# TITLE 1

# Administration and Personnel

# TITLE 1
# ADMINISTRATION AND PERSONNEL

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# CHAPTER 1.02
# CITY LIMITS AND ANNEXATIONS [1]

Sections:
1.02.010 Original boundaries.

## 1.02.010 Original boundaries.[2]

The City limits of Tacoma were formed in January, 1884, by the consolidation of Tacoma and New Tacoma and were fixed by the Charter of 1890 with boundaries approximately as follows: Commencing at the shore line of Commencement Bay, where it is intersected by Orchard Street, thence South on Orchard Street to North 27th Street, thence East on North 27th Street to Union Avenue, thence South on Union Avenue to South 19th Street, thence East on South 19th Street to Sprague Avenue, thence South on Sprague Avenue to South 35th thence East on South 35th Street to the West line of the Puyallup Indian Reservation, thence North along the boundary of said Indian Reservation to the Pierce County-King County boundary, as established prior to February 19, 1891, thence Northwesterly along said boundary to Commencement Bay.

[1] See also Charter – Section 1.1.
[2] Subsequent annexations are available in the Public Works Department.

# CHAPTER 1.04
# SEAL

Sections:

1.04.010 City seal – Authorized, use.

## 1.04.010 City seal – Authorized, use.[1]

The City Clerk is authorized and directed to procure and keep in the office of the Clerk a special seal of the City of Tacoma, of as small size as practicable, upon which shall be the words "SEAL OF THE CITY OF TACOMA – 1884 –." Said special seal to be used in sealing interest coupons attached to bonds or warrants of the City and in all other cases where such seal is required by law or by the Charter or ordinances of the City. The seal shall be the lawful seal of the City in such instances.

(Ord. 15681 § 1; passed Aug. 27, 1956)

# CHAPTER 1.06
# ADMINISTRATION [3]

Sections:

1.06.010 Administrative code adopted.
1.06.015 Utility service rates and charges – Review.
1.06.020 Administrative staff.
1.06.030 Responsibilities of department and office heads.
1.06.040 Internal organization of departments and offices.
1.06.050 Cooperation between departments and offices.
1.06.060 Reports and records.
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1.06.075 Police Department Community-Initiated Complaint Oversight.
1.06.080 Boards and commissions.
1.06.090 Appointments.
1.06.100 City Clerk.
1.06.104 Parking System Services.
1.06.105 Institutional Network (I–Net); Education, and Government Access Channels; Master Control Site; and Franchise Administration.
1.06.110 City Manager – Duties.
1.06.115 City Manager – Facilities, real estate, other assets and records management.
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1.06.140 City Manager – Staff.
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1.06.170 City Manager – Membership on boards and commissions.
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1.06.201 *Repealed*.
1.06.205 Biennial budget authorized.
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1.06.210 Finance Department.
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1.06.212 Finance – Accounting.
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1.06.216 Official receipts – Printing and numbering.
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1.06.222 *Repealed*.
1.06.223 Bills and accounts – Rendering.
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1.06.225 Bills – Duplicate copies to Director of Finance.
1.06.226 Cancellation of amounts due.
1.06.227 Application of Sections 1.06.221 –1.06.225.

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[3] Code reviser's note: Section 17 of Ord. 24720 provided: The Contract Compliance functions and the Affirmative Action functions now being performed by the Human Rights Department may be transferred to such other departments as the City Manager directs. This Section 17 shall be effective and operative 10 days after publication of this adopted ordinance.

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1.06.231 Claims – Prosecution.
1.06.241 *Repealed*.
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1.06.243 *Repealed*.
1.06.244 *Repealed*.
1.06.245 *Repealed*.
1.06.246 *Repealed*.
1.06.247 *Repealed*.
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1.06.655 Public Utilities – Official name of Belt Line.
1.06.660 Public Utilities – Clerk.
1.06.670 Public Utilities – Financial and accounting activities.
1.06.680 *Repealed*.
1.06.690 *Repealed*.
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1.06.790 Telephone system.
1.06.800 Telephone system – Payment of service charges.
1.06.810 Telephone system – Collection from users.
1.06.820 Evidentiary hearing on appeals to City Council – Delegation to Hearing Examiner.
1.06.830 Insurance procurement.
1.06.2701 Tacoma Venues and Events In-House Promotion Program.

## 1.06.010 Administrative Code adopted.

This Code (Chapter 1.06) is adopted pursuant to Section 3.11 and Section 4.17 of the Charter of the City of Tacoma, in order to establish and define the duties of the departments, offices, and boards necessary to carry out the administrative service of the City government, and in all administrative matters it shall supersede and replace the detailed administrative matters now in force and as set forth in existing laws and ordinances. In the event of a conflict between a provision of this Administrative Code and a provision in any other chapter of the Official Code of the City of Tacoma, the provisions in this Administrative Code shall control.

(Ord. 24799 § 1; passed Dec. 18, 1990: Ord. 14887 § 44; passed Sept. 28, 1953)

## 1.06.015 Utility service rates and charges – Review.

The City Manager for the Sewer Utility, Solid Waste Utility, and any other utilities services as may be under his/her jurisdiction, and the Public Utility Board pursuant to Section 4.11 of the City Charter for the Electric Utility, Water Utility and the Belt Line Railway, shall each cause to be prepared and submitted to the Council at periodic intervals not exceeding five years comprehensive reviews of all rates and charges for utility services presently in effect, together with recommendations as to needed revisions or adjustments for the ensuing five-year period; provided, in the event no changes or revisions are recommended, then there shall be furnished to the Council sufficient data, information and certifications that the existing charges will be sufficient for the ensuing five-year period to meet all operating and maintenance costs of the utilities involved reasonably foreseeable, in addition to such bond redemption payments and interest costs and debt service coverage as may be required.

(Ord. 26079 § 1; passed Jun. 10, 1997: Ord. 19339 § 1; passed Apr. 20, 1971)

## 1.06.020 Administrative staff.

The administrative officers enumerated in Section 1.06.070 of this chapter and such other employees as the City Manager may designate shall comprise the City Manager's administrative staff. The administrative staff shall meet at the call of the City Manager and shall advise him and consult with him upon all matters which he may refer to them concerning the administration of any or all activities of the City government.

(Ord. 14887 § 36; passed Sept. 28, 1953)

## 1.06.030 Responsibilities of department and office heads.

The heads of administrative departments, offices, and other administrative units of the general City government shall be responsible to the City Manager, except as specifically provided otherwise by State law or Charter. The City Manager may set aside any action taken by any administrative official under his direction and control and may supersede him in the functions of his office. In case of a vacancy in office or during the absence of any office head, the City Manager may designate an acting head or perform personally the functions of the office. All administrative officers shall keep informed as to the latest practices in their particular fields and shall inaugurate, with the approval of the City Manager, such new practices as appear to be of benefit to the service and to the public.

(Ord. 14887 § 36; passed Sept. 28, 1953)

## 1.06.040 Internal organization of departments and offices.

The City Manager shall have authority to assign to the various departments and offices such responsibilities and duties as he/she considers necessary for the efficient conduct of the work of the City government, subject to the Charter, State law, specific provisions of this chapter, and subject to City Council approval through the appropriation of funds. Except as otherwise provided by Charter, State law, or this chapter, the head of any department or office may delegate the functions assigned to him/her to such subordinate officers and employees as may to him/her seem desirable, and, when not otherwise provided by law and with the approval of the City Manager, he/she may establish such sections or units as may seem to him/her necessary for the efficient conduct of duties for which he/she is responsible. Administrative officers shall submit to the City Manager charts showing the organization for administering the functions and services for which they have responsibility. The charts shall be in such form as may be prescribed by the City Manager. Revisions in administrative organization which shift activities or personnel from one subdivision to another or which create or consolidate subdivisions shall be approved by the City Manager, and revised organization charts shall be filed following such approval.

(Ord. 26079 § 2; passed Jun. 10, 1997: Ord. 14887 § 36; passed Sept. 28, 1953)

## 1.06.050 Cooperation between departments and offices.

It shall be the duty of every department or office, subject to such rules as the City Manager may prescribe, to furnish to any other department or office such service, labor, equipment, or materials as may be requisitioned by the head of such other office, and as its own facilities permit. The City Manager may direct any department or office to perform work for any other administrative unit.

(Ord. 14887 § 36; passed Sept. 28, 1953)

## 1.06.060 Reports and records.

Reports, in such form as the City Manager prescribes, of the activities of each department and office shall be made to the City Manager at the end of each quarterly period and at such other times as the City Manager may require, and an annual report shall be also filed with the City Manager within 90 days after the end of each fiscal year. A summary of such reports shall be made by the City Manager and submitted to the City Council. Each administrative office shall establish a system of records and reports in sufficient detail to furnish all information necessary to provide proper control of the activities for which he is responsible and to form a basis for periodic reports to the City Manager.

(Ord. 14887 § 36; passed Sept. 18, 1953)

## 1.06.070 Administrative service – Departments and offices.

The administrative service of the City shall be organized into departments and offices, which are hereby continued, created, or established as follows:

| Department or Office | Administrative Officer |
|---|---|
| Finance Department | Director of Finance |
| Community and Economic Development Department | Director of Community and Economic Development |
| Planning and Development Services Department | Director of Planning and Development Services |
| Neighborhood and Community Services Department | Director of Neighborhood and Community Services |
| Human Resources Department | Director of Human Resources/Personnel Officer |
| Information Technology | Director of Information Technology |
| Public Works Department | Director of Public Works |
| Environmental Services Department | Director of Environmental Services Department |
| City Attorney's Office | City Attorney |
| Office of Hearing Examiner | Hearing Examiner |
| Police Department | Police Chief |
| Fire Department | Fire Chief |
| Office of Government Relations | Government Relations Officer |

(Ord. 28108 Ex. A; passed Dec. 4, 2012: Ord. 28093 Ex. A; passed Oct. 16, 2012: Ord. 27483 § 1; passed Apr. 25, 2006: Ord. 27466 § 1; passed Jan. 17, 2006: Ord. 26651 § 1; passed Jul. 11, 2000: Ord. 26386 § 1; passed Mar 23, 1999: Ord. 26079 § 3; passed Jun. 10, 1997: Ord. 24720 § 1; passed Sept. 25, 1990: Ord. 20230 § 1; passed Oct. 15, 1974: Ord. 19763 § 1; passed Feb. 27, 1973: Ord. 19407 § 1; passed Jul. 27, 1971: Ord. 18700 § 1; passed Dec. 26, 1968: Ord. 17099 § 1; passed Jul. 3, 1962: Ord. 16724; passed Jan. 24, 1961: Ord. 14887 § 15; passed Sept. 28, 1953)

## 1.06.075 Police Department Community-Initiated Complaint Oversight.

A. Community-Initiated Conduct Complaint System. The City Manager shall appoint a City employee who does not work for the Tacoma Police Department, and who reports directly to the City Manager, to perform the following functions:

1. Receive and forward community-initiated conduct complaints to the Police Department;

2. Ensure complainants are notified that their complaint has been received and forwarded and that they are informed of all findings;

3. Produce statistical reports;

4. Serve as a liaison to the Community's Police Advisory Committee;

5. Other duties related to implementation of this section, as may be assigned by the City Manager.

Community's Police Advisory Committee

B. Creation of the Committee.

1. There is created a Community's Police Advisory Committee ("Committee"), consisting of 11 members, one member from each City Council District and five members from the general community; and one designated youth seat, with a minimum of 40 percent of the members from traditionally underrepresented communities or groups that reflect and represent the diverse communities in the City of Tacoma. Members must be residents of Tacoma. Commissioned law enforcement professionals and their family members are eligible to serve, provided that no current member of the Tacoma Police Department or his or her immediate family may serve. However, the Committee will consist of no more than three members that are commissioned law enforcement professionals or retired commissioned law enforcement professionals.

2. Members shall be appointed by the City Council. Members shall serve staggered one-, two-, or three-year terms. No member shall serve more than ten years. The youth seat designation shall be for a one-year term.

C. Duties of the Committee.

The Committee shall perform the following duties:

1. Foster understanding and communication between the residents of Tacoma and the Tacoma Police Department and review and advise the Chief of Police on community relations between the Police Department and the community.

2. Hold regular public meetings to promote awareness of the community complaint process, solicit input from the community, and convene community conversations regarding police services, programs, and issues of public safety to encourage and develop an active community-police partnership with an emphasis on improving relations between the Police Department and residents in Tacoma. The Committee shall forward community complaints to the community-initiated conduct complaint system.

3. Work to strengthen and ensure the application of equal protection under the law throughout the community.

4. Review the investigative process and results of completed administrative investigations of complaints, such as alleged excessive use of force or police brutality, for discussion purposes with regard to what processes may be considered in preventing the occurrences of future activities.

5. Generate community interest and involvement, and promote public awareness of the City's police services and programs, including, but not limited to, business and residential crime prevention programs, safety training, domestic violence intervention, community-oriented policing, and other areas of community relations.

6. Review, develop, and recommend strategies to the City Council, City Manager, and Chief of Police concerning Police Department policies, procedures, rules, training, and programs. Examples of potential areas that may be reviewed or studied include such areas as police misconduct investigation procedures, in-service training in human relations, Citywide crime prevention efforts, community participation and education on rights and responsibilities and community-oriented policing. The specific study or review areas set forth above are to be considered as examples of the areas to be studied and reviewed and are not intended to be limitations.

7. Notwithstanding the duties of the Committee as described above, the Committee shall have no power or authority to investigate, review, or otherwise participate in matters involving specific police personnel or specific police-related incidents. Should any concern raised by the Committee remain unresolved after receiving a response from the Chief of Police, the Committee may request the matter be referred to the City Manager.

D. The Committee may adopt by-laws and processes for its internal organization.

E. The City Manager's Office will appoint staff to support the Committee.

(Ord. 28685 Ex. A; passed Aug. 11, 2020: Ord. 28324 Ex. A; passed Oct. 13, 2015: Ord. 28310 Ex. A; passed Aug. 4, 2015: Ord. 27826 § 1; passed Aug. 11, 2009: Ord. 27589 § 1; passed Feb. 20, 2007)

## 1.06.080 Boards and commissions.[4]

There are hereby continued or created and established the following boards and commissions: Public Library Board, City Planning Commission, Civil Service Board, Police Relief and Pension Fund Board, Firemen's Pension Fund Board, Board of Administration of Employees' Retirement System, and Board of Contracts and Awards. Each board or commission shall be so organized and have such powers and duties as are required by State law, Charter and ordinances.

(Ord. 27886 Ex. B; passed May 4, 2010; Ord. 14887 § 17; passed Sept. 28, 1953)

## 1.06.090 Appointments.

The personnel holding the positions set forth in Sections 1.06.070 and 1.06.500, and the personnel holding the positions of Assistant Superintendents in the Light Division, Water Division and Belt Line shall be a part of the unclassified services as defined in Section 6.1, subsection (d) of the City Charter.

(Ord. 28093 Ex. G; passed Oct. 16, 2012: Ord. 25335 § 1; passed Jul. 20, 1993: Ord. 14887 § 8; passed Sept. 28, 1953)

## 1.06.100 City Clerk.

A. The City Clerk, under the supervision of the City Attorney, shall perform the duties of the office of City Clerk as set forth in the City Charter, and shall:

1. Be responsible for the publication, filing, indexing, and safekeeping of the records of all proceedings of the Council;

2. Record and certify all ordinances and resolutions;

3. Prescribe and furnish sample forms for all petitions provided for by Charter and ordinances;

4. Publish all legal notices, unless otherwise provided by law or ordinance;

5. File and preserve all franchises, oaths of office, and other documents not required to be filed elsewhere;

6. Be the custodian of the official seal of the City of Tacoma;

7. Perform such other duties as may be imposed or prescribed by the laws of the State of Washington, the Charter of the City of Tacoma, the ordinances of the City of Tacoma, or as may be required or requested by the Mayor and members of the Council, the City Manager, or the City Attorney;

8. Attend all meetings of the Tacoma City Council and keep a permanent journal of all its proceedings; and

9. Cause City Council candidates' statements not exceeding 200 words, submitted in accordance with Charter Section 5.6, to be mailed to each individual place of residence in the City at least 10 days prior to the date set for the primary municipal election. In addition, the City Clerk shall cause Civil Service Board candidates' statements to be printed and circulated in the same manner as City Council candidates' statements.

10. Provide for inactive records storage, develop and maintain retention schedules to ensure compliance with federal, state and City laws, and assist City departments in maintaining and disposing of City records.

(Ord. 27466 § 2; passed Jan. 17, 2006: Ord. 26666 § 1; passed Aug. 1, 2000: Ord. 26560 § 1; passed Dec. 14, 1999: Ord. 26079 § 4; passed Jun. 10, 1997: Ord. 25334 § 1; passed Jul. 20, 1993: Ord. 24720 § 2; passed Sept. 25, 1990: Ord. 22296 § 1; passed Jan. 20, 1981; Ord. 19670 § 1; passed Oct. 3, 1972; Ord. 19407 § 4; passed Jul. 27, 1971)

## 1.06.104 Parking System Services.

The Public Works Department, under the supervision and control of the Public Works Director, shall be responsible for the following duties and functions:

1. Adjust parking rates for all System parking facilities, after consultation with the City Council, by decreasing the rates below the rates set by the City Council, or increasing the rates up to the maximum rates set by City Council.

2. Periodically adjust parking rates for System parking facilities in accordance with the market for parking in downtown Tacoma and the City's economic development policies.

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[4] Library Board – See Chapter 1.16 and Charter Section 3.9. Planning Commission – See Chapter 13.02 and Charter Section 3.8. Civil Service Board – See Charter Section 6.11 and Section 1.06.440. Pension Boards – See Chapter 1.30.

3. Manage, administer, and control the operation of all System parking facilities.

4. Collect all parking fees, charges, and taxes within the City, whether imposed by the City or another entity on System parking facilities.

5. Conduct parking studies, and assess and define parking requirements within the City.

6. Develop and recommend to the City Council plans and programs to meet parking requirements, including the construction, maintenance, and operation of sufficient parking facilities to meet parking requirements within the City.

7. Identify, develop, and recommend to the City Council new or expanded sources of parking revenue to provide funding for maintenance, operations, and debt service for System parking facilities.

8. For purposes of this section, "parking facility" shall mean, without limitation, garages, parking structures, parking lots, and parking stalls owned, leased, rented, or managed by the System.

(Ord. 27466 § 3; passed Jan. 17, 2006: Ord. 26546 § 8; passed Dec. 7, 1999)

## 1.06.105 Institutional Network (I–Net); Education, and Government Access Channels; Master Control Site; and Franchise Administration.

The Cable Communications and Franchise Services group, under the supervision and control of the City Manager, or his designee, shall be responsible for the following duties and functions:

A. Institutional Network, or I–Net.

1. Provide for, administer, and control the operation, and use of the I–Net for the primary purpose of providing high-speed data, voice, and video communications to, from, and among City departments, libraries, governmental entities, accredited schools, and other authorized users.

2. Approve and have paid to the Department of Public Utilities, Light Division, or other vendors as required, authorized charges for construction, maintenance, or other authorized services related to the operation of the I–Net.

3. Develop for approval by the City Manager a cost methodology for charges to be paid by departments and divisions of the City for use of the I–Net, and charge for such use in accordance with the methodology as approved.

4. Develop and recommend to the City Council agreements with other governmental entities, accredited public and private schools, and other authorized users, setting forth the terms and conditions for use of the I–Net by such entities and the operation, maintenance, and capital recovery costs to be paid by such entities for use of the I–Net, and provide for the administration of such I–Net agreements in accordance with their terms and for the provision of I–Net services to such entities and the collection from such entities of the I–Net charges as authorized by the City Council.

B. Education, and Government Access Channels.

1. Administration of access channels set aside for education, and government use as defined in Title 16 of the Tacoma Municipal Code and provided for in cable TV franchises and agreements;

2. Provide and allocate use of access channels to other governmental entities and schools (Access Providers) in accordance with agreements, ordinances, resolutions, or guidelines approved by the City Council and by the directives of the City Manager where authorized by ordinance or the City Council;

3. Develop and recommend to the City Council Access Provider agreements with each designated access provider;

4. Provide for the administration of such Access Provider agreements in accordance with their terms, and for the provision of access services as authorized by the City Council;

5. Maintain quarterly and yearly reports on Access Providers' use of the access channels made available for their use.

C. Master Control Site. Provide for the management, acquisition, installation, maintenance, repair, disposition, and operation of the Master Control Site or sites as provided for in cable TV franchises and agreements.

D. Franchise and Title 16 Administration. Administer all telecommunication and cable TV franchises and agreements, and those portions of Tacoma Municipal Code Title 16 as designated from time to time by the City Manager.

(Ord. 28069 Ex. A; passed May 8, 2012: Ord. 27466 § 4; passed Jan. 17, 2006: Ord. 26449 § 1; passed Jun. 22, 1999)

## 1.06.110 City Manager – Duties.

The City Manager shall have all powers contemplated by the Charter and City ordinances. He shall be the chief administrative officer of the general City government and shall supervise and be responsible for the effective management of the

administrative affairs of the City and shall supervise all City departments and offices, except as is otherwise provided by the Charter, State law or ordinances. He shall be responsible for the proper execution of the policies set by the City Council and the enforcement of all laws and ordinances. He shall be responsible to the City Council for the efficient and economical conduct and operation of all City departments and offices under his jurisdiction. He shall keep the Council informed of the conditions and needs of the City and shall make such reports and recommendations as he may deem desirable or as may be requested of him by the Council; prepare and submit to the Council the proposed annual preliminary budget for the general government; see that City expenditures do not exceed amounts available for expenditures; supervise the purchase, lease, rental, use, maintenance and assignment of City property required by the various departments and offices of the general government of the City; appoint, remove, suspend and discipline all officers and employees of the City under his jurisdiction, subject to the civil service provisions of the Charter and except as otherwise provided therein, or by State law, or he may at his discretion authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office; fix and establish the number of employees in the various City departments and offices under his jurisdiction and determine their duties and compensation, subject to the approval of the City Council; exercise all powers conferred by law upon the City but not specifically conferred upon any official; take or cause to be taken or recommend to the City Council in the proper case all and every action necessary to protect the best interests and promote the welfare of the City; and perform such other duties and have and exercise such other powers as may be prescribed by law. He shall have the right to attend all meetings of the City Council and to take part in discussion of matters coming before the City Council, but he shall not have the right to vote on any such matter.

(Ord. 14887 § 1; passed Sept. 28, 1953)

### 1.06.115 City Manager – Facilities, real estate, other assets and records management.

The City Manager shall, consistent with the City Charter and except as otherwise provided by ordinance, undertake, supervise, or assign the responsibility for the supervision and administration of the leasing, rental, use, maintenance, management, acquisition, and disposition of City facilities, real property, and other assets, and for the custodial retention, maintenance, and indexing of all documents and records pertaining thereto.

(Ord. 26079 § 5; passed Jun. 10, 1997)

### 1.06.120 City Manager – Administrative supervision.

In exercising general control and supervision over the administrative affairs of the general government of the City, the City Manager shall deal insofar as it is possible through the administrative officers of the general government designated by this chapter, and except as otherwise provided by Charter or State law all such officers shall be directly and exclusively responsible to him, and to no other person or body, for the efficient and economical conduct of their respective departments and offices.

(Ord. 14887 § 2; passed Sept. 28, 1953)

### 1.06.130 City Manager – Administrative rules.

The City Manager is hereby authorized to issue rules or administrative regulations not inconsistent with State law, the Charter or ordinances of the City, outlining the general procedures for the administration of City activities under his jurisdiction, and he may provide for a system of administrative regulations to be issued by the heads of the various departments and offices of the City general government.

(Ord. 14887 § 3; passed Sept. 28, 1953)

### 1.06.140 City Manager – Staff.

The City Manager may, within the limits of the City Charter and the annual budget adopted by the City Council, appoint one or more Assistant City Managers, Assistants to the City Manager, and administrative assistants, or may designate employees of the City as such whose duties shall be to assist the City Manager in such manner as he may designate and to conduct studies and research into the most advantageous administrative practices, the application of which will improve the administration of the City government. The City Manager may, within the limits of the annual budget adopted by the City Council, provide such clerical and other assistants as he deems necessary for his office and the offices of any administrative assistants.

(Ord. 27466 § 5; passed Jan. 17, 2006: Ord. 14887 § 4; passed Sept. 28, 1953)

### 1.06.150 City Manager – Absence or disability.

Whenever the City Manager is unable to personally perform the duties of his/her office, due to disability or absence from the City, the senior available administrative assistant to the City Manager, or such other City employee as designated in writing by

the City Manager, at no increase in salary, shall serve as Acting City Manager, and shall supervise and be responsible for the effective management of the administrative affairs of the City, and shall be otherwise empowered with all the powers of the City Manager, except the power to appoint and remove heads of departments or subordinates; provided, however, that whenever the City Manager's absence or disability appears to be of continuing duration, the City Council may appoint some other City official or City employee to perform said duties.

(Ord. 26079 § 6; passed Jun. 10, 1997: Ord. 15028; passed Jun. 1, 1954: Ord. 14887 § 4A; passed Sept. 28, 1953)

### 1.06.160 City Manager – Reports to council.

The City Manager shall at such times as he may be directed to do so by the City Council, submit to the City Council an annual report of the City's activities and finances, which report shall be made available for public distribution, and he shall prepare and present such other reports as the City Council may require or as he deems advisable.

(Ord. 14887 § 5; passed Sept. 28, 1953)

### 1.06.170 City Manager – Membership on boards and commissions.

The City Manager shall serve on such boards and commissions of the City as he may be appointed by State law, the Charter or any ordinance.

(Ord. 14887 § 6; passed Sept. 28, 1953)

### 1.06.180 Community and Economic Development Department.

The Community and Economic Development Department shall be under the supervision of the Director of the Community and Economic Development Department, and shall:

A. Lead, develop, and execute an economic development program or programs designed to foster economic vitality through marketing the livability of Tacoma, stimulating investment and job creation, and encouraging international exchange and trade development;

B. Research, plan, and implement development projects;

C. Lead development efforts for neighborhoods and business districts;

D. Plan, develop, and implement economic, cultural, housing, community development, growth management, neighborhood enhancement, transportation, open space, or related activities and programs authorized by state, federal, or other grant programs, and make recommendations to the City Manager and City Council in respect thereto;

E. Analyze, develop, and execute plans and programs designed to make both low-income and market-rate housing available to meet the needs of Tacoma citizens;

F. Advise other departments on issues and opportunities relating to economic development, housing, community development, neighborhood planning, culture, tourism, marketing, and urban renewal, and coordinate the contributions of other departments to such programs;

G. Provide staff assistance and secretarial and clerical services required by the Tacoma Arts Commission; and

H. Perform such other duties as may be prescribed by ordinance or by the City Manager.

(Ord. 28110 Ex. A; passed Dec. 4, 2012: Ord. 27466 § 6; passed Jan. 17, 2006: Ord. 27079 § 1; passed Apr. 29, 2003: Ord. 26386 § 2; passed Mar. 23, 1999: Ord. 24720 § 3; passed Sept. 25, 1990: Ord. 22766 § 1; passed Sept. 7, 1982)

### 1.06.181 Planning and Development Services Department.

The Planning and Development Services Department shall be under the supervision of the Director of Planning and Development Services, and shall:

A. Issue and revoke all building and sign permits; administer all building codes and ordinances; cause to be inspected all gas, plumbing, heating system installations, boilers, sanitary and safety equipment of all buildings and structures within the City; issue, and collect the fees for, all building, plumbing, sewer, street obstruction, sign, and all other permits relating to the construction, maintenance and repair of buildings and structures, and installations appurtenant thereto; propose and revise all building and construction codes; recommend condemnation and abatement of unsafe buildings and structures; regulate and maintain the City's master address maps and records;

B. Develop and maintain relevancy of the City’s comprehensive plan pursuant to Tacoma Municipal Code 13.02, and create comprehensive plans for growth and development, to include land use planning, long-range and integrated planning, capital

improvements, transportation planning, and urban design, and collect or develop data and information needed to facilitate informed decisions in formulating and approving such plans;

C. Study, analyze, plan, develop, and administer programs relating to the restoration and preservation of properties of special value for historic, architectural, recreational, or aesthetic reasons;

D. Lead, develop, and execute plans and programs designed to preserve the City's historic heritage and to foster cultural development in all forms for the citizens of Tacoma;

E. Provide staff assistance and secretarial and clerical services required by the City Planning Commission and the Landmarks Preservation Commission; and

F. Perform such other duties as may be prescribed by ordinance or assigned by the City Manager.

(Ord. 28109 Ex. A; passed Dec. 4, 2012)

### 1.06.185 Neighborhood and Community Services Department.

The Neighborhood and Community Services Department shall, under the supervision of the Director of Neighborhood and Community Services Department:

1. Study, analyze, develop, and administer programs to build healthy and successful neighborhoods and households, and make recommendations to the City Manager and City Council relating thereto.

2. Engage in human services planning and contracting for services that focus on the human needs and quality of life of the citizens of Tacoma.

3. Monitor and enforce anti-discrimination ordinances and resolutions, and prevent reoccurrence once it has been identified.

4. Provide support to and assist the appropriate boards and commissions in the conduct of its business pursuant to Tacoma Municipal Code 1.29.030.

5. Enforce all codes and ordinances regulating commercial, industrial, and residential building and housing; regulate and maintain the City's master address maps and records.

6. Administer and enforce provisions of the City's noise enforcement ordinances.

7. Perform such other duties as may be prescribed by ordinance or by the City Manager.

(Ord. 28108 Ex. A; passed Dec. 4, 2012: Ord. 26386 § 3; passed Mar. 23, 1999)

### 1.06.200 Civil Defense Department. *Repealed by Ord. 26079.*

(Ord. 26079 § 7; passed Jun. 10, 1992: Ord. 14887 § 22; passed Sept. 28, 1953)

### 1.06.201 Office of Management, Budget, and Analysis. *Repealed by Ord. 27483.*

(Ord. 27483 § 2; passed Apr. 25, 2006: Ord. 26651 § 2; passed Jul. 11, 2000)

### 1.06.205 Biennial budget authorized.

A. Pursuant to RCW 35.34.040, a two-year fiscal biennium budget is hereby established for the period from January 1, 1991, through December 31, 1992, and for each two-year period thereafter until this code provision is repealed, which repeal will be effective as of the conclusion of a fiscal biennium, as authorized pursuant to RCW Chapter 35.34. The first biennial budget and all subsequent biennial budgets shall be prepared, considered, and adopted under the provisions of RCW Chapter 35.34, and the provisions of any applicable City ordinance not inconsistent with the provisions of State statute.

B. The budget estimates, the proposed preliminary budget, the preliminary budget, notices of hearing, the budget hearing, and adoption of the biennial budget shall be processed and accomplished in accordance with the requirements of RCW Chapter 35.34, or as permitted (or not prohibited) by RCW Chapter 35.34, as authorized by ordinances and resolutions from time to time adopted by the City Council not inconsistent with RCW Chapter 35.34.

(Ord. 24660 § 1; passed Jun. 19, 1990)

### 1.06.206 Mid-biennium review and modification of budget.

A mid-biennium review and modification of the biennial budget, as provided by RCW 35.34.130, shall occur no sooner than eight months after the start, nor later than conclusion of the first year of each fiscal biennium. The City Manager shall prepare budget modifications proposed to be effective at the start of the second year (January 1) of the fiscal biennium, which

proposed budget modifications shall be filed with the City Clerk, copies thereof transmitted to each Council member, and copies made available as a public record to members of the public or press requesting such copies. A public hearing on the proposed modifications shall be held and notification thereof made as provided by resolution of the City Council not inconsistent with RCW 35.34.130. At such hearing or thereafter, the City Council may, by ordinance, approve such modifications to the budget as it deems necessary or proper. A complete copy of the budget modifications as adopted shall be transmitted to the Division of Municipal Corporations in the office of the State Auditor and to the Association of Washington Cities as required by RCW 35.34.130.

(Ord. 24660 § 2; passed Jun. 19, 1990)

## 1.06.210 Finance Department.

The Director of Finance shall be responsible for the financial and purchasing operations of the City, which includes both General Government and Department of Public Utilities, except as otherwise directed by the City Council.

A. The Finance Department, under the supervision of the Director of Finance, shall perform those functions prescribed by the City Charter and applicable laws, and, subject to the provisions of the Charter, State law, and ordinances shall:

1. Compile and prepare the estimates for the General Government Budget;

2. Prepare and submit all financial statements and reports required by State law and the Charter, or as may be requested by the City Council, the City Manager, the Public Utility Board, or the Director of Utilities;

3. Maintain a general accounting system for the City and its departments and officers and maintain general control accounts for all departments and City utilities, including, but not limited to, accounts receivable, accounts payable, and maintenance of financial systems consistent with the City Charter and in conformity with the recognized accounting practices and regulations prescribed for cities by the Federal Government or the State of Washington Division of Municipal Corporations in the Office of the State Auditor;

4. Audit currently all City funds, including special and trust funds of the City;

5. Pre-audit all purchase orders and expenditures;

6. Audit all payrolls which have been prepared and submitted by the several departments;

7. Maintain adequate records of all receipts, disbursements, and status of all municipal funds;

8. Purchase all supplies, materials, and services for the City except the services of experts, in the manner prescribed by the Charter and Sections 1.06.240 - 1.06.330;

9. Store all supplies and materials not delivered to the various departments;

10. Maintain control and a running inventory of all fixed assets of the City;

11. Conduct all sales of general obligation and revenue bonds issued by the authorization of the City Council, and shall be responsible for recommending the appropriate receipt, disbursement and investment of funds consistent with the applicable bond ordinances and shall provide required City financial information and financial assurances for all revenue and general obligation bonds of the City, General Government and Department of Public Utilities. Further, the Finance Director will provide any other necessary financial information for all revenue and general obligation bonds and any other debt issue affecting the City's indebtedness;

12. Maintain records of delinquent assessments and local improvement district foreclosure proceedings; and

13. Prepare a monthly report of the fiscal activities of all funds for the preceding month and such other reports as may be required by the City Manager or the Director of Utilities.

B. The City Treasurer, under the supervision of the Director of Finance and subject to the provisions of the Charter, State law, and ordinances shall:

1. Be responsible for the receipt, custody, and disbursement of all City funds and all local improvement district funds and other trust funds;

2. Receive all utility accounts;

3. Collect all proceeds from parking meters;

4. Collect all business license fees and occupational taxes due the City;

5. Be the custodian of all departmental investments and bank collateral;

6. Keep an accurate and detailed account of all collections and disbursements in the manner prescribed by the Director of Finance;

7. Prescribe the times at and manner in which moneys received by the City shall be paid into the treasury or deposited in the bank;

8. Make all deposits of City funds in banks in the manner prescribed by law;

9. Keep separate and distinct accounts for each fund as required by law or City Charter;

10. Acquire by purchase and sell lands for benefit of local improvement district funds and the local improvement district guaranty fund;

11. All checks and warrants of the City shall be signed by the City Treasurer or, in case of his/her absence or inability to act, by his/her representative designated by him/her in writing;

12. Administer Title 6 of this Code, entitled "Licenses and Taxation," and provide for the collection of taxes and enforcement of regulations thereunder, and:

a. Audit books of registered taxpayers filing tax returns to determine correct tax owing;

b. Establish uniform auditing procedures;

c. Promulgate rules, regulations, and procedures to assist taxpayers in filing tax returns;

d. Conduct investigations to determine whether a person or firm should be registered and paying their fair share of tax;

e. Send out delinquent penalty and additional assessment notices;

f. Collect delinquent returns;

g. Send renewal license notices and issue all licenses and permits except as otherwise provided in this code;

h. Perform business management functions; and

13. Be responsible for the receipt, investment and proper disbursement of bond funds pursuant to applicable bond ordinances, and to make recommendations to the City Manager and City Council or, if applicable, the Director of Utilities and Public Utility Board.

The Director of Finance, or, in case of his/her inability to act, by his/her representative designated by him/her in writing, shall countersign all checks and warrants of the City.

The Director of Finance and the City Treasurer shall be members of the Finance Committee and serve as such.

The Director of Finance and the City Treasurer shall each perform such other duties as may be prescribed by Charter, State law, ordinances, or by the City Manager.

(Ord. 25414 § 1; passed Dec. 14, 1993: Ord. 25335 § 2; passed Jul. 20, 1993: Ord. 24720 § 6; passed Sept. 25, 1990: Ord. 19670 § 2; passed Oct. 3, 1972; Ord. 17504 § 2; passed Dec. 10, 1963: Ord. 16044; passed Feb. 3, 1958: Ord. 14887 § 23; passed Sept. 28, 1953)

### 1.06.211 Finance Budgeting *Repealed by Ord. 26651*.

(Ord. 26651 § 3; passed on Jul. 11, 2000: Ord. 25335 § 3; passed Jul. 20, 1993: Ord. 15592; passed May 11, 1956: Ord. 14887 § 39; passed Sept. 28, 1953)

### 1.06.212 Finance – Accounting.

The general accounting system to be employed by the Director of Finance shall be in conformity with the best recognized practices in governmental accounting and shall comply with all regulations prescribed for cities of the first class by the Federal Government or the State of Washington Division of Municipal Corporations in the Office of the State Auditor.

Each department and office of the City shall maintain accounts and records of financial transactions in the manner prescribed by the Director of Finance.

(Ord. 25335 § 4; passed Jul. 20, 1993: Ord. 15592; passed May 11, 1956: Ord. 14887 § 40; passed Sept. 28, 1953)

### 1.06.213 Cash balance – Daily report.

The City Treasurer is required to furnish to the Director of Finance of the City of Tacoma a written report of all cash balances at the close of each day's business.

(Ord. 2611 § 1; passed May 3, 1906)

### 1.06.214 City depositories – Weekly report.

The City Treasurer shall require each of the City depositories to make, on the Monday of each week, a written report of all cash balances of all municipal funds on deposit in said depository.

(Ord. 25335 § 5; passed Jul. 20, 1993: Ord. 2611 § 2; passed May 3, 1906)

### 1.06.215 Clerical errors – Adjustment.

Whenever through the clerical error of an employee of the City, or through the mistake of any person having financial dealings with the City, the Treasurer shall have received a sum in excess of the sum due upon the settlement of any matter, the Director of Finance is authorized to adjust the matter and repay the excess to the person entitled thereto. In making such adjustment and payment the person benefited shall make out a claim upon the Department of Finance for the amount claimed, which shall be approved by the Director of Finance, and be allowed and paid as any other unliquidated claim against the City.

(Ord. 5222 § 1; passed Feb. 13, 1913)

### 1.06.216 Official receipts – Printing and numbering.

All official receipts of the City of Tacoma, except local improvement district assessment receipts, including tickets, permits and licenses, shall be prepared, printed and serially numbered under the supervision and direction of the Director of Finance. Such receipts shall be issued by the Director of Finance to authorized collecting officers and employees of the City as required, and shall be accounted for by them either in money or in unused or canceled receipt forms at any time upon demand of the Director of Finance.

(Ord. 6408 § 1; passed Jul. 26, 1916)

### 1.06.217 Official receipts – Given unless waived.

Every officer or employee of the City of Tacoma who is authorized to collect money for the City shall give an official receipt for each collection made by him, unless such requirement shall be waived in writing by the Director of Finance.

(Ord. 6408 § 2; passed Jul. 26, 1916)

### 1.06.218 Violation of 1.06.216 – 1.06.217 – Penalty.

Any person violating any of the provisions of Sections 1.06.216 – 1.06.217 shall, upon conviction thereof, be fined in any sum not exceeding $100.00.

(Ord. 6408 § 3; passed Jul. 26, 1916)

### 1.06.219 Department labor charges – Receipts.

Whenever any department of the City of Tacoma shall perform labor service or furnish material for any other department of said City, or for any individual, the cost of such labor and material shall be charged against the expense of the department performing such labor or furnishing such material, and a statement therefor shall be rendered to the department or individual to whom such labor or material is furnished.

(Ord. 7223 § 1; passed Mar. 17, 1920)

### 1.06.220 Department charges – Distribution of funds.

At the close of each month all funds evidenced by special departmental receipts issued in payment for such labor or material shall be distributed to the respective departments in which such expense was created and the Director of Finance shall add the amount so distributed to the budget appropriation as additional appropriations to said respective departments, and the same shall be added to the estimated department receipts.

(Ord. 7223 § 2; passed Mar. 17, 1920)

### 1.06.221 Leases – Filing with Director, City Clerk–General Services. *Repealed by Ord. 26079.*

(Ord. 26079 § 7; passed Jun. 10, 1992: Ord. 19670 § 3; passed Oct. 3, 1972: Ord. 6827 § 3; passed Jul. 24, 1918)

### 1.06.222 Leases – Authority of Director, City Clerk – General Services. Repealed by Ord. 26079.

(Ord. 26079 § 7; passed Jun. 10, 1992: Ord. 19670 § 4; passed Oct. 3, 1972: Ord. 6827 § 3; passed Jul. 24, 1918)

### 1.06.223 Bills and accounts – Rendering.

The Director of Finance shall promptly render a bill for amounts due to the City under leases or other instruments, or under agreements made by him, or under terms of any ordinance or resolution.

(Ord. 6827 § 4; passed Jul. 24, 1918)

### 1.06.224 Register of leases. *Repealed by Ord. 26079.*

(Ord. 26079 § 7; passed Jun. 10, 1992: Ord. 19670 § 5; passed Oct. 3, 1972: Ord. 6827 § 5; passed Jul. 24, 1918)

### 1.06.225 Bills – Duplicate copies to Director of Finance.

Whenever any City officer shall render any bill for materials or services rendered by him or his department to any third person he shall forthwith transmit to the Director of Finance a duplicate copy of such bill.

(Ord. 6827 § 5; passed Jul. 24, 1918)

### 1.06.226 Cancellation of amounts due.

No amounts in excess of $25,000.00 which are due any department of the City, including its public utilities, from any individual or corporate debtor thereto under the provisions of leases, contracts, other instruments or agreements, or under provisions of rate or other ordinances or resolutions, or which are due and legally enforceable from any person, corporation or insurance company as a result of damages to City property, shall be canceled, written off, reduced or otherwise compromised without the authorization therefor by a resolution or motion of the City Council or of the Public Utility Board upon recommendation of the City Manager for the general government and upon recommendation of the Director of Utilities for the Department of Public Utilities, as the case may be.

Such amounts due the City which are in excess of $5,000 but which are no greater than $25,000 may, after reasonable efforts for the collection or settlement thereof have been exhausted, be authorized to be canceled, written off or settled in part upon recommendation of a Department's Administrative Officer and with the approval of the City Attorney and Director of Finance for general governmental departments or the approval of the Director of Utilities for the Department of Public Utilities, as the case may be.

Such amounts due the City which are no greater than $5,000 may, after reasonable efforts for the collection or settlement thereof have been exhausted, be authorized to be canceled, written off or settled in part upon approval of the Department's Administrative Officer, based on written procedures developed by the Director of Finance and approved by the City Manager or the Director of Public Utilities, as may be appropriate.

Nothing herein shall prevent the Director of Finance, as approved by the City Manager for general governmental departments and the Director of Utilities for the Department of Public Utilities, as the case may be, from employing collection agencies of recognized competence and repute for the purpose of attempting to collect through assignment thereto, all or any portion of any accounts which have been heretofore canceled and written off the City's books pursuant to this section, except where prior settlement thereof has extinguished the liability of the debtor to the City.

(Ord. 28570 Ex. A; passed Feb. 5, 2019: Ord. 25766 § 1; passed Oct. 3, 1995: Ord. 25335 § 6; passed Jul. 20, 1993: Ord. 22702 § 1; passed May 25, 1982: Ord. 16812 § 1; passed Jun. 20, 1961)

### 1.06.227 Application of Sections 1.06.221 – 1.06.225.

The provisions of Sections 1.06.221 through 1.06.225 shall not apply to leases, contracts or bills of the Department of Public Utilities, nor to the bills for garbage and refuse or sewer utilities services.

(Ord. 16812 § 2; passed Jun. 20, 1961)

### 1.06.228 Claims against City.[5]

A. All claims for damages against the City shall be presented in writing and filed with the City Clerk.

B. All claims for damages shall accurately state the time, place, cause, nature, and extent of the alleged damages, the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant by street and number at the date of presenting such claim, and for six months immediately prior to

[5] See also Charter Section 9.3 and Chapter 1.20 – Obligations of City.

the time such claim for damages accrued, and shall be verified by affidavit of the claimant or such other person as may be authorized by law to verify such claims, to the effect that the same is true. The omission to present any such claim in the manner hereinabove prescribed shall be a bar to any action for damages arising out of tortious conduct against the City therefor. No action shall be commenced against the City for damages arising out of tortious conduct until 60 days have elapsed after the claim for damages has first been presented to and filed with the City Clerk.

C. The applicable period of limitations within which an action arising out of tortious conduct must be commenced shall be tolled during the 60-day period after the claim has first been filed.

D. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages arising out of tortious conduct.

(Ord. 26260 § 1; passed Jun. 30, 1998: Ord. 25470 § 1; passed Apr. 5, 1994: Ord. 14887 § 42; passed Sept. 28, 1953)

### 1.06.229 Claims – Settlement.

All claims in an amount not exceeding $10,000 may be settled with the approval of the City Attorney, and a warrant issued upon the appropriate claim fund at his or her direction. All claims in an amount greater than $10,000 and not exceeding $30,000 may be settled with the approval of the City Attorney and the City Manager for general government departments, and with the approval of the City Attorney and the Director of Utilities for divisions of the Department of Public Utilities, and a warrant issued upon the appropriate claim fund at the direction of the City Manager for general government departments, and at the direction of the Director of Utilities for the Department of Public Utilities transactions. All claims in excess of $30,000 may be settled only with the approval of the City Council: (1) Upon recommendation of the City Manager for general government departments, and (2) upon recommendation of the Public Utility Board for the Department of Public Utilities. The amount of the settlement shall constitute the amount of the claim under the above limitations. The City Attorney is authorized to deny claims as he or she shall deem proper.

The authority set forth herein of the City Attorney to settle claims not to exceed $10,000 may be delegated by the City Attorney, in writing, to appropriate City staff person(s). The writing that delegates said authority must specify the amount of authority and the types of claims to be approved for settlement and include the release forms to be used.

(Ord. 27547 § 1; passed Nov. 14, 2006: Ord. 24976 § 1; passed Oct. 1, 1991: Ord. 24154 § 1; passed Jul. 26, 1988: Ord. 22039 § 1; passed Apr. 15, 1980: Ord. 20792 § 1; passed Jul. 6, 1976: Ord. 14887 § 42; passed Sept. 28, 1953)

### 1.06.230 Claims – Releases.

All releases shall be in the form prescribed by the City Attorney, and shall be retained by the Legal Department as required by the Washington State General Records Retention Schedule for local governments.

(Ord. 27547 § 2; passed Nov. 14, 2006: Ord. 14887 § 42; passed Sept. 28, 1953)

### 1.06.231 Claims – Prosecution.

The City Attorney shall prosecute and collect all claims, either contract or tort, in favor of the City and against third parties, and may institute action in a court of competent jurisdiction for such purpose with the approval of the City Manager if involving general governmental matters, and with the approval of the Director of Utilities if involving Department of Public Utilities matters. All such claims may be compromised only with the approval of the City Manager for general governmental matters, or the Director of Utilities for Department of Public Utilities matters. All releases required for the compromise and settlement of such claims shall be in a form approved by the City Attorney and shall be signed on behalf of the City by the City Manager or the Director of Utilities, as the case may be.

(Ord. 14887 § 42; passed Sept. 28, 1953)

### 1.06.241 Purchasing procedure – General – Responsibility for purchasing. *Repealed by Ord. 27777.*

(Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 25335 § 7; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.242 Purchasing procedure – General – Responsibility for purchasing – Department of Public Utilities. Repealed by Ord. 25335.

(Ord. 25335; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 17225 § 1; passed Dec. 26, 1962: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.243 Purchasing procedure – General – Combined purchase of common items. Repealed by Ord. 25335.

(Ord. 25335; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.244 Competitive bidding and award requirements. *Repealed by Ord. 27777.*

(Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 9; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.245 Waiver of bidding requirements. Repealed by Ord. 27777.

(Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.246 Cooperative purchasing. *Repealed by Ord. 27777.*

(Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

### 1.06.247 Routine sole source items. Repealed by Ord. 27777.

(Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23858 § 1; passed May 19, 1987: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.248 Annual requirements contract. *Repealed by Ord. 27777.*

(Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.249 Unlawful purchases. Repealed by Ord. 27777.

(Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## GENERAL PURCHASING PROCEDURE

### 1.06.250 Approval by City Council of system expansions and additions and betterments.

None of the authorizations set forth in this chapter relating to system expansion and the making of additions and betterments thereto or extensions thereof for utility services under the jurisdiction of the Public Utility Board shall be exercised until such system expansion, additions, betterments or extensions have been approved by the City Council pursuant to Section 4.11 of the City Charter.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

### 1.06.251 Definitions.

Unless the context clearly requires otherwise, the terms used in Sections 1.06.250 through 1.06.280 of this Chapter shall have the following meanings:

A. "Bid" means an offer submitted by a Respondent to furnish Supplies, Services, Public Works, and/or other property, as well as an offer to purchase surplus property, in conformity with the Specifications and any other written terms and conditions included in a City request for such offer.

B. "Bidder" means an entity or individual who submits a Bid, Proposal or Quote. See also "Respondent."

C. "Competitive Solicitation" means the procedure used to solicit Bids, Proposals, Quotes, qualifications and other information, as well as offers to purchase personal property, from multiple entities or persons to obtain the most favorable terms for the City, and includes all forms of City requests for same.

D. "Contract" means any type of legally binding agreement, regardless of form or title that governs the terms and conditions for procurement of Supplies, Services, Public Works, or for the Sale of surplus property. Contracts include the terms and conditions found in Specifications, Bidder or Respondent Submittals, and purchase orders issued by the City.

E. "Competitive Negotiation" means the method of acquiring Supplies or Services in which discussions or negotiations may be conducted with responsible Respondents to a Request for Proposal, resulting in a Contract award.

F. "Formal Sealed Submittal" means a Sealed Submittal for a Purchase when the estimated cost is more than $500,000, excluding sales tax. Except as otherwise mandated in this Chapter, Formal Sealed Bid solicitation processes shall be governed by the Purchasing Policy Manual.

G. "Informal Submittal" means a Submittal for a Purchase when the estimated cost is $500,000 or less, excluding sales tax. Informal Bid processes shall be governed by the Purchasing Policy Manual.

H. "Personal Services" means non-Public Works services for which Submittals are evaluated on the basis of defined performance criteria in addition to price and satisfaction of minimum qualification criteria. This term may be further defined in the Purchasing Policy Manual.

I. "Professional Services" means non-Public Works services involving professional or technical expertise, often associated with a license, provided by a Respondent to accomplish a specific study, project, task or other work statement, rather than delivery of a product or physical labor. Includes, but is not limited to, architectural and engineering services as defined by state law. This term may be further defined in the Purchasing Policy Manual.

J. "Proposal" means a written offer to furnish Supplies or Services in response to a Request for Proposals. This term may be further defined in the Purchasing Policy Manual and/or in Competitive Solicitations issued by the City.

K. "Public Works" (or "Public Works and Improvements") means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the City, or that is by law a lien or charge on any property therein.

L. "Purchase" (or "Purchasing") means the act of procurement or acquisition of Supplies, Services, Public Works or other items.

M. "Purchasing Policy Manual" means the written document authorized under Section 1.06.253 to establish uniform policies and/or procedures consistent with this Chapter.

N. "Purchased Services" means non-Public Works services for which submittals may be evaluated merely on the basis of price and satisfaction of minimum qualification criteria. This term may be further defined in the Purchasing Policy Manual.

O. "Quote" means a competitively solicited written offer to furnish Supplies or Services by a method of procurement that is less formalized than a Bid or a Proposal. This term may be further defined in the Purchasing Policy Manual.

P. "Request for Proposals" ("RFP") means a solicitation method by which purchases of Supplies, Services and in limited circumstances, Public Works, are made by Competitive Negotiation, in conformity with the Specifications and other written terms and conditions advertised by the City.

Q. "Request for Qualifications" ("RFQ") means a solicitation method most commonly used for the procurement of architectural and engineering services per 39.80 RCW. Price is not a factor in the evaluation of qualifications.

R. "Respondent" means any entity or person, other than a City employee, that provides a Submittal in response to a request for Bids, Request for Proposals, Request for Qualifications, request for Quotations or other request for information. This term includes any such entity or person whether designated as a supplier, seller, vendor, proposer, Bidder, contractor, consultant, merchant, service provider or otherwise.

S. "Sale" means the disposition of City surplus property by Bid, auction or negotiation process.

T. "Sealed Submittal" means a Submittal, whether a Bid, Proposal, Quote, qualifications, information or otherwise required to be received by the City in a sealed package.

U. "Services" means non-Public Works services and includes Professional Services, Personal Services, and Purchased Services, as such terms may be further defined in the Purchasing Policy Manual.

V. "Specification" means the document and any subsequent addenda, including terms and conditions that describes the physical or functional characteristics, or the nature of the required Supplies, Services, or Public Works; commonly referred to as the Bid document or Bid Specification.

W. "Submittal" means Bids, Proposals, Quotes, qualifications or other information submitted in response to requests for Bids, Requests for Proposals, Requests for Qualifications, requests for Quotations, or other City requests for information.

X. "Supplies" means materials, goods, products, provisions, equipment or other items not considered Services or Public Works.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.252 General responsibility for purchasing.

The Director of Finance shall be responsible for all City purchasing and procurement and shall appoint a senior financial manager who shall be head of the Procurement and Payables Division of the Finance Department and who shall, subject to the exceptions stated in the Charter and in this Chapter, make all purchases and all sales of personal property for all departments, offices, boards and other agencies of the City.

The duties and responsibilities designated in this Chapter to be performed by the Director of Finance and the senior financial manager shall be performed with the oversight of the City Manager.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.253 Purchasing Policy Manual.

The Director of Finance, with the approval of the City Manager and the Director of Utilities, is authorized to and shall establish a Purchasing Policy Manual applicable to all City purchases and to sales of surplus personal property. The Purchasing Policy Manual shall establish policies for, but not be limited to, the following:

A. Obtaining competitive solicitations whenever practicable; provided, that the Purchasing Policy Manual may allow for greater flexibility in how solicitations are made, commensurate with the dollar amount involved.

B. Determining the lowest and best responsible bidder in case of supplies, purchased services and public works, and award to the highest and best responsible bidder for surplus sale transactions.

C. Competitive solicitation processes as provided in this Chapter.

D. The procurement of public works by way of the small works roster as provided in this Chapter and allowed by state law.

E. The procurement of architectural and engineering (A&E) services, including management of an annual A&E roster for citywide use, consistent with this Chapter and as allowed by state law, as the same may hereafter be amended.

F. The use of requests for proposals (competitive negotiation), rather than requests for bids, for acquisition of supplies, purchased services, personal services, professional services, and public works.

G. The use of direct solicitation as provided in this Chapter.

H. Use of procurement cards.

I. Purchase at auctions pursuant to TMC 1.06.277.

J. Waivers of competitive solicitations and/or advertising.

K. Acceptance of electronic submittals in response to requests for bids, proposals, quotations, qualifications or information.

L. Determining if a performance bond and/or bid bond is necessary in the City's best interests when such bond(s) are not required by state law.

M. Determining if a noncollusion declaration is necessary in the City's best interests when such declaration is not required by this Chapter or state law.

N. Obtaining written contracts, insurance, indemnification, and guarantee requirements, as appropriate.

O. Fair and equitable treatment of all potential respondents.

P. Obtaining authorization for purchases consistent with this Chapter.

Q. Compliance with the City's Ethics Code.

R. Contract recommendations and award and additional rules for protest and surplus sales.

S. Defining purchasing related terms as necessary and consistent with this chapter.

T. Reporting purchases, as requested, to the City Council for General Government transactions or to the Public Utility Board for Department of Public Utilities transactions.

U. The City’s specification documents to, where appropriate, include locality criteria. Locality criteria contained in the specification documents shall be designed to elicit respondents who demonstrate knowledge and understanding of factors unique to the relevant locality. Such factors might include, but are not limited to, culture; customs; history; and the natural, built, and economic environment of the relevant locality. A respondent’s ability to satisfy such criteria shall be considered when determining the lowest and best responsible bidder.

V. The City’s specification documents to, where appropriate, include criteria designed to demonstrate a respondent’s ability to advance the City of Tacoma’s Sustainable Procurement Policy. A respondent’s ability to satisfy such criteria shall be considered when determining the lowest and best responsible bidder.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Ord. 28140 Ex. A; passed Mar. 26, 2013: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.254 General competitive solicitation and award requirements.

Except as otherwise provided in this Chapter or the Purchasing Policy Manual, all purchases shall be by competitive solicitation. For supplies, services (other than professional services) and public works, competitive prices shall be obtained by request for bid or, when allowed by state law or the Purchasing Policy Manual, by request for proposal; and the purchase made from, or the contract awarded to, the lowest and best responsible bidder or respondent. Unless otherwise required by state law or in the Purchasing Policy Manual, solicitation of professional services may be by requests for bids, requests for proposals, requests for qualifications, or by direct negotiation; and the contract awarded based on qualifications and price in the best interests of the City.

A. For purposes of interpreting the provisions of this Chapter 1.06, Sections 1.06.251 through 1.06.280, the dollar amounts specified therein with regard to procedural requirements shall not include sales and/or use tax.

B. For City contracts when monies are not directly received or expended by the City (such as, but not limited to, vendor concessions, towing services and ambulance services), and regardless of the funding source or whether the award is made to a non-profit organization, the contract awarded shall be the result of competitive solicitation as determined to be in the best interests of the City. Required approval authority for such transactions, based on the total value of the subject contract, shall be consistent with Section 1.06.268 herein.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.255 Competitive solicitation requirements for supplies and public works.

Except as otherwise provided in this Chapter, the Purchasing Policy Manual or by other applicable law, all City purchases for supplies and public works shall be made as follows:

A. Contracts for supplies and/or public works, when the estimated cost is $500,000 or less (excluding sales tax), shall be made only after solicitation of informal submittals and the contracts shall be awarded to the lowest and best responsible bidder.

B. Contracts for supplies and/or public works, when the estimated cost is over $500,000 (excluding sales tax), shall be made only after solicitation of formal sealed submittals and the contracts awarded to the lowest and best responsible bidder.

C. The senior financial manager shall have the authority to negotiate volume discount supply contracts, convenience contracts and other contracts when bidders have no incentive to respond to a competitive solicitation, and when in the best interests of the City.

D. Use of a request for proposals (competitive negotiation process) may be used, consistent with state law, in lieu of the bid process for purchase of supplies requiring the acquisition of specially tailored or performance criteria-based products, including, but not limited to, computer and technological software, firmware, hardware, equipment, and other goods as may be provided for in the Purchasing Policy Manual.

E. Use of a request for proposals (competitive negotiation process) may be used, consistent with state law, in lieu of the bid process for purchase of public works as provided for in the Purchasing Policy Manual.

F. The City may procure public works in accordance with alternative public works procedures authorized by state law, as it may hereafter be amended.

G. The City may procure public works in accordance with TMC 10.27, as it may hereafter be amended, governing small works rosters.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25327 § 1; passed Jul. 6, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

### 1.06.256 Competitive solicitation requirements for services.

Except as otherwise provided herein or by other applicable law, all City purchases of services shall be made as follows:

A. Purchased Services. Solicitation of contracts for purchased services shall be made either by request for bid or request for proposal (competitive negotiation) in accordance with the Purchasing Policy Manual.

1. Where the senior financial manager determines a request for bid to be the appropriate solicitation method for a purchased service, the contract shall be awarded to the lowest and best responsible bidder only after solicitation of a request for bids in accordance with the Purchasing Policy Manual.

2. Where a request for proposal is determined by the senior financial manager to be the appropriate solicitation process for a purchased service, the contract shall be awarded after solicitation of a request for proposals in accordance with the Purchasing Policy Manual.

B. Professional/Personal Services, excluding architectural and engineering services. Solicitation of, and contracts for, professional services and personal services shall be by request for bids or request for proposals except when use of direct solicitation and negotiation is determined by the City Manager, on behalf of General Government, or the Director of Utilities, on behalf of the Department of Public Utilities, to be in the best interests of the City. If so authorized, direct solicitation and negotiation process shall be in accordance with the Purchasing Policy Manual.

C. Architectural and Engineering (A&E) Services. Solicitation of, and contracts for, architectural and engineering services shall be by request for qualifications, the utilization of an annual A&E roster of qualified firms, or other method consistent with applicable state law and the Purchasing Policy Manual.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 11; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 16456 § 1; passed Nov. 16, 1959)

## 1.06.257 Waiver of competitive solicitation requirements.

Except as prohibited by state law, competitive solicitation and/or other public contracting requirements may be waived, in whole or in part, for sole source purchases or in cases where it is not practicable to utilize a competitive solicitation process, or in emergency situations, or when otherwise deemed in the best interests of the City. Waiver of the City's competitive solicitation requirements shall be accomplished in accordance with the Purchasing Policy Manual, and the following definitions and requirements:

A. "Sole Source" means, but is not limited to, circumstances where there is only one feasible supplier, including circumstances where the purchase is required to improve or maintain a proprietary system or where the purchase is intended to promote the standardization of a system by purchasing from a single source.

B. "Not Practicable" means, but is not limited to:

1. An immediate and important need for proposed construction, installation, repair, materials, supplies, equipment, or services where the delay that would result from following the requirements of the competitive solicitation process would cause financial loss to the City or an interruption of vital services to the public;

2. Purchases involving special facilities or market conditions; or

3. Purchases involving specially tailored or performance criteria-based products such as computer systems or equipment.

C. "Emergency Situations" means, but is not limited to:

1. In case of any breakage or loss of equipment or other circumstances in which any necessary service is or is about to be interrupted;

2. In cases where the City will suffer a substantial loss by following the normal competitive solicitation procedures;

3. In situations where public health or safety may be jeopardized;

4. When required by a regulatory agency with jurisdiction;

5. In other cases as allowed by state law.

Emergency purchases over $500,000 (excluding sales tax) shall be reported to the City Council or Utility Board, as appropriate, consistent with 39.04.280 (2) (b) RCW, as it may hereafter be amended. With respect to any requirement contained RCW 39.04.280(2)(b) for a written finding of the existence of the emergency to be made by the governing body or designee following the award of a contract without competitive bidding, the designee for the City Council is the City Manager, or designee, and the designee for the Public Utility Board is the Public Utility Director, or designee.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 12; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 18538 § 1; passed Mar. 26, 1968: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.258 Routine sole source items.

The City Manager or designee, on behalf of General Government, and the Director of Utilities or designee, on behalf of the Department of Public Utilities, are authorized to contract for, purchase and pay for routine sole source items including, but not limited to, local telephone service, utility services, taxes and special assessments, and other payments as required by law, for which funds are budgeted, without competitive solicitation or additional City Council or Public Utility Board approval. Written reports, when requested, shall be provided to the City Council for General Government or the Public Utility Board for the Department of Public Utilities to identify expenditures made pursuant to this authority.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 13; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23630 § 1; passed Jun. 3, 1986: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.259 Requests for formal sealed submittals.

Except as otherwise provided in this Chapter, all solicitations for formal sealed submittals, when the estimated cost is more than $500,000 (excluding sales tax), shall be advertised and published as required by law at least once, but not less than five City business days before the submittal deadline.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.260 Bid deposits, performance bonds and noncollusion declarations.

A. Bid Deposits. Unless stated otherwise in the specifications, respondents to solicitations for public works shall make a deposit in the form of a certified check or bid bond from a bonding company licensed to do business in the state of Washington and in a form as approved by the City Attorney in an amount equal to not less than five percent of the total bid, which percentage shall be stated in the specification document; and provided further that bid deposits may be required for supply and service contracts, in the City's sole discretion.

1. Bid deposits submitted in the form of a certified check may be refunded prior to award as deemed in the best interests of the City, and in accordance with the Purchasing Policy Manual. If the recommended award is not approved, the next lowest responsible bidder shall upon request of the City promptly resubmit their deposit. The deposit of the successful bidder, upon failure of such bidder to consummate the contract, shall be forfeited as liquidated damages.

B. Performance Bonds. Unless stated otherwise in the specifications, the successful bidder for public works shall furnish a faithful performance or surety bond from a bonding company licensed to do business in the state of Washington and in a form as approved by the City Attorney in the amount equal to the total amount of the contract; provided, however, that the performance bond amount may be reduced as provided by applicable law and/or pro-rated according to project phase(s) or contract year in certain appropriate cases; and provided further that a performance bond may be required in other appropriate cases in the City's sole discretion.

C. Noncollusion. Each respondent shall certify under penalty of perjury, or submit a notarized affidavit attesting, that its submittal is a genuine bid or proposal and that he, she or it has not entered into collusion with any other respondent or any other person. Such certification shall be by written declaration or notarized affidavit in a form approved by the City Attorney and executed by the respondent.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

## 1.06.261 Formal sealed submittals opening procedure, tabulations and disclosure.

Formal sealed submittals shall be delivered to the designated City office as set forth in the specification documents. If authorized by the specification documents, and if not otherwise required by law, submittals may be delivered in the electronic format set forth in the specification documents. Formal sealed submittals shall be opened in public by the senior financial manager or designee, at the time and place stated in the request for such submittals. The senior financial manager or designee shall forward copies of the submittals to the appropriate department or division for recommendations. A tabulation of all formal sealed bids received shall be made and be available for public inspection at the Purchasing Division during regular office hours.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24880 § 1; passed Apr. 9, 1991: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.262 Evaluation of submittals, qualifications of bidders and respondents.

A. In determining the "lowest and best responsible bidder" for purchase of supplies, purchased services and public works, in addition to price, the following may be considered:

1. The ability, capacity, experience, stability, technical qualifications and skill of the respondent to perform the contract;

2. Whether the respondent can perform the contract within the time specified, without delay or interference;

3. Integrity, reputation, character, judgment, experience, and efficiency of the respondents, including past compliance with the City's Ethics Code;

4. Quality of performance of previous contracts;

5. Previous and existing compliance with laws and ordinances relating to contracts or services;

6. Sufficiency of the respondent's financial resources;

7. Quality, availability, and adaptability of the supplies, purchased services or public works to the particular use required;

8. Ability of the respondent to provide future maintenance and service on a timely basis;

9. Payment terms and prompt pay discounts;

10. The number and scope of conditions attached to the submittal;

11. Compliance with all applicable City requirements, including but not limited to the City's Ethics Code and its Historically Underutilized Business and Local Employment and Apprenticeship programs;

12. Other qualification criteria set forth in the specification or advertisement that the appropriate department or division head determines to be in the best interests of the City.

B. The criteria in 1.06.262A may be used to evaluate personal services and professional services submittals.

C. Proof of Qualifications for Award. As a condition of accepting a submittal, the City may require respondents to furnish information, sworn or certified to be true, on the requirements of this Section. If the senior financial manager is not satisfied with the sufficiency of the information provided, or if the prospective respondent does not meet all of the following requirements, any submittal from such respondent must be disregarded. In order to be considered a responsible bidder, the prospective bidder shall have all of the following qualifications:

1. Adequate financial resources or the ability to secure such resources;

2. The necessary experience, stability, organization and technical qualifications to perform the proposed contract;

3. The ability to comply with the required performance schedule, taking into consideration all existing business commitments;

4. A satisfactory record of performance, integrity, judgment and skills; and

5. Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

a. Bidder Responsibility. Bidders shall not be in violation of 39.04.350 RCW Bidder Responsibility Criteria - Supplemental Criteria.

Minimum criteria for meeting the above qualifications as to any purchase or contract over $500,000 (excluding sales tax) shall be subject to approval by resolution of the City Council or Public Utility Board.

D. Appeals. The determination of the senior financial manager that a respondent is not qualified pursuant to subsections B. and C. of this Section shall be conclusive unless appeal is filed in accordance with the Purchasing Policy Manual.

E. Financial Information Not Open to Public Inspection. Except as expressly required by applicable law, the City shall not be required to make available for public inspection and copying confidential financial information supplied by any person, firm or corporation for the purpose of qualifying to submit a bid as required by this Section.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.263 Performance criteria.

In addition to the evaluation criteria set forth in Section 1.06.262, performance criteria may be requested or required in the City's specification documents. Said criteria may include, but are not limited to, minimum response times for providing maintenance or service, repairs, replacement parts and installation thereof, and on-site assistance. A respondent's ability to satisfy said criteria may be considered when determining the lowest and best responsible bidder.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.264 Award in cases of tie bids.

If two or more low bids contain the same information in response to required evaluation criteria, where all factors are considered and deemed equal, the contract shall be approved for award to the lowest and best responsible bidder who has a business office within the City's boundaries in accordance with the Purchasing Policy Manual. In all other cases of tie bids, the award shall be made in the manner determined by the senior financial manager.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 14; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.265 Board of contracts and awards.

A. Creation and Membership. There is hereby created a board, to be known as the Board of Contracts and Awards, for the purpose of recommending the award or rejection of contracts over $500,000 (excluding sales tax). The Board shall be comprised of five members, as follows: The senior financial manager; two appointees by the City Manager; two appointees by the Director of Utilities. The Board shall meet regularly at such times and places as may be directed by the chair thereof.

B. Powers and Duties.

1. The Board of Contracts and Awards shall recommend award or rejection of the following:

a. Competitively solicited contracts over $500,000 (excluding sales tax).

b. Waivers of competitive solicitation over $500,000 (excluding sales tax), except for emergency purchases pursuant to Section 1.06.257 C.

c. Sales of surplus personal property over $500,000.

2. The Board of Contracts and Awards shall establish rules of procedure for the conduct of its meetings, and for the conduct of hearings.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1975)

## 1.06.266 Award or rejection of submittals.

A. Except as otherwise specified in this Chapter, when the proposed contract amount is over $500,000 (excluding sales tax), the City Manager for General Government transactions and the Director of Utilities for Department of Public Utilities transactions, or their respective designee, together with the division or department requesting the purchase relating to the award thereof, shall submit their award recommendation to the Board of Contracts and Awards, which shall forward its recommendation for approval to the City Council or the Public Utility Board, as appropriate.

B. A protest of any proposed contract award or rejection of submittals over $500,000 (excluding sales tax) shall be submitted to the senior financial manager for hearing by the Board of Contracts and Awards and recommendation to the appropriate final approving authority, all in accordance with the Purchasing Policy Manual. Any such protest must be received within two business days after notice of award or rejection is given; and failure to do so shall result in a waiver of such protest right.

C. In the event that there are no protests, appeals or Board member questions pertaining to a proposed award that has been submitted to the Board of Contracts and Awards, said Board may, by one motion (e.g., consent agenda), recommend transactions for approval. Upon approval of such purchases and contracts by the City Council or the Utility Board, the award shall be made by the senior financial manager or designee.

D. Protests of proposed contract award or rejection of submittals of $500,000 and less (excluding sales tax) shall be submitted to the senior financial manager for resolution; such resolution to be in accordance with the Purchasing Policy Manual.

E. The City may reject any and all submittals for any transaction for any reason; such rejection to be in accordance with the Purchasing Policy Manual.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.267 Award to other than low bidder.

When the award is not given to the lowest bidder in price, the reasons for placing the order elsewhere shall be stated in writing and provided to the City Council or Public Utility Board, as appropriate, and in accordance with the Purchasing Policy Manual.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 27606 § 1; passed Apr. 24, 2007: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 15; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.268 Contracting authority.

A. All purchases shall be evidenced by a written submittal or contract submitted to and approved by:

1. The City Manager or designee for General Government transactions, or the Director of Utilities or designee for Department of Public Utilities transactions;

2. Director of Finance. The Director of Finance or designee, shall examine all contracts, purchase orders and other documents that involve financial obligations against the City and approve the same only upon ascertaining that moneys have been appropriated and that an unexpended and unencumbered balance is available to meet the same;

3. Approval by City Attorney. All legal contracts shall be approved as to legal form by the City Attorney or designee.

B. All purchases and contracts with a total gross value over $500,000 (excluding sales tax), before rebates, trade-ins or credits, and including the value of anticipated renewals, extensions, supplements, or increases, shall be approved by the City Council for General Government transactions, or the Public Utility Board for Department of Public Utilities transactions.

1. Citywide purchases and contracts over $500,000 shall be presented for approval to both the City Council and the Public Utility Board consistent with the Charter. In the event that only the City Council or Public Utility Board approves the award, the contract will be utilized only to the extent authorized.

2. Citywide purchases and contracts $500,000 and less (excluding sales tax), shall be presented for approval to the senior financial manager.

C. Delegations of authority pursuant to this Chapter, except for the City Attorney, shall be in writing and filed with the Purchasing Division. City Attorney approval shall include approval by any Deputy or Assistant City Attorney unless such delegation is expressly excluded or limited by applicable law or policy.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 16; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## 1.06.269 Contract amendments.

A. Administrative Contract Amendments. Except as otherwise provided in this Chapter, or except as otherwise directed by City Council or Public Utility Board resolution or motion, the City Manager or the Director of Utilities, as appropriate, or their respective designees, are authorized to approve contract increases, term extensions, contract renewals, or other administrative amendments. Exercise of said administrative authority shall be as described in subsections B. through H. below, and in accordance with the standards and procedures set forth in the Purchasing Policy Manual.

B. Contract Amount Amendments.

1. Contracts not requiring initial authorization by the City Council or Public Utility Board may be amended to increase the contract amount up to an aggregate total of $500,000 by the City Manager or Director of Utilities, as appropriate, or their respective designees, and in accordance with the Purchasing Policy Manual.

2. When authorized pursuant to subsection A. above, contract amount change amendments in an amount of up to $200,000 over the contract amount initially authorized by the City Council or Public Utility Board may be administratively approved by the City Manager or Director of Utilities, as appropriate, or their respective designees.

3. Except as otherwise specified in this Section, the City Manager or Director of Utilities, as appropriate, or their respective designees, may authorize by change order, letter of instruction or other legally appropriate form, a decrease in the cost of any contract.

C. Contract Term Amendments. Except as otherwise authorized by City Council or Public Utility Board resolution or motion, contracts may be amended to shorten or extend the term thereof by a change order, letter of instruction or other legally appropriate form authorized by the City Manager or Director of Utilities, as appropriate, or their respective designees; provided, however, that a contract's term may not be so administratively extended more than three years without the further authorization of the City Council or Public Utility Board, as appropriate.

D. Software Contract Renewals.

For software contracts initially authorized by City Council or Public Utility Board resolution or motion, ongoing maintenance, support, and licensing for such software shall not require further competitive solicitation or further City Council or Public Utility Board approval; provided, however, that said purchases shall be made in accordance with the Purchasing Policy Manual.

E. Council/Board Limited Amount Contracts. If a City Council or Utility Board resolution or motion expressly limits the contract "not to exceed" a certain amount, then any proposed price increase for such contract can only be approved by the City Council or Utility Board, as appropriate.

F. Expenditure and Obligation of Project and Contract Contingency Funds on Special Projects of $10,000,000 or Greater. The project and contract contingency funds for Special Projects of $10,000,000 or greater may, upon approval of the City Manager or the Director of Utilities, as appropriate, be spent by change order for project expenses, construction contract expenses, and other project-related purposes; provided, however, that such expenditures shall never exceed the total project cost as approved by the City Council or Utility Board, as appropriate. Reports of all such expenditures shall be made to the City Council or Utility Board, together with such explanatory material as may be requested, on a schedule to be determined by the City Council or Utility Board, as appropriate.

G. Other Amendments. Except as otherwise specified in this Section, the City Manager or Director of Utilities, as appropriate, or their respective designees, may authorize by change order, letter of instruction or other legally appropriate form, modifications to the scope of work, and make or approve other minor amendments to any contract, as may be in the best interests of the City.

H. Approval for contract amendments shall be consistent with the contracting authority requirements of Section 1.06.268.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and Reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.270 Cooperative purchasing.

The senior financial manager is hereby delegated the express authority, without further City Council or Utility Board approval, to enter into interlocal purchase agreements with other agencies and entities, and to join cooperative purchasing programs, when approved by the Director of Finance, when the best interests of the City would be served. Authorization to purchase using an interlocal purchase agreement with another public agency or cooperative shall be in accordance with the Purchasing Policy Manual; provided that approval for purchases in excess of $500,000 (excluding sales tax) shall be obtained from the City Council, or Public Utility Board, as appropriate.

The Director of Finance is authorized to and may establish further policies and procedures to ensure all such interlocal purchases are consistent with the standards of competitive solicitation set forth in this Chapter, the Purchasing Policy Manual and applicable state law; provided, however, that such purchases, regardless of value, made by the City under a purchasing contract executed by a state, or agency or subdivision thereof, or by another governmental unit or public benefit nonprofit corporation shall be exempt from such competitive solicitation requirements.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 17; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

### 1.06.271 Unlawful purchases.

Purchases or contracts for any supplies, services and/or public works contrary to the provisions of the Charter or this Chapter shall be void and of no effect. Any instruction other than a properly approved and executed contract, change order, letter of agreement, letter of instruction, purchase order or amendments thereto, shall not constitute a legal contract, contract amendment or notice to proceed with certain work of the City.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 18; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## SALE OF SURPLUS PERSONAL PROPERTY

### 1.06.272 Certification of surplus personal properties to be sold or disposed.

The City Manager or Director of Utilities, as appropriate, or their respective designees, shall certify in writing that certain personal property belonging to the City is surplus and has no further public use, or that the sale or disposition thereof would be in the best interests of the City. Original documentation for all surplus personal property sales shall be maintained in the Purchasing Division.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### 1.06.273 Competitive bidding required for surplus personal property sales.

City sales of surplus personal property shall be made in accordance with the Purchasing Policy Manual except as otherwise provided in this Chapter or by other applicable law.

A. The sale of surplus personal property shall be accomplished by bid, unless a negotiated disposition process is approved. Use of a negotiated disposition process for surplus personal property with a value over $500,000 may be approved only by the City Council, for property held by General Government, or by the Public Utility Board, for property held by the Department of Public Utilities. Use of a negotiated disposition process for surplus personal property with a value under $500,000 may be approved by the Director of Finance. The negotiated disposition process may be used for surplus sales to other governmental entities, surplus sales of specialized or sensitive police and fire surplus personal property, sales of utility equipment to Department of Public Utilities customers, or when otherwise determined to be in the best interests of the City.

B. Trade-ins, when part of a purchase, do not need to be declared surplus.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Repealed by Ord. 26914 § 2; passed Dec. 18, 2001: Ord. 25763 § 1; passed Sept. 26, 1995: Ord. 24743 § 2; passed Oct. 23, 1990)

### 1.06.274 Good faith deposit for surplus personal property sales.

Each bid for surplus personal property with an estimated value over $500,000 shall be accompanied by a deposit in the form of a cashier's check or bid bond in an amount not less than five percent of the amount bid. Other governmental or public agencies may be exempted from the deposit requirement. All such deposits so made shall be returned to the unsuccessful bidders depositing the same after the City has determined the successful bidder(s). The deposit of the successful bidder shall be applied to the purchase price, or, upon failure of such bidder to consummate the purchase, such deposit shall be forfeited as liquidated damages.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Ord. 27777 Ex A; passed Jan. 6, 2009)

### 1.06.275 Surplus personal property sales bid opening.

Sealed bids for the sale of surplus personal property shall be opened in public by the City’s senior financial manager or designee at the time and place specified in the request for bids. The senior financial manager or designee shall make a tabulation of all bids that shall be available for public inspection during regular City business hours.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Repealed by Ord. 26914 § 2; passed Dec. 18, 2001: Ord. 25361 § 1; passed Sept. 7, 1993: Ord. 25335 § 19; passed Jul. 20, 1993: Ord. 25082 § 1; passed Mar. 24, 1992: Ord. 24973 § 1; passed Sept. 10, 1991: Ord. 24743 § 3; passed Oct. 23, 1990)

### 1.06.276 Award or rejection of surplus personal property sales.

The award or rejection authority and procedure shall be as follows:

A. The City Manager or designee, for transactions involving the sale of surplus personal property held by General Government and valued over $500,000, shall forward all bids or negotiated offers received, or a summary of such bids or offers, together with the recommendations relating to the award thereof, to the City Council for approval or rejection.

1. The City Manager or designee shall have the authority to approve the sale of surplus personal property held by General Government valued at $500,000 or less.

B. The Director of Utilities, for transactions involving the sale of surplus utility personal property held by the Department of Public Utilities and valued over $500,000, shall forward all bids or negotiated offers received, or a summary of such bids or offers, together with the recommendations relating to the award thereof, to the Public Utility Board for approval or rejection. Upon approval of such sale by the Public Utility Board, the award shall be made by the senior financial manager. For purposes of this Section and RCW 35.94.040, the Public Utility Board is hereby authorized to approve, in a legislative authority capacity and after public hearing, all sales of surplus utility personal property without further City Council approval.

1. The Director of Utilities or designee shall have the authority to approve the sale of surplus utility personal property valued at $500,000 or less.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Ord. 27777 Ex A; passed Jan. 6, 2009)

### 1.06.277 Purchase or sale at auctions.

A. Sale at Auction.

1. When deemed to be in the best interests of the City, the senior financial manager or designee, may authorize the sale of surplus personal property by public auction; provided, however, that surplus personal property with an estimated value over $500,000, must first be approved as surplus personal property by the City Council or Utility Board, as appropriate. Upon completion of an approved auction sale, further governing body approval is not required.

2. Surplus personal property that will be sold by third-party auctioneers does not require prior approval by the City Council or Utility Board, even when the estimated value is over $500,000; provided, however, that the auctioneering services contract is approved by the City Council and/or Utility Board, as appropriate, and the intent is disclosed at time of contract approval.

B. Purchase at Auction. Pursuant to 39.30.045 RCW, the City may purchase supplies, equipment, or materials at auctions conducted by the United States or any agency thereof, or any other government agency or private party without being subject to public bidding requirements if the items can be obtained at a competitive price; provided, however, that in the event the bid price is anticipated to be over $500,000, prior authorization shall be obtained from the City Council or the Public Utility Board, as appropriate.

(Ord. 28651 Ex. A; passed Dec. 17, 2019: Ord. 27777 Ex A; passed Jan. 6, 2009)

### 1.06.278 Disposal of surplus personal property with no or minimal commercial value.

A. Transfer of Property. When certain personal property, which has been declared surplus, has no commercial auction value or would cost more to sell as compared to the net proceeds received, then the department/division head, with the approval of the finance/purchasing manager, may transfer title of said surplus property to entity(ies) or person(s) in accordance with the standards and procedures set forth in the Purchasing Policy Manual, including but not limited to the following order of preference:

1. The surplus personal property may be transferred to a public agency;

2. The surplus personal property may be transferred to a private nonprofit agency that serves or benefits the public; or

3. The surplus personal property may be made available to the public when appropriate signs or advertisement notes the availability of the free items.

B. Wheels to Work Program. Surplus vehicles that the City Manager determines are valued at less than $3,000 each may be provided to a nonprofit entity as part of the Wheels to Work program in accordance with a written agreement authorized by the City Council.

C. Release. The department/division involved in any transfer under this Section shall secure a release from the entity(ies) or person(s) acquiring the surplus property in a form available from the Purchasing Division, and as approved by the City Attorney; and a copy of such release shall be provided to the Purchasing Division.

(Ord. 27777 Ex A; passed Jan. 6, 2009)

## DEBARMENT

### 1.06.279 Debarment and suspension of bidders, contractors or subcontractors.

A. Pursuant to the City Charter and this Chapter, the City attempts only to solicit offers from, award contracts to, and consent to subcontracts with responsible contractors. In the event that an illegal, improper or unethical practice has occurred, debarment and suspension are discretionary actions that are appropriate means to effectuate the City's goal.

B. Vendors, contractors, subcontractors or principals (contractor) of a business that have been debarred or suspended by the City are excluded from entering contracts with the City, and the City shall not solicit offers from, award contracts to, or consent to subcontracts with debarred or suspended contractors and the principals involved; provided, however, the City Manager or Director of Utilities, as applicable, may waive this requirement if it is determined that there is a compelling reason for such action, and the Council/Board, as appropriate, is informed of such action.

C. Causes for Debarment. A contractor may be debarred for any of the following reasons:

1. The commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;

2. The commission of embezzlement, theft, forgery, bribery, falsification of records, perjury or receiving stolen property;

3. The commission of a serious offense that indicates a lack of business integrity or business honesty that may substantially affect the present responsibility of a contractor;

4. The violation of the terms of any public contract or subcontract so as to result in serious and direct consequences for the public entity letting the contract, including, but not limited to, a history of a failure to perform or unsatisfactory performance of, one or more contracts; or

5. A violation of the City's Code of Ethics, Chapter 1.46 TMC, or other cause so serious or compelling in nature that it substantially affects the present responsibility of the contractor.

D. Procedures.

1. Investigation and notice of intent to debar or suspend. The Finance Director, or designee, may initiate an investigation and, if warranted, provide notice to a contractor of the City's intent to debar or suspend said person and/or entity from bidding on and contracting with the City. The notice shall provide that the debarment becomes effective within ten business days unless the person or entity appeals said action to the Hearing Examiner.

2. The Hearing Examiner Rules of Procedure for Hearings, Chapter 1.23 TMC, shall be applicable to said appeal proceeding. Debarment or suspension shall be ordered if a preponderance of credible evidence indicates that the contractor has committed any act(s) set forth in subsection C. above.

E. Period of Debarment. Debarment shall be for a period commensurate with the gravity of the causes therefore, provided that in no instance shall debarment extend for a period longer than five years unless the contractor has failed to satisfy any condition of suspension or implement any required corrective action.

F. Appeal. Appeals of the decisions of the Hearing Examiner shall be made within 30 days by appropriate legal action filed in the Pierce County Superior Court.

(Ord. 27777 Ex A; passed Jan. 6, 2009)

## SALE OR PURCHASE OF REAL PROPERTY

### 1.06.280 Purchase or sale of real properties by City Council resolution.

A. Certification of Surplus. The City Manager, as to real property of the General Government, and the Director of Utilities, as to real property of the Department of Public Utilities, or their respective designees, shall certify in writing that such surplus property belonging to the City have no further public use, or that the sale thereof would be in the best interests of the City; provided, however, that real property obtained by foreclosure of local improvement guarantee obligation or local improvement district obligation is exempt from such certification. The original documents for surplus real property sales shall be maintained in Real Property Services office.

B. Upon receipt of a certification as to real properties to be sold, the real property services manager, with assistance from the City's finance/purchasing manager, may call for sealed bids thereon. Such call shall specify the time and place of bid opening and shall contain a description of the property to be sold, the location thereof, and other pertinent information. Such call shall be published at least once in the official newspaper for the City of Tacoma, not less than five calendar days before the deadline for the submission of bids.

1. Except as otherwise directed in City Code or by state law, the procedures for sale of surplus personal property found in this Chapter may be used for dispositions of real property held by the City.

2. When deemed to be in the best interests of the City, appropriate department heads and managers may authorize the sale of surplus real property by public sale or auction by the Real Property Services office.

C. Bid Opening. Sealed bids for the sale of all surplus real property shall be opened in public by the finance/purchasing manager or designee at the time and place specified in the call for bids. The finance/purchasing manager or designee shall make a tabulation of all bids that shall be available for public inspection during regular City business hours.

D. Bid Deposits. Each bid for surplus real property with an estimated value over $200,000 shall be accompanied by a deposit in the form of a cashier's check or bid bond in an amount not less than five percent of the amount bid. Other governmental or public agencies may be exempted from the deposit requirement. All such deposits so made shall be returned to the unsuccessful bidders depositing the same after the City has determined the successful bidder(s). The deposit of the successful bidder shall be applied to the purchase price, or, upon failure of such bidder to consummate the purchase, such deposit shall be forfeited as liquidated damages.

E. Award or rejection authority and procedure for surplus real property. The award or rejection authority and procedure shall be as follows:

1. The Real Property Services Manager, with the approval of the City Manager for transactions involving the sale of real property held by the City's General Government, shall forward such bids received, together with the recommendations of the department or division relating thereto, to the City Council for its consideration and approval.

2. The Real Property Services Manager, with the approval of the Director of Utilities, for transactions involving the sale of real property held by the Department of Public Utilities and not essential to effective utility service, shall forward such bids received, together with the recommendations of the division or department relating thereto, to the Public Utility Board. The Public Utility Board may reject said bids or, by proper resolution, recommend its approval by the City Council. After a public hearing, if required by state law for utility real property, the City Council may approve or reject said transaction or remand said matter to the Public Utility Board for further consideration.

F. Notwithstanding any other provision herein contained to the contrary, after the recommendation of the City Manager as to real property belonging to the General Government and the recommendation of the Public Utility Board as to real property belonging to the Department of Public Utilities, the City Council, by resolution, may approve a negotiated acquisition or disposition of real property, or provide for the conditions of acquisition or disposition of any such properties.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 24743 § 3; passed Oct. 23, 1990)

### 1.06.294 Purchases and contracts subject to tax.

Any person contracting with the City of Tacoma for the furnishing of materials or services to the City of Tacoma shall pay a tax to the City of Tacoma for the privilege of accepting and executing the contract. Irrespective of the regular place of business of such person or the place, mode or manner of the delivery of said materials or the furnishing of said services, such person shall be taxed on the contractual transaction in the same manner and form and under the same rules and regulations and at the same rates of tax as if they were doing business within the City of Tacoma, and they shall, in all respects, comply with the provisions of Chapter 6.68 of the Official Code of the City of Tacoma.

(Ord. 16978 § 1; passed Jan. 30, 1962)

### 1.06.340 Inventory of City property.

The heads of departments in each and every department of the City government shall cause an inventory to be taken of all property, with the value thereof, belonging to the City in or under the control of said departments respectively, on the first day of each year, and shall submit to the City Council an annual report showing a list of all such property on hand, together with the value thereof, with notations of condition, and explaining any loss of property and the reason therefor, and shall keep a record showing where the various articles of property are and to what use they and each of them are being put.

(Ord. 1425 § 1; passed Nov. 3, 1899)

### 1.06.341 Inventory – Change in office.

The head of each department, upon retiring from office, shall make an inventory of all property on hand in the same form as the annual inventory; and the incoming head of such department shall compare the same with the last annual inventory, and receipt for the same, noting thereon the condition of such property and any article missing; and the said receipt shall be filed with the Director of Finance, and a report of loss, if any, sent to the City Council.

(Ord. 1425 § 2; passed Nov. 3, 1899)

### 1.06.342 Inventory – Chief of Police.

The Chief of Police or his/her designee shall take a receipt, naming each and every article and the condition of same, from each and every patrol officer, detective, sergeant, jailer, or other employee of the department; and said employee, upon leaving the service, shall return all the property in good condition, taking a receipt from the Chief of Police or his/her designee therefor, and the purchase value of any property not returned shall be retained from any salary that may be due any such employee at the time of leaving the service.

(Ord. 25931 § 1; passed Jul. 3, 1996: Ord. 1425 § 3; passed Nov. 3, 1899)

### 1.06.343 Responsibility for property.

The head of each department shall be held personally responsible for all property in his department, and shall be charged the value of any property lost or stolen during his term of office through a violation of the provisions of Sections 1.06.820 through 1.06.850 or by reason of carelessness in the care of same, and the value shall be deducted from his salary.

(Ord. 1425 § 4; passed Nov. 3, 1899)

### 1.06.344 City records – Refusing inspection unlawful.

If any person or persons retain, keep or lock up any books, papers, records or property of any description belonging to this City after the same or any portion thereof have been demanded by the Mayor of the City, or any committee of the City Council, duly authorized to make such demand, or shall refuse to allow a full inspection of all books, papers, property and records belonging to this City after such demand, such person shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not more than $100.00 and stand committed until such fine and costs are paid.

(Ord. 1090 § 1; passed Jun. 16, 1896)

### 1.06.345 City records – Delivery to successor.

If any officer or employee of this City shall, after his term of office or employment has ended, and his successor has been duly elected or appointed, as the case may be, and has duly qualified, refuses to deliver up to his successor, upon demand, all keys belonging in said office or employment, and all records, books and papers locked up in vaults, safes or desks, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than $100.00, and stand committed until such fine and costs are paid.

(Ord. 1090 § 2; passed Jun. 16, 1896)

### 1.06.358 Rental and sale of certain surplus properties of major projects.

Notwithstanding any other provision in this chapter to the contrary, after the recommendation of the City Manager as to properties acquired on behalf of the general government, and the recommendation of the Director of Utilities as to properties acquired for the Department of Public Utilities on major construction projects, the Council on behalf of the general government and the Public Utility Board on behalf of the Department of Public Utilities, may provide by resolution for the rental or sale of any such properties that are deemed to be surplus to the needs of said department in the completion of the projects, and the rental and sale of which will help protect the properties against theft and vandalism pending the proper completion of the project, in accordance with procedures to be established for the proper disposition of the same.

(Ord. 16737 § 1; passed Feb. 7, 1961)

### 1.06.360 Fire Department.[6]

The Fire Department, under the supervision of the Fire Chief, shall: (1) prevent and extinguish fires; (2) protect life and property against loss from fire; (3) remove and control fire hazards; (4) enforce laws and ordinances relating to fires and fire hazards; (5) maintain proper records of fire hazards and fires and matters pertaining thereto; (6) maintain an adequate service training program; (7) maintain an adequate fire alarm system and radio communication system, to be coordinated with a similar system within the Police Department; (8) perform all duties and make all reports required of the Harbormaster; and (9) to perform such other duties as the City Manager may require.

The Fire Chief shall have control of the assignment of all members of the force and the direction of fire work within the City. The Fire Chief shall have all powers provided by Charter, State law and ordinance, relative to the protecting of persons and property from fire hazards, including those powers relating to the demolition of property. The Fire Chief shall be responsible for the construction, repair and maintenance of all facilities of the fire signal and communication system, providing that the City Manager may combine and consolidate the construction, repair and maintenance of all facilities of the fire and police signal and communications systems, including traffic lights and other electrically operated signals and warnings.

(Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 24; passed Sept. 28, 1953)

### 1.06.370 Health and Welfare Department. *Repealed by Ord. 24720.*

(Ord. 24720; passed Sept. 25, 1990: Ord. 14887 § 25; passed Sept. 28, 1953)

### 1.06.375 Department of Human Development. *Repealed by Ord. 24720.*

(Ord. 24720; passed Sept. 25, 1990: Ord. 19763 § 2; passed Feb. 27, 1973)

### 1.06.380 Legal Department.

The Legal Department, under the supervision of the City Attorney and subject to the provisions of the Charter and State law, shall: (1) advise and assist in the preparation of, and prepare in final form and certify as to legality, all ordinances, orders and regulations; (2) prepare and pass on the legality and correctness in form of all contracts, bonds and other legal instruments to which the City is a party; (3) advise the Council, the City Manager, all department heads and other administrative officials and all boards and commissions, as to the legality of any proposed action; (4) be responsible for all prosecutions under ordinances of the City; (5) represent the City as attorney in all legal proceedings in which the City is a party before any court or judicial, administrative or other tribunal; (6) settle or compromise claims or suits at law or in equity to which the City may be a party; in accordance with Sections 1.06.228 through 1.06.231 of this code; (7) preserve in its offices copies of all opinions rendered by the Department; and (8) perform such other legal duties as may be required by the Charter or ordinances, or by the Council or the City Manager. The City Attorney, or an Assistant City Attorney designated by him, shall attend all meetings of the Council and, upon invitation, any meeting of any committee of the Council. The City Attorney shall assign to the Department of Public Utilities an assistant to act as counsel to the department, and shall assign such additional Assistant Attorneys as the Public Utility Board may request. All Assistant City Attorneys so assigned shall be subject to the approval of the Public Utility Board.

(Ord. 14887 § 26; passed Sept. 28, 1953)

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[6] See also Chapter 3.04.

### 1.06.390 Office hours.

All elected and appointed officers of the City of Tacoma shall keep their offices open for the transaction of business from 8:00 a.m. to 5:00 p.m. of each business day from Monday through Friday, holidays excepted. At all other times such offices may be closed, except those offices and works as are necessary for the preservation and maintenance of the public health and safety. The City Manager and the Director of Utilities, as the case may be, shall have the authority during the time Daylight Savings Time is in effect pursuant to RCW 1.20.051 to adjust the working hours of individual employees of the City of Tacoma as the best interests of the City may dictate, subject to the hours and exceptions as hereinabove set forth; provided, in no event shall the schedule of any such employee be so arranged that the workweek of said employee shall be less than that required pursuant to the ordinances of the City of Tacoma.

(Ord. 19107 § 1; passed May 12, 1970: Ord. 17857 § 1; passed Jun. 22, 1965: Ord. 14190 § l; passed May 16, 1951)

### 1.06.395 Department of Community Development. *Repealed by Ord. 24720.*

(Ord. 24720; passed Sept. 25, 1990: Ord. 20230 § 2; passed Oct. 15, 1974: Ord. 16734 § 1; passed Jan. 31, 1967)

### 1.06.400 Human Resources Department.[7]

The Human Resources Department, under the supervision of the Human Resources Director, shall: (1) be responsible for directing and administering the personnel program of the City and all departments thereof, including the Department of Public Utilities, in accordance with the best personnel practices and in accordance with State law, the Charter, and applicable ordinances; (2) maintain proper records of examinations, appointments, removals, service ratings, leaves of absence, and other significant events in the service of all employees in the classified service; (3) provide secretarial and clerical services for the Civil Service Board; (4) recruit personnel; (5) certify the names and classification of all employees to the Director of Finance; (6) be responsible for the direction of the City's Risk Insurance Program; and (7) perform such other duties as may be prescribed by Charter, ordinances, or by the City Manager. The term "Human Resources Director" or "Human Resources Director/Personnel Officer" shall have the same meaning as the term "Personnel Office" in the City Charter, and the Human Resources Director shall perform the duties of the Personnel Officer as provided in the City Charter, together with such other duties as may be assigned.

(Ord. 24720 § 7; passed Sept. 25, 1990: Ord. 22296 § 2; passed Jan. 20, 1981; Ord. 14887 § 27; passed Sept. 28, 1953)

### 1.06.405 Tacoma Transit System Department. *Repealed by Ord. 24720.*

(Ord. 24720; passed Sept. 25, 1990: Ord. 16724 § 2; passed Jan. 24, 1961)

### 1.06.410 Establishment of Personnel Program.[8]

In all departments of the City, including the Department of Public Utilities, all actions relating to the employment of personnel shall be in accordance with sound and equitable principles of personnel administration. Personnel rules giving effect to the merit system of employment shall be promulgated in accordance with the provisions of the City Charter, State law, and this code, which shall establish principles and procedures for personnel administration. Such rules, when approved by ordinance of the City Council, shall have the force and effect of law. The Public Utility Board may propose any rules or revisions thereof deemed desirable and submit them to the Civil Service Board and the City Council through the Human Resources Director and with recommendations. When any proposed rules will affect employees of the Department of Public Utilities, such proposed rules shall be reviewed by the Public Utility Board prior to submission to the City Council, and the recommendations or revisions suggested by the Public Utility Board shall be submitted to the City Council with the proposed rule or revision thereof by the Human Resources Director.

(Ord. 24720 § 8; passed Sept. 25, 1990: Ord. 14887 § 38; passed Sept. 28, 1953)

### 1.06.420 Content of personnel rules.

The personnel rules shall set forth the principles, procedures, and practices, as outlined and defined in the Charter, which shall be followed by the City as applied to: (1) general personnel policies; (2) organization for personnel administration; (3) composition of the classified service; (4) adoption, amendment, and administration of the classification plan; (5) adoption,

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[7] See also Charter Sections 6.13 – 6.14.
[8] See Chapter 1.24 Personnel Rules.

amendment, and administration of the pay plan; (6) working conditions and general personnel practices; and (7) separations and disciplinary actions.

(Ord. 14887 § 38; passed Sept. 28, 1953)

### 1.06.430 Administration of personnel program.

The administration of the personnel program and the personnel provisions of the Charter and personnel rules shall be the responsibility of the Human Resources Director under the direction of the City Manager, except for those functions specifically reserved by Charter to the Civil Service Board.

The Human Resources Director may cause to be designated, as necessary or desirable, an employee or employees from the Human Resources Department, who shall have the duty and responsibility of being currently informed on personnel matters and the content of personnel rules relative to the Department of Public Utilities.

Such employee or employees, in consultation with the Director of Utilities, may: (1) formulate, administer, and supervise an apprentice training program; (2) establish safety rules for employees and carry out a safety program; and (3) investigate and make recommendations on grievances of employees.

(Ord. 25302 § 1; passed May 18, 1993: Ord. 24720 § 9; passed Sept. 25, 1990: Ord. 14887 § 38; passed Sept. 28, 1953)

### 1.06.440 The Civil Service Board.

The Civil Service Board, as provided by City Charter, shall have the following functions in the administration of the personnel program:

A. To advise the Council, Public Utility Board, and administrative officials on all matters relating to personnel administration in the City Service.

B. To review all personnel rules developed by the Human Resources Director, propose revisions thereto, and submit them to the Council with recommendations for adoption.

C. To investigate any or all matters relating to conditions of employment in the service of the City, either in response to employee complaints or on its own initiative, and report its findings to the Council.

D. To investigate and pass upon the claim of any person whose name appears on an eligible list, that he has been deprived of a position to which he is entitled under the provisions of the Charter and the personnel rules governing the classified service, in which case the decision of the Board shall be binding on the appointing authority; provided, that such person shall not be entitled to any claim for salary from the City for the period prior to the date of filing such claim.

E. To hear appeals from any action suspending for more than 30 days, reducing in rank or pay, or discharging any employee in the classified service, and to report its findings and decisions in writing to the appointing authority; such findings and decisions shall be final and binding on the appointing authority.

(Ord. 25302 § 2; passed May 18, 1993: Ord. 24720 § 10; passed Sept. 25, 1990: Ord. 14887 § 38; passed Sept. 28, 1953)

### 1.06.450 Industrial insurance – Payrolls.

Each head of a department having within his jurisdiction the construction, operation, maintenance and control of wells, waterworks, elevators, wharves, docks, engineering works and electric light and power plants or lines, shall each month make, certify and file with the City Clerk a statement of his monthly payrolls of all employees engaged in constructing or carrying on any of the works, business or industries above mentioned.

(Ord. 4706 § 1; passed Aug. 31, 1911)

### 1.06.451 Affidavit from contractors.

Every contractor with the City of Tacoma for the performance of any construction work shall make and file with the head of the department which controls the work, for transmission to the City Clerk, a statement of his monthly payroll in connection with said work, verified by the affidavit of himself or his managing agent having knowledge of the facts.

(Ord. 4706 § 2; passed Aug. 31, 1911)

### 1.06.452 Payment of premiums – Retention of sum due.

From each final estimate or certificate of completion, due or delivered to any such contractor the head of the department having control of the work done by such contractor shall, for the information of the contractor and the Director of Finance, estimate the sum payable to the State of Washington for the use of its Department of Labor and Industries on account of said

payroll; and the Director of Finance shall retain out of the moneys payable to such contractor the amount so estimated as aforesaid, and pay the same to the State on account of his contract, unless before 30 days from the making of said estimate the contractor shall deliver to the Director of Finance written evidence that the demand of the State upon him for said Industrial Insurance has been paid and satisfied; in which event the sum retained shall be paid to the contractor.

(Ord. 5706; passed Apr. 1, 1914: Ord. 4706 § 3; passed Aug. 31, 1911)

### 1.06.453 Payment to state.

At the times and in the manner provided by law the proper officers of the City of Tacoma shall issue and pay to the proper officer of the State of Washington, warrants for the sums necessary to be paid as the contribution of said City to the said Department of Labor and Industries.

(Ord. 4706 § 4; passed Aug. 31, 1911)

### 1.06.454 Industrial insurance – Volunteer workers.

All volunteer workers for the City of Tacoma, as defined in Section 51.12.035 of the Revised Code of Washington, shall be deemed employees and/or workmen, as the case may be, for all purposes relating to medical aid benefits under Title 51 RCW. The proper officers of the City of Tacoma shall maintain such records and shall make such reports as may be prescribed by the Department of Labor and Industries, and further, shall pay such premiums for all volunteers employed by the City into the medical aid fund.

(Ord. 20574 § 1; passed Oct. 28, 1975)

### 1.06.460 Accidents to employees – Reports.

The director of each department in which men are employed whose employment is within the designation "extra hazardous," according to Chapter 74 of the Acts of the Legislature of the State of Washington, approved March 14, 1911, (codified as amended in RCW Title 51) is directed to cause the person in charge of every crew of such employees to report every accident causing injury to any such employee, with the details thereof, to the City Attorney immediately after the happening of such accident.

(Ord. 4792 § l; passed Nov. 22, 1911)

### 1.06.465 Airport Department. *Repealed by Ord. 26079.*

(Ord. 26079; passed Jun. 10, 1997: Ord. 17099 § 2; passed Jul. 3, 1962)

### 1.06.470 Police Department.[9]

The Police Department, under the supervision of the Chief of Police, shall: (1) prevent crimes; (2) enforce all traffic ordinances and regulations; (3) enforce all criminal laws and ordinances; (4) detect and apprehend offenders and suspected persons; (5) preserve peace and order in the City; (6) protect persons and property; (7) maintain proper records of crimes and criminals and matters relating thereto; (8) inspect licenses referred to the department and enforce all license ordinances, except as may be otherwise provided; (9) maintain a youth guidance and juvenile division within the department; (10) maintain an adequate service training program; (11) perform such other duties as the City Manager may direct. The Chief of Police shall have control of the assignment of all members of the force and the direction of police work in the City, subject to the approval of the City Manager. In the event that the City Manager shall or has combined and consolidated the construction, repair and maintenance of the facilities of the Fire and Police Signal and Communications Systems, as elsewhere in this chapter authorized, any member of the Police Department now or hereafter working under said combined Systems shall retain his status as a member of the Police Department, shall be considered as assigned to said combined Systems and shall be subject to the obligations and benefits of the State Police Relief and Pension Act, regardless of whether his salary be paid from funds provided in the budget for the Police Department or from some other department of the City.

(Ord. 14920; passed Nov. 16, 1953: Ord. 14887 § 28; passed Sept. 28, 1953)

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[9] See also Chapter 7.02.

### 1.06.475 Tax and License Department. *Repealed by Ord. 24720.*

(Ord. 24720; passed Sept. 25, 1990: Ord. 17504 § 3; passed Dec. 10, 1963)

### 1.06.480 Department of Public Utilities – General powers.[10]

The Department of Public Utilities shall have all the authority and responsibilities set forth in Article IV, Public Utilities, of the Charter of the City of Tacoma, and shall, subject only to the limitations imposed by the City Charter of the City of Tacoma and the laws of the State of Washington, have full power to construct, condemn and purchase, purchase, acquire, add to and operate the electric, water and Belt Line Railway utilities systems; and to initiate all matters relating to system expansion and the making of additions and betterments thereto or extensions thereof, the incurring of indebtedness, the issuance of bonds and the fixing of rates and charges for utilities services under the jurisdiction of the Board, which matters shall be subject to approval by the Council and shall be executed by the Board.

(Ord. 14887 § 7; passed Sept. 28, 1953)

### 1.06.490 Public Utility Board.

The Public Utility Board shall exercise all the powers provided under Article IV, Sections 4.1 to 4.24 inclusive of the City Charter, and shall perform such other duties and functions as herein provided in this chapter or as may be hereafter provided by ordinance.

(Ord. 14887 § 8; passed Sept. 28, 1953)

### 1.06.500 Department of Public Utilities – Division and offices.

The administrative service of the Department shall be organized into divisions and offices which are hereby continued or created and established as follows:

| Division | |
|---|---|
| **Operating Divisions:** | **Administrative Officer** |
| Light Division | Superintendent |
| Water Division | Superintendent |
| Belt Line Division | Superintendent |
| **Service Divisions:** | |
| Data Processing Division | Manager |
| General Services Division | Manager |
| Finance Division | Finance Director |
| Legal Division | City Attorney |

(Ord. 25335 § 20; passed Jul. 20, 1993: Ord. 19670 § 6; passed Oct. 3, 1972; Ord. 17225 § 3; passed Dec. 26, 1962: Ord. 15592; passed May 11, 1956: Ord. 14887 § 16; passed Sept. 28, 1953)

### 1.06.510 Public Utilities – Administrative staff.

The officer enumerated in Section 1.06.330 of this chapter and such other employees as the Director may designate shall comprise the Director's administrative staff. The administrative staff shall meet at the call of the Director and shall advise him and consult with him upon all matters which he may refer to them concerning the administration of any or all activities of the Department.

(Ord. 15592; passed May 11, 1956: Ord. 14887 § 37; passed Sept. 28, 1953)

### 1.06.520 Public Utilities – Responsibilities of division and office heads.

The heads of divisions of the Department of Public Utilities shall be responsible to the Director, except as specifically provided otherwise by State law or Charter. The Director may set aside any action taken by any administrative official under his direction and control and may supersede him in the functions of his office. In case of a vacancy in office or during the absence of any office head, the Director may designate an acting head or perform personally the functions of the office. All

[10] See also Title 12 – Utilities.

administrative officers shall keep informed as to the latest practices in their particular fields and shall inaugurate, with the approval of the Director, such new practices as appear to be of benefit to the service and to the public. This section shall not apply to the Legal Division.

(Ord. 15592; passed May 11, 1956: Ord. 14887 § 37; passed Sept. 28, 1953.)

### 1.06.530 Public Utilities – Internal organization of divisions and offices.

The Director shall have authority to assign to the various divisions and offices such responsibilities and duties as he considers necessary for the efficient conduct of the work of the Department, subject to the Charter, State law, specific provisions of this Code, and subject to Public Utility Board and City Council approval through the appropriation of funds. Except as otherwise provided by Charter, State law, or this chapter, the head of any division may delegate the functions assigned to him to such subordinate officers and employees as may to him seem desirable, and, when not otherwise provided by law and with the approval of the Director, he may establish such sections or units as may seem to him necessary for the efficient conduct of duties for which he is responsible. Administrative officers shall submit to the Director charts showing the organization for administering the functions and services for which they have responsibility. The charts shall be in such form as may be prescribed by the Director. Revisions in administrative organization which shift activities or personnel from one subdivision to another or which create or consolidate subdivisions shall be approved by the Director, and revised organization charts shall be filed following such approval.

(Ord. 15592; passed May 11, 1956: Ord. 14887 § 37; passed Sept. 28, 1953)

### 1.06.540 Public Utilities – Cooperation between divisions and offices.

It shall be the duty of every division, subject to such rules as the Director may prescribe, to furnish to any other division or office such service, labor, equipment, or materials as may be requisitioned by the head of such other office, and as its own facilities permit. The Director may direct any division or office to perform work for any other administrative unit.

(Ord. 15592; passed May 11, 1956: Ord. 14887 § 37; passed Sept. 28, 1953)

### 1.06.550 Cooperation between Department of Public Utilities and other municipal departments and officers.

It shall be the duty of every division, subject to such regulations as the Director may prescribe, to furnish to any other department or office of the City such service, labor, equipment or materials as may be requisitioned by the head of such other office and as its own facilities permit at rates and charges for services which shall not be less than the regular rates and charges fixed for similar service to consumers or customers generally.

(Ord. 15592; passed May 11, 1956: Ord. 14887 § 37; passed Sept. 28, 1953)

### 1.06.560 Public Utilities – Reports and records.

Reports, in such form as the Director prescribes, of the activities of each division and office shall be made to the Director at the end of each quarterly period and at such other times as the Director may require, and an annual report shall be also filed with the Director within 90 days after the end of each fiscal year. A summary of such reports shall be made by the Director and submitted to the Public Utility Board. Each administrative officer shall establish a system of records and reports in sufficient detail to furnish all information necessary to provide proper control of the activities for which he is responsible and to form a basis for periodic reports to the Director.

(Ord. 15592; passed May 11, 1956: Ord. 14887 § 37; passed Sept. 28, 1953)

### 1.06.570 Director of Public Utilities – Duties.

The Director shall have all powers contemplated by the Charter and City ordinances. He shall be the chief administrative officer of the Department of Public Utilities and shall supervise all divisions and offices thereof, except as is otherwise provided by the Charter, State law or ordinances. He shall be responsible for the proper execution of the policies set by the Public Utility Board and the carrying out of all Board resolutions and policies and applicable ordinances. He shall be responsible to the Public Utility Board for the efficient and economical conduct and operation of all Department divisions and offices. He shall keep the Public Utility Board informed of the conditions and needs of the Department and shall make such reports and recommendations as he may deem desirable or as may be requested of him by the Public Utility Board; prepare and submit to the Public Utility Board the proposed annual preliminary budget; see that Department expenditures do not exceed amounts available for expenditures; supervise the purchase, lease, rental, use, maintenance and assignment of property of the Department; appoint, remove, suspend and discipline all officers and employees of the Department, subject to the civil service provisions of the Charter and except as otherwise provided therein or by State law, or he may at his discretion

authorize the head of a division or office responsible to him to appoint and remove subordinates in such division or office; fix and establish the number of employees in the various divisions and offices and determine their duties and compensation, subject to the approval of the Board; exercise with the approval of the Board all powers conferred by law upon the Department of Public Utilities but not specifically conferred upon any official; take or cause to be taken or recommend to the Public Utility Board, in the proper case, all and every action necessary to protect the best interests and promote the welfare of the Department; and perform such other duties and have and exercise such other powers as may be prescribed by law. He shall have the right to attend all meetings of the Public Utility Board and to take part in discussion of matters coming before the Public Utility Board, but he shall not have the right to vote on any such matter. He shall, with the approval of the Board, present to the City Council all matters requiring Council action or approval, or he may designate a subordinate officer so to appear.

(Ord. 14887 § 9; passed Sept. 28, 1953)

### 1.06.575 Assistant Director of Public Utilities – Duties.

The Assistant Director of Utilities shall be under the supervision of the Director of Utilities and shall perform such duties as the Director of Utilities shall prescribe, and in his absence is empowered to perform the duties of the Director of Public Utilities.

(Ord. 17225 § 7; passed Dec. 26, 1962)

### 1.06.580 Director of Public Utilities – Administrative supervision.

In exercising general control and supervision over the administrative affairs of the Department, the Director shall deal insofar as it is possible through the administrative officers of the Department designated by this chapter, and except as otherwise provided by Charter or State law, all such officers shall be directly and exclusively responsible to him, and to no other person or body, for the efficient and economical conduct of their respective divisions and officers.

(Ord. 14887 § 10; passed Sept. 28, 1953)

### 1.06.590 Director of Public Utilities – Administrative rules.

The Director is hereby authorized, with the approval of the Public Utility Board to issue rules or administrative regulations not inconsistent with State law, the Charter, resolutions of the Board, or ordinances of the City, outlining the general procedures for the administration of Department activities, and he may provide for a system of administrative regulations to be issued by the heads of the various divisions and offices of the Department.

(Ord. 14887 § 11; passed Sept. 28, 1953)

### 1.06.600 Director of Public Utilities – Staff.

The Director may, within the limits of the annual budget adopted by the Public Utility Board and City Council, appoint administrative assistants or designate employees of the Department as such, whose duties shall be to assist the Director in such manner as he may designate and to conduct studies and research into the most advantageous administrative practices, the application of which will improve the administration of the Department. The Director may, within the limits of the annual budget adopted by the Public Utility Board and the City Council, provide such clerical and other assistants as he deems necessary for his office and the offices of any administrative assistants.

(Ord. 14887 § 12; passed Sept. 28, 1953)

### 1.06.610 Director of Public Utilities – Reports to Public Utility Board.

The Director shall at such times as he may be directed to do so by the Public Utility Board, submit to the Public Utility Board and to the City Council an annual report of the Department's activities and finances, which report shall be made available for public distribution, and he shall prepare and present such other reports as the Public Utility Board may require or as he deems advisable.

(Ord. 14887 § 13; passed Sept. 28, 1953)

### 1.06.620 Director of Public Utilities – Membership on boards and commission.

The Director shall serve on such boards and commissions of the City, as he may be appointed by State law, the Charter, by resolution of the Board or by ordinance.

(Ord. 14887 § 14; passed Sept. 28, 1953)

## 1.06.630 Public Utilities – Light Division.

The Light Division shall be under the supervision of the Superintendent acting under the direction of the Director of Utilities. The functions of the Division will be divided into such sections as may be determined by the Superintendent and approved by the Director, and the Division shall be responsible for the following functions:

1. Power Production – Generate electrical power through the operation and maintenance of existing generating facilities. Recommend the need for future additional generating facilities to meet future demand forecasts.

2. Power Transmission – Transmit power to the City of Tacoma through the operation and maintenance of a transmission system.

3. Power Distribution – Distribute power inside the City of Tacoma through the maintenance and operation of a distribution system that is satisfactory to the City's requirements. Distribute power outside the City in those cases which conform to Utilities Department policies or which are specifically approved by the Director.

4. Engineering – Carry out engineering work which is directly related to systems operation. Such work will include normal operating and maintenance engineering and engineering resulting from normal systems expansion. Maintain as-built plans and engineering records on all systems and facilities.

5. Rates – Continually study electrical rates in relating to operating costs and make recommendations regarding the soundness of rates.

6. Agencies and Associations – Represent the Department in the affairs of professional and trade associations related to electrical utilities. Represent the Department as directed by the Director in its relations with state and federal agencies.

7. Purchase and Sale of Power – Participate in the negotiations for the purchase of power. Recommend contracts and agreements for the sale of power.

8. Relationship with General Government – In conjunction with the Finance Director, work with the general government to ensure that proper cost transfers occur regarding work done for or by general government forces and which is directly related to Light Division operations.

9. Employee Relations – Maintain satisfactory working conditions and standards of operating safety. Maintain satisfactory employee relations within the Division.

10. Policies – Formulate and recommend required Department policies.

(Ord. 25335 § 21; passed Jul. 20, 1993: Ord. 17225 § 4; passed Dec. 26, 1962: Ord. 15592; passed May 11, 1956: Ord. 14887 § 30; passed Sept. 28, 1953)

## 1.06.635 Industrial Relations Consultant.

There be and is hereby created and established in the Department of Public Utilities, Light Division, the position of Industrial Relations Representative (Industrial Consultant). By reason of the fact that the holder of said position will be required to have special qualifications and to perform duties of a technical and expert nature, it is hereby directed that said position be filled by appointment by the Director of Utilities, subject to the confirmation of the City Council, as provided by the City Charter.

(Ord. 11994 § 1; passed May 21, 1941)

## 1.06.640 Public Utilities – Water Division.

The Water Division shall be under the supervision of the Superintendent acting under the direction of the Director of Utilities. The functions of the Division will be divided into such sections as may be determined by the Superintendent and approved by the Director, and the Division shall be responsible for the following functions:

1. Production – Produce water supplies for the City of Tacoma through the operation of both a gravity and a well production system. Plan and recommend the need for facilities to produce satisfactory additional water supply in the most economical manner.

2. Water Transmission – Transmit water from sources of supply to the City distribution system through the operation of a transmission pipe line.

3. Water Distribution – Distribute water inside the City of Tacoma through the maintenance and operation of a distribution system satisfactory to meet the City's needs. Distribute water outside the City in those cases which conform to Department policy or which are specifically approved by the Director.

4. Engineering – Carry out engineering work which is directly related to the system's operation. Such work will include normal operating and maintenance engineering and that engineering required in normal systems expansion. Maintain engineering plans and records of all underground systems and other facilities.

5. Rates – Continually study water rates in relation to operating costs and make recommendations regarding the soundness of rates.

6. Agencies and Associations – Represent the Department in the affairs of professional and trade associations related to water facilities. Represent the Department as directed by the Director in its relations with state and federal agencies.

7. Relationship with the General Government – In conjunction with the Finance Director, work with the general government to ensure that proper cost transfers occur regarding work done for or by general government forces and which is directly related to Water Division operations.

8. Employee Relations – Maintain satisfactory working conditions and standards of operating safety. Maintain satisfactory employee relations within the Division.

9. Policies – Formulate and recommend required Department policies.

(Ord. 25335 § 22; passed Jul. 20, 1993: Ord. 17225 § 5; passed Dec. 26, 1962: Ord. 15592; passed May 11, 1956: Ord. 14887 § 31; passed Sept. 28, 1953)

### 1.06.650 Public Utilities – Belt Line Division.

The Belt Line Division shall be under the supervision of the Superintendent acting under the direction of the Director of Utilities. The functions of the Division will be divided into such sections as may be determined by the Superintendent and approved by the Director, and the Division shall be responsible for the following functions:

1. Receive, deliver, and return to the main line railways all cars routed to the industrial customers served by Belt Line tracks.

2. Maintain all tracks, roadbeds, and railway equipment in the Belt Line system.

3. Perform subsidiary accounting services for the Belt Line Division within accounting procedures established by the Controller.

4. Perform minor service and maintenance on Belt Line automotive equipment.

5. Construct new track as required to serve new industries within the Belt Line Division's area of service.

6. Carry out direct relations with main line railways and industrial customers in matters of service, switching fees, and contracts and written agreements.

7. Formulate and recommend Department policies, insofar as they affect the Belt Line Division.

8. Provide such other subsidiary railroad services as are permitted by State law and the Interstate Commerce Commission under applicable rules for Class III carriers, including but not limited to boxcar leasing, car hire, collection of mileage fees and demurrage.

(Ord. 23589 § 1; passed Apr. 8, 1986: Ord. 15592; passed May 11, 1956: Ord. 14887 § 32; passed Sept. 8, 1953)

### 1.06.655 Public Utilities – Official name of Belt Line.

A. The present official name of the Belt Line Division is "City of Tacoma, Department of Public Utilities, Belt Line Division" and said name is inadequate for descriptive purposes in connection with the filing of tariffs and registration with the Interstate Commerce Commission of the United States Government.

B. For all purposes in connection with the Interstate Commerce Commission of the United States Government the official name of the Belt Line Division shall be "Tacoma Municipal Belt Line Railway."

(Ord. 15860; passed Apr. 29, 1957: Ord. 14887 § 32A; passed Sept. 28, 1953)

### 1.06.660 Public Utilities – Clerk.

The Clerk, under the supervision of the Secretary of the Board and subject to the provisions of the Charter, State law, ordinances, and resolutions of the Board shall: (1) be responsible for the publication, filing, indexing, and safekeeping of the records of all proceedings of the Public Utility Board; (2) record all resolutions and certify resolutions of the Board; (3) prepare all legal notices involving the Department, as provided by law or ordinance; (4) at the request of any Board member, forthwith transmit any communication, material, or information to the other Board members; (5) file and preserve all oaths of office and other documents not required to be filed elsewhere; (6) perform such other duties as may be prescribed by the

Charter, State law, ordinances, the Public Utility Board, or the Director. The Clerk shall attend all meetings of the Public Utility Board and keep a permanent journal of its proceedings.

(Ord. 26420 § 1; passed May 18, 1999: Ord. 14887 § 33; passed Sept. 28, 1953)

### 1.06.670 Public Utilities – Financial and accounting activities.

The Director of Utilities shall provide the following services within the staff of the Department of Public Utilities:

1. Budgeting – Develop and administer a budgeting program which will provide the adequate forecasting and controlling of costs and which will satisfy municipal budgeting requirements.

2. Customer Billing and Accounting – Maintain customer accounts, bill customers, and read meters. In additional, provide customer billing and accounting services for the general government as authorized. Establish and carry out adequate credit and collection procedures.

3. Financial Planning – Work with all key utilities people providing continuous coordinated financial planning, both for future facilities and for current operating requirements.

4. Policy Formulation – Formulate and recommend Utilities Department policies.

5. Warehousing – Maintain a stores warehouse and delivery service. Maintain adequate but not excessive stock. Maintain, stock records and administer procedures that will insure the proper accounting for warehouse stock transactions.

6. The foregoing functions will not supersede the functions of the Director of Finance.

(Ord. 25335 § 23; passed Jul. 20, 1993: Ord. 19670 § 7; passed Oct. 3, 1972; Ord. 17225 § 6; passed Dec. 26, 1962: Ord. 15592; passed May 11, 1956: Ord. 14887 § 34; passed Sept. 28, 1953)

### 1.06.680 Public Utilities – Community Relations Division. *Repealed by Ord. 27466.*

(Ord. 27466 § 7; passed Jan. 23, 2006: Ord. 26386 § 4; passed Mar. 23, 1999: Ord. 15592; passed May 11, 1956: Ord. 14887 § 35; passed Sept. 28, 1953)

### 1.06.690 Public Utilities –Business Information Systems. Repealed by Ord. 27466.

(Ord. 27466 § 8; passed Jan. 23, 2006: Ord. 27147 § 1; passed Dec. 2, 2003: Ord. 25662 § 1; passed Jan. 31, 1995: Ord. 25281 § 1; passed Mar. 23, 1993)

### 1.06.700 Public Utilities – Administrative Division.

The Administrative Division shall be under the supervision of the Manager, acting under the direction of the Director of Utilities. The functions of the Division will be divided into such sections as may be determined by the Manager and approved by the Director, and the Division shall be responsible for the following functions:

1. Personnel – Provide personnel services for the Department including personnel records, recruiting, other than that for classified services, training, safety and health, employee relations, and the administrative processing of personnel changes in accordance with the City Charter, Personnel Rules and applicable ordinances. Sponsor and administer employee relations programs. In these functions, close coordination will be maintained with the City Personnel Officer.

2. Purchasing – Provide purchasing services for the Department in accordance with the Administrative Code, Charter and State law, including buying, calling for bids, maintaining relationships with carriers, vendors, and suppliers; and maintaining supply catalogs for materials and equipment. Also, develop and administer Department purchasing procedures.

3. Warehousing – Maintain a stores warehouse and delivery service. Maintain adequate but not excessive stocks. Maintain stock records and administer procedures that will ensure the proper accounting for warehouse stock transactions.

4. Vehicle Maintenance – Maintain all Department vehicles in a satisfactory manner meeting the requirements of all operating divisions. Develop and administer a system of routine preventative maintenance on all Department vehicles. Develop the most advantageous use of the motor vehicle equipment.

5. Office and Building Services – Provide janitorial, building, and grounds maintenance for the Utilities Building and other buildings specifically designated by the Director. Provide stenographic pool services and duplicating and reproduction services for the Department, including photography. Administer space allocation in the Utilities Building. Manage and maintain records on the utilization of office furniture and equipment. Maintain a central filing system for the Department.

6. Management Guide – Maintain the Management Guide insuring that revisions are made as required and the distribution of copies of the Guide is sufficient to meet the Department's needs.

7. Real Estate Management – Manage and maintain records on transactions involving easements, rights-of-way, and the purchase, sale, lease or acquisition of land.

8. Insurance – Coordinate Department insurance requirements and work with the general government in obtaining proper insurance coverage.

9. Policies – Formulate and recommend Utilities Department policies.

(Ord. 15592; passed May 11, 1956: Ord. 14887 § 35B; passed Sept. 28, 1953)

### 1.06.705 Public Utilities – General Services Division.

The General Services Division shall be under the supervision of the Manager, acting under the direction of the Director of Utilities. The functions of the Division will be divided into such sections as may be determined by the Manager and approved by the Director, and the Division shall be responsible for the following functions:

1. Personnel – Provide personnel services for the Department, including personnel records, recruiting, other than for the classified services, training, safety and health, employee relations, and the administrative processing of personnel changes in accordance with the City Charter, Personnel Rules and applicable ordinances. Sponsor and administer employee relations programs. In these functions, close coordination will be maintained with the City Personnel Officer.

2. Vehicle Maintenance – Maintain all Department vehicles in a satisfactory manner meeting the requirements of all operating divisions. Develop and administer a system of routine preventative maintenance on all Department vehicles. Develop the most advantageous use of the motor vehicle equipment.

3. Office and Building Services – Provide janitorial, building and grounds maintenance for the Utilities Building and other buildings specifically designated by the Director. Provide stenographic pool services and duplicating and reproduction services for the Department, including photography. Administer space allocation in the Utility Building. Manage and maintain records on the utilization of office furniture and equipment. Maintain a central filing system for the Department. Administer the Utilities switchboard system.

4. Management Guide – Maintain the Management Guide insuring that revisions are made as required and the distribution of copies of the Guide is sufficient for the Department's needs.

5. Insurance – Coordinate Department insurance requirements and work with the General Government in obtaining proper insurance coverage.

6. Policies – Formulate and recommend Utilities Department policies.

(Ord. 26560 § 2; passed Dec. 14, 1999: Ord. 17225 § 7; passed Dec. 26, 1962)

### 1.06.706 Environmental Services Department.

The Environmental Services Department shall be under the supervision of the Director of Environmental Services, and shall:

A. Sanitary Sewer Utility. As a Utility, operate and maintain all sewage treatment plants, pumping stations, sewer transmission systems, other sanitary installations, and all other phases of sanitation, which may be assigned to this Utility; including inspection, permitting, and technical advice for private wastewater treatment facilities which may be assigned to this Utility.

B. Storm Drainage. As a Utility, operate and maintain all storm drainage structures, facilities, storm water pumping stations, and all other phases of surface water drainage management and operation, which may be assigned to this Utility; including inspection of private facilities for the purpose of and providing for urban growth while protecting natural systems.

C. Solid Waste Utility. As a Utility, provide Solid Waste Management Services including collection, disposal, reuse and recycling of residential, commercial, and industrial municipal solid waste, recycled materials, household hazardous waste and other materials as required, and operate other environmental protection programs as may be assigned to this Utility.

D. Environmental Remediation. Provide technical support and/or engineering and scientific services for the sampling, evaluation, and remediation of contamination on City-owned sites or sites where the City is identified as a potential responsible/liable party.

E. Perform such other duties as may be prescribed by ordinance or assigned by the City Manager.

(Ord. 28093 Ex. A; passed Oct. 16, 2012)

## 1.06.710 Public Works Department.

The Public Works Department shall be under the supervision of the Director of Public Works, and shall:

A. Supervise all new construction, such as highway projects, streets, alleys, sidewalks, bridges, sewers, treatment plants and pumping stations, buildings, walls, docks and wharves, traffic engineering, including street lighting, signalization, channelization, or such other construction as may be undertaken by the Department of Public Works; provide for the sampling and testing of materials used in construction; provide construction management for quality assurance and progress payments on contract work; preparation of field, design, and construction surveys; assist in reports and investigation of proposed projects and the estimated cost thereof, and advise on matters relating to preparation of plans, specifications, and other related phases of public works construction as directed.

B. Maintain all City street, alley, and roadway surfaces, sidewalks, sewers, sewage treatment plants, sewage pumping stations, storm drainage system components and appurtenances, storm water pumping stations, fixed and movable bridges, walls, or protection works, piers, docks, and wharves; clean all streets; operate all public scales; remove snow and ice from streets and sand streets and bridges during winter months; maintain public drinking fountains; maintain and operate an asphalt plant; advise and make reports on conditions of City streets and miscellaneous structures and recommend action to be taken.

C. Provide for the preparation of all estimates, plans, and specifications for all types of public works construction projects; maintain a suitable file and record of all official maps, including geographical information system drawings, plats, surveys, and construction projects; establish and maintain all monuments and bench marks; prepare all property descriptions and arrange for the acquisition of all street rights-of-way by dedication, purchase, or condemnation, except where such acquisition has been otherwise assigned by the City Manager; negotiate with property owners, prepare cost estimates and assessments rolls for all local improvement district projects, except those for the Department of Public Utilities, which the Department of Public Utilities has not requested the Public Works Department to provide and which have not been accepted by the Public Works Department; investigate and arrange for the repair of all broken or substandard sidewalks; maintain a file of suitable projects for the City of Tacoma, estimate and design for such future work as directed; coordinate the surveys needed in planning of projects and maintain proper records; operate a public permit counter and coordinate policy relative to these activities.

D. Conduct studies of street traffic, accidents, congestion, and other conditions affecting the safe and convenient use of the streets; collect facts regarding the effect and operation of regulations controlling street traffic; make recommendations concerning legislation or construction affecting the safe and convenient use of the streets; assist and advise in the preparation of plans and specifications for and the construction of interchanges, channelization, and street lighting; design and supervise construction and installation of traffic signals, signs, pavement markings, and crosswalk lights; establish car/van pool parking controls; assist the Police Department in enforcing compliance with certain ordinances, controls, and regulations pertaining to moving and nonmoving trucks; assist the Police Department in the enforcement of compliance with ordinances pertaining to nonmoving traffic.

E. Maintain files and records pertaining to the Department; operate blueprint and other reproduction services; prepare and maintain all necessary budgets, records, and reports for the Department.

F. Perform such other duties as may be prescribed by ordinance or assigned by the City Manager.

The Director of Public Works may serve as City Engineer, if he/she qualifies in accordance with State statutes, or a qualified City Engineer may be appointed. The City Engineer shall perform such duties as required by State statute or City ordinance, or as may be prescribed by the Director of Public Works. When the Director of Public Works is absent from duty for an extended period, an Assistant Director of Public Works, or other individual designated by the City Manager, shall act for him/her.

(Ord. 28109 Ex. B; passed Dec. 4, 2012: Ord. 28108 Ex. B; passed Dec. 4, 2012: Ord. 28093 Ex. B; passed Oct. 16, 2012: Ord. 27673 Ex. B; passed Feb. 19, 2008: Ord. 26079 § 11; passed Jun. 10, 1997: Ord. 24720 § 11; passed Sept. 25, 1990: Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 29; passed Sept. 28, 1953)

## 1.06.715 Public Works Department – Internal organization.

The Director of Public Works may, in accordance with Section 1.06.040 of this chapter, delegate the functions assigned to him/her to such subordinates, officers, and employees as may seem desirable and when not otherwise provided by law and with the approval of the City Manager, he/she may, in accordance with Section 1.06.040, establish such sections, units, or divisions as may seem to him/her necessary for the efficient conduct of duties for which he/she is responsible.

(Ord. 26079 § 12; passed Jun. 10, 1997)

### 1.06.720 Public Works – Construction Division. *Repealed by Ord. 26079.*

(Ord. 26079; passed Jun. 10, 1997: Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 29; passed Sept. 28, 1953)

### 1.06.730 Public Works – Maintenance Division. Repealed by Ord. 26079.

(Ord. 26079; passed Jun. 10, 1997: Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 29; passed Sept. 28, 1953)

### 1.06.740 Public Works – Engineering Division. Repealed by Ord. 26079.

(Ord. 26079; passed Jun. 10, 1997: Ord. 22296 § 3; passed Jan. 20, 1981: Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 29; passed Sept. 28, 1953)

### 1.06.750 Public Works – Traffic Division. Repealed by Ord. 26079.

(Ord. 26079; passed Jun. 10, 1997: Ord. 23232 § 1; passed Aug. 14, 1984: Ord. 21512 § 1; passed Oct. 17, 1978: Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 29; passed Sept. 28, 1953)

### 1.06.760 Public Works – Administrative Division. Repealed by Ord. 26079.

(Ord. 26079; passed Jun. 10, 1997: Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 29; passed Sept. 28, 1953)

### 1.06.770 Public Works – Regulatory Codes and Permits Division. Repealed by Ord. 26079.

(Ord. 26079; passed Jun. 10, 1997: Ord. 24720 § 12; passed Sept. 25, 1990: Ord. 23087 § 3; passed Apr. 1, 1984: Ord. 22766 § 2; passed Sept. 7, 1982: Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 29; passed Sept. 28, 1953)

### 1.06.780 Public Works – Utilities Service Division. Repealed by Ord. 26079.

(Ord. 26079; passed Jun. 10, 1997: Ord. 15848; passed Apr. 15, 1957: Ord. 14887 § 29; passed Sept. 28, 1953)

### 1.06.790 Telephone system.

The telephone system for the City of Tacoma, General Government, is placed under the supervision and control of the Information Technology Director. The Information Technology Department shall take such steps as are necessary to operate a switchboard and otherwise control the operation of the system in order to provide service as needed for departments of the City, utilizing the telephone network and connected equipment supplied by telephone companies or other vendors.

(Ord. 27466 § 9; passed Jan. 17, 2006: Ord. 24720 § 13; passed Sept. 25, 1990: Ord. 22577 § 1; passed Dec. 8, 1981)

### 1.06.800 Telephone system – Payment of service charges.

The Information Technology Director is hereby authorized and directed to approve and have paid monthly to the telephone companies or other vendors, as required, service charges for supplied equipment or services, and to pay the salaries of operators and administrative staff as necessary to monitor, control, and manage the system to maximize the cost benefit ratio.

(Ord. 27466 § 10; passed Jan. 17, 2006: Ord. 24720 § 14; passed Sept. 25, 1990: Ord. 22577 § 1; passed Dec. 8, 1981)

### 1.06.810 Telephone system – Collection from users.

The Information Technology Director is hereby authorized to develop, subject to the approval of the Director of Finance, a prorated cost of the telephone system which reflects actual usage. The Director of Finance shall charge each user department this prorated amount. Each of such departments is hereby authorized to pay from its budget its proportionate share of expenses as billed for telephone service and operation.

(Ord. 27466 § 11; passed Jan. 17, 2006: Ord. 24720 § 15; passed Sept. 25, 1990: Ord. 22577 § 1; passed Dec. 8, 1981)

### 1.06.820 Evidentiary hearing on appeals to City Council – Delegation to Hearing Examiner.

In all instances provided in the Tacoma Municipal Code for the appeal of administrative determinations to the City Council and a hearing by the City Council, the City Council may, by majority vote, refer the hearing of such matters to the Hearing Examiner established by Chapter 1.23 TMC, unless such delegation is prohibited by law.

The Hearing Examiner shall hear all such administrative appeals referred to him/her by the Council of the City of Tacoma and shall maintain a complete verbatim electronic record of such hearing, and shall prepare a summarized record, findings of fact, conclusions of law, and shall make a recommendation to the City Council. The City Council shall retain the final power and authority to determine said matters. The action of the Council on said matters after the hearing by the Hearing Examiner shall

be in the same manner as that provided for actions pursuant to TMC 1.23.050A. The manner and procedure of such hearings conducted by the Hearing Examiner shall be the same as that provided in Chapter 1.23 TMC. Consideration of the Hearing Examiner's recommendation shall be in accordance with the provisions of Chapter 1.70 TMC.

(Ord. 26129 § 1; passed Sept. 16, 1997: Ord. 20579 § l; passed Nov. 5, 1975)

## 1.06.830 Insurance procurement.

A. The City Staff Insurance Committee shall consist of the Human Resources Director, Finance Director, City Attorney, Risk Manager, or their designees, and an appointee of the Director of Public Utilities; provided, however, that when the phrase "City Staff Insurance Committee" is used herein in the context of acting on Department of Public Utilities matters, including, but not limited, to insurance procurement or broker selection for the Department, the composition of said committee shall be as expressly designated by the Director of Utilities.

B. After receiving recommendations from the City Staff Insurance Committee, the City Manager for General Government, and/or the Director of Utilities for the Department of Public Utilities, as the case may be, may purchase any reasonably necessary insurance, bonds, employee health and welfare benefit coverage, and/or employee benefit plan administration services. Annual reports shall be provided to the City Council and to the Public Utility Board, as the case may be, setting forth the general insurance, bond, benefit coverages, and administrative services which are purchased and the cost for said coverages and services.

C. The City Council for General Government, or the Public Utility Board for the Department of Public Utilities, as the case may be, may, upon receiving the recommendation of the City Staff Insurance Committee, appoint, hire, and/or retain an insurance broker or brokers for City General Government or the Department of Public Utilities, respectively.

D. In the event that the City Manager and Director of Utilities agree that it may be beneficial to retain one or more brokers to provide certain insurance or employee benefit coverages, or provide Risk Management services for both City General Government and the Department of Public Utilities, one or more brokers for such services may be retained with the approval of both the Public Utility Board and City Council.

E. The City Staff Insurance Committee recommendations for the hiring of said broker(s) shall be pursuant to the competitive request for proposal procedure that is applicable to professional consulting services contracts.

F. The functions of the insurance broker(s) of record may include, but not be limited to: (1) advising the City Staff Insurance Committee regarding the best method of meeting the City's insurance, bonding, and employee benefit plan administration needs; (2) submitting proposals and obtaining quotation for such insurance; (3) placing such coverages on request of the appropriate City staff, following review of such quotations by the City Staff Insurance Committee; and (4) meeting with and conferring with the City Staff Insurance Committee and/or Risk Manager, or designated staff person, as is deemed necessary, to perform the services herein outlined. The City, through its City Staff Insurance Committee, retains the right to solicit and receive quotations for insurance, bond, and employee benefit plan administration services, and to place insurance or contract for said services directly with brokers, carriers, or administrators to the exclusion of any retained broker

G. There shall be an agreement with the retained broker(s) which sets forth the scope of services for the broker, which may include but is not limited to: (1) assisting in procuring insurance and bonds; (2) advising on self-insurance and risk management matters; (3) assisting in soliciting and obtaining quotations for insurance, bonds, and employee benefit plan services; and (4) placing insurance as approved by the City Council, Public Utility Board, or appropriate City official which has authority therefor.

H. The broker(s) of record shall be appointed for term(s) not to exceed five years. The term shall be subject to termination by either the broker or the City upon written notice to the other party. The broker(s) of record shall be compensated based on an agreed annual and/or hourly rate. In the event the broker(s) is/are paid a commission based on the placement of insurance, that commission shall be credited against the agreed compensation. In such case, the broker(s) shall immediately disclose in writing commissions or compensation received and the details thereof to the Risk Manager or designated staff person.

I. The broker(s) shall provide the City with satisfactory evidence of a policy of professional liability insurance in the principal sum of not less than $1,000,000.00.

(Ord. 26827 § 1; passed Jul. 10, 2001: Ord. 24219 § 1; passed Oct. 25, 1988: Ord. 22594 § 1; passed Jan. 12, 1982)

## 1.06.2701 Tacoma Venues and Events In-House Promotion Program.

A. Notwithstanding any other provision of the Tacoma Municipal Code to the contrary, the Director of the Tacoma Venues and Events Department or the Director's designee is authorized to take the following actions when the Tacoma Venues and Events Department is acting as the sole promoter of an event:

(1) Enter into contracts for acts or events to perform in the Tacoma Dome without using a competitive selection process.

(2) Enter into contracts or contract amendments related to the organizational and operating expenses of in-house promotion event programs, not to exceed $250,000 total for each event, without seeking prior approval from the City Council.

B. This Section shall not apply to ordinary supply, maintenance, or capital repair expenses incurred by the Tacoma Dome.

(Ord. 28450 Ex. A; passed Aug. 29, 2017: Ord. 27715 Ex. A; passed May 20, 2008)

# CHAPTER 1.07
# EQUITY IN CONTRACTING

Sections:

1.07.010 Policy and purpose.
1.07.020 Definitions.
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1.07.070 Evaluation of submittals.
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1.07.110 Remedies.
1.07.120 Unlawful acts.
1.07.130 Severability.
1.07.140 Review of program.

## 1.07.010 Policy and purpose.

It is the policy of the City of Tacoma that citizens be afforded an opportunity for full participation in our free enterprise system and that historically underutilized business enterprises shall have an equitable opportunity to participate in the performance of City contracts. The City finds that in its contracting for supplies, services and public works, there has been historical underutilization of small and minority-owned businesses located in certain geographically and economically disfavored locations and that this underutilization has had a deleterious impact on the economic well-being of the City. The purpose of this chapter is to remedy the effects of such underutilization through use of narrowly tailored contracting requirements to increase opportunities for historically underutilized businesses to participate in City contracts. It is the goal of this chapter to facilitate a substantial procurement, education, and mentorship program designed to promote equitable participation by historically underutilized businesses in the provision of supplies, services, and public works to the City. It is not the purpose of this chapter to provide any person or entity with any right, privilege, or claim, not shared by the public, generally, and this chapter shall not be construed to do so. This chapter is adopted in accordance with Chapter 35.22 RCW and RCW 49.60.400.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 27867 Ex. A; passed Dec. 15, 2009)

## 1.07.020 Definitions.

Terms used in this chapter shall have the following meanings unless defined elsewhere in the Tacoma Municipal Code ("TMC"), or unless the context in which they are used clearly indicates a different meaning.

A. "Bid" means an offer submitted by a Respondent to furnish Supplies, Services, and/or Public Works in conformity with the Specifications and any other written terms and conditions included in a City request for such offer.

B. "Bidder" means an entity or individual who submits a Bid, Proposal or Quote. See also "Respondent."

C. "City" means all Departments, Divisions and agencies of the City of Tacoma.

D. "Contract" means any type of legally binding agreement regardless of form or title that governs the terms and conditions for procurement of Public Works and Improvements and/or Non-Public Works and Improvements Supplies and Services. Contracts include the terms and conditions found in Specifications, Bidder or Respondent Submittals, and purchase orders issued by the City. A "Contract" as used in this chapter shall include an agreement between the City and a non-profit entity to perform construction-related services for Public Works. A "Contract" does not include: (1) awards made by the City with federal/state grant or City general funds monies to a non-profit entity where the City offers assistance, guidance, or supervision on a project or program, and the recipient of the grant awards uses the grant moneys to provide services to the community; (2) sales transactions where the City sells its personal or real property; (3) a loan transaction where the City is acting as a debtor or a creditor; (4) lease, franchise; (5) agreements to use City real property (such as Licenses, Permits and Easements) and, (6) banking and other financial or investment services.

E. "Contractor" means any Person that presents a Submittal to the City, enters into a Contract with the City, and/or performs all or any part of a Contract awarded by the City, for the provision of Public Works, or Non-Public Works and Improvements, Supplies or Services.

F. "Goals" means the annual level of participation by MWBEs and SBEs in City Contracts as established in this chapter, the Program Regulations, or as necessary to comply with applicable federal and state nondiscrimination laws and regulations. Goals for individual Contracts may be adjusted as provided for in this chapter and shall not be construed as a minimum for any particular Contract or for any particular geographical area.

G. "MWBE Certified business" (or "MWBEs") means a business that meets the criteria set forth in Section 1.07.050 of this chapter and has been certified as meeting that criteria by the Community and Economic Development Department Program Manager.

H. "SBE Certified Business" (or "SBEs") means a business that meets the criteria set forth in Section 1.07.050 of this chapter and has been certified as meeting that criteria by the Community and Economic Development Department-SBE Program Manager.

I. "SBE Program Manager" means the individual appointed, from time to time, by the City's Community and Economic Development Director to administer the Program Regulations.

J. "Program Regulations" shall mean the written regulations and procedures adopted pursuant to this chapter for procurement of Supplies, Services and Public Works.

K. "Non-Public Works and Improvements" means all competitively solicited procurement of Supplies and/or Services by the City not solicited as Public Works.

L. "Person" means individuals, companies, corporations, partnerships, associations, cooperatives, any other legally recognized business entity, legal representative, trustee, or receivers.

M. "Proposal" means a written offer to furnish Supplies or Services in response to a Request for Proposals. This term may be further defined in the Purchasing Policy Manual and/or in competitive solicitations issued by the City.

N. "Public Works (or "Public Works and Improvements)" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the City, or that is by law a lien or charge on any property therein. This term includes all Supplies, materials, tools, and equipment to be furnished in accordance with the Contract for such work, construction, alteration, repair, or improvement.

O. "Quote" means a competitively solicited written offer to furnish Supplies or Services by a method of procurement that is less formalized than a Bid or a Proposal. This term may be further defined in the Purchasing Policy Manual.

P. "Respondent" means any entity or Person, other than a City employee, that provides a Submittal in response to a request for Bids, Request for Proposals, Request for Qualifications, request for quotes or other request for information, as such terms are defined in Section 1.06.251 TMC. This term includes any such entity or Person whether designated as a supplier, seller, vendor, proposer, Bidder, Contractor, consultant, merchant, or service provider that; (1) assumes a contractual responsibility to the City for provision of Supplies, Services, and/or Public Works; (2) is recognized by its industry as a provider of such Supplies, Services, and/or Public works; (3) has facilities similar to those commonly used by Persons engaged in the same or similar business; and/or (4) distributes, delivers, sells, or services a product or performs a Commercially Useful Function.

Q. "Services" means non-Public Works and Improvements services and includes professional services, personal services, and purchased services, as such terms are defined in Section 1.06.251 TMC and/or the City's Purchasing Policy Manual.

R. "Submittal" means Bids, Proposals, Quotes, qualifications or other information submitted in response to requests for Bids, Requests for Proposals, Requests for Qualifications, requests for Quotations, or other City requests for information, as such terms are defined in Section 1.06.251 TMC.

S. "Supplies" means materials, Supplies, and other products that are procured by the City through a competitive process for either Public Works procurement or Non-Public Works and Improvements procurement unless an approved waiver has been granted by the appropriate authority.

T. "Tacoma Public Utilities Service Area" means any ZIP code in which Tacoma Public Utilities maintains infrastructure or provides retail services.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28274 Ex. A; passed Dec. 16, 2014: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)

## 1.07.030 Discrimination prohibited.

A. No person that is engaged in the construction of public works for the City, engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services to the City, shall discriminate against any other person on the basis of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of

any sensory, mental or physical disability in employment. Such discrimination includes the unfair treatment or denial of normal privileges to a person as manifested in employment upgrades, demotions, transfers, layoffs, termination, rates of pay, recruitment of employees, or advertisement for employment.

B. The violation of the terms of RCW 49.60 or Chapter 1.29 TMC by any person that is engaged in the construction of public works for the City, is engaged in the furnishing of laborers or craftspeople for public works of the City, or is engaged for compensation in the provision of non-public works and improvements supplies and/or services shall result in the rebuttable presumption that the terms of this chapter have also been violated. Such violation may result in termination of any City contract the violator may have with the City and/or the violator's ineligibility for further City Contracts.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

## 1.07.040 Program administration.

A. The Community and Economic Development Director, or their designated Program Manager, shall be responsible for administering this chapter and obtaining compliance with respect to contracts entered into by the City and/or its contractors. It shall be the duty of the Director to pursue the objectives of this chapter by conference, conciliation, persuasion, investigation, or enforcement action, as may be necessary under the circumstances. The Director is authorized to implement an administrative and compliance program to meet these responsibilities and objectives.

B. The Director is hereby authorized to adopt and to amend administrative rules and regulations known as the Program Regulations, to properly implement and administer the provisions of this chapter. The Program Regulations shall be in conformance with City of Tacoma policies and state and federal laws and be designed to encourage achievement of the MWBE and SBE goals set forth herein. The Program Regulations shall become effective following public notice and an opportunity to comment by the public.

C. The Program Regulations adopted pursuant to this section are for the administrative and procedural guidance of the officers and employees of the City and are further expressions of the public policy of the City. The Program Regulations, when adopted, shall not confer an independent cause of action or claim for relief cognizable in the courts of the state of Washington or the United States of America to any third parties, and such provisions shall not be used as the basis for a lawsuit in any court of competent jurisdiction challenging the award of any contract by the City.

(Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

## 1.07.050 Certification.

A. The Program Manager shall approve a business as a Certified Business if all of the following criteria are satisfied:

1. The business is certified as a SBE, MBE, WBE, or MWBE through the state of Washington's Office of Minority & Women Business Enterprises; and

2. The company can demonstrate that it also meets at least one of the following additional requirements:

a. The personal residence of the owner is located within the City of Tacoma or Tacoma Public Utilities Service Area, or

b. The company's business offices are located in any county of the Tacoma Public Utilities Service Area or any county adjacent to Pierce County, or

c. When the work is performed outside of Pierce County, the company's business offices may be located in an adjacent county in which the work is performed, or

d. Such additional information as the Program Manager or designee may require.

When another governmental entity has an equivalent business classification process, the City may enter into an interlocal cooperative agreement for mutual recognition of certifications.

B. Appeals. The applicant may appeal any certification determination by the Program Manager under this chapter to the Director. The appeal must be made in writing and must set forth the specific reasons for the appeal. The Director shall make a decision on the appeal request within a reasonable time, which decision shall be final unless further appeal is made to the Hearing Examiner. In that event, the Hearing Examiner Rules of Procedure for Hearings, Chapter 1.23 TMC, shall be applicable to that appeal proceeding.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28274 Ex. A; passed Dec. 16, 2014: Ord. 28147 Ex. A; passed May 7, 2013: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

## 1.07.060 Program requirements.

A. The program shall meet the following requirements:

1. Establishment of Annual Goals. The Program Regulations adopted pursuant to this chapter shall state reasonably achievable cumulative annual goals for utilization of MWBEs and SBEs in the provision of supplies, services, and public works procured by the City. Cumulative annual goals for the participation of MWBEs and SBEs in City contracts shall be based on the number of qualified MWBEs and SBEs operating within the Tacoma Public Utilities Service Area. The dollar value of all contracts awarded by the City to MWBEs and SBEs in the procurement of supplies, services, and public works shall be counted toward the accomplishment of the applicable goal.

2. Application of Annual Goals to Contracts. The Program Manager shall consult with City departments/divisions to establish department/division specific goals for competitively solicited contracts in accordance with this chapter and the Program Regulations.

B. Waivers. City departments/divisions or the Program Manager may request to waive one or more of the requirements of this chapter as they apply to a particular contract or contracts. Waivers may be granted in any one or more of the following circumstances:

1. Emergency: The supplies, services and/or public works must be provided with such immediacy that neither the City nor the contractor can comply with the requirements herein. Such emergency and waiver must be documented by the department/division awarding the contract.

2. Not Practicable: Compliance with the requirements of this chapter would impose an unwarranted economic burden or risk to the City after consideration of existing budgetary approvals.

3. Sole source: The supplies, services, and/or public works are available from only one source, and subcontracting possibilities do not reasonably exist as determined by the finance purchasing manager.

4. Government purchasing. The City is a party to or included in a federal, state or inter-local government purchasing agreement as approved by the finance purchasing manager.

5. Lack of certified contractors: An insufficient number of qualified contractors exist to create utilization opportunities.

6. Best interests of the City: Waiver of goals is in the best interests of the City due to unforeseen circumstances, provided that said circumstances are set forth in writing by the requestor.

C. Review of Waivers. A waiver determination by the finance purchasing manager may be reviewed by the Board of Contracts and Awards (C&A Board). The C&A Board may also review a request to reduce or waive the utilization requirements based on Not Practicable or Best Interests of the City circumstances. The C&A Board shall determine whether compliance with such requirements would impose unwarranted economic burden on, or risk to, the City of Tacoma as compared with the degree to which the purposes and policies of this chapter would be furthered by requiring compliance. If the determination of the C&A Board does not resolve the matter, a final determination shall be made by the City Council or Public Utility Board, as the case may be.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)

## 1.07.070 Evaluation of submittals.

A. All submittals for a supplies, services, or public works and improvements contracts shall be evaluated for attainment of the MWBE and SBE requirements established for that contract in accordance with this chapter and the Program Regulations.

B. The determination of MWBE and SBE usage and the calculation of MWBE or SBE requirements per this section shall include the following considerations:

1. General. The dollar value of the contract awarded by the City to a MWBE or SBE in the procurement of supplies, services, or public works shall be counted toward achievement of the respective goal.

2. Supplies. A public works and improvements contractor may receive credit toward attainment of the MWBE and/or SBE requirement(s) for expenditures for supplies obtained from an MWBE or SBE; provided such MWBE or SBE assumes the actual and contractual responsibility for delivering the supplies with its resources. The contractor may also receive credit toward attainment of the MWBE or SBE goal for the amount of the commission paid to a MWBE or SBE resulting from a supplies contract with the City; provided the MWBE or SBE performs a commercially useful function in the process.

3. Services and Public Works subcontracts. Any bid by a certified MWBE and/or SBE or a bidder that utilizes a certified MWBE and/or SBE shall receive credit toward requirement attainment based on the percentage of MWBE and/or SBE usage demonstrated in the bid. A contractor that utilizes an MWBE and/or SBE subcontractor to provide services or public works

shall receive a credit toward the contractor's attainment of the respective requirement based on the value of the subcontract with that firm.

4. Brokers, Fronts, or Similar Pass-Through Arrangements. MWBEs and/or SBEs acting as brokers, fronts, or similar pass-through arrangements (as such terms are defined in the Program Regulations) shall not count toward the requirement attainment unless the activity reflects normal industry practices and the broker performs a commercially useful function.

C. Evaluation of competitively solicited submittals for public works and improvements and for services when a requirement has been established for the contract to be awarded shall be as follows:

1. When contract award is based on price. The lowest priced bid submitted by a responsive and responsible bidder will be reviewed to determine if it meets the requirement. An MWBE and/or SBE firm may self-count utilization on such bids if they will perform the work for the scope the requirement is based upon.

a. If the low bidder meets the requirements, the bid shall be presumed the lowest and best responsible bid for contract award.

b. any bidder that does not meet the MWBE and/or SBE requirements shall be considered a non-responsible bidder unless the bidder receives a waiver from the Program Manager or C&A Board.

2. When contract award is based on qualifications or other performance criteria in addition to price. Solicitations shall utilize a scoring system that promotes participation by certified contractors. The Program Regulations may establish further requirements and procedures for final selection and contract award, including:

a. Evaluation of solicitations for Architectural and Engineering (A&E) services;

b. Evaluation and selection of submittals in response to requests for proposals; and

c. Selection of contractors from pre-qualified roster(s).

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)

## 1.07.080 Contract compliance.

A. The contractor awarded a contract based on MWBE or SBE participation shall, during the term of the contract, comply with the requirements established in said contract. To ensure compliance with this requirement following contract award, the following provisions apply:

1. Any substitutions for or failure to utilize MWBE or SBEs projected to be used must be approved in advance by the Program Manager. Substitution of one MWBE or SBE with another shall be allowed where there has been a refusal to execute necessary agreements by the original MWBE or SBE, a default on agreements previously made or other reasonable excuse; provided that the substitution does not increase the dollar amount of the bid.

2. Where it is shown that no other MWBE or SBE is available as a substitute and that failure to secure participation by the MWBE or SBE identified in the solicitation is not the fault of the respondent, substitution with a non-MWBE or non-SBE shall be allowed; provided, that, the substitution does not increase the dollar amount of the bid.

3. If the Program Manager determines that the contractor has not reasonably and actively pursued the use of replacement MWBEs or SBEs, such contractor shall be deemed to be in non-compliance.

B. Record Keeping. All contracts shall require contractors to maintain relevant records and information necessary to document compliance with this chapter and the contractor's utilization of MWBEs or SBEs, and shall include the right of the City to inspect such records.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)

## 1.07.090 Program monitoring.

A. An Advisory Committee shall monitor compliance with all provisions of this chapter and the related Regulations. The Program Manager shall establish procedures to collect data and monitor the effect of the provisions of this chapter to assure, insofar as is practical, that the remedies set forth herein do not disproportionately favor one or more racial, gender, ethnic, or other protected groups, and that the remedies do not remain in effect beyond the point that they are required to eliminate the effects of under utilization in City contracting, unless such provisions are supported by a Disparity Study. The Program Manager shall have the authority to obtain from City departments/divisions, respondents, and contractors such relevant records, documents, and other information as is reasonably necessary to determine compliance.

B. The Program Manager shall submit an annual report to the Community and Economic Development Director, Director of Utilities, and the City Manager detailing performance of the program. The report shall document MWBE and SBE utilization

levels, waivers, proposed modifications to the program, and such other matters as may be specified in the Program Regulations.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

### 1.07.100 Enforcement.

The Director, or designee, may investigate the employment practices of contractors to determine whether or not the requirements of this chapter have been violated. Such investigation shall be conducted in accordance with the procedures established in the Program Regulations.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

### 1.07.110 Remedies.

A. Upon receipt of a determination of contractor violation by the Program Manager, the City Manager or Director of Utilities, as appropriate, may take the following actions, singly or together, as appropriate:

1. Forfeit the contractor's bid bond and/or performance bond;

2. Publish notice of the contractor's noncompliance;

3. Cancel, terminate, or suspend the contractor's contract, or portion thereof;

4. Withhold funds due contractor until compliance is achieved; and/or

5. Recommend appropriate action including, but not limited to, disqualification of eligibility for future contract awards by the City (debarment) per Section 1.06.279 TMC;

B. Prior to exercise of any of the foregoing remedies, the City shall provide written notice to the contractor specifying the violation and the City's intent to exercise such remedy or remedies. The notice shall provide that each specified remedy becomes effective within ten business days of receipt unless the contractor appeals said action to the Hearing Examiner pursuant to Chapter 1.23 TMC.

C. When non-compliance with this chapter or the Program Regulations has occurred, the Program Manager and the department/division responsible for enforcement of the contract may allow continuation of the contract upon the contractor's development of a plan for compliance acceptable to the Director.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 28110 Ex. B; passed Dec. 4, 2012: Ord. 27867 Ex. A; passed Dec. 15, 2009)

### 1.07.120 Unlawful acts.

It shall be unlawful for any Person to willfully prevent or attempt to prevent, by intimidation, threats, coercion, or otherwise, any Person from complying with the provisions of this chapter.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

### 1.07.130 Severability.

If any section of this chapter or its application to any Person or circumstance is held invalid by a court of competent jurisdiction, then the remaining sections of this chapter, or the application of the provisions to other Persons or circumstances, shall not be affected.

(Ord. 27867 Ex. A; passed Dec. 15, 2009)

### 1.07.140 Review of program.

This chapter shall be in effect through and until December 31, 2024, unless the City Council shall determine at an earlier date that the requirements of this chapter are no longer necessary. If this chapter has not been repealed by July 1, 2024, the City Council shall determine by the end of that year whether substantial effects or lack of opportunity of MWBEs and/or SBEs remain true in the relevant market and whether, and for how long, some or all of the requirements of this chapter should remain in effect.

(Ord. 28625 Ex. A; passed Nov. 5, 2019: Ord. 28274 Ex. A; passed Dec. 16, 2014: Ord. 28141 Ex. A; passed Mar. 26, 2013: Ord. 27867 Ex. A; passed Dec. 15, 2009)

# CHAPTER 1.08
# BONDS

Sections:

1.08.010 Bonds required.
1.08.020 General government – Positions – Amounts.
1.08.040 Blanket bond – General government – Public utilities.
1.08.050 Bond – Form – Sufficiency.

## 1.08.010 Bonds required.

The officers and employees of the City of Tacoma filling the positions designated in Sections 1.08.020 and 1.08.030[11] of this chapter, whether on a permanent, temporary or acting basis, shall be bonded by a position bond conditioned for the faithful and proper performance of their duties and for the payment and delivery over of all moneys and property belonging to the City of Tacoma, as provided by law.

(Ord. 17117; passed Jul. 10, 1962)

## 1.08.020 General government – Positions – Amounts.

All employees in the Finance Department, including the City Treasurer's Division (with the exception of the City Treasurer), and the Tax and License Department (with the exception of the Director of Tax and License) shall be covered by a blanket position bond conditioned as required by Section 1.08.010 hereof in an amount of not less than $100,000.00. Specific excess indemnity endorsement shall be placed on said bond to increase coverage on the Director of Finance to $250,000.00, and the Assistant Director of Finance to $125,000.00.

(Ord. 20171 § 1; passed Aug. 6, 1974: Ord. 19361 § 1; passed May 18, 1971: Ord. 17924 § 1; passed Sept. 7, 1965: Ord. 17238; passed Jan. 8, 1963: Ord. 17117; passed Jul. 10, 1962)

## 1.08.040 Blanket bond – General government – Public utilities.

All other officers and employees of the City of Tacoma and authorized collection agencies acting by and through the City Treasurer shall be bonded by a blanket bond in the sum of $100,000.00 for each officer and employee, or authorized collection agency, conditioned to indemnify the City of Tacoma for any loss sustained by said City by fraudulent or dishonest act or acts of such officers, employees or collection agencies.

(Ord. 20171 § 3; passed Aug. 6, 1974: Ord. 17117; passed Jul. 10, 1962)

## 1.08.050 Bond – Form – Sufficiency.

No officer, clerk, assistant or employee required herein to be bonded shall hold office or employment except while covered by a bond as herein required. No bond shall be held to be void because of any defect in form, recital, condition or substance, nor shall any principal or surety be discharged of liability thereon because of any such defect and each bond shall provide for such condition and substance; the premiums on all such bonds shall be paid by the City; all bonds referred to herein shall be in form approved by the City Attorney and shall have as surety thereon a surety company authorized to do business as such under the laws of the State of Washington and with surety approved as to sufficiency by the Director of Finance, and shall be filed with the Director of Finance, except as to the bond of the Director of Finance, which shall be approved as to sufficiency by and filed with the City Manager.

(Ord. 17117; passed Jul. 10, 1962)

[11] Code Reviser's note: Section 1.08.030 was repealed by Ord. 24497.

# CHAPTER 1.10
# EMERGENCY MANAGEMENT [12]

Sections:

1.10.010 Purpose.
1.10.015 Emergency management policy.
1.10.020 Emergency management defined.
1.10.025 Emergency or disaster defined.
1.10.030 Director defined.
1.10.040 Administrator defined.
1.10.050 *Repealed.*
1.10.060 Emergency management plan.
1.10.070 Emergency management program.
1.10.080 Director of Emergency Management – Powers and duties.
1.10.090 Disaster and emergency powers of the Mayor.
1.10.095 Administrator of Emergency Management – Powers and duties.
1.10.100 Functions and duties of divisions and employees.
1.10.110 Private liability.
1.10.120 Penalty.
1.10.130 Severability

## 1.10.010 Purpose.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for emergency mitigation, preparedness, response and recovery for persons and property within the City in the event of an emergency or disaster, and to provide for the coordination of emergency functions and services of this City with all other public agencies and affected private persons, corporations and organizations. Any expenditures made in connection with such emergency management activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of Tacoma.

(Ord. 24869 § 1; passed Mar. 26, 1991: Ord. 19589 § 1; passed May 30, 1972: Ord. 14454 § 1; passed Apr. 14, 1952)

## 1.10.015 Emergency management policy.

It is the policy of this City to make effective preparation and use of manpower, resources, and facilities for dealing with any emergency or disaster that may occur. Disasters and emergencies by their very nature, may disrupt or destroy existing systems and the capability of the City of Tacoma to respond to protect life, public health and public property, and essential City services. Therefore, citizens are advised to be prepared to be on their own for up to 72 hours should an emergency or disaster occur.

(Ord. 24869 § 2; passed Mar. 26, 1991)

## 1.10.020 Emergency management defined.

"Emergency management" shall mean the preparations for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to and recover from emergencies and disasters, and to aid victims suffering from injury or damage resulting from disasters caused by all hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress.

(Ord. 24869 § 3; passed Mar. 26, 1991: Ord. 19589 § 2; passed May 30, 1972: Ord. 14454 § 2; passed Apr. 14, 1952)

## 1.10.025 Emergency or disaster defined.

"Emergency or disaster" as used in this chapter shall mean an event or set of circumstances which: (a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken neighborhood overtaken by such occurrences, or (b) reaches such a dimension or degree of destructiveness as to warrant the City Council

[12] See also Chapter 38.52 RCW.

proclaiming the existence of a disaster or the Governor declaring a state of emergency in accordance with appropriate local and state statute.

(Ord. 24869 § 4; passed Mar. 26, 1991)

### 1.10.030 Director defined.

The City Manager shall be the Director of the Emergency Management for the City of Tacoma.

(Ord. 25999 § 1; passed Dec. 17, 1996: Ord. 24869 § 5; passed Mar. 26, 1991: Ord. 19589 § 3; passed May 30, 1972: Ord. 14454 § 2; passed Apr. 14, 1952)

### 1.10.040 Administrator defined.

"Administrator" shall mean the Chief of the Tacoma Fire Department who shall serve as the Administrator of Emergency Management of the City of Tacoma. In the absence or unavailability of the Chief of the Fire Department, the duties of the Administrator shall be assumed by the Director of the Public Works Department. In the absence or unavailability of both the Chief of the Fire Department and the Director of the Public Works Department, the duties of the Administrator shall be assumed by the Chief of the Tacoma Police Department.

(Ord. 25999 § 2; passed Dec. 17, 1996: Ord. 24869 § 6; passed Mar. 26, 1991: Ord. 19589 § 4; passed May 30, 1972: Ord. 14454 § 2; passed Apr. 14, 1952)

### 1.10.050 Deputy Director defined. *Repealed by Ord. 25999.*

(Ord. 25999; passed Dec. 17, 1996: Ord. 24869 § 7; passed Mar. 26, 1991: Ord. 19589 § 5; passed May 30, 1972: Ord. 14454 § 2; passed Apr. 14, 1952)

### 1.10.060 Emergency management plan.

The emergency management plan prepared by the Director of Emergency Management and promulgated by the Mayor is the official emergency management plan of the City of Tacoma. The Director of Emergency Management shall file a copy of said plan in the office of the City Clerk, and distribute copies of said plan to appropriate City departments.

(Ord. 24869 § 8; passed Mar. 26, 1991: Ord. 19589 § 6; passed May 30, 1972: Ord. 14454 § 3; passed Apr. 14, 1952)

### 1.10.070 Emergency management program.

The emergency management program of the City of Tacoma is hereby created, and shall consist of:

A. The Director, who shall be the administrative head of and have direct responsibility for the organization, administration and operation of the emergency management program for the City of Tacoma and for the emergency operations of departments of the General Government.

B. The Director of Utilities, who shall have direct responsibility for the emergency operations of the divisions of Tacoma Public Utilities.

C. The Administrator of Emergency Management shall develop and maintain the emergency management plan and program of the City, and shall have such other duties as may be assigned to him by the Director.

D. The City may form its own Department of Emergency Management, or it may contract, pursuant to RCW Chapter 39.34, for emergency management services with another political subdivision which does have an approved emergency management program in accordance with RCW 38.52.

(Ord. 25999 § 4; passed Dec. 17, 1996: Ord. 24869 § 9; passed Mar. 26, 1991: Ord. 19673 § 1; passed Oct. 10, 1972: Ord. 19589 § 7; passed May 30, 1972: Ord. 14454 § 4; passed Apr. 14, 1952)

### 1.10.080 Director of Emergency Management – Powers and duties.

The Director is hereby empowered to:

A. Request the City Council to proclaim the existence, or threatened existence, of a disaster and the termination thereof, if the City Council is in session, or to issue such proclamation, if the City Council is not in session, subject to confirmation by the City Council at the earliest practicable time;

B. Request the Governor to proclaim a state of extreme emergency when, in the opinion of the Director, the resources of the area or region are inadequate to cope with the disaster;

C. Direct coordination and cooperation between divisions, services and staff of the departments and services of this City in carrying out the provisions of the emergency management plan, and to resolve questions of authority and responsibility that may arise among them;

D. Recommend for adoption by the City Council emergency management plans and mutual aid plans and agreements.

(Ord. 25999 § 5; passed Dec. 17, 1996: Ord. 24869 § 10; passed Mar. 26, 1991: Ord. 19589 § 8; passed May 30, 1972: Ord. 14454 § 5; passed Apr. 14, 1952)

### 1.10.090 Disaster and emergency powers of the Mayor.

In the event of the proclamation of a disaster as herein provided, or the proclamation of a state of extreme emergency by the Governor or the State Director of Emergency Management, the Mayor is hereby empowered:

A. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;

B. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of the life and property of the people and to bind the City for the fair value thereof, and, if required immediately, to commandeer the same for public use;

C. To control and direct the efforts of the emergency management organization of this City for the accomplishment of the purposes of this chapter;

D. To require emergency services of any City officer or employee and, in the event of the proclamation of a state of extreme emergency by the Governor in the region in which this City is located, to command the aid of as many citizens of this City as may be deemed necessary in the execution of the Mayor's duties; such persons to be entitled to all privileges, benefits and immunities as are provided by State law for registered emergency workers;

E. To requisition necessary personnel or material of any City department or agency;

F. To execute all of the special powers conferred upon the Mayor by this chapter, by any other statute, agreement or lawful authority, as necessary.

(Ord. 24869 § 11; passed Mar. 26, 1991: Ord. 19589 § 9; passed May 30, 1972: Ord. 14454 § 6; passed Apr. 14, 1952)

### 1.10.095 Administrator of Emergency Management – Powers and duties.

The Administrator is hereby empowered to:

A. Act on behalf of the Mayor, Director, and Director of Utilities, if they are unable to carry out their duties, in carrying out the purposes of this chapter or the provisions of the emergency management plan;

B. Represent the emergency management organization of the City in dealing with issues pertaining to emergency management;

C. Prepare and maintain the emergency management plan of the City and manage the day-to-day responsibilities of the emergency management program activities of the City.

(Ord. 25999 § 6; passed Dec. 17, 1996: Ord. 24869 § 12; passed Mar. 26, 1991)

### 1.10.100 Functions and duties of divisions and employees.

The City Council hereby assigns to the various departments and to the officers and employees thereof the functions, duties and powers set forth in the emergency management plan referenced in Section 1.10.060 of this chapter.

(Ord. 24869 § 12; passed Mar. 26, 1991: Ord. 14454 § 7; passed Apr. 14, 1952)

### 1.10.110 Private liability.

No individual, firm, association, corporation or other party owning, maintaining or controlling any building or premises, who voluntarily and without compensation grants to the City of Tacoma a license or privilege or otherwise permits said City to inspect, designate and use the whole or any part or parts of such building or premises for the purpose of sheltering persons during an actual, impending, mock or practice emergency or disaster, or their successors in interest, or the agents or employees of any of them, shall be subject to liability for injuries sustained by any person while in or upon said building or premises as a result of any act or omission in connection with the upkeep or maintenance thereof, except a willful act of misconduct, when such a person has entered or gone into or upon said building or premises for the purpose of seeking refuge

therein during an emergency or disaster or an attack by enemies of the United States or during a disaster drill, exercise or test ordered by a lawful authority.

(Ord. 24869 § 13; passed Mar. 26, 1991: Ord. 14454 § 8; passed Apr. 14, 1952)

### 1.10.120 Penalty.

Any person who shall:

A. Willfully obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon such member by virtue of this chapter;

B. Do any act forbidden by any lawful rules or regulations issued pursuant to this chapter if such act is of such a nature as to give or be likely to give assistance to the enemy, or to imperil the lives or property of inhabitants of this City, or to prevent, hinder or delay the defense or protection thereof;

C. Wear, carry or display, without authority, any means of identification specified by the emergency management agency of the State, shall upon conviction, be fined in any sum not exceeding $1,000.00, or by imprisonment in the jail for a period not exceeding 90 days, or both, in the discretion of the court.

(Ord. 24869 § 15; passed Mar. 26, 1991: Ord. 19589 § 11; passed May 30, 1972: Ord. 14454 § 10; passed Apr. 14, 1952)

### 1.10.130 Severability.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

(Ord. 24869 § 16; passed Mar. 26, 1991: Ord. 14454 § 11; passed Apr. 14, 1952)

# CHAPTER 1.12
# COMPENSATION PLAN [13]

Sections:

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1.12.010 Composition of the compensation plan.
1.12.020 Development and maintenance of salary ranges.
1.12.021 Development and maintenance of nonrepresented salary ranges.
1.12.030 Salary range – Increases.
1.12.031 Salary range – Increases for nonrepresented classifications.
1.12.040 Adoption of the pay plan.
1.12.041 Adoption of the pay plan for nonrepresented classifications.
1.12.050 Transfer, promotion, demotion, reinstatement and reemployment.
1.12.051 Transfer, promotion, demotion, reinstatement and reemployment – nonrepresented classifications.
1.12.060 Salary decreases.
1.12.070 Salary ordinance and annual budget.
1.12.071 Overpayment of Wages.

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1.12.080 Overtime compensation.
1.12.090 On-the-job injury.
1.12.091 On-the-job injuries – Belt Line employees.
1.12.095 Health Care and Disability Benefits
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1.12.110 Other official expenditures.
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1.12.140 Compensation of employees other than full-time regular employees.
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[13] See also Chapter 1.24 – Personnel Rules.

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1.12.230 Sick allowance with pay.
1.12.231 Sick allowance with pay – Locomotive Engineer, Railway Switch Operator, Railway Switching Supervisor, and Railway Yardmaster.
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1.12.970 Full disclosure of pay increases.

## MAINTENANCE AND ADMINISTRATION

### 1.12.010 Composition of the compensation plan.

The compensation plan, contemplated by Section 6.9 of the City Charter, shall include:

A. The compensation provisions of this chapter and subsequent amendments and additions thereto.

B. A schedule of salary ranges (consisting of minimum and maximum rates of pay and intermediate steps for all classes of positions included in the City Classification Plan) in Sections 1.12.350 to 1.12.640[14], inclusive, and subsequent additions and amendments thereto.

C. The annual budgets prescribed by the laws of the State of Washington.

(Ord. 26182 § 1; passed Dec. 16, 1997: Ord. 15751 § 1; passed Dec. 17, 1956)

### 1.12.020 Development and maintenance of salary ranges.

Salary ranges shall be linked directly to the plan of position classification and shall be determined with due regard to ranges of pay for other classes, relative difficulty and responsibility of positions in the class, availability of employees in particular occupational categories, prevailing rates of pay for similar employment in private establishments in the Tacoma area, rates of pay in other jurisdictions, cost-of-living factors, the financial policies of the City, and other economic considerations. The minimum and maximum and intermediate steps of each salary range shall be those rates in the basic salary schedule which most nearly reflect these factors.

Prior to the preparation of each biennial budget, as well as at other appropriate times, the City Manager and the Director of Utilities shall make or direct to be made, such comparative studies as they may deem necessary, of the factors affecting the level of salary ranges. On the basis of information derived from such studies, the City Manager and the Director of Utilities shall recommend to the City Council for approval such changes in the salary ranges as are pertinent to the fairness and adequacy of the overall salary structure. Such changes shall be accomplished by increasing or decreasing the salary ranges the appropriate number of ranges as provided in the basic salary schedule. The rate of pay for each employee shall be adjusted to the corresponding step in the new range in conformance with the adjustment of the salary range for the class.

Employees appointed to classifications designated as Class D or Class E by Section 1.12.080 are considered salaried employees. The hourly rates reflected in Section 1.12.355 are adopted for the administrative convenience in processing the payroll. There shall be no deduction for absences of less than one work day for Class D or Class E employees.

(Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 24856 § 1; passed Mar. 5, 1991: Ord. 23445 § 1; passed Aug. 6, 1985: Ord. 15995; passed Dec. 16, 1957: Ord. 15751 § 2.1; passed Dec. 17, 1956)

### 1.12.021 Development and maintenance of nonrepresented salary ranges.

Salary ranges shall be linked directly to the plan of position classification and shall be determined with due regard to ranges of pay for other classes, relative difficulty and responsibility of positions in the class, availability of employees in particular occupational categories, prevailing rates of pay for similar employment in private establishments in the applicable market area, rates of pay in other jurisdictions, cost-of-living factors, the financial policies of the City, and other economic considerations. The minimum and maximum and intermediate steps of each salary range shall be those rates in the basic salary schedule which most nearly reflect these factors.

Prior to each calendar year, as well as at other appropriate times, the Human Resources Director shall make or direct to be made such comparative studies as they may deem necessary, of the factors affecting the level of salary ranges. On the basis of information derived from such studies, the City Manager and the Director of Utilities shall recommend to the City Council for approval such changes in the salary ranges as are pertinent to the fairness and adequacy of the overall salary structure.

Employees appointed to classifications designated as Class D by Section 1.12.080 are considered salaried employees. For such classifications, the hourly rates reflected in Section 1.12.355 are adopted for the administrative convenience in processing the payroll.

If any portion of this section conflicts with any other portion of the Tacoma Municipal Code, it is intended that this provision controls.

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[14] Code Reviser's note: Salary schedules [1.12.355] are on file in the Human Resources Department.

(Ord. 27775 Ex. A; passed Dec. 16, 2008)

## 1.12.030 Salary range – Increases.

The salary ranges are intended to furnish administrative flexibility in recognizing individual differences between positions allocated to the same class in the classified service and as a guide for appointive positions and in providing employee incentives and rewarding employees for meritorious service. The following shall be the general policy with respect to the use of the pay steps within salary ranges:

A. The minimum rate of pay for a class shall be paid to any person on his original appointment to a position of a class except when, as determined by the appointing authority, the new employee possesses exceptional qualifications warranting employment at a higher rate in the pay range; provided, that money is in the budget, as provided in Section 1.12.070.

B. The basic salary range shall consist of five numbered steps.

Within-range increases for classifications with five or fewer steps shall be from one pay step to the next higher step upon completion of a six-month period and annually thereafter or as agreed in a collective bargaining agreement, unless the appointing authority considers the employee's services to have been unsatisfactory. Notice of such unsatisfactory service shall be given to the employee and the Human Resources Director 10 days prior to the effective date for the within-range salary increase. Step increases for ranges with greater than five steps may be based on skills, assignments, performance or as specified in a collective bargaining agreement.

An employee whose normal within-range increase has been suspended by a report of unsatisfactory service shall not thereafter be entitled to any further, within-range increases in that position except upon the specific recommendation of the appointing authority. Such further within-range increases, upon specific recommendation of the appointing authority, may be made to any higher step in the range for which the employee would qualify had such step increases been made on a continuous normal basis.

All within-range increases are subject to the availability of funds. For the purposes of computing the length of time for eligibility for within-range increases, upon the request of the department concerned and upon approval of the Human Resources Director, the period of all leaves of absence without pay, except for military purposes for reserves performing active training duty or for pre-induction purposes, or sick leave during the first six months after appointment shall not be included, and all employees granted leaves of absence without pay in excess of 15 calendar days, except for military leaves as above stated, shall have a period of time equal to the total leave without pay added to the annual time for the further increases.

Eligibility for within-range salary increases shall be computed on the actual anniversary date of such eligibility.

Salary increases or decreases resulting from the adjustment of salary ranges in accordance with Section 1.12.020 shall not prevent within-range increases in accordance with this section.

(Ord. 26345 § 1; passed Dec. 15, 1998: Ord. 25683 § 1; passed Mar. 28, 1995: Ord. 25645 § 1; passed Dec. 13, 1994: Ord. 23111 § 1; passed Feb. 7, 1984: Ord. 21298 § 1; passed Mar. 21, 1978: Ord. 20233 § 1; passed Oct. 15, 1974: Ord. 19584 § 1; passed May 30, 1972: Ord. 17727 § 1; passed Dec. 8, 1964: Ord. 16516; passed Feb. 23, 1960)

## 1.12.031 Salary range – Increases for nonrepresented classifications.

The salary ranges are intended to furnish administrative flexibility in recognizing individual differences between positions allocated to the same class in the classified service and for appointive positions and in providing employee incentives and rewarding employees for meritorious service. The following shall be the general policy with respect to the use of the pay steps within salary ranges:

A. The minimum rate of pay for a class shall be paid to any person on his or her original appointment to a position except when, as determined by the appointing authority, the employee possesses exceptional qualifications, or exceptional market conditions exist warranting employment at a higher step in the pay range; provided, that money is in the budget, as provided in Section 1.12.070.

B. The basic salary range shall consist of full steps with quarter-step increments between each full step.

1. Step increases shall be considered upon completion of a six-month period and annually thereafter. Eligibility for step increases shall be computed on the actual anniversary date of such eligibility.

2. Step increases shall consist of one full step unless the appointing authority considers that a full step cannot be justified.

a. If a step increase is withheld, written notice shall be given to the employee and the Human Resources Director at least ten days prior to the effective date of the step increase.

b. An employee not receiving a full step increase shall not thereafter be entitled to any further step increases in that position except upon the specific recommendation of the appointing authority. Such further step increases, upon specific recommendation of the appointing authority, may be made to any higher step in the range for which the employee would have qualified.

3. For purposes of computing the length of time for eligibility for step increases:

a. Upon the request of the department concerned and upon approval of the Human Resources Director, the period of all leaves of absence without pay shall be excluded, provided that military leave, pursuant to TMC 1.12.260, shall not be excluded from the time computed.

b. All employees granted leaves of absence without pay in excess of 15 calendar days, except for military leaves as above stated, shall have a period of time equal to the total leave without pay added to the annual time for the further increases.

4. All step increases are subject to the availability of funds. Salary increases or decreases resulting from the adjustment of salary ranges in accordance with Section 1.12.021 shall not prevent within-range step increases in accordance with this section.

If any portion of this section conflicts with any other portion of the Tacoma Municipal Code, it is intended that this provision controls.

(Ord. 27775 Ex. A; passed Dec. 16, 2008)

## 1.12.040 Adoption of the pay plan.

As of the effective date of the adoption of the Compensation Plan or any subsequent amendment thereto:

A. All employees whose pay is in excess of the maximum rate prescribed for their class shall not be reduced in pay but they shall not receive any pay increases as long as they occupy positions for which the salary range maximum is the same as, or less than, the pay rate currently received.

B. Employees will be advanced in pay as the result of an adjustment to the salary range for their class, as provided for in Section 1.12.020. In addition, employees will be eligible for within-range increases according to the years of continuous service in the class as provided for in Section 1.12.030B.

The provisions of this section shall not prevent demotion or reduction for disciplinary reasons or the application of service-wide pay decreases when such action is required by the financial condition of the City or by changing economic conditions.

C. Employees reclassified as a result of the City-wide Ewing Study whose pay is in excess of the maximum rate prescribed for their new class shall not be reduced in pay and shall continue to receive the annual cost of living adjustment equivalent to that received by the majority of other City employees. Should such employees accept another position in the City service, they shall receive the rate of pay for that class as provided herein.

(Ord. 24215 § 1; passed Oct. 18, 1988: Ord. 15995; passed Dec. 16, 1957: Ord. 15751 § 2.3; passed Dec. 17, 1956)

## 1.12.041 Adoption of the pay plan for nonrepresented classifications.

As of the effective date of the adoption of the Compensation Plan or any subsequent amendment thereto:

A. All employees whose pay is in excess of the maximum rate prescribed for their class shall not be reduced in pay but they shall not receive any pay increases as long as they occupy positions for which the salary range maximum is the same as, or less than, the pay rate currently received.

B. Employees will be advanced in pay as the result of an adjustment to the salary range for their class, as provided for in Section 1.12.021. In addition, employees will be eligible for step increases as provided for in Section 1.12.031. The provisions of this section shall not prevent demotion or reduction in pay for disciplinary reasons or the application of pay decreases when such action is required by the financial condition of the City or by changing economic conditions.

C. Employees who may be reclassified as a result of a classification and/or compensation study, whose pay is in excess of the maximum rate prescribed for their new class shall not be reduced in pay, but they shall not receive any pay increases as long as the salary range maximum for their new classification is the same as, or less than, the pay rate currently received. Should such employees accept another position in the City service, they shall receive the rate of pay for that class as provided herein.

D. Effective January 5, 2009, nonrepresented executive and nonrepresented classifications will no longer be eligible for longevity pay. A one-time roll in of the employee's current longevity pay will be added to base pay when determining employee placement in the new pay structure.

If any portion of this section conflicts with any other portion of the Tacoma Municipal Code, it is intended that this provision controls.

(Ord. 27775 Ex. A; passed Dec. 16, 2008)

## 1.12.050 Transfer, promotion, demotion, reinstatement and reemployment.

When an employee is transferred, promoted, demoted, reinstated, or reemployed, his/her rate of pay for the new position shall be determined as follows:

A. Transfer. An employee transferred to another position in the same class will continue to receive the same pay rate until he/she is promoted or demoted or until his/her pay rate is adjusted in accordance with the provision of Section 1.12.030 of this chapter.

B. Promotion.

1. If his/her rate of pay in the lower class is below the minimum salary for the higher class, his/her rate of pay shall be increased to the minimum rate for the higher class; provided however, in no event shall such increase be less than one step in the range structure or its equivalent. In the event such an increase is less than such one step or its equivalent, the employee's rate of pay shall be increased to the next higher step above the minimum rate if such exists.

2. If his/her rate of pay in the lower class falls within the range of pay for the higher class, the employee shall be advanced to the next higher step; provided however, in no event shall such increase be less than one step in the range structure or its equivalent. In the event such an increase is less than such one step or its equivalent, the employee's rate of pay shall be increased to the next higher step, if such exists.

C. Demotion.

1. An employee demoted for disciplinary purposes from a position in one class to another having a lower pay range shall receive a salary decrease.

a. If the rate of pay of the employee in the higher class is above the maximum salary for the lower class, his/her rate of pay will be decreased to the maximum rate of the lower class, unless the decrease shall be less than one pay step, in which case his/her pay shall be reduced to the next lower pay step in the pay range.

b. If the rate of pay of the employee in the higher class is within the pay range of the lower class, his/her rate of pay will be decreased by one pay step.

2. An employee demoted for nondisciplinary purposes from a position in one class to another having a lower final step pay range shall be placed at a rate closest to, but less than, the rate he/she currently earns.

D. Reinstatement. The compensation of an employee reinstated to his/her former position shall be determined as follows:

1. An employee who had resigned from his/ her position in the City Service and is subsequently reinstated to a position in his/her former class shall be paid in accordance with the rules governing original appointments to a position in the City Service.

2. An employee who is reinstated to his/her position after an authorized leave of absence without pay shall be paid at the same pay step in the range for his class that he/she was receiving at the time he/she began his/her leave of absence without pay.

E. Reemployment. An employee reemployed in his/her former position after layoff shall be paid at the same pay step in the range for his/her class that he/she was receiving at the time he/she was laid off.

(Ord. 25645 § 2; passed Dec. 13, 1994: Ord. 23111 § 2; passed Feb. 7, 1984: Ord. 19584 § 2; passed May 30, 1972: Ord. 19272 § 1; passed Dec. 29, 1970: Ord. 17605 § 1; passed May 19, 1964: Ord. 16940 § 1; passed Dec. 19, 1961)

## 1.12.051 Transfer, promotion, demotion, reinstatement and reemployment – nonrepresented classifications.

When an employee is transferred, promoted, demoted, reclassified, reinstated, or reemployed, his or her rate of pay for the new position shall be determined as follows:

A. Transfer. An employee transferred to another position in the same class will continue to receive the same pay rate until he or she is promoted or demoted or until his or her pay rate is adjusted in accordance with the provision of Section 1.12.021 or .031 of this chapter.

B. Promotion.

1. If his or her rate of pay in the lower class is below the minimum salary for the higher class, his or her rate of pay shall be increased to the minimum rate for the higher class; except when, as determined by the appointing authority and approved by the Human Resources Director, the employee possesses exceptional qualifications, or exceptional market conditions exist warranting placement at a higher rate in the pay range; provided, that money is in the budget, as provided in Section 1.12.070.

2. If his or her rate of pay in the lower class falls within the range of pay for the higher class, the employee shall be advanced to the next higher step; except when, as determined by the appointing authority, and approval of the Human Resources Director, the employee possesses exceptional qualification warranting employment at a higher rate in the pay range; provided, that money is in the budget, as provided in Section 1.12.070.

C. Demotion.

1. An employee demoted for disciplinary purposes from a position in one class to another class having a lower pay range shall receive a salary decrease.

a. If the rate of pay of the employee in the higher class is above the maximum salary for the lower class, his or her rate of pay will be decreased to at least the maximum rate of the lower class.

b. If the rate of pay of the employee in the higher class is within the pay range of the lower class, his or her rate of pay will be decreased by a minimum of a quarter-step increment.

2. An employee demoted for non-disciplinary purposes from a position in one class to another shall be placed at a pay rate closest to, but less than, the pay rate he or she currently earns.

D. Reinstatement. The compensation of an employee reinstated to his or her former position shall be determined as follows:

1. An employee who had resigned from his/ her position in the City Service and is subsequently reinstated to a position in his or her former class shall be paid in accordance with the rules governing original appointments to a position in the City Service.

2. An employee who is reinstated to his or her position after an authorized leave of absence without pay shall be paid at the same pay in the range for his or her class that he or she was receiving at the time he or she began his or her leave of absence without pay.

E. Reemployment. An employee reemployed in his or her former position after layoff shall be paid at the same pay in the range for his or her class that he or she was receiving at the time he or she was laid off.

If any portion of this section conflicts with any other portion of the Tacoma Municipal Code, it is intended that this provision controls.

(Ord. 27775 Ex. A; passed Dec. 16, 2008)

## 1.12.060 Salary decreases.

An appointing authority for just causes may reduce the salary of an employee within the pay range prescribed for the class. Notice of intention to effect such a reduction in pay and the reasons for such action shall be given to the employee and the Director of Personnel 10 days prior to the effective date of the reduction. The employee affected shall have the right to appeal in the manner outlined in Section 1.24.950.

(Ord. 15751 § 2.5; passed Dec. 17, 1956)

## 1.12.070 Salary ordinance and annual budget.[15]

This chapter shall be in force and effect January 1, 1958, and from and after said effective date, employees in each class of position in the City Service shall be compensated according to the basic set hourly rates and salary ranges and schematic lists set forth in Sections 1.12.350 to 1.12.640[16] inclusive, of this chapter, and subsequent amendments and additions thereto, and in accordance with the annual budgets adopted by the Council pursuant to the laws of the State of Washington. Each annual budget as finally adopted by the City Council shall be the final determining factor for the payment of said compensation during the year to which said budget is applicable and the salaries and wages specifically provided for and set forth therein for each position, applied in conformance with the provisions of this chapter relating to compensation, shall be the salaries and wages to be paid to each officer and employee of the City during said year, unless lawfully changed by ordinance; provided,

[15] Preparation of payroll – See Sections 1.20.040 – 1.20.080.
[16] Code Reviser's note: Salary schedules [1.12.355] are on file in the Human Resources Department.

that, in cases of promotion, transfer, reemployment, and the return of an employee after leave of absence, and in cases of classification or reclassification of positions which, under Section 1.12.050 and under other provisions of this chapter, require the payment of a different wage or salary than that specifically set forth in the annual budget, the compensation to be paid in such cases shall be figured and paid in accordance with said Section 1.12.050 and other pertinent sections of this chapter without ordinance or Council action, if the payment thereof can lawfully be made from funds appropriated in the current annual budget, under the item of salaries and wages, without exceeding such appropriation.

In cases where the annual budget makes provisions for the payments of compensation for any position classification differing from the compensation set forth in said salary ranges, in order to comply with the provisions of subdivision A of Section 1.12.040 of this chapter and the provisions of Section 1.24.360, the employee affected by the provisions of said section shall be paid the compensation for such position as set forth in the annual budget, and in all cases where no provision is made in said salary ranges, the compensation to be paid to any employee shall be that set forth in the annual budget or such compensation as shall be lawfully authorized by the City Council.

(Ord. 28148A Ex. A; passed May 7, 2013: Ord. 28053 § 1; passed Mar. 6, 2012: Ord. 28048 § 1; passed Jan. 10, 2012: Ord. 19493 § 1; passed Dec. 28, 1971: Ord. 16670 § 1; passed Dec. 13, 1960)

### 1.12.071 Overpayment of Wages.

A. When the Director of Finance, or the Director's designee ("Director") determines that an employee was overpaid wages, the Director shall provide written notice to the employee. The notice shall include the amount of the overpayment, the basis for the claim, a demand for payment within 25 calendar days from the date of mailing, and the rights of the employee under this section. The notice shall be mailed by regular mail and certified mail, return receipt requested, to the employee at his or her last known address.

B. Within 20 calendar days after receiving the notice from the Director that an overpayment has occurred, the employee may request, in writing, that the Director review his or her finding that an overpayment has occurred. If the request is not made within the 20-day period as provided in this subsection, the employee may not further challenge the overpayment and has no right to further agency review, Hearing Examiner review, or judicial review.

C. Upon receipt of an employee's written request for review of the overpayment, the Director, in consultation with the Director of Human Resources, shall within 30 business days of receipt of such request, review the employee's challenge to the overpayment and notify the employee, in writing, of the Director's decision regarding the employee's challenge. The notification shall be sent by certified mail, return receipt requested, to the employee at his or her last known address.

D. If the employee is dissatisfied with the Director's decision regarding the employee's challenge to the overpayment, the employee may appeal the Director's decision to the Hearing Examiner by requesting an adjudicative proceeding. The employee's appeal must be in writing, state the basis for contesting the overpayment notice, and include a copy of the Director's notice of overpayment. The application must be served on and received by the Director within 28 calendar days of the employee's receipt of the Director's decision following review of the employee's challenge. The employee must serve the Director by certified mail, return receipt requested.

The Hearing Examiner, upon receipt of a properly filed appeal, shall set a hearing date, and the appellant shall be notified of the hearing date by first-class mail and by certified mail, return receipt requested. Proceedings in regard to appeals filed under this section shall be conducted in accordance with the requirements of Tacoma Municipal Code 1.23 and Office of the Hearing Examiner Rules of Procedures for Hearings. The Hearing Examiner shall determine the amount, if any, of the overpayment received by the employee, and shall issue Findings of Fact and Order, based on the hearing, in writing, delivered to the appellant by first-class mail and by certified mail, return receipt requested.

E. If the employee does not request an adjudicative proceeding within the 28-day period, the amount of the overpayment provided in the notice shall be deemed final and the Director may proceed to recoup the overpayment as provided by law.

F. Pursuant to RCW 49.48.210, when it is determined that an employee covered by a collective bargaining agreement is overpaid wages, the Director shall provide written notice to the employee. The notice shall include the amount of the overpayment, the basis for the claim, and the rights of the employee under the collective bargaining agreement. Any dispute relating to the occurrence or amount of the overpayment shall be resolved using the grievance procedures contained in the collective bargaining agreement.

(Ord. 27637 Ex. A; passed Aug. 28, 2007)

## SPECIAL COMPENSATION

### 1.12.075 Definitions.

For purposes of this chapter the following definitions shall apply:

A. Aggregate Service. Aggregate service for all purposes shall be the total of all employment, inclusive of authorized leaves of absence, in the City service as a probationary, regular, project, or appointive employee; provided, that: (1) time lost due to suspension of more than 15 working days or layoff shall not be included in the determination of aggregate service; (2) no person employed as a temporary employee shall accrue aggregate service as defined herein; (3) if an employee retires from the City and is rehired in a position under a pension system other than that from which he/she retired, such prior service shall not be credited towards aggregate service.

(Ord. 26761 § 1; passed Dec. 19, 2000: Ord. 25233 § 1; passed Dec. 22, 1992: Ord. 23350 § 1; passed Feb. 26, 1985: Ord. 21053 § 1; passed Apr. 26, 1977)

## 1.12.080 Overtime compensation.

Overtime work shall include only that work performed by employees at the direction of a department head or his or her authorized representative which, as a part of a single tour of duty or by reason of a call back, exceeds the number of hours constituting the established workday, workweek, or special schedule for the class and for the department. A minimum of two hours shall be paid for overtime by reason of a call back.

Part-time employees will be eligible for overtime only when the number of hours in paid status in a workweek exceeds 40.

Specific overtime provisions contained in individual collective bargaining agreements are hereby incorporated.

The City Manager or the Director of Utilities, as the case may be, shall designate those classes of employment and conditions thereto for which overtime work will be compensated according to the following schedules.

Class A. Time and one-half cash compensation, equivalent compensatory time off or a combination thereof at the discretion of the Department Head, except for:

1. Double time cash compensation, equivalent compensatory time off or a combination thereof for Sundays for regular Monday through Friday workweeks or the seventh day, the Sunday equivalent, for five-day workweek special schedules or shifts.

2. Double time cash compensation, equivalent compensatory time off or a combination thereof for work on scheduled days off, starting with the second consecutive call back day for annual work schedules having variable shifts other than a five-day week.

Absent language in a collective bargaining agreement allowing compensatory time off in lieu of overtime pay, compensatory time off will be allowed only where agreed upon in writing prior to the overtime being worked. All such compensatory time off shall be scheduled so as to meet the operating requirements of the City and, as far as practicable, the preference of the employee.

In those instances where the overtime is compensated by time off and it has not been feasible to grant such time off after a period of 60 days, the employee may elect to be compensated in cash therefor. The accrual of compensatory time shall be covered by union contract if applicable; however, in no event shall employees accrue more than 240 hours of compensatory time.

On separation from City service, each employee shall receive cash compensation for all accrued compensatory time.

Class B. Time and one-half cash compensation for overtime.

Class C. Double time cash compensation for overtime.

Class D. No overtime compensation or compensatory time off.

Class E. No overtime compensation or compensatory time off except when assigned to work outside of normal work hours due to emergency situations, or as provided in a collective bargaining agreement.

Pursuant to Section 1.12.020 of the Compensation Plan, employees assigned to positions designated as Class D or Class E are considered to be salaried employees.

Cash reimbursements for meals or transportation resulting from having to work beyond regular hours, where such overtime work, and the reimbursement for the cost of meals or transportation thus incurred are approved in writing by the City Manager, the Director of Utilities, or by Labor Management contract agreements, as applicable.

All overtime work performed by employees that is subject to compensation shall be recorded on the payroll for the pay period in which it occurred.

(Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 27170 § 1; passed Dec. 9, 2003: Ord. 27075 § 1; passed Apr. 1, 2003: Ord. 26295 § 1; passed Sept. 15, 1998: Ord. 26232 § 1; passed May 26, 1998: Ord. 23670 § 1; passed Jul. 29, 1986:

Ord. 23445 § 2; passed Aug. 6, 1985: Ord. 23111 § 3; passed Feb. 7, 1984: Ord. 20011 § 1; passed Dec. 11, 1973; Ord. 19731 § 1; passed Jan. 2, 1973; Ord. 16670 § 2; passed Dec. 13, 1960)

## 1.12.090 On-the-job injury.

With the exception of employees in the Police and Fire Service hired prior to October 1, 1977, the Belt Line Railway employees, emergency employees, and temporary employees, an employee who is otherwise eligible for sick leave or Personal Off Time ("PTO") accruals and is injured on the job shall be paid to the extent of 120 working days for each new and separate injury, in addition to, and prior to, the use of sick leave or PTO accumulations, except as provided hereafter in this section.

A. The employee's eligibility for payment and the extent thereof will be based on the determination of the State Industrial Insurance Division of the State Workers' Compensation Act. Such employee shall be paid an amount by the City which when combined with the payment received as determined by the State Industrial Insurance Division will equal 85 percent of his or her normal wage. For the purpose of this section, normal pay shall be that rate of the classification in which he or she was working in on the date of injury.

B. Such payment shall be made to the extent of such period of 120 working days and for as long thereafter as such employee's sick leave or PTO accruals provide according to the following schedule:

1. Charges shall be made against sick leave or PTO accruals, if any, for the date of injury and for the three-day waiting period as defined in the State Workers' Compensation Act. If injury time loss exceeds 14 calendar days, then sick leave used during the three-day waiting period shall be returned and compensation computed at the 85 percent level as provided above.

2. After the payment and use of 120 working days, an employee may request to utilize accumulated sick leave and/or PTO on a prorated basis for any further time loss due to the injury. Compensation shall continue at the 85 percent level as provided above.

Accumulated sick leave and/or PTO used for this purpose shall be based on the calculated supplement dollar amount converted to actual hours by dividing the supplement dollar amount by the employee's normal hourly wage. The converted actual hours will be deducted from the employee's accumulated sick leave and/or PTO accumulations.

3. In the event an employee becomes disabled prior to completing 30 working days' employment with the City, a maximum of 30 working days' City supplementation, as defined above, shall be allowed.

4. Charges may be made against sick leave or PTO leave accruals, if any, in any case where the City is contesting that the injury occurred on the job. In the event the State determines in favor of the employee, sick leave or PTO so charged shall be recredited to the employee's sick leave or PTO accrual balance and all payments in excess of the difference between 85 percent of the regular normal pay and that amount received, as determined by the State Industrial Insurance Division, shall be recoverable by the City or deducted from future payments due the employee from the City. The City shall seek to recover any and all provisional time loss payments due to the City when a claim filed after June 11, 1986, is rejected pursuant to the laws of the State of Washington and the ordinances of the City.

5. In the event eligibility for payment is denied by the State, the employee shall be eligible to utilize sick leave or PTO accruals, if any, retroactive to the date of injury, subject to the provisions of Section 1.12.230, Sick Allowance with Pay.

6. Upon making such payments as are provided for in this section, the City shall be subrogated to all rights of the employee against any third party who may be held liable for the employee's injuries to the extent necessary to recover the amount of payments made hereunder; provided, that where actual recovery is made against a third party hereunder, sick leave and PTO charged against the employee's accruals shall be recredited to the extent such funds reflect recovery for payments attributable to compensated sick leave or PTO.

7. All provisions hereof shall be deemed applicable to the Health Pooling Fund and Health Department Compensation Plans when the same are applicable to Health Department Employees.

In order to limit the obligation of the City for each new and separate injury, the City may require the employee to furnish medical proof or submit to a medical examination by the City at its expense to determine where a subsequent injury is a new and separate injury or an aggravation of a former injury received while in the service of the City.

(Ord. 27753 Ex. A; passed Nov. 18, 2008: Ord. 26209 § 1; passed Apr. 14, 1998: Ord. 26208 § 1; passed Mar. 31, 1998: Ord. 24471 § 1; passed Nov. 21, 1989: Ord. 23350 § 2; passed Feb. 26, 1985: Ord. 21489 § 1; passed Oct. 3, 1978: Ord. 21298 § 2; passed Mar. 21, 1978: Ord. 21232 § 1; passed Dec. 20, 1977: Ord. 19584 § 3; passed May 30, 1972: Ord. 16230; passed Dec. 8, 1958: Ord. 15751 § 3.2; passed Dec. 17, 1956)

## 1.12.091 On-the-job injuries – Belt Line employees.

Any Belt Line employee injured on the job shall elect (1) whether to be reimbursed for medical expense and time loss by the City under this chapter, on a full release basis, or (2) through the provisions of the Federal Railroad Retirement Act, or (3) the Railroad Employers Liability Act. The City, in the event the employee elects to proceed under alternate (2) on demand and proper invoice shall reimburse the Railroad Retirement account for such costs so expended from said account on the employee's behalf. In the event the employee elects to proceed under alternate (3), the City shall be credited with an offset for any such costs expended on behalf of the employee. Any sick leave used under alternates (1) and (2) shall be reinstated to the extent of that credited and accumulated prior to such injury but not to exceed 90 days in total.

(Ord. 18994 § 1; passed Dec. 23, 1969)

## 1.12.095 Health Care and Disability Benefits.

A. Health Care and Disability Coverage.

1. The City shall pay all or such portion of the premiums or expenses for, medical, hospital, vision, long-term disability, and dental coverage for eligible permanent, project, appointive, and temporary pending exam employees and their dependents, as defined by the applicable employee benefit plan or agreement, beginning on the first day of the calendar month following the date of hire, unless the date of hire is also the first working day of the calendar month, in which case benefits would be effective on the date of hire. For temporary employees, the City shall pay all or such portion of the premium or expenses for medical and dental benefits beginning on the first day of the calendar month following 60 days of continuous employment from the date of hire, except for temporary hiring-hall workers for whom benefits are administered through their unions. Employee contributions toward the cost of insurance premiums or benefit expenses shall be by payroll deduction, except where expressly exempted by applicable bargaining agreement or operation of law.

a. If a permanent, project, appointive, or temporary pending exam employee fails to timely enroll in, or properly opt out of, medical coverage within the required enrollment period, the employee will be enrolled in the City's default medical plan. If a temporary employee fails to timely enroll in, or waive, medical coverage, the employee will be determined to have waived coverage.

b. Subject to applicable procedures and legal restrictions, full-time and part-time employees may qualify to opt out of City-provided medical, dental, and/or vision insurance.

c. No City employee or eligible dependent may be insured under more than one City medical, dental, or vision insurance plan.

2. Employees hired into a part-time status after January 1, 1983, shall have the option of electing to enroll in either the medical benefits plan, the dental benefits plan, the vision benefits plan, or all three, with the cost of the coverage elected being prorated on the hours the employee is hired to work (such as three-quarter time, half-time, and so forth). Employees electing coverage under this paragraph shall contribute the cost of elected coverage by payroll deduction. Beginning January 1, 2020, eligible employees hired into a part-time status and working thirty (30) hours per week or more, will make contributions for medical, dental, and vision coverage equal to those of full-time employees.

B. Tacoma Rail – Gap Medical Coverage. The City shall pay for a policy of health insurance, or medical and/or hospital insurance coverage from a health care contractor or insurer furnishing such service to the City for a Tacoma Rail Division employee who retires on or after January 1, 2004, and who, at the time of retirement (a) was employed in the unrepresented, appointive classification of Rail Superintendent, Assistant Rail Superintendent, or Railway Roadmaster, (b) is a member of the Federal Railroad Retirement System, and (c) who, because of lack of age only, cannot qualify for Social Security and Medicare benefits. The coverage to be provided such eligible retiree shall be substantially similar to that provided for active employees. Payments for such coverage may be made only from the time of retirement to the time when the eligible retired employee qualifies or would have qualified for Medicare benefits. In no event shall the granting of this privilege give or grant such eligible retired employee any preferential treatment with reference to the health contracts over and above that of active employees of the City of Tacoma, and such privilege is at all times subject to the ability of the City of Tacoma to negotiate for and obtain said health care coverage.

(Ord. 2827 § 1; passed Nov. 19, 2019: Ord. 28475 § 1; passed Dec. 19, 2017: Ord. 28400 § 1; passed Nov. 29, 2016: Ord. 28273 Ex. A; passed Dec. 16, 2014: Ord. 27495 § 2; passed Jun. 20, 2006)

## 1.12.096 Life Insurance.

The City shall pay 50 percent or more, as budgeted therefor, of the cost of premiums for employee group life insurance covering each eligible permanent, project, appointive, and temporary pending exam employee, officer, and official of the City electing to participate. The minimum group life insurance coverage shall be $5,000; provided, that employees hired into a part-time status after January 1, 1983, electing to participate shall receive group life insurance prorated on the hours hired to

work (such as three-quarter time, half-time, and so forth). Payments for premiums not paid by the City shall be by payroll deduction.

Whenever, as of January 1 and July 1, the insured's annual basic salary exceeds the amount of insurance in force, the insurance coverage for said insured shall be raised to the next highest thousand.

Authority is also extended for an optional supplemental group life insurance plan, the premiums for which shall be the sole responsibility of the participating employee.

(Ord. 27557 § 1; passed Dec. 5, 2006: Ord. 27495 § 3; passed Jun. 20, 2006)

## 1.12.100 Travel, transportation and related expenditures.

The prescribed rates of pay do not include:

A. Travel, transportation, meals, lodging, or other related allowances for authorized trips on official business of the City.

B. Payments made to or on behalf of officers, employees and volunteers for the approved use of personally owned or rented automotive or other transportation equipment and expenses incurred in connection therewith when on official business of the City.

C. Any expenses or expenditures made by the City for any accident insurance or health and welfare benefits for such employees.

The foregoing expenditures as set forth in A, B, and C above, shall be paid directly or by reimbursement in the manner and at such rates or amounts as are now or hereafter prescribed by ordinance, resolution or otherwise in such amounts as may be determined and allowed by the City Manager or the Director of Utilities, as applicable.

Where, with the approval in writing of the department, board or office concerned, an employee or volunteer of the City furnishes his/her own automobile and pays all costs of operation thereof, in connection with the performance of his/ her duties for the City, he/she shall be paid the Internal Revenue Service approved amount per mile for such approved usage. Such payments shall be made monthly and shall be checked against odometer readings. The amount allowed shall not exceed the mileage devoted to business of the City. Cars used on special or occasional trips shall be paid for upon the same basis, and claims therefor shall state the mileage traveled and the places between which the trip was taken; provided, that mileage allowed on any one trip outside a radius of 400 miles from the City of Tacoma shall not exceed the amount of a round trip first class railroad or air-coach fare, whichever is lower, to and from the point of destination; and provided further that no such payment for mileage shall be less than the amount allowable in this section for trips of 400-mile radius. In all cases where any official, employee or volunteer travels by private automobile and claims the amount of allowable railroad or air-coach fare in lieu of automobile expense, the claimant shall be required to certify that the car used in making the trip involved was the personal car of the claimant.

Notwithstanding the provisions above set forth, an employee, with the approval of the Director of Utilities or the City Manager, as the case may be, shall be entitled to be paid at the mileage rate above provided for the actual miles traveled on City business with his/her personal car to places not reasonably accessible by public transportation.

(Ord. 26295 § 2; passed Sept. 15, 1998: Ord. 25645 § 3; passed Dec. 13, 1994: Ord. 25064 § 1; passed Feb. 25, 1992: Ord. 24856 § 2; passed Mar. 5, 1991: Ord. 24405 § l; passed Aug. 15, 1989: Ord. 23873 § 1; passed Jun. 9, 1987: Ord. 23670 § 2; passed Jul. 29, 1986: Ord. 22591 § 1; passed Dec. 22, 1981)

## 1.12.105 Professional Memberships, Dues, Licenses.

The City Manager, Director of Utilities, or his or her designees may approve implementation of such pay and benefit practices within budget limits for payment or reimbursement of an unrepresented employee's actual and necessary expense for memberships, licenses and certificates required for the employee to fulfill an essential job requirement.

(Ord. 27444 § 1; passed Dec. 6, 2005)

## 1.12.110 Other official expenditures.

In addition to the prescribed rates of pay and other allowances provided for in this chapter, officers, employees, and volunteers of the City shall be entitled to the payment of or reimbursement for the following classes of official expenditures:

A. Transportation, lodging, meals, and other related expenditures which may lawfully be incurred by officers, employees, and volunteers of the City when approved by the City Manager or the Director of Utilities, as applicable, within or without the City:

1. For purposes which generally promote, develop, or publicize the City's best interests, including sales promotional and institutional activities of its municipal utilities;

2. For incurred expenditures associated with attendance at sessions of the Washington State Legislature or in connection with appearing before or conferring with any individual, group, or committee of state legislators or other persons at Olympia or elsewhere for the purpose of presenting data, exchanging information, and otherwise consulting on matters of mutual concern in the development of intergovernmental understanding and cooperation, for the proper evaluation of legislative programs affecting the municipalities, and for such other purposes as may promote or tend to promote the best interests and general welfare of the City;

3. For coffee, nonalcoholic beverages, and refreshments of de minimis value at City meetings attended by City officials, employees, and/or the public, at which City business matters are the primary matters of discussion, consistent with the written policies adopted by the City Manager or Director of Utilities, as applicable.

B. The cost of meals lawfully incurred on behalf of or by City personnel within the City or at other normal areas of employment while they are conferring, consulting, or otherwise meeting with non-City specialists, technicians, executives, or others for purposes generally associated with the routine official duties of such personnel where not otherwise covered by other provisions of this chapter.

C. The City shall pay the cost of premiums or fees for:

1. Trip Travel Life insurance covering each employee, officer, and official of the City for an amount not to exceed $100,000 each, payable to the beneficiary named by the insured, while traveling on City business authorized by competent authority. All benefits are subject to the terms and conditions of the applicable policy.

2. Policies of insurance or self-insurance retention insuring the Police Chief and all duly commissioned police officers of the City of Tacoma against false arrest.

3. Policies of insurance or self-insurance retention insuring City employees while driving City vehicles operated in any municipal capacity against liability for bodily injury and property damage resulting from said operation.

4. Policies of insurance or self-insurance retention insuring Fireboat Pilots and relief pilots while operating the City’s fireboat against liability for bodily injury and property damage resulting from said operation.

5. The cost of such additional driver’s license endorsement and examination fees as may be required for City employee drivers of certain types of heavier motor vehicle equipment, as may be specified by the Director, Washington State Department of Motor Vehicles, pursuant to Chapter 20, Laws of 1967, Extraordinary Session.

6. Policies of insurance or self-insurance retention insuring the City against claims arising out of the ownership, maintenance, or use of City-owned facilities and property and including coverage for City employees for claims arising out of their employment by the City.

D. Whenever the qualified appointing authority of the City of Tacoma may determine that in order to secure the services of any person not residing within the Tacoma area as an employee of the City of Tacoma, it is necessary to pay the cost of moving the household goods and personal effects of such person from his or her place of residence to the City of Tacoma upon his or her appointment to City service, and/or to provide temporary lodging expenses not to exceed six months for such person until such person can move his or her place of residence to the City of Tacoma upon his or her appointment to City service, and/or to provide a temporary housing cost supplement to mitigate a significant increase in the cost of comparable housing for such person who moves his or her place of residence to the City of Tacoma upon his or her appointment to City service, such supplement not to exceed 80 percent of the increase in median housing cost and not to exceed three years, then payment of reasonable and necessary moving costs, lodging costs, or housing cost supplement may be made from appropriate available maintenance and operation funds in the City’s annual budget, upon the recommendation of the appointing authority and the approval of such an expenditure by the City Manager, Director of Utilities, or Public Utility Board. An annual report showing the recipients of all benefits granted under this provision shall be submitted to the City Council in the month of December of each year.

E. Whenever the Council finds that in selecting personnel to fill positions in the City of Tacoma requiring special experience and training to qualify for such positions it becomes necessary, in order to insure selection of the most qualified applicant, that applicants for such positions be personally interviewed, and that in certain cases the expense to the City of sending members of boards, commissions, and other officers of the City to various localities for the purpose of conducting such interviews exceeds the cost to the City government of providing that the interviews be had in the City of Tacoma at the City’s expense and that the payment by the City of the necessary travel and subsistence expenses for a limited number of applicants to be brought to the City will result in a saving or expense to the City in the outlay of travel and subsistence expenses or in the time which would be lost by reason of regular officers or employees of the City conducting the interviews elsewhere. The Council

further finds that in such cases the payment by the City of the travel and subsistence expense of applicants requested to come to the City of Tacoma for interview is a proper municipal expense and for a proper municipal purpose.

In order to make a proper determination of the facts in cases where authority is requested to bring in applicants for any position in the City of Tacoma at the City's expense, the City Manager as to the filling of all positions in the general City government, and the Director of Utilities as to the filling of all positions under the jurisdiction of the Department of Public Utilities, be and are hereby authorized to determine the facts, and upon approval by the City Manager or the Director of Utilities, as the case may be, based upon a determination that the payment by the City of the expenses of bringing a limited number of applicants to the City of Tacoma for interview is necessary to make possible the selection of the best available applicant for a position involving special skill and experience to properly discharge the duties thereof, and that the payment of the expense of bringing said applicants to the City is less than the expense and loss to the City in sending its officers, commissions, or boards to conduct said interview elsewhere, and that funds for the payment of such expenses are lawfully available, payment therefor shall be considered as approved by the City Council and shall be paid from the fund to which said expenses are properly chargeable.

F. In addition to the City paying the cost of premiums or fees for general liability insurance as otherwise set forth in this chapter, where the City has acquired insurance coverage on a self-insurance retention basis, in lieu of paying full coverage, premiums, or fees, for policies of general liability insurance insuring the City against claims arising out of the ownership, maintenance, or use of City-owned facilities and property, and including coverage for City employees for claims arising out of their employment by the City, the City may upon timely notice and in appropriate factual situations, subject to the approval of the City Attorney, pay the cost of such claims incurred, and for claims settlement service, as do not exceed the self-insurance coverage limits required in conjunction with the overriding provisions of such policies.

G. In order to encourage a greater number of City employees to use public transportation and, therefore, benefit the City by conserving fuel resources, roads, and parking spaces, the proper officials of the City are authorized to subsidize permanent, project, appointive, temporary pending exam, and temporary City employees' and volunteers' monthly public transportation tokens, passes, and authorized van pools, by paying per month 50 percent of the full price of said vanpools, and up to the full price of public transportation passes, or the IRS tax exempt benefit limit (whichever is less); provided, however, that this shall not apply to commissioned Police Department personnel, effective August 1, 2020. The proper City officials are authorized to provide passes or appropriately reimburse said City employees in order to implement this City employee public transportation subsidy program. Additionally, the proper officials of the City are authorized to provide cash and other in-kind incentives as part of an adopted Commute Trip Program.

H. Whenever the City Manager, the Director of Utilities, or the Public Utility Board determines that, in order to secure or retain key qualified personnel possessing specialized technical or professional skills for unrepresented positions, it is necessary to offer said individuals additional compensation, benefits, or both, then the City Manager, the Director of Utilities, and the Public Utility Board shall each have discretion to authorize the payment of up to an annual total of $100,000 in additional compensation, benefits, or both. Such compensation, benefits, or both under this provision of this paragraph shall be limited to a maximum of $15,000 per employee per year; provided, that payment can lawfully be made from funds appropriated in the current biennial budget of the employing department. In addition, the City Council and Public Utility Board shall each have discretion to authorize the payment of severance benefits associated with an employment agreement in the event of termination without cause, in order to secure or retain the City Manager and Director of Utilities positions up to an amount corresponding to one year of salary. If the Public Utility Board determines that payment of severance benefits should be authorized as part of an agreement to secure or retain the services of the Director of Utilities, then such agreement shall be initiated by the Public Utility Board, subject to approval by the City Council. All agreements authorizing severance benefits shall include, at a minimum, language that prohibits payment of such benefits when the event of termination is the result of gross negligence, intentional acts which are not in the best interests of the City or interfere with the employee's ability to perform the duties of the position, acceptance of another position while still employed with the City, or conviction of a gross misdemeanor or felony offense. An annual report showing the recipients of all severance, compensation, and benefits granted under this provision shall be submitted to the City Council in the month of December of each year.

I. Whenever the City Manager or the Director of Utilities identifies positions for elimination as part of departmental reorganization, streamlining, elimination of duplication, layoff, or other such efforts, the City Manager or the Director of Utilities also shall each have discretion to authorize the payment of severance benefits or retirement incentives up to the limits of their delegated contracting authority; provided, that payment can lawfully be made from funds appropriated in the current biennial budget of the employing department. An annual report showing the recipients of all severance benefits and retirement incentives granted under this provision shall be submitted to the City Council in the month of December of each year.

J. The City Council may, as part of an employment agreement, authorize payment of a car allowance for the City Manager.

(Ord. 28681 Ex. A; passed Jul. 14, 2020: Ord. 28497 Ex. A; passed Mar. 27, 2018: Ord. 28037 § 1; passed Nov. 22, 2011: Ord. 27636 Ex. A; passed Jul. 31, 2007: Ord. 27495 § 1; passed Jun. 20, 2005: Ord. 27301 § 1; passed Dec. 7, 2004:

Ord. 27170 § 2; passed Dec. 9, 2003: Ord. 27033 § 1; passed Dec. 17, 2002: Ord. 26874 § 1; passed Nov. 13, 2001: Ord. 26797 § 1; passed Apr. 3, 2001: Ord. 26761 § 2; passed Dec. 19, 2000: Ord. 26450 § 1; passed Jun. 22, 1999: Ord. 26379 § 1; passed Mar. 16, 1999: Ord. 26209 § 2; passed Apr. 14, 1998: Ord. 26182 § 2; passed Dec. 16, 1997: Ord. 26181 § 1; passed Dec. 16, 1997: Ord. 26116 § 1; passed Aug. 19, 1997: Ord. 25871 § 1; passed Mar. 19, 1996: Ord. 25645 § 4; passed Dec. 13, 1994: Ord. 25620 § 1; passed Nov. 1, 1994: Ord. 25445 § 1; passed Feb. 22, 1994: Ord. 25316 § 3; passed Jun. 8, 1993: Ord. 25133 § 1; passed Jun. 30, 1992: Ord. 25064 § 2; passed Feb. 25, 1992: Ord. 24935 § 1; passed Jun. 25, 1991: Ord. 24856 § 3; passed Mar. 5, 1991: Ord. 24855 § 1; passed Mar. 5, 1991: Ord. 24834 § 1; passed Feb. 12, 1991: Ord. 24722 § 1; passed Sept. 25, 1990: Ord. 24330 § 1; passed Apr. 4, 1989: Ord. 24263 § 1; passed Dec. 20, 1988: Ord. 23350 § 3; passed Feb. 26, 1985: Ord. 23111 § 4; passed Feb. 7, 1984: Ord. 22833 § 1; passed Dec. 21, 1982: Ord. 21565 § 1; passed Dec. 19, 1978: Ord. 20937 § 2; passed Dec. 21, 1976: Ord. 20127 § 1; passed May 28, 1974: Ord. 19584 § 4; passed May 30, 1972: Ord. 19483 § 2; passed Dec. 28, 1971: Ord. 19000; passed Dec. 30, 1969: Ord. 18697 § 6; passed Dec. 26, 1968: Ord. 18548 § 2; passed Apr. 23, 1968: Ord. 17911 § 2; passed Aug. 24, 1965: Ord. 17885 § 1; passed Jul. 20, 1965: Ord. 16723 § 1; passed Jan. 24, 1961)

## 1.12.115 Deferred compensation.

A. The City will match the deferred compensation contribution of police personnel in the classes of Police Officer, Police Detective, and Police Sergeant to a maximum City contribution of $192 per pay period.

B. The City will match the deferred compensation contribution of fire personnel represented by Firefighters' Union, Local 31, up to a maximum of $192 per pay period.

C. The City will match the deferred compensation of fire and police personnel in the classifications of Assistant Fire Chief, Deputy Fire Chief, and Assistant Police Chief, up to a maximum contribution of $217 per pay period. Beginning January 1, 2017, the City will change from a match to a contribution to the deferred compensation of fire and police personnel in the classifications of Assistant Fire Chief, Deputy Fire Chief, and Assistant Police Chief, of $217 per pay period.

D. The City will match the deferred compensation of police personnel in the classifications of Police Captain and Police Lieutenant up to a maximum contribution of $217 per pay period.

E. In order to provide financial incentive to secure or retain key management personnel in unrepresented positions, the City may contribute amounts as employer contributions to the City's Internal Revenue Code ("IRC") Section 457(f)(1) Deferred Compensation Plan, or may contribute amounts to the City's IRC Section 457 Deferred Compensation Plan, except as otherwise provided in TMC 1.12.115(E) or 1.12.640. Any such contributions to the IRC Section 457 Plan will comply with all applicable provisions of IRC Section 457. The terms and conditions applicable to contributions to the Section 457(f)(1) Deferred Compensation Plan shall be as set forth in the Plan and the applicable deferral agreement with the employee. All IRC Section 457 or Section 457(f)(1) contributions benefiting the City Manager or the Director of Utilities shall be approved by the City Council or the Public Utilities Board, respectively, and shall be subject to applicable IRC limits. Any IRC Section 457 or IRC Section 457(f)(1) contributions benefiting any other unrepresented key management personnel of the City of Tacoma shall be at the discretion of the City Manager or the Director of Utilities, subject to their delegated contracting limits and applicable IRC limits. An annual report showing the contributions granted under this provision shall be submitted to the City Council in the month of December of each year.

F. The City will match the deferred compensation contribution of Rail personnel covered by the Federal Railroad Retirement Act in the classifications of Administrative Secretary (CSC 0023) to a maximum City contribution of 7.38 percent of base salary; of Utilities Director, Deputy, Rail Superintendent (CSC 0830) to a maximum City contribution of 9.0 percent of base salary; and Railway Roadmaster (CSC 7126) to a maximum City contribution of 7.26 percent of the base salary; provided, however, that as to any personnel hired after the effective date of the ordinance codified in this section, the City will match the deferred compensation contribution of Rail personnel in classifications that are unrepresented, appointive, and covered by the Federal Railroad Retirement Act to a maximum contribution of 3 percent of the base salary for such positions; and, provided further, that all contributions are subject to the limitations of the IRC maximum contribution requirements for Section 457 plans.

G. The City will match the deferred compensation contribution of Rail personnel in the classification of Railway Yardmaster (CSC 7115) based on criteria as set forth in the collective bargaining agreement between the City of Tacoma and the United Transportation Union, Yardmasters Unit. The amount of the deferred compensation match will be determined by the financial performance of Tacoma Rail in the prior year. If a negative net income is posted, the employer match will be an amount up to 2 percent of base salary. If a positive net income is posted, the employer match will be an amount of up to 3 percent of base salary.

H. The City will match the deferred compensation contributions of Rail personnel in the classification of Railway Conductor (CSC 7106) as set forth in the collective bargaining agreement between the City of Tacoma and the Sheet Metal, Air, Rail and Transportation Union, Transportation Division (SMART-TD).

I. The City will match the deferred compensation contributions of Rail personnel in the classification of Railway Yard Clerk (CSC 7101) as set forth in the collective bargaining agreement between the City of Tacoma and the District Lodge #160, of the International Association of Machinists and Aerospace Workers, Yard Clerk Unit.

(Ord. 28515 § 1; passed Jun. 26, 2018: Ord. 28485 § 1; passed Jan. 9, 2018: Ord. 28380 § 1; passed Oct. 11, 2016: Ord. 28291 § 1; passed Apr. 7, 2015: Ord. 28162 § 2; passed Jul. 30, 2013: Ord. 27636 Ex. A; passed Jul. 31, 2007: Ord. 27571 § 1; passed Dec. 19, 2006: Ord. 27557 § 2; passed Dec. 5, 2006: Ord. 27422 § 1; passed Oct. 25, 2005: Ord. 27417 § 1; passed Oct. 11, 2005: Ord. 27383 § 1; passed Jul. 19, 2005: Ord. 27204 § 1; passed Mar. 2, 2004: Ord. 27075 § 2; passed Apr. 1, 2003: Ord. 26963 § 1; passed Jun. 25, 2002: Ord. 26912 § 1; passed Dec. 18, 2001: Ord. 26815 § 1; passed Jun. 5, 2001: Ord. 26609 § 1; passed Apr. 4, 2000: Ord. 26345 § 2; passed Dec. 15, 1998: Ord. 26295 § 3; passed Sept. 15, 1998: Ord. 26182 § 3; passed Dec. 16, 1997: Ord. 26181 § 2; passed Dec. 16, 1997: Ord. 26180 § 1; passed Dec. 16, 1997: Ord. 26035 § 1; passed Feb. 25, 1997: Ord. 25645 § 5; passed Dec. 13, 1994: Ord. 25620 § 2; passed Nov. 1, 1994: Ord. 25445 § 2; passed Feb. 22, 1994: Ord. 25133 § 2; passed Jun. 30, 1992: Ord. 24855 § 3; passed Mar. 5, 1991)

## 1.12.116 Supplemental benefit plans.

A. Union Sponsored Plans. The City of Tacoma may contribute funds to benefit and supplemental pension plans, if otherwise permitted under the law, including, but not limited to, union-sponsored pension plans, in accordance with the terms of any duly signed and authorized collective bargaining agreement or addendum thereto between the City of Tacoma and the recognized bargaining representatives of any City employees, or in accordance with the terms of any pay and compensation ordinance approved by the City Council on behalf of unrepresented employees.

B. Defined Contribution Plan. In order to provide a financial incentive to secure or retain key management personnel in unrepresented positions, the City may establish and contribute amounts as employer contributions to an Internal Revenue Code Section 401 defined contribution plan on behalf of said employees. Any such defined contribution plan will comply with all applicable provisions of the Internal Revenue Code. The terms and conditions of the defined contribution plan shall be approved by the City Council. Defined contribution plan contributions benefiting the City Manager or the Director of Public Utilities shall be approved by the City Council or the Public Utilities Board, respectively, and shall be subject to applicable IRC limits. Defined contribution plan contributions benefiting any other unrepresented key management personnel of the City of Tacoma shall be at the discretion of the City Manager or the Director of Public Utilities, subject to their delegated contracting limits and applicable IRC limits. An annual report showing the contributions granted under this provision shall be submitted to the City Council in the month of December of each year.

C. Post-Employment Health Savings. The City of Tacoma may establish a plan, to the extent permitted by law, to provide a means for employees to establish a savings plan to fund eligible post-employment health expenses. Said plan may provide for funding by employer contributions when pursuant to a duly signed and authorized collective bargaining agreement, or by employee elected contributions. Any established post-employment health savings plan shall comply with applicable rules and/or provisions of the Internal Revenue Service. The terms and conditions of the post-employment health savings plan shall be approved by the City Council.

(Ord. 27636 Ex. A; passed Jul. 31, 2007: Ord. 27301 § 2; passed Dec. 7, 2004: Ord. 26912 § 2; passed Dec. 18, 2001: Ord. 26379 § 2; passed Mar. 16, 1999: Ord. 25808 § 1; passed Dec. 12, 1995)

## 1.12.117 IRC Section 125 Flexible Benefits Plan.

The City will implement an Internal Revenue Code Section 125 flexible benefits plan. The City shall pay such per participant administrative fees as may be incurred in administering the Plan. Regular part-time employees who are not enrolled in the medical benefits plan may enroll in the flexible spending option of the flexible benefits plan.

At the end of each year, any unspent moneys in employee flexible benefits accounts will be forfeited as provided by the plan and the forfeited monies shall revert to the Labor-Management Employee Trust Fund established by Ordinance No. 24153.

(Ord. 28127 § 1; passed Jan. 29, 2013: Ord. 27495 § 4; passed Jun. 20, 2006)

## 1.12.120 Maintenance allowance.

Allowances may be given employees in the form of board, lodging, utilities or other subsistence services in addition to the established total rates when such employees are required to temporarily work at locations distant from their regular place of employment and when in the opinion of the City Manager or the Director of Utilities it is in the best interest of the City to make such payments.

(Ord. 15751 § 3.4; passed Dec. 17, 1956)

### 1.12.125 Medical/dental insurance bill audit – Employee cash incentives.

Employees shall be eligible for cash incentives when their audit of their Pierce County Medical Bureau or Washington Dental Service insurance bills result in a reduction of that bill which would otherwise be paid by the City-provided insurance plan. Such cash incentives shall be subject to the following conditions and procedures:

A. Upon receipt of their bill, the employee shall review the bill to insure that the charges reflect the services received, and are appropriately paid.

B. Upon finding a billing error, the employee shall promptly notify the provider and obtain a corrected billing.

C. Upon receipt of the corrected billing, the employee shall submit copies of the original billing and the corrected bill to the Health Care Manager.

D. The Health Care Manager shall verify that a correction as a result of the employee action has been made. The Health Care Manager shall be responsible for the eligibility for, the verification of the amount corrected, and the determination of the award pursuant to the criteria herein.

E. Incentive awards shall be equal to 25 percent of the corrected amount. However, awards shall not be issued for cumulative, per calendar year corrections of less than $100.00. The maximum incentive award shall be $1,000.00 per calendar year. Bills that are corrected by the provider without the employee's involvement shall not be eligible for an award.

| **Cumulative** | |
|---|---|
| **Per Year Correction** | **Amount of Award** |
| Less than $100 | $0 |
| from $100 to $4,000 | 25% of the corrected amount |
| more than $4,000 | $1,000 |

F. Incentive awards shall be paid from the Health Care Trust Fund and are contingent on unencumbered funds in that account.

(Ord. 23670 § 8; passed Jul. 29, 1986)

### 1.12.130 Allowance for employees at specified locations.

An employee employed in such position as may be designated by the Director of Utilities or the City Manager and who is permanently assigned and required to live and work at a specific location as the Director of Utilities or the City Manager may designate, may receive, in addition to his/her regular compensation, any or all of the following: a temporary relocation allowance, a housing allowance or a house and utilities without cost to the employee. The amount of and the necessity for any of the named allowances shall be determined and fixed by the Director of Utilities or the City Manager.

(Ord. 22434 § 1; passed Jun. 9, 1981)

### 1.12.133 Longevity pay.

A. Certain Police and Fire Personnel. Police personnel in the classes of Police Patrol Officer, Police Detective, Police Sergeant, Police Lieutenant, Police Captain, Sergeant of Identification, Lieutenant of Identification, and Jail Matron shall be eligible to qualify for longevity pay. Fire personnel in the classes of Fire Fighter, Fire Fighter Paramedic, Fire Lieutenant, Fire Captain, Fire Battalion Chief, Fire Boat Pilot, Fire Inspector, Deputy Fire Marshal, Fire Lieutenant Dispatcher, Fire Captain Dispatcher, and Deputy Harbor Master shall be eligible to qualify for longevity pay.

An eligible employee shall receive additional compensation based on a percentage of the top step for 4001 Fire Fighter and 4202 Police Patrol Officer as set forth in the following schedule:

| **Completed Years of Aggregate Service** | **Percentage** |
|---|---|
| Completion of years 0, 1, 2, 3, 4 | 0% |
| Completion of years 5, 6, 7, 8, 9 | 2% |
| Completion of years 10, 11, 12, 13, 14 | 4% |
| Completion of years 15, 16, 17, 18, 19 | 6% |
| Completion of 20 years or more | 8% |

Eligibility for longevity pay shall be determined by the length of aggregate service in the respective department as a commissioned officer in the classes identified above.

The applicable percentage shall be determined as of January 1 of each calendar year and shall be based on the percentage applicable to the number of years of aggregate service[17] the employee will complete within that calendar year. For example, on January 1, an employee who will complete five years of aggregate service with the City within that calendar year will begin to receive longevity pay at a rate of 2 percent of eligible compensation per pay period.

B. Effective January 1, 1996, longevity pay shall be provided for police personnel in the classifications of Police Patrol Officer, Police Sergeant, Police Lieutenant, Police Captain and Police Detective; and fire personnel in the classifications of Fire Fighter, Fire Fighter Paramedic, Fire Lieutenant, Fire Captain, Fire Battalion Chief, Fire Boat Pilot, Fire Inspector, Deputy Fire Marshal, Fire Lieutenant Dispatcher, Fire Captain Dispatcher and Deputy Harbor Master according to the following schedule:

| **Completed Years of Aggregate Service** | **Percentage** |
|---|---|
| Completion of years 0, 1, 2, 3, 4 | 0% |
| Completion of years 5, 6, 7, 8, 9 | 2% |
| Completion of years 10, 11, 12, 13, 14 | 4% |
| Completion of years 15, 16, 17, 18 19 | 6% |
| Completion of 20 years or more | 8% |

Eligibility for longevity pay shall be determined by the length of aggregate service in the respective department as a commissioned officer or employee in the classes identified above. The applicable percentage rate shall be determined as of January 1 of each calendar year and shall be determined in the manner set forth in subsection A of this section.

C. Other City Personnel. Regular, probationary and appointive employees who through union agreement have elected the option of longevity pay or unrepresented employees who have been authorized to receive longevity pay by City Council action, shall receive additional compensation based on a percentage of their base rate of pay received for the class in which they are currently being paid. No application of rate may be used, in computing longevity pay.

An eligible employee shall receive longevity pay in accordance with the following schedule:

| **Completed Years of Aggregate Service** | **Percentage** |
|---|---|
| Completion of years 0, 1, 2, 3, 4 | 0% |
| Completion of years 5, 6, 7, 8, 9 | 1% |
| Completion of years 10, 11, 12, 13, 14 | 2% |
| Completion of years 15, 16, 17, 18, 19 | 3% |
| Completion of 20 years or more | 4% |

Eligibility for longevity pay shall be determined by the length of aggregate service as an employee in a classification eligible under this section. The applicable percentage rate shall be determined as of January 1 of each calendar year and shall be determined in the manner set forth in subsection A of this section.

Provided, however, that when longevity pay is first negotiated for a bargaining unit, its effective date shall be that date stipulated in the union agreement as a result of collective bargaining negotiations.

(Ord. 27315 § 1; passed Feb. 15, 2005: Ord. 27301 § 3; passed Dec. 7, 2004: Ord. 26180 § 2; passed Dec. 16, 1997: Ord. 25645 § 6; passed Dec. 13, 1994: Ord. 25445 § 3; passed Feb. 22, 1994: Ord. 24855 § 2; passed Mar. 5, 1991: Ord. 23446 § 1; passed Aug. 6, 1985: Ord. 23111 § 5; passed Feb. 7, 1984: Ord. 22567 § 1; passed Nov. 24, 1981: Ord. 22052 § 1; passed Apr. 22, 1980: Ord. 21711 § 1; passed May 22, 1979: Ord. 21565 § 2; passed Dec. 19, 1978: Ord. 21232 § 3; passed Dec. 20, 1977: Ord. 20938 § 1; passed Dec. 21, 1976: Ord. 20937 § 3; passed Dec. 21, 1976: Ord. 20698 § 1; passed Apr. 13, 1976: Ord. 20619 § 1; passed Dec. 16, 1975: Ord. 20464 § 1; passed Jun. 24, 1975: Ord. 20127 § 2; passed May 28, 1974: Ord. 20026 § l; passed Dec. 26, 1973: Ord. 19584 § 6; passed May 30, 1972: Ord. 19401 § 1; passed Jul. 20, 1971:

[17] See TMC 1.12.075.A for the definition of "aggregate service."

Ord. 19364 § 1; passed Jun. 8, 1971: Ord. 19272 § 2; passed Dec. 29, 1970: Ord. 19023 § 1; passed Feb. 10, 1970: Ord. 19000 § 2; passed Dec. 30, 1969)

### 1.12.135 Clothing allowance.

A. Fire Service Personnel in the classes of Fire Inspector, Deputy Fire Marshal, Fire Battalion Chief, Fire Captain Dispatcher, and Deputy Harbor Master, when not issued nor required to wear a uniform in the performance of their assigned duties, shall be paid 1 percent of base pay per full four-month period so assigned. Such payments shall be paid no later than 15 days following each full four-month period so assigned. The periods shall be: January through April, May through August, and September through December. Payment of the clothing allowance shall be made in the last period of each four-month period. An employee working less than the full four-month period shall receive a prorated amount based on each full pay period so assigned. Payment shall be in lieu of an issued uniform. Such employee must be a full-time employee at the time of such payment of clothing allowance.

B. The City shall provide uniforms for all commissioned police officers where uniforms are required. The City shall provide all police equipment for uniformed and non-uniformed commissioned officers.

C. Effective January 1, 2009, employees in the classifications of Police Officer, Police Sergeant, and Police Detective shall receive a single clothing and cleaning allowance in the amount of $690 per employee per year. The allowance shall be paid in one sum on the pay period that includes December 1. Employees hired after January 1 will have the clothing allowance prorated based on the number of months employed in the calendar year.

D. Fire Alarm Electricians are entitled to new line boots (White or equal quality), as needed, not to exceed one new pair every two years. Signal and Lighting Electricians, who climb, shall be entitled to line boots, as needed, not to exceed one new pair every three years. To qualify for boots, an employee in either classification must have completed two consecutive years of service with the City.

E. Senior Line Electricians, Line Electricians, and Apprentice Line Electricians (when in Step 1 and upon graduation from the Apprentice Program) are entitled to one pair of line repairer boots (White or equal quality) every 24 months. Senior Line Electricians and Line Electricians, who have completed two consecutive years of service as a Senior Line Electrician or Line Electrician, are entitled to one pair of such boots every 24 months.

F. Senior Line Clearance Tree Trimmers and Line Clearance Tree Trimmers are entitled to one pair of line repairer boots (White or equal quality) every 36 months upon completion of three consecutive years of service as a Senior Line Clearance Tree Trimmer or Line Clearance Tree Trimmer.

G. Electrical Workers enrolled in the Line Clearance Tree Trimmer Apprenticeship Program are entitled to one pair of line repairer boots (White or equal quality) upon entering the Line Clearance Tree Trimmer Apprenticeship Program and every 36 *-months thereafter, assuming successful graduation from the program.

H. Employees shall be eligible for reimbursement or allowance for the purchase of clothing, tools, and/or approved safety footwear or payment of fees, pursuant to applicable collective bargaining agreements.

I. Employees shall be provided items of work clothing pursuant to applicable collective bargaining agreements.

(Ord. 28627 § 2; passed Nov. 19, 2019: Ord. 27774 § 1; passed Dec. 16, 2008: Ord. 27622 § 1; passed Jun. 12, 2007: Ord. 27557 § 3; passed Dec. 5, 2006: Ord. 27422 § 2; passed Oct. 25, 2005: Ord. 27392 § 1; passed Jul. 26, 2005: Ord. 27384 § 1; passed Jul. 19, 2005: Ord. 27204 § 2; passed Mar. 2, 2004: Ord. 27170 § 3; passed Dec. 9, 2003: Ord. 26815 § 2; passed Jun. 5, 2001: Ord. 26210 § 1; passed Mar. 24, 1998: Ord. 26181 § 3; passed Dec. 16, 1997: Ord. 25815 § 1; passed Jan. 9, 1996: Ord. 25752 § 1(A); passed Aug. 29, 1995: Ord. 25737 § 1(C); passed Jul. 18, 1995: Ord. 25703 §1; passed May 9, 1995: Ord. 25665 § 1; passed Feb. 7, 1995: Ord. 25645 § 7; passed Dec. 13, 1994: Ord. 25445 § 4; passed Feb. 22, 1994: Ord. 24023 § 1; passed Jan. 26, 1988: Ord. 23835 § 1; passed May 5, 1987: Ord. 23446 § 2; passed Aug. 6, 1985: Ord. 23324 § 1; passed Jan. 8, 1985: Ord. 22947 § 1; passed Jun. 28, 1983: Ord. 22847 § 1; passed Dec. 28, 1982: Ord. 22624 § 1; passed Jan. 26, 1982: Ord. 22567 § 2; passed Nov. 24, 1981: Ord. 21933 § 1; passed Dec. 18, 1979: Ord. 21565 § 3; passed Dec. 19, 1978: Ord. 20698 § 2; passed Apr. 13, 1976: Ord. 20464 § 2; passed Jun. 24, 1975: Ord. 20237 § 1; passed Oct. 22, 1974: Ord. 20026 § 2; passed Dec. 26, 1973: Ord. 19272 § 3; passed Dec. 29, 1970: Ord. 19000 § 3; passed Dec. 30, 1969: Ord. 16940 § 2; passed Dec. 19, 1961)

### 1.12.136 Education attainment pay. *Repealed by Ord. 26450.*

(Ord. 26450 § 3; passed Jun. 22, 1999: Ord. 26450 § 3; passed Jun. 22, 1999: Ord. 26035 § 2; passed Feb. 25, 1997)

### 1.12.137 Shooting pay.

Tacoma Police Union #6, IUPA members who attend and satisfactorily complete spring and fall firearms training shall receive $120.00, to be paid annually on the first pay period in December of each year. To receive this compensation, members must attend spring and fall training, as scheduled by Department Special Order, unless excused by their Division Commander for exigent circumstances.

(Ord. 25827 § 1; passed Jan. 23, 1996: Ord. 22847 § 2; passed Dec. 28, 1982: Ord. 22575 § 3; passed Nov. 24, 1981: Ord. 21565 § 4; passed Dec. 19, 1978: Ord. 21232 § 4; passed Dec. 20, 1977: Ord. 20937 § 4; passed Dec. 21, 1976: Ord. 20464 § 3; passed Jun. 24, 1975: Ord. 20026 § 3; passed Dec. 26, 1973: Ord. 19584 § 7; passed May 30, 1972: Ord. 18481 § 1; passed Jan. 23, 1968: Ord. 17974 § 5; passed Dec. 7, 1965)

### 1.12.140 Compensation of employees other than full-time regular employees.

The following rules shall apply to the compensation and employee allowances of part-time, temporary and emergency personnel, and construction workers:

A. All such workers shall be paid to the extent practicable at the entrance rates provided within the overall Compensation Plan for the type of work for which they are employed; provided, however, that such skilled craftsmen such as painters, carpenters and plumbers who are recruited from a union hiring hall and employed on temporary work shall be paid at the prevailing construction rates; provided further, that such skilled craftsmen above referred to shall receive coverage under the State Unemployment Compensation Act in addition to the usual City fringe benefits accorded to temporary employees.

B. For permanent, probationary, project, temporary pending exam, or appointive part-time personnel who are regularly employed, vacation and sick leave, or personal time off, if applicable, shall be based on regular hours in a paid status with the hours accumulating for the total calendar year. For every 80 hours in a paid status, employees shall earn vacation and sick leave as outlined in Sections 1.12.220 and 1.12.230, or, if applicable, shall earn personal time off as outlined in Section 1.12.248; provided, however, that no part-time employee shall accumulate more days vacation and sick leave, or personal time off, than a permanent full-time employee. Such part-time employees shall be entitled to holidays with pay provided they are in a paid status on both the regular scheduled workday before and the workday after the holiday. When such employees are required to work on an established holiday they shall be compensated in the manner provided for permanent full-time employees under the provisions of Section 1.12.200.

C. Temporary personnel (who are not regular employees) shall not be entitled to vacation, Personal Time Off, or holidays with pay, except as hereafter provided:

1. That when such employees are required to work on an established holiday they shall be compensated for such work in cash at the straight time, time-and-one-half or double-time rate in the manner provided for regular full-time employees under the provisions of Section 1.12.200.

2. In the event an employee on a temporary appointment receives a permanent appointment, all continuous temporary employment shall be included in the computation for vacation and/or Personal Time Off, as applicable, in the same manner as for regular employees.

D. Temporary employees engaged in detached or independent construction or maintenance work as provided in Sections 1.12.150 and 1.24.720 are designated as a distinct class or group for which the City has elected, pursuant to Ordinance No. 14247, voluntary coverage under the State Unemployment Compensation Act through agreements entered into with the State of Washington as authorized by RCW 50.04.200.

E. After six months of continuous service, temporary employees shall be eligible for holidays with pay as provided in Section 1.12.200.

F. Emergency personnel and construction workers (who are not regular employees) shall not be entitled to vacation, Personal Time Off, sick leave benefits, or holidays with pay, except as hereafter provided:

1. That when such employees are required to work on an established holiday they shall be compensated for such work in cash at the straight time, time-and-one-half or double-time rate in the manner provided for regular full-time employees under the provisions of Section 1.12.200.

(Ord. 28400 § 2; passed Nov. 29, 2016: Ord. 27301 § 4; passed Dec. 7, 2004: Ord. 26209 § 3; passed Apr. 14, 1998: Ord. 23350 § 4; passed Feb. 26, 1985: Ord. 23111 § 6; passed Feb. 7, 1984: Ord. 22833 § 2; passed Dec. 21, 1982: Ord. 22269 § 1; passed Dec. 16, 1980: Ord. 21565 § 5; passed Dec. 19, 1978: Ord. 20954 § 1; passed Dec. 28, 1976: Ord. 20233 § 2; passed Oct. 15, 1974: Ord. 20026 § 4; passed Dec. 26, 1973: Ord. 19729 § 1; passed Dec. 1, 1972: Ord. 19584 § 8; passed May 30, 1972: Ord. 19272 § 4; passed Dec. 29, 1970: Ord. 17838 § 1; passed May 11, 1965: Ord. 17503; passed Dec. 10, 1963: Ord. 17227; passed Dec. 18, 1962: Ord. 16683 § 1; passed Dec. 6, 1960)

### 1.12.150 Compensation of construction workers who are not regular employees.

Labor and crafts employees who are not regular employees and who are hired on a temporary basis, in accordance with the personnel rules, for projects designated by ordinance or resolution of the Council or resolution of the Public Utility Board as temporary may be paid at the prevailing construction rates and the conditions thereto. The conditions thereto shall be social security, unemployment compensation, and if deemed necessary, health and welfare and pension payments.

(Ord. 15995; passed Dec. 16, 1957: Ord. 15751 § 3.7; passed Dec. 17, 1956)

### 1.12.155 Compensation of employees on major independent construction and government aid projects.

Employees who are not regular employees and who are hired on a temporary basis in accordance with the provisions of Sections 1.24.980 through 1.24.986, inclusive, of the Tacoma Municipal Code or Section 6.1(h) of the City Charter may be paid as provided in the ordinance or resolution establishing said projects at the rates provided for similar classifications in the salary range codes otherwise set forth in this chapter or, if no such classifications exist, then at the prevailing rates for similar private employment, in which event the rates shall be set forth in said ordinances or resolutions. In addition to such compensation certain fringe benefits may be authorized, including social security, unemployment compensation, sickness insurance, vacation and sick leave, holidays and worker's compensation; provided, that retirement benefits shall be in accordance with the Retirement Code, Chapter 1.30 herein.

(Ord. 25955 § 43; passed Sept. 24, 1996: Ord. 24952 § 1; passed Jul. 30, 1991: Ord. 19642 § 1; passed Jul. 1, 1972: Ord. 19434 § 1; passed Aug. 24, 1971: Ord. 18773 § 1; passed Mar. 25, 1969: Ord. 16560 § 1; passed May 2, 1960)

### 1.12.156 Compensation of employees who are hired on an event basis.

Employees who are not regular employees and who are hired for not more than 40 hours per pay period on an event basis shall be covered by this plan only where specific provision is made herein.

(Ord. 22591 § 2; passed Dec. 22, 1981)

### 1.12.170 Work 75 feet above ground.

All employees when working 75 feet or higher above ground on poles, trees, towers or other structures, shall be paid at the straight-time rate in addition to their regular pay for the time worked; provided, however, any combination of such rates under any circumstances shall not be more than three times the employee's regular straight-time rate; provided further, that this provision shall not apply to employees when working on such towers or structures when, in the opinion of the City Manager or the Director of Utilities, as the case may be, no exceptional hazard exists.

(Ord. 17227 § 2; passed Dec. 18, 1962: Ord. 16317; passed Mar. 30, 1959: Ord. 15751 § 3.9; passed Dec. 17, 1956)

### 1.12.180 Standby pay.

Employees shall be eligible for standby pay pursuant to applicable collective bargaining agreements when assigned as a member of a standby crew for possible call to work in the event of an emergency. Non-represented employees may be eligible for standby pay of $3 per hour when assigned and approved by a Department Director. Exempt employees (overtime Category D or E) are not eligible for standby pay unless such pay is provided for in a collective bargaining agreement or the department has received prior written approval from the Human Resources Director, based on documented, critical business need.

(Ord. 27821 Ex. A; passed Jul. 28, 2009: Ord. 27805 § 1; passed Jun. 2, 2009: Ord. 27797 § 1; passed May 5, 2009: Ord. 27033 § 2; passed Dec. 17, 2002: Ord. 25737 § 4; passed Jul. 18, 1995: Ord. 25645 § 8; passed Dec. 13, 1994: Ord. 25445 § 5; passed Feb. 22, 1994: Ord. 23911 § 1; passed Aug. 4, 1987; Ord. 23111 § 8; passed Feb. 7, 1984: Ord. 22076 § 1; passed May 6, 1980: Ord. 21993 § 1; passed Feb. 26, 1980: Ord. 21711 § 2; passed May 22, 1979: Ord. 21565 § 6; passed Dec. 19, 1979: Ord. 21442 § 1; passed Aug. 22, 1978: Ord. 20362 § 1; passed Mar. 11, 1975: Ord. 20233 § 3; passed Oct. 15, 1974: Ord. 19334 § 1; passed Apr. 20, 1971: Ord. 17503 § 2; passed Dec. 10, 1963: Ord. 16454 §§ 3, 12; passed Dec. 7, 1959)

### 1.12.190 Overtime for preparation of equipment.

Employees working in the following classes when required to report 4/10 of an hour early to prepare their equipment shall be compensated for 4/10 of an hour additionally at the overtime rate:

5256 Line equipment operator

5020 Truck driver

(Ord. 22703 § 1; passed May 25, 1982: Ord. 19584 § 9; passed May 30, 1972: Ord. 15751 § 3.11; passed Dec. 17, 1956)

### 1.12.195 Meal allowance.

Employees shall be eligible for meal allowance pursuant to applicable collective bargaining agreements; provided, nothing in this section shall be deemed to rescind current meal allowance practices for nonrepresented employees.

(Ord. 25737 § 5; passed Jul. 18, 1995)

### 1.12.197 Miscellaneous compensation.

A. The City Council may, upon the recommendation of the Human Resources Director to the City Manager and/or Director of Utilities, authorize lump sum payments to employees in lieu of cost-of-living increases, market increases, or other wage adjustments.

B. Employees shall also be entitled to additional compensation from merchants or businesses but limited to discounts available to an individual as a member of an employee group, organization or similar broad-based group.

(Ord. 28203 § 7; passed Feb. 4, 2014: Ord. 25779 § 1; passed Oct. 31, 1995)

## LEAVES OF ABSENCE

### 1.12.200 Holidays with pay.

A. Holidays.

1. The following are holidays for all full-time or part-time regular, probationary, project, temporary pending exam, or appointive employees of the City, except for certain employees of the Tacoma Belt Line Railway, as defined in Section 1.12.210, who are not eligible for holiday pay. Part-time employees shall receive holiday pay prorated based on the hours that he or she was hired to work. Such holidays are in conformance with the state of Washington as prescribed by RCW 1.16.050:

New Year's Day (January 1)

Martin Luther King Day (3rd Monday in January)

Presidents' Day (3rd Monday in February)

Memorial Day (last Monday in May)

Fourth of July (July 4)

Labor Day (1st Monday in September)

Veterans Day (November 11)

Thanksgiving Day (4th Thursday in November)

The Day Immediately Following Thanksgiving Day

Christmas Day (December 25)

2. Employees shall receive a total of two paid floating holidays, in addition to those specified above, per calendar year, said days to be mutually agreed upon by employee and employer. To be eligible for said floating holidays, an employee must have been, or be scheduled to be, continuously employed by the City for more than four months as a full-time or part-time regular, probationary, project, temporary pending exam, or appointive employee during the calendar year of entitlement. Part-time employees shall receive floating holiday pay prorated on the hours that he or she was hired to work. Employees retiring on May 1 or thereafter of each year shall be eligible for the floating holidays. Upon separation from the City service, an employee shall not be eligible for compensation for any unused floating holidays.

In addition, employees, as specified above, shall be granted such additional holidays as may be determined by the City Council from time to time by resolution or official proclamation.

3. The following are holidays for temporary employees after six months of continuous City service, except for certain employees of the Tacoma Belt Line Railway, as defined in Section 1.12.210, who are not eligible for holiday pay and except for temporary hiring-hall workers for whom benefits are administered through their unions.

New Year's Day (January 1)

Martin Luther King Day (3rd Monday in January)

Presidents' Day (3rd Monday in February)

Memorial Day (last Monday in May)

Fourth of July (July 4)

Labor Day (1st Monday in September)

Veterans Day (November 11)

Thanksgiving Day (4th Thursday in November)

The Day Immediately Following Thanksgiving Day

Christmas Day (December 25)

Temporary employees are not eligible for floating holidays.

B. An employee shall receive pay for the holiday provided he or she is in a paid status for the entire shift on both the regular scheduled work day immediately preceding the holiday and the regular scheduled work day immediately following the holiday; provided, however, for commissioned Police Department and Fire Department personnel who are covered by a collective bargaining agreement, an employee shall receive pay for the holiday provided he or she is in a paid status for the entire shift on either the regular scheduled work day immediately preceding the holiday or the regular scheduled work day immediately following the holiday; provided, that employees hired into a part-time status after January 1, 1983, shall receive holiday pay or time off in lieu thereof prorated based on the hours the employee was hired to work.

C. Time Off in Lieu of Holiday. Members of the Police Department and Fire Department services may be granted days off in lieu of holidays. Holidays or time off in lieu of holidays shall be scheduled so as to meet the operating requirements of the respective departments and, as far as practicable, the preferences of the employees. In the event time off in lieu of holidays has been scheduled for the end of the year and an employee is unable to use such days off in lieu of holidays due to continuous illness or disability, with a written request submitted to the Human Resources Department prior to the end of the calendar year in which the days off in lieu of holidays could not be used, such unused days off may be carried over for use in the following year. In order to meet necessary scheduling of personnel, the Police Department and Fire Department may permit their members to take time off in lieu of holidays in advance of the occurrence of the holiday; provided, that upon termination of the member who has been paid in advance for a holiday or holidays, such payments shall be deducted from any wages, vacation leave, or sick leave accrual payments to which the member would otherwise be entitled; or, in the event that there are no such payments due, the member shall repay the City such unearned advance holiday payments. Upon separation from the City service in good standing, a regular, probationary, project, temporary pending exam, or appointive employee shall be compensated for any unused holidays or days off in lieu thereof to which he or she is entitled as set forth in this section.

D. Holidays Falling on Saturday and Sunday. When one of the holidays listed in this section falls on a Saturday, the day preceding will be observed as a holiday with pay and when one of the holidays listed in this section falls on Sunday, the next day following will be observed as a holiday with pay.

E. Overtime Rate for Holiday Work. Employees who normally are scheduled to work on any of the above listed holidays, who are eligible for compensation for overtime work, shall, in addition to their regular holiday pay, be compensated either in compensatory time off or in cash, as the case may be, at the straight time rate for the actual hours worked, except as otherwise provided in a collective bargaining agreement; provided, that work in excess of the normal hours of their shift shall be compensated at their designated overtime rate. Employees whose functions do not normally require holiday work, required to work on a holiday and who are eligible for compensation for overtime work, shall, in addition to their regular holiday pay, be compensated either in compensatory time off or in cash, as the case may be, according to their designated overtime rate for the actual hours worked.

F. Rate of Pay for Holidays. Employees not required to work on holidays shall be paid for holidays at the rate he or she was receiving the day before the holiday.

G. Hours granted for holidays. Employees eligible for holiday pay, pursuant to this section, will receive compensation or time off for holidays based on a standard eight-hour work day or as provided in a collective bargaining agreement. Part-time employees receive time off for a holiday prorated on the number of hours that he or she was hired to work.

(Ord. 28282 Ex. A; passed Feb. 24, 2015: Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 27422 § 3; passed Oct. 25, 2005: Ord. 27301 § 5; passed Dec. 7, 2004: Ord. 26797 § 2; passed Apr. 3, 2001: Ord. 26379 § 3; passed Mar. 16, 1999: Ord. 26209 § 4; passed Apr. 14, 1998: Ord. 24856 § 4; passed Mar. 5, 1991: Ord. 24405 § 2; passed Aug. 15, 1989: Ord. 24330 § 2; passed Apr. 4, 1989: Ord. 23670 § 3; passed Jul. 29, 1986: Ord. 23445 § 3; passed Aug. 6, 1985: Ord. 23111 § 9; passed Feb. 7, 1984: Ord. 22833 § 3; passed Dec. 21, 1982: Ord. 22269 § 2; passed Dec. 16, 1980; Ord. 21298 § 3; passed Mar. 21, 1978: Ord. 21232 § 5; passed Dec. 20, 1977: Ord. 20937 § 5; passed Dec. 21, 1976: Ord. 20881 § 1; passed Oct. 5, 1976: Ord. 20549 § 1; passed Sept. 18, 1975: Ord. 20756 § 1; passed May 25, 1976: Ord. 20810 § 1; passed Jul. 13, 1976: Ord. 20276 § 11; passed Dec. 26, 1974: Ord. 20233 § 5; passed Oct. 15, 1974: Ord. 20026 § 5; passed Dec. 26, 1973:

Ord. 19584 § 10; passed May 30, 1972: Ord. 19272 § 5; passed Dec. 29, 1970: Ord. 18697; passed Dec. 26, 1968: Ord. 18416 § 1; passed Oct. 24, 1967: Ord. 17727 § 2; passed Dec. 18, 1962: Ord. 17605 § 2; passed May 19, 1964: Ord. 16950 § 3; passed Dec. 19, 1961)

## 1.12.210 Holidays – Belt Line Railway.

Employees in the classifications of Railway Switch Operator, Railway Switching Supervisor, Locomotive Engineer, Railway Yardmaster, Railway Track Maintenance Worker, Railway Track Maintenance Supervisor and Railway Track Maintenance Inspector shall be entitled to holiday provisions as specified in this section.

A. Holidays – Railway Switch Operator, Railway Switching Supervisor, Locomotive Engineer, Railway Yardmaster, Railway Track Maintenance Worker, Railway Track Maintenance Supervisor and Railway Track Maintenance Inspector. Employees in the foregoing classifications shall be paid for the following holidays in accordance with the provisions of this section:

New Year's Day (January 1st)

Washington's Birthday (3rd Monday in February)

Memorial Day (last Monday in May)

Fourth of July (July 4th)

Labor Day (1st Monday in September)

Veterans Day (November 11th)

Thanksgiving Day (4th Thursday in November)

The Day Immediately Following Thanksgiving Day

Christmas Eve Day (December 24th)

Christmas Day (December 25th)

Employees as specified above shall have two paid holidays per calendar year in addition to those above specified and for which time off shall be mandatory, these days to be mutually agreed upon by both employee and employer. To be eligible for these holidays, employees must have been or be scheduled to be continuously employed by the City for more than four months as a regular, probationary or appointive full-time employee during the calendar year of entitlement.

When any of the above-listed holidays falls on Saturday or Sunday, the day observed by Class I railroads in the area shall be considered the holiday. Employees entitled to holiday pay will be paid for such holiday whether or not it falls on an assigned rest day or vacation day of the individual involved.

B. All regularly assigned employees shall be entitled to holiday pay and paid for holidays at the rate of their regular classification except in those instances where they are working in higher or lower positions, either on temporary appointments or by assignment to Extra Board, in which case they shall be paid at the rate appropriate to the appointment in effect at the time of the holiday. If the employee's rate of pay is different on the last day of regular work prior to the holiday and the first day of regular work after the holiday, the lower rate of the two shall apply for holiday pay. If an employee works on the holiday, the class in which he or she is working will determine the rate of holiday pay. To qualify, unless it is determined by the Belt Line Superintendent that sufficient employees are otherwise available to perform service and no additional expense will accrue to the Division, a regularly assigned employee must be in a paid status on the regular workdays immediately preceding and following such holiday, and if his or her assignment works on a holiday the employee must fulfill such assignment. A regularly assigned employee who is displaced while on vacation or paid sick leave by reason of quarterly choice of position provisions or seniority provisions of the Railway Labor Agreements will be considered an extra employee until he or she returns or exercises seniority to a regular position.

C. An Extra Board employee, in order to qualify for the prescribed paid holiday, must:

1. Be in a paid status on the regular work days immediately preceding and following the holiday, or

2. Be available for service on the full calendar days immediately preceding and immediately following the holiday and perform service on such holiday.

3. If such employee cannot qualify under (1) or (2) above, then in order to qualify, he or she must be available for service on the full calendar days immediately preceding and immediately following the holiday or perform service on any one of such days and be available on the other day or days, and, additionally, must have been in paid status on 11 or more of the 30 calendar days immediately preceding the holiday.

The rate of pay for employees qualifying under Extra Board conditions shall be the pay for the class in which they have their Extra Board appointment. In cases where an employee may have rights to more than one Extra Board class, without being regularly assigned to any class, if the rate of pay for the Extra Board class is different on the last day of regular work prior to the holiday and the first day of regular work after the holiday, the lower rate of the two shall apply for holiday pay. If an employee works on the holiday, the class in which he or she is working will determine the rate of holiday pay.

D. Except when exercising seniority rights from one assignment to another, all time worked on the holidays listed in this paragraph shall be paid for as overtime on a minute basis at one and one-half times the hourly rate.

(Ord. 25408 § 4; passed Nov. 30, 1993: Ord. 24506 § 1; passed Dec. 12, 1989: Ord. 23873 § 2; passed Jun. 9, 1987: Ord. 22892 § 1; passed Mar. 22, 1983: Ord. 22575 § 1; passed Dec. 1, 1981)

## 1.12.220 Vacation allowance with pay.

A. Rate of Accrual of Vacation Leave.

1. Each regular, probationary, project, temporary pending exam, or appointive full-time employee shall accrue vacation leave hours for each biweekly pay period in which he or she has been in a paid status pursuant to the following schedule based on aggregate City service.

| Completed Years of Aggregate Service | No. of 8-Hour Days per Year | Hours Earned per Pay Period[18] |
|---|---|---|
| Completion of years 0, 1, 2, 3 | 12 | 3.69 |
| Completion of years 4, 5, 6, 7 | 15 | 4.60 |
| Completion of years 8, 9, 10, 11, 12, 13 | 17 | 5.22 |
| Completion of years 14, 15, 16, 17, 18 | 20 | 6.14 |
| Completion of 19 years | 21 | 6.45 |
| Completion of 20 years | 22 | 6.76 |
| Completion of 21 years | 23 | 7.07 |
| Completion of 22 years | 24 | 7.38 |
| Completion of 23 years | 25 | 7.69 |
| Completion of 24 years | 26 | 8.00 |
| Completion of 25 years | 27 | 8.31 |
| Completion of 26 years | 28 | 8.62 |
| Completion of 27 years | 29 | 8.93 |
| Completion of 28 years or more | 30 | 9.24 |

Vacation accruals based on tenure shall be credited at the first of the calendar year in which any of the above periods of aggregate City service will be completed. Eligibility for tenure-based vacation accruals shall be determined by the length of aggregate service with the City. The applicable accrual rate shall be determined as of January 1 of each calendar year and shall be based on the rate applicable to the number of years of aggregate service[19] the employee will complete within that calendar year. For example, on January 1, an employee who will complete four years of aggregate service with the City within that calendar year will begin to accrue vacation leave at a rate of 4.60 hours per pay period.

2. An eligible employee shall accrue vacation based on the above schedule beginning from the date of his or her appointment.

3. Vacation accrual balances shall not exceed an amount equal to two years' accrual.

[18] The Per Pay Period figure is based on a biweekly payroll schedule.
[19] See TMC 1.12.075 for the definition of "aggregate service."

In the event an employee is unable to use his or her vacation prior to exceeding the two-year limitation because of continued illness, with a written request submitted to the Human Resources Department, such unused days may be allowed to accumulate until the employee returns to work or is separated. Vacation in excess of two years' accrual, if not taken within 90 calendar days after an employee returns to work, shall be forfeited.

In the best interests of the City, the City Manager, for general government employees, and the Director of Utilities, for department of public utilities employees, may temporarily increase the maximum vacation accrual requirements set forth in this section.

4. For purposes of this section, permanent employees of the Municipal Belt Line Railway assigned to the Extra Board will be considered as full-time employees.

B. Permissible Use of Vacation Accruals with Pay.

1. Vacation leave may not be taken without the prior approval of the appointing authority and may not be taken in the pay period in which it was earned. Vacation leave shall be scheduled so as to meet the operating requirements of the City and, as far as practicable, the preferences of the employees.

2. Pursuant to RCW 49.12.270, effective January 1, 2003, vacation accruals may be used to care for: (a) a child of the employee with a health condition that requires treatment or supervision; or (b) a spouse, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency condition.

(1) "Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is: (a) Under 18 years of age; or (b) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(2) "Grandparent" means a parent of a parent of an employee.

(3) "Parent" means a biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.

(4) "Parent-in-law" means a parent of the spouse of an employee.

(5) "Spouse" means a person legally married to a City employee and for purposes of this section includes an individual registered as the employee's domestic partner under state law or City policy.

For a period of illness or disability, employees who, at their option, elect to use vacation leave shall remain on vacation leave until exhausting such leave, returning to work, or being placed on leave without pay.

3. Vacation leave shall be taken in increments of one tenth (1/10) of an hour.

C. Payment for Vacation.

1. An employee, when leaving the service of the City, shall be compensated for vacation leave earned and accrued to the date of separation at the rate for the classification in which he or she was working in on the date of separation.

2. An employee shall be paid for vacation leave at the rate of pay he or she was receiving the day before the vacation leave is taken.

(Ord. 28673 § 1: passed Jun. 9, 2020: Ord. 28282 Ex. A; passed Feb. 24, 2015: Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 27349 § 1; passed Apr. 26, 2005: Ord. 27315 § 2; passed Feb. 15, 2005: Ord. 27301 § 6; passed Dec. 7, 2004: Ord. 27170 § 4; passed Dec. 9, 2003: Ord. 27148 § 1; passed Oct. 7, 2003: Ord. 27033 § 3; passed Dec. 17, 2002: Ord. 26553 § 1; passed Dec. 14, 1999: Ord. 26209 § 5; passed Apr. 14, 1998: Ord. 25645 § 9; passed Dec. 13, 1994: Ord. 25233 § 2; passed Dec. 22, 1992: Ord. 24641 § 1; passed May 15, 1990: Ord. 24550 § 1; passed Jan. 23, 1989: Ord. 24405 § 3; passed Aug. 15, 1989: Ord. 23670 §§ 4, 5; passed Jul. 29, 1986: Ord. 23350 § 5; passed Feb. 26, 1985: Ord. 23111 § 10; passed Feb. 7, 1984: Ord. 22269 § 3; passed Dec. 16, 1980: Ord. 21298 § 4; passed Mar. 21, 1978: Ord. 21053 § 2; passed Apr. 26, 1977: Ord. 20905 § 1; passed Nov. 16, 1976: Ord. 20881 § 2; passed Oct. 5, 1976: Ord. 20867 § 1; passed Sept. 23, 1976: Ord. 20619 § 2; passed Dec. 16, 1975: Ord. 20325 § 1; passed Feb. 4, 1975: Ord. 20060 § 1; passed Mar. 12, 1974: Ord. 19729 § 1; passed Dec. 26, 1972: Ord. 19584 § 11; passed May 30, 1972: Ord. 18697; passed Dec. 26, 1968: Ord. 17974 § 1; passed Dec. 7, 1965: Ord. 17727; passed Dec. 8, 1964: Ord. 17227 § 3; passed Dec. 18, 1962: Ord. 17066; passed Jun. 5, 1962: Ord. 16670 § 6; passed Dec. 13, 1960)

## 1.12.229 VEBA Accounts.

A. The City shall deposit into a VEBA (Voluntary Employee Beneficiary Association) Account a sum equivalent to 25 percent of the sick leave accruals for a nonrepresented employee; or, if provided for in a collective bargaining agreement,

25 percent of the sick leave accruals, and up to the amount provided in the specific collective bargaining agreement of Personal Time Off accruals for any employee who meets the following criteria:

1. The employee must qualify under subsection B of this section; and

2. The employee must be separated from the City service due to (i) retirement for disability or length of service with attendant pension payments under any City employee pension system; or (ii) death.

The sum deposited into the VEBA Account shall be calculated at the employee's regular classification rate of pay effective at the time of retirement or death.

B. An employee shall qualify for a deposit into a VEBA Account pursuant to subsection A of this section if the following three criteria are met:

1. a. The employee is not a member of one of the City's collective bargaining units at the time of retirement or death, or

b. If the employee is a member of a duly selected collective bargaining unit at the time of his or her retirement or death, the employee shall qualify for a deposit into a VEBA Account only if, at the time of the employee's retirement or death, a valid collective bargaining agreement confers upon the employee the right to a VEBA account; and

2. The employee shall qualify for a deposit into a VEBA Account only if the VEBA Account deposit is a reasonable and equitable substitute for the cashout payment under Section 1.12.230D.1 which was in effect immediately prior to the effective date of the ordinance codified in this section; and

3. The total sum due to the employee is $100.00 or greater.

C. In addition to VEBA benefits for which an employee may be eligible under subsections A and B above, the City shall deposit $250.00 per month into an individual VEBA Account for each employee represented by the Tacoma Police Management Association, Local 26, who is also an LEOFF II pension system member, per the collective bargaining agreement; provided, however, contributions for employees who become represented by said bargaining unit after May 21, 2001, will be made beginning the first full month following an employee's permanent appointment to a classification represented by the bargaining unit.

(Ord. 28573 Ex. A; passed Feb. 26, 2019: Ord. 28515 § 2; passed Jun. 26, 2018: Ord. 28405 § 1; passed Dec. 13, 2016: Ord. 27417 § 2, passed Oct. 11, 2005: Ord. 27075 § 3; passed Apr. 1, 2003: Ord. 26815 § 3; passed Jun. 5, 2001: Ord. 26070 § 1; passed Sept. 30, 1997)

## 1.12.230 Sick allowance with pay.

A. Eligibility for Sick Leave. The following provisions, unless otherwise specified, apply to all regular, probationary, project, temporary, temporary pending exam, or appointive full-time employees except those employees of the Tacoma Municipal Belt Line Railway set forth in Section 1.12.231 and members of the Police and Fire Departments covered by RCW 41.26 (LEOFF I Pension System) set forth in Section 1.12.232.

1. Accrual. Regular, probationary, project, temporary, temporary pending exam, or appointive full-time employees shall accrue sick leave at the rate of 3.69 hours for each 80 hours in which he or she is in paid status. Eligible employees who are on leave of absence for active duty training or for inductive purposes shall accrue sick leave.

a. Sick leave earned shall be credited to an employee's accruals after the completion of each biweekly pay period and may not be used in the pay period earned.

b. For purposes of this section, eligible permanent employees of the Municipal Belt Line Railway assigned to the Extra Board will be considered as full-time employees.

2. Permissible Use of Paid Sick Leave.

a. Sick leave may be taken in tenths (0.10) of an hour increments.

b. Injury or illness of employee to such extent as to constitute a hazard to the safety or health of himself or herself or other employees.

c. Medical or dental care for the employee. Supervisors should attempt to accommodate appointments for care. Employees should attempt to schedule such appointments to minimize disruption to work.

d. Quarantine of employee due to exposure to a contagious disease.

e. On-the-job injuries during the first three days if not eligible for Workers' Compensation and as a supplement to Workers' Compensation after the 120-day supplementary on-the-job injury benefits provided under Section 1.12.090.

f. Death of a spouse, father, mother, foster parent, brother, sister, child, foster child, grandparents, or grandchildren of employee or relatives of the spouse of the employee in the same categories of relationship subject to the requirements of subsection B.5. hereinafter set forth.

g. Employees working shifts other than the regular Monday through Friday workweek shall be paid holiday pay plus paid sick leave when scheduled to work on a holiday and they are unable to work due to illness or injury. Such employees, when not scheduled to work on a holiday, shall not be entitled to paid sick leave therefor.

h. Preinduction physical for service in the Armed Forces.

i. Illness or disability due to pregnancy or conditions related thereto.

j. Sick leave may be used to allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care. For purposes of this section, "family member" means any of the following:

(1) A child, including a biological, adopted, or foster child, a stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(2) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis to an employee when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

k. Sick leave may be used when the employee's assigned City work location has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed by order of a public official.

B. Requirements for All Paid Sick Leave.

1. Every employee must report to the designated representative of his or her department head the reason for an absence prior to the beginning of his or her scheduled workday or such earlier time as required by his or her department or division head.

2. An employee must keep his or her department head informed of his or her condition if an absence is of more than four working days in duration.

3. For each absence an employee may be required to submit an explanation of the reason for such absence. A statement by the attending physician attesting to the nature and seriousness of said injury or illness shall be required if requested by the department head.

4. Employee must permit home visits or medical examinations at the expense and convenience of the City.

5. a. Upon approval by the department head, a maximum of four days' sick leave may be granted for the death of spouse, father, mother, foster parent, brother, sister, child, or foster child of the employee.

b. For the purpose of attending the funeral, upon approval by the department head, a maximum of one day's sick leave may be granted for the death of grandparent, grandchild, son-in-law, daughter-in-law, brother-in-law, or sister-in-law of the employee or the death of a father, mother, foster parent, brother, brother-in-law, sister, sister-in-law, child, foster child, grandparent, or grandchild of the spouse of the employee.

i. An employee in a classification represented by the Tacoma Firefighters Union, Local 31, will be allowed to take up to two full shifts (or 4 eight-hour days) of City paid leave in order to attend a funeral of a family member, as defined in subsection a or b above.

6. An employee shall be paid for sick leave at the rate he or she was receiving the day before the sick leave was taken.

7. Employees shall accrue sick leave according to the provisions of this section; provided, however, that any employee who leaves the City service during the first six months of employment shall not be compensated for any accrued sick leave.

C. Enforcement of Sick Leave Provisions.

1. Misrepresentation of any material facts in connection with paid sick leave by any employee shall constitute grounds for suspension or discharge.

2. It shall be the responsibility of the department head or his or her designated representative to:

a. Review all applications for sick leave and approve those which are bona fide and comply with the provisions of this section. Employees still absent at the end of a pay period may be certified for payment of sick leave by the department head by his or her signing the payroll timecards, subject to department head's approval for sick leave pay immediately upon the employee's return to work.

b. Investigate any suspected abuse of sick leave.

c. Withhold approval of sick leave pay in the event of unauthorized use.

d. Initiate disciplinary action if, as a result of investigation, it is determined that an employee has been guilty of willful misrepresentation in a request for sick leave pay.

D. Payments for Nonuse of Sick Leave Accruals.

1. An employee separated from the City service due to death or retirement for disability or length of service with attendant pension payments under any City employee pension system who does not qualify for a VEBA deposit under TMC Section 1.12.229 shall be compensated at a rate for the classification in which he or she was working on the date of separation to the extent of 25 percent of accrued sick leave hours.

a. An employee separated from the City service due to retirement, and represented by the Tacoma Fire Fighters Union, Local 31, shall receive a contribution into the Washington State Council of Fire Fighters (WSCFF) Employee Benefit Trust in the amount of the sick leave payment as defined in TMC Section 1.12.230.D.1 in lieu of a cash payment, when properly authorized annually by Local 31.

2. A regular, project, temporary, temporary pending exam, or appointive employee separated in good standing from the City service for any other reason than death or retirement due to disability or length of service with attendant pension payments under any City employee pension system pursuant to Section 1.12.229 who has a minimum of 10 days accrual shall be compensated at a rate for the classification in which he or she was working on the date of separation to the extent of 10 percent of his or her sick leave accruals up to a maximum accrual of 120 days. An employee separated from the City service due to layoff may, upon reemployment from the eligible list or departmental reemployment list upon which placed as provided in Section 1.24.900, have his or her sick leave accrual restored upon repayment to the City of the 10 percent payment as herein provided. If appointed from other employment lists within the two-year period of eligibility, such repayment may also apply.

E. Authorization – Police and Fire Disability Payments. Certification for payment for absences due to injury or illness covered by the State of Washington Police or Fire Pension Acts shall not be made by the Human Resources Director until authorization is received from the appropriate Pension Board.

(Ord. 28533 Ex. A; passed Oct. 23, 2018: Ord. 28400 § 3; passed Nov. 29, 2016: Ord. 28323 Ex. A; passed Oct. 13, 2015: Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 27780 § 1; passed Jan. 13, 2009: Ord. 27753 Ex. A; passed Nov. 18, 2008: Ord. 27301 § 7; passed Dec. 7, 2004: Ord. 27170 § 5; passed Dec. 9, 2003: Ord. 27033 § 4; passed Dec. 17, 2002: Ord. 26209 § 6; passed Apr. 14,1998: Ord. 26070 § 2; passed Sept. 30, 1997: Ord. 25645 § 10; passed Dec. 13, 1994: Ord. 25445 § 6; passed Feb. 22, 1994: Ord. 25376 § 1; passed Oct. 5, 1993: Ord. 24379 § 1; passed Jul. 11, 1989: Ord. 24330 § 3; passed Apr. 4, 1989: Ord. 23739 § 2; passed Nov. 25, 1986: Ord. 23670 § 6; passed Jul. 29, 1986: Ord. 22892 § 2; passed Mar. 22, 1983: Ord. 22745 § 1; passed Jul. 20, 1982: Ord. 22624 § 2; passed Jan. 26, 1982: Ord. 22269 § 4; passed Dec. 16, 1980: Ord. 21993 § 2; passed Feb. 26, 1980: Ord. 21565 § 7; passed Dec. 19, 1978: Ord. 21298 § 5; passed Mar. 21, 1978: Ord. 20972 § 1; passed Feb. 1, 1977: Ord. 20937 § 7; passed Dec. 21, 1976: Ord. 20881 § 2; passed Oct. 5, 1976: Ord. 19729 § 3; passed Dec. 26, 1972: Ord. 19584 § 12; passed May 30, 1972: Ord. 18697; passed Dec. 26, 1968: Ord. 18439 §§ 2; 7; passed Dec. 19, 1967: Ord. 18319 § 1; passed Jun. 6, 1967: Ord. 17727 § 7; passed Dec. 8, 1964: Ord. 17605 §§ 4, 5; passed May 19, 1964: Ord. 16670 § 7; passed Dec. 13, 1960)

## 1.12.231 Sick allowance with pay – Locomotive Engineer, Railway Conductor, and Railway Yardmaster.

The following provisions apply to permanent full-time or permanent Extra Board employees of the Tacoma Municipal Belt Line Railway in the classifications of Locomotive Engineer, Railway Conductor, and Railway Yardmaster.

A. Each regular full-time, probationary or permanent Extra Board employee shall accrue sick leave at the rate of 3.69 hours for each biweekly pay period in which he/she has any regular time for which regular pay will be received. Eligible employees who are on a leave of absence for active duty training or for inductive purposes shall accrue sick leave. Sick leave shall be credited to an employee's accruals after the completion of each biweekly pay period and may not be used in the pay period earned. There shall be no limit on sick leave accruals.

B. Sickness benefits shall be equal to 100 percent of the employee's regular basic daily rate; provided, that if the employee has served in higher or lower positions on temporary appointments, benefits shall be computed on the pay rate appropriate to the class of position that the employee has worked on for the majority of time in the six-month period immediately prior to the effective date of the sick leave taken.

C. Where the benefits under this section supplement an allowance from the Railroad Retirement Board, the combined total of such supplemental benefits and the allowance received from the Railroad Retirement Board for any one day shall not exceed 100 percent of the appropriate basic daily rate. An employee who forfeits any allowance from the Railroad Retirement Board because of failure to timely file for such benefits shall also forfeit any benefits he or she would otherwise be entitled to under this section.

The City will pay the employee 100 percent of his or her basic daily rate, including benefits received from the Railroad Retirement Board and the employee upon receipt of those benefits shall endorse and turn over to the Belt Line Railway moneys received. Failure to comply with this provision shall be cause for forfeiture of all benefits under this provision, including moneys and hours. Flagrant violations of this provision could be cause for disciplinary action. Employees paid in advance, under the provisions of this section and failing in their responsibility that causes forfeiture of benefits, shall be liable to repay to the City moneys received.

D. Sick leave may be used to allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care. For purposes of this section, "family member" means any of the following:

(1) A child, including a biological, adopted, or foster child, a stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(2) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis to an employee when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

E. Sick leave may be used when the employee's assigned City work location has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed by order of a public official.

F. An employee separated from the City service due to death or retirement for disability or length of service under Railroad Retirement Pension with attendant pension payments, who does not qualify for a VEBA deposit under Section 1.12.229, shall be compensated to the extent of 25 percent of accrued sick leave hours. A permanent employee separated in good standing from the City service for any other reason than death or retirement shall be compensated to the extent of 10 percent of accrued sick leave up to a maximum accrual of 960 hours.

G. Benefits under this section apply to nonoccupational injury or bona fide sickness of organic origin and of sufficient severity to disable the employee; provided, that such nonoccupational injury or sickness was not caused by the use of drugs or intoxicants, recklessness, gross negligence, or any act contrary to law.

H. In order to be granted benefits under this section, the employee must report to the proper authority the reason for the absence and keep the Superintendent informed of his or her condition, as appropriate. The Superintendent must be satisfied that the reason for the absence is legitimate, and satisfactory evidence, including a verifying certificate of inability to work from a reputable physician, may be required.

I. Bereavement leave of up to four working days will be allowed in case of employee's spouse, father, mother, foster parent, grandparent, grandchild, brother, sister, child, or foster child, or spouse's parent, brother, sister or grandparent. Each working day of such leave will be paid at the employee's regular basic daily rate; provided, that if the employee has served in higher or lower positions on temporary appointments, benefits shall be computed on the pay rate appropriate to the class or position that the employee has worked on for the majority of time in the six-month period immediately prior to the effective date of the sick leave taken. Bereavement leave may be charged against the employee's sick leave accruals, if any. Employees must notify the Superintendent prior to taking bereavement leave.

J. Enforcement of Sick Leave Provisions.

1. Misrepresentation of any material facts in connection with paid sick leave by any employee shall constitute grounds for suspension or discharge.

2. It shall be the responsibility of the Superintendent or his or her designated representative to:

a. Review all applications for sick leave and approve those which are bona fide and comply with the provisions of this section. Employees still absent at the end of a pay period may be certified for payment of sick leave by the Superintendent by his or her signing the payroll timecards, subject to the Superintendent's approval for sick leave pay immediately upon the employee's return to work.

b. Investigate any suspected abuse of sick leave.

c. Withhold approval of sick leave pay in the event of unauthorized use.

d. Initiate disciplinary action if, as a result of investigation, it is determined that an employee has been guilty of willful misrepresentation in a request for sick leave pay.

(Ord. 28533 Ex. A; passed Oct. 23, 2018: Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 27170 § 6; passed Dec. 9, 2003: Ord. 27033 § 5; passed Dec. 17, 2002: Ord. 26070 § 3; passed Sept. 30, 1997: Ord. 26082 § 1; passed Jun. 17, 1997: Ord. 22892 § 3; passed Mar. 22, 1983: Ord. 22563 § 1; passed Nov. 10, 1981: Ord. 21894 § 1; passed Nov. 27, 1979: Ord. 21717 §§ 1, 2; passed May 29, 1979: Ord. 21689 § 1; passed Apr. 24, 1979: Ord. 21624 § 1; passed Mar. 20, 1979: Ord. 21565 § 8; passed Dec. 19, 1978)

## 1.12.232 Sick allowance with pay – LEOFF I Police and Fire personnel.

It is the policy of the City of Tacoma to pay its employees on account of sickness or accident disability in accordance with the provisions set forth herein.

A. Eligibility for Sick Leave. The following provisions shall apply to all regular, probationary, or appointive Police and Fire employees covered by RCW 41.26 (LEOFF I Pension System).

1. Accrual. Regular, probationary, or appointive full-time employees shall accrue sick leave at the rate of 3.69 hours for 80 hours in which he or she is in paid status. Eligible employees who are on a leave of absence for active duty training or for inductive purposes shall accrue sick leave.

a. Sick leave earned shall be credited to an employee's accruals after the completion of each biweekly pay period and may not be used in the pay period earned.

2. Use of Paid Sick Leave.

a. Sick leave may be taken in tenths (0.10) of an hour increments.

b. In all cases when eligible, employees shall be placed on leave pursuant to RCW 41.26 and shall not be eligible to be paid for sick leave for an absence when there is eligibility to be paid for leave under RCW 41.26; however, without regard to payment:

(1) When such leave is determined to be not job-connected, the sick leave accruals shall be debited hour-for-hour for time absent from the scheduled shift;

(2) When such leave is determined to be job-connected, sick leave shall be debited for the date of injury and up to three days when the disability leave is less than 15 calendar days;

(3) If the job-connected leave exceeds 15 calendar days but less than 120 work days, sick leave shall be debited for the day of injury only. If the job-connected disability leave exceeds 120 work days, sick leave shall be debited one-half day for every work day missed in excess of 120 work days;

(4) If the officer who is on leave is not able to return to work at the end of the disability leave pursuant to RCW 41.26, that person shall be retired and paid off for any unused sick leave as provided herein. In no such event shall an officer be placed on sick leave.

c. Death of a spouse, father, mother, foster parent, brother, sister, child, foster child, grandparents or grandchildren of employee or relatives of the spouse of the employee in the same categories of relationship subject to the requirements of subsection B.6. hereinafter set forth.

d. Sick leave may be used to allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care. For purposes of this section, "family member" means any of the following:

(1) A child, including a biological, adopted, or foster child, a stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(2) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis to an employee when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

e. Sick leave may be used when the employee's assigned City work location has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed by order of a public official.

f. Pre-induction physical for service in the Armed Forces.

B. Requirements for All Paid Sick Leave.

1. Every employee must report to the designated representative of his or her department head the reason for an absence prior to the beginning of his or her scheduled workday or such earlier time as required by his or her department or division head.

2. An employee must keep his or her department head informed of his or her condition if an absence is of more than four working days in duration.

3. For each absence an employee may be required to submit upon the approved form an explanation of the reason for such absence. A statement by the attending physician attesting to the nature and seriousness of said injury or illness is required if an absence extends beyond four working days, or for each absence, if requested by the department head.

4. Employee must permit home visits or medical examinations at the expense and convenience of the City.

5. a. Upon approval by the department head a maximum of four days' sick leave may be granted for the death of a spouse, father, mother, foster parent, brother, sister, child or foster child of employee.

b. For the purpose of attending the funeral, upon approval by the department head, a maximum of one day's sick leave may be granted for the death of a grandparent, grandchild, son-in-law, daughter-in-law, brother-in-law, or sister-in-law of the employee or the death of father, mother, foster parent, brother-in-law, sister, sister-in-law, child, foster child, grandparent, or grandchild of the spouse of the employee.

6. An employee shall be paid for sick leave at the rate he or she was receiving the day before the sick leave was taken.

7. Employees shall accrue sick leave according to the provisions of this section; provided, that any employee who leaves the City service during the first six months of employment shall not be compensated for any accrued sick leave.

C. Enforcement of Sick Leave Provisions.

1. Misrepresentation of any material facts in connection with paid sick leave by any employee shall constitute grounds for suspension or discharge.

2. It shall be the responsibility of the department head or his or her designated representative to:

a. Review all applications for sick leave and approve those which are bona fide and comply with the provisions of this section. Employees still absent at the end of a pay period may be certified for payment of sick leave by the department head by his or her signing the payroll timecards, subject to department head's approval for sick leave pay immediately upon the employee's return to work.

b. Investigate any suspected abuse of sick leave.

c. Withhold approval of sick leave pay in the event of unauthorized use.

d. Initiate disciplinary action if, as a result of investigation, it is determined that an employee has been guilty of willful misrepresentation in a request for sick leave pay.

D. Payments for Nonuse of Sick Leave Accruals.

1. An employee separated from the City service due to death or retirement for disability or length of service with attendant pension payments under any City employee pension system, who does not qualify for a VEBA deposit under TMC

Section 1.12.229, shall be compensated at the rate in effect at the time of retirement, for the classification in which he or she was working in on the date of separation to the extent of 25 percent of accrued sick leave hours.

2. A regular or appointive employee separated in good standing from the City service for any other reason who has a minimum of 10 days accrual shall be compensated at his or her regular classification rate of pay to the extent of 10 percent of accrued sick leave hours up to a maximum accrual of 960 hours. An employee separated from the City service due to layoff may, upon reemployment from the eligible list or departmental reemployment list upon which placed as provided in Section 1.24.900, have his or her sick leave accrual restored upon repayment to the City of the 10 percent payment as herein provided. If appointed from other employment lists within the two-year period of eligibility, such repayment may also apply.

3. Sick leave accruals for each Police and Fire service employee shall be redetermined as of April 30, 1989. Such accruals shall be redetermined by charging all illness and injury claims, arising after March 1, 1970, other than claims for which leave under RCW 41.26 could have been used against sick leave credits in the same manner as charged against other employees of the City. These sick leave accruals are available to be drawn on for required sick leave pursuant to this chapter and are included under the incentive payment plan referred to in D.1, above.

4. Such Police and Fire service employees shall have their sick leave accruals and charges against sick leave determined in the manner set forth in this chapter, irrespective of any benefits to which the Police and Fire service employees are entitled by state and federal law, as of April 30, 1989.

E. Authorization – Police and Fire Disability Payments. Certification for payment for absences due to injury or illness covered by the State of Washington Police or Fire Pension Acts shall not be made by the Human Resources Director until authorization is received from the appropriate Pension Board.

(Ord. 28533 Ex. A; passed Oct. 23, 2018: Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 27170 § 7; passed Dec. 9, 2003: Ord. 27033 § 6; passed Dec. 17, 2002: Ord. 26209 § 7; passed Apr. 14, 1998: Ord. 26070 § 4; passed Sept. 30, 1997: Ord. 25645 § 11; passed Dec. 13, 1994: Ord. 24379 § 2; passed Jul. 11, 1989)

## 1.12.240 Sick leave without pay.

After the exhaustion of available sick leave and upon application of an appointive, project, temporary pending exam, probationary, or permanent employee, a leave of absence without pay may be granted by an appointing authority for disability because of sickness or injury. Such leave need not be limited to one year, but the appointing authority or the Director of Personnel, from time to time, may require that the employee submit a certificate from the attending physician or from a designated physician. In event of a failure or refusal to supply such certificate or if the certificate does not clearly show sufficient disability to preclude the employee from the performance of his duties, the appointing authority, with the approval of the Director of Personnel, may cancel such sick leave and require the employee to report for duty on a specified date.

(Ord. 27301 § 8; passed Dec. 7, 2004: Ord. 23670 § 7; passed Jul. 29, 1986: Ord. 15751 § 4.5; passed Dec. 17, 1956)

## 1.12.242 Sick leave wellness incentive. *Repealed by Ord. 26450.*

(Ord. 26450 § 4; passed Jun. 22, 1999: Ord. 26181 § 4; passed Dec. 16, 1997: Ord. 25445 § 7; passed Feb. 22, 1994: Ord. 25133 § 3; passed Jun. 30, 1992: Ord. 24855 § 4; passed Mar. 5, 1991)

## 1.12.245 Leave Sharing.

Pursuant to subsection 1.12.230.A.2, Permissible Use of Paid Sick Leave, and subsection 1.12.248.B Permissible use of Personal Time Off accruals, the City Council finds that (1) City employees historically have joined together to help their fellow employees suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which prevents the individual from working and causes great economic and emotional distress to the employee and his or her family; and (2) these circumstances may be exacerbated because the affected employees use all their accrued sick leave, vacation leave or Personal Time Off and are forced to take leave without pay or terminate their employment. Therefore, the City Council hereby provides for the establishment of a leave sharing program as follows:

A. The Human Resources Director may permit an employee to receive leave under this section if:

1. The employee suffers from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to:

a. Go on leave without pay status; or

b. Terminate City employment;

2. The employee's absence and the use of shared leave are justified;

3. The employee has depleted or will shortly deplete his or her leave reserves;

4. The employee has abided by department rules regarding sick leave/Personal Time Off use; and

5. The employee has diligently pursued and been found to be ineligible for benefits under Chapter 1.12.

B. The Human Resources Director shall determine the amount of leave, if any, which an employee may receive under this section.

C. Donated leave shall be utilized in the order of receipt by the Human Resources Department (first in, first out). Such leave shall be donated in eight-hour increments.

D. An employee who has accrued sick leave or Personal Time Off balance of more than 80 hours may request that the Human Resources Director transfer a specified amount of leave to another employee authorized to receive leave under subsection A of this section.

In no event may the employee request a transfer of an amount of leave that would result in his or her sick leave or Personal Time Off account going below 80 hours.

E. Transfers of leave made by the Human Resources Director under subsection D of this section shall not exceed the approved amount.

F. While an employee is on leave transferred under this section, he or she shall continue to be classified as a City employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued leave. All such current accruals shall also be depleted prior to any continuing use of donated hours.

G. Leave transferred under this section shall not be used in any calculation to determine a department's allocation of full time equivalent staff positions.

H. The amount of any leave time transferred under this section which remains unused shall be returned at its original amount to the employee or employees who transferred the leave when the Human Resources Director finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred.

I. Employees donating leave hours will not receive payment for these hours at time of resignation or retirement.

(Ord. 26379 § 4; passed Mar. 16, 1999: Ord. 24519 § 1; passed Jan. 2, 1990)

## 1.12.246 Leave–Based Contribution Program.

The City encourages contributions to the United Way of Pierce County ("United Way") and wishes to make it easier for its employees to make such contributions by allowing employees to convert accrued and unused vacation and/or personal time off accruals to a donation to the United Way.

A. Employees who earn vacation or personal time off under TMC 1.12.220 and 1.12.248, and are otherwise eligible, may voluntarily authorize a contribution of an amount equivalent to no less than 2 hour and no more than 16 hours of accumulated and unused leave in one hour increments; the cash value of such contribution will be forwarded by the City to the United Way during the pay period(s) selected by the employee on an authorization form approved by the Human Resources Director and the Finance Director.

1. The amount of eligible leave donated by any eligible and participating employee shall be converted to cash at the employee's base rate of pay in effect for the employee's regular classification at the time of contribution. Leave donated under this section is taxable to the employee as supplemental compensation.

2. Participating employees' accumulated and unused leave balances shall be reduced by the number of hours designated and authorized for contribution, not to exceed a total of 16 hours.

3. The City will not make contributions that would result in the employee's leave balance going below 80 hours. Partial contributions will not be made.

4. Employees donating leave under this section will not receive payment for these hours at time of separation or retirement.

(Ord. 28167 Ex. A; passed Sept. 9, 2013: Ord. 27426 § 1; passed Nov. 8, 2005)

## 1.12.248 Personal Time Off plan.

A. Rate of accrual of Personal Time Off.

1. Effective at the beginning of the first pay period starting in June 1998, each unrepresented regular, probationary, project, temporary pending exam, or appointive full-time employee hired after June 1, 1998, represented employees as provided for in a collective bargaining agreement, and unrepresented employees who elect to transfer from their present vacation and sick leave plans to the Personal Time Off ("PTO") plan during a designated enrollment period shall accrue PTO hours for each

biweekly pay period in which he or she has been in paid status, pursuant to the following schedule based on aggregate City service. The PTO plan is in lieu of vacation and sick leave plans.

| Completed Years of Aggregate Service | No. of 8-Hour Days per Year | Hours per Pay Period[20] |
|---|---|---|
| Completion of years 0, 1, 2, 3 | 18 | 5.54 |
| Completion of years 4, 5, 6, 7 | 21 | 6.46 |
| Completion of years 8, 9, 10, 11, 12, 13 | 23 | 7.08 |
| Completion of years 14, 15, 16, 17, 18 | 26 | 8.00 |
| Completion 19 years | 27 | 8.31 |
| Completion of 20 years | 28 | 8.62 |
| Completion of 21 years | 29 | 8.92 |
| Completion of 22 years | 30 | 9.23 |
| Completion of 23 years | 31 | 9.54 |
| Completion of 24 years | 32 | 9.85 |
| Completion of 25 years | 33 | 10.15 |
| Completion of 26 years | 34 | 10.46 |
| Completion of 27 years | 35 | 10.77 |
| Completion of 28 years or more | 36 | 11.08 |

2. Employees shall accrue PTO prorated on the number of hours in paid status in each pay period. The appropriate biweekly accrual shall be credited for each biweekly pay period in which the employee is in paid status. PTO accruals based on tenure shall be credited at the first of the calendar year in which any of the above periods of aggregate service[21] will be completed. The applicable accrual rate shall be determined as of January 1 of each calendar year and shall be based on the rate applicable to the number of years of aggregate service the employee will complete within that calendar year. For example, on January 1, an employee who will complete four years of aggregate service with the City within that calendar year will begin to accrue Personal Time Off at a rate of 6.46 hours per pay period.

3. No employee shall earn more PTO in any one calendar year than the above stipulated days and new employees shall accrue PTO based on the above schedule beginning from the date of his or her appointment; provided, however, that an incoming City Manager may be credited with such PTO as the City Council may direct.

4. PTO earned shall be credited to an employee's accruals after the completion of each biweekly pay period and may not be used in the pay period earned.

B. Permissible use of PTO accruals.

1. Use of PTO. PTO may be taken in tenths (0.10) of an hour increments.

2. Planned Use of PTO. PTO requests may be required in writing and the appointing authority, or his or her designee, shall consider the request and shall approve or deny it.

3. Unplanned Use of PTO.

a. PTO may be used without prior approval for employee or family emergencies, including when the employee's assigned City work location has been closed by order of a public official for any health related reason, or when an employee's child's school or place of care has been closed by order of a public health official. If an advance written request is not possible, the employee shall notify his or her supervisor of the need for and the request of the time off prior to the beginning of his or her shift. An employee must keep his or her department head informed of his or her condition if unplanned use of PTO is of more than four working days in duration. Unplanned use of PTO, which does not qualify for mandatory paid sick leave and which interferes with job performance or City operations may subject the employee to corrective action.

[20] The Per Pay Period figure is based on a biweekly payroll schedule.
[21] See 1.12.075 for the definition of "aggregate service."

b. Unplanned PTO may be used for on-the-job injuries during the first three days if not eligible for Workers' Compensation and after the 120-day supplementary on-the-job injury benefits provided in Section 1.12.090 of the Tacoma Municipal Code.

4. An employee is allowed to use any or all of the employee's choice of paid sick leave or PTO to allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; or to care for a family member who needs preventive medical care. For purposes of this section, "family member" means any of the following:

(1) A child, including a biological, adopted, or foster child, a stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(2) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis to an employee when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

5. Permissible Cash-out of Accrued PTO.

a. An employee must have been enrolled in the Personal Time Off (PTO) plan for the entire calendar year (January 1 to December 31) prior to requesting a cash-out payment of PTO pursuant to this section.

b. An employee who uses no more than the equivalent of two work days (regardless of length of scheduled shift) of unplanned PTO in any one calendar year (January 1 to December 31), but who has used less than 80 hours of planned PTO during the same calendar year, may, in January of the following year, submit in writing, on the form provided by and available in the Human Resources Department, a request for a payment equal to 90 percent of the cash value of up to 40 hours of accrued PTO.

c. An employee who uses no more than the equivalent of two work days (regardless of length of scheduled shift) of unplanned PTO in any one calendar year (January 1 to December 31) and who uses at least 80 hours of planned PTO during the same calendar year may, in January of the following year, submit in writing, on the form provided by and available in the Human Resources Department, a request for a payment equal to 90 percent of the cash value of up to 80 hours of accrued PTO.

d. For any request submitted pursuant to subsections b or c above, the cash value of the PTO shall be based on the rate for the classification in which the employee is working at the time the request is made. The 10 percent balance of the cash value not so paid under subsection b or c set forth above shall be paid into the Employee Benefit Trust Fund.

6. An employee shall be paid for PTO leave at the rate of pay he or she was receiving the day before the PTO leave is taken.

C. Maximum accrual of PTO.

1. Each employee may accrue a maximum of 960 hours of PTO.

2. If the appointing authority, or his or her designee, denies an employee's request for PTO and the denial would result in the employee's accrual exceeding the maximum allowed, the employee shall not lose the accrual at that time. The employee shall have up to 90 days to use the excess accrual.

In the best interests of the City, the City Manager, for general government employees, and the Director of Utilities, for department of public utilities employees, may temporarily increase the maximum PTO accrual requirements set forth in this section.

D. Compensation upon separation from City service.

1. An employee separated from the City service due to death or retirement based on disability or length of service with attendant pension payments under any City employee pension system, who does not qualify for a VEBA deposit under TMC Section 1.12.229, shall be compensated the full amount of the PTO accruals up to the maximum of 960 hours at the rate for the classification in which he or she was working in on the date of separation.

2. Upon separation from City service for any reason other than death or retirement based on disability or length of service, the City shall pay an employee the full amount of the PTO accruals up to the maximum of 960 hours at the rate for the classification in which he or she was working in on the date of separation.

Employees converting to the PTO plan who currently have vacation accruals will have those accruals converted to PTO on an hour for hour basis (1:1).

E. Conversion of sick leave accruals. Employees converting to the PTO plan who currently have sick leave accruals must specify one of the following options: (1) placing accruals in a sick leave bank; (2) converting accruals to PTO; or (3) a combination thereof, as set forth below.

1. Sick Leave Bank.

a. Accrued sick leave as of the last pay period, after a designated enrollment period, may be placed into a sick leave bank.

b. Use of Sick Leave Bank. An employee may choose to use sick leave from this bank for any reason specified in Sections 1.12.230 and 1.12.232 of the Tacoma Municipal Code, after an absence of more than three consecutive days.

c. Depletion of Sick Leave Bank. Employees do not accrue any additional sick leave after the conversion to the PTO plan. Once the sick leave is used from the sick leave bank, the leave used shall not be replenished.

d. Cash Out of Sick Leave Bank.

(i) Separation from City service due to death or retirement for disability or retirement based on length of service shall be compensated to the extent of 25 percent of an employee's sick leave accrual in his or her sick leave bank at the rate for the classification in which he or she was working in at the date of separation subject to the provisions of Section 1.12.229 of the Tacoma Municipal Code (VEBA).

(ii) Separation in good standing from City Service for any other reason shall be compensated to the extent of 10 percent of an employee's sick leave accruals up to a maximum of 120 days at the rate for the classification in which he or she was working in at the date of separation.

2. Conversion of Sick Leave to PTO. An employee who converts to PTO during a designated enrollment period may elect to convert sick leave accruals as of the last pay period after a designated enrollment period to PTO using a ratio of 24 hours of sick leave to 8 hours of PTO (3:1) up to a combined (current vacation accruals and converted sick leave) maximum of 720 hours of PTO.

3. Combination. An employee may elect to convert some, but not all, of his or her sick leave to PTO. Any sick leave not specifically converted during a designated enrollment period will be placed in a sick leave bank as set forth above.

(Ord. 28673 § 2: passed Jun. 9, 2020: Ord. 28533 Ex. A; passed Oct. 23, 2018: Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 28080 § 1; passed Jul. 17, 2012; Ord. 27753 Ex. A; passed Nov. 18, 2008: Ord. 27698 § 1; passed Mar. 25, 2008: Ord. 27674 § 1; passed Dec. 18, 2007: Ord. 27349 § 2; passed Apr. 26, 2005: Ord. 27315 § 3; passed Feb. 15, 2005: Ord. 27301 § 9; passed Dec. 7, 2004: Ord. 27170 § 8; passed Dec. 9, 2003: Ord. 27148 § 2; passed Oct. 7, 2003: Ord. 27033 § 7; passed Dec. 17, 2002: Ord. 26929 § 1; passed Feb. 12, 2002: Ord. 26912 § 3; passed Dec. 18, 2001: Ord. 26815 § 4; passed Jun. 5, 2001: Ord. 26208 § 2; passed Mar. 31, 1998)

## 1.12.250 Leave with pay.

A. Military leave with pay. Every officer and employee of the City who is a member of the Washington National Guard or of the Army, Navy, Air Force, Coast Guard, or Marine Corps Reserve of the United States, or of any organized reserve or armed forces of the United States, shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding 21 days (regardless of length of scheduled shift) during each year beginning October 1 and ending the following September 30. To determine the appropriate number of military leave days to be charged for officers and employees who work shifts that begin on one calendar day and end on another, RCW 38.04.060 applies. Such leave shall be granted in order that the person may take part in active duty or active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay except as provided herein. During the period of military leave, with the exception of emergency and temporary employees, the officer or employee shall receive from the City his or her normal pay.

Where the number of days of active duty or active training duty exceeds 21 work days, the period granted as leave with pay will in each case be the first 21 work days of such active duty or active training duty period. The additional time needed for completion of active duty or active training duty and for travel time must be accounted for as vacation time, compensatory time off or leave without pay.

Upon receipt of his or her written orders for active duty or active training duty, the employee must immediately submit a copy of such orders to his or her department head. A copy of said orders will then be forwarded to the Human Resources Department. The employee, upon his or her return to City employment, must submit to his or her department head a certified true copy of his or her military orders showing the date he or she reported for, and the date of his or her release from active duty or active training duty. The employee's normal regular salary as provided herein shall continue during the approved period of absence subject to receipt of this certified true copy upon his or her return.

B. Jury Duty. A regularly employed full time employee of the City shall be granted leave of absence at his or her normal regular pay if called for jury duty. Any compensation derived from such jury duty shall be deducted from the gross pay due the employee for that period; provided however, in the event the daily payment for jury duty exceeds the amount of compensation an employee would have received from the City during his or her required absence on said day, there shall be no such deduction for compensation from jury duty and the employee shall be compensated at his or her normal hourly rate of pay for the time worked on said day.

C. Administrative Leave.

1. In extraordinary circumstances, where the appointing authority finds that an employee's continued presence at the work site could have detrimental consequences or cause public harm, such employee may, at the direction of the appointing authority and with the approval of the Human Resources Director, be placed on administrative leave with his or her normal regular pay. The appointing authority shall notify the employee of the reason(s) for the administrative leave and any related restriction(s) while on leave. Additionally, the appointing authority shall follow up with a written notification to the employee within the next two business days and forward the same to the Human Resources Director.

2. At the discretion of a department head, the City Manager, Director of Utilities, or Public Utility Board, an employee in overtime Category D or E (overtime exempt) may be granted administrative leave in full day increments at his or her normal regular pay. An annual report showing the administrative leave granted by the City Manager, Director of Utilities, and Public Utility Board shall be submitted to the City Council no later than December 31 of each year.

D. In reference to subsections A and B above, an employee shall be paid at the rate for the classification in which he or she was working on the day before the leave.

E. Active Duty Differential Payment. Every eligible permanent, appointive, temporary pending exam, and project officer and employee of the City who is now or may hereafter become a member of the Washington National Guard or of the Army, Navy, Air Force, Coast Guard, Marine Corps Reserves of the United States, or of any organized reserves or armed forces of the United States who receives, or as of the effective date of this subsection has received, written orders for active duty for a period exceeding 15 days in any calendar year, shall be eligible to receive a payment equal to that portion of his or her City pay for the classification held at the time such military service commenced that, in combination with such compensation he or she receives for such military service on and after January 1, 2004, will equal his or her regular duty City pay until such time as the employee returns from active military service.

To receive the active duty differential payment authorized by this subsection, the employee must immediately submit to his or her department head a copy of such orders and a certificate as to, whether subject to income tax or not, that the employee will receive from the military prior to actual deployment in a manner and form as may be prescribed by the Director of Human Resources, and monthly thereafter. A copy of said orders and certification as to compensation will then be forwarded to the Human Resources Department. If an employee is unable to submit a copy of his or her orders for military or national security purposes, evidence of all active military service compensation must be submitted as provided herein.

In addition, medical, dental, and vision coverage provided for an eligible permanent, appointive, temporary pending exam, or project officer and employee and his or her dependents shall continue, subject to the same terms and conditions applicable to such coverage, for up to fifteen months following the date the eligible employee is placed on an approved military leave of absence from his or her City position when the employee is a member of the Washington National Guard or of the Army, Navy, Air Force, Coast Guard, or Marine Corps Reserve of the United States, or of any organized reserve or armed forces of the United States, and is ordered to active duty by the United States government.

The military differential payment authorized by this subsection shall not grant any right, benefit or interest in employment or reemployment save that granted to employees under Chapter 43 of Title 38 of the United States Code, and subsection A of this section, nor shall it be considered compensation to which any employer or employee pension or deferred compensation rights or obligations shall attach.

F. 2012 Temporary Pay Reduction Leave. For 2012 only, nonrepresented General Government employees subject to the 2012 pay reduction will be provided a paid leave bank of 12 days (96 hours) for use in 2012 only. This leave bank cannot be carried over at the end of the year and may not be donated or cashed out at any time.

(Ord. 28515 § 3; passed Jun. 26, 2018: Ord. 28048 § 2; passed Jan. 10, 2012: Ord. 27773 § 1; passed Dec. 16, 2008: Ord. 27636 Ex. A; passed Jul. 31, 2007: Ord. 27557 § 4; passed Dec. 5, 2006: Ord. 27315 § 4; passed Feb. 15, 2005: Ord. 27301 § 10; passed Dec. 7, 2004: Ord. 27178 § 1; passed Jan. 13, 2004: Ord. 27170 § 9; passed Dec. 9, 2003: Ord. 27075 § 4; passed Apr. 1, 2003: Ord. 26874 § 2; passed Nov. 13, 2001: Ord. 26209 § 8; passed Apr. 14, 1998: Ord. 25645 § 12; passed Dec. 13, 1994: Ord. 24405 § 4; passed Aug. 15, 1989: Ord. 23350 § 6; passed Feb. 26, 1985: Ord. 23111 § 11; passed Feb. 7, 1984: Ord. 17974 § 2; passed Dec. 7, 1965: Ord. 16516 § 2; passed Feb. 23, 1960)

### 1.12.260 Military leave without pay.

An eligible permanent, appointive, probationary, or project employee who is a member of the Washington National Guard or of the Army, Navy, Air Force, Coast Guard, or Marine Corps Reserve of the United States, or of any organized reserve or armed forces of the United States, who is ordered to active duty by the United States government thus requiring a leave of absence from his or her City position and who has exhausted annual military leave as provided by the Tacoma Municipal Code or a collective bargaining agreement, will be granted an unpaid military leave of absence from his or her City position. The cumulative length of the employee's military leave(s) of absence may not exceed five (5) years, or such alternate maximum period as provided by law.

(Ord. 26874 § 3; passed Nov. 13, 2001)

### 1.12.265 Leave Without Pay.

A. The appointing authority, with the approval of the Human Resources Director, may mandate or allow the use of leave without pay by nonrepresented employees, or allow the use of leave without pay for represented employees, in order to address a budget crisis, retroactive to June 22, 2020. An employee who takes such leave without pay on a work day immediately preceding or immediately following one of the holidays with pay set forth in Section 1.12.200 A., will remain entitled to holiday pay, notwithstanding Sections 1.12.200 B., 1.12.140 B., and 1.12.210 B. and C. Further, such leave without pay will not affect an employee's sick leave accrual rate, notwithstanding Sections 1.12.230 A.1, 1.12.140 B., and 1.12.232 A.1.

B. In accordance with City policy and RCW 1.16.050, as now stated and as hereafter amended, employees are entitled to two (2) unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church or religious organization. Employees may select the days on which they would like to take the unpaid holiday(s), after consultation with his or her supervisor as provided by City policy. An unpaid holiday requested pursuant to City policy may be denied if the employee's absence would unduly disrupt operations, impose an undue hardship on the City, or the employee is necessary to maintain public safety. The two unpaid holidays do not carry over from one calendar year to the next.

(Ord. 28681 Ex. A; passed Jul. 14, 2020: Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 28041 § 1; passed Dec. 6, 2011)

### 1.12.270 Cancellation of leaves of absence.

All leaves of absence shall be subject to the condition that the appointing authority may cancel the leave at any time upon prior written notice to the employee and the Director of Personnel specifying a reasonable date of termination of the leave.

The Director of Personnel, upon prior notice to the employee and the appointing authority, may cancel an approved leave of absence at any time he finds that the employee is using the leave for purposes other than those specified at the time of approval.

(Ord. 15751 § 4.8; passed Dec. 17, 1956)

### 1.12.280 Inclement Weather or conditions.

A. In the event of difficult commuting conditions caused by flooding, snow, ice, windstorm, or other severe weather condition which may create unsafe or hazardous commuting conditions, the City Manager, for general government departments, and Director of Utilities, for the divisions of the Department of Public Utilities, or designees, may issue a formal notice declaring an inclement weather condition to exist. Upon that declaration, an absence due to an employee's inability to report for scheduled work because of severe inclement weather or conditions shall be charged to the following leave categories:

1. Any accrued compensatory time;

2. Any accrued personal time off;

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. The City Manager and Director of Utilities, or designees, may jointly, but not separately, authorize up to two hours of paid time for tardiness and/or early departure when inclement weather conditions warrant. Inclement weather tardiness or early departure in excess of the time authorized by the City Manager and Director of Utilities, or designees, shall be charged as provided in Subsection A, above.

(Ord. 28575 Ex. A; passed Mar. 5, 2019)

## GENERAL POLICIES

### 1.12.290 Hours of work.

The hours of work constituting full time regular employment for employees of the City of Tacoma shall be determined for each class of work in each department of General Government and in each division in the Department of Public Utilities by the head of such departments or divisions, subject to the approval of the City Manager or Director of Utilities, as the case may be; provided, however, that the minimum work week for all classes of employment, except Fire Service employees, shall average 40 hours. Effective January 1, 2004, the average minimum work week for Fire Service employees shall be 46.1 hours except for Fire Chief, Deputy Fire Chief, Assistant Fire Chief, Deputy Fire Marshal, Fire Inspector, Fire-Lieutenant Dispatcher, Fire-Captain Dispatcher, Emergency Medical Services Administrator, Deputy Harbor Master and employees when assigned to a unit where the minimum working week shall average 40 hours. When shifts are shortened or lengthened due to daylight savings time change, employees on duty will receive their regular hours of pay at the straight time rate.

(Ord. 27962 § 1; passed Dec. 14, 2010: Ord. 23446 § 3; passed Aug. 6, 1985: Ord. 23324 § 2; passed Jan. 8, 1985: Ord. 23111 § 12; passed Feb. 7, 1984: Ord. 22947 § 2; passed Jun. 28, 1983: Ord. 22847 § 3; passed Dec. 28, 1982: Ord. 22624 § 3; passed Jan. 26, 1982: Ord. 20937 § 8; passed Dec. 21, 1976: Ord. 20698 § 3; passed Apr. 13, 1976: Ord. 20026 § 7; passed Dec. 26, 1973: Ord. 19729 § 4; passed Dec. 26, 1972: Ord. 19364 § 2; passed Jun. 8, 1971: Ord. 18837 § 1; passed Jun. 10, 1969: Ord. 18548 § 1; passed Apr. 23, 1968: Ord. 18193 § 2A; passed Dec. 20, 1966: Ord. 17727 § 8; passed Dec. 8, 1964: Ord. 16811 § 1; passed May 23, 1961)

### 1.12.292 Meal and rest periods.

A. Meal periods.

1. Employees who work more than 4 consecutive hours shall be allowed one unpaid meal period of at least 30 minutes, which commences no less than 2 hours nor more than 5 hours from the beginning of the shift.

2. No employee shall be required to work more than 5 consecutive hours without a meal period.

3. Employees working 3 or more hours longer than a normal shift shall be allowed at least one unpaid, 30-minute meal period prior to or during the overtime period.

B. Rest periods.

1. Employees shall be allowed a paid rest period of not less than 15 minutes for each 4 hours of working time.

2. No employee shall be required to work more than 3 hours without a rest period.

3. Employees working in the field may take their rest periods when convenient so long as the orderly progress of work is not unduly interrupted and subject to approval by management.

4. Where the nature of the work allows employees to take intermittent rest periods equivalent to 15 minutes within a 4-hour period, scheduled rest periods are not required.

C. The provisions regarding meal and rest periods set forth above may be otherwise modified as provided for in a collective bargaining agreement.

(Ord. 27081 § 1; passed May 13, 2003)

### 1.12.295 Payment of wages.

Employees are paid on a biweekly basis. Effective January 1, 2002, newly hired employees will be required to receive biweekly wages by direct deposit.

(Ord. 26912 § 4; passed Dec. 18, 2001)

### 1.12.300 Employment by different departments.

The prescribed rates of pay include payment for all work performed in those classes even though work may be performed in more than one department. Each department shall pay its proportionate share of such services and the total compensation received by such employee shall not exceed the prescribed rate being received by the employee.

(Ord. 15751 § 5.3; passed Dec. 17, 1956)

### 1.12.310 Part pay for certain employees.

The pay rates for all classes of employment as specified in this chapter are gross compensation for full-time employment in the City service. The pay rates for the Police Court Judge and the Police Court Clerk shall include compensation paid by Pierce County as provided by law and the balance of their salaries shall be paid by the City.

(Ord. 16670 § 9; passed Dec. 13, 1960)

### 1.12.320 Provision for additional personnel.

In the event of emergencies or in unforeseen conditions, a greater number of persons than designated in the budget to be employed in any said position may be employed or a new position for which a salary range has not been established may be created by Council action in the form of an amendment to the Compensation Plan; provided, that nothing herein contained shall be construed as requiring the continual employment of all offices or employees designated in said annual budgets, regardless of the actual necessity for their services, but whenever the force of employees in any department can, in the interest of economy and consistent with the public interest, be reduced the City Manager or the Director of Utilities, as the case may be, may take such action as he deems necessary and make such reduction in a manner consistent with the Civil Service and Personnel Rules. Whenever it becomes necessary to increase the number of employees or positions or to create new positions in excess of the number provided for in the applicable annual budgets, separate authority therefor shall be by administrative direction of either the City Manager or the Director of Utilities, subject to limitations of State law relating to budgets. When any changes in the number of positions, the creation of a new position, or the classification or reclassification of the same are required to be made under the provisions of this chapter or under the provisions of Chapter 1.24, by reason of the promotion, transfer, reemployment and the return of an employee after leave of absence or by reason of the classification or reclassification of a position, the creation of a new position, or as a result of a Council approved reorganization of any department of the City, such actions may be accomplished if the compensation required to be paid the employees on account of such changes can lawfully be made from funds appropriated in the current annual budget under the general item of salaries and wages, without exceeding such appropriation.

(Ord. 16940 § 5; passed Dec. 19, 1961)

### 1.12.330 Conversion of pay rates and computation of pay for less than full pay periods.

A. The payroll periods shall be on a biweekly basis.

B. When necessary to convert the salary of employees to a biweekly scale the hourly rate shall be multiplied by 80 to obtain such biweekly scale.

C. For employees who are members of the Fire Service and not working a 40-hour week, the daily rate shall be computed by multiplying the hourly rate as computed herein, by 12. The hourly rate for the purpose of overtime shall be computed by dividing the biweekly rate by 95 effective January 1, 1983 and by 94 effective January 1, 1984.

The daily and hourly rates above provided for shall be rounded to the next highest tenth of a cent.

D. Employees on annual work schedules and having variable working days in the payroll periods and who are paid the biweekly rate of pay each payroll period, shall have any time lost from their work schedule deducted from the biweekly rate in computing the pay for any such payroll period.

(Ord. 22876 § 1; passed Feb. 22, 1983: Ord. 19729 § 5; passed Dec. 26, 1972: Ord. 19493 § 3; passed Dec. 28, 1971: Ord. 19318 § 1; passed Apr. 6, 1971: Ord. 18837 § 2; passed Jun. 10, 1969: Ord. 18193 § 2B; passed Dec. 20, 1966: Ord. 17838 § 3; passed May 11, 1965: Ord. 17227 § 4; passed Dec. 18, 1962: Ord. 16940 § 6; passed Dec. 19, 1961)

### 1.12.340 Authority for Director of Finance.

The Director of Personnel shall check all payrolls to determine that all persons in the City service have been properly appointed and are being paid in accordance with the provisions of the compensation ordinances of the City. After such determination has been made the Director of Personnel shall certify such fact to the Director of Finance which shall be sufficient authority for the Director of Finance to execute warrants for salaries as provided by ordinance, within limitations of the annual budget.

(Ord. 15751 § 5.7; passed Dec. 17, 1956)

### 1.12.345 Employee recognition.

The City hereby adopts the following awards programs in recognition of service by officers and employees of the City in accordance with the following rules and regulations:

A. Length of Service. An award may be given to an officer or employee who has completed aggregate City service equal to 10, 15, 20, 25, 30, 35, and 40 years respectively on or after January 1, 1986. In addition to the recognition award, the officer or employee may be awarded an appropriately worded certificate signed by the Mayor and the City Manager or the Director of Utilities, as the case may be. Awards shall be presented as close as possible to the first of each year.

The administration of this program shall be the responsibility of the Human Resources Director.

B. Outstanding Service.

1. The Human Resources Department may establish programs in recognition of outstanding service by employees and may provide appropriate recognition, including a certificate and/or other items of nominal value, or an employee may be granted up to four incentive days per year. "Incentive day" means a day which is available for use and is administered in the same way as a floating holiday, as set forth in Tacoma Municipal Code Sections 1.12.200 and 1.12.210.

2. Expenditures, pursuant to this section, shall constitute additional compensation to the individual recipients of such award over and above that specified elsewhere in this chapter.

C. Employee Incentive Program. The Department of Public Utilities may reward an incentive bonus to its eligible participating employees for their contribution to the achievement of department goals. The bonus would be one incentive day for achieving 51 percent to 65 percent of department goals, two incentive days for 66 percent to 80 percent achievement, three incentive days for 81 percent to 99 percent, and a maximum of four incentive days for meeting all stated goals. The program year will be January 1 through December 31 with reward occurring at the end of January of the following year. For the purposes of this section, the following words shall mean:

1. "Achievement of department goals" means the determination by the Director of Utilities after reporting to the Public Utility Board that the strategic plan or other goals that have been promulgated in writing by the Director by March 31 of the program year have been substantially satisfied.

2. "Eligible participating employee" means a City employee that:

a. Is an employee of or works for the Department of Public Utilities and has been at said status for at least six months prior to December 31 of the program year; and

b. Has not had any days of disciplinary suspension during the program year.

3. "Incentive day" means a day which is available for use and is administered in the same way as a floating holiday, as set forth in Sections 1.12.200 and 1.12.210, or equivalent cash in lieu thereof.

D. Wellness Program. Employees may be eligible for financial and/or other incentives for participation and achievement of goals as determined by the Wellness Committee.

(Ord. 28263 Ex. A; passed Dec. 9, 2014: Ord. 27698 § 2; passed Mar. 25, 2008: Ord. 27033 § 8; passed Dec. 17, 2002: Ord. 26182 § 4; passed Dec. 16, 1997: Ord. 25645 § 13; passed Dec. 13, 1994: Ord. 24822 § 1; passed Jan. 22, 1991: Ord. 23757 § 1; passed Dec. 16, 1986)

## 1.12.346 Safe driver awards.

A. Effective January 1, 1987, and annually thereafter, the City of Tacoma hereby adopts the following program of awards in recognition of the safe operation of City-owned motor vehicles by employees of the City in accordance with the following rules and regulations:

1. Safe Driving Recognized. To be eligible for an award, an employee must have been responsible for the operation of a motor vehicle during at least 50 percent of the working days for 12 consecutive months without a preventable accident.

2. Awards. An award shall consist of either a certificate or a pin or alternate item, to be granted for at least 12 months of accident-free driving or for such additional periods of safe driving as may be considered necessary for the development of the fleet safety program by the City Manager.

3. Presentation. Awards shall be presented annually to employees entitled thereto.

B. The administration of this program shall be the responsibility of the Personnel/Labor Relations Director.

(Ord. 23757 § 2; passed Dec. 16, 1986: Ord. 16420 § 1; passed Sept. 1, 1959)

## SALARY SCHEDULE

### 1.12.350 Salary range code.

In each of the following sections[22] constituting the basic salary schedule and the schedule of salary ranges referred to in Section 1.12.010 of this chapter, column 1 shall constitute the code number, column 2 the class title, and the remaining columns the salary range for the position classification. Wherever the class title is preceded by (A) the position shall be appointive.

The compensation as set forth in said sections shall be the hourly compensation for each position.

(Ord. 24405 § 5; passed Aug. 15, 1989: Ord. 24471 § 2; passed Nov. 21, 1989: Ord. 22269 § 5; passed Dec. 16, 1980: Ord. 19493 § 4; passed Dec. 28, 1971: Ord. 16940 § 7; passed Dec. 19, 1961)

### 1.12.355 Salary Schedules.[23]

### 1.12.629 Statement of policy.

A. The Council of the City of Tacoma does hereby find that on occasion reorganizations in departments of the City of Tacoma eliminate certain classifications from the pay and compensation plan, and when such changes occur in the Police and Fire service there may occur serious inequities involving former employees who have retired from the classifications being eliminated under the provisions of the laws of the State relating to pensions. In order to adequately protect said retired and retiring employees and to secure to them the benefits of the pension laws, particularly with reference to the escalation provisions thereof, it is necessary that adequate provision be made for the retention of their classifications in the pay and compensation plan even though said classifications are no longer budgeted and filled in the operating departments.

B. Classifications in the Police and Fire service shall remain in the compensation plan, even though no appointments are made to such classifications in all instances where former employees holding said classifications have retired pursuant to State-enacted pension laws and are receiving pensions thereunder.

C. The compensation allocated to said unfilled classifications shall not be less than the ratio as existed between said classification and the basic journeyman rates, i.e., Police Patrol Officer or Firefighter in the last preceding compensation plan. For the purpose of determining retirement allowances only, the following salary ratio shall apply:

Police Detective retiring prior to January 1, 1982, shall equate with Police Sergeant rate. Captain, Identification and Records, rate shall equate with Police Captain rate. Policewoman rate shall equate with Police Patrol Officer rate. Jail Matron shall receive 86.41 percent of Police Patrol Officer rate. Identification Officer shall receive 104 percent of Police Patrol Officer rate. Sergeant, Identification and Records and Sergeant of Identification, shall equate with Police Sergeant rate. Lieutenant, Identification and Records, and Lieutenant of Identification, shall equate with Police Lieutenant. Radio Operator shall equate with Police Patrol Officer rate. Radio Engineer shall equate with Police Captain rate. Assistant Police Chief shall equate to the Police Major rate. Fire Marshal, Chief Fire Training Officer and Chief Fire Services Officer shall receive 154.1 percent of the Firefighter rate. Fire R and D Administrator shall receive 150.8 percent of the Firefighter rate. Police Investigator shall receive 107.57 percent of Police Patrol Officer rate. Radio Technician shall receive 121.91 percent of Police Patrol Officer rate. Lieutenant Fire Alarm Dispatcher and Fireboat Engineer shall equate to Fire Lieutenant. Captain Fire Alarm Dispatcher shall equate to Fire Captain.

(Ord. 23835 § 3; passed May 5, 1987: Ord. 23357 § 2; passed Mar. 19, 1985: Ord. 23081 § 3; passed Dec. 27, 1983: Ord. 22567 § 5; passed Nov. 24, 1981: Ord. 21565 § 9; passed Dec. 19, 1978: Ord. 21348 § 31; passed May 9, 1978: Ord. 21232 § 6; passed Dec. 20, 1977: Ord. 20972 § 16; passed Feb. 1, 1977: Ord. 20832 § 11; passed Aug. 3, 1976: Ord. 20619 § 12; passed Dec. 16, 1975: Ord. 20276 § 10; passed Dec. 26, 1974: Ord. 20237 § 6; passed Oct. 22, 1974: Ord. 20127 § 4; passed May 28, 1974: Ord. 18702 § 1; passed Dec. 26, 1968)

### 1.12.640 Application of additional rates.

0016 An employee in the classification of Police Administrative Support Specialist (CSC 0016) who assists the Emergency Operations Center personnel by providing support during a major event and support to the Incident Command System (ICS) shall receive an application of rate of 5 percent above their regular rate of pay for additional duties added to their normal duties while assigned.

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[22] Code Reviser's note: Salary schedules [1.12.355] are on file in the Human Resources Department.
[23] Code Reviser's note: Salary schedules [1.12.355] are on file in the Human Resources Department.

0016 An employee in the classification of Police Administrative Support Specialist (CSC 0016), assigned to work the swing shift shall receive an application of rate of 3 percent above their base rate of pay; and when assigned to work the graveyard shift shall receive an application of rate of 5 percent above their base rate of pay.

0601 A Meter Reader (CSC 0601), when assigned by his or her supervisor to training functions for a minimum of four hours, shall receive a 10 percent differential above their regular rate of pay.

0601 A Meter Reader (CSC 0601), when assigned to lead functions, shall receive a 10 percent application of rate above their regular rate of pay.

0602 A Utilities Field Investigator (CSC 0602) when assigned by his or her supervisor to training functions for a minimum of four hours shall receive a five percent differential above their regular rate of pay.

0602 A Utilities Field Investigator (CSC 0602), when assigned to lead functions, shall receive a 10 percent application of rate above his or her regular rate of pay.

0602 A Utilities Field Investigator (CSC 0602), when assigned by their supervisor to work the second shift, will receive a 3 percent shift differential.

0617 A Utility Services Specialist (CSC 0617), who has been in the classification eight (8) years with three (3) years at Step 6, shall be eligible to receive non-automatic Step 7.

0619 The classification of Conservation Manager (CSC 0619) is comprised of all non-automatic steps, and progression within the salary range is based on market and/or a performance appraisal conducted by the appropriate hiring authority.

0627 When assigned by a supervisor, a Solid Waste Worker (CSC 0627) will receive an additional 8 percent of their base rate to act in a lead capacity, or when assigned in writing to assist in the development and implementation of training programs and/or solid waste operations projects as may be designated by management.

0627 A Solid Waste Worker (CSC 0627) when assigned to provide lunch relief or emergency back up at the Household Hazardous Waste Facility shall receive an additional 5 percent of their base wage.

0629 Employees in the classification of Environmental Systems Technician (CSC 0629) shall receive an additional 10 percent above his or her regular rate of pay as outlined in the collective bargaining agreement when they meet the experience and training requirements and are assigned in writing and authorized by management.

0720 The classification of Project Manager (CSC 0720) is comprised of all non-automatic steps, and progression within the salary range is based on management discretion.

0721 The classification of Project Manager (CSC 0721) is comprised of all non-automatic steps, and progression within the salary range is based on management discretion.

1101, 1102 For a Crime Analyst (CSC 1101) or Senior Crime Analyst (CSC 1102) who shows proof that they hold a Master's degree from an accredited post-secondary institution with emphasis in math, statistics, criminal justice, behavioral science, or a related field, as determined by the Chief of Police or their designee, the City will provide a 2.5 percent educational incentive pay in addition to the base wages.

1102 See 1101, 1102.

2016 A Construction Inspector (CSC 2016) will receive non-automatic step 6 rate of pay after completion of either (a) 5 years as a City of Tacoma Construction Inspector and 60 applicable education credits after hire with the City; or (b) 15 years as a City of Tacoma Construction Inspector; or (c) upon management discretion. Each employee is responsible for developing their training/education plan jointly with the appropriate manager.

2016 A Construction Inspector (CSC 2016) when assigned to perform weld and coating inspections of steel pipe inside the pipe, shall receive an additional 5 percent above their base rate of pay for all hours while working in the pipe.

2019 An employee in the classification of Engineering Instrumentation Technician (CSC 2019) will receive an additional 5 percent application of rate over base wage when working in the South Compactor Building or the Transfer Station's Tipping Floor Area and Compactor Area.

2069 The classification of Real Time Energy Trader (CSC 2069) is comprised of all non-automatic steps, and progression within the salary range is based on merit or other factors.

2072 The classification of Term Energy Trader (CSC 2072) is comprised of all non-automatic steps, and progression within the salary range is based on merit or other factors.

2101, 2102, 2122 An employee in the classification of Inspector (CSC 2101), Code Inspector Supervisor (CSC 2102), or Senior Inspector (CSC 2122) who meets certification requirements established in the collective bargaining agreement will be

eligible to receive certification pay for obtaining and maintaining International Code Council (ICC) certifications as provided in the agreement.

2125 An Electrical Inspector (CSC 2125), assigned lead duties, shall be paid 6.3 percent above the Step 3 rate of pay. Such assignment shall be at the sole discretion of management.

2131, 2132, 2133, 2134 Employees in the classifications of Power Engineer I (CSC 2131), Power Engineer II (CSC 2132), Power Engineer III (CSC 2133) and Power Engineer IV (CSC 2134), assigned to work in emergency situations outside the normal work hours shall be compensated at time and one-half of their regular rate of pay for all hours worked during emergency situations.
2132 See 2131, 2132, 2133, 2134
2133 See 2131, 2132, 2133, 2134

2133 The classification of Power Engineer III (CSC 2133) is comprised of all non-automatic steps, and progression within the salary range is based on management discretion.

2134 See 2131, 2132, 2133, 2134

2134 The classification of Power Engineer IV (CSC 2134) is comprised of all non-automatic steps, and progression within the salary range is based on management discretion.

4001 A Firefighter assigned as an Engineer/Apparatus Operator for an engine or truck company shall receive an additional 5 percent of base pay.

4001 A Firefighter (CSC 4001) assigned as a Tiller Operator shall receive an additional 2.5 percent of base pay.

4001 Employees in the classifications of Firefighter (CSC 4001), Fire Lieutenant (CSC 4002), Fire Captain (CSC 4003), and Fire Boat Pilot (CSC 4011) assigned to “cross staff” Station 18 (work the boat and an engine) shall receive an additional 5 percent of base pay.

Uniformed fire personnel assigned to Mask Repair and related services shall receive an additional 5 percent of base pay.

4001 A Firefighter assigned to train at the Fire Communications Center (FCC) for a maximum of six months will receive an additional 5 percent of the top step of the Firefighter (CSC 4001) range. This excludes Firefighter personnel currently receiving specialty pay who may transfer to the Fire Communications Center; he or she would receive a maximum of 5 percent.

4001 A Firefighter fully trained and assigned at the Fire Communications Center (FCC) will receive an additional 7.5 percent above the top step of the Firefighter (CSC 4001) range.

4001 A regularly assigned Fire Communications Center Firefighter (CSC 4001) when temporarily upgraded to a Fire Communications Center Lieutenant (CSC 4101) shall receive an additional 7.5 percent above his or her current step of the Firefighter pay range for all hours so assigned.

4001 Employees assigned by management, per the collective bargaining agreement, to Advanced Life Support (ALS) assignments will receive a 15 percent application of rate above top step Firefighter.

4001, 4002, 4003, 4006 Effective March 8, 2004, employees represented by Tacoma Firefighters Union, Local 31, who have obtained and provided the Fire Department with documentation of successful paramedic certification will be eligible for certification pay, according to the provisions in the collective bargaining agreement. Beginning in the 4th continuous year that a Firefighter/Paramedic is eligible to work as a Tacoma Fire Department paramedic, the employee will receive an additional 3 percent of base pay. Beginning in the 7th continuous year that a Firefighter/Paramedic is eligible to work as a Tacoma Fire Department paramedic, the employee will receive an additional 5 percent of base pay.

4001, 4002, 4003, 4011 Fire personnel assigned to the Hazardous Materials Unit, Unit 44, shall receive an additional 5 percent of base pay.

4002 See 4001, 4002, 4003, 4011.

4003 See 4001, 4002, 4003, 4011.

4004 employees in the classification of Fire Battalion Chief (CSC 4004) assigned as an Administrative or Operations Battalion Chief (4004 F or 4004 G) shall receive an additional 7.5 percent of base pay, and shall be salaried Class D employees under Section 1.12.080 of the Tacoma Municipal Code, and will not be eligible for overtime compensation or compensatory time off.

4006 Effective January 1, 2012, employees in the classification of Firefighter-Paramedic (CSC 4006) working in a Fire Lieutenant/Medic in charge position shall receive an additional 5 percent of base pay.

4006, 4007 Providing an eligible list exists with certifiable eligibles thereon, an employee who has 10 years of service as a Paramedic and/or Paramedic Supervisor shall be eligible to voluntarily demote to Firefighter. Employees who qualify shall have their pay frozen at the present rate of pay until such time as it is equal to the top step of Firefighter. In no case shall the employee's pay be greater than the rate received at the time of such demotion, unless the employee promotes to a higher classification.

4006 See 4001, 4002, 4003, 4006.

4007 See 4006, 4007.

4011 See 4001, 4002, 4003, 4011.

4102 Effective October 20, 2003, employees in the classification of Fire Captain Dispatcher, (CSC 4102) when assigned and performing some of the duties and responsibilities of a Fire Communications Center Supervisor (CSC 4103), as outlined in the collective bargaining agreement, shall receive an additional 2.5 percent application of rate.

4103 Effective October 20, 2003, employees in the classification of Fire Communications Center Supervisor (CSC 4103) shall be appointive, salaried Class D employees under Section 1.12.080 of the Tacoma Municipal Code and will not be eligible for overtime compensation or compensatory time off. Appointment to the classification of Fire Communications Center Supervisor shall come from the Tacoma Firefighters Local 31 bargaining unit and will require Fire Communications experience.

4201 A Police Officer Recruit (CSC 4201) is a non-represented classification; the compensation for the classification shall mirror the first three steps of Police Officer.

4202, 4204, 4207 A Police Officer shall receive 5 percent for those hours engaged in training as a Police Training Officer.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant assigned to work the swing shift shall receive an applied rate of 3 percent above his/her regular rate of pay. A Police Officer, Police Detective, and Police Sergeant assigned to work the graveyard shift shall receive an applied rate of 5 percent above his/her regular rate of pay.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant assigned as Bomb Technician shall receive an applied rate of 5 percent above his/her regular hourly rate for those hours so assigned.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant assigned to the Homicide Unit, shall receive an application of rate of 5 percent above their regular rate of pay for those hours so assigned. A Police Officer, Police Detective, and Police Sergeant not assigned to the Homicide Unit who is called out to investigate a homicide, will receive the application of rate for those hours so assigned.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant assigned to the K-9 unit shall receive an applied rate of 5 percent above his/her hourly rate for those hours so assigned. One hour per shift shall be allocated for dog care and training. Such compensation shall be for all off duty hours spent for dog care and training.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant assigned to the SWAT Team shall receive an applied rate of 5 percent above his/her regular hourly rate for those months so assigned.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant assigned to the Meth Lab Team shall receive an applied rate of 5 percent above his or her regular hourly rate for those months so assigned.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant assigned to the Search and Rescue Team shall receive an applied rate of 5 percent above his/her regular hourly rate for those months so assigned.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant assigned as a Motorcycle Officer shall receive an application of rate of 5 percent above his or her regular hourly rate for those hours so assigned.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant covered by the LEOFF II retirement system shall receive an additional 1 percent applied rate in lieu of providing long-term disability insurance to bargaining unit employees.

4202, 4204, 4207 In recognition of the fact that future technology creates needs which did not previously exist for internal training and mentoring, highly experienced employees shall be assigned additional duties and shall receive an applied rate of 2 percent. Highly experienced employees shall be defined as those with 25 years of service as a commissioned Tacoma police officer in the classifications of Police Officer, Police Detective, and Police Sergeant. These duties shall be assigned and this applied rate shall commence at the first of the calendar year in which an employee will complete the 25 years of service.

4202, 4204, 4207 Effective January 1, 2009, an applied rate of 1 percent shall be applied in recognition for working toward the attainment of accreditation under CALEA standards and additional criteria outlined in the collective bargaining agreement. Effective January 1, 2010, an additional 1 percent, or a total of 2 percent, shall be applied above the base rate of pay in

recognition for being accredited and for the successful maintenance of the accreditation. The application of rate will remain in effect so long as the department remains accredited.

4202, 4204, 4207 An employee assigned as a Tactical Officer to the Criminal Justice Training Commission (CJTC) shall receive a premium of 3 percent of his or her base hourly wage for those hours so assigned.

4202, 4204, 4207 Subject to the provisions of the applicable collective bargaining agreement, commissioned police officers who suffer a loss or damage to personal property and/or clothing (excluding normal wear and tear), which is reasonably carried and utilized in the line of duty, shall be reimbursed for such loss or damage by the City if the loss or damage did not occur as a result of negligence of the employee. Such claims will be processed through the Department, but in no case shall exceed $250.00 per occurrence.

4202, 4204, 4207 A Police Officer, Police Detective, and Police Sergeant shall be eligible for an application of rate of 2 percent according to the terms and conditions of a Bilingual Pay Program established by management.

4202 A Police Officer assigned as a Patrol Specialist shall receive 5 percent above the top step rate of Police Officer.

4204 See 4202, 4204, 4207.

4204 A Police Sergeant assigned as a Specialist Sergeant shall receive an applied rate of 5 percent above the top step of Police Sergeant.

4205, 4206 An employee in the classification of Police Lieutenant (CSC 4205) or Police Captain (CSC 4206) shall receive an applied rate of 2 percent above their base wage in recognition for being CALEA accredited and for the successful maintenance of the accreditation as outlined in the Tacoma Police Management Association, Local 26, collective bargaining agreement.

4205, 4206 Beginning January 1, 2017, in recognition of the fact that future technology creates needs which did not previously exist for internal training and mentoring, highly experienced employees shall be assigned additional duties and shall receive an applied rate of 2 percent. Highly experienced employees shall be defined as those with 25 years of service as a commissioned Tacoma police officer. These duties shall be assigned and this applied rate shall commence at the first of the calendar year in which an employee will complete the 25 years of service.

4206 See 4205, 4206

4207 See 4202, 4204, 4207.

4208, 4209 A Forensic Specialist or Forensic Services Supervisor assigned to work the swing shift shall receive an application of rate of 3 percent above their base rate of pay. A Forensic Specialist or Forensic Services Supervisor assigned to work the graveyard shift shall receive an applied rate of 5 percent above their base rate.

4208, 4210 A Forensic Specialist (CSC 4208) or Crime Scene Technician (CSC 4210) will receive an additional 4 percent per hour when assigned by a supervisor and performing the following specific tasks: (1) training other Forensic Specialists or Crime Scene Technicians, respectively; (2) developing training plans; and/or (3) participating in the evaluation process for the training provided. Employees selected must have the necessary skill and training to perform these tasks. Employees on modified status are not eligible for this premium.

4209 A Forensic Services Supervisor (CSC 4209) shall receive in the first pay period of each year, retroactive to January 1, 2019, a lump sum payment of $500, in recognition of their assistance in the Tacoma Police Department CALEA accreditation and successful maintenance of the accreditation.

4210 See 4208, 4210.

4321 An employee in the classification of Court Clerk (CSC 4321) assigned to work as a bailiff in an assigned court room, shall receive an application of rate of 2 percent above his or her regular rate of pay for hours worked while assigned. The application of rate shall not apply to any paid leave time.

4321 An employee in the classification of Court Clerk (CSC 4321) who is certified in an approved language and acts as a foreign language interpreter, shall receive an application of rate of 2 percent above his or her rate of pay for hours worked while assigned. The application of rate shall not apply to any paid leave time.

4605 The classification of Department Aide (CSC 4605) shall be comprised of all non-automatic steps and progression within the salary range will be based on merit or other factors.

5001 The classification of Laborer (CSC 5001) is comprised of all non-automatic steps and progression to steps 2 and 3 are discretionary and require the department/division manager's approval.

5002 A Street Maintenance Worker (CSC 5002), assigned as the Concrete Finisher's assistant will start at Step 5.

5002 The Street Maintenance Worker (CSC 5002) assigned to the Track Paver as Secondary Screed Operator shall receive an additional $1.00 per hour above base wage for all hours operating the Screed.

5003 Employees, in the classification of Transmission & Distribution Flagger (CSC 5003), are excluded from the RHS Medical Savings Account plan. The classification of Transmission & Distribution Flagger (CSC 5003) will be comprised of a three-step range and step 2 rate of pay will be reached after working 1,040 hours, and step 3 rate of pay will be reached after working an additional 1,040 hours.

5006 An employee in the classification of Community Service Work Crew Leader (CSC 5006), when assigned to supervise one or more other Community Service Work Crew Leaders, shall receive an additional 5 percent of the base rate.

5019 A Biosolids Distribution Operator (CSC 5019), pulling or loading an equipment trailer, shall be compensated an additional 5 percent over his or her base wage rate for all time spent pulling or loading the equipment trailer.

5019 A Biosolids Distribution Operator (CSC 5019), when assigned as a Transfer Driver, shall receive an additional 5.9 percent application of rate for all hours assigned.

5020 An Equipment Operator (CSC 5020) shall receive additional compensation as indicated when operating the following equipment for all hours so assigned: Snow Plow $1.50 per hour; Asphalt Truck $1.00 per hour (Water Department Only); Oil Distributor, $4.00 per hour.

5021 A Heavy Equipment Operator (CSC 5021) scheduled at the Recovery and Transfer Center shall receive an applied rate of 5 percent additional pay per hour above the current step rate of pay.

5023 A Traffic Sign and Marking Specialist (CSC 5023), when assigned as Lead, shall receive an additional 10 percent of base pay. A Traffic Sign & Marking Specialist who attains and maintains an International Municipal Signal Association (IMSA) Signs and Markings Level III certification will receive an additional 5 percent.

5023 A Traffic Sign and Marking Specialist (CSC 5023) will receive a rate of pay equivalent to Equipment Operator (CSC 5020) for the responsibility and operation of the bucket truck.

5025 The Street Maintenance Crew Leader assigned to the Track Paver as Primary Screed Operator shall receive an additional $1.00 per hour above base wage for all hours operating the Screed.

5035 A Solid Waste/Collector Driver (CSC 5035), when assigned as a Transfer Driver, shall be compensated at the top step of Solid Waste/Collector Driver plus 5.9 percent.

5035 Employees assigned to train and evaluate Solid Waste Collector/Drivers (CSC 5035) shall receive an additional 5 percent per hour for all hours so assigned.

5035 A Solid Waste Collector/Driver (CSC 5035), when assigned by management to a lead position, shall receive an additional 8 percent over base pay for performing additional duties and responsibilities as outlined by management.

5040, 5041 A Grounds Maintenance Worker (CSC 5040) or Grounds Maintenance Crew Leader (CSC 5041) will receive an application of rate of $1.00 per hour when performing raft-based noxious weed treatment.

5060, 5061 A Water Utility Worker (CSC 5060) who has completed a JATC-approved Water Quality course and is assigned to a Flush Truck shall receive 103 percent of the top step Water Utility Worker rate for all hours so assigned. A Water Utility Worker in the Apprenticeship rotation shall receive $10.00 per day for travel expenses during the first 20 working days of his or her rotation to McMillin and the Headworks.

5060 A Water Utility Worker when enrolled in the departmental pre-journey level training program shall be paid 79.25 percent for Step 1, 82.75 percent for Step 2, 84.25 percent for Step 3, 85.75 percent for Step 4, and 86.75 percent, upon successful completion, of the top step of the journey-level rate.

5060 A Water Utility Worker operating a jackhammer shall receive 81 percent of the Water Service Worker rate, with a four-hour minimum, for all hours so assigned.

5061 See 5060, 5061.

5061 A Water Service Worker (CSC 5061) assigned as a Locator shall receive 103 percent of the Water Service Worker rate for those hours so assigned. A Water Service Worker assigned as a Lead as his or her regular position will receive 115 percent of the Water Service Worker rate for all hours so assigned.

5065 When in an on-call status, a Water Service Supervisor (CSC 5065) shall be compensated for 1 (one) hour at the overtime rate for the first emergency call not requiring a return to headquarters or the work site. Subsequent calls after the first hour of paid time shall be paid at the overtime rate for the actual time spent to handle the call, as provided for in the collective bargaining agreement.

5068 When in an on-call status, a Water Supply Supervisor (CSC 5068) shall be compensated for 1 (one) hour at the overtime rate for the first emergency call not requiring a return to headquarters or the work site. Subsequent calls after the first hour of paid time shall be paid at the overtime rate for the actual time spent to handle the call, as provided for in the collective bargaining agreement.

5096 An employee in the classification of WWTP Electrical/Instrumentation Technician (CSC 5096) may be eligible to receive an application of rate of 2 percent for maintaining a valid Crane Operator's certification.

5096 An employee in the classification of WWTP Electrician/Instrumentation Technician, with a minimum of three (3) years of employment in the Operations and Maintenance Division, when designated as a Lead, shall receive an additional 5 percent over their base rate of pay for all hours worked when specific criteria is met.

5096 An employee in the classification of WWTP Electrician/Instrumentation Technician who holds a Crane Operators Certification as of the date of ratification of the 2020-2022 collective bargaining agreement shall continue to receive the 2 percent premium as long as they maintain their certification. The premium is not available to any other current and/or future employees.

5097 An employee in the classification of Biosolids Supervisor (CSC 5097) that receives the Master Gardener Certification and/or the Washington Organic Recycling Compost Certification shall receive certification pay of 2.5 percent for each certification.

5099 A Wastewater Treatment Plant Assistant (CSC 5099), upon completion of 50 percent of the training modules toward a certificate, will be assigned an applied rate of 3 percent above their current step rate of pay. Effective January 1, 2017, this application of rate will not be available for any future employees, and will only be available for employees who are receiving the premium and only as long as they remain in the WWTP Assistant classification.

5099, 5105, 5110 An employee in the classification of Wastewater Treatment Plant Assistant (CSC 5099), Wastewater Treatment Plant Maintenance Machinist (CSC 5105), or Wastewater Treatment Plant Maintenance Technician (CSC 5110) shall receive a maximum certification premium of 3 percent above their base rate of pay for holding a Water Backflow Assembly Technician license.

5099, 5105, 5110 An employee in the classification of Wastewater Treatment Plant Assistant (CSC 5099), Wastewater Treatment Plant Maintenance Machinist (CSC 5105), or Wastewater Treatment Plant Maintenance Technician (CSC 5110), who as of January 1, 2020, is receiving the maximum certification premium of 3 percent above their base rate of pay for holding a Crane Operators certification, shall continue to receive the premium as long as they are in the classification, and per the specific terms of the collective bargaining agreement.

5100 An employee in the classification of Biosolids Coordinator (CSC 5100) that receives the Master Gardener Certification and/or the Washington Organic Recycling Compost Certification shall receive certification pay of 2.5 percent for each certification.

5101, 5103 Effective October 1, 2008, an employee in the classification of Wastewater Treatment Plant Operator (CSC 5101) or Senior Wastewater Treatment Plant Operator (CSC 5103) who receives a WWTP Operator 3 certification will be eligible for an additional 6 percent in certification pay; who receives a WWTP Operator 4 certification will be eligible to receive an additional 7 percent in certification pay.

5105 See 5099, 5105, 5110.

5105, 5106 An employee in the classification of Wastewater Treatment Plant Maintenance Machinist (CSC5105) or Wastewater Treatment Plant Maintenance Machinist, Senior (CSAC 5106), when assigned as a Primary Machinist, will receive an application of rate of 5 percent of their hourly rate when working unscheduled overtime while on standby duty. This applies only to the Primary Machinist.

5106 See 5099, 5105, 5106.

5106 See 5105, 5106.

5108 A Water Plant Maintenance Worker (CSC 5108) assigned as a Lead will receive 115 percent of the Water Service Worker rate for all hours so assigned.

5110 See 5099, 5105, 5110

5110 An employee in the classification of Water Treatment Plant Supervisor (CSC 5110) who receives and maintains a Level 4 certification issued by the State of Washington, Department of Health, Water Works Operator Certification per Chapter 246-292 WAC, will be eligible to receive an additional 5 percent in certification pay.

5112 An employee in the classification of Water Treatment Plant Operator (CSC 5112) who receives and maintains a Level 4 certification issued by the State of Washington, Department of Health, Water Works Operator Certification per Chapter 246-292 WAC, will be eligible to receive an additional 5 percent in certification pay.

5119 The classification of Systems Power Dispatcher Candidate (CSC 5119) is comprised of all non-automatic steps, and progression through Step 3 of the salary range is based on passing a written exam and/or performance examination process. Upon successful completion of Step 3, a Systems Power Dispatcher Candidate will be advanced to Step 4 and given up to 6 months maximum to obtain the NERC dispatcher certification.

5120 A qualified Systems Power Dispatcher (CSC 5120) shall be paid 90.94 percent of the Generation Desk Dispatcher rate of pay. A System Power Dispatcher assigned to perform coordination duties shall receive 108.06 percent of Generation Desk rate of pay.

5132 Hydro Project Electrician (CSC 5132). When two or more Hydro Project Electricians are assigned to the same task, one shall be designated as the lead worker and shall receive an additional 6.5 percent. When a Hydro Project Electrician (CSC 5132), working at the Cowlitz, Cushman or Nisqually hydroelectric projects, has two or more City employees assigned to them for the same task, or has been assigned to oversee the work of two or more contract employees, the employee shall receive an additional 6.5 percent as the lead worker. The above shall not apply when assigned to do specific workplace skills and/or safety training, or when working as a safety watch at a confined space.

5205 An employee in the classification of Industrial Painter (CSC 5205) required to hold certification in Self Contained Breathing Apparatus (SCBA) or confined space will receive a 3 percent certification premium added to their base rate.

5225 A Water Meter Repair Worker (CSC 5225) assigned as a crew chief and supervising a Heavy Equipment Operator will receive 103 percent of the Water Meter Repair Worker rate for all hours so assigned.

5230 Electrical Meter & Relay Technician (CSC 5230). Steps shall be as follows: 5230.0 Journey Meter Technician base; 1st step AMRT Training 1 percent over base; 2nd step AMRT Training 2 percent over base; 3rd step AMRT Training 3 percent over base; 4th step AMRT Training 4 percent over base; 5th step AMRT Training 5 percent over base; 6th step AMRT Training 6 percent over base; 7th step AMRT Training 7 percent over base; Senior Meter/Relay Technician 14.25 percent over base; Assistant Supervisor Meters & Relays 25 percent over base.

5236 Electrician (CSC 5236) The City will reimburse employees in this classification for the cost of license recertification every three years. The City will pay the full cost of tuition for any required CEU training when approved in advance by management. Training may be taken during a regularly scheduled shift, with prior management approval.

5240 Electrical Worker (CSC 5240) (Tree Trimmer Training Program). There shall be 1.5 percent between each step of the Departmental Pre-journey training program up to and including Step 5.

5240 An Electrical Worker (Fire Electrical Maintenance and Signal and Lighting) with journey-level qualifications performing the highest level of helper's assignments, such as those which require performance of some journey-level duties, shall receive Step 7 rate of pay.

5240 Electrical Worker (Signal & Lighting and Fire Maintenance). There shall be 1.5 percent between each step of the departmental pre-journey level training program.

5241 Employees in the classification of Line Electrician Apprentice (CSC 5241) working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth, and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two-hour minimum), without regard to Article 9.1 of the Collective Bargaining Agreement.

5243 Employees in the classification of Wire Electrician Apprentice (CSC 5243) working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth, and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two-hour minimum), without regard to Article 9.1 of the Collective Bargaining Agreement.

5245 Employees in the classification of Wire Electrician (CSC 5245) working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth, and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two-hour minimum), without regard to Article 9.1 of the Collective Bargaining Agreement.

5246 Employees in the classification of Wire Electrician Senior working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth, and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two-hour minimum), without regard to Article 9.1 of the Collective Bargaining Agreement.

5246 Employees in the classification of Wire Electrician, Senior assigned and working as Coordinators shall receive a 5 percent applied rate for all hours so worked. Employees will be eligible for scheduled and emergency overtime. After six months, the employee is ineligible for scheduled overtime. The applied rate shall not be subject to the provisions of Article 9.1 of the Collective Bargaining Agreement.

5249 The classification of Power Supervisor III (CSC 5249) is comprised of all non-automatic steps and progression is based on performance.

5249, 5251 Employees in the classifications of Power Supervisor III (CSC 5249) and Power Supervisor II (CSC 5251), assigned to work in emergency situations outside the normal work hours shall be compensated at time and one-half of his/her regular rate of pay for all hours worked when responding to the work site or headquarters. An employee will receive a minimum of one hour, or actual time worked if it exceeds one hour, at time and one-half, his/her regular rate of pay for emergency calls received at his/her residence which do not require the employee to respond in person.

5251 See 5249, 5251.

5251 The classification of Power Division Supervisor (CSC 5251) is comprised of all non-automatic steps and progression is based on performance.

5253 Employees in the classification of Line Clearance Tree Trimmer (CSC 5253) inspecting two or more contract line clearance tree crews shall be paid at the Senior Line Clearance Tree Trimmer rate of pay.

5254 Senior Line Clearance Tree Trimmers (CSC 5254) shall be paid an additional 5 percent when supervising five or more persons.

5254 Employees in the classification of Senior Line Clearance Tree Trimmer (CSC 5254), who acquire and maintain an International Society of Arborist (ISA) Certification, shall receive an additional 3 percent.

5255 Employees in the classification of Line Electrician working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth, and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two-hour minimum), without regard to Article 9.1 of the Collective Bargaining Agreement.

All Line Electrician (CSC 5255) applied rates shall be calculated using the base Line Electrician rate. A journey-level Line Electrician (CSC 5255) shall be paid 79.9 percent of the journey-level rate in the event he or she shall be required to perform all the duties of a Line Electrician with the exception of normal climbing duties as established in the civil service class specification 5255 Line Electrician. A Line Electrician when assigned as a trouble person shall receive 7 percent above the Line Electrician rate.

Effective August 26, 2019, and as long as the October 2019 Trouble Crew Letter of Agreement remains in effect, in lieu of the 7 percent above the Line Electrician rate set forth in the preceding section, a Line Electrician assigned to work on the Trouble Crew will receive 110 percent of the journey-level Line Electrician rate.

5256 Employees in the classification of Line Equipment Operator (CSC 5256), who are certified instructors for Commercial Driver Training (CDL), will receive an additional 3 percent for all hours spent training and for class preparation.

5257 Employees in the classification of Line Electrician Senior working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth, and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two-hour minimum), without regard to Article 9.1 of the Collective Bargaining Agreement.

5257 Employees in the classification of Line Electrician, Senior assigned and working as Coordinators shall receive a 5 percent applied rate for all hours so worked. Employees will be eligible for scheduled and emergency overtime. After six months, the employee is ineligible for scheduled overtime. The applied rate shall not be subject to the provisions of Article 9.1 of the Collective Bargaining Agreement.

5270 When two or more Fire Electrical Maintenance journey-level employees, or one journey-level employee and more than one helper, are assigned to work together as a crew without direct supervision, one employee shall be paid 4 percent above Fire Maintenance Electrician. This shall not apply when two or more Fire Electrical Maintenance journey-level employees or one Fire Electrical Maintenance journey-level employee and more than one helper are assigned for reasons of inspection or testing or when two or more Fire Electrical Maintenance journey-level employees or one journey-level employee and more than one helper performs fire station maintenance of fire alarm battery room. This shall not apply unless a supervisor is absent from the work site for more than two hours.

5271, 5276 Employees in the classifications of Fire Electrical Maintenance Supervisor (CSC 5271), and Traffic Field Operations Supervisor (CSC 5276), assigned to work in emergency situations outside the normal work hours shall be

compensated at time and one-half of his/her regular rate of pay for all hours worked when responding to the work site or headquarters. An employee will receive a minimum of one hour or actual time worked if it exceeds one hour at his/her regular rate of pay for emergency calls received at his/her residence which do not require the employee to respond.

5273 Signal & Lighting Electrician Apprentice (CSC 5273) employees working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth, and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two hour minimum) without regard to Article 9.1 of the Collective Bargaining Agreement. Effective October 1, 2004, the Step 8 rate shall increase to 103 percent of the journey level rate.

5274 Signal and Lighting Electrician Senior (CSC 5274) employees working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth; and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two hour minimum) without regard to Article 9.1 of the Collective Bargaining Agreement.

5275 Signal and Lighting Electrician (CSC 5275) employees working (excluding housekeeping) in a vault or manhole that (1) exceeds 60 inches in depth; and (2) contains energized (exposed) secondary bus or involves working on or within two feet of energized primary equipment shall receive 3 percent above their base rate of pay for the time actually worked in the vault (with a two hour minimum) without regard to Article 9.1 of the Collective Bargaining Agreement. A journey-level Signal and Lighting Electrician assigned to modify or repair electrical, mechanical or solid-state traffic signal control devices shall be paid 104 percent of the journey-level rate.

5275 When two or more journey-level Signal and Lighting Electricians and/or a Signal and Lighting Electrician and any other Signal and Lighting employee are assigned to work together as a crew without direct supervision, one employee (i.e. the most senior Signal and Lighting Electrician in the case of two or more Signal and Lighting Electricians), shall be paid 4 percent above the Signal and Lighting Electrician. Signal and Lighting Electricians assigned to Swing Crew shall receive 4 percent above their base rate of pay. This shall not apply when two or more Signal and Lighting Electricians are assigned for reasons of inspection or testing. This shall further not apply unless a supervisor is absent from the work site for more than two hours.

5275 Signal and Lighting Electricians assigned as Inspector/Locators shall receive 10 percent above their base rate of pay.

5275 Signal and Lighting Electrician (CSC 5275) who are assigned to the controller shop and responsible for duties as outlined in the collective bargaining agreement shall receive 4 percent above their base rate of pay.

5301 When two or more Hydro Project Mechanics (CSC 5301) are assigned to the same task, one shall be designated as the lead worker and shall receive an additional 6.5 percent. When a Hydro Project Mechanic (CSC 5301), working at the Cowlitz, Cushman or Nisqually hydroelectric projects, has two or more City employees assigned to them for the same task, or has been assigned to oversee the work of two or more contract employees, the employee shall receive an additional 6.5 percent as the lead worker. The above shall not apply when assigned to do specific workplace skills and/or safety training, or when working as a safety watch at a confined space.

5305 A Water Service Mechanic (CSC 5305), when certified by management as fulfilling the Water Quality classes, the WABO training, or the Electrical Telemetry classes will be eligible to receive an additional 4 percent in certification pay.

5305 A Water Service Mechanic (CSC 5305), when certified by management as fulfilling either the Water Quality classes, or the WABO training, and the Electrical Telemetry classes, will be eligible to receive an additional 8 percent in certification pay.

5310 A Fabrication Welder (CSC 5310) shall receive an applied rate of 2 percent above their regular rate of pay for holding a Washington Association of Building Officials (WABO) Structural Welder or AWS D1.1 Certification.

5310 A Fabrication Welder (CSC 5310) shall receive an applied rate of 5 percent above their base rate of pay when, at the sole discretion of management, is assigned to act in a lead capacity.

5330 An employee who meets the certification requirements established by the collective bargaining agreement, in the classification of Vehicle and Equipment Shop Attendant (CSC 5330) shall receive an additional 2 percent above their regular rate of pay.

5330 A Vehicle and Equipment Shop Attendant (CSC 5330) assigned to the Fire Department, and who meets the certification requirements established by the collective bargaining agreement, will be eligible to receive a certification premium of 3 percent above their base rate of pay.

5331 An Apprentice Automotive Mechanic assigned to the Washington State Apprentice Program shall be assigned a rate of pay based on the appropriate journey-level rate as determined by the working area to which assigned. The beginning rate of pay shall be not less than 60 percent nor more than 70 percent based on a determination of ability and training by the Washington State Apprenticeship and Training Council.

5332 See 5310, 5332.

5332 A Heavy Equipment Mechanic (CSC 5332) shall receive an applied rate of 5 percent above their base rate of pay when, at the sole discretion of management, is assigned to act in a lead capacity.

5332 An employee who meets the certification requirements established by the collective bargaining agreement, in the classifications of Heavy Equipment Mechanic (CSC 5332) shall receive an additional 5 percent over their regular rate of pay.

5334 An employee who meets the certification requirements established by the collective bargaining agreement, in the classification of Vehicle and Equipment Shop Supervisor (CSC 5334) shall receive an additional 5 percent above their regular rate of pay.

5335 An employee who meets the certification requirements established by the collective bargaining agreement, in the classification of Fire and Marine Diesel Mechanic (CSC 5335) shall receive an additional 5 percent above their regular rate of pay. A Fire and Marine Diesel Mechanic shall be eligible for an application of rate of an additional 2 percent, for a total of 7 percent above their base rate, for holding both certifications outlined in the collective bargaining agreement. A Fire and Marine Diesel Mechanic (CSC 5335) who holds an additional International organization of Fluid Power and Motion Control Professionals Mobile Hydraulics certification as outlined in the collective bargaining agreement will receive an additional 2 percent premium over their base rate of pay.

5336 An employee who meets the certification requirements established by the collective bargaining agreement, in the classification of Fire and Marine Shop Supervisor (CSC 5336) shall receive an additional 5 percent above their regular rate of pay.

5336 A Fire and Marine Shop Supervisor (CSC 5336) shall be eligible for an application of rate of an additional 2 percent, for a total of 7 percent above their base rate, for holding both certifications outlined in the collective bargaining agreement. A Fire and Marine Shop Supervisor (CSC 5336) who holds an additional International organization of Fluid Power and Motion Control Professionals Mobile Hydraulics certification as outlined in the collective bargaining agreement will receive an additional 2 percent premium over their base rate of pay.

5338 An employee in the classification of Solid Waste Mechanic (CSC 5338) shall receive a certification premium of 3 percent above their base rate of pay for holding a Water Backflow Assembly Technician license.

5338 An employee in the classification of Solid Waste Mechanic (CSC 5338), who as of January 1, 2020, is receiving the maximum certification premium of 3 percent above their base rate of pay for holding a Crane Operators certification, shall continue to receive the premium as long as they are in the classification, per the specific terms of the collective bargaining agreement.

5361 An Animal Control & Compliance Supervisor (CSC 5361) shall receive in the first pay period of each year, retroactive to January 1, 2019, a lump sum payment of $500, in recognition of their assistance in the Tacoma Police Department CALEA accreditation and successful maintenance of the accreditation.

5365 An Animal Control & Compliance Officer (CSC 5365) will receive an application of rate of 4 percent per hour when assigned by a Supervisor and performing the following specific tasks: (1) training other Animal Control & Compliance Officers; (2) developing training plans; and/or (3) participating in the evaluation process for the training provided. Employees selected must have the necessary skill and training to perform these tasks. Employees on modified status are not eligible for this premium.

5516 A Telecommunications Utility Worker (CSC 5516), when assigned in writing as Lead, shall receive an applied rate of 10 percent additional pay per hour above the current step rate of pay. The classification of Telecommunications Utility Worker (CSC 5516) is comprised of all non-automatic steps, and progression within the salary range is based on merit. A Telecommunications Utility Worker (CSC 5516) will be eligible to receive non-automatic steps 4 and 5 based on criteria set forth within the collective bargaining agreement.

5516 A Telecommunications Utility Worker (CSC 5516) assigned to work in a vault or manhole that exceeds 60 inches in depth and contains either (1) exposed energized secondary bus or (2) energized primary wire or equipment, shall be paid a 3 percent application of rate above his or her regular rate of pay for the time actually worked in the vault, with a two-hour minimum.

5517 A Network Operations Center Technician (CSC 5517) when designated by management as Lead shall receive an additional 10 percent above the current step.

5517 A Network Operations Center Technician (CSC 5517) may advance to non-automatic Step 5, upon the approval of management, when certain criteria are met as outlined in the collective bargaining agreement.

5518 A Telecommunications Technician I - (CSC 5518) must pass a skills test prior to advancing beyond step 2. A Telecommunications Technician I, when designated by management as Lead, shall receive an additional 10 percent above the current step.

5518 A Telecommunications Technician I (CSC 5518) assigned to work in a vault or manhole that exceeds 60 inches in depth and contains either (1) exposed energized secondary bus or (2) energized primary wire or equipment, shall be paid a 3 percent application of rate above his or her regular rate of pay for the time actually worked in the vault, with a two-hour minimum.

5540 A Telecommunications Network Construction Technician (CSC 5540) must pass a skills test prior to advancing to step 3 and must pass a skills test prior to advancing to step 5. A Telecommunications Network Construction Technician, when assigned by management as Lead over a group or project, shall receive an additional 10 percent above the current step.

5540 A Telecommunications Network Construction Technician (CSC 5540) assigned to work in a vault or manhole that exceeds 60 inches in depth and contains either (1) exposed energized secondary bus or (2) energized primary wire or equipment, shall be paid a 3 percent application of rate above his or her regular rate of pay for the time actually worked in the vault, with a two-hour minimum.

5543 A Telecommunications Network Technician (CSC 5543) must pass a skills test prior to advancing to step 3 and must pass a skills test prior to advancing to step 5. A Telecommunications Network Technician, when assigned by management as Lead over a group or project, shall receive an additional 10 percent above the current step.

5543 A Telecommunications Network Technician (CSC 5543) assigned to work in a vault or manhole that exceeds 60 inches in depth and contains either (1) exposed energized secondary bus or (2) energized primary wire or equipment, shall be paid a 3 percent application of rate above his or her regular rate of pay for the time actually worked in the vault, with a two-hour minimum.

6002 Employees in the classification of Custodian (CSC 6002), when assigned as a helper to a classification identified in the collective bargaining agreement, shall be paid an additional 5 percent above base rate for all hours so assigned.

6005 Employees in the classification of Building Maintenance Worker (CSC 6005), when assigned as a helper to a classification identified in the collective bargaining agreement, shall be paid an additional 5 percent above base rate for all hours so assigned.

6006 Employees in the classification of Building Maintenance Supervisor Assistant (CSC 6006), when assigned as a helper to a classification identified in the collective bargaining agreement, shall be paid an additional 5 percent above base rate for all hours so assigned.

6015 A PAF Maintenance Worker II (CSC 6015) assigned to perform the work of a rigger, welder, or carpenter, will be compensated at Step 6 for all hours where the specialty work is performed.

7101 A Railway Yard Clerk (CSC 7101), when assigned by management as training coordinator, shall be paid one hour of straight time pay for each day so assigned.

7106 A Railway Conductor hired on or after August 1, 1992, shall have his or her position on the rate scale adjusted to the next higher level on each occasion when promoted to or used as the position of Locomotive Engineer or Railway Yardmaster. A Railway Conductor hired prior to January 1, 1997, will receive $70.00 per month when covered by the City's Regence health plan. Railway Conductors hired on or after August 1, 1992, shall be paid a special allowance of $19.97 for each tour of duty working on a reduced crew consisting of one Railway Switch Supervisor and one Railway Switch Operator or on a Supervisor-only crew. This special rate shall be adjusted for all pay increases and cost of living adjustments provided for by collective bargaining agreement. Railway Conductors, hired prior to August 1, 1992, shall be paid a special allowance of $11.55 for each tour of duty working on a reduced crew. This special rate shall be adjusted for all pay increases and cost of living adjustments provided for by collective bargaining agreement. A Railway Conductor who passed the probationary period as Railway Switch Operator prior to November 17, 1981, shall be entitled to a City-paid contribution of $24.13 to the employee's productivity fund for each shift which the employee works on a crew consisting of one Railway Switch Operator and one Railway Switch Supervisor. For employees in the classification of Railway Conductor, a special allowance payment of $7.50 per hour will be paid to a Supervisor-only crew member when operating on a Supervisor-only crew.

7111 (a) A Locomotive Engineer hired before August 1, 1992, but after Mar. 15, 1983, shall receive a special allowance of $14.25 for each tour of duty worked with a crew consisting of less than a supervisor and two helpers.

(b) A Locomotive Engineer hired prior to March 15, 1983, shall receive a special allowance of $17.00 for each trip or tour of duty worked with a crew consisting of less than a supervisor and two helpers.

(c) A Locomotive Engineer protected by the May 7, 1965, Manning Agreement shall be paid $2.00 per shift worked in lieu of performing service under the provisions of Public Law Board No. 2147, Award #1.

(d) A Locomotive Engineer hired before August 1, 1992, who works with a supervisor-only yard crew, shall receive an additional special allowance of $37.00 per tour of duty.

(e) Locomotive Engineers required to engage in mandatory training shall be paid $1.00 per hour added to the current base rate.

7115 A Yardmaster (CSC 7115), when designated and assigned by management as training coordinator, shall be paid one hour of straight time pay for each day so assigned.

L6 An employee in a classification represented by the Tacoma Police Union, Local 6, I.U.P.A, and covered by the LEOFF I retirement system is not required to forego one (1) percent of salary for the VEBA program as outlined in a Letter of Understanding.

L26 An employee represented by the Tacoma Police Management Association, Local 26, and covered by the LEOFF II retirement system shall receive an additional 1 percent applied rate.

L26 An employee assigned as an "acting" Police Lieutenant (CSC 4205) on a short-term or sporadic basis shall be paid at (CSC 4205A) and be eligible for overtime at the appropriate rate set forth in TMC 1.12.080. Short-term assignments are made for no longer than two consecutive pay periods unless approved by the Human Resources Director.

L26 An employee represented by Tacoma Police Management Association, Local 26, meeting requirements as outlined in the collective bargaining agreement is eligible to receive an annual $4,250 merit allowance.

L26 An employee represented by the Tacoma Police Management Association, Local 26, on February 20, 2020, will receive a one-time, lump sum payment of $500, per the terms of a Letter of Agreement.

L31 Fire Service personnel represented by Tacoma Firefighters Union, Local 31, covered by the LEOFF II Retirement System, shall receive an additional 1 percent of base pay.

L31 In recognition of the fact that future technology creates needs which did not previously exist for internal training and mentoring, highly experienced employees shall be assigned additional duties and shall receive a 2 percent application of rate. Highly experienced employees shall be defined as those with 25 years of service as a commissioned Tacoma firefighter in the classifications of Firefighter, Fire Lieutenant, Fire Captain, Fire Chief Battalion, Fire Battalion Chief Aide, Firefighter-Paramedic, Firefighter Paramedic Supervisor, Fire Boat Pilot, Fire Inspector, Fire Marshal Deputy, Fire Communications Center Lieutenant, Fire Captain Dispatcher, Fire Medical Services Officer, and Fire Communications Center Supervisor. These duties shall be assigned and this applied rate shall commence at the first of the calendar year in which an employee will complete the 25 years of service.

L31 Effective the first pay period in March 2004, employees represented by Tacoma Firefighters Union, Local 31, assigned by management per the collective bargaining agreement to work the day shift in Training, Safety, Fire Prevention, and Administration, as outlined in the collective bargaining agreement, shall receive a 5 percent shift differential.

L31 An employee represented by Tacoma Firefighters Union, Local 31, assigned to the Technical Rescue Team shall be eligible for an applied rate of 5 percent above his or her base rate of pay.

L117 General. An employee in one of the classifications identified in the Teamsters Local Union No. 117, General Unit, collective bargaining agreement as eligible for shift incentive pay who is formally assigned one of the following shifts by management and meets all other criteria as outlined in the collective bargaining agreement, shall receive shift incentive pay above his or her regular rate of pay as follows: An employee assigned to work the swing shift shall receive an application of rate of 3 percent above his or her regular rate of pay; when assigned to work the graveyard shift shall receive an application of rate of 5 percent over his or her regular rate of pay.

L117 General. Effective January 1, 2013, employees working in classifications represented by the Teamsters Local Union No. 117, General Unit agreement, and assigned to the Tacoma Police Department, shall receive an application of rate of 2 percent according to the terms and conditions of a Bilingual Pay Program established by management for actual hours spent performing duties, as assigned.

L117 General. An employee represented by the Teamsters Local Union No. 117, General Unit, assigned to work within the Tacoma Police Department and employed as of the date of City Council approval of the 2019-22 collective bargaining agreement, shall receive in the first pay period of each year of the agreement, with retroactivity to January 1, 2019, a lump sum payment of $500 in recognition of their assistance in the Tacoma Police Department CALEA accreditation and successful maintenance of the accreditation.

L117 TVE. An employee in a classification represented by the Teamsters Local Union No. 117, Tacoma Venues & Events Unit, who is actively employed as of January 1, 2019, shall receive a one-time lump sum payment of one hundred dollars ($100.00), to be paid in the first pay period of 2019 or upon ratification, whichever is later.

L120. Employees in classifications represented by Tacoma, Washington, City and Pierce County Employees Local Number 120 of the Washington State Council of County and City Employees, AFSCME, AFL-CIO, when assigned to work the swing or graveyard shift, will have an unpaid lunch period and will receive an application of rate of 3 percent over their base rate of pay. Swing and graveyard shifts are defined as 8-or-more-hour shifts scheduled to begin from 3 p.m. to 3 a.m.

L120. An employee represented by the Washington State Council of County and City Employees, Local 120, assigned to work within the Tacoma Police Department, and employed as of the date of City Council approval of the 2020 collective bargaining agreement, shall receive a lump sum payment in the amount of $500 in recognition of their assistance in the Tacoma Police Department CALEA accreditation and successful maintenance of the accreditation.

L160. An employee assigned to work the graveyard shift shall be eligible for an application of rate of fifty cents ($0.50) per hour for each hour worked on or after 2100 hours.

L160. An employee assigned to the Wastewater Treatment Plant, when welding in any confined space, shall be paid an additional 5 percent above their base rate of pay.

L160 BLM. An employee in a classification represented by the District Lodge #160 on behalf of Local Lodge #297 of the International Association of Machinists and Aerospace Workers, Rail Mechanics Unit, and hired after the ratification of the 2018-2020 collective bargaining agreement will not be eligible to receive longevity pay.

L160 BLU. An employee in a classification represented by the District Lodge #160 on behalf of Local Lodge #297 of the International Association of Machinists and Aerospace Workers, Rail Track Workers Unit, and hired after the ratification of the 2018-2020 collective bargaining agreement will not be eligible to receive longevity pay.

L160 Yard Clerks. An employee in the classification of Yard Clerk (CSC 7101) as of November 15, 2017, and represented by the District Lodge #160, International Association of Machinists and Aerospace Workers, Yard Clerk Unit, will receive a one-time, lump sum payment of $1,000.00.

L313. An employee represented by Teamsters Local 313, who is formally assigned one of the following shifts by management and who meets all other criteria as outlined in the collective bargaining agreement, shall receive shift incentive pay above his or her regular rate of pay as follows: An employee assigned to work the swing shift shall receive 3 percent above his or her regular rate of pay; an employee assigned to work the graveyard shift shall receive 5 percent above his or her regular rate of pay. Employees will receive shift differential only for actual hours worked on that shift.

L483 CK. An employee represented by International Brotherhood of Electrical Workers, Local 483, Click! Unit, who remains in a frozen pay rate upon ratification of the 2019 collective bargaining agreement, shall receive a one-time lump sum payment of $1,500.

L483 CK, CL, SUPV. An employee represented by International Brotherhood of Electrical Workers, Local 483, may be eligible for retention incentive compensation pursuant to a Letter of Agreement negotiated between the City of Tacoma and International Brotherhood of Electrical Workers, Local 483, Click! Unit and the Washington State Council of County and City Employees, Local 120.

L483 CL. An employee represented by the International Brotherhood of Electrical Workers, Local 483, Clerical Unit, assigned to work within the Tacoma Police Department, and employed as of the date of City Council approval of the 2020 collective bargaining agreement, and in the first pay period of each subsequent year of the contract, shall receive a lump sum payment in the amount of $500 in recognition of their assistance in the Tacoma Police Department CALEA accreditation and successful maintenance of the accreditation.

L483 Power. Any employee who performs overtime work, pursuant to the IBEW Local 483, Tacoma Power Unit collective bargaining agreement between 12:00 midnight and 4:00 a.m. (with the exception of Saturdays, Sundays, and holidays) and works two hours or more past midnight shall receive an additional half-day's pay at the straight-time rate. Personnel relieved from duty on or before 4:00 a.m. (with the exception of Saturdays, Sundays, and holidays) shall report for work by 12:00 noon of the same day to be eligible for the additional half-day's pay.

L483 Power. An employee represented by International Brotherhood of Electrical Workers, Local 483, Tacoma Power Unit, who is assigned per the Letter of Understanding regarding Wynoochee River Project – Work Flexibility to work shifts outside of the established core hours will be paid an additional $1.00 per hour for all hours worked outside of the core hours, except for overtime work and within the guidelines of the FLSA. There shall be no pyramiding of pay.

L483 Power. Journey-level and above employees in the Transmission and Distribution department selected to serve as Safety Coordinators shall receive a 3 percent applied rate for all hours so worked. Employees in this position will not be eligible for scheduled or emergency overtime related to crew assignments. The applied rate shall not be subject to the provisions of Article 9.1 of the Collective Bargaining Agreement.

L483 Power. An employee represented by the International Brotherhood of Electrical Workers, Local 483, Tacoma Power Unit, whose base wage remains redlined after the wage increase for 2017 as provided in the 2017–2021 collective bargaining agreement, shall receive a one-time lump sum payment of $750.00.

L483 Power. Effective April 1, 2020, an employee in the classification of Telecommunications Network Construction Technician (CSC 5540), Telecommunications Network Technician (CSC 5543) and Telecommunications Utility Worker (CSC 5516) as of March 31, 2020 shall receive a one-time, lump sum payment in the amount of $700.00.

L483 Water. A Water Division employee holding permanent status in a journey level classification or above, and designated by the Water Division as "Safety Coordinator," will receive 118 percent of the Water Service Worker rate.

L483 Water. A Water Division employee, assigned by management to work either a swing or night shift, shall receive an additional 3 percent compensation for all hours worked on said shift.

L483 Water. An employee in a classification covered by the collective bargaining agreement with the International Brotherhood of Electrical Workers, Local 483, Water Unit, when performing work fully inside an installed pipe, shall be paid an additional five percent (5%) of their regular base rate for hours spent working in the pipe.

L 483 WPC. An employee in a classification represented by the International Brotherhood of Electrical Workers, Local 483, Water Pollution Control Unit, working any straight time hours during the "B" Shift shall receive an additional 5 percent over their base rate of pay for such hours worked.

NR. Effective January 5, 2009, classifications within the nonrepresented salary plan are not eligible for longevity pay.

NRE. Classifications within the nonrepresented executive salary plan are not eligible for longevity pay and are comprised of all non-automatic steps, with progression based on market and/or an executive performance appraisal conducted by the appropriate hiring authority. The executive salary plan includes the classifications of Information Technology Director (CSC 0835); City Attorney (CSC 0715); City Manager (CSC 0747); City Manager, Deputy (CSC 0745); City Manager, Assistant (CSC 0746); Customer Services Manager (CSC 0616); Community and Economic Development Director (CSC 0750); Environmental Services Director (CSC 0758); Finance Director (CSC 0712); Fire Chief (CSC 0767); Hearing Examiner (CSC 0717); Human Resources Director (CSC 0735); Neighborhood & Community Services Director (CSC 0759); PAF Director (CSC 0730); Police Chief (CSC 0772); Planning & Development Services Director (CSC 0719); Power Section Manager (CSC 0816); Public Works Director (CSC 0757); Retirement Systems Director (CSC 0560); Telecommunications Manager (CSC 5500); Utilities Director (CSC 0822); Utilities Director, Deputy (CSC 0819); Utilities Director, Deputy Power Superintendent (CSC 0825); Utilities Director, Deputy Rail Superintendent (CSC 0830); and Utilities Director, Deputy Water Superintendent (CSC 0823).

PPSMA. An employee represented by the Professional Public Safety Management Association and covered by the LEOFF II retirement system shall receive an additional one-half of 1 percent (.5 percent) applied rate. Employees in classifications represented by the Professional Public Safety Management Association are not eligible for longevity pay.

(Ord. 28694 § 5; passed Oct. 20, 2020: Ord. 28680 § 3; passed Jul. 14, 2020: Ord. 28667 § 4; passed Apr. 28, 2020: Ord. 28666 § 5; passed Apr. 14, 2020: Ord 28663 § 5; passed Mar. 24, 2020; Ord. 28658 §§ 4, 5; passed Feb. 25, 2020: Ord. 28639 § 22; passed Dec. 10, 2019: Ord. 28627 § 8; passed Nov. 19, 2019: Ord. 28622; passed Oct. 29, 2019: Ord. 28603; passed Aug. 27, 2019: Ord. 28602; passed Aug. 20, 2019: Ord. 28578; passed Apr. 16, 2019: Ord. 28574; passed Mar. 5, 2019: Ord. 28567 § 15; passed Dec. 20, 2018: Ord. 28533 § 3; passed Oct. 23, 2018: Ord. 28528; passed Sept. 18, 2018: Ord. 28526 § 2; passed Aug. 28, 2018: Ord. 28515 § 6; passed Jun. 26, 2018: Ord. 28506 § 5; passed May 1, 2018: Ord. 28493 § 7; passed Mar. 6, 2018: Ord. 28488 §§ 4,5; passed Jan. 13, 2018: Ord. 28485 § 7; passed Jan. 9, 2018: Ord. 28475 § 9; passed Dec. 19, 2017: Ord. 28442 § 5; passed Aug. 1, 2017: Ord. 28431 §§ 1,2; passed Jun. 6, 2017: Ord. 28421 §§ 7,8; passed Apr. 4, 2017: Ord. 28405 § 17; passed Dec. 13, 2016: Ord. 28391 § 2: passed Nov. 22, 2016: Ord. 28378 § 6: passed Sept. 27, 2016: Ord. 28377 § 9; passed Aug. 30, 2016: Ord. 28373 § 4; passed Aug. 2, 2016: Ord. 28347 § 5; passed Mar. 8, 2016; Ord. 28346 § 5; passed Feb. 16, 2016: Ord. 28337 Ex. A; passed Dec. 8, 2015: Ord. 28328 § 3; passed Nov. 17, 2015: Ord. 28323 Ex. A; passed Oct. 13, 2015: Ord. 28291 §§ 5, 6; passed Apr. 7, 2015: Ord. 28282 Ex. A; passed Feb. 24, 2015: Ord. 28277 § 4; passed Jan. 13, 2015: 28263 Ex. A; passed Dec. 9, 2014: Ord. 28238 §§ 7,8; passed Aug. 12, 2014: Ord. 28235 § 6; passed Jul. 29, 2014: Ord. 28227 § 3; passed Jun. 10, 2014: Ord. 28226 § 3; passed Jun. 10, 2014: Ord. 28215 § 2; passed Apr. 15, 2014: Ord. 28209 Ex. A; passed Mar. 18, 2014: Ord. 28202 § 3; passed Jan. 21, 2014: Ord. 28181 § 3; passed Oct. 22, 2013: Ord. 28145 § 3; passed Apr. 30, 2013: Ord. 28144 § 3; passed Apr. 23, 2013: Ord. 28136 §§ 10, 11; passed Mar. 5, 2013: Ord. 28127 § 3; passed Jan. 29, 2013: Ord. 28115 § 5, passed Dec. 4, 2012: Ord. 28108 Ex. C; passed Dec. 4, 2012: Ord. 28084 § 7, passed Sept. 11, 2012: Ord. 28060 § 3, passed Apr. 3, 2012: Ord. 28055 § 3, passed Mar. 20, 2012: Ord. 28042 § 6, passed Dec. 13, 2011: Ord. 28035 § 2, passed Nov. 22, 2011: Ord. 28020 § 3, passed Oct. 4, 2011: Ord. 27985 § 2, passed Jun. 7, 2011: Ord. 27977 § 3, passed Mar. 29, 2011: Ord. 27962 § 10, passed Dec. 14, 2010: Ord. 27947 §§ 2,3, passed Nov. 16, 2010: Ord. 27937 §§ 2,3; passed Oct. 19, 2010: Ord. 27935 § 2, passed Oct. 12, 2010: Ord. 27923 § 2, passed Oct. 5, 2010: Ord. 27919 § 2, passed Aug. 31, 2010: Ord. 27909 § 3, passed Aug. 3, 2010: Ord. 27899

§ 2, passed Jun. 29, 2010: Ord. 27888 § 3, passed Jun. 8, 2010: Ord. 27885 § 3, passed May. 4, 2010: Ord. 27869 § 3,4; passed Jan. 12, 2010: Ord. 27858 § 11; passed Dec. 8, 2009: Ord. 27832 § 2, passed Sept. 1, 2009: Ord. 27814 § 3, passed Jun. 30, 2009: Ord. 27806 § 3, passed Jun. 9, 2009: Ord. 27797 § 4, passed May 5, 2009: Ord. 27795 § 2, passed Apr. 14, 2009: Ord. 27784 § 3, passed Feb. 3, 2009: Ord. 27775 Ex. C, passed Dec. 16, 2008: Ord. 27774 § 4, passed Dec. 16, 2008: Ord. 27773 § 12, passed Dec. 16, 2008: Ord. 27718 § 4, passed Jun. 17, 2008: Ord. 27713 § 6, passed May 13, 2008: Ord. 27711 § 2, passed May 6, 2008: Ord. 27702 §§ 3,4, passed Apr. 1, 2008: Ord. 27685 § 1, passed Jan. 15, 2008: Ord. 27674 Ex. A, passed Dec. 18, 2007: Ord. 27648 § 2, passed Oct. 9, 2007: Ord. 27645 § 5, passed Sept. 18, 2007: Ord. 27636 Ex. A, passed Jul. 31, 2007: Ord. 27622 § 3, passed Jun 12, 2007: Ord. 27607 § 3, passed May 1, 2007: Ord. 27571 § 4, passed Dec. 19, 2006: Ord. 27557 § 13, passed Dec. 5, 2006: Ord. 27540 § 2, passed Oct. 31, 2006: Ord. 27525 § 8, passed Sept. 19, 2006: Ord. 27494 § 7, passed Jun. 13, 2006: Ord. 27493 § 5, passed Jun. 13, 2006: Ord. 27482 § 4, passed Apr. 25, 2006: Ord. 27466 § 13, passed Jan. 17, 2006: Ord. 27450 § 3, passed Dec. 13, 2005: Ord. 27444 §§ 17-19, passed Dec. 6, 2005: Ord. 27427 § 3, passed Nov. 29, 2005: Ord. 27422 § 5, passed Oct. 25, 2005: Ord. 27417 § 7, passed Oct. 11, 2005: Ord. 27399 § 1, passed Aug. 9, 2005: Ord. 27392 § 3, passed Jul. 26, 2005: Ord. 27391 § 3, passed Jul. 26, 2005: Ord. 27384 § 4, passed Jul. 19, 2005: Ord. 27383 § 5, passed Jul. 19, 2005: Ord. 27370 § 4, passed Jun. 21, 2005: Ord. 27359 § 3, 4, passed May 17, 2005: Ord. 27354 § 2, passed May 3, 2005: Ord. 27349 § 4, 5, passed Apr. 26, 2005: Ord. 27333 § 2, passed Mar. 22, 2005: Ord. 27316 § 2, passed Feb. 22, 2005: Ord. 27304 § 2, passed Dec. 14, 2004: Ord. 27301 § 28, 29, passed Dec. 7, 2004: Ord. 27275 § 2, passed Oct. 19, 2004: Ord. 27261 § 5, 6, passed Aug. 24, 2004: Ord. 27259 § 6, passed Aug. 10, 2004: Ord. 27239 § 4, passed May 18, 2004: Ord. 27238 § 2, passed May 18, 2004: Ord. 27204 § 6, passed Mar. 2, 2004: Ord. 27170 § 20, passed Dec. 9, 2003: Ord. 27167 § 4, passed Dec. 2, 2003: Ord. 27148 § 8 - § 12, passed Oct. 7, 2003: Ord. 27119 § 2, passed Jul. 15, 2003: Ord. 27081 § 5,6, passed May 13, 2003: Ord. 27075 § 11, 12; passed Apr. 1, 2003: Ord. 27033 § 29, 30; passed Dec. 17, 2002: Ord. 26986 § 2; passed Sept. 17, 2002: Ord. 26963 § 3 and 4; passed Jun. 25, 2002: Ord. 26959 § 4; passed Jun. 18, 2002: Ord. 26957 § 7, 8, and 9; passed Jun. 4, 2002: Ord. 26929 § 5; passed Feb. 12, 2002: Ord. 26912 § 24, 25, & 26; passed Dec. 18, 2001: Ord. 26907 § 3; passed Dec. 18, 2001: Ord. 26842 § 3, 4, 5, and 6; passed Aug. 21, 2001: Ord. 26815 § 11, 12, 13, and 14; passed Jun. 5, 2001: Ord. 26789 § 2; passed Mar. 20, 2001: Ord. 26775 § 3 & 4; passed Feb. 13, 2001: Ord. 26761 § 15 & 16; passed Dec. 19, 2000: Ord. 26723 § 7; passed Oct. 31, 2000: Ord. 26685 § 3; passed Aug. 29, 2000: Ord. 26654 § 4, 5; passed Jul. 11, 2000: Ord. 26635 § 7, 8; passed Jun. 6, 2000: Ord. 26608 § 4, passed Apr. 4, 2000: Ord. 26553 § 20-23, passed Dec. 14, 1999: Ord. 26511 § 2-5; passed Sept. 28, 1999: Ord. 26450 § 6; passed Jun. 22, 1999: Ord. 26379 § 15-17; passed Mar. 16, 1999: Ord. 26345 § 24-28; passed Dec. 15, 1998: Ord. 26322 § 3, passed Nov. 17, 1998: Ord. 26295 § 10-15; passed Sept. 15, 1998: Ord. 26232 § 6 & 7; passed May 26, 1998: Ord. 26232 § 6; passed May 26, 1998: Ord. 26210 § 3; passed Mar. 24, 1998: Ord. 26208 § 7; passed Mar. 31, 1998: Ord. 26208 § 8; passed Mar. 31, 1998: Ord. 26208 § 9; passed Mar. 31, 1998: Ord. 26182 § 11; passed Dec. 16, 1997: Ord. 26181 § 6; passed Dec. 16, 1997: Ord. 26180 § 4; passed Dec. 16, 1997: Ord. 26152 § 3; passed Nov. 12, 1997: Ord. 26146 § 2; passed Nov. 4, 1997: Ord. 26121 § 4; passed Sept. 9, 1997: Ord. 26116 § 8; passed Aug. 19, 1997: Ord. 26077 § 3; passed Jun. 3, 1997: Ord. 26056 §§ 6, 7; passed Apr. 22, 1997: Ord. 26025 §§ 6 – 10; passed Feb. 4, 1997: Ord. 25998 § 3; passed Dec. 17, 1996: Ord. 25997 § 15; passed Dec. 17, 1996: Ord. 25940 § 3, 4; passed Aug. 27, 1996: Ord. 25919 § 3, 5; passed Jun. 18, 1996: Ord. 25871 §§ 3, 4; passed Mar. 19, 1996: Ord. 25815 § 4; passed Jan. 9, 1996: Ord. 25801 § 17; passed Dec. 5, 1995: Ord. 25800 § 2; passed Dec. 5, 1995: Ord. 25794 §§ 3, 4, 5; passed Nov. 28, 1995: Ord. 25752 §§ 1C and 3; passed Aug. 29, 1995: Ord. 25737 §§ 1(B), 3(B), and 12; passed Jul. 18, 1995: Ord. 25703 §5; passed May 9, 1995: Ord. 25683 § 8; passed Mar. 28, 1995: Ord. 25665 §§ 7 and 8; passed Feb. 7, 1995: Ord. 25645 § 24; passed Dec. 13, 1994: Ord. 25464 § 2; passed Jun. 7, 1994: Ord. 25445 §§ 9 and 10; passed Feb. 22, 1994: Ord. 25432 § 4; passed Feb. 1, 1994: Ord. 25408 § 3; passed Nov. 30, 1993: Ord. 25376 § 3; passed Oct. 5, 1993: Ord. 25346 § 2; passed Aug. 24, 1993: Ord. 25316 § 2; passed Jun. 8, 1993: Ord. 25297 § 5; passed Apr. 27, 1993: Ord. 25282 § 3; passed Mar. 23, 1993: Ord. 25215 § 4; passed Dec. 8, 1992: Ord. 25203 § 2; passed Nov. 3, 1992: Ord. 25161 § 3; passed Aug. 25, 1992: Ord. 25133 § 6; passed Jun. 30, 1990: Ord. 25084 § 3; passed Mar. 31, 1992: Ord. 25025 § 3; passed Dec. 10, 1991: Ord. 24986 § 5; passed Sept. 24, 1991: Ord. 24969 § 6; passed Aug. 27, 1991: Ord. 24935 § 4; passed Jun. 25, 1991: Ord. 24855 § 6; passed Mar. 5, 1991: Ord. 24699 § 2; passed Aug. 14, 1990: Ord. 24500 § 3; passed Dec. 6, 1989: Ord. 24405 § 6; passed Aug. 15, 1989: Ord. 24471 § 3; passed Nov. 21, 1989: Ord. 24257 § 3; passed Dec. 13, 1988: Ord. 24225 § 2; passed Nov. 8, 1988: Ord. 24186 §§ 3, 4; passed Sept. 13, 1988: Ord. 24138 § 3; passed Jul. 12, 1988: Ord. 24137 § 2; passed Jul. 12, 1988: Ord. 24104 § 2; passed May 31, 1988: Ord. 24041 § 4; passed Jul. 5, 1988: Ord. 24025 § 2; passed Feb. 2, 1988: Ord. 24023 § 3; passed Jan. 26, 1988: Ord. 24004 § 3; passed Dec. 29, 1987: Ord. 23911 § 3; passed Aug. 4, 1987: Ord. 23773 § 4; passed Jan. 27, 1987: Ord. 23756 § 2; passed Dec. 16, 1986: Ord. 23670 § 10; passed Jul. 29, 1986: Ord. 23627 § 2; passed Jun. 17, 1986: Ord. 23590 § 2; passed Apr. 15, 1986: Ord. 23357 § 3; passed Mar. 19, 1985: Ord. 23324 § 4; passed Jan. 8, 1985: Ord. 23081 § 4; passed Dec. 27, 1983: Ord. 22947 § 4; passed Jun. 28, 1983: Ord. 22892 § 5; passed Mar. 22, 1983: Ord. 22876 § 3; passed Feb. 22, 1983: Ord. 22703 § 5; passed May 25, 1982: Ord. 22636 § 2; passed Feb. 9, 1982: Ord. 22591 § 6; passed Dec. 22, 1981: Ord. 22575 § 4; passed Dec. 1, 1981: Ord. 22557 § 1; passed Nov. 3, 1981: Ord. 22434 § 4; passed Jun. 9, 1981: Ord. 22307 § 9; passed Feb. 10, 1981: Ord. 22269 § 6; passed Dec. 16, 1980: Ord. 22142 § 4; passed Jul. 15, 1980: Ord. 22099 § 9; passed Jun. 3, 1980: Ord. 21897 § 2; passed Dec. 4, 1979: Ord. 21647 § 8; passed Mar. 27, 1979: Ord. 21584 § 2; passed Jan. 2, 1979: Ord. 21172 § 1; passed Oct. 4, 1977: Ord. 21141 § 8; passed Aug. 16, 1977: Ord. 20905 § 10; passed Nov. 16, 1976: Ord. 20866 § 8; passed Oct. 1, 1976: Ord. 20832 § 12;

passed Aug. 3, 1976: Ord. 20550 § 1; passed Sept. 18, 1975: Ord. 20496 § 8; passed Jul. 22, 1975: Ord. 20198 § 4; passed Aug. 27, 1974: Ord. 20147 § 7; passed Jun. 25, 1974: Ord. 20127 § 5; passed May 28, 1974: Ord. 19937 § 7; passed Oct. 2, 1973; Ord. 19619 § 7; passed Jun. 27, 1972: Ord. 19334 § 8; passed Apr. 20, 1971: Ord. 19045 § 8; passed Feb. 24, 1970: Ord. 18820 § 8; passed May 14, 1969: Ord. 18573 § 7; passed May 14, 1968: Ord. 18288 § 8; passed May 16, 1967: Ord. 18193 § 4; passed Dec. 20, 1966: Ord. 18054 § 5; passed Apr. 26, 1966: Ord. 17348 § 5; passed May 28, 1963: Ord. 17066 § 6; passed Jun. 5, 1962)

## SUGGESTION AWARD PROGRAM

### 1.12.650 Purpose.

The City of Tacoma does hereby adopt a program of monetary awards in order to stimulate suggestions from City employees which will be of benefit to the City of Tacoma. Procedures, criteria, and support for the Suggestion Program shall be under the direction of the City Manager and the Director of Utilities as outlined in their respective policy manuals. A review of the Suggestion Program will occur in the first quarter of 1999 and as needed thereafter.

(Ord. 26028 § 2; passed Feb. 11, 1997)

### 1.12.660 Monetary amounts.

Any suggestion resulting in measurable monetary savings shall be awarded payment in relationship to estimated first-year savings anticipated after adoption of the suggestion, with a minimum award of $50.00. That payment shall be calculated as illustrated below:

A. Estimated first-year net savings up to $1,000.00.

$50.00 for the first $500.00 in benefits plus $5.00 for each additional $50.00 of benefits or fraction thereof.

B. $1,001.00 to $10,000.00.

$100.00 for the first $1,000.00 benefits plus $5.00 for each additional $100.00 or fraction thereof.

C. $10,001.00 to $20,000.00.

$550.00 for the first $10,000.00 in benefits plus $5.00 for each additional $200.00 or fraction thereof.

D. $20,001.00 to $100,000.00.

$800.00 for the first $20,000.00 in benefits plus $5.00 for each additional $1,000.00 or fraction thereof.

E. $100,001.00 or more dollars.

$1,200.00 for the first $100,000.00 in benefits or more plus $5.00 for each additional $5,000.00 or fraction thereof.

If estimated net savings exceed $4,000.00, an initial sum of $250.00 may be awarded, but the balance of the award will not be made until after the first year of implementation and actual first-year savings have been computed.

Any suggestions resulting in benefits which cannot be accurately measured in terms of monetary savings may be awarded by a lump-sum payment of not less than $50.00 with the maximum payment not to exceed the sum of $250.00.

(Ord. 26028 § 2; passed Feb. 11, 1997)

### 1.12.670 Power and duties of Suggestion Award Board. *Repealed by Ord. 26028.*

(Ord. 26028; passed Feb. 11, 1997: Ord. 24856 § 5; passed Mar. 5, 1991: Ord. 20936 § 2; passed Dec. 21, 1976)

### 1.12.680 Standards, procedures and criteria for awards. Repealed by Ord. 26028.

(Ord. 26028; passed Feb. 11, 1997: Ord. 24856 § 6; passed Mar. 5, 1991: Ord. 24405 § 7; passed Aug. 15, 1989: Ord. 21796 § 1; passed Jul. 3, 1979: Ord. 20936 § 2; passed Dec. 21, 1976)

### 1.12.690 Monetary amounts and presentation of awards. *Repealed by Ord. 26028.*

(Ord. 26028; passed Feb. 11, 1997: Ord. 24856 § 7; passed Mar. 5, 1991: Ord. 23494 § 1; passed Oct. 22, 1985: Ord. 20936 § 2; passed Dec. 21, 1976)

## ON-THE-JOB TRAINING

### 1.12.900 Post-entry training.

A. Definitions.

1. "Training" within the meaning of this chapter shall have as its purpose the objective of improving the capacity of municipal officers and employees to perform the duties to which they have been assigned or to increase their capacity to assume broader responsibilities in connection with their employment within the municipal service.

2. "Training Program" shall mean the program of study, instruction and training which has been formulated on the basis of needs of the municipal officers and employees and for which funds have been made available by the City Council. The program may include on-the-job or off-the-job training and shall be under the administrative direction of the Personnel Labor Relations Director.

3. "On-the-job training" is training made available during normal working hours as a planned interruption of the normal scheduled work period.

4. "Off-the-job training" is training made available outside normal working hours or while on a leave of absence for training purposes.

5. "Eligible City employee" shall be any municipal officer appointive or elective or municipal employee in the classified or unclassified service.

B. Formal Training Program. There is hereby established a formal training program, hereinafter referred to as the Program, as a part of the personnel development program of the City, for eligible City officers and employees to promote maximum effectiveness in the conduct of the City's services and activities and to foster improved performance of official duties by all City employees.

C. Municipal Training Committee. There is established a permanent Municipal Training Committee which shall be composed of: the Human Resources Director, two appointees of the City Manager; and two appointees of the Director of Utilities. The Committee shall elect a chairperson from among its members. The position of Chairperson shall alternate between a representative from General Government and a representative from Public Utilities. In the absence of the Chairperson, a pro tem Chairperson shall be elected by the members present. The Training and Development Manager shall be Secretary.

D. Attendance, Quorum and Voting Rights.

1. A majority of the members of the Committee shall constitute a quorum.

2. In the event a member of the Committee is unable to attend a meeting, the member may designate an alternate who shall be considered in determining the quorum necessary to transact business and may vote.

3. Long Term Absence. With prior approval of the City Manager or Director of Utilities, alternates or representatives of a designated member of said committee may vote or be considered in determining the quorum necessary to transact business.

E. Municipal Training Committee Duties. The Municipal Training Committee shall meet quarterly and at other times on the call of the Chairman and shall:

1. Formulate training policy and publish directives to further the achievement of the municipal training objectives.

2. Advise and assist the Human Resources Director, Director of Utilities and the City Manager as to the needs and priorities of the Municipal Training Program.

3. Perform such other duties as the City Manager or the Director of Utilities shall direct.

F. Coordination of Training Program. The overall training program shall be coordinated by the Training and Development Manager, appointed jointly by the Director of Utilities and the City Manager under the administrative direction of the Human Resources Director.

G. Duties of the Training and Development Manager. The Training and Development Manager shall:

1. Advise the Director of Public Utilities and the City Manager on all matters concerning training.

2. Prepare and submit an annual report and such other reports of training needs, activities and accomplishments as to keep the City Manager and the Director of Utilities and the Municipal Training Committee apprised of the Training Program.

3. Advise the Human Resources Director on all matters concerning training.

4. Provide for on-the-job and off-the-job training programs for eligible employees.

5. Prepare and submit an Annual Training Program for consideration in adopting the proposed annual budgets.

6. Prepare and publish administrative procedures embodying rules and regulations for implementing the Training Program and submit them to the Municipal Training Committee for approval.

7. Coordinate ongoing training activities to assist those departments who have training officers.

8. Administer City-wide organization development activities.

9. Assist in seeking funds to support all training.

H. Contracts, Facilities and Personnel. The Training and Development Manager shall, for purposes of implementing the Training Program, and pursuant to law, have authority to:

1. Contract with universities, colleges, other educational institutions, organizations, and individuals for special training courses, either on a part-time or full-time basis, for fixed periods not to exceed 12 months for eligible employees under the Training Program.

2. Make use of municipal personnel and municipally owned or controlled property, equipment, materials and facilities.

3. Contract with other public jurisdictions for the joint staffing, participation in, and use of training facilities and programs which said jurisdictions have jointly provided.

I. Relations with Other Governments and Private Organizations. The City Manager or the Director of Utilities, to the extent authorized by law, may within his/her jurisdiction provide with other cities in or out of the State, with other public jurisdictions, or with private organizations for an exchange of officers or employees for training purposes; provided, that said officers and employees shall remain employees of the governmental unit or private organization originally employing them.

J. Training Employees. An eligible City employee participating in the Training Program shall suffer no loss of any of his/her rights and privileges under the Compensation Plan, Personnel Rules, or Pension or Retirement Plans solely by reason of participation in the Training Program except by specific agreement.

K. Employee Attendance.

1. Attendance at on-the-job training shall be considered as attendance at work.

2. Attendance at required off-the-job training resulting in absence from work shall be considered as attendance at work in accordance with the Training Program and implementing administrative procedures; provided holidays granted by the City during the absence shall be considered as taken by the employee. The provisions of this subsection do not apply to leaves of absence without pay.

L. Expenses.

1. Reasonable traveling, subsistence, and other expenses for training purposes may be incurred and paid provided participation in any Training Program with expense to the City shall be on condition, unless otherwise provided, that the employee shall successfully complete the course of training or reimburse the City for the costs and payments it may have incurred exclusive of salary payments.

2. Payment will not be made for any training without prior authorization.

3. Payment for expenses of approved courses will be made in accordance with the terms authorized in the specific case by the Training Committee and upon presentation of acceptable evidence of satisfactory completion of the course.

4. The Municipal Training Committee may arrange for sharing of training expenses between the City and eligible employees.

5. A nonelective salaried officer or employee to be eligible for a Training Program of four months or more duration shall agree in writing with the City that he/she will upon completion of the Training Program remain in the service of the City, if his/her services are otherwise satisfactory, for not less than one year from date of completion of his/her training course or refund to the City the amount of salary, wages, and expenses that the City has paid to him/her or for his/her benefit during his/her training period.

M. Wages for Training Programs.

1. Whenever training programs are instituted by agreement with any union in connection with the programs of the State of Washington and the United States government, the rate of pay shall be in accordance with this chapter and with such agreement.

2. When attendance at off-duty training programs is required, payment for actual time of attendance shall be paid in accordance with Section 1.12.080 for all employees except those designated by the City Manager or Director of Utilities as Class D under the overtime designation provided in accordance with Section 1.12.080 of this chapter, subject to the following conditions:

a. A certification by the department head that the training is required and cannot be given during normal working hours.

b. Approval by Municipal Training Committee.

c. Prior authorization for payment has been granted by the City Manager or Director of Utilities, as the case may be.

3. Employees of the Belt Line Railway Division participating in the Division's Training Program as trainees or trainers shall be compensated as provided in the appropriate collective bargaining agreement.

N. Severability. If any subsection, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

(Ord. 25302 § 3; passed May 18, 1993: Ord. 23446 § 5; passed Aug. 6, 1985: Ord. 23445 § 4; passed Aug. 6, 1985: Ord. 23111 § 15; passed Feb. 7, 1984: Ord. 22522 § 1; passed Sept. 8, 1981)

### 1.12.910 Payment for on-the-job training of Community College students and Technical Training Institute trainees. *Repealed by Ord. 23445.*

(Ord. 23445 § 5; passed Aug. 6, 1985: Ord. 19584 § 16; passed May 30, 1972)

## EMPLOYEE LEGAL PROTECTION

### 1.12.920 Protection of officers and employees against personal legal liability.

It shall be a condition of employment of City officers and employees that in the event claims and/or litigation for personal injuries, wrongful death, property damage or any damages occasioned by any negligent act, error or omission by such officers or employees in the scope and course of their duties or employment, are made against such officers or employees, the City Attorney of the City of Tacoma shall, at the request of or on behalf of said officers or employees, investigate and defend such claims and/or litigation. In addition, police officers and other employees vested with the power of arrest shall receive the same protection for acts occurring in the course and the scope of their employment wherein claims or civil litigation are initiated against them involving false arrest, assault and/or battery, wrongful detention or imprisonment, malicious prosecution, violation of rights of privacy, discrimination, wrongful entry or eviction or other rights of private occupancy. If a claim be deemed by the City Attorney to be a proper one or if judgment be rendered against such offices or employees, such claim or judgment shall be paid by the City in accordance with procedures established for the payment of claims and judgments against the City; provided, that said officers or employees shall, in the event of an accident or occurrence, as soon thereafter as practical, give the City Attorney's office written notice thereof, identifying the officers or employees involved and containing information with respect to the time, place and circumstances thereof, and the names and addresses of the injured, and of any available witnesses, and shall forward to the City Attorney's office every demand, notice, summons or other process relating to said incident, and received by him or her or their representative, and shall cooperate with the City Attorney, his staff or any claims representative retained by the City upon request, and shall further assist in making settlements, in the conduct of suits and enforcing any claim or any right of contribution or indemnity against any person or organization who may be liable to the City because of bodily injury, property damage or other loss arising from the accident, incident or occurrence, and such officers or employees shall attend interviews, depositions, hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses, and said officers and employees shall not, except at their own cost, voluntarily make any payment, assume any obligation or incur any expense other than for first aid to others at the time of an accident; provided further, that in the event any such officers or employees fail or refuse to cooperate as specified in the above proviso, or elects to provide his or her legal representation with respect to claims and/or litigation arising out of the officer's or employee's acts or duties in the scope of his or her employment by the City, provisions of this chapter will be inapplicable and of no force and effect with respect to any such claim and/or litigation; provided further, that the obligations assumed under this section by the City and the City Attorney's office shall not apply to any dishonest, fraudulent, criminal or malicious act.

(Ord. 21220 § 1; passed Dec. 13, 1977: Ord. 20791 § 1; passed Jul. 6, 1976)

### 1.12.930 Payment of claims.

The provisions of Section 1.12.920 shall not modify existing procedures or requirements of law for processing and payment of claims against the City, or of judgments in those cases in which the City is a party defendant; provided, that such claims, lawsuits and judgments shall be handled in all respects in the same manner as those in which a claim is filed or a lawsuit brought against the City, notwithstanding any other provision contained in this section or Section 1.12.920, such provisions shall have no force and effect with respect to any accident, occurrence or circumstance in which the City or the officers or employees are insured against loss or damages under the terms of any valid insurance policy.

(Ord. 20791 § 1; passed Jul. 6, 1976)

### 1.12.940 Determination of scope of employment.

The determination of whether said offices or employees were acting within the scope and course of his or her employment by the City shall be made by his department head, or in the case of such a claim or litigation against the department head, by the City Manager, and in the case of any elected official of the City, by the City Attorney; in the event the determination cannot be made with reasonable certainty, then he or she shall have the option to refer the matter to the Superior Court for determination.

(Ord. 20791 § 1; passed Jul. 6, 1976)

### 1.12.950 Scope of protection.

The provisions contained in Sections 1.12.920 through 1.12.940 shall apply to accidents, events or occurrences taking place subsequent to June 30, 1976.

(Ord. 20791 § 1; passed Jul. 6, 1976)

### 1.12.960 Protection of volunteers against personal legal liability.

Any volunteer, as defined by and covered under the terms of RCW 51.12.035, who performs assigned or authorized duties for the City of Tacoma shall be afforded the same protection against personal liability, subject, however, to the same limitations and obligations, as are provided for regular officers and employees under the terms of Sections 1.12.920 through 1.12.950 of the Official Code of the City of Tacoma; provided, however, that the determination as to whether they are within the scope of their assigned or authorized duties as provided in Section 1.12.940 shall be made by the director of the department for which such assigned or authorized duties were being performed at the time the incident giving rise to the claim or litigation arose.

(Ord. 20835 § 1; passed Aug. 3, 1976)

### 1.12.965 Protection of officers and employees of the Library and other Self Insurance Program participants against personal legal liability.

All officers and employees of the Tacoma Public Library and officers and employees of other entities which participate in the Self Insurance Program of the General Government of the City of Tacoma shall be afforded the same protection against personal liability, subject to the same limitations and obligations as are provided for officers and employees of the City under the terms of Sections 1.12.920 through 1.12.960.

(Ord. 23782 § 1; passed Feb. 10, 1987)

### 1.12.970 Full disclosure of pay increases.

The City Manager and the Director of Utilities, through the Personnel Director, shall provide a full and written disclosure to the City Council on the pay and fringe benefit increases for all personnel and clearly indicate all new classified and unclassified positions requested in the Pay and Compensation Plan. Furthermore, the City Manager and the Director of Utilities, through the Personnel Director, shall provide this written disclosure to the City Council prior to the introduction of and first reading of any ordinance or resolution approving pay and benefit increases or creating new personnel classifications.

(Ord. 23357 § 5; passed Mar. 19, 1985)

# CHAPTER 1.16
# LIBRARY

Sections:

1.16.010 Library – Board of trustees.

## 1.16.010 Library – Board of trustees.

Pursuant to the laws of the State of Washington relating to the establishment, management and control of public libraries in incorporated cities, there is hereby created a board of trustees consisting of five persons, to be appointed by the Mayor of the City of Tacoma, with the consent of the City Council, said board to consist of citizens of the City of Tacoma. Said board shall have and exercise all of the powers and authority and perform all the duties prescribed by and devolving upon such boards under the laws of the State of Washington.

(Ord. 11552 § l; passed Jul. 6, 1938)

# CHAPTER 1.18
# MAYOR

Sections:

1.18.010 Deputy Mayor – Office created.
1.18.020 Deputy Mayor – Powers and duties.
1.18.025 Salary of the Deputy Mayor.
1.18.030 Duties of Mayor.
1.18.040 Salary of Mayor.
1.18.050 Severability.

## 1.18.010 Deputy Mayor – Office created.

There is hereby created the office of Deputy Mayor. The Deputy Mayor shall be a member of the City Council and shall be elected by the Council at its first meeting after such office becomes vacant, or as soon thereafter as practical. The term of such office shall be for one year, commencing in the year 2001.

(Ord. 26767 § 1; passed Jan. 9, 2001: Ord. 22611 § 1; passed Jan. 5, 1982: Ord. 16506 § 1; passed Feb. 1, 1960)

## 1.18.020 Deputy Mayor – Powers and duties.

The powers and duties of the Deputy Mayor shall be the same as those provided by law for the Mayor but shall be vested in and exercised by the Deputy Mayor only in the absence or disability of the Mayor.

(Ord. 16506 § 2; passed Feb. 1, 1960)

## 1.18.025 Salary of the Deputy Mayor.

In accordance with the Tacoma City Charter, Section 2.3, and state law, the Citizen Commission on Elected Salaries shall determine the compensation for the position of Deputy Mayor, for the carrying on and performance of the functions of the office, which shall be adopted by the City Council. The Deputy Mayor shall have the option of participating in the City's medical, dental, and vision benefits, prorated on the same terms as part-time (90%) City employees.

(Ord. 28459 Ex. A; passed Oct. 17, 2017: Ord. 26297 § 1; passed Sept. 15, 1998)

## 1.18.030 Duties of Mayor.

The Mayor of the City of Tacoma shall devote sufficient time to properly perform the duties and functions of the office of Mayor and, in connection therewith, beginning at such time as the said Mayor shall be entitled to receive the additional compensation for said office as hereinafter provided for, shall maintain, as nearly as practicable, regular hours at the City Hall.

(Ord. 16081 § 1; passed Apr. 14, 1958)

## 1.18.040 Salary of Mayor.

In accordance with the Tacoma City Charter, Section 2.3, and state law, the Citizen Commission on Elected Salaries shall determine the compensation for the position of Mayor, for the carrying on and performance of the functions of the office, which shall be adopted by the City Council. The Mayor shall have the option of participating in the City's benefits on the same terms as full-time (100%) City employees.

(Ord. 28459 Ex. A; passed Oct. 17, 2017: Ord. 26296 § 1; passed Sept. 15, 1998: Ord. 25693 § 1; passed Apr. 18, 1995: Ord. 24287 § 1; passed Apr. 11, 1989: Ord. 22383 § 1; passed Apr. 14, 1981: Ord. 20027 § 1; passed Mar. 26, 1974: Ord. 16506; passed Feb. 1, 1960)

## 1.18.050 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, is not affected.

(Ord. 26296 and 26297 § 2; passed Sept. 15, 1998)

# CHAPTER 1.19
# SALARY OF COUNCIL MEMBERS

Sections:

1.19.010 Salary of Council member.
1.19.020 Motor vehicle allowance.
1.19.030 Severability

## 1.19.010 Salary of Council member.

In accordance with the Tacoma City Charter, Section 2.3, and state law, the Citizen Commission on Elected Salaries shall determine the compensation for the position of Council Member, for the carrying on and performance of the functions of the office, which shall be adopted by the City Council. The Council Member shall have the option of participating in the City's medical, dental, and vision benefits, prorated on the same terms as part-time (90%) City employees.

(Ord. 28459 Ex. B; passed Oct. 17, 2017: Ord. 27675 § 1; passed Mar. 18, 2008: Ord. 26574 § 1; passed Feb. 22, 2000: Ord. 26297 § 3; passed Sept. 15, 1998)

## 1.19.020 Motor vehicle allowance.

From and after the first day of April, 1980, no member of the City Council, including the Mayor, shall be permanently assigned a City vehicle. The Mayor shall receive a reasonable vehicle reimbursement allowance, which shall be and is hereby fixed in the sum of $550 per month. The reimbursement allowance provided for herein shall constitute full compensation to the Mayor for the use of his or her privately owned or leased vehicle on City business and shall be deemed and construed to compensate the Mayor for any and all expenses thereof.

As a condition precedent to the collection of said amount, the Mayor shall certify that said vehicle is duly insured against public liability and property damage by an authorized insurer in amounts not less than $100,000/$300,000/$50,000 for all uses, including business usage. Any claims for reimbursement pursuant to this section shall be submitted on proper forms and in a manner consistent with the requirements of the State Auditor to the Director of Finance of the City of Tacoma and shall be paid from budgeted funds of the legislative body.

(Ord. 27437 § 1; passed Nov. 29, 2005: Ord. 22601 § 1; passed Dec. 22, 1981: Ord. 21973 § 1; passed Feb. 5, 1980)

## 1.19.030 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, is not affected.

(Ord. 26297 § 4; passed Sept. 15, 1998)

# CHAPTER 1.20
# OBLIGATIONS OF CITY – PAYMENT [24]

Sections:

1.20.010 Method for paying obligations provided.
1.20.020 Contracts.
1.20.030 Judgments.
1.20.040 Salaries and compensation paid on a biweekly basis.
1.20.050 Salaries and compensation paid on hourly basis.
1.20.060 Payroll – Preparation, approval and warrants.
1.20.070 Payroll warrants – Cashing.
1.20.080 Payroll certificates – Form.
1.20.090 Other obligations – Payment.

## 1.20.010 Method for paying obligations provided.

All obligations of the City of Tacoma shall be paid in the manner prescribed in this chapter.

(Ord. 15645 § 1; passed Jul. 2, 1956)

## 1.20.020 Contracts.

Contract obligations shall be paid at the times and in the sums fixed by ordinances or resolutions authorizing the same by checks or warrants upon the several funds provided therefor drawn by the Director of Finance or, in the case of his/her absence or inability to act, his/her representative designated by him/her in writing, in favor of the person or corporation entitled thereto, signed by the City Treasurer or, in the case of his/her absence or inability to act, his/her representative designated by him/her in writing, and the Director of Finance, or, in case of his/her absence or inability to act, his/her representative designated by him/her in writing.

(Ord. 24743 § 4; passed Oct. 23, 1990: Ord. 22469 § 1; passed Jul. 14, 1981: Ord. 15645 § 2; passed July 2, 1956)

## 1.20.030 Judgments.

Judgments shall be paid in the manner provided by law by checks or warrants drawn in the manner provided in Section 1.20.020 hereof.

(Ord. 15645 § 3; passed Jul. 2, 1956)

## 1.20.040 Salaries and compensation paid on a biweekly basis.

The salaries and compensation of officers and employees shall be paid on a biweekly basis, and the head of each department shall compile the payroll for such officers and employees of his department and certify to the correctness thereof for such biweekly periods, which biweekly periods shall commence as determined by the Director of Finance.

(Ord. 17096 § 1; passed Jun. 26, 1962)

## 1.20.050 Salaries and compensation paid on hourly basis.

The salary and compensation of officers and employees paid on an hourly basis shall be paid in the following manner: the department head of each department shall compile and certify to the correctness thereof, the payroll of such officers and employees of his department for the biweekly period commencing with the biweekly period beginning July 16, 1956, and ending July 29, 1956.

(Ord. 15645 § 5; passed Jul. 2, 1956)

## 1.20.060 Payroll – Preparation, approval and warrants.

Such biweekly payroll shall be prepared on a printed form prescribed and furnished by the Director of Finance. Thereupon the Director of Finance, in case of his absence or inability to act, his representative designated by him in writing (if satisfied that the roll is correct according to the Charter and ordinances governing the salaries and wages of officers and employees) shall

[24] See also Sections 1.06.228 et seq. – Claims Against City.

execute his checks or warrants on the several funds affected, transferring to the Salary Fund the total amount of the payroll and authorizing the Treasurer to pay the amounts therein set forth as due.

(Ord. 17096 § 2; passed Jun. 26, 1962)

### 1.20.070 Payroll warrants – Cashing.

On the completion of the payrolls, warrants and pay checks as hereinbefore provided and at an appointed time, the Director of Finance shall dispense the pay checks aforesaid to the officers and employees justly entitled to receive them, and on presentation of such pay checks properly endorsed the Treasurer shall redeem them with cash. Such pay checks, together with the warrants for the total payrolls, when returned to the Director of Finance properly endorsed and canceled, shall be accepted by him as proper vouchers for the expenditure of funds in like amounts.

(Ord. 15645 § 7; passed Jul. 2, 1956)

### 1.20.080 Payroll certificates – Form.

The form of certificate to be made by the heads of the departments attached to their several payrolls shall be as follows:

I hereby authorize and approve payment of the attached. Time Roll for the Department of ____ in the amount of $ _____ for the period ending _____, 19____.

_____

(Ord. 15645 § 8; passed Jul. 2, 1956)

### 1.20.090 Other obligations – Payment.

All obligations of the City not herein specifically provided for shall be paid as provided for in Section 1.20.020 hereof.

(Ord. 15645 § 9; passed Jul. 2, 1956)

# CHAPTER 1.22
# MUNICIPAL COURT

Sections:

1.22.010 *Repealed.*
1.22.015 *Repealed.*
1.22.020 *Repealed.*
1.22.030 *Repealed.*
1.22.040 *Repealed.*
1.22.050 Court in session Monday through Friday.
1.22.060 *Repealed.*

## 1.22.010 Appointment – Bond – Salary. *Repealed by Ord. 28362.*

(Repealed by Ord. 28362 Ex. A; passed Jun. 7, 2016: Ord. 14887 § 43; passed Sept. 28, 1953)

## 1.22.015 Salary fixed. Repealed by Ord. 28362.

(Repealed by Ord. 28362 Ex. A; passed Jun. 7, 2016: Ord. 15144 § 1; passed Oct. 25, 1954)

## 1.22.020 Jurisdiction. *Repealed by Ord. 28362.*

(Repealed by Ord. 28362 Ex. A; passed Jun. 7, 2016: Ord. 14887 § 43; passed Sept. 28, 1953)

## 1.22.030 Additional clerical help. Repealed by Ord. 28362.

(Repealed by Ord. 28362 Ex. A; passed Jun. 7, 2016: Ord. 14887 § 43; passed Sept. 28, 1953)

## 1.22.040 Collection and remittance of fines. Repealed by Ord. 28362.

(Repealed by Ord. 28362 Ex. A; passed Jun. 7, 2016: Ord. 14887 § 43; passed Sept. 28, 1953)

## 1.22.050 Court in session Monday through Friday.

The Municipal Court Judges shall hold municipal court Monday through Friday of each week, except on legal holidays, and may hold evening sessions after 5:00 p.m. as necessary.

(Ord. 24475 § 1; passed Nov. 14, 1989: Ord. 14887 § 43; passed Sept. 28, 1953)

## 1.22.060 Pro tem Judge – Appointment. *Repealed by Ord. 28362.*

(Repealed by Ord. 28362 Ex. A; passed Jun. 7, 2016: Ord. 14887 § 43; passed Sept. 28, 1953)

# CHAPTER 1.23
# HEARING EXAMINER

Sections:

1.23.010 Creation and purpose.
1.23.020 Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore – Appointment and terms.
1.23.030 Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore – Qualifications.
1.23.040 Hearing Examiner – Conflict of interest, appearance of fairness and freedom from improper influence.
1.23.050 Areas of jurisdiction.
1.23.060 Scope and standard of review.
1.23.070 Burden of proof.
1.23.080 Prehearing conference.
1.23.090 Report by Department.
1.23.100 Conduct of proceedings.
1.23.105 Hearing Examiner subpoenas.
1.23.110 Examiner's decision and recommendation – Time limits for land use matters.
1.23.120 Consolidated review of multiple permit applications and of environmental appeals with the underlying land use action.
1.23.130 Conditioning land use approvals.
1.23.140 Reconsideration of Hearing Examiner decisions and recommendation.
1.23.150 Appeal of Examiner recommendations.
1.23.160 Appeal of Hearing Examiner decisions.
1.23.170 Jurisdiction.

## 1.23.010 Creation and purpose.

Recognizing:

A. The need to provide an efficient and effective administrative adjudicatory system for acting upon quasi-judicial matters and for review of contested administrative determinations as provided for herein;

B. The need to ensure, to the extent possible, that quasi-judicial administrative decisions are made in a fair and impartial manner; and

C. The need to ensure that the principles of due process and the appearance of fairness are adhered to in regard to quasi-judicial matters.

The office of the Hearing Examiner is hereby created under the authority provided by Article 11, Section 11 of the Washington State Constitution and RCW 58.17.330 and RCW 35.63.130 in order to best satisfy these needs. The office shall be independent of City departments, boards and commissions and shall be responsible for impartial administration of administrative hearings in accordance with the provisions of this chapter.

(Ord. 28461 Ex. A; passed Oct. 24, 2017: Ord. 25848 § 1; passed Feb. 27, 1996)

## 1.23.020 Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore – Appointment and terms.

The Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore shall be appointed by the City Manager. From time to time, in addition to part-time Hearing Examiners Pro Tempore, the City Manager may also contract with qualified individuals to serve as Hearing Examiners Pro Tempore for specified hearings. Such individuals shall be compensated for their services on a contractual basis for each hearing in accordance with applicable provisions of the Tacoma Municipal Code governing contracts for professional services.

(Ord. 25848 § 1; passed Feb. 27, 1996)

## 1.23.030 Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore – Qualifications.

The Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore shall be appointed solely with regard to qualifications for the duties of such office and shall have such training or experience as will qualify the Examiner to conduct administrative quasi-judicial proceedings. The Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore shall hold no other classified, appointive, or elected position in City government.

(Ord. 25848 § 1; passed Feb. 27, 1996)

### 1.23.040 Hearing Examiner – Conflict of interest, appearance of fairness and freedom from improper influence.

Participants in adjudicative proceedings or hearings have the right, insofar as practicable, to have the Examiner free from bias, prejudice, or interest. Accordingly, an Examiner is subject to disqualification for bias, prejudice or interest or any other cause for which a judge is disqualified.

Any party to an adjudicative proceeding may petition for the disqualification of an Examiner promptly after receipt of notice indicating that the individual will preside or, if later, promptly upon discovery establishing grounds for disqualification. The Examiner for whom the disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.

(Ord. 25848 § 1; passed Feb. 27, 1996)

### 1.23.050 Areas of jurisdiction.

A. The Examiner shall receive and examine relevant information, conduct public hearings, maintain a record thereof, and enter findings of fact, conclusions of law, and recommendations to the City Council or other order, as appropriate, in the following matters:

1. Applications for rezoning of property (Chapter 13.05; Section 13.06.650);

2. Formation of Local Improvement Districts (Chapter 10.04);

3. Approval of Local Improvement District assessments (Chapter 10.04);

4. Dangerous sidewalks proceedings (Chapter 10.18);

5. Petitions for street and alley vacations (Chapter 9.22);

6. Appeals of administrative determinations to the City Council if delegated under TMC 1.06.820; and

7. Appeals arising under the City's Code of Ethics as set forth in TMC 1.46.025.F, and 1.46.040.F and G. Hearing Examiner recommendations under this subsection shall be to the person(s) or body responsible for acting on the Hearing Examiner's order or recommendation.

B. In regard to the matters set forth below, the Examiner shall conduct adjudicative proceedings, maintain a record thereof, and enter findings of fact, conclusions of law, and a final decision or other order, as appropriate:

1. Applications for preliminary plat approval for subdivisions exceeding nine lots (Chapter 13.04);

2. Appeals from decisions of the Director of Planning and Development Services (Chapters 13.05 and 13.06);

3. Appeals from decisions of the City Engineer regarding removal of or pruning trees on City-owned property (Chapter 9.20);

4. Appeals from the decisions or order of the Health Officer regarding violations of the Infectious Waste Management Code (Section 5.04.170);

5. Appeals from the Health Officer's denial of a permit to operate a swimming pool under Chapter 5.50 (Section 5.50.030);

6. Appeals from denial or revocation of a permit for sidewalk vending (Section 6B.180.120);

7. Appeals regarding determinations of unlawful discriminatory practice under the Human Rights Commission chapter (Chapter 1.29);

8. Appeals from determinations of the Chief of Police, or his or her designee, regarding Potentially Dangerous Dogs and Dangerous Dogs (Chapter 17.04);

9. Appeals arising out of the Tax and License Code (Title 6);

10. Appeals arising out of the City Environmental Code, Chapter 13.12 (Sections 13.12.540 and .820);

11. Appeals arising under the City's commute trip reduction ordinance (Chapter 13.15);

12. Actions brought under the City's Whistle Blower Policy;

13. Appeals from the film production coordinator's decisions regarding productions of motion pictures within the City (Section 11.10.140);

14. Appeals from denial of special permits regarding solid waste recycling (Section 12.09.070);

15. Matters referred for adjudication by the Civil Service Board under its rules of procedure (Charter Section 6.11(c));

16. Appeals arising under the City's concurrency management ordinance (Chapter 13.16);

17. Hearing of violations of the City's Ethics Code (Chapter 1.46);

18. Appeals from the Environmental Services Director's determination of civil penalties or any other charge, order, requirement, decision, or determination issued by the Director or his or her staff pursuant to the sewage disposal and drainage regulations ordinance (Chapter 12.08);

19. Appeals from the Environmental Services Director's determination of civil penalties for violations of the solid waste ordinance and appeals arising out of the imposition by the Director, or his or her staff, of solid waste utility charges; provided, that the Hearing Examiner shall not adjudicate claims with respect to any rate set by the City Council in a rate ordinance nor hear any challenge to the rate-making process (Chapter 12.09);

20. Appeals from the decision of the Community and Economic Development Department Director denying or canceling a final Certificate of Tax Exemption under Tacoma's Mixed-Use Center Development ordinance (Chapter 13.17);

21. Appeals arising from the imposition of charges for service issued by the Department of Public Utilities, as well as those arising from disputes concerning utility service, use of watershed or other Department property, and termination of any use; provided, that the Hearing Examiner shall not adjudicate claims with respect to any rate set by the City Council in a rate ordinance nor hear any challenge to the rate-making process (Chapters 12.06 and 12.10);

22. Appeals arising out of the City's Minimum Building and Structures Code (Chapter 2.01);

23. Appeals from sign enforcement (Section 13.06.520 - .522);

24. Applications for projects that require land use permits from the City of Tacoma as well as from a neighboring jurisdiction transferred to the jurisdiction of the Hearing Examiner in accordance with Section 13.05.040.F;

25. Appeals from Chronic Nuisance Code enforcement (Section 8.30A.080);

26. Appeals arising from a decision to deny a special street use permit, pursuant to Subtitle 16B;

27. Appeals arising from a decision to deny a telecommunications system franchise, pursuant to Subtitle 16B;

28. Appeals arising from a decision to deny a telecommunications system license, pursuant to Subtitle 16B;

29. Appeals arising from the establishment of a reimbursement assessment area and levying of a reimbursement assessment upon benefited property owners, pursuant to Chapter 35.72 RCW and applicable City ordinances;

30. Applications for wetland and stream development permits, wetland and stream assessments, and wetland delineation verifications in conjunction with a preliminary plat approval or reclassification (Chapter 13.11);

31. Appeals regarding overpayment of wages (Section 1.12.071);

32. Administrative hearings related to the breach or termination of cable television franchises granted, pursuant to Subtitle 16A;

33. Applications for Conditional Use Permits (Section 13.06.640);

34. Appeals from Poultry and Pigeons enforcement (Section 5.30.040);

35. Appeals from determinations related to certification and enforcement of violations for Small Business Enterprise (Chapter 1.07).

36. Appeals arising out of the Nuisance Code (Chapter 8.30).

37. Appeals arising out of the Public Nuisance Vehicle Code (Chapter 8.23).

38. Appeals arising out of the Noise Code (Chapter 8.122).

39. Appeals from the decision of the Landmarks Preservation Commission regarding Certificates of Approval (Section 13.05.047.G).

40. Appeals arising from violations of the Rental Housing Code (Chapter 1.95).

(Ord. 28559 Ex. B; passed Nov. 20, 2018: Ord. 28508 § 3; passed Apr. 26, 2018: Ord. 28492 Ex. A; passed Feb. 27, 2018: Ord. 28461 Ex. A; passed Oct. 24, 2017: Ord. 28272 Ex. A; passed Dec. 16, 2014: Ord. 28141 Ex. B; passed Mar. 26, 2013: Ord. 28109 Ex. C; passed Dec. 4, 2012: Ord. 28085 Ex. B; passed Aug. 28, 2012; Ord. 28050 Ex. A; passed Feb. 14, 2012: Ord. 27936 Ex. A; passed Oct. 19, 2010: Ord. 27913 Ex. A; passed Aug. 10, 2010: Ord. 27911 Ex. A; passed Aug. 3, 2010:

Ord. 27844 Ex. A; passed Nov. 10, 2009: Ord. 27637 Ex. B; passed Aug. 28, 2007: Ord. 27504 § 7; passed Jun. 27, 2006: Ord. 27466 § 14; passed Jan. 17, 2006: Ord. 27447 § 1; passed Dec. 13, 2005: Ord. 27431 § 1; passed Nov. 15, 2005: Ord. 27429 § 1; passed Nov. 15, 2005: Ord. 27153 § 2; passed Oct. 21, 2003: Ord. 27129 § 8; passed Aug. 5, 2003: Ord. 27044 § 2; passed Feb. 25, 2003: Ord. 27002 § 1; passed Nov. 12, 2002: Ord. 26949 § 1; passed Jul. 16, 2002: Ord. 26955 § 1; passed Jun. 4, 2002: Ord. 26585 § 1; passed Mar. 14, 2000: Ord. 26485 § 1; passed Aug. 3, 1999: Ord. 26435 § 1; passed Jun. 8, 1999: Ord. 26386 § 5; passed Mar. 23, 1999: Ord. 26381 § 1; passed Mar. 16, 1999: Ord. 26247 § 1; passed Jun. 2, 1998: Ord. 26129 § 2; passed Sept. 16, 1997: Ord. 25848 § 1; passed Feb. 27, 1996)

## 1.23.060 Scope and standard of review.

Hearings upon original jurisdiction application set forth in subsection A of Section 1.23.050 shall be quasi-judicial in nature, except for subsection A.3, the formation of Local Improvement Districts, which shall be quasi-legislative in nature. The matters set forth in subsection B[25] of the referred–to code section shall be quasi-judicial in nature and shall be conducted de novo unless otherwise required by law.

(Ord. 27936 Ex. A; passed Oct. 19, 2010: Ord. 27129 § 9; passed Aug. 5, 2003: Ord. 27044 § 3; passed Feb. 25, 2003: Ord. 25848 § 1; passed Feb. 27, 1996)

## 1.23.070 Burden of proof.

A. For those matters set forth in subsection A of Section 1.23.050, except subparagraphs A.3 and A.4 (formation of Local Improvement Districts and approval of Local Improvement assessments), the burden of proof shall be on the applicant or petitioner to establish, by a preponderance of the evidence, that the request is consistent with applicable legal standards.

B. For the formation of Local Improvement Districts the Examiner shall, based on the evidence presented by the parties, determine whether the district should be formed based on statutory requirements set forth at RCW 35.43 and adopted City policies. In regard to Local Improvement District assessments, the assessment roll presented by the Department of Public Works or the Department of Public Utilities shall be presumed to be legally correct; and a party contesting a proposed Local Improvement District assessment shall have the burden of establishing, by a preponderance of the evidence, that the method of assessment was founded on a "fundamentally wrong basis" and does not properly reflect the special benefits resulting from the improvements constructed.

C. For the adjudicatory matters set forth in subsection B of Section 1.23.050, unless otherwise provided by law, the party seeking review has the burden to establish, by a preponderance of the evidence, that the matter is consistent or inconsistent with applicable legal standards and the lower decision should be reversed or otherwise modified. Evidence that is material and relevant to determination of the matter consistent with the applicable legal requirements, subject to administrative rules of proceedings before the Hearing Examiner, shall be admitted into the record whether or not such evidence had been submitted as a part of the administrative record below.

(Ord. 28461 Ex. A; passed Oct. 24, 2017: Ord. 27936 Ex. A; passed Oct. 19, 2010: Ord. 26129 § 3; passed Sept. 16, 1997: Ord. 25848 § 1; passed Feb. 27, 1996)

## 1.23.080 Prehearing conference.

The Hearing Examiner, at his/her discretion, may conduct a prehearing conference. The purpose of the prehearing conference shall be: (1) to determine the feasibility of settlement of the matter; (2) to obtain agreement as to issues of fact or law and facts to be presented at hearing and the simplification or limitation thereof; (3) to determine the possibility of obtaining admissions of facts and authenticity of documents, which will avoid unnecessary proof at hearing; (4) to determine the admissibility of exhibits; (5) to obtain stipulation as to all or part of the facts in the case; (6) to determine the number of expert and lay witnesses to be called by the parties and their names, when possible; (7) to determine the approximate time necessary for the presentation of the evidence of the respective parties; (8) to establish a hearing schedule; and (9) to obtain all other information which may aid in the prompt disposition of the cases.

The Examiner, following the prehearing conference, shall issue a prehearing order, which shall, unless properly amended, control the further course of proceedings in the matter. Prehearing conferences may be held in person or telephonically, at the discretion of the Hearing Examiner.

(Ord. 28461 Ex. A; passed Oct. 24, 2017: Ord. 25848 § 1; passed Feb. 27, 1996)

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[25] Code reviser's note: Reference to subsection 1.23.050.B. was revised to reflect various amendments to the subsection.

### 1.23.090 Report by Department.

When a matter identified in subsection A of Section 1.23.050 has been set for public hearing, the appropriate department of City government shall coordinate and assemble the comments and recommendations of other City departments, other governmental agencies, and utility providers having an interest in the matter, and shall prepare a report summarizing the factors involved and the appropriate departments' findings and recommendation. At least seven days prior to the scheduled hearing, the report shall be filed with the Examiner and copies thereof shall be mailed to the applicant, in matters involving permit applications, and shall be made available for use by any interested parties at the cost of reproduction.

(Ord. 28461 Ex. A; passed Oct. 24, 2017: Ord. 28109 Ex. C; passed Dec. 4, 2012: Ord. 25848 § 1; passed Feb. 27, 1996)

### 1.23.100 Conduct of proceedings.

All hearings shall be conducted in an orderly manner in accordance with rules adopted by the City Council or as promulgated by the Hearing Examiner. The Hearing Examiner shall have the authority to issue subpoenas compelling the appearance of witnesses and the production of documents and shall, further, have full authority to rule on all procedural matters, objections and motions. For those proceedings conducted pursuant to RCW 34.05, Administrative Procedures Act, all requirements of that Act for the conduct of adjudicative proceedings shall be followed.

(Ord. 28109 Ex. C; passed Dec. 4, 2012: Ord. 25848 § 1; passed Feb. 27, 1996)

### 1.23.105 Hearing Examiner subpoenas.

A. Subpoenas may be issued by the Hearing Examiner or an attorney of record in a given appeal, and may be served by any person 18 years of age or over, competent to be a witness, but who is not a party to the matter in which the subpoena is issued.

B. Each witness subpoenaed by the Hearing Examiner (or attorney of record) as a witness shall be allowed the same fees and mileage as provided by law to be paid witnesses in courts of record in this state.

C. If a person fails to obey a subpoena issued by the Hearing Examiner (or attorney of record) in an adjudicative proceeding, or obeys the subpoena but refuses to testify or produce documents when requested concerning a matter under examination, the Hearing Examiner or attorney of record issuing a subpoena may petition the Tacoma Municipal Court for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, shall set forth in what specific manner the subpoena has not been complied with, and shall request an order of the court to compel compliance. Upon such petition, the court shall enter an order directing the person to appear before the court at a time and place fixed in the order to show cause why the person has not obeyed the subpoena or has refused to testify or produce documents. A copy of the court's show cause order shall be served upon the person. If it appears to the court that the subpoena was properly issued, and that the particular questions the person refused to answer or the requests for production of documents were reasonable and relevant, the court shall enter an order that the person appear before the Hearing Examiner at the time and place fixed in the order and testify or produce the required documents, and on failing to obey this order the person shall be dealt with as for contempt of court.

(Ord. 28461 Ex. A; passed Oct. 24, 2017: Ord. 26189 § 1; passed Jan. 27, 1998)

### 1.23.110 Examiner's decision and recommendation – Time limits for land use matters.

A. Final action by the Hearing Examiner on applications for preliminary plat approval must be taken within 90 days of the filing of a "complete application" (see Section 13.05.010) unless a longer period of time is agreed to by the applicant and the Examiner.

B. For land use matters set forth in subsection B of Section 1.23.050 considered on appeal, the Hearing Examiner shall enter findings of fact, conclusions of law and decision or other appropriate order within 120 days of the filing of an appeal, unless a longer period of time is agreed to by the Examiner and the applicant for the permit which is the subject of the appeal proceeding. For time periods for zoning reclassifications, see Section 13.06.650.

C. In the event the Examiner cannot act upon a land use matter within the time limits set forth in subsections A and B of this section, the Examiner shall notify the applicant in writing setting forth reasons the matter cannot be acted upon within the time limitations prescribed and the time estimated to be necessary for completing the Examiner's recommendation or decision.

D. The time limitations set forth herein expressly do not apply to petitions for street vacations or other matters which do not involve applications for land use permits.

(Ord. 28109 Ex. C; passed Dec. 4, 2012: Ord. 26934 § 1, passed Mar. 5, 2002: Ord. 26843 § 1, passed Aug. 21, 2001: Ord. 26645 § 1, passed Jun. 7, 2000: Ord. 26129 § 4; passed Sept. 16, 1997: Ord. 25848 § 1; passed Feb. 27, 1996)

### 1.23.120 Consolidated review of multiple permit applications and of environmental appeals with the underlying land use action.

Multiple land use applications for the same development project shall be consolidated for review before the Hearing Examiner if one of the permits or approvals required is within the original jurisdiction, as opposed to appellate jurisdiction, of the Examiner. Likewise, an environmental appeal brought pursuant to Section 13.12.820 shall be consolidated for purposes of review with the underlying permit matter(s), unless the environmental appeal involves the issuance of a Determination of Significance pursuant to WAC 197-11-360. In the latter event, the environmental appeal may be considered separately from the underlying permit application(s).

(Ord. 28461 Ex. A; passed Oct. 24, 2017: Ord. 28109 Ex. C; passed Dec. 4, 2012: Ord. 25848 § 1; passed Feb. 27, 1996)

### 1.23.130 Conditioning land use approvals.

When acting on any land use matter, the Hearing Examiner may attach or recommend imposition to the City Council in regard to rezoning applications and street vacation petitions any reasonable conditions found necessary to make the project compatible with its environment, to carry out the goals and policies of the City's Comprehensive Plan, including its Shoreline Master Program, or to provide compliance with applicable criteria or standards set forth in the City's land use regulatory codes. Such conditions may include but are not limited to the:

A. Exact location and nature of the development, including additional building and parking area setbacks, screening in the form of landscape berms, landscaping or fencing.

B. Mitigating measures, identified in applicable environmental documents, and which are reasonably capable of being accomplished by the project's sponsor, intended to eliminate or lessen the environmental impact of the development.

C. Provisions for low- and moderate-income housing as authorized by state statute.

D. Hours of use or operation or type and intensity of activities.

E. Sequence in scheduling of development.

F. Maintenance of the development.

G. Duration of use and subsequent removal of structures.

H. Dedication of land or granting of easements for public utilities and other public purposes.

I. Construction of or other provisions for public facilities and utilities. In regard to the conditions requiring the dedication of land or granting of easements for public use and the actual construction of or other provisions for public facilities and utilities, the Examiner shall find that the problem to be remedied by the condition arises in whole or significant part from the development under consideration, the condition is reasonable, and is for a legitimate public purpose.

(Ord. 27079 § 2; passed Apr. 29, 2003: Ord. 25848 § 1; passed Feb. 27, 1996)

### 1.23.140 Reconsideration of Hearing Examiner decisions and recommendation.

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the office of the Hearing Examiner requesting reconsideration of a decision or recommendation entered by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday, the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation.

(Ord. 26645 § 2, passed Jun. 27, 2000:Ord. 25848 § 1; passed Feb. 27, 1996)

### 1.23.150 Appeal of Examiner recommendations.

Appeal of those matters in which the Hearing Examiner enters a recommendation to the City Council, as set forth in subsection A of Section 1.23.050, shall be made to the City Council within 14 calendar days of the entering of the Hearing Examiner's recommendation and in the manner set forth at Chapter 1.70 of the Tacoma Municipal Code. Only those persons

or entities having standing under the ordinance governing the application, or as otherwise provided by law, may appeal the Hearing Examiner's recommendation to the City Council.

(Ord. 25848 § 1; passed Feb. 27, 1996)

## 1.23.160 Appeal of Hearing Examiner decisions.

A. Appeal of those matters in which the Hearing Examiner enters a final decision as set forth in subsection B of Section 1.23.050, except in regard to applications from preliminary plat approval, may be brought by any party to the adjudicative proceeding which led to the decision entered. In regard to applications for preliminary plat approval, any aggrieved person having standing under the ordinance governing such application, or as otherwise provided by law, may appeal the Examiner's decision as provided herein.

B. Appeals from decisions of the Hearing Examiner in regard to those matters set forth in subsection B of Section 1.23.050 shall be appealable to the Superior Court for the State of Washington; provided, however, that those determinations regarding civil penalties, as set forth in subsections B.18 and B.19, and disputes concerning utility service, as set forth in subsection B.21, shall be appealable to the Tacoma Municipal Court. Any court action to set aside, enjoin, review or otherwise challenge the decision of the Examiner shall be commenced within 21 days of the entering of the decision by the Examiner, unless otherwise provided by statute.

(Ord. 28461 Ex. A; passed Oct. 24, 2017: Ord. 26291 § 1; passed Sept. 15, 1998, Ord. 25848 § 1; passed Feb. 27, 1996)

## 1.23.170 Jurisdiction.

The Hearing Examiner shall retain jurisdiction for cases filed prior to adoption of the ordinance codified in this chapter, unless waived by the applicant.

(Ord. 25848 § 1; passed Feb. 27, 1996

# CHAPTER 1.24
# PERSONNEL RULES [26]

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## GENERAL PROVISIONS

### 1.24.010 Rules adopted.

The following rules, pursuant to the provisions of the Charter of the City of Tacoma as last amended, are hereby adopted and enacted by this chapter as the Civil Service and Personnel Rules governing municipal employment, and shall be known and referred to as the Personnel Rules.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.020 Purpose of Rules.

These Rules set forth the principles and procedures that are to be followed by the City administration in its personnel program, to the end that the City of Tacoma and its employees may have reasonable assurance that personnel problems will be dealt with on a uniform, equitable basis under a single personnel administrator and that the citizens of Tacoma may derive the benefits and advantages which can be expected to result from a competent staff of City employees.

These Rules have been prepared under the premise that it is the intent of the Charter that there should be a centralized, integrated program for personnel administration in all departments and divisions of the City, such program to be administered by the Human Resources Director.

Should any problem arise in the implementation and administration of the personnel program outlined by these Rules which the Human Resources Director is unable to resolve to the satisfaction of the City Manager and the Director of Utilities, such problem shall be resolved by the City Manager and the Director of Utilities, if possible. Whenever the City Manager and the Director of Utilities are unable to reach an accord concerning any matter involving the administration of these Rules, the matter shall be referred to the Civil Service Board, whose findings and determination shall be conclusive.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.030 Positions covered.

These Rules shall apply to all positions and offices in the City Service unless otherwise provided by law except:

A. Officials elected by the people.

B. Members of Boards and Commissions.

C. Unclassified positions.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.040 Approval of Rules.

These Rules shall be in force and effect after filing with the City Clerk, as provided for in Section 6.14 of the City Charter as last amended.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.045 Administration of Rules.

The Human Resources Director is responsible for the administration of these Rules.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.050 Amendments or revisions to Personnel Rules.

The Civil Service Board, pursuant to Section 6.14 of the City Charter as last amended, shall, in accordance therewith, promulgate and propose all amendments or revisions to the Personnel Rules.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.055 Severability.

If any section or part of a section of these Rules is held by any court to be invalid or unconstitutional, the same shall not invalidate or impair the validity, force and effect of any other section or part of a section of these Rules unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held invalid or unconstitutional.

(Ord. 16383; passed Jun. 29, 1959)

## DEFINITIONS

### 1.24.060 Allocate.

"Allocate" shall mean the act of assigning each position to its proper class.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.061 Appeal.

"Appeal" shall mean a written communication to the Board from a permanent classified employee or the employee's designated representative appealing to the Board the following disciplinary actions: suspension for more than 30 days, reduction in rank or pay, or discharge of said employee; and any and all other controversies or matters, arising out of or in connection with the Personnel Rules. "Appeal" shall not include any matter jurisdiction over which rests with the City Council pursuant to Sections 6.9 and 6.10 of the City Charter, nor with suspensions of 30 days or less, nor with matters which the Board ascertains must be or have been adjudicated under the terms of an existing and applicable collective bargaining agreement.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Civil Service Board amendment; Jun. 7, 2000: added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.063 Applicant.

"Applicant" shall mean a person who has filed an application to compete in a Civil Service examination.

(Added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.065 Appoint.

"Appoint" shall mean the offer and acceptance by a person of a position on a permanent, temporary, or emergency basis.

(Amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.070 Appointing authority.

"Appointing authority" shall mean the City Manager or Director of Utilities or other delegated authority who is empowered to appoint or remove employees of the department over which they have jurisdiction, subject to these Rules.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 16383; passed Jun. 29, 1959)

### 1.24.071 Business day.

As defined for the purpose of these Rules, a business day shall consist of Monday through Friday excluding all state and national holidays.

(Added pursuant to Charter § 6.14; Jan. 29, 1980)

### 1.24.073 Candidate.

"Candidate" shall mean a person whose application has been accepted for an examination.

(Added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.075 Certify.

To "certify" shall mean the act of the Human Resources Director in verifying to an appointing authority the names of applicants who are eligible for appointment to the class and positions in the Classified City Service.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.080 Class/classification.

"Class" or "classification" shall mean a position or group of positions having similar duties and responsibilities, requiring similar qualifications, which can be properly designated by one title indicative of the nature of the work and which carry the same salary range.

(Ord. 26886 § 1; passed Dec. 4, 2001: Ord. 16383; passed Jun. 29, 1959)

### 1.24.083 Classified service.

"Classified service" shall mean all offices, positions, and employments in the City Service except those specifically named in or which may be designated as unclassified pursuant to Section 1.24.290 of the Personnel Rules and Article VI, Section 6.1 of the City Charter.

(Added pursuant to Charter § 6.14; Jan. 29, 1980)

### 1.24.084 Complaint.

A complaint shall be a claim relating to a condition of employment or a disciplinary action not included under TMC 1.24.061. A complaint within the context of this section shall not include matters that are appealable pursuant to TMC 1.24.061 and 1.24.950, nor with matters which the Board ascertains must be or have been adjudicated under the terms of an existing and applicable collective bargaining agreement.

(Added by Civil Service Board; Jun. 7, 2000)

### 1.24.085 Continuous service.

"Continuous service" shall mean employment in the City Service as a permanent and probationary employee which is uninterrupted. Authorized leave of absence, suspension, or separation due to layoff or physical or mental incapacity shall not be considered as an interruption in continuous service. However, time lost due to suspension, separation due to layoff, or physical or mental incapacity shall not be included in the determination of length of continuous service.

(Ord. 23231 § 1; passed Aug. 14, 1984: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.090 Demotion.

"Demotion" shall mean the assignment of an employee to a position in a class in the City Service having a lower maximum salary than the position from which the assignment is made.

(Amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.095 Department.

"Department" shall mean an administrative branch of the government of the City of Tacoma, such as a major department of general government or a major division of the Department of Public Utilities, which is established by Charter and the Administrative Code.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.100 Department head.

"Department head" shall mean an officer or employee designated by the City Manager to be the head of a department and by the Director of Utilities to be the superintendent of an operating division or head of a major service division.

(Amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.103 Departmental promotional list.

"Departmental promotional list" shall mean an eligible list established by promotional examination, for which enrollment thereon is limited to persons permanently appointed in the department for which the list is established. The duration of eligibility and method of consolidation is the same as that established for promotional lists.

(Added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.105 Eligible.

"Eligible" shall mean a person enrolled on an active eligible list and who has rights under these Rules to be certified for appointment and is willing and able to accept appointment.

(Amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.110 Open list.

"Open list" shall mean an eligible list established by open competitive examination.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.113 Emergency appointment.

"Emergency appointment" shall mean the appointment of a person, not to exceed 30 days when such services are necessary to prevent delay or injury to the public business.

(Added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.115 Emergency employee.

"Emergency employee" shall mean any employee whose services are required to prevent delay or injury to the public business.

(Amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.120 Employee.

"Employee" shall mean a person who is the legal incumbent in a position in the classified service, either temporary or permanent, or who is on authorized leave of absence from such position.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.125 Eligible list.

"Eligible list" shall mean a list of all persons who have qualified for appointment to positions within a certain class under the provisions of these Rules, and who have not yet been appointed to such class and who have not been removed from such list in accordance with these Rules.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.130 Immediate family.

"Immediate family" shall mean spouses, dependents, anyone residing in the person's household, and anyone within the third degree of consanguinity of the person, or the person's spouse; e.g., within three degrees of relationship by blood or marriage.

(Ord. 23335 § 1; passed Feb. 5, 1985)

### 1.24.135 Lateral-entry list.

"Lateral-entry list" shall mean an open list established with a different set of experience requirements for the same class.

(Ord. 24164 § 1; passed Aug. 16, 1988)

### 1.24.143 Open competitive examination.

"Open competitive examination" shall mean an examination that is open to all persons who meet the requirements as set forth in the examination announcement.

(Added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.145 Original appointment.

"Original appointment" shall mean the first appointment to a permanent position in the Classified City Service, and shall be subject to a probationary period.

(Amended pursuant to Charter § 6.14; Aug. 30, 2004: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.148 Permanent appointment.

"Permanent appointment" shall mean a subsequent appointment from an eligible list to a permanent position in the Classified City Service, and shall be subject to a probationary period.

(Added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.150 Position.

"Position" shall mean a group of current duties and responsibilities, assigned or delegated by competent authority, requiring the full-time or part-time services of an employee.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.155 Probationary employee.

"Probationary employee" shall mean any employee who is serving a probationary period prior to being permanently appointed to a position.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.160 Probationary period.

"Probationary period" shall mean that period during which an appraisal of an employee's skills, aptitudes and adjustments are made prior to a permanent appointment in that position.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.165 Promotion.

"Promotion" shall mean the assignment of an employee to a position in a class in the City Service having a higher maximum salary than the position from which assignment is made.

(Amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.168 Promotional appointment.

"Promotional appointment" shall mean the appointment from a promotional list to a permanent position in the Classified City Service and shall be subject to a probationary period.

(Added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.169 Promotional examination.

"Promotional examination" shall mean an examination open only to employees of such lower classifications as determined by the Human Resources Director.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.170 Promotional list.

"Promotional list" shall mean an eligible list established by a promotional examination.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.180 Reemployment eligible.

"Reemployment eligible" shall mean a permanent or probationary employee in a classification who has been separated from the Classified City Service by layoff.

(Ord. 26886 § 2; passed Dec. 4, 2001: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.185 Permanent employee.

"Permanent employee" shall mean any employee in the Classified City Service who has been permanently appointed after serving a probationary period to a position established by appropriate legislative action and normally involving continuous year round service.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.187 Special project employee.

"Special project employee" shall mean a person employed in the unclassified service on special projects or programs of limited duration, including but not limited to special major construction projects, projects or programs financed by grant-in-aid agreements with either federal or state governments, etc.

(Ord. 23394 § 1; passed May 14, 1985)

### 1.24.195 Status.

"Status" shall mean legal entitlement to the duties and responsibilities of a position without respect to the title thereof.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.196 Subclass/subclassification.

"Subclass" or "subclassification" shall mean a position or group of positions within a class or classification requiring a specialty area of knowledge or set of special skills or abilities

(Ord. 26886 § 3; passed Dec. 4, 2001)

### 1.24.200 Suspension.

"Suspension" shall mean the temporary removal of an employee from the payroll of the City of Tacoma as a disciplinary measure.

(Ord. 23040 § 1; passed Nov. 22, 1983)

### 1.24.210 Temporary appointment.

"Temporary appointment" shall mean the appointment of a person for a fixed period of time, not to exceed six months, for service on a special job or project, or to fill a vacancy during the absence of a permanent employee who is on leave of absence, or an employee filling a permanent position for which no eligible list exists pending the establishment of an eligible list.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.215 Temporary employee.

"Temporary employee" shall mean an employee appointed for the period of service on a special job or project of a limited duration, or to fill a vacancy during the absence of a permanent employee who is on leave of absence, or an employee filling a permanent position for which no eligible list exists pending the establishment of the eligible list.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.220 Transfer.

"Transfer" shall mean the assignment of an employee from one position to another position in the same or equal (in pay) class in another department providing the employee meets the minimum requirements of the position.

(Ord. 23422 § 1; passed Jun. 25, 1985)

### 1.24.225 Vacancy.

"Vacancy" shall mean an existing position which is not occupied, and for which funds are available and a valid requisition has been received by the Human Resources Director.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.230 City Council – Duties.

The City Council shall:

A. Comply with the provisions of Section 6.14 of the City Charter as last amended.

B. Adopt the Compensation Plan.

C. Make and confirm appointments to positions where specified by the City Charter.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.240 City Manager – Duties.

The City Manager shall:

A. Be responsible for effective personnel administration in those departments under their jurisdiction.

B. Appoint a Human Resources Director who shall be the administrative head of the Human Resources Department.

C. Appoint, remove, suspend and discipline all officers and employees of the City under the jurisdiction of the City Manager, subject to the Civil Service provisions of the Charter and these Rules and State law; or authorize the head of the department or office responsible to the City Manager to appoint and remove subordinates in such department or office.

D. Fix and establish the number of employees in the various City departments and offices under the jurisdiction of the City Manager, and determine their duties and compensation in accordance with the Personnel Rules and Salary Ordinance or Compensation Plan and subject to the approval of the City Council and provisions of the State Budget Law.

E. Perform such other duties and have and exercise such other powers in personnel administration as may be prescribed by law and these Rules.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.250 Director of Utilities – Duties.

The Director of Utilities shall:

A. Be responsible for effective personnel administration in those divisions under their jurisdiction.

B. Appoint, remove, suspend and discipline all officers and employees of the City under the jurisdiction of the Director of Utilities, subject to the Civil Service provisions of the Charter and these Rules and State law; or authorize the head of the division or office responsible to the Director of Utilities to appoint and remove subordinates in such division or office.

C. Fix and establish the number of employees in the various divisions and offices under the jurisdiction of the Director of Utilities, and determine their duties and compensation in accordance with the Personnel Rules and Salary Ordinance or Compensation Plan and subject to the approval of the Public Utility Board, the City Council and provisions of the State Budget Law.

D. Perform such other duties and have and exercise such other powers in personnel administration as may be prescribed by law and these Rules.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.260 Human Resources Director – Duties.

The City Manager shall appoint a Human Resources Director who shall be responsible for the administrative and technical direction of the City Personnel Program. The Human Resources Director shall:

A. Prepare such forms and initiate such procedures as considered necessary, appropriate, or desirable to carry out the City's Personnel Program.

B. Administer the system of position classification for positions within the City based on the duties, responsibilities and nature of work to be performed.

C. Administer the Compensation Plan including the periodic review of salary and wage levels in the area to the extent that such levels affect City employment and the periodic investigation of factors affecting the economic level of salaries as represented in cost of living and other indexes.

D. Provide for the establishment and maintenance of a roster of all employees in the City Service and such other personnel records as deemed advisable or necessary.

E. Provide a system of checking payrolls, so as to determine that all persons in the City Service have been properly appointed and are being paid in accordance with these Rules.

F. Develop and administer training and educational programs for employees in the City Service and assist various departments and divisions of the City with such programs.

G. Develop and administer a centralized system for recruitment and selection and examination programs necessary to obtain adequate and competent applicants to meet the needs of the City.

H. Provide information and staff services as requested by the Civil Service Board.

I. Perform such other activities with reference to personnel administration not inconsistent with the City Charter or these Rules, as may be deemed necessary or desirable to enforce the provisions of these Rules, as the City Manager or the Director of Utilities may direct, or as the City Council may require by ordinance.

J. Establish and maintain a centralized personnel recordkeeping process for all employees.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

## 1.24.270 Civil Service Board – Powers and duties.

A. The Civil Service Board shall make and promulgate all Civil Service and Personnel Rules and amendments thereto necessary to carry out and enforce the purpose of the Civil Service provisions of the City Charter, and shall file all such proposed rules and amendments with the City Clerk, who shall present the same to the City Council at its next regular meeting. Within 45 days after the filing thereof with the City Clerk, the Council shall by ordinance adopt such proposed rules or amendments; provided, however, that the Council by an affirmative vote of not less than two-thirds of its membership may change, alter, amend, add to, reject or repeal any such proposed Civil Service rules or amendments. In the event the City Council shall fail to adopt, change, alter, amend, add to, or reject any such rules or amendments within the 45 days time limit hereinabove provided for, then the City Clerk shall cause to be published such rules or amendments in the official newspaper of the City of Tacoma, and such rules or amendments shall 10 days thereafter become effective to all intents and purposes the same as if adopted by the Council and published as an ordinance.

B. The Civil Service Board shall have the following functions in the administration of the Personnel Program:

1. To advise the Council and administrative officials on all matters relating to Civil Service and personnel administration in the City service.

2. To investigate any or all matters relating to conditions of employment in the service of the City, either in response to employee complaints or on its own initiative.

3. To investigate and pass upon the claim of any person whose name appears on an eligible list that the person has been deprived of a position to which they are entitled under the provisions of this chapter and the Civil Service and Personnel Rules governing the classified service, in which case the decision of the Board shall be binding on the appointing authority; provided, that such person shall not be entitled to any claim for salary from the City for the period prior to the date of filing such claim.

4. To hear appeals from any action suspending for more than 30 days, reducing in rank or pay, or discharging any employee in the classified service, and further to hear appeals on any and all other controversies or matters arising out of or in connection with the Civil Service and Personnel Rules. The findings and decisions of the Board shall be reduced to writing and shall be final and binding upon all parties concerned.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

## CLASSIFICATION PLAN

### 1.24.280 Scope of City Service.

The City Service shall comprise all offices and positions in the City employ, now existing or hereafter created.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.290 Classified and Unclassified Service.

The City Service is divided into the Classified and Unclassified Services:

A. The Unclassified Service shall consist of:

1. Officers elected by the people and persons appointed to fill vacancies in elective offices.

2. The members of boards and commissions.

3. Officers appointed by the Mayor and Council or by boards and commissions, as provided by law or by the Charter.

4. All department heads, one confidential secretary for the City Manager and one for the Director of Utilities, and such other principal officers and assistants to department heads as the Council may prescribe by the affirmative vote of not less than six members or as may be prescribed by the Administrative Code.

5. Not more than three administrative assistants or aides to the City Manager.

6. Professional personnel in the office of the City Attorney.

7. Persons employed in a professional or scientific capacity to conduct a special inquiry, investigation, or examination.

B. The Classified Service shall comprise all positions not specifically included in the Unclassified Service.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.300 Classification Plan – Objective.

The Classification Plan shall provide a complete inventory of all positions in the City Service and accurate descriptions and specifications for each class of employment. In the Plan, titles shall be standardized and each of them shall be indicative of a definite range of duties and responsibilities and shall have the same meanings throughout the City Service.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.310 Structure of Classification Plan.

The Classification Plan shall be comprised of:

A. An assembly into classes of positions which are of approximately equivalent difficulty and responsibility, which may be appropriately filled with persons possessing the same general qualifications, and for which equitable compensation can be paid under similar working conditions from the same pay range.

B. A class title, descriptive of the work of each class, which shall identify each class and which shall be coded by number for personnel control and payroll accounting purposes.

C. Written class specifications for each class of position containing a description of the nature of the work and of the relative responsibility of the positions in the class, examples of work which are illustrative of the duties of the position affected to the class, requirements of work in terms of knowledge, abilities and skills necessary for the performance of the work, and a statement of experience and training desirable for recruitment into the class.

D. An allocation list showing the class title of each position in the City Service, as identified by the name of the employee holding such position. The Classification Plan shall be set up to reflect positions by major groupings of allied position such as clerical, administrative, fiscal, engineering and technical; and each grouping shall have an identifying code number bracket.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.320 Class titles – Use required.

Class titles, or designated code symbols, shall be used in all personnel, accounting, budgeting, appropriation and financial records. No person shall be appointed to or employed in a position in the City Service under a title not included in the Classification Plan. Class titles shall not express a preference as to gender.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 20432 § 1; passed May 20, 1975: Ord. 16383; passed Jun. 29, 1959)

### 1.24.330 Class specifications.

The specifications of the classes of positions in the Classification Plan and their various parts shall be used as a guide in the classification of positions and have the following force and effect:

A. The specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the several classes as determined by their duties and responsibilities. Specifications are to be interpreted in their entirety and in relation to others in the Classification Plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class.

B. In determining the class to which any position should be allocated, the specification shall be considered as a whole. Consideration shall be given to the duties, specific tasks, responsibilities, qualification requirements and relationships to other classes, so that when taken as a whole to provide a statement of the duties that the class is intended to embrace.

C. Bona fide occupational qualifications commonly required of all incumbents of the different classes shall be deemed to be implied as qualification requirements for entrance to each class, though they may not be specifically mentioned in the specifications.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 20432 § 2; passed May 20, 1975: Ord. 16383; passed Jun. 29, 1959)

### 1.24.340 Use of Classification Plan.

The Classification Plan shall be used:

A. In preparing public announcements of examinations or vacancies.

B. As a guide in preparing examinations which may be used to appraise the qualifications of applicants for work in specific classes.

C. In determining promotional sequence and developing employee training programs.

D. In determining salaries to be paid for various types of work and establishing and maintaining an equitable compensation plan.

E. In determining personnel service items in the budgets for the various organizational units of the City Government.

F. In providing uniform job terminology which is clearly understandable to City officers, employees and the general public.

G. In setting up appropriate eligible lists from which personnel may be certified to fill vacancies.

H. As a guide in making appointments and assigning duties.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.350 Maintenance of Classification Plan.

The Human Resources Director shall be responsible for the proper maintenance of the Classification Plan so that it will reflect continuously, on a current basis, the duties being performed by each employee in the City Service and the class to which each position is allocated.

The Human Resources Director shall make necessary amendments to the Classification Plan including the addition of required new classes, revision of existing classes and deletion of obsolete classes. Changes and reallocations within the Classification Plan shall be made as follows:

A. The Human Resources Director shall analyze the duties and responsibilities to be assumed by incumbents of proposed new positions and using such appraisal as a basis, assign the position to the appropriate class within the Classification Plan. A new class specification shall be prepared to cover each additional position which is created and for which the Classification Plan does not provide a satisfactory job description of the position.

B. Changes in the duties and responsibilities of a position involving either the addition, reduction or modification of assignments shall be reported to the Human Resources Director by the department head concerned. If the changes are determined to be permanent and are sufficiently significant to justify reallocation to a different classification, the Human Resources Director shall assign the position to the class which is appropriate under the modified circumstances.

C. The Human Resources Director shall periodically review the classification of positions and audit duties and responsibilities, and on the basis of such reappraisal make such changes as are necessary to keep the Classification Plan up to date and in step with current conditions. Reallocations of positions under the provisions of this section shall be the

responsibility of the Human Resources Director, but the Human Resources Director shall give due consideration to the recommendations of the administrative officials concerned.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.360 Status of employees affected by reclassification.

The status of permanent or probationary employees affected by reclassification or reallocation occurring in the administration of the Classification Plan shall be resolved in the following manner:

A. Any permanent employee whose position is allocated to a class in the Classification Plan which has a higher maximum salary than the class in which status is held shall be considered to be a temporary appointee to the higher class and shall be eligible to compete for the reallocated position, notwithstanding existing eligible lists for the higher class; provided, that an employee coming under this provision shall be certified, if successfully passing the examination, regardless of rank attained. The names of the eligible employees shall be certified in accordance with Sections 1.24.600 through 1.24.800 of these Rules. If the employee is appointed as a result of such examination and certification, the employee shall have probationary status in the class. If the employee is not appointed as a result of the examination, the employee shall be assigned or, upon the approval of the appointing authorities concerned, be transferred to a position in the old class, or demoted or laid off in accordance with the provisions of these Rules. In order for an employee to be reclassified under the provisions of this section, the following criteria must be satisfied:

1. The reason for the reclassification is the gradual accretion of new duties and responsibilities over a period of two years or more immediately preceding the effective date of such reclassification.

2. The accretion of duties has taken place during the incumbency of the present incumbent.

3. That the added duties and responsibilities upon which the reclassification is based have not been previously assigned to a class of the same or lower level.

B. Any employee with permanent Civil Service status whose position is allocated to a class which has a lower maximum salary shall be assigned or, upon approval of the appointing authorities concerned, be transferred to a vacant position having the same classification as that in which the employee has permanent Civil Service Status, or the employee shall be granted status in the lower class without further examination or loss in pay and the employee's name shall be placed on the appropriate eligible lists, until certified for appointment for the higher class in which permanent Civil Service status is held.

C. Incumbents of positions which are reallocated to a class which the Human Resources Director determines to be substantially equivalent to the positions occupied by such personnel at the time reallocation action is taken, shall be given permanent status in the classification to which they are allocated.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.370 Classification status of employees resulting from consolidation of classes.

When the class of work of an employee is consolidated with another class, the employee shall be granted status in the consolidated class and also retain the classification status the employee possesses in the former class prior to said consolidation. The employee's name shall automatically be placed on the appropriate eligible lists for the former class and the employee shall be granted the right to be reinstated to a position in the former class should such class be reestablished.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## COMPENSATION PLAN

### 1.24.390 Compensation Plan – Considered in application of Rules.

Section 6.14 of the City Charter contemplates the establishment of a merit system of employment in the City Service. Section 6.9 of the Charter provides that, except as otherwise provided in the Charter or by State law, the compensation of all officers and employees of the City shall be fixed in accordance with the pay plan and salary ordinance adopted by the Council and within the limits of budget appropriations. It is recognized that matters connected with the budget appropriation, the fixing of salaries and the adoption of a pay plan to conform therewith are within the exclusive jurisdiction of the Council as it now is or may hereafter be constituted and for this reason a specific pay plan is not included in these Rules.

The pay plan and salary ordinances of the City as now or hereafter enacted by the City Council and as from time to time amended by the City Council shall be considered in connection with pertinent matters arising in the application of these Rules.

(Ord. 16383; passed Jun. 29, 1959)

## APPLICATIONS FOR POSITIONS

### 1.24.400 Announcement of examinations.

For open examinations, public notice of examinations shall be given at least five business days in advance of the last date for filing of applications. For promotional examinations, notice of examinations shall be given at least ten business days in advance of the last date for filing of applications. Such announcements shall be posted on public bulletin boards in municipal buildings and in such other public places and in such other manner as the Human Resources Director may deem advisable.

(Ord. 26886 § 4; passed Dec. 4, 2001: amended pursuant to Civil Service Board amendments; Aug. 14, 1981: Ord. 16383; passed Jun. 29, 1959)

### 1.24.410 Filing of applications.

All applicants for positions in the Classified City Service must file an application on the form prescribed by the Human Resources Director. All applications shall be filed within the time limit fixed in the official announcement of examination.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 22719 § 1; passed Jun. 22, 1982: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.420 General requirements for filing applications.

A. No person shall be admitted to any examination for a position in the Classified City Service until the person has filed an application as prescribed by the Human Resources Director.

B. Every person making application must meet the requirements as shown in the announcement of examination for the particular position for which the person is applying.

C. The Human Resources Director, after securing the recommendations of the appointing authorities concerned, may prescribe specific requirements necessary for the work to be performed, except that the following age requirement at the time of filing application is established:

Police Service 19 but must be at least 21 at time of appointment.

D. On promotional examinations, the minimum requirements for eligibility shall be accumulated up to and inclusive of the day prior to the anticipated date of the establishment of the new list.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 26016 § 1; passed Jan. 28, 1997: Ord. 23118; passed Feb. 28, 1984: amended pursuant to Civil Service Board amendments; Aug. 14, 1981: Ord. 21332 § 1; passed May 9, 1978: Ord. 20132 § 1; passed Jun. 4, 1974: amended pursuant to Charter § 6.14: Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.430 Rejection of application.

The Human Resources Director may reject any applicant:

A. Who lacks any of the minimum qualifications set forth in the examination announcement.

B. Who does not meet the medical or physical requirements of the position for which appointment is sought, with or without a reasonable accommodation.

C. Who has made false statement(s) in their application with regard to any material fact or has practiced or attempted to practice any deception or fraud in their application or examination, or in securing their eligibility, appointment or promotion.

D. Who was previously in the Classified City Service in the same or any other type of employment and was removed for cause or did not resign in good standing.

E. Who has used or attempted to use any political pressure to further their eligibility or appointment or promotion.

F. Who has been convicted of a felony or misdemeanor within the last seven years or admitted to criminal activity determined to have a direct relationship to the position for which application is made except that conviction of a felony shall automatically disqualify an applicant for any law enforcement officer position. The seven year limitation shall not apply to positions in the Police Department. Such rejection shall take into consideration the seriousness of the offense, its recency, and the age of the applicant at the time of the occurrence.

G. Who has been dismissed from previous employment for delinquency or misconduct.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 28082 § 1; passed Jul. 31, 2012; Ord. 22989 § 1; passed Aug. 23, 1983: amended pursuant to Charter § 6.14; Jan. 29, 1980)

### 1.24.440 Postponement and cancellation of examinations.

Any examination may be postponed or canceled at the discretion of the Human Resources Director. Each applicant shall be notified of the postponement or cancellation.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.450 Residence.

A. No person shall be eligible for employment in the Classified City Service who is not a resident of the City at the time of their original appointment; provided, that the Civil Service Board may waive such residence requirements for employees in the Classified City Service when such waiver is deemed to be for good and sufficient reason among which the following shall be sufficient:

1. Where the nature of the employment requires residence outside the City.

2. When it otherwise serves the best interests of the City.

B. There shall be no residency requirement for regular or probationary employees in the Classified City Service who become candidates for open, competitive or promotional examination.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Civil Service Board amendment, Jun. 9, 1997: Ord. 26017 § 1; passed Jan. 28, 1997: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.460 Veteran's preference.

A. In all competitive examinations, unless otherwise provided herein, veterans of the Armed Forces, as hereinafter defined, shall be given a preference by adding to the total passing grade, based upon a possible rating of 100 points as perfect, a percentage in accordance with the following:

1. Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 as now stated and as hereafter amended, and does not receive military retirement. The percentage shall be added to the passing grade until the veteran's first appointment. The percentage shall not be utilized in promotional examinations.

2. Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 as now stated and as hereafter amended, or is receiving military retirement. The percentage shall be added to the passing grade until the veteran's first appointment. The percentage shall not be utilized in promotional examinations.

3. Five percent to a veteran who was called to active military service from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to promotional examinations until the first promotion only.

4. All veterans' scoring criteria may be claimed upon release from active military service. Provided that the veteran's preference scoring criteria shall at all times be consistent with the provisions of RCW 41.04.010 as now stated and as hereafter amended.

B. As used in this section, veteran shall be defined as set forth in RCW 41.04.005 as now stated and as hereafter amended.

C. To receive such credit, a certificate or other authentic proof of service must be shown at the time of filing application or prior to the day of examination. The applicant must also certify on a form prescribed by the Human Resources Director whether he or she is receiving military retirement pay based on longevity.

D. In competitive examinations, where two or more candidates have equal qualifications, including performance evaluations, interviews, and other testing, preference must be given to the veteran, provided the veteran is not entitled to a scoring preference pursuant to this section.

(Ord. 28082 § 2; passed Jul. 31, 2012: amended pursuant to Charter § 6.14; Jul. 3, 2003: Ord. 23205 § 1; passed Jun. 26, 1984: amended pursuant to Civil Service Board amendments; Aug. 14, 1981: Ord. 16383; passed Jun. 29, 1959)

### 1.24.470 Employees' oath.

Prospective employees shall be required to sign a written oath or affirmation that they will uphold the Constitution and laws of the United States and of the State of Washington and that they will comply with the City of Tacoma Charter and all ordinances of the City of Tacoma, and will faithfully and impartially discharge the duties of their position.

(Ord. 20432 § 4; passed May 20, 1975: amended pursuant to Charter § 6.14; Jan. 22, 1972: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.480 Examinations shall be impartial.

All examinations shall be impartial and shall relate to those matters which will test fairly the capacity and fitness of the candidate to discharge efficiently the duties of the position to be filled. Examinations may be assembled or unassembled, and may include written, oral, appraisal of experience and training, physical or performance tests or any combination of these. They may take into consideration such factors as education, experience, aptitude, knowledge, character, physical fitness or any other qualifications or attributes which enter into the determination of the relative fitness of applicants. Promotional examinations shall take into the consideration the quality and length of employment in the Classified City Service, in addition to any or all of the above factors.

Application and examination information available through the Personnel Department shall be equally accessible to all applicants.

(Ord. 23971 § 1; passed Nov. 17, 1987: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.485 Open competitive examinations.

Any applicant who meets the requirements as set forth in the examination announcement shall be eligible to compete in open competitive examinations.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.490 Identity of examinees concealed.

The identity of all persons taking a competitive written test shall be concealed from the examiners by the use of an identification number which shall be used on all examination papers. This number shall be used from the beginning of the examination until the papers have all been rated. Any written examination papers carrying the name of the applicant or any other identification mark, or any candidate who reveals their identification number to the Human Resources Director or any member of the Human Resources staff, directly or indirectly, shall be disqualified and the candidate so notified.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.500 Rating examinations.

Appropriate professional techniques and procedures shall be used in rating results of examinations and in determining the relative ratings of the competitors. Final examination grades shall be expressed on a scale of 100 for maximum possible attainment and 70 the required passing grade. When oral tests are given, not more than 30 percent of the total weight shall be an evaluation of personal traits.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.510 Minimum grades on each section.

The Human Resources Director may determine the minimum grade for any part or parts of an examination. Any candidate who fails to attain at least this minimum grade shall be considered to have failed the examination and shall not be examined on any further parts, if any are planned.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.520 Review and notification of examination results.

A. No later than the end of the next business day immediately following an open examination, a candidate may submit a written challenge regarding the content of the examination by obtaining a challenge form from the exam proctor or the Human Resources Department and returning it completed back to the exam proctor or Human Resources Department. Within three business days immediately following a promotional examination, a candidate may submit a written challenge regarding the content of the examination by completing a challenge form and returning it to the exam proctor or Human Resources Department.

B. If the candidate demonstrates that a question should be reviewed because it is flawed, the Human Resources Director, or authorized representative, may eliminate the question or make such alterations in the answer key as deemed appropriate, or,

the Human Resources Director may appoint a review board of qualified experts to recommend to the Human Resources Director if a question should be eliminated or an alteration be made in the answer key.

C. Each candidate who takes an examination shall be given written notice of the results and, if successful, of their final earned score (grade plus any applicable credits) and rank on the eligible list. Candidates shall have the right to inspect their examination papers within five business days of the postmark date of their notice of the establishment of the eligible list resulting from the examination. Such inspection shall be for the purpose of detecting errors in scoring only and shall be made in the presence of the Human Resources Director or authorized representative, and no notes shall be made by the candidate. An error in scoring, if called to the attention of the Human Resources Director or authorized representative within the inspection period, shall be corrected. Requests for inspections, corrections, or adjustments made after this five-business day period will not be considered. During said five-day period, no permanent appointments shall be made from any promotional eligible list.

D. A candidate aggrieved by the decision of the Human Resources Director regarding an examination may request a review by the Civil Service Board by filing a written notice of appeal specifying the item or items complained of and the reasons therefor within five business days from the postmark date of the notice to the candidate of the written decision of the Human Resources Director.

E. If the Human Resources Director appoints a review board of qualified experts to review any question on a written examination which a candidate believes is flawed, and the Human Resources Director concurs with its findings, the decision of the Human Resources Director regarding which answer should be used to score the examination shall be final. Any appeal from this decision to the Civil Service Board shall be on the basis that the members of the review board were unqualified to review the questions or acted arbitrarily or capriciously.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 26886 § 5; passed Dec. 4, 2001: amended pursuant to Civil Service Board amendment; Jun. 7, 2000: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.530 Notification of results. *Repealed by Ord. 26886.*

(Ord. 26886 § 6; passed Dec. 4, 2001: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.540 Promotional examination.

Vacancies in higher positions in the Classified City Service shall be filled insofar as practicable by the promotion of employees in the Service. The Human Resources Director shall in each case determine whether an open, competitive examination shall be held or a promotional examination held among employees whose previous experience would be natural preparation for the higher position. For a promotional examination, the Human Resources Director shall establish previous service and other reasonable requirements for eligibility to take promotional examinations and shall publish such requirements in the examination announcement.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.560 Service credit in promotional examinations.

Permanent employees in the Classified City Service who receive a passing grade on a promotional examination for appointment to the classified service shall have a credit for continuous service added to such grade.

Credit shall be given for continuous service based upon the total time served, up to a maximum of 10 years, in the class or classes declared to be in the line of promotion on the basis of one-fourth point to be added for each complete year of continuous service in said class(es). This credit shall be computed from the final filing date for the examination as set forth in the examination announcement.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.570 Waiver of competitive examination.

A. At the request of the Human Resources Director and upon the approval of the Civil Service Board the City may fill positions in the Classified City Service requiring unusual technical or professional qualifications without competitive examination. The waiver of competitive examinations shall be specific to a position or classification and shall be valid for no longer than one year unless extended by the Civil Service Board.

B. At the request of the Human Resources Director and upon the approval of the Civil Service Board the City may fill positions in the Classified City Service with persons who have completed an apprenticeship, training or certification program

for training or certifying persons to qualify for that position when such program is approved by the Federal Bureau of Apprenticeship and Training Council or its equivalent, Washington State Apprenticeship and Training Council or its equivalent, joint labor/management training committee, or training or certification program approved by the Human Resources Director.

C. At the request of the Human Resources Director and upon the approval of the Civil Service Board the City may suspend the Classified City Service selection process and waive probation for the purpose of implementing classification reallocation to a higher class pursuant to the findings of a Human Resources Department classification study.

(Amended pursuant to Civil Service Board amendments; Jan. 12, 2001: amended pursuant to Civil Service Board amendments; Dec. 19, 1997: Ord. 24251 § 1; passed Dec. 6, 1988: Ord. 24087 § 1; passed May 10, 1988: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 20833 § 1; passed Aug. 3, 1976: Ord. 16383; passed Jun. 29, 1959)

## 1.24.575 Joint apprenticeship and training programs.

Employees hired as apprentices or trainees into an approved, Federal, State, or joint labor/management training program will be subject to the following:

A. Apprentices or qualified trainees will be hired from Civil Service eligible lists and their probation shall be for a one year period, notwithstanding provisions to the contrary in Section 1.24.780 of this chapter.

B. Continued enrollment, advancement, and employment is subject to maintaining progress standards set by a joint labor/management apprenticeship and training committee, in accordance with the Standards of Apprenticeship registered with the Federal Bureau of Apprenticeship and Training, Washington State Apprenticeship and Training Council, or joint labor/management training committee.

C. Notwithstanding any other provisions in this chapter to the contrary, an apprentice or qualified trainee who fails for any reason (e.g., medical, performance, aptitude) to successfully complete any of the required steps of the program (in a probationary or nonprobationary status), or does not receive a permanent appointment to the target journey-level classification after three certifications, will be separated as follows:

1. An employee who previously held permanent Civil Service status in a lower classification prior to beginning the apprenticeship or training program shall be returned during their probationary period to a position in that classification, unless separated under Section 1.24.940, Disciplinary Action.

2. If no lower Civil Service classification was held at the time of enrollment into an apprenticeship or training program, the employee will be separated from City service.

D. Notwithstanding any other provisions in this chapter to the contrary, an apprentice or trainee who successfully graduates from an approved apprenticeship or training program and is appointed to the respective journey-level class, shall serve probation for the journey-level class during the last six months of the approved apprenticeship or training program.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Civil Service Board amendments; Dec. 19, 1997: Ord. 24419 § 1; passed Aug. 29, 1989)

## 1.24.580 Noncompetitive appointments for the severely disabled.

The Human Resources Director is authorized and empowered, subject to the approval of the Civil Service Board, to designate certain existing entry-level positions in the classified service as vacancies occur as noncompetitive training appointments for persons with severe disabilities. Each vacancy must be individually and separately designated. After such designation, the specific vacancy may be filled by persons duly certified as eligible for such appointment to said training positions for which the Civil Service Board has waived competitive examinations. Upon the certification of the position and the granting of said waiver, the Human Resources Director shall be authorized to recommend to the appointing authority the appointment of one or more designated applicants with a severe disability. Such recommendations shall be based on an evaluation of the applicant's education, technical skills, aptitude, background, personality traits, necessary job accommodations, and such other factors as the Human Resources Director deems appropriate.

Persons hired under these provisions shall serve a minimum of one calendar year probationary period. Upon successful completion of the probationary period, the Human Resources Director shall be authorized and empowered subject to the approval of the Civil Service Board, to redesignate the trainee position as a regular classified position and to grant status in the classification and position to the incumbent who held the trainee position.

For the purposes of this section "persons with a severe disability" are defined as persons with physical, sensory or mental impairments which would impede the person in performing a major life function. The impairments must be material rather

than slight; static and permanent in that they are seldom fully corrected by medical replacement, therapy, medication, or surgical means.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: added pursuant to Charter § 6.14; Jan. 29, 1980)

### 1.24.585 Noncompetitive training positions.

The Human Resources Director is authorized and empowered, subject to the approval of the Civil Service Board, to designate, for limited periods of time, certain existing entry-level positions in the classified service as trainee positions, and to reclassify the same to a specific trainee class.

After reclassification of such positions, vacancies occurring thereafter may be filled by trainees duly certified as eligible for appointment to said trainee positions. In certifying said positions as eligible, the Civil Service Board may, for good cause shown, waive competitive examinations. Upon granting of said waiver, the Human Resources Director shall be authorized to recommend to the appointing authority the appointment of one or more designated trainee applicants. Such recommendations shall be based on an evaluation of the applicants' education, technical skills, aptitude, background, personality traits, and such other factors as the Human Resources Director deems appropriate. All such appointees shall be considered probationary employees during their period of employment in the trainee position. Such probationary periods shall be for one year and may be extended by the Human Resources Director for the purpose of establishing an eligible list for a permanent appointment to the position. Such extensions shall not exceed a four month aggregate period of time.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 19744 § 1; passed Jan. 16, 1973)

### 1.24.590 Time interval.

Any person who competes in an examination for a particular class shall not be eligible to compete in another examination for the same class within six months of the establishment of the eligible list resulting from the first examination unless otherwise authorized by the Human Resources Director.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

## EMPLOYMENT LISTS

### 1.24.600 Posting of eligible lists.

The Human Resources Director shall establish and maintain such eligible lists for the various classifications and subclassifications of positions in the City Service as are necessary to meet the needs of the Service. Candidates receiving a passing grade on examinations shall be notified and take rank upon the proper eligible list in the order of their relative scores. On open lists, ties in score shall hold the same rank on the eligible list. Ties in grades shall be resolved in promotional examinations by length of continuous service. Whenever it becomes necessary to hold a subsequent examination for a classification where there is a continuous need for eligibles or when insufficient applicants are available to maintain an adequate eligible list, the Human Resources Director shall consolidate the lists as follows:

A. Open Lists. Such persons who attain a passing grade on the examination shall be inserted on the existing list in the order of their final score on the examination without respect to time of examinations. However, lateral-entry lists shall not be merged with other open lists.

B. Promotional Lists. Such persons as attain a passing grade on the examination will be placed in their final rank order at the bottom of the existing list.

C. Departmental Promotional Lists. Where the head of a department determines that the need of their department requires that eligibility for promotional examinations in the department be limited to persons regularly appointed in the department on the currently established lists, then such department head may make such limitation with the approval of the Civil Service Board. In such case, "Departmental Promotional List" shall mean an eligible list thus established. Persons attaining a passing grade in such examination shall be placed in their final rank order at the bottom of the existing list.

D. Reemployment Eligibles. Such persons shall be enrolled at the top of the list in order of seniority in the specific class.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 26886 § 7; passed Dec. 4, 2001: Ord. 24211 § 1; passed Oct. 4, 1988: Ord. 24164 § 2; passed Aug. 16, 1988: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.610 Duration of eligibility.

The term of eligibility for enrollees on eligible lists shall be as follows:

A. Reemployment eligibles shall have a two-year period of eligibility.

B. Departmental promotional lists shall provide a maximum period of three years' eligibility.

C. Promotional lists shall provide a maximum period of three years' eligibility.

D. Eligibles on an open list shall have a one-year period of eligibility; provided, that the Human Resources Director may:

1. extend eligibility when there are sufficient eligibles remaining on the list to meet the hiring needs of the City, and/or

2. enroll new eligibles onto the list, and/or

3. abolish a list when the duties of the position have changed substantially or in any circumstance where there are insufficient eligibles remaining on the list to meet the hiring needs of the City. The Human Resources Director shall notify the Civil Service Board when a list has been abolished.

In the case of promotional lists, if additional eligibles are enrolled as the result of a subsequent examination during the last year of prior enrollees' maximum period of eligibility, such eligibility is terminated.

Eligibility in force and effect at the time of the adoption of these Rules shall not be diminished in duration as a result thereof.

(Ord. 26886 § 8; passed Dec. 4, 2001: Ord. 23502 § 1; passed Nov. 5, 1985: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.620 Removal from eligible list.

The Human Resources Director may at any time remove the name of an eligible from an eligible list for any one or more of the following causes:

A. A written request from the eligible that their name be removed.

B. Failure to respond to notice to appear for employment interview within the time limited in such notice unless said eligible is on the promotional list and shall have specifically waived their right to a promotional appointment.

C. Declination of permanent appointment; provided, however, that the number one eligible on any promotional list shall have the right to waive a promotional appointment and the waiver of such appointment shall not affect their status or standing on said list except as to the appointment, or appointments, specifically waived. In the event of waiver by the number one eligible, then the number two eligible on a promotional list shall be deemed, for the purposes of that appointment, the number one eligible on said list.

D. For attempted deception or fraud in connection with any application or test.

E. For willfully or corruptly making any false statement, certification, mark, grading, or report in regard to any test for appointment held or made under the provisions of these Rules and the Charter.

F. In any case where the Human Resources Director finds that an eligible is or has in any manner become disqualified for the position for which they are listed, in accordance with Section 1.24.430 of these Rules.

G. Failure to notify the Human Resources Director of changes in address.

H. Appointment to a permanent position through certification from an eligible list for this class or another class at the same or higher salary.

I. In the case of promotional lists, upon separation, other than layoff from the City service.

J. If not appointed from an eligible list after interviewing three times with the same or different appointing authorities.

K. Failure to pass the law enforcement officer or firefighter preemployment interview or background investigation, the purpose of which is to determine if the applicant has the background and ability to function as an effective law enforcement officer or firefighter.

L. Expiration of eligibility consistent with Section 1.24.610.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 26886 § 9; passed Dec. 4, 2001: Ord. 25941 § 1; passed Aug. 27, 1996: Ord. 22989 § 2; passed Aug. 23, 1983: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.625 Waiver of certification.

If, in the judgment of the Human Resources Director, the best interests of the City would be served, the Human Resources Director may, at the request of an eligible, withhold or withdraw certification of such eligible for a specific vacancy or for a specific period of time. This waiver of certification shall not otherwise affect the individual's eligibility for appointment.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: added pursuant to Charter § 6.14; passed Oct. 18, 1971)

### 1.24.630 Restoration of names to eligible lists.

Whenever a person's name is removed from an eligible list for any of the causes mentioned in the preceding Section 1.24.620, written notification shall be provided at the last known address. Such person may, within five business days from date of notice of removal, make a written request to the Human Resources Director for restoration of the person's name to such list for the duration of eligibility. The request shall set forth the reasons for the conduct resulting in removal of the name from the list, and shall specify the reasons for restoration of the name. The Human Resources Director, after full consideration of the request, may restore the name to the eligible list or refuse such request. The person shall be notified of the Human Resources Director's action.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## APPOINTMENTS

### 1.24.640 General provisions.

A. Vacancies in the Classified City Service shall be filled by reemployment, promotional appointment, original appointment, transfer, demotion, or reinstatement. Whenever an appointing authority wishes to fill a vacancy, a requisition for an employee shall be submitted to the Human Resources Director, or authorized representative, on the prescribed form. Insofar as practicable, each vacancy shall be anticipated sufficiently in advance to permit the Human Resources Director to determine who may be available for appointment or, if necessary, to establish a class or list of eligibles.

B. When vacancies are to be filled by appointments from eligible lists, the lists shall be used in the following order:

1. By appointment of reemployment eligibles.

2. By appointment of eligibles from the departmental promotional list. Departmental promotional lists shall be used in accordance with the date established.

3. By appointment of eligibles from the promotional list. Promotional lists shall be used in accordance with the date established.

4. By appointment of eligibles from the open list or lateral-entry list.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 26886 § 10; passed Dec. 4, 2001: Ord. 24164 § 3; passed Aug. 16, 1988: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.650 Methods of filling vacancies.

Upon receipt of a request from the City Manager or Director of Utilities, or their authorized representative, for eligibles to consider to fill a vacant position, the Human Resources Director or authorized representative shall certify the proper number of names from the appropriate employment list or authorize some other kind of appointment as provided in these Rules. No appointment, except an emergency appointment, shall be made without such certification or prior authorization. Employment actions shall be made in the following priority:

Reemployment Eligibles: If the position to be filled is a permanent one, the Human Resources Director shall certify the one name highest of the reemployment eligibles.

Departmental Promotional List: If no reemployment eligibles exist, and in the absence of a request to fill the position by other authorized action, the Human Resources Director shall certify one name highest on the departmental promotional list.

Promotional List: If no reemployment eligibles exist, and in the absence of a request to fill the position by other authorized action, the Human Resources Director shall certify three names highest on the promotional list.

Open List: If no reemployment eligibles exist, and in the absence of a request to fill the position by other authorized action, the Human Resources Director shall certify to the department requesting certification, names from the appropriate open list of

eligibles scoring in the top ten ranks. For each additional vacancy, the Human Resources Director shall certify names of eligibles in the next consecutive rank. (Section 1.24.640, subject to Section 1.24.665[27])

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 26886 § 11; passed Dec. 4, 2001: Ord. 25941 § 2; passed Aug. 27, 1996: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.655 Absence of eligible list.

When an eligible list does not exist for a classification, eligibles may be certified, upon recommendation of the Human Resources Director and approval by the Civil Service Board, from a layoff or open eligible list for a classification which requires comparable knowledge, skills, and abilities as are required for the vacant position. Acceptance or refusal by an eligible for a position in a classification other than the classification the list was originally established for shall not affect the eligible person's right to be certified for the classification for which they were originally eligible.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 26886 § 12; passed Dec. 4, 2001: Ord. 24378 § 1; passed Jul. 5, 1989)

### 1.24.660 Certification of eligibles.

On promotional lists, eligibles shall be certified in order of receipt of requisitions and in order of standing on the appropriate eligible list as provided in Sections 1.24.650 and 1.24.665[28]. Promotional eligibles certified in accordance with Section 1.24.665[29] shall be available for consideration without regard to status as a City employee or prior affirmative action appointment(s).

On open lists, eligibles shall be certified in order of receipt of requisitions and in accordance with Sections 1.24.650 and 1.24.667. A hiring authority may request an updated certification no earlier than two weeks following the date of the original certification.

(Ord. 26886 § 13; passed Dec. 4, 2001: Ord. 25941 § 3; passed Aug. 27, 1996: Ord. 24857 § 1; passed Mar. 5, 1991: Ord. 24204 § 1; passed Sept. 27, 1988: Ord. 23040 § 2; passed Nov. 22, 1983: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.665 Affirmative measures. *Repealed by Ord. 28082.*

(Ord. 28082 § 3; passed Jul. 31, 2012: Ord. 25941 § 4; passed Aug. 27, 1996: Ord. 24857 § 2; passed Mar. 5, 1991: Ord. 23040 § 3; passed Nov. 22, 1983: added by the Civil Service Board; Jul. 21, 1981)

### 1.24.667 Interviews.

Certification for open positions under the provisions of Sections 1.24.650, 1.24.660, and 1.24.665[30] for consideration by the City Manager or the Director of Utilities, or their authorized representative, for a vacancy does not entitle any certified eligible to an interview or to an appointment. The City Manager or Director of Utilities, or their authorized representative, has the discretion to determine the number of certified eligibles to be interviewed.

(Ord. 26886 § 14; passed Dec. 4, 2001: Ord. 25941 § 5; passed Aug. 27, 1996)

### 1.24.668 Appointment after certification.

Any person certified for consideration for a vacancy in accordance with Sections 1.24.650, 1.24.660, and 1.24.665 [31]may be appointed by the City Manager or Director of Utilities, or their designees, by use of the form prescribed by the Human Resources Director.

(Ord. 25941 § 6; passed Aug. 27, 1996)

### 1.24.670 Notice of certification. *Repealed by Ord. 25941.*

(Ord. 25941; passed Aug. 27, 1996: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

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[27] Repealed by Ord. 28082 § 3; passed Jul. 31, 2012
[28] Repealed by Ord. 28082 § 3; passed Jul. 31, 2012
[29] Repealed by Ord. 28082 § 3; passed Jul. 31, 2012
[30] Repealed by Ord. 28082 § 3; passed Jul. 31, 2012
[31] Repealed by Ord. 28082 § 3; passed Jul. 31, 2012

### 1.24.700 Emergency appointment.

Emergency appointments may be made by the City Manager or Director of Utilities in case of an emergency to prevent delay or injury to the public business, but such appointments may not continue longer than 30 calendar days. Such emergency appointments shall utilize eligibles from appropriate eligible lists whenever practicable.

(Amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.710 Temporary appointment.

Temporary appointment may be made for a maximum period of six months with the approval of the Human Resources Director when services are required for a special job or project of limited duration or to fill a permanent position for which no eligible list exists. Temporary appointments may be extended by the appointing authority with the approval of the Human Resources Director to cover an additional six-month period. However, no position will be filled on a temporary basis or any individual employed on a temporary basis beyond 12 months aggregate time in any two-year period, unless approved by the Civil Service Board.

Unless a person or persons on an existing eligible list expresses an unwillingness to accept temporary employment for the class in which the appointment is desired, then appointment shall be made from the appropriate eligible list.

In the absence of eligible lists, temporary appointments of qualified persons may be made until such time as an eligible list is established. Within 45 calendar days from the establishment of an eligible list, the appointing authority shall terminate the services of any temporary employee hired and appointed pursuant to Personnel Rule 1.24.650.

Temporary appointments may also be made to fill vacancies resulting from permanent employees on authorized leave of absence. The duration of such temporary appointments shall be for the period of time such permanent employee is on such leave of absence.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 24378 § 2; passed Jul. 5, 1989: amended pursuant to Civil Service Board amendments; Aug. 14, 1981: amended pursuant to Charter § 6.14; Oct. 18, 1971:Ord. 16383; passed Jun. 29, 1959)

### 1.24.720 Appointment of construction workers.

For a detached or independent piece of construction work established by resolution or ordinance and passed by the City Council or the Public Utility Board of the City of Tacoma, where extra workers are needed and the positions to be filled are not regularly and permanently existing or to exist in the City Service, construction laborers or craftsworkers may be employed without the necessity of calling from existing eligible lists; provided, however, that regular or probationary employees who are on the reemployment list may be given preference in such employment. Such employees shall be regarded as limited term employees and shall be appointed in accordance with the provisions of Section 1.24.710 of these Rules.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.725 Employment of immediate family.

When employing members of the immediate family, it shall be the policy to insure the appearance of fairness and conformance with City ordinances. Therefore, the employment of immediate family members will not be approved if one member would have practical authority to appoint, supervise, evaluate or discipline the other.

(Ord. 23335 § 2; passed Feb. 5, 1985)

### 1.24.730 Appointments to vacancies resulting from permanent or probationary employees on indefinite military leave of absence.

A position vacant as the result of a permanent or probationary employee being on indefinite military leave of absence shall be considered as a permanent position and shall be filled in the manner provided for in these Rules.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.735 Appointments to vacancies resulting from permanent or probationary employees on leave of absence without pay for one year.

A position vacant as a result of a permanent or probationary employee being granted leave of absence without pay for a period of one year may be considered as a permanent position, if requested by the appointing authority and approved by the Human Resources Director, and be filled in the manner provided for in these Rules.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.740 Appointments to vacancies resulting from appointments of permanent employees to appointive positions in the City Service.

A position vacant as the result of a permanent employee being appointed to an appointive position in the City Service shall be considered as a permanent position and shall be filled in the manner provided for in these Rules.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.750 Reinstatement.

A. At the request of the appointing authority and upon approval by the Human Resources Director, any person who has resigned from the City Service in good standing or has taken a voluntary demotion, and who had attained permanent status prior to separation or demotion may, within two years from the effective date of separation or demotion, be reinstated to a position in the same department and in the same class as the position held at the time of separation or demotion, provided there are no employees of the department who have been laid off and whose names appear on the reemployment list for the class.

B. An employee separated due to physical or mental incapacity may be reinstated to the former position if able to perform the duties as required, or to any classification for which the employee is qualified in the department in which the employee was formerly employed, subject to the approval of the appointing authority and the Human Resources Director. If unable to perform the above duties, such reinstatement then may be to any position in any department within City Service for which said employee would be qualified.

C. Such a reinstatement must be within two years of being certified as medically fit for employment and the employee shall serve a nine-month probation period. Reinstatement from separation does not restore continuous City Service except when reinstatement is from separation due to physical or mental incapacity.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 23231 § 2; passed Aug. 14, 1984: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 21065 § 1; passed May 17, 1977: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.755 Voluntary demotion.

A permanent employee may upon written request and approval by the appointing authorities concerned, and the Human Resources Director, be demoted and granted status to a position in a classification having a lower maximum rate of compensation, provided a vacancy exists and no reemployment list exists in that class. Seniority, if not otherwise established in the lower class, shall commence on the effective date of such demotion.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: added pursuant to Charter § 6.14; Oct. 18, 1971)

### 1.24.760 Transfers.

A position may be filled by transferring an employee. Transfers must be approved by the affected appointing authorities and the Human Resources Director, after taking into consideration the affected employee's preference, as far as is practicable. Requests for transfer must be submitted in writing to the Human Resources Director prior to the effective date of the transfer. Prior to certifying eligibles from the appropriate lists, the Human Resources Director shall advise the appointing authorities concerned of the names of those employees who have requested transfer.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 23422 § 2; passed Jun. 25, 1985)

### 1.24.770 Demotion for physical incapacity.

When an employee becomes physically incapacitated for the performance of the duties of the employee's position, the employee may, upon request of the appointing authority or upon the employee's own initiative and with the approval of the Human Resources Director, be given status and appointed to a position, the duties of which the employee is able to perform, in a class carrying a lower compensation, without regard to previous status in the lower class. Seniority, if not otherwise established in the lower class, shall commence on the effective date of the demotion.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## 1.24.780 Probationary period.

A. The probationary period shall be regarded as an integral part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of the new employee to their position, and for rejecting any employee whose performance or adjustment is not satisfactory.

B. All original appointments, except those made from reemployment eligibles, shall be probationary for a period of nine months after appointment. However,

1. Permanent and probationary employees transferred to another department shall serve a probationary period of six months.

2. Appointments of reemployment eligibles shall be probationary for six months if hired into a department other than the department from which the layoff was initiated.

3. Appointments made of reemployment eligibles shall be probationary for the period of probation remaining unserved at the time of layoff if hired into the department from which the layoff was initiated.

4. All appointments made to entering positions in the Police Department, the class of Fire Fighter, and all appointments made pursuant to the provisions of Section 1.24.585 of these Rules shall be probationary for a one-year period.

5. All other appointments shall be probationary for a period of six months.

6. Employees enrolled in an approved Washington State apprentice program as approved by the Washington State Apprenticeship and Training Council and State Department of Labor and Industries, who are granted status in accordance with Section 1.24.570, shall serve their probation for the journey-level class during the last six months of the apprentice program.

7. A Department Director may request that up to six months of the nine month probationary period be counted for a project employee appointed to a permanent classified position, provided there is no break in service. Such request is subject to the approval of the Human Resources Director and the Civil Service Board.

C. Upon the request of the Department concerned and approval of the Human Resources Director, periods of leaves of absence without pay or sick leave with pay shall be included in computing the probationary period.

D. The appointing authority shall make such periodic reports during the probationary period as the Human Resources Director requires and shall certify to the Human Resources Director on the prescribed form the name of each employee who satisfactorily completes the probationary period.

E. At any time during the probationary period, the appointing authority may remove or demote an employee whose performance or adjustment is not satisfactory; provided, that the appointing authority shall notify the employee and the Human Resources Director of the reasons for such action. The Human Resources Director, on the basis of this report, may reinstate the employee to the eligible list should such action appear to be in the best interests of the City. If an employee who is promoted to a higher class as a result of certification from an appropriate eligible list or who is transferred, voluntarily terminates the probation, or is found unsuited for work of the class during the probationary period, the employee shall be restored to a position in the department and class from which the employee was promoted or transferred. An employee promoted or transferred to a position may, at any time during the employee's probationary period, voluntarily terminate the probation.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Aug. 30, 2004: Ord. 26886 § 15; passed Dec. 4, 2001: amended pursuant to Civil Service Board amendments; Aug. 14, 1981: Ord. 20833 § 2; passed Aug. 3, 1976: Ord. 20242 § 1; passed Oct. 29, 1974: Ord. 20031 § 1; passed Jan. 22, 1974: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## 1.24.790 Acceptance of temporary appointment.

The acceptance by an eligible of an emergency or temporary appointment shall not affect their standing on the eligible list for permanent appointment. Such service shall not be counted as part of the probationary period unless such an appointment immediately precedes permanent appointment, in which case it may, at the discretion of the appointing authority, be counted towards the probationary period if such employment is in the same class in the same department and the employee is on an eligible list for such position.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## 1.24.800 Medical examination.

Appointees to permanent positions in the City Service shall be required to satisfactorily complete a medical examination either prior to actual employment or during the probationary period, as determined by the appointing authority, to determine physical

and mental fitness to perform work in the position to which they are appointed. Such medical examination shall be at the expense of the City; provided, that, in the event that there shall exist a contract under which the applicant or employee to be examined is entitled to such examination without the payment therefor of any fee, and any portion of the cost agreed to be paid under said contract shall be payable from funds received by the City from taxation or out of City revenues, then the City shall not be chargeable with the expense of such examination.

All employees of the City during their period of employment may be required by the appointing authority with the approval of the Human Resources Director, to undergo periodic medical examinations to determine their physical and mental fitness to perform the work of the position in which they are employed. Such periodic medical examination shall be at no expense to the employee.

Determination of physical or mental fitness will be by a physician designated by the Human Resources Director. The physician will be provided a description of the work to be performed and its physical parameters.

Where an applicant or employee of the City shall be reported by the examining physician to be physically or mentally unfit to perform work in the position to which appointment is to be made or in which the employee is employed, such applicant or employee shall have a period of three working days from the date of notification of such determination by the examining physician to indicate in writing to the Human Resources Director, the intention to submit the question of the physical or mental unfitness to a physician of their own choice at their own expense. In the event there is a difference of opinion relative to the diagnosis between the examining physician and the physician chosen by the applicant or employee, then a physician shall be mutually designated by the examining physician and the physician chosen by the applicant or employee, whose decision relative to the diagnosis shall be final and binding as to the physical or mental fitness of the applicant or employee to perform the work of the position to which appointment is to be made or in which the employee is employed. The costs incurred for such medical examinations shall be borne by the City, except as otherwise provided herein.

An applicant finally determined to be physically or mentally unfit shall not be considered for appointment. When an employee is finally determined to be physically or mentally unfit for service, such employee shall be demoted in accordance with these Rules or separated from the City Service. Such demotion or separation shall be within five days from the date of final determination of the physical or mental unfitness of the employee, subject, however, to provisions of Section 1.24.950 of these Rules. For the purposes of this section, the term physician shall also include licensed clinical psychologists in the determination of mental fitness for employment.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 24542 § 1; passed Jan. 9, 1990: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## PERSONNEL POLICIES

### 1.24.805 Retirement from service.

It is the policy of the City of Tacoma that there is no mandatory retirement age from City service.

(Ord. 24542 § 2; passed Jan. 9, 1990: Ord. 21564 § 1; passed Dec. 19, 1978: Ord. 16383; passed Jun. 29, 1959)

### 1.24.810 Employee training.

In order that employees may perform their work more efficiently and that they may be able to qualify for positions of increasing difficulty and responsibility, the Human Resources Director may establish, direct, operate, and coordinate educational programs for employees in the City Service, and shall cooperate with and assist all departments in such programs. Employees' participation in training programs shall be on a voluntary basis and training meetings and courses may be held on employees' own time or, with the approval of the appointing authority, during official working hours.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.820 Employee complaints.

STATEMENT OF POLICY:

It shall be the policy of the City of Tacoma to adjust complaints of employees promptly and fairly. Within the framework of existing laws and regulations, every effort shall be made to adjust complaints in a manner mutually satisfactory to employees and management without any interference or subsequent discrimination against employees who may seek to adjust a complaint.

It shall be the policy of the City to make every attempt to resolve complaints within the department at the lowest possible level. An employee is expected to discuss any complaint initially with the employee's immediate supervisor. If the informal answer given by the employee's supervisor is not satisfactory, the employee may appeal in the following manner:

Step 1. Within 10 days following the initial contact with the employee's supervisor the employee or the employee's designated representative will present the employee's specific complaint to the employee's supervisor in writing. The supervisor will, within five working days, render to the employee the decision and the reasons for it in writing. If the employee is not satisfied with the answer given, the employee may appeal as follows:

Step 2. Within five working days of receipt of the supervisor's answer, the employee (or designated representative) will forward the complaint in writing to the employee's division head or the head of the department. The division or department head will, within five working days, render to the employee the decision and the reasons for it in writing. If the employee is not satisfied with the answer given, the employee may present the complaint to the Civil Service Board as follows:

Step 3. Within five working days of receipt of the division or department head's answer, the employee (or designated representative) will forward the complaint in writing to the Human Resources Director who shall, within 10 working days, file a report with the Civil Service Board stating the nature of the complaint, the procedures utilized thus far in an attempt to resolve it and the issues unresolved. The Civil Service Board shall then act as a complaint board and in appropriate circumstances set a time and place for hearing such complaint.

At the conclusion of a hearing on a complaint, the Board shall render its findings.

GENERAL PROCEDURES:

A. The Board may call as witnesses at a complaint hearing any persons whose testimony will contribute to the adjustment of the complaint.

B. All parties to the complaint shall be notified and have the right to be heard at the hearing or to be represented by a person of their own choosing.

C. Hearings shall be held at such times and in such manner as may be determined by the Board.

D. Failure by management to reply to the employee's complaint within the time limits specified automatically processes the complaint to the next level.

E. If an employee fails to submit a complaint from one level to the next level within the time limits established in this complaint procedure, the complaint shall be considered settled on the basis of the last decision.

F. Any level of review or any time limits established in this procedure may be waived or extended by mutual agreement confirmed in writing or by action of the Civil Service Board.

G. A complaint must clearly state the basis thereof and the nature of the remedy sought by the employee or employee's representative. Complaints which the Board determines are without merit shall be rejected.

H. None of the above provisions are intended to prevent or dissuade an employee from processing a complaint which the employee believes to involve discrimination based on race, sex, religion, color, national origin, age, marital status or presence of a handicap through the employee's departmental Equal Employment Opportunity Representative or through the City Human Relations Department. The Board shall dismiss any complaint or portions of a complaint which has been filed with a city, state or federal agency or court having authority to order remedy in the case.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Civil Service Board amendment; Jun. 7, 2000: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## 1.24.830 Prohibition.

No person in the City Service or person seeking admission to the City Service shall be appointed, promoted, reduced, or removed, or in any way favored or discriminated against because of religion, race, sex, age, marital status, national origin, politic affiliation or the presence of mental, physical or sensory handicap that does not prevent proper performance of the job. No person shall willfully or knowingly make any false statement, certificate, mark, rating, or report in regard to any test, certificate or appointment held or made under the municipal personnel system or in any manner commit or attempt to commit any fraud preventing the impartial execution of the Personnel Rules. No person seeking appointment to or promotion in the City Service shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for or on account of or in connection with the test, appointment, proposed appointment, promotion, or proposed promotion.

(Ord. 20432 § 5; passed May 20, 1975: Ord. 16383; passed Jun. 29, 1959)

### 1.24.840 Political activity.

No elected officer or employee of the City of Tacoma shall hold another City of Tacoma office, nor shall an officer of the City of Tacoma hold another elected public office.

(Amended pursuant to Civil Service Board Amendment; Mar. 17, 2006; Ord. 23176 § 1; passed May 8, 1984: Ord. 16383; passed Jun. 9, 1959)

### 1.24.850 Pecuniary interest.

No officer or employee of the City of Tacoma shall have a financial interest, directly or indirectly, in any contract, sale, lease, or purchase with or for the use of the City; or accept, directly or indirectly, any compensation, gratuity, or reward from any other person who is financially interested therein. However, an officer or employee of the City may have a remote interest as defined by state law. Such remote interest is not prohibited. Violation of any provision of this section may work a forfeiture of the office of the person violating the same and the contract, sale, lease or purchase shall be void.

(Amended pursuant to Civil Service Board amendment; Mar. 17, 2006; Ord. 16383; passed Jun. 29, 1959)

### 1.24.860 Residence in the Unclassified City Service.

No person shall be eligible for employment in the Unclassified City Service who is not a resident of this City at the time of appointment; provided, that the City Council may waive such residence requirements for appointive employees in the Unclassified City Service when such waiver is deemed to be for good and sufficient reason among which the following shall be sufficient:

A. Where the nature of the employment requires residence outside the City.

B. To assist in the recruitment of professional and technical personnel.

C. When it otherwise serves the best interests of the City.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.870 Leave of absence without pay.

A. The appointing authority, with the approval of the Human Resources Director, may grant a permanent or probationary employee leave of absence without pay not to exceed one year, except as provided herein in subsections B and C of this section, where granting such leave best serves the interests of the City. No such leave shall be granted except upon written request of the employee submitted in advance stating the reason therefor and the inclusive dates of such leave. Upon expiration of such regularly approved leave the employee shall report for duty in the position held at the time leave was granted. Failure on the part of the employee to report for duty promptly at the expiration of such leave shall be regarded as a voluntary resignation. A request for extension of such leave of absence without pay may be granted for a specific period not exceeding six months. Provided, however, an employee may submit additional written requests for extension of such leave of absence at the expiration of the six-month period. No such leave shall be granted except upon written request of the employee submitted in advance.

B. The appointing authority, with the approval of the Human Resources Director, shall grant leave of absence without pay, to a permanent or probationary employee without limitation as to time to enable them to take an appointive position in the City Service or any quasi-governmental public agency created and funded jointly by the City and other public body rendering municipal services or while assigned to another governmental entity on an exchange program authorized by law. The appointing authority, with the approval of the Human Resources Director, may grant leave of absence without pay to a permanent or probationary employee to enable them to serve as a representative with a labor or employee organization; provided, that the majority membership of such organization consists of employees of the City of Tacoma. A request for leave without pay by an employee in order to accept employment not in the City Service shall, except in unusual circumstances, be considered as insufficient reason for approval of such request.

C. The appointing authority, with the approval of the Human Resources Director, shall grant leave of absence without pay to permanent or probationary employees for the purpose of service in the Armed Forces; provided, that such request for such leave shall be in writing and accompanied with validated copy of military orders ordering such employee into active service with the Armed Forces.

D. Where circumstances warrant, the appointing authority may grant an employee leave of absence without pay for a period not in excess of 15 calendar days in any one calendar year. The appointing authority shall immediately notify the Human Resources Director of such action.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 21645 § 1; passed Mar. 27, 1979: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.880 Leave without pay.

The appointing authority, with the approval of the Human Resources Director, may mandate or allow the use of leave without pay by nonrepresented employees. An employee who takes such leave without pay on a work day immediately preceding or immediately following one of the holidays with pay set forth in Section 1.12.200 A., will remain entitled to holiday pay, notwithstanding Sections 1.12.200 B., 1.12.140 B., and 1.12.210 B. and C. Further, such leave without pay will not affect an employee's sick leave accrual rate, notwithstanding Sections 1.12.230 A.1, 1.12.140 B., and 1.12.232 A.1.

(Ord. 28036 § 1; passed Nov. 29, 2011)

## SEPARATION AND DISCIPLINARY ACTION

### 1.24.890 Resignation.

Any employee wishing to leave the City Service in good standing shall file with the appointing authority at least two weeks before leaving, a written resignation stating the date the resignation shall become effective and the reason for leaving. Failure to comply with this procedure may be considered cause for denying such employee future employment by the City. Unauthorized absence from work for a period of five consecutive days may be considered by the appointing authority as a voluntary resignation, not in good standing. On all resignations, department heads shall forward notices thereof on the prescribed form to the Human Resources Director within 24 hours after receipt.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.900 Layoff and reemployment/recall.

A. The appointing authority may lay off any employee in the City Service whenever such action is made necessary by reason of shortage of work or funds, the abolition of a position because of changes in organization, or other reasons outside the employee's control, which do not reflect discredit on the services of the employee; however, no permanent or probationary employee shall be laid off while there are temporary employees serving in the same department and in the same class or position for which the permanent or probationary employee is eligible and available.

B. Layoff of probationary or permanent employees shall be made in inverse order of seniority in the class of work in the department involved. Where seniority does not establish a definite seniority differential, the order of layoff shall be determined by the relative standing on the eligible list from which appointed. A permanent or probationary employee, holding their position by virtue of promotional appointment, may request demotion to a position in the class from which they were promoted in lieu of layoff. No employee so demoted shall displace a permanent or probationary employee except in order of seniority as determined in these Rules.

C. The names of permanent or probationary employees laid off or demoted in lieu of layoff shall be placed at the top of the eligible list in order of seniority for City-wide consideration for the specific classification from which the layoff took place. Laid off employees shall be eligible for reemployment for a period of two years from the actual date of layoff, except as provided herein.

D. In the event that any department within the City has a permanent vacancy in a classification for which the names of laid off employees are available, the person with the greatest seniority in that classification will be offered the position and will have three days from the date the offer is tendered to accept an offer of reinstatement. A laid off employee may waive three opportunities for reemployment, after which their name will be removed from the list.

E. Laid off employees who are rehired shall serve a probationary period of six months unless rehired into the same department from which they were laid off. Employees rehired into probationary status shall not be considered regular employees for any purpose for the duration of their probationary period.

F. In the event an employee fails probation for any reason other than misconduct during the reemployment probationary period, the name of the employee shall be reinstated at the bottom of the reemployment eligible list for the remainder of their two years' eligibility.

G. An employee who fails a reemployment probationary period and who is reinstated to the reemployment eligible list shall have no right to a vacancy in the department where they failed probation.

H. Any interruption of employment not in excess of 15 calendar days because of adverse weather conditions, shortage of materials or equipment or for other unexpected or unusual reasons shall not be considered a layoff.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 26886 § 16; passed Dec. 4, 2001: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.910 Voluntary layoff due to pregnancy.

Any permanent or probationary employee may, for reasons of pregnancy, request separation from the City Service through layoff. The name of such employee shall be placed on the reemployment list for the class and department and the eligible list for the class in accordance with the provisions of Section 1.24.900. The name of such employee shall not be considered for reemployment or appointment until such time as the employee submits in writing to the Human Resources Director notification of the availability for employment.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 9, 1959)

### 1.24.920 Seniority.

Seniority for the purposes of layoff, demotion in lieu of layoff, and reemployment shall be the length of continuous services with the City in the specific class involved and in all higher classes to which the employee has been promoted or appointed. Employees who are transferred as part of a reorganization shall carry their seniority from their previous department to the department to which they are transferred.

(Ord. 25289; passed Apr. 6, 1993: Ord. 24876 § 1; passed Apr. 2, 1991: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.930 Suspension.

The appointing authority may suspend a permanent employee without pay for disciplinary reasons including but not limited to those set forth in Rule 1.24.940. All suspensions shall be subject to review and approval by the City Manager or the Director of Utilities. A written statement of the reason for the suspension shall be submitted to the Human Resources Director and to the employee affected in each case, within five business days of the time the suspension becomes effective.

Suspensions of 22 working days or less may be subject to review and recommendation to the proper officials by the Civil Service Board, upon request of the affected employee.

Any suspension in excess of 22 working days may be appealed to the Civil Service Board. The Board shall hear such appeals and issue a decision which shall be final and binding on all parties.

No seniority shall be acquired during the approved period of suspension, except as provided in Section 1.24.085.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 23040 § 4; passed Nov. 22, 1983: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

### 1.24.940 Disciplinary action.

Any permanent employee may be disciplined for cause by an appointing authority, with the approval of the City Manager or the Director of Utilities, as the case may be, but a written statement of reasons for the discipline and the effective date shall be submitted within five business days to the Human Resources Director and a copy thereof personally delivered to or sent by certified mail to the employee affected at their last known address.

Although discipline may be based upon other causes, any one or more of the following shall be sufficient:

A. Conviction of a felony or a misdemeanor involving moral turpitude the nature of which demonstrates lack of fitness for the position held.

B. Willful violation of any of the provisions of the Charter, the Ethics Code, or these Rules.

C. Willful violation of any lawful and reasonable regulation, order or direction made or given by a superior officer where such violation has amounted to insubordination or serious breach of proper discipline or has resulted in loss or injury to the public.

D. Intoxication or drinking intoxicating liquor while on duty, or being addicted to the use of narcotics.

E. Incompetency or inefficiency in the performance of duties of the position to which they are appointed.

F. Wantonly offensive conduct or language toward the public or fellow officers or employees.

G. Carelessness or negligence in the use of the property of the City.

H. Failure to comply with the lawful provisions of any approved collective bargaining agreements.

I. Aiding in assessment or collection from any officer or employee in the City Service for the purpose of securing the nomination or election of any person to municipal office or for the purpose of making a gift to any elective officer or superior officer in the City's employ.

J. An attempt to induce any officer or employee of the City to commit an illegal act or act in violation of any lawful or reasonable department regulation.

K. The taking or receiving of any fee, gift or other valuable thing in the course of their work or in connection with it for their personal gain from any person when such fee or gift is given by such person in the hope or expectation of receiving a favor or better treatment than that accorded to other persons.

L. Conduct unbecoming an officer or employee of the City, either while on or off duty.

M. Employment in gainful occupation in addition to regular City Service duties where such outside occupation substantially impairs their job performance.

N. Willful and wanton brutality or cruelty to a prisoner or one under arrest or sentence, provided the act committed was not necessarily and lawfully done in self-defense or to protect the lives of others or to prevent escape of a person lawfully in custody.

O. Absence without leave, including failure to report for employment on time without just cause.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 25504 § 1; passed May 24, 1994: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## 1.24.950 Employee rights of appeal.

Any permanent employee in the Classified City Service who is aggrieved may submit written appeal to the Civil Service Board in case of suspension for more than 30 days, dismissal or disciplinary reduction in rank or pay, or from any and all other matters arising out of or in connection with the Civil Service and Personnel Rules. Such employee shall file a written appeal within 10 working days following the date of written notice of suspension, dismissal or the date of reduction in rank or pay. Appeals from any and all other matters arising out of or in connection with the Civil Service and Personnel Rules shall be submitted within such time limits as may be designated in other sections of these Rules. Any appeal submitted to the Board shall be in the form of a concise statement giving the reasons for the appeal. The Board shall dismiss any appeal, or portions of an appeal, which has been filed with a city, state or federal agency or court having authority to order a remedy in the case.

The Civil Service Board shall hear and/or investigate appeals with reasonable dispatch and shall give the appointing authority and the affected employee equal opportunity to be heard. Each party shall have an opportunity to call witnesses and present evidence. The hearing shall be held at such times and in such manners as may be determined by the Board. The appointing authority and the affected employee may be represented by counsel or designated representative and the Board shall at such hearings have the power of subpoena and require the attendance of witnesses and the production thereby of books, papers and records pertinent thereto and to administer oaths to such witnesses. The Board shall submit a written report to the City Manager or Director of Utilities in which it shall report its findings and decisions. Such findings and decisions shall be final and binding on all parties concerned. (See also Section 1.24.820)

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: amended pursuant to Charter § 6.14; Oct. 18, 1971: Ord. 16383; passed Jun. 29, 1959)

## 1.24.951 Civil Service Board subpoenas.

A. A subpoena issued by the Civil Service Board may be served by any person 18 years of age or over, competent to be a witness, but who is not a party to the matter in which the subpoena is issued.

B. Each witness subpoenaed by the Civil Service Board as a witness shall be allowed the same fees and mileage as provided by law to be paid witnesses in courts of record in this state.

C. If a person fails to obey a subpoena issued by the Civil Service Board in an adjudicative proceeding, or obeys the subpoena but refuses to testify or produce documents when requested concerning a matter under examination, the Civil Service Board may petition the Tacoma Municipal Court for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, shall set forth in what specific manner the subpoena has not been complied with, and shall request an order of the court to compel compliance. Upon such petition, the court shall enter an order directing the person to appear before the court at a time and place fixed in the order to show cause why the person has not obeyed the subpoena or has refused to testify or produce documents. A copy of the court's show cause order shall be served upon the person. If it appears to the court that the subpoena was properly issued, and that the particular questions the person refused to answer or the requests for production of documents were reasonable and relevant, the court shall enter an order that the person appear

before the Civil Service Board at the time and place fixed in the order and testify or produce the required documents, and on failing to obey this order the person shall be dealt with as for contempt of court.

(Ord. 26190 § 1; passed Jan. 27, 1998)

### 1.24.955 Predisciplinary procedure.

A. The following steps shall be completed by the appointing authority prior to making a final decision to dismiss, suspend, or reduce in rank or pay for disciplinary reasons a permanent employee in the Classified City Service, except when the appointing authority deems immediate removal necessary in order to maintain the safety of the community, co-workers, or the reputation, morale or harmony of the organization. The employee must, at a minimum, be:

1. Given advance notice of the proposed action which includes a statement of the reasons for the action;

2. Provided with a copy of the proposed charges and, if practical, a copy of the materials or documents upon which the charges are based;

3. Prior to the proposed disciplinary action, the employee or designated representative has the right to respond either orally or in writing to the authority imposing discipline.

B. If the appointing authority believes a situation exists requiring the immediate termination or suspension of an employee, the appointing authority should carefully document the reasons for such a decision. Such documentation should indicate that the employee's continued presence at the work site could have detrimental consequences or cause public harm. The appointing authority should utilize the predisciplinary procedure to the extent that such utilization is reasonable under the circumstances. In such a situation, the employee may be suspended with pay until the process is completed and a decision reached regarding the potential disciplinary action. In such situations, as described above, the City Attorney and Personnel/Labor Relations Director shall be contacted as soon as possible.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 24378 § 3; passed Jul. 5, 1989: added pursuant to Charter § 6.14; Jan. 29, 1980)

### 1.24.960 Claim for position.

Whenever any person entitled to certification for employment under the Charter of the City of Tacoma and under the Personnel Rules is deprived of a position to which they are entitled under the provisions of the Charter and the Personnel Rules for any reason whatsoever, they shall file with the Human Resources Director and with the Civil Service Board on a form to be provided by the Human Resources Director, a claim in writing for such position. The Civil Service Board shall have 10 days to investigate and pass upon said claim and if it finds that said person is entitled to said position it shall forthwith certify said fact to the Human Resources Director and to the appointing authority, who shall forthwith appoint such person to such position. Such person shall not be entitled to any claim for salary from the City for the period prior to the date of filing of such claim.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

## RAILWAY EMPLOYEES

### 1.24.970 Railway employees covered.

The provisions of Sections 1.24.970 - 1.24.976 shall be applicable only to railway employees as defined in Section 1.24.971.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.971 Railway employees defined.

Railway employees shall mean those employees of the Municipal Belt Line Division of the Department of Public Utilities employed in positions peculiar to the operation of railroads, and similar positions do not exist in other departments or divisions of the City Government, and shall include but not be limited to the positions commonly known in railroading as Railway Yardmaster, Railway Switching Supervisor, Railway Switch Operator, Locomotive Engineer, Railway Car Inspector, Railway Yard Clerk, Railway Track Worker, Locomotive Mechanic, and Railway Track Mechanic.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.972 Conflict with chapter.

Railway employees shall be subject to all the provisions of this chapter except as set forth in Sections 1.24.970 - 1.24.976 and whenever any conflict exists between Sections 1.24.970 - 1.24.976 and other sections of this chapter, the provisions of Sections 1.24.970 - 1.24.976 shall be controlling.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.973 Extra and relief work.

An extra employee or relief employee is a railway employee appointed from the eligible list and whose services are required only intermittently as determined by the Superintendent of the Rail Division. Extra and relief appointments shall be considered permanent appointments, and employees appointed to such positions must be available and ready for work when called. The Human Resources Director shall remove from the eligible list the name of any eligible who fails or refuses to accept a position for extra or relief work. Failure of an employee to report for extra or relief work without good cause shown shall be grounds for dismissal.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.974 Probation.

The probationary period for railway employees shall be 125 working days actually worked in the classification to which such employee is appointed except that for the classification of Railway Switching Foreman Supervisor the probationary period shall be 45 working days.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 21589 § 1; passed Jan. 9, 1979: Ord. 16383; passed Jun. 29, 1959)

### 1.24.975 Leave of absence.

Leave of absence for railway employees may be granted by the appointing authority for an aggregate of not to exceed 30 working days in any calendar year upon the oral request of the employee for such reason as the appointing authority may deem sufficient and whenever extra or relief employees are available. Such leaves of absence shall be promptly reported to the Human Resources Director and in the manner prescribed by the Human Resources Director. A railway employee granted a leave of absence for 30 days or more may return to their position prior to the expiration of such leave upon application to the Superintendent of the Rail Division and the remainder of such leave of absence shall thereupon be canceled. In all other respects relating to leave of absence, the provisions of this chapter shall govern.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.976 Certification of eligibles for Railroad Switching Supervisor, Locomotive Engineer and Railroad Yardmaster.

Upon receipt of a request for Railroad Switching Supervisor, Locomotive Engineers or Railroad Yardmasters, the Human Resources Director shall certify all names on the appropriate lists.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.977 Seniority.

Seniority of incumbent permanent employees of the Municipal Belt Line Division of the Department of Public Utilities employed in positions commonly known in railroading as Locomotive Engineer, Railway Switching Supervisor and Switchman Railway Switch Operator shall be fixed solely by the date of first active employment as an eligible in the positions for which seniority is established.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: added pursuant to Charter § 6.14; Oct. 18, 1971)

## MAJOR INDEPENDENT CONSTRUCTION PROJECTS

### 1.24.980 Major independent construction and federal aid projects.1

Major independent construction projects shall be considered to be those projects requiring prolonged detached or independent construction work as determined from time to time necessary by the City Council or Public Utility Board by resolution. Major federal aid projects shall include all activities by the City of Tacoma acting under and pursuant to authority given and granted

by the laws of the United States of America implemented in a proper manner by loan and grant agreements or other contracts or agreements resulting in the financing of a major portion of said project by moneys received from the Federal Government. Said major federal aid projects shall include but not be limited to urban renewal projects or programs, model cities or demonstration projects or programs, Economic Opportunity Act programs or projects, Emergency Employment Act of 1971 projects or programs requiring prolonged and independent activities required under the terms of such contracts or agreements and as determined from time to time by ordinance or resolution. The positions required to be filled for the proper completion of such projects are not those regularly existing or to exist in the City service. For these positions, the employee may be appointed without the necessity of calling from existing eligible lists.

(Amended pursuant to Charter § 6.14; Jan. 29, 1980: Ord. 16383; passed Jun. 29, 1959)

### 1.24.981 Residence waiver.

Residence is hereby waived for employment on the projects.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.982 Classification Plan.

Insofar as practicable, the Classification Plan shall be utilized as a guide except that Sections 1.24.350, 1.24.360, and 1.24.370 thereof shall not apply.

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.984 General personnel policies and provisions.

The following personnel policies of the Personnel Rules shall apply to employment on the projects:

Section 1.24.470 Loyalty Oath

Section 1.24.830 Prohibition

Section 1.24.840 Political Activity

Section 1.24.850 Pecuniary Interest

Section 1.24.870 Leave of Absence Without Pay

(Ord. 16383; passed Jun. 29, 1959)

### 1.24.986 Leave of absence for major independent construction or federal aid project appointment.

Permanent employees of the Classified City Service may be appointed to positions on major independent construction projects or federal aid projects. For such employees, the Human Resources Director is authorized to grant a leave of absence for the period specified and for such time as may be required, up to and including the duration of the projects. Such employees shall continue to accrue seniority and other rights of the Classified Service in their permanent position.

(Ord. 28283 Ex. A; passed Feb. 24, 2015: Ord. 16383; passed Jun. 29, 1959)

# CHAPTER 1.25
# PRE-EMPLOYMENT DRUG SCREENING

Sections:

1.25.100 Purpose and goal.
1.25.200 Definitions.
1.25.300 Prohibition against certain pre-employment drug testing.
1.25.400 Federal requirements.
1.25.500 Drug screening required – specified positions.
1.25.600 Procedure for obtaining permission to test.
1.25.700 Publication of list.
1.25.800 Regulations.
1.25.850 Application of rules and regulations.
1.25.900 Severability.

## 1.25.100 Purpose and goal.

It is the policy of the City that, to the maximum extent possible in conformance with existing law and the privacy interests of citizens, the City should provide a workplace free from use of drugs, and that City employees should not be allowed to work under circumstances where serious harm to the public or to other employees could reasonably be expected to result from undetected drug use. To this end, all external candidates in classifications or positions identified as posing such a risk who have been given a conditional job offer shall be required to undergo a drug screening examination that complies with the requirements of this chapter.

(Ord. 26969 § 1; passed Jul. 23, 2002)

## 1.25.200 Definitions.

Terms used in this chapter shall have the meaning given to them in this chapter unless, where used, the context thereof clearly indicates to the contrary. Terms not expressly defined herein shall have the meaning as defined elsewhere in this Code, and, where not defined in the Code, shall be defined by their common dictionary definitions. Words and phrases used herein in the past, present, or future tense include the past, present, and future tenses. Words and phrases used herein in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter genders. Words and phrases used herein in the singular or plural shall include both the singular and plural, unless the context thereof indicates to the contrary.

A. “External candidates” mean candidates to be new employees of the City not already employed in any classification, including candidates applying for appointive or civil service positions, and for regular, temporary, emergency, and project positions covered by this chapter.

B. “Hazardous job circumstances” mean the probable on-the-job occurrences or conditions that may be reasonably expected to increase the risk of serious injury to others that arise from performing the job duties of the particular position to be filled.

C. “Hazardous job duties” mean functions set forth in the class specification that an employee, holding the particular position to be filled within that classification, performs, where said functions pose a potential risk of serious injury to others if not performed properly.

D. “Normal workweek” mean the specific employee’s usual and assigned weekly hours of employment.

E. “Pre-employment drug screening” means a urinalysis test for controlled substances as determined by the Human Resources Director, required as part of a pre-employment physical after the offer of employment has been made but prior to final hire.

F. “Usual job duties” mean those functions set forth in the class specification that an employee holding the particular position to be filled within that classification may be reasonably expected to perform.

(Ord. 26969 § 1; passed Jul. 23, 2002)

## 1.25.300 Prohibition against certain pre-employment drug testing.

Candidates for promotional positions shall not be subject to pre-employment drug testing. Except as permitted by this chapter, external candidates for hire shall not be subject to pre-employment drug testing.

(Ord. 26969 § 1; passed Jul. 23, 2002)

### 1.25.400 Federal requirements.

The City shall comply with all federally-mandated pre-employment drug screening programs, as now existing or hereinafter adopted, without modification.

(Ord. 26969 § 1; passed Jul. 23, 2002)

### 1.25.500 Drug screening required – specified positions.

Pre-employment drug testing for external candidates shall be required for the following positions within City employment:

A. All positions of commissioned police officers. No further determination shall be required.

B. All positions of commissioned fire fighters. No further determination shall be required.

C. All positions requiring a commercial driver's license ("CDL"). The City's Risk Manager shall certify a list of said positions.

D. All positions of the Belt Line Railway operation required to be tested by federal law. No further determination shall be required.

E. All positions in the Legal Department identified, pursuant to the procedure set forth in this chapter, by the City Attorney, or his or her designee, and approved by the Human Resources Director, as regularly charged with the interpretation and enforcement of City, state, and federal laws regarding illegal use, sale, or distribution of drugs or alcohol.

F. All positions in the Legal Department or Police Department identified, pursuant to the procedure set forth in this chapter, by the Police Chief, or his or her designee, and approved by the Human Resources Director, as regularly charged with the handling, examination of, or storage of drugs seized during the enforcement of City, state, and federal laws, regarding illegal use, sale, or distribution of drugs.

G. All positions in the Legal Department, Police Department, and Municipal Court identified, pursuant to the procedure set forth in this chapter, by the respective directors or designees thereof, and approved by the Human Resources Director, as regularly charged with the computer entry, manipulation, or retrieval of data related to persons charged with violation of City, state, and federal laws regarding illegal use, sale, or distribution of drugs.

H. All positions in the classification of Watershed Inspectors and such supervisory watershed personnel authorized to carry firearms in the performance of job duties. No further determination shall be required.

I. All positions identified, pursuant to the procedure set forth in this chapter, by the respective directors or designees thereof, and approved by the Human Resources Director, whose usual job duties include the operation of motor vehicles on public streets and highways.

J. All positions identified, pursuant to the procedure set forth in this chapter, by the respective Directors thereof, and approved by the Human Resources Director, whose usual job duties include the operation of equipment, instruments, or machinery or other instrumentalities capable of causing serious bodily injury to a member of the public or a fellow employee if used improperly due to drug or alcohol impairment.

K. All positions identified, pursuant to the procedure set forth in this chapter, by the respective Directors thereof, and approved by the Human Resources Director, whose usual job duties include working with or use of hazardous substances capable of causing serious injury to a member of the public or a fellow employee if used improperly due to drug or alcohol impairment,

L. All positions identified, pursuant to the procedure set forth in this chapter, by the respective Directors thereof, and approved by the Human Resources Director, whose usual job duties entail providing safe directions or instructions to members of the public or fellow employees in hazardous circumstances, such as, but not limited to, traffic flaggers at road work or construction sites.

M. All supervisory positions filled by external candidates identified, pursuant to the procedure set forth in this chapter, by the respective directors thereof, and approved by the Human Resources Director, whose usual job duties entail giving instructions, orders, or directions in hazardous circumstances to employees specified in this chapter.

(Ord. 26969 § 1; passed Jul. 23, 2002)

### 1.25.600 Procedure for obtaining permission to test.

A. Permission to add any classification or position to the classifications and positions specified in this chapter as subject to pre-employment drug screening shall be granted by the Human Resources Director for a given vacancy only if the personnel

requisition form to fill the vacancy is accompanied by a completed checklist as specified by the Human Resources Director. The Human Resources Director shall devise a checklist consistent with Chapter 1.25.

B. The Human Resources Director shall carefully review each such requisition, and shall grant or deny the testing for the vacancy. No pre-employment testing shall be granted under this procedure except upon satisfaction of the criteria set forth in this chapter.

(Ord. 26969 § 1; passed Jul. 23, 2002)

### 1.25.700 Publication of list.

The Human Resources Director shall post a list of all classifications in the City Service, both classified and unclassified, for which pre-employment drug screening examinations are required by this chapter.

(Ord. 26969 § 1; passed Jul. 23, 2002)

### 1.25.800 Regulations.

The Human Resources Director may make and issue administrative rules and regulations to properly implement and administer the provisions of this chapter.

(Ord. 26969 § 1; passed Jul. 23, 2002)

### 1.25.850 Application of rules and regulations.

A. Any administrative rules and regulations adopted pursuant to Section 1.25.800 are for the administrative and procedural guidance of the officers and employees of the City, and are further expressions of the public policy of the City. Such rules and regulations, when adopted, shall not confer an independent cause of action or claim for relief cognizable in the courts of the state of Washington or the United States of America to any third parties.

B. Neither the provisions of this chapter, nor the rules or regulations adopted pursuant to this chapter, nor the actions by City officials and employees in implementing this chapter shall confer the status of third-party beneficiaries upon any member of the public.

(Ord. 26969 § 1; passed Jul. 23, 2002)

### 1.25.900 Severability.

If any section of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, then the remaining sections of this chapter, or the application of the provisions to other persons or circumstances, shall not be affected.

(Ord. 26969 § 1; passed Jul. 23, 2002)

# CHAPTER 1.26
## *REPEALED*

### NEIGHBORHOOD YOUTH CORPS

*Repealed by Ord. 25575*

*(Ord. 25575; passed Aug. 30, 1994)*

# CHAPTER 1.27
# INVESTMENT COMMITTEE

Sections:

1.27.010 Investment Committee establishment and membership.
1.27.020 Committee function.
1.27.030 Monthly report required.

## 1.27.010 Investment Committee establishment and membership.

Pursuant to Chapter 46, Laws of 1965, Extraordinary Session (RCW 35.39.030), there is hereby created an Investment Committee of the City of Tacoma consisting of the following City officials, to wit: Mayor, Treasurer, Director of Finance and Assistant Director of Finance; the Treasurer of the City of Tacoma shall be designated Chairman of the Investment Committee and the Director of Finance Secretary thereof.

(Ord. 25335 § 27; passed Jul. 20, 1993: Ord. 17899 § 1; passed Aug. 24, 1965)

## 1.27.020 Committee function.

The Investment Committee created herein is authorized to invest any portion of the moneys of the City of Tacoma in its inactive funds or in any funds in excess of current needs in such investments as may be authorized by the laws of the State of Washington, and at any time to convert any securities authorized by the laws of the State of Washington or any part thereof into cash.

(Ord. 17899 § 2; passed Aug. 24, 1965)

## 1.27.030 Monthly report required.

The Investment Committee shall be required to make a monthly report of all the investment transactions to the City Council.

(Ord. 17899 § 3; passed Aug. 24, 1965)

# CHAPTER 1.28

## *REPEALED AND REENACTED BY SUBCHAPTERS 1.28A AND 1.28B*

*Repealed and Reenacted by Ord. 27835*

*(Ord. 27835; passed Sept. 29, 2009)*

# SUBCHAPTER 1.28A
# TACOMA ARTS COMMISSION [32]

Sections:

1.28A.010 Creation of an Arts Commission.
1.28A.020 Short title.
1.28A.030 Tacoma Arts Commission – Declaration of purpose.
1.28A.040 Composition of the Tacoma Arts Commission.
1.28A.050 Terms of Commissioners.
1.28A.060 Members shall serve without compensation.
1.28A.070 Powers and duties of the Tacoma Arts Commission.
1.28A.080 Contracts for Cultural Services.
1.28A.090 Officers and Executive Committee.
1.28A.100 Meetings of the Tacoma Arts Commission.
1.28A.110 Organization and procedures.
1.28A.120 Administration.

## 1.28A.010 Creation of an Arts Commission.

An arts commission of the City of Tacoma, to be known as the "Tacoma Arts Commission," is hereby established to serve as an advisory body to the Tacoma City Council.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28A.020 Short title.

This chapter may be referenced as the "Tacoma Arts Commission Code."

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28A.030 Tacoma Arts Commission – Declaration of purpose.

It is hereby declared, as a matter of public policy, that support for artists and arts organizations, development and stewardship of public art, cultural tourism, arts education, and cultural development are public necessities and essential for the continuing growth and development of Tacoma's citizens, economy, and quality of life. The primary duty of the Tacoma Arts Commission is to identify and actively encourage the development and sustainability of the arts in the City by serving as the City's primary resource in matters of art, culture, public art, and cultural tourism, as provided for in this chapter.

The Purpose of the Tacoma Arts Commission is to:

A. Promote the arts as vital tools in building Tacoma's community and economy for the benefit of all its citizens.

B. Promote and support a diversity of arts and cultural opportunities for our citizens to experience.

C. Act as a catalyst to bring government, arts and culture, and private sectors together for public benefit.

D. Encourage strategic investments in arts organizations that increase public connection with the arts.

E. Create a unique identity and sense of place through the development and stewardship of public art.

F. Fund programs that encourage artistic excellence and expand exposure to a wide variety of art forms.

G. Foster the development of the local arts community, encouraging an environment for the success of working individual artists.

H. Promote programs for cultural exchange and development.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

[32] Chapter 1.28 repealed and reenacted by subchapters 1.28A and 1.28B. Ord. 27835; passed Sept. 29, 2009.

## 1.28A.040 Composition of the Tacoma Arts Commission.

All members of the Tacoma Arts Commission shall have a demonstrated interest and familiarity with arts and culture, either through professional practice or volunteer work, and shall be residents within the boundaries of the City.

The Tacoma Arts Commission shall consist of 15 members who represent the following:

A. A working professional artist.

B. A person working in the Tacoma public education community.

C. Professional Positions: In addition to the above, the Tacoma Arts Commission shall always include a minimum of four individuals who have had professional experience or training related to the arts, originating from employment or study within the following disciplines: arts or art history, arts administration, architecture, art criticism, art education, curation, conservation, heritage arts, literature, music, new media, performing arts, public art, visual arts, or a related field. These positions shall be named Professional Positions 1 through 4.

D. At-Large Positions: The remaining positions may be filled at-large from persons representative of acknowledged accomplishment or persons working outside of professional practice in the arts but who demonstrate a deep interest in and appreciation of cultural and artistic activities. These shall be referred to as At-Large Positions 1 through 9.

E. The provisions of this chapter and Subchapter 1.28A.050 shall be enforced as vacancies occur, following the adoption of this legislation.

(Ord. 28480 Ex. A; passed Dec. 19, 2017: Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28A.050 Terms of Commissioners.

A. Terms of the Commissioners of the Tacoma Arts Commission shall be three years.

B. Terms of all Commissioners shall begin on January 1 and end on December 31.

C. Each member shall serve until his or her successor is appointed and qualified.

D. In the event that a position is vacated before the expiration of the term, except temporary vacancies as hereinafter provided, the position shall be filled by the City Council for the remainder of the unexpired term.

E. The appointment of any member of the Tacoma Arts Commission who has been absent from three consecutive regular or special meetings of the Tacoma Arts Commission without the approval of said Tacoma Arts Commission shall automatically terminate. The Administrator shall notify any member whose appointment has automatically ended and report to the appointing authority that a vacancy exists on said Tacoma Arts Commission and that an appointment should be made for the unexpired term. The Tacoma Arts Commission shall have the power and authority to excuse any member from attendance at any regular business meeting or study session for good cause.

F. Any member of the Tacoma Arts Commission may be removed from said Tacoma Arts Commission prior to the expiration of his or her term by two-thirds vote of the City Council, subject to the provisions of subsection E.

G. Commissioners who move out of the City of Tacoma limits may carry out the duration of their term, but may not be reappointed.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28A.060 Members shall serve without compensation.

Members of the Tacoma Arts Commission shall serve without compensation.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28A.070 Powers and duties of the Tacoma Arts Commission.

The Tacoma Arts Commission shall have the power and duty to:

A. Act in an advisory capacity to the City Council in all matters pertaining to the arts and culture of the City;

B. Recommend to the City Council the adoption of such ordinances, rules, and regulations as it may deem necessary for the administration and preservation of fine arts, performing arts, and aesthetic aspects of the community;

C. Work cooperatively with City boards and commissions, City departments, and other public and private organizations in creating and promoting art and cultural programs and activities within the City;

D. By establishing policies, act as a catalyst bringing government, the arts and culture, and public sectors together for the cultural benefit of all;

E. On behalf of the City, establish policies that encourage, conduct, sponsor, or co-sponsor public programs to further the development and public awareness of, and interest in, the arts;

F. Review and evaluate funded programs to ensure compliance and effective stewardship of City funds;

G. Encourage the use of professional practices in working with artists;

H. Provide professional development services for artists through technical assistance;

I. Serve as the City's art ambassadors to artists, arts organizations, and the general public;

J. Officially recognize excellence in the arts and community outreach through the annual AMOCAT awards;

K. Communicate to the public about the City's arts programs and policies.

L. Review and make recommendations upon all works of art to be acquired by the City, either by purchase, gift, or otherwise pursuant to Accession and Gift Policies, adopted by Resolution No. 34963.

M. Review and make recommendations with reference to any existing work of art in the Municipal Art Collection in connection with the relocation or alteration thereof, pursuant to Deaccessioning policy, adopted by Resolution No. 34963.

N. Review and make recommendations upon all works of art to be removed from the Municipal Art Collection, pursuant to the Deaccessioning policy, adopted by Resolution No. 34963.

O. Promulgate policies and procedures for the development and implementation of public art in the City;

P. Prioritize public art projects in a way that identifies and defines the public art projects and programs to be developed from the 1 percent for art moneys identified in the Capital Facilities Program and/or other public art managed by the Municipal Art Program (Subchapter 1.28B TMC);

Q. Provide stewardship to the Municipal Art Collection by reviewing the condition of the artwork every two years and making recommendations for its care, maintenance, or improvement, including routine maintenance, conservations, and emergency maintenance when required;

R. Record, maintain, and house all data related to accessed works in the Municipal Art Collection;

S. Review and make recommendations for permit applications requesting that visual artwork and artistic elements be considered for placement on City of Tacoma property and upon request for placement upon City rights-of-way;

T. Review and make recommendations for artwork included as part of Building and Land Use permits or development agreements when required or requested.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28A.080 Contracts for Cultural Services.

A. Authority of Commission. The Tacoma Arts Commission, acting through its Administrator, is authorized to develop and oversee a Contracts for Cultural Services program to support public experiences of the performing, visual, literary, and other artistