave in an amount less than or equal to a Superior Court Judge, as determined by the Superior Court. Superior Court court reporters and judicial assistants shall not be subject to the other accrual or use provisions of this Chapter and no pay-off for unused vacation will be made upon termination.
 - 2. The District Court administrator shall be entitled to paid judicial leave in an amount less than or equal to a District Court judge, as determined by the District Court. The District Court administrator shall not be subject to the other accrual or use provisions of this Chapter and no pay-off for unused vacation will be made upon termination.
- F. The pro-rata number of vacation hours accrued per pay cycle by regular part-time employees shall be calculated by dividing the employee's standard weekly hours by five. (Ord. 2009-102 § 1, 2009; Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 97-49 § 1, 1997; Ord. 94-133 § 1, 1994; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.40.020)

3.72.030 New Employees.

Vacation leave will not be payable to new eligible employees until they have completed 13 accruable pay cycles of employment. If they are separated prior to completion of the 13 pay cycles, no payment is due. Employees who separate on the last day of the 13th accrued pay cycle shall be eligible for payment of accrued vacation leave on separation providing such payment shall be accomplished during the 14th pay period. (Ord. 98-123 § 1 (part), 1998; Ord. 82-56 § 2 (part), 1982; prior Code § 6.40.030)

3.72.040 Vacation Carry-Over.

Eligible employees may carry over a maximum balance of vacation leave of 45 days per calendar year into the next calendar year. However, upon retirement or separation from County service, employees shall be paid for a maximum of 60 days accrued annual leave. Any accrued vacation leave above the maximum carry-over will be forfeited without compensation if not used before the end of the first pay cycle in the following calendar year unless exception is granted under the provisions of Section 3.72.05 A. A day of vacation leave is calculated by dividing the authorized standard weekly hours by five. (Ord. 2000-16 § 1, 2000; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.40.040)

3.72.050 Use and Payment of Vacation Leave.

It is the intent that employees take their accrued vacation leave during the calendar year. Employees who are unable to take accrued vacation leave for which they are eligible within the year due to work incurred disability or work requirements as determined by the department director that cannot be carried over as provided in Section 3.72.040 shall, upon approval of the Human Resources Director, be allowed to carry over additional vacation leave provided it is used within the next six months and may not be cashed out in a lump sum payment due to termination. (Ord. 2004-7s § 2 (part), 2004; Ord. 92-163 § 1 (part), 1993; Ord. 83-5 § 4, 1983; Ord. 82-56 § 2 (part), 1982; prior code § 6.40.060)

3.72.060 Payment for Vacation Leave Upon Separation.

Eligible employees shall be paid for their unused vacation leave days at their regular straight-time base hourly rate of pay plus longevity, if any, regardless of the reason for termination. If any employee is terminated because of death, the payment will be made to the employee's estate, or as otherwise provided by last will and testament, community property agreement or other binding document. The dollar amount of payment shall be computed by multiplying the number of accrued vacation leave hours times the employee's straight-time base hourly rate plus longevity, if any. (Ord. 92-163 § 1 (part), 1993; Ord. 83-33 § 2, 1983; Ord. 82-56 § 2 (part), 1982; prior Code § 6.40.070)

Chapter 3.76

LEAVE OF ABSENCE WITH PAY

Sections:

- 3.76.010 Jury Duty.**
- 3.76.020 Time Off for Examinations.**
- 3.76.030 Bereavement Leave.**
- 3.76.035 Use of Accrued Leave for Bereavement Purposes.**
- 3.76.040 Military Leave.**
- 3.76.045 Active Duty Differential Payment.**
- 3.76.050 Employees as Witnesses in Court.**
- 3.76.060 Administrative Leave.**

3.76.010 Jury Duty.

Leave with pay will be granted for jury duty to regular full-time and regular part-time employees, provided that the employee provides notice to the supervisor within five working days of receipt of the summons. Failure to provide notice may result in unpaid leave. Qualifying regular full-time employees shall be paid the difference between the jury fees actually received, excluding travel fees, and the amount of actual straight time or earnings lost by reason of such jury duty. Qualifying regular part-time employees shall be paid the difference between the jury fees actually received, excluding travel fees, and the value of the amount of straight time work for which the employees were scheduled and which was lost by reason of such jury duty. (Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code 6.41.010)

3.76.020 Time Off for Examinations.

All employees shall be entitled to necessary leave with pay to take qualifying, follow-up promotional examinations, and interviews for County positions. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.41.020)

3.76.030 Bereavement Leave.

In the event of a death of a family member of a regular full-time or regular part-time employee, including those serving the initial probationary period, 3 working days off to a maximum of 24 hours with pay shall be granted to attend the funeral or complete burial arrangements for each death which occurs. A regular part-time employee shall receive a pro-rata share of bereavement leave based on the employee's standard hours in a work week. The family members to whom this Section applies are spouse, domestic partner, father, mother, foster parent, brother, sister, child, foster child, grandparent, or grandchild of the employee and like relatives of the spouse/domestic partner of the employee, or other person with whom the employee had lived "in loco parentis", and like relatives of the spouse/domestic partner of the employee. Family members also include biological, adopted, step, in-law or foster members. For purposes of this Chapter, "in loco parentis" shall mean those persons who had day-to-day responsibility to care for and financially support the employee on a long-term basis, when the employee was a child. Proof of such relationship may be required. A biological or legal relationship is not necessary. An additional three days of other accrued leave, per occurrence, may be used for bereavement purposes where the employee is required to travel out-of-state to attend the funeral or complete the final arrangements. Such leave may be authorized by the department director or designee in writing. (See also Section 3.76.035, "Use of Accrued Leave

for Bereavement Purposes".) Bereavement leave may be used up to 14 calendar days prior to or up to 14 calendar days after the death of the eligible family member at the employee's option, or when authorized for a different time frame by the Human Resources Director due to extenuating circumstances. (Ord. 2010-29 § 2 (part), 2010; Ord. 2008-106s § 1 (part), 2008; Ord. 2007-108 § 2 (part), 2007; Ord. 98-123 § 1 (part), 1998; Ord. 97-1 § 3, 1997; Ord. 92-163 § 1 (part), 1993; Ord. 87-31 § 2, 1987; Ord. 82-56 § 2 (part), 1982; prior Code § 6.41.030)

3.76.035 Use of Accrued Leave for Bereavement Purposes.

Authorized use of the additional three days of leave for bereavement purposes in Section 3.76.030 for out-of-state travel may be taken from the employee's accrued sick leave balance, accrued vacation leave balance, accrued compensatory time, accrued furlough time, or accrued personal holiday at the employee's option.

Employees who have not completed the initial 13 accruable pay cycles are not eligible to use sick leave or vacation leave and, therefore, are ineligible for the additional 3 days of leave for bereavement purposes unless approved as leave without pay or by utilizing the employee's accrued compensatory time, accrued furlough time, or accrued personal holiday at the employee's option.

Employees may be allowed additional time off with appropriate approvals for the use of accrued vacation leave balance, accrued compensatory time, accrued furlough time, or accrued personal holiday. Additional employee use of sick leave may be allowed under the provisions of Chapter 3.68, Sick Leave.
(Ord. 2008-106s § 1 (part), 2008)

3.76.040 Military Leave.

Paid leaves of absence shall be granted in accordance with Chapter 3.81. Such leave will be in addition to any vacation leave to which an employee might otherwise be entitled. (Ord. 2008-106s § 1 (part), 2008; Ord. 98-123 § 1 (part), 1998; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.41.040)

3.76.045 Active Duty Differential Payment.

Regular full-time or regular part-time employees may be eligible for active duty differential payment as provided in Section 3.81.055. (Ord. 2008-106s § 1 (part), 2008; Ord. 2006-127 § 2, 2006; Ord. 2004-29s § 1, 2004)

3.76.050 Employees as Witnesses in Court.

Employees may receive their normal daily salary when testifying in court in connection with and as a result of performance of their regular duties as a County employee and public officer, provided their salary shall be reduced by any compensation they receive for being a witness unless the employee promptly remits the same to the County. Reimbursement to the employee for travel, lodging, food or other actual expenses will not be considered compensation for being a witness, but reimbursement.

Employees must notify their department director in advance and receive approval to attend.
(Ord. 92-163 § 1 (part), 1993)

3.76.060 Administrative Leave.

Upon the recommendation of the Appointing Authority and approval of the Human Resources Director, a Career Service employee may be placed on administrative leave with pay pending the resolution of an administrative investigation or for other reasons determined by the Human Resources Director to be in the best interest of the County. Any employee placed on

administrative leave shall be advised, in writing, of the reason for the leave and the duration thereof. A copy of the notice shall be placed in the personnel file. (Ord. 2011-28 § 1 (part), 2011; Ord. 2004-7s § 2 (part), 2004; Ord. 92-163 § 1 (part), 1993)

Chapter 3.80

LEAVE OF ABSENCE WITHOUT PAY

Sections:

- 3.80.010 Permissible Uses.**
- 3.80.020 Limitation.**
- 3.80.030 Leave of Absence Without Pay.**
- 3.80.040 Leave of Absence Without Pay – On-the-Job Injury.**
- 3.80.050 Unpaid Leave for Maternity Reasons.**
- 3.80.060 Military Leave – Active Duty.**
- 3.80.070 Leave of Absence Without Pay to Run for or Take Public Office.**
- 3.80.080 Court Transcript Leave.**

3.80.010 Permissible Uses.

The following types of leaves of absence without pay and benefits may be granted:

- A. Recovering from physical or mental illness or injury or maternity;
- B. Sabbatical leave, which shall mean work, education or other experience which reasonably adds to the skills or understanding of employees and is related to the employee's present or future County position or class;
- C. Personal growth and experience leave or other reason if granting the leave would be in the best interests of the County;
- D. Recovering from an on-the-job injury under Section 3.80.040;
- E. Military Leave – Military leave shall be granted in accordance with Chapter 3.81;
- F. Family Leave in accordance with Chapter 3.67;
- G. To run for or take public office under Section 3.80.070.

(Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.42.010)

3.80.020 Limitation.

A leave of absence without pay may be granted as set forth in this Section for up to one year.

- A. A department director may approve a leave of absence without pay for any reason up to a maximum of 30 calendar days.
- B. A leave of absence without pay in excess of 30 days under subsections B. and C. of Section 3.80.010 may be granted after the employee has worked for Pierce County for at least 26 accruable pay cycles. However, a leave of absence without pay may be granted to employees with less than 26 accruable pay cycles upon the recommendation of the department director and approval of the Human Resources Director if they consider the leave to be in the best interest of the County. Leaves of absence without pay in excess of 30 days under subsections A., D., E., and F. may be approved without regard for completion of 26 accruable pay cycles. All leaves of absence without pay in excess of 30 days require the approval of both the department director and the Human Resources Director.
- C. Employees requesting a leave of absence without pay under the provisions of Section 3.80.010 A., B., C., and F. must have exhausted all accrued vacation, accrued compensatory time, accrued personal holiday, accrued furlough days, or accrued sick

leave (if appropriate usage) prior to utilizing any approved leave of absence without pay.
(See subsection 3.52.040 a.3.d. regarding furlough leave.)
(Ord. 2008-106s § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 92-163 § 1 (part), 1993;
Ord. 82-56 § 2 (part), 1982; prior Code § 6.42.020)

3.80.030 Leave of Absence Without Pay.

Leave of absence without pay shall result in the discontinuance of benefits (accrual of sick leave, vacation, payment of insurance premiums, etc.) for the period of the leave except as provided by law for Family Leave and Military Leave, and the employee's anniversary date will be adjusted accordingly. Such loss or discontinuance of benefits and/or adjustment of anniversary date will occur only if an employee is in a non-pay status for more than 30 percent of any pay cycle, or in the case of payment of insurance premiums, 30 percent of any month or as otherwise provided by a collective bargaining agreement. Employees may have the option of paying for medical benefit premiums while in an unpaid leave status, to insure continued coverage and avoid any new waiting periods required under contracts with the health carriers. (Ord. 2010-14 § 1 (part), 2010; Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 83-5 § 4, 1983; Ord. 82-56 § 2 (part), 1982; prior Code § 6.42.030)

3.80.040 Leave of Absence Without Pay – On-the-Job Injury.

A leave of absence without pay necessary for medical reasons caused by an on-the-job injury covered by the County's Workers' Compensation program shall not result in the discontinuance of benefits (accrual of sick leave, vacation, furlough, or holidays) for up to a maximum of 26 pay cycles per covered injury, unless the employee is in a non-pay status for more than 30 percent of any pay cycle. The County will pay its share of the premium cost of health insurance provided by the County (Chapter 3.56) provided the employee continues to pay their share for a period not to exceed 12 months. Time-loss payments under the County's Workers' Compensation program beyond 26 pay cycles per covered injury are considered to be nonpay status. Employees shall retain their anniversary date during a leave of absence without pay caused by an on-the-job injury and shall receive step increases which would have automatically been granted them, but employees shall not automatically receive step increases reserved as merit increases. Leaves of absence without pay due to on-the-job injury are subject to the limitations of Section 3.80.020 of the Administrative Guidelines. (Ord. 2011-28 § 1 (part), 2011; Ord. 2010-14 § 1 (part), 2010; Ord. 2008-106s § 1 (part), 2008; Ord. 91-64 § 1 (part), 1991)

3.80.050 Unpaid Leave for Maternity Reasons.

Unpaid leaves granted in compliance with WAC 162-30 for sickness or disability may extend up to 60 days after the birth of the infant. Extensions beyond 60 days shall require the filing of a physician's certificate, stating the need for additional leave due to the sickness or disability and must include a prognosis for recovery and an expected date the employee will be released to return to full duties. (Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code § 6.42.050)

3.80.060 Military Leave – Active Duty.

Unpaid military leave shall be granted in accordance with Chapter 3.81. (Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 82-56 § 2 (part), 1982; prior Code 6.42.060)

3.80.070 Leave of Absence Without Pay to Run for or Take Public Office.

- A. Employees or officers may be candidates for and serve if elected or appointed as non-County officials in unpaid or token payment positions provided loss of time is reasonable and is such as to not require a substitute. The employee shall take vacation leave or unpaid leave of absence when performing his/her elected or appointive duties.
- B. Employees or officers will be permitted to announce and run as candidates for paid elective or appointive office. Reasonable loss of time will be permitted provided such loss does not require a substitute and the employee uses leave of absence without pay or vacation leave when campaigning activities are during work hours. If elected to a paid elective or appointive position, the employee shall be required to resign or be terminated if his/her paid elected or appointive position requires the hiring of a substitute to replace the employee while on leave of absence without pay performing the elected or appointive duties.
- C. All political activity by County employees shall be in compliance with applicable laws. (Ord. 2008-106s § 1 (part), 2008; Ord. 91-64 § 1 (part), 1991; Ord. 82-56 § 2 (part), 1982; prior Code § 6.42.080)

3.80.080 Court Transcript Leave.

- A. The County shall designate a leave code to be known as "Court Transcript Leave". Such leave shall be a leave-without-pay for all other purposes, but shall be treated as compensated time for the purposes of maintaining the employee's medical and dental benefits.
- B. Court Transcript Leave may be requested by regular, full-time Court Reporters and with the approval of the Judges' Executive Committee and Managing Reporter may be granted when necessary to complete court transcripts.
- C. The Managing Court Reporter or Presiding Judge shall first work towards filling vacancies created by such leave with existing County Court Reporters. If no County Court Reporter is available, an employee who has been approved for Court Transcript Leave may designate a Court Reporter Pro-Tem, who has been approved by the Judge and who will be paid by the County. (Ord. 97-2 § 1, 1997)

Chapter 3.81

MILITARY SERVICE

Sections:

- 3.81.010 Purpose.**
- 3.81.020 Definitions.**
- 3.81.030 Request for Military Leave.**
- 3.81.040 Paid Military Leave.**
- 3.81.050 Unpaid Military Leave.**
- 3.81.055 Active Duty Differential Payment.**
- 3.81.060 Continuation of Health Insurance Benefits.**
- 3.81.070 Employment Status.**
- 3.81.080 Restoration of Employment.**
- 3.81.090 Military Family Leave.**

See also: Subsection 3.52.040 C.4., Section 3.76.040, subsection 3.80.010 E., and Section 3.80.060

3.81.010 Purpose.

The purpose of this Chapter is to ensure proper administration of employment-related benefits, including leaves of absence, for regular full-time and regular part-time employees who are members of the Uniformed Services, in accordance with Federal and State law. This Chapter shall supercede any conflicting provisions of the Pierce County Code or the Administrative Guidelines. (Ord. 2008-106s § 1 (part), 2008)

3.81.020 Definitions.

- A. **Uniformed Services.** Service in any branch of the United States armed forces (Army, Navy, Air Force, Marines, Coast Guard), including the reserves, the Army and Air National Guards, and the commissioned corps of the Public Health Service, and any other persons designated by the President of the United States.
- B. **Authorized Military Leave.** Approved leave for active duty or active training duty in the Uniformed Services, granted according to the provisions of this Chapter.

(Ord. 2008-106s § 1 (part), 2008)

3.81.030 Request for Military Leave.

Requests for paid and/or unpaid military leave must be submitted in writing. Employees must provide their supervisors with copies of their military orders, including length of service if available, as soon as possible after they are received. The County may accept verbal notification of the need for military leave and may allow modification or postponement of the written requirements if giving such notice is impossible, unreasonable, or precluded by military necessity. Any request for leave must be submitted as far in advance as possible. Regular full-time and regular-part-time employees are eligible for military leave as provided in this Chapter. Other employees will be permitted to perform their military service, but may not be eligible for other benefits. (Ord. 2008-106s § 1 (part), 2008)

3.81.040 Paid Military Leave.

Paid leaves of absence shall be granted for authorized military leave in the military service, under RCW 38.40.060, for periods of active duty or active training duty for a period not exceeding a total of 21 working days during each year, beginning October 1st and ending September 30th, provided the request for such leave is in writing and accompanied by a validated copy of military orders. Such leave will be in addition to any vacation leave to which an employee might otherwise be entitled. (Ord. 2008-106s § 1 (part), 2008)

3.81.050 Unpaid Military Leave.

Employees on authorized military leave for more than 21 working days, who have requested leave as prescribed above, shall be granted a leave of absence for a period not to exceed 5 years or as provided by applicable state and federal statutes. (Ord. 2008-106s § 1 (part), 2008)

3.81.055 Active Duty Differential Payment.

If, on or after July 1, 2004, a regular full-time or regular part-time employee of the County has been mobilized under Title 10 or 32 of the United States Code for a period exceeding 30 days, the employee may receive from the County the difference between the employee's base pay and the employee's military pay plus allowances, if the military pay and allowances are lower than the County base pay. If, during a pay period for which the employee seeks differential pay, the employee receives any pay from the County, the amount received will be deducted from the differential payment, if any, for the same pay period.

The employee shall also continue to receive from the County any health care benefits the employee was receiving prior to mobilization within the limits and restrictions of the health care plan.

For the purposes of this Section, "base pay" shall mean the employee's regular straight time base hourly rate of pay plus longevity, if any.

Only members and potential members of the County Career Service, the County Civil Service, exempt regular employees of the Legislative Branch of government, the Executive Branch of government, the Prosecuting Attorney's Office, Superior and District Courts, and regular employees represented by bargaining units to the extent agreed upon through collective bargaining, are eligible to receive differential pay and continuation of benefits under this Section.

Receipt of differential payment and continuation of benefits is contingent on the employee applying for the same, agreeing to seek reemployment with Pierce County under Title 38, Chapter 43 of the United States Code, the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), and providing the County with supporting documentation as deemed necessary by the Human Resources Department.

Payment and benefits provided for a mobilization under this Section shall be limited to the term(s) of the mobilization, but in no case shall be provided for more than 24 months from the date of mobilization.

Receipt of differential pay and continuation of benefits shall not grant any right, benefit, or interest in employment or reemployment not granted to employees under USERRA or Washington State law. It is not a vested benefit and Pierce County may repeal this program at any time. (Ord. 2008-106s § 1 (part), 2008)

3.81.060 Continuation of Health Insurance Benefits.

Uniformed Service members who are on unpaid leave of absence from employment because of the performance of ordered military duties may elect to continue their health insurance coverage (including vision and dental insurance) for up to 24 months, or as required by law, by self-paying the insurance premiums. The County Executive may grant extensions of County-

paid medical, dental and life insurance premiums for employees and their eligible dependents, when the employees are called to active duty with the National Guard or military reserve forces during times of crisis or emergency. (Ord. 2010-29 § 2 (part), 2010; Ord. 2008-106s § 1 (part), 2008)

3.81.070 Employment Status.

No member of the Uniformed Services shall be discharged from employment or discriminated against because of the performance of military duties for which he or she is ordered to serve. (Ord. 2008-106s § 1 (part), 2008)

3.81.080 Restoration of Employment.

Any member of the Uniformed Services who has been on leave from employment because of the performance of ordered military duties may, upon the termination of such duty, make timely application to be reemployed. Such application must be submitted to the former Appointing Authority (department director or elected official) and include documentation establishing: (1) the employee's length of military service, (2) the timeliness of the application for reemployment, and (3) the type of discharge. Only honorably discharged veterans are eligible for reemployment under USERRA. Reemployment upon return from military services will be determined in accordance with applicable Federal and State laws.

- A. **Application Deadlines.** Federal and State laws, such as USERRA, contain specific application deadlines, depending on the length of absence from work, ranging from 1 day to 90 days after completing military service. Failure to request reemployment within the application deadlines will result in a waiver of any reemployment rights.
- B. **Reemployment.** Eligible returning service members will be restored, as nearly as possible, to their prior positions or the positions the service member would have held if remained continuously employed with the County, including such factors as:
 - continuous service credit,
 - anniversary date,
 - step increase eligibility,
 - automatic promotions,
 - promotional eligibility,
 - vacation accrual rates,
 - personal holiday eligibility, and
 - other benefit dates that are contingent upon seniority or continuous service.

However, returning service members who began their military leave while in probationary employee status will be required to successfully serve the remainder of their probationary period upon reemployment, subject to the provisions of Section 3.28.020.

- C. **Health Insurance.** Reemployed service members' health insurance benefits will be reinstated without serving any waiting periods.
- D. **Retirement Benefits.** If the employee applies to, and is approved by DRS for service credit, and pays the employee portion of retirement contributions, the reemployed service members' retirement benefits will be computed as if the employee had remained continuously employed. Authorized military leave will not be treated as a break in service and the County will make up its share of missed benefit contributions. However, no credit for employee earnings will be attributed to the period of leave

E. **Seniority Benefits.** Reemployed service members' seniority, for purposes of County employment and collective bargaining agreements, will be computed as if the employee had remained continuously employed.
(Ord. 2008-106s § 1 (part), 2008)

3.81.090 Military Family Leave.

Family Leave for military spouses and military caregivers will be provided according to law as set forth in Chapter 3.67. (Ord. 2008-106s § 1 (part), 2008)

Chapter 3.84

RETIREMENT

Sections:

3.84.010 Retirement.

3.84.020 Provisions Not to Affect Retirement Benefits.

3.84.030 Tax Deferral on Employee Contributions.

3.84.010 Retirement.

Eligible employees will be covered in accordance with the applicable laws of the State of Washington and United States. (Ord. 84-125 § 1 (part), 1984; prior Code § 6.43.010)

3.84.020 Provisions Not to Affect Retirement Benefits.

- A. The provisions of this Section and Section 3.84.030 do not alter in any manner the provisions of RCW 41.26.450 or RCW 41.40.650 or ordinances enacted pursuant thereto.
- B. Should the Council or legislature revoke any benefit allowed under this Section or Section 3.84.030, no affected employees shall be entitled thereafter to receive such benefit as a matter of contractual right.

(Ord. 92-163 § 1 (part), 1993; Ord. 84-125 § 1 (part), 1984; prior Code § 6.43.020)

3.84.030 Tax Deferral on Employee Contributions.

- A. This Section applies to all members without exception who are employees of the County under the retirement system as established by Chapters 41.26 or 41.40 RCW.
- B. Only for compensation earned after the effective date of the implementation of this Section and as provided by Section 414 of the Federal Internal Revenue Code, the employer of all the members specified in subsection A. of this Section shall pay only those member contributions required under RCW 41.26.080(1), RCW 41.26.450(b), RCW 41.40.330(1), and RCW 41.40.650.
- C. Only for the purposes of federal income taxation, the gross income of the members shall be reduced by the amount of the contribution to the respective retirement system paid by the employer.
- D. All member contributions to the respective retirement system paid by the employer as provided in this Section shall be paid to the member as provided under the provisions of the retirement system.

(Ord. 92-163 § 1 (part), 1993; Ord. 84-125 § 1 (part), 1984; prior Code § 6.43.030)

Chapter 3.85

VOLUNTEER RESERVE DEPUTY SHERIFF RETIREMENT AND RELIEF BENEFITS

Sections:

- 3.85.010 Introduction.**
- 3.85.015 Payment for Relief Benefits.**
- 3.85.020 Definitions.**
- 3.85.030 Members in Good Standing.**
- 3.85.040 Certification.**
- 3.85.050 Volunteers Election to Participate.**
- 3.85.060 Volunteer Fails to Make Contribution.**
- 3.85.065 Local Board of Trustees.**
- 3.85.070 Amendment and Termination.**
- 3.85.080 Miscellaneous.**

3.85.010 Introduction.

Pierce County has elected to allow volunteer Reserve Deputy Sheriffs who are members in good standing to participate in the Washington State "Volunteer Fire Fighters Relief and Pension" system. This is provided for in Chapter 11, Washington Laws of 1995; the Washington State Legislature has amended Chapter 41.24 RCW to allow participation of Reserve Law Enforcement Officers in the Volunteer Fire Fighters Relief and Pension system.

Pierce County has elected to allow volunteer Reserve Deputy Sheriffs to participate in the receipt of relief benefits as provided for in Chapter 148 of the Washington laws of 1999. The Washington State legislature has amended RCW 41.24 to allow local government to pay an annual premium to allow the receipt of certain relief benefits by those Reserve Deputy Sheriffs who are eligible.

Pierce County has elected to participate in this plan to recognize the selfless dedication and service of the Volunteer Reserve Deputy Sheriffs of the Sheriff's Department to the citizens of Pierce County.

(Ord. 2000-74s § 1 (part), 2000; Ord. 96-49 § 2 (part), 1996)

3.85.015 Payment for Relief Benefits.

Pierce County shall annually pay the benefit payment established by the Washington State Board for Volunteer Fire Fighters and Reserve Officers for each Reserve Deputy Sheriff to assure their enrollment for the receipt of relief benefits as is provided by RCW 42.24. (Ord. 2000-74s § 1 (part), 2000)

3.85.020 Definitions.

- A. "Volunteer Reserve Deputy Sheriff" means a non-paid commissioned law enforcement officer of the Sheriff's Department.
- B. "Good Standing" means a volunteer Reserve Deputy Sheriff who has met all annual requirements of the Reserve Program to include meeting all requirements in the Reserve Deputy Sheriff's Bylaws, the Sheriff's Department Manual, contributed the mandatory monthly hours, and met all training requirements.

C. "Reserve Deputy Coordinator" means the Sheriff's designated supervisor of the Volunteer Reserve Deputy Sheriff Program. This is a full-time employee of the Sheriff and in the rank of Sergeant or higher.
(Ord. 96-49 § 2 (part), 1996)

3.85.030 Members in Good Standing.

The Reserve Deputy Coordinator shall monitor each volunteer Reserve Deputy Sheriff's participation in the program and shall certify annually each volunteer Reserve Deputy Sheriff who meets the program requirements as outlined in the Sheriff's Department Manual and the Reserve Deputy Sheriff's Bylaws. Each volunteer Reserve Deputy Sheriff shall meet all program requirements to be certified for the reporting year. (Ord. 96-49 § 2 (part), 1996)

3.85.040 Certification.

The Reserve Coordinator shall submit the required certification form and fees to the Board for Volunteer Fire Fighters annually. The fee is set annually by the Board for Volunteer Fire Fighters. For 1996, the County's portion of the fee is \$70.00 per volunteer. (Ord. 96-49 § 2 (part), 1996)

3.85.050 Volunteer's Election to Participate.

Each volunteer Reserve Deputy Sheriff shall notify the Reserve Coordinator by November 15 of each year if he or she plans to participate in the Volunteer Fire Fighters Relief and Pension Act for the following year. The volunteer has a contribution that must be made annually for the volunteer to participate in this pension plan. For 1996 the volunteer's share is \$30.00. This amount is set annually by the Board for Volunteer Fire Fighters. The volunteer must make his or her annual contribution no later than January 20 of each year. (Ord. 96-49 § 2 (part), 1996)

3.85.060 Volunteer Fails to Make Contribution.

If any volunteer elects not to contribute his or her portion to the pension plan for any annual period, the County will suspend its share of the contribution for that volunteer. (Ord. 96-49 § 2 (part), 1996)

3.85.065 Local Board of Trustees.

- A. A Reserve Office Board of Trustees shall be created in order to administer the provisions of RCW 41.24 related to the relief provisions of RCW 41.24.
 - B. The Reserve Officer Board of Trustees shall be created. It shall be composed of the following five members: two members of the county legislative authority; the County Auditor, or designee; the Pierce County Sheriff; and one Reserve Deputy who shall be elected by Reserve Deputies of Pierce County for an annual one year term.
- (Ord. 2000-74s § 1 (part), 2000)

3.85.070 Amendment and Termination.

The County shall have the right, by ordinance, to amend its participation in this plan at any time and from time to time, in whole or in part, or discontinue its participation completely. (Ord. 96-49 § 2 (part), 1996)

Chapter 3.88

LONGEVITY BENEFITS

Sections:

3.88.010 Eligibility.

3.88.020 Determination of Longevity Benefits.

3.88.030 Accrual rate for Longevity Benefits.

3.88.010 Eligibility.

Regular full-time employees and part-time employees regularly scheduled to work one-half or more of a normal work week shall be eligible and entitled to longevity benefits, provided they were employed in a regular position on or before December 1, 1982. New employees hired after December 1, 1982, shall not be eligible for or participate in the longevity program. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.44.010)

3.88.020 Determination of Longevity Benefits.

Longevity benefits shall be determined by the length of continuous and aggregate County service. Unpaid leaves of absence and layoff periods of less than 12 months, or pay status of less than 70 percent per pay cycle will not count towards the length of aggregate service, and will not be considered a break in the employee's continuous service eligibility. (Ord. 82-56 § 2 (part), 1982; prior Code § 6.44.020)

3.88.030 Accrual Rate for Longevity Benefits.

Longevity pay will be added to eligible employee's base rate of pay as follows:

- | | |
|---------------|---|
| Two percent | When the employee completes the fourth accruable year of County employment. |
| Four percent | When the employee completes the ninth accruable year of County employment. |
| Six percent | When the employee completes the fourteenth accruable year of County employment. |
| Eight percent | When the employee completes the nineteenth accruable year of County employment. |

(Ord. 82-56 § 2 (part), 1982; prior Code § 6.44.030)

Chapter 3.92

REIMBURSEMENT OF EXPENSES

Sections:

- 3.92.010 Authorization.**
- 3.92.015 Definition.**
- 3.92.020 Meals, Lodging, Travel and Incidentals.**
- 3.92.025 Exception.**
- 3.92.030 Mileage.**
- 3.92.040 Mileage Reimbursement to Volunteers.**
- 3.92.050 Expenses for Which Reimbursement is Not Available.**
- 3.92.060 Expenses Requiring Prior Authorization.**
- 3.92.070 Claims for Reimbursement.**
- 3.92.080 Approval of Payment.**
- 3.92.090 Claims – Time Limits and Penalty for False Submissions.**
- 3.92.100 Advance Allowances – Authorization.**
- 3.92.110 Advance Allowances – Accounting, Repayment and Liability for Failure to Repay.**
- 3.92.120 Advance Travel Revolving Account.**
- 3.92.130 Sheriff's Advance Travel (Extraditions) Revolving Account.**
- 3.92.140 Expenses of Applicants for County Positions.**

Cross-reference: Chapter 42.24 RCW

3.92.010 Authorization.

County officials and employees who may claim reimbursement for expenses under this Chapter must be so authorized by their department director. If at any time there are insufficient funds in a departmental budget to reimburse a County official or employee, no further reimbursements shall be authorized until necessary budget transfer or approval has been granted. Whenever County-owned equipment is used for out-of-state travel, prior permission for use shall be obtained from the appropriate elected official or designee within the respective office: Executive, Presiding Judge of District or Superior Courts, Prosecuting Attorney, or Chair of the Council, or respective designee. (Ord. 2008-106s § 1 (part), 2008; Ord. 95-92 § 1 (part), 1995); Ord. 92-163 § 1 (part), 1993; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.010)

3.92.015 Definition.

"Authorized travel" means any travel by a County official or employee for the purpose of official County business which is approved by the Executive, the department director or designee, or the Council Chair or designee. (Ord. 95-92 § 1 (part), 1995)

3.92.020 Meals, Lodging, Travel, and Incidentals.

In addition to the rates of pay and other allowances set forth in the annual budget of the County, County officials and employees shall be reimbursed for all reasonable and necessary expenses related to the operation of the County and the position held by the County official or employee and incurred in the course of authorized travel on County business.

- A. Reimbursements shall be made for actual expenses incurred for convention, seminar, or other registration fees; reasonable expenses incurred at meetings related to official County business; transportation to destination and return or mileage in accordance with Section 3.92.030; single occupancy lodging and automobile rental when overnight lodging is required; and incidentals.
- B. Reimbursements shall be made for expenses incurred for meals as follows:
 - 1. Meals in connection with authorized attendance at meetings, conventions, or conferences;
 - 2. Meals when official business prevents an employee from returning to his or her home by 7 p.m., except for employees whose normal duty hours extend beyond 7 p.m.;
 - 3. Meals for employees engaged in authorized emergency repair or operations substantially beyond their normal duty hours;
 - 4. The amounts allowed for meal reimbursement shall be as follows:
 - a. For a full day, which for purposes of this Section means a travel period beginning before 8:30 a.m. and ending after 4:30 p.m., reimbursement shall be made according to the current reimbursement rates, which are calculated by the Budget and Finance Department according to the requirements of County Code;
 - b. For individual meals when not traveling a full day, reimbursement shall be made according to the current reimbursement rates, which are calculated by the Budget and Finance Department according to the requirements of County Code:

<i>Breakfast</i>	\$14.15
<i>Lunch</i>	\$21.18
<i>Dinner</i>	\$35.32
<i>Total</i>	\$70.65;
 - c. The amounts allowed in subsections B.4.a. and b. above for meal reimbursement shall be adjusted annually for inflation by the change in the Consumer Price Index (All Urban Index) for Seattle for the period ending January 1 of each year. The Director of the Budget and Finance Department shall inform the Council annually of the adjusted amounts.
 - d. If on approved County business for the full day, but one or more meals are included in the registration fee, the amount authorized in subsection B.4.b. above for the included meal will be subtracted from the total authorized per diem allowance to establish the maximum amount available for the remainder of the day;
 - e. Except as provided in Section 3.92.020 B.6., special allowances shall be made for meal expenses incurred in high cost locations as designated by the Director of the Budget and Finance Department.
 - 5. In addition to the meal allowances set forth in subsection B.4. above, a gratuity of 15 percent of the base cost of the meal provided is allowed.
 - 6. The County will allow one-time meal expenses for persons serving on a non-paid ad-hoc board or committee, such as employee or consultant selection committees, and for an approved volunteer recognition function.
- C. Reimbursement shall be made for reasonable expenses for meals, coffee, and light refreshment served to elected and appointed officials and County employees regardless of travel status at a meeting where:
 - 1. The purpose of the meeting is to conduct official County business or to provide formal training to County employees or County officials;
 - 2. The meals, coffee, or light refreshments are an integral part of the meeting or training session;

3. The meeting or training session takes place away from the employee's or official's regular workplace; and
4. The Executive or designee, the Council Chair or designee, or the department director or designee approves payments in advance for the meals, coffee, or light refreshments.

(Ord. 2008-106s § 1 (part), 2008; Ord. 2002-72 § 1, 2002; Ord. 95-92 § 1 (part), 1995; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.020)

3.92.025 Exception.

Employees of the Office of Government Relations, for each day engaged in legislative business in Olympia during a session of the Washington State Legislature, shall receive, in lieu of reimbursement for meals and lodging in the manner and at the rates provided in this Chapter, an amount equal to the per diem established for members of the Washington State Legislature. (Ord. 90-25 § 1 (part), 1990)

3.92.030 Mileage.

- A. Any County officials and employees who are required or authorized to use their private automobiles in the performance of their official duties shall be allowed a reimbursement equal to the standard mileage rate allowed by the Internal Revenue Service for income tax deduction purposes unless otherwise provided by union contract.
- B. All mileage payments are for each mile of necessary travel, provided that:
 1. Reimbursement for mileage shall not exceed the round-trip coach airfare of a common carrier; and
 2. Reimbursement for mileage shall be prohibited for travel by County officials or employees between their usual place of residence and their usual place of work. Parking expenses may be claimed under the category of incidentals and shall include official County automobiles.

(Ord. 92-163 § 1 (part), 1993; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.030)

3.92.040 Mileage Reimbursement to Volunteers.

- A. Volunteers of Pierce County performing services to alleviate the duties performed by the County employees, may be reimbursed for mileage expenses incurred when authorized by the appropriate elected official or designee in their respective offices: Executive, Presiding Judge of District or Superior Courts, Prosecuting Attorney, or Chair of the Council.
- B. Volunteers shall be reimbursed for mileage at the same rate as full-time County employees pursuant to this Chapter.
- C. All claims for expenses shall be approved by the department directors supervising the volunteer.
- D. The "claim for expenses" form currently used for full-time County employees shall be used for volunteers. The department director submitting the claim for expenses shall clearly indicate on the form "volunteer."
- E. All reimbursements paid to volunteers of the County shall come from existing departmental budgets upon approval by the responsible department director. The payments shall be requested only with the approval of the department director responsible for the budget paying the expenses.

(Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.035)

3.92.050 Expenses for Which Reimbursement is Not Available.

No reimbursement shall be authorized or allowed for:

- A. Fines, penalties, and/or forfeitures;
- B. Tobacco, alcoholic beverages, personal telephone calls or telegrams, or other like personal items;
- C. Meals or lodging in lieu of other meals and/or lodging the expense of which is included in a convention or other registration fee;
- D. Meals or other expenses for persons not employed by the County, except as provided in Section 3.92.020;
- E. Any unreasonable or unnecessary expense which may be otherwise permitted under this Chapter as determined by the appropriate elected official or designee in their respective office: Executive, Presiding Judges of District or Superior Courts, Prosecuting Attorney, or Chair of the Council.

(Ord. 95-92 § 1 (part), 1995; Ord. 92-163 § 1 (part), 1993; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.040)

3.92.060 Expenses Requiring Prior Authorization.

Reimbursement for travel expenses incurred for travel, seminars, and for convention and/or education purposes shall be allowed only when authorized in advance on the appropriate form by the following elected officials in their respective offices: Executive, Presiding Judges of District or Superior Courts, Prosecuting Attorney, or Chair of the Council, or his or her designee. This Section shall not apply to investigations conducted by the Sheriff or Prosecuting Attorney. (Ord. 2008-106s § 1 (part), 2008; Ord. 95-92 § 1 (part), 1995; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.050)

3.92.070 Claims for Reimbursement.

Claims for reimbursement of mileage shall state the dates and places, the number of miles, and the purpose or reason for the travel. Claims for reimbursement of travel expenses other than mileage shall be accompanied by invoices and/or receipts for all individual expense items in excess of \$20.00, except for meals. Invoices and/or receipts showing payment of overnight lodging expenses shall have clearly identified thereon the single occupancy rate. No reimbursement shall be made for expenses for alcoholic beverages. (Ord. 95-92 § 1 (part), 1995; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.060)

3.92.080 Approval of Payment.

- A. Non-council officials and employees. No claim for reimbursement for travel expenses shall be paid unless approved by the responsible elected official or designee.
- B. Travel Expenses of County Councilmembers/employees. No claim for reimbursement for travel expenses by Councilmembers/employees shall be paid unless approved by the Chair of the Council or designee. No claim made by the Chair shall be paid unless approved by the Vice Chair or designee.

(Ord. 95-92 § 1 (part), 1995; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.070)

3.92.090 Claims – Time Limits and Penalty for False Submissions.

Except as provided in Section 3.92.110, all claims for reimbursement must be submitted to the Budget and Finance Department within 30 days, or immediately upon return from travel, on a form approved by the Budget and Finance Department, signed by the claimant, and approved by

the claimant's department director. Any person who knowingly approves or pays or causes to be approved or paid a false or untrue claim shall be punishable and civilly liable under RCW 42.24.110. (Ord. 2008-106s § 1 (part), 2008; Ord. 92-163 § 1 (part), 1993; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.080)

3.92.100 Advance Allowances – Authorization.

- A. Officials and employees of the County may receive advance cash allowances covering anticipated, reimbursable expenses to be incurred in the course of all authorized travel on County business. Such advance allowances shall be made upon the prior request of such officials and employees when approved by the appropriate department director where the nature and duration of travel justify such advance or where the failure to make such advance would result in economic inconvenience to such official or employee. Requests for such advances shall be made on such form as approved by the Budget and Finance Department. Authorization for the issuance of warrants shall be made not more than five days prior to commencement of the authorized travel.
 - B. In cases where some of the necessary reimbursable costs and expenses are deemed to be properly payable prior to five days before the commencement of travel, the Budget and Finance Department may issue warrants limited to those specific amounts.
- (Ord. 2008-106s § 1 (part), 2008; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.090)

3.92.110 Advance Allowances – Accounting, Repayment and Liability for Failure to Repay.

Travel advances shall be accounted for by submission of a proper claim and any excess repaid within ten days following the completion of travel, and failure to do so shall render the official or employee receiving such advance personally liable for the full unpaid amount plus interest at ten percent per year from the date of default until repaid, and the County shall thereupon have a prior lien against and a right to withhold all funds payable or to become payable by the County to such official or employee. No advance shall be made to any official or employee who is delinquent in accounting for or repaying a prior advance. Under no circumstances shall any advance be considered as a personal loan to any official or employee and any unauthorized expenditure of any such advance shall be deemed a misappropriation of public funds. (Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.100)

3.92.120 Advance Travel Revolving Account.

There is established the Pierce County Advance Travel Revolving Account to be used solely for the purposes of making advance payments of travel expense. This account will be maintained and replenished in strict accordance with RCW 42.24.130 and the directives of the Office of the State Auditor. The custodian of this account and the amount to be provided shall be set forth by separate resolution which shall be kept current. (Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.110)

3.92.130 Sheriff's Advance Travel (Extraditions) Revolving Account.

- A. There is established the Pierce County Sheriff's Advance Travel (Extraditions) Revolving Account to be used solely for the purpose of making advance payments of estimated travel expenses of an extradition. This account will be maintained and replenished in strict accordance with RCW 42.24.130 and the directives of the Office of the State Auditor. Payment will be made only when authorized in advance by the County Executive or a person so designated by the County Executive.

- B. Once the County official or employee has submitted a proper claim and repaid any excess, the custodian of the account will make the proper claim for reimbursement from the Travel (Extraditions) Revolving Account. The custodian of this account and the amount to be provided shall be set forth by separate resolution which shall be kept current.

(Ord. 92-163 § 1 (part), 1993; Ord. 90-25 § 1 (part), 1990; prior Code § 6.60.120)

3.92.140 Expenses of Applicants for County Positions.

- A. When selecting personnel to fill County positions requiring special experience and training, it may be necessary, in order to insure selection of the most qualified, for applicants for such positions to be personally interviewed. In such cases, payment by the County for interviews is a proper municipal expense and for a proper municipal purpose only when authorized in advance by the elected officials in their respective office: Executive, Presiding Judge of District or Superior Courts, Prosecuting Attorney, or Chair of the Council or their respective designee. These expenses shall be paid on the same basis as those of employees or officials of the County.
- B. The Executive, Presiding Judge of District or Superior Courts, Prosecuting Attorney, or Chair of the Council or their respective designee may approve reimbursement of moving expenses of a new County employee, necessitated by acceptance of a non-elected County position, pursuant to mutual agreement with such employee in advance of employment; provided, that the negotiated reimbursement amount shall not exceed 65 percent of the new employee's actual moving expenses or \$4,000.00, whichever is less. Any reimbursement amount exceeding \$4,000.00 shall be approved by the County Council. This reimbursement shall be available only for new professional or management County employees in positions requiring special experience and training and must involve a move of over 75 miles. The new employee shall sign a written contract providing that if the new employee terminates or is terminated within one year of the date of employment, the County shall be entitled to reimbursement for the moving expenses which have been paid and may withhold such sum as necessary therefore from any amounts due the employee, plus suing for any unpaid balance. The contract shall be signed before any reimbursement can be paid.

(Ord. 2008-106s § 1 (part), 2008; Ord. 97-69 § 1, 1997; Ord. 92-163 § 1 (part), 1993; Ord. 90-25 § 1 (part), 1990; Ord. 84-46 § 1, 1984; Res. 22542 § 1, 1980; prior Code § 6.60.130)

Chapter 3.96

DEFERRED COMPENSATION

Sections:

- 3.96.010 Introduction.**
- 3.96.020 Definitions.**
- 3.96.030 Eligibility and Enrollment.**
- 3.96.040 Deferral of Compensation.**
- 3.96.050 Time of Benefit Payment.**
- 3.96.060 Form of Benefit Payment.**
- 3.96.070 Beneficiaries.**
- 3.96.080 Plan Administration.**
- 3.96.090 Amendment and Termination.**
- 3.96.100 Miscellaneous.**

3.96.010 Introduction.

The Deferred Compensation Plan (hereinafter referred to as the "Plan" and known as the Pierce County Deferred Compensation Plan) first adopted by the Pierce County Executive on January 1, 1984, pursuant to Resolution R83-89 of the Pierce County Council, and amended by Order of the Pierce County Executive dated January 4, 1987, as amended and restated herein is adopted and ratified effective December 1, 1990, for Pierce County (hereinafter "Employer").

The Employer established this Plan effective January 1, 1984, to enable employees who become covered under the Plan to enhance their retirement security by permitting them to enter into agreements with the Employer to defer compensation and receive benefits at retirement, death, severance from employment, and for financial hardships due to unforeseeable emergencies.

The Plan shall be maintained for the exclusive benefit of covered employees, and is intended to comply with the eligible deferred compensation plan requirements of Section 457 of the Internal Revenue Code of 1986, as amended, and regulations thereunder, and other applicable law.

(Ord. 2004-122 § 1 (part), 2004; Ord. 90-138 § 1 (part), 1990)

3.96.020 Definitions.

- A. "Administrator" means the committee appointed by the Employer pursuant to 3.96.080 A. to administer the Plan and perform administrative functions for the Plan as specified by the Employer.
- B. "Alternate Payee" means any spouse, child or other dependent of a Participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.
- C. "Beneficiary" means the person(s) or estate entitled to receive benefits under this Plan upon the death of a Participant.
- D. "Code" means the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.
- E. "Committee" means the Deferred Compensation Committee appointed by the Employer to administer the Plan.

- F. "Compensation" means the total remuneration earned by an employee for personal services rendered to the Employer for the calendar year including amounts deferred under this Plan and any other Eligible Deferred Compensation Plan, without regard to community property laws.
- G. "Deferral" means the annual amount of compensation not yet earned that a Participant elects to defer under a Voluntary Salary Deferral Agreement.
- H. "Eligible Rollover Plan" means a governmental 457(b) plan, a Traditional IRA, a Code Section 401(a) or (k) plan, a 403(b) program or a simplified employee pension ("SEP") to and from which amounts may be rolled.
- I. "Eligible Deferred Compensation Plan" or "*Eligible Plan*" means any plan which meets the requirements of Section 457(b) of the Code and includes this Plan among others.
- J. "Employer" means Pierce County.
- K. "Includable Compensation" means Compensation for services performed for the Employer which is currently includable in gross income as reported on an employee's Federal Income Tax withholding statement (W-2 Form). In other words, it means Compensation reduced by the following amounts, to the extent such amounts are excludable from gross income:
 - 1. amounts deferred under this Plan,
 - 2. amounts deferred under any other Eligible Deferred Compensation Plan,
 - 3. contributions to a tax-sheltered annuity plan qualified under Section 403(b) of the Code, and
 - 4. employee contributions to the Washington Public Employees Retirement System or to other public retirement systems that have been "picked up" by the Employer pursuant to Code Section 414(h).A Participant's Includable Compensation for a taxable year shall be determined without regard to any community property laws.
- L. "Normal Retirement Age" means age 70½ or other earlier age specified by the Participant. In no event shall Normal Retirement Age be earlier than the earliest date at which one may retire under the State of Washington Public Employee Retirement System without incurring an actuarial or similar reduction benefit.
- M. "Open Enrollment Period" means any of the following time periods: January 1 through December 31.
- N. "Participant" means an employee or former employee who is or has enrolled in the Plan and retains rights to benefits under the Plan.
- O. "Plan" means this Pierce County Deferred Compensation Plan effective January 1, 1984, either in its present form or as amended.
- P. "Plan Year" means the 12-month period beginning January 1 and ending December 31.
- Q. "Rollover Contribution" means a contribution made to a plan by an Employee directly or indirectly (i.e., within 60 days of receipt) attributable to a distribution from an Eligible Rollover Plan.
- R. "Voluntary Salary Deferral Agreement" means the agreement between a Participant and the Employer to defer receipt by the Participant of Compensation not yet earned. Such agreement shall state the Deferral amount to be withheld from a Participant's paycheck and shall become effective no earlier than the first day of any pay period after it is executed by the Participant and accepted by the Committee.

(Ord. 2004-122 § 1 (part), 2004; Ord. 90-138 § 1 (part), 1990)

3.96.030 Eligibility and Enrollment.

- A. **Eligibility.** The following persons are eligible to be participants in this plan:
1. Any person elected or appointed to a term of office with the Employer beginning with the time such person assumes office.
 2. Any employee rendering personal services to the Employer on a full-time permanent employee basis, where the term permanent employment excludes part-time, casual, emergency, or intermittent employment.
 3. Persons described above shall be eligible to participate on the first Open Enrollment Period following employment with the Employer.
- B. **Enrollment.** An eligible employee may become a Participant by completing a Voluntary Salary Deferral Agreement and submitting it to the Employer during an Open Enrollment Period, subject to the approval of the Employer. Deferrals may commence no sooner than the first day of the month immediately following acceptance by the Employer of the Voluntary Salary Deferral Agreement. Enrollment during an Open Enrollment Period shall be effective on the date specified in Section 3.96.020 M. for such period.

(Ord. 2004-122 § 1 (part), 2004; Ord. 90-138 § 1 (part), 1990)

3.96.040 Deferral of Compensation.

- A. **Types of Contributions:**
1. Annual Deferrals. The plan allows Participants to defer a portion of their compensation to the plan on a pre-tax basis. These contributions made to the plan are known as Annual Deferrals subject to the limitations discussed below. Annual Deferrals also include contributions made under the age 50 catch-up provision.
 2. Rollover Contribution. The plan allows Participants to make contributions to the plan when such contributions are attributable to a distribution from an Eligible Rollover Plan.
 3. Transfers. If permitted by a plan, a Participant may make tax-free exchange from another eligible 457(b) plan of a governmental employer, which allow such transfers, as long as the amount transferred is not actually received by the participant prior to the transfer.
- B. **Deferral Procedure.** Pursuant to a Voluntary Salary Deferral Agreement, each Participant's Deferral amount shall be deducted from his or her paychecks in approximately equal increments throughout the year. The Deferral amount shall not be included as gross income on a Participant's Federal Income Tax withholding statement (W-2 Form).
- C. **Maximum Deferral.**
1. Primary Limitation. The maximum amount of Annual Deferrals that may be made to the plan for a Participant's taxable year in most situations is the lesser of:
 - a. 100 percent of Includible Compensation or:
 - b. • \$11,000 in 2002
• \$12,000 in 2003
• \$13,000 in 2004
• \$14,000 in 2005
• \$15,000 in 2006After 2006, the contributions limit will be indexed annually for inflation in \$500 increments.

2. Catch-up Limitation.
 - a. For each one of a Participant's last three consecutive taxable years ending before she/he attains "normal retirement age" (NRA) pursuant to 3.96.020 L, the maximum amount that may be deferred in a Plan Year will be the lesser of:
 - (1) Twice the amount of the maximum contribution limit; or
 - (2) The sum of the maximum deferral permitted for the current tax year (determined without regard to any catch-up provision), and as much of the applicable deferral limit in prior years, before (beginning after January 1, 1984) the current tax year that had not previously been used ("underutilized amount").
 - b. A Participant may elect to use the catch-up provision only once while employed by the Employer sponsoring the Plan, even if the Participant uses the catch-up provision in less than all of the three consecutive eligible years.
 - c. In applying the underutilized limitation for Includible Compensation for years prior to 2002, the limitation is 33 1/3 percent of the Participant's Includible Compensation. To the extent an Employer did not offer a 457(b) plan to a Participant in a prior given year, no underutilized limitation is available to the Participant for that prior year, even if s/he subsequently becomes eligible to participate in the 457(b) plan of the Employer. Note that for purposes of the special 457(b) catch-up deferral, a Participant's election of a NRA is irrevocable once deferrals have been made to the 457(b) plan utilizing the catch-up provision. The plan defines NRA as the earlier of:
 - (1) age 65, or
 - (2) the age at which a Participant could receive immediate unreduced retirement benefits from the sponsor's defined benefit plan
 - (3) or, no later than age 70½.
 - d. Catch-up Contribution for Participants age 50 and over. The Plan is amended to allow a Participant who has attained age 50 before the close of any taxable year to make catch-up contributions in accordance with, and subject to the limitations of, Code Section 414(v), as follows: \$1,000 in 2002, \$2,000 in 2003, \$3,000 in 2004, \$4,000 in 2005, \$5,000 in 2006. These amounts are indexed for inflation (in \$500 increments) beginning in 2007. Catch-up contributions may not be made under this section in any year where the catch-up provision under the Catch-up Contributions for the Last Three Years is being used.
 3. Veterans Make-Up Contributions. Veterans returning to employment from certain military service are entitled to have that military service be considered service with the Employer for purposes of plan contributions. Make-up contributions on behalf of re-employed veterans are neither subject to plan contribution limitations for the year made, nor are they considered in applying the limits to any other contributions made during the year. However, the make-up contributions are subject to the applicable limitations (including any previous cost-of-living adjustments that were in effect) with respect to the year the contribution relates. In calculating the amount of any make-up contributions, compensation used for such calculation is the compensation the Participant would have earned had the Participant not engaged in military service.
- D. **Minimum Deferral.** A Participant must comply with any minimum monthly deferral requirements which may be set by the Employer from time to time on a non-discriminatory basis.

- E. **Changing the Amount of Deferrals.** Participants may change or cancel Deferrals with respect to Compensation not yet earned, only during Open Enrollment Periods or within 30 days of receiving notice of a Plan amendment, by executing a new Voluntary Salary Deferral Agreement or written notice of cancellation. The change or cancellation shall be effective no earlier than the first day of the month following an Open Enrollment Period as specified in Section 3.96.020 M., or the first day of the pay period following notice to the Employer.
- F. **Temporary Suspension of Deferrals.**
1. A Participant may suspend Deferrals without withdrawing from the Plan, by giving the Employer written notice. Deferrals shall automatically be suspended for any month in which there are insufficient monies available to make the entire deduction agreed upon.
 2. If Deferrals are suspended by request or automatically, a Participant may reinstate Deferrals only during Open Enrollment Periods by executing a new Voluntary Salary Deferral Agreement and delivering it to the Employer. Reinstatement shall be effective on the date specified in Section 3.96.020 M., following the Open Enrollment Period.

(Ord. 2004-122 § 1 (part), 2004; Ord. 90-138 § 1 (part), 1990)

3.96.050 Time of Benefit Payment.

- A. **Distribution.** Payment from the plan will not be distributed to a participant until she/he has a distributable event. A distributable event under the plan includes a Participant's:
1. severance from employment, or
 2. death.
 3. In addition, the following in-service withdrawals will be permitted:
 - a. unforeseeable emergency,
 - b. attainment of age 70½, and
 - c. small amount cashouts.
 4. Rollover Contributions may be distributed at any time regardless of whether the Participant has a distributable event. If a Participant or Beneficiary made an irrevocable benefit election prior to 2002, the plan permits those individuals to revise these elections. However, if an individual chose to annuitize under a fixed annuity, the election may not be revised. Payments from the Plan will be made only upon Separation from Service, or an Employer approved financial hardship that results from an unforeseeable emergency.
- B. **Latest Commencement Date – Age 70½.** Notwithstanding any other Plan provision to the contrary, benefits for a Participant or Beneficiary shall commence no later than April 1 following the later of the calendar year in which the Participant attains age 70½, or the calendar year in which the Participant has a Severance from Employment.
- C. **Severance from Employment.** The plan may allow a Participant who has a severance from employment with the Employer to receive his or her account balance upon such severance in accordance with the plan rules.
- D. **Death.**
1. Upon the death of a Participant, distributions are made to a designated Beneficiary. A Participant in the plan is not required to designate a spouse as a Beneficiary. However, a spouse may be entitled to a death benefit even if she/he is not a designated Beneficiary under a Participant's account(s). Assets under the plan

- generally are community property to the extent the contributions were made while the Participant and his or her spouse were married and domiciled in a community property jurisdiction.
2. The plan provides for distribution options upon the death of a Participant and may require the immediate distribution of death benefits. Regulations require death benefits to be distributed within a certain period of time. The time frame depends upon whether the Beneficiary is a spouse or non-spouse. If Minimum Distribution Requirement ("MDR") payments have not begun upon a Participant's death, payments must be distributed to a designated Beneficiary no later than:
 - a. Designated Beneficiary Rule: Payment of the deceased Participant's account balance must begin no later than December 31 of the calendar year immediately following the calendar year of the Participant's death, payable over a period not to exceed the life expectancy of the Beneficiary.
 - b. Designated Beneficiary is Surviving Spouse: If the designated Beneficiary is the surviving spouse, the payments to the spouse must begin by the later of:
 - (1) December 31 of the calendar year immediately following the calendar year in which the Employee dies, or
 - (2) December 31 of the calendar year in which the Employee would have attained age 70½.
 3. The payments to the surviving spouse must be made over a period not to exceed the spouse's life expectancy. In the alternative, a spouse or non-spouse Beneficiary may elect to have death benefits paid under the five-year rule.
 - a. Five-year rule: The deceased Participant's entire account balance must be distributed to a designated Beneficiary no later than the December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - b. If MDR payments have begun to be made to a Participant prior to death, payments of the deceased Participant's account balance must begin to be made to a Beneficiary (regardless of whether the Beneficiary is a spouse or non-spouse) beginning no later than December 31 of the calendar year immediately following the calendar year of the Participant's death and must be paid over the Beneficiary's life expectancy.
 - c. MDR payments made over a Beneficiary's life expectancy, whether a Participant dies before or after MDR payments have begun, are made as follows:
 - (1) Non-spouse Beneficiary: for years after the year of the Participant's death, the distribution period is generally the remaining life expectancy of the designated Beneficiary. The Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reducing the life expectancy factor by one for each subsequent year.
 - (2) Spousal Beneficiary: for years after the year of the Participant's death, the distribution period during the surviving spouse's life is the spouse's single life expectancy. For years after the year of the surviving spouse's death, the distribution period is the spouse's life expectancy calculated in the year of death, reducing the life expectancy factor by one for each subsequent year.
 - (3) No designated Beneficiary (e.g., Participant's estate or a trust that is not being "looked through" is the Beneficiary): as of the end of the year after the Participant's death there is no life expectancy on which to base the

payments and therefore, the distribution period is the Participant's life expectancy calculated in the year of death, reduced by one for each subsequent year.

E. Unforeseeable Emergency Withdrawals.

1. A plan may permit a Participant to receive in-service withdrawals in the case of an "unforeseeable emergency." Unforeseeable emergency is a severe financial hardship of the Participant, the Participant's spouse or the Participant's dependents resulting from an illness or accident, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.
2. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each situation, but, in any event, payment may not be made to the extent that such hardship is or may be relieved:
 - a. Through reimbursement or compensation by insurance or through another manner,
 - b. By liquidation of the Participant's assets, to the extent the liquidation of these assets would not itself cause severe financial hardship, or
 - c. By cessation of deferrals under the plan. Withdrawals of amounts because of an unforeseeable emergency can only be permitted to the extent reasonably needed to satisfy the emergency need (including any amounts necessary to pay taxes or penalties).

Examples of what are not considered to be unforeseeable emergencies include the need to send a Participant's child to college or the desire to purchase a home.

3. Procedure.
 - a. The Participant must submit to the Committee a written request for withdrawal accompanied by evidence that his or her financial condition warrants an advance release of funds and results from events beyond the Participant's control. The committee shall review the request and determine whether payment of any amount is justified. If payment is justified, the amount shall be limited to an amount reasonably needed to meet the emergency. The Committee shall determine the amount and form of payment. Any amount remaining in the account after an unforeseeable emergency withdrawal shall be distributed in accordance with the provisions of this Plan.
 - b. The Committee may delegate review and determination responsibilities to a hearing officer. If the Employer appoints a hearing officer, and the Participant disagrees with the hearing officer's determination, he or she may appeal that decision to the Committee within ten days after receiving notice of the hearing officer's decision.
4. Unforeseeable Emergency Withdrawals After Commencement of Benefit Payments. Once regular installment payments to a Participant have commenced under the Plan, the Participant may request payment acceleration if the Participant suffers an unforeseeable emergency as defined in Section 3.96.050 E.1. An accelerated payment may be made in accordance with Section 3.96.050 E.3.a. and the amount of such payment shall not exceed the amount needed to meet the emergency. Any amount remaining in the account after such accelerated payment shall be distributed in accordance with the provisions of this Plan.

- F. **Small Amount Cashouts.** If the value of a Participant's accounts under the plan is \$5,000 or less and the Participant has not made a Deferral Contribution to the plan in the previous two Plan Years, a plan may permit the Participant to elect to receive a distribution of his or her accounts, payable in a lump sum, before the Participant has a severance from employment. In determining the \$5,000 amount, the plan may choose to disregard any Rollover Contributions made by the Participant. A Participant may only take one such distribution while employed by the Employer.
- G. **Purchasing Service Credits Under a State or Local Retirement System.** A Participant may direct the Administrator to transfer amounts under his or her Participant Account tax-free under the Plan in accordance with Code Section 457(e)(17) to the fiduciary of a state or local retirement system in order to enable the Participant to purchase years of service credits under the system or repay amounts previously cashed out under the system even if the Participant is not eligible for a distribution under 3.96.050 A. The Administrator shall take such reasonable measures as required to ensure that the intended recipient plan will accept such transferred amounts.
- H. **Distribution for Minor Beneficiary or Incompetent.** In the event a distribution is to be made to a minor, then the Administrator may direct that such distribution be paid to the legal guardian, or if none, to a parent of such Beneficiary or to the custodian for such Beneficiary under the Uniform Gift [Transfers] to Minors Act, if such is permitted by the laws of the state in which the Beneficiary resides. Such a payment to the legal guardian, parent or guardian of a minor Beneficiary shall fully discharge the Provider, any other providers of the Plan, Administrator, Employer, and Plan from further liability on account thereof. In the event a distribution is to be made to an incompetent, then the Administrator may direct that such distribution be paid to the duly appointed and currently acting conservator of the incompetent or to other such individual who is legally responsible for the incompetent as permitted by the laws of the state in which the incompetent resides. Such a payment to the conservator or other such individual who is legally responsible for the incompetent shall fully discharge the Provider, any other providers of the Plan, Administrator, Employer, and Plan from further liability on account thereof.
- I. **Location of Participant or Beneficiary Unknown.** In the event that all, or any portion, of the distribution payable to a Participant, Former Participant, Alternate Payee or Beneficiary hereunder shall, at the Participant's or Former Participant's Severance from Employment, remain unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant, Former Participant, Alternate Payee or Beneficiary, the amount so distributable shall be held within the Investment Product, with investment direction provided by the Administrator, under the Plan. In the event a Participant, Former Participant, Alternate Payee or Beneficiary is located subsequent to his benefit being held in such account, such benefit shall be restored, including any applicable interest, and paid, to the Participant, Former Participant, Alternate Payee or Beneficiary, in accordance with this Chapter.
- (Ord. 2004-122 § 1 (part), 2004; Ord. 90-138 § 1 (part), 1990)

3.96.060 Form of Benefit Payment.

- A. **Minimum Distribution Requirement ("MDR").** A plan may allow a terminated Participant to defer the distribution of his account balance until a later date. The Code requires that payment of benefits must begin no later than the April 1 of the calendar year following the later of the year in which the Participant reaches age 70½ or retires.

The amount of the MDR is based on the Participant's account balance (as of the previous December 31) divided by the applicable life expectancy. Generally, there is a single table that is used to determine a Participant's applicable life expectancy that does not take into account a Participant's designated Beneficiary unless the Participant's sole primary beneficiary is a spouse whose age difference is more than 10 years of the age of the Participant. In this case, the applicable life expectancy is the Participant's and spouse's joint and last survivor life expectancy. Life expectancies are determined under tables provided by the IRS.

- B. Available Forms of Payment.** A Participant or Beneficiary may elect payment in one of the following forms:
1. Lump sum distribution
 2. Rollover to another Eligible Rollover Plan
 3. Immediate or deferred annuity
 4. Direct transfer to another 457(b) plan
 5. Deferred distribution
 6. Periodic payments from the plan
 7. Combination of these options

In addition, a plan may allow Participants to delay receiving payments until a later date subject to the MDR rules.

(Ord. 2004-122 § 1 (part), 2004; Ord. 90-138 § 1 (part), 1990)

3.96.070 Beneficiaries.

- A. Designation.** A Participant shall have the right to designate a Beneficiary, and amend or revoke such designation at any time, in writing. Such designation, amendment or revocation shall be effective upon receipt by the Committee. Notwithstanding the foregoing, the Participant may not change his or her joint annuitant after payment under a joint and survivor annuity commences.
- B. Failure to Designate a Beneficiary.** If no designated Beneficiary survives the Participant and benefits are payable following the Participant's death, the Committee may direct that payment of benefits be made to the person or persons in the first of the following classes of successive preference Beneficiaries. The Participant's:
1. spouse,
 2. descendants, per stirpes,
 3. parents,
 4. estate.

(Ord. 90-138 § 1 (part), 1990)

3.96.080 Plan Administration.

- A. Plan Administrator.** The Plan shall be administered by a Committee selected by the Employer and composed of a Committee of not less than three persons and an alternate. The Employer shall have responsibility for the operation and administration of the Plan and shall direct payment of Plan benefits. The Committee shall have the power and authority to adopt, interpret, alter, amend or revoke rules and regulations necessary to administer the Plan and to delegate ministerial duties and employ such outside professionals as may be required for prudent administration of the Plan. The members of the Committee, if otherwise eligible, may participate in the Plan, but shall not be entitled to make decisions on behalf of the Employer with respect to his or her own participation.

- B. **Plan-to-Plan Transfers.** Notwithstanding any other Plan provision, distribution of amounts deferred by a former Participant of this Plan shall not commence upon Severance from Employment, but instead shall be automatically transferred to another Eligible Deferred Compensation Plan in which the former Participant has become a Participant, if:
1. the Eligible Plan receiving such amounts provides for their acceptance, and
 2. the former Participant Severed from Employment with the Employer in order to accept employment with the employer which maintains the other Eligible Plan.

This Plan will accept the transfer of amounts previously deferred by a Participant under another Eligible Deferred Compensation Plan.

- C. **Accounts.** The Employer shall establish and maintain accounts on behalf of each Participant. Accounts shall be valued at least once each Plan Year and each Participant shall receive written notice of his or her account balance following such valuation. Account balances shall reflect the Deferral amount, any earnings attributable to such amount and shall be reduced by administrative, investment and other fees, in such amounts and at such times as the Committee deems necessary for the maintenance of this Plan.
- D. **Investments.** A Participant or Beneficiary may request that Deferrals be allocated among available investment options established by the Employer. The initial allocation request may be made at the time of enrollment. Investment allocation requests shall remain effective with regard to all subsequent Deferrals, until changed in accordance with the provisions of this Section. A Participant may change his or her allocation request during an Open Enrollment Period or other period approved by the Committee by notifying the Committee in writing. Such changes shall become effective as soon as administratively feasible. While the Employer intends to invest Deferrals according to Participant requests, it reserves the right to invest Deferrals without regard to such requests.

(Ord. 2004-122 § 1 (part), 2004; Ord. 90-138 § 1 (part), 1990)

3.96.090 Amendment and Termination.

- A. **Amendment.** The Employer shall have the right to amend this Plan, at any time and from time to time, in whole or in part. The Employer shall notify each Participant in writing of any Plan amendment.
- B. **Termination.** Although the Employer has established this Plan with a bona fide intention and expectation to maintain the Plan indefinitely, the Employer may terminate or discontinue the Plan in whole or in part at any time without any liability for such termination and discontinuance. Upon Plan termination, all Deferrals shall cease and each Participant or Beneficiary shall be given the opportunity to elect a benefit commencement date and form of payment in accordance with Articles V and VI. The Employer shall retain all Deferrals until each Participant terminates or incurs a hardship and benefits commence under Sections 3.96.050 A.2. or 3.96.050 B.

(Ord. 90-138 § 1 (part), 1990)

3.96.100 Miscellaneous.

- A. **Limitation of Rights; Employment Relationship.** Neither the establishment of this Plan nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving a Participant or other person any legal or equitable right against the Employer except as provided in the Plan. In no event shall the terms of employment of any Employee be modified or in any way affected by the Plan.
 - B. **Limitation on Assignment.** Except to the extent required under a final judgment, decree, or order (including approval of a property settlement agreement) made pursuant to a state domestic relations law, no Participant or Beneficiary shall have any right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights are expressly declared to be non-assignable and non-transferable.
 - C. **Representations.** The Employer does not represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation. Further, the Employer does not represent or guarantee successful investment of Plan funds and assets, and shall not be required to repay any loss which may result from such investment or lack of investment.
 - D. **Severability.** If a court of competent jurisdiction holds any provisions of this Plan invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.
 - E. **Applicable Law.** This Plan shall be construed in accordance with applicable federal law and, to the extent otherwise applicable, the laws of the State of Washington.
- (Ord. 94-140 § 1, 1994; Ord. 90-138 § 1 (part), 1990)

Chapter 3.98

DOMESTIC PARTNERSHIP BENEFITS

Sections:

- 3.98.010 Extension of Employee Benefits to Domestic Partners.**
- 3.98.020 Definitions.**
- 3.98.030 Eligibility.**
- 3.98.040 Termination and Domestic Partnership.**
- 3.98.050 Extension of Domestic Partnership Benefits Pursuant to Collective Bargaining.**
- 3.98.060 Non-Represented Employee Pay and Benefit Adjustments.**

3.98.010 Extension of Employee Benefits to Domestic Partners.

The County shall provide for the extension of County employee benefits to employees' domestic partners and eligible children of the domestic partner on a basis equal to the benefits provided to employees for a spouse and eligible children of the spouse, subject to the terms and conditions of an Affidavit of Marriage/Domestic Partnership, to be developed and implemented by the Human Resources Department. (Ord. 2007-108 § 1 (part), 2007)

3.98.020 Definitions.

- 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 both agree that both are responsible for the cost.
- B. "Domestic Partner" means an individual designated by an unmarried County official or employee in an affidavit filed with the Human Resources Department pursuant to Chapter 3.98.
- C. "Domestic Partnership" shall consist of two people who have been, for at least six months, and are currently:
 - 1. Sharing the same regular and permanent residence;
 - 2. Having a close, personal relationship;
 - 3. Jointly responsible for "basic living expenses", as defined herein;
 - 4. Not married to anyone as recognized by the State of Washington or any other jurisdiction;
 - 5. Both 18 years of age or older;
 - 6. Not related by blood closer than would bar marriage in the State of Washington;
 - 7. Mentally competent to consent to contract when the domestic partnership began;
 - 8. Each other's sole domestic partner, intending to remain so indefinitely, and are responsible for each other's common welfare.
- D. "Employee Benefits" means the following benefits provided to a County employee, spouse and eligible children pursuant to collective bargaining agreements, ordinances, contracts or personnel policies: health insurance eligibility, sick leave, shared sick leave eligibility, humanitarian catastrophic leave eligibility, and bereavement leave.

(Ord. 2007-108 § 1 (part), 2007)

3.98.030 Eligibility.

Eligibility for domestic partner status will be established by the presentation to the County's Human Resources Department of an Affidavit of Marriage/Domestic Partnership meeting the definition of such domestic partnership as defined herein, and subject to the terms and conditions set forth in such Affidavit. (Ord. 2007-108 § 1 (part), 2007)

3.98.040 Termination of Domestic Partnership.

At the request of either domestic partner, a domestic partnership may be terminated upon the filing of an Affidavit of Termination of Domestic Partnership indicating that at least one of the criteria necessary to maintain a domestic partnership is no longer satisfied. (Ord. 2007-108 § 1 (part), 2007)

3.98.050 Extension of Domestic Partnership Benefits Pursuant to Collective Bargaining.

The employment benefits set forth in Chapter 3.98 are benefits available to be provided to represented employees pursuant to collective bargaining. (Ord. 2007-108 § 1 (part), 2007)

3.98.060 Non-represented Employee Pay and Benefit Adjustments.

- A. This Chapter shall apply to non-represented employees, including both uniformed and non-uniformed.
- B. Such non-represented employees shall receive the employment benefits set forth in this Chapter regarding the extension of employee benefits to domestic partners if they meet the eligibility requirements.

(Ord. 2007-108 § 1 (part), 2007)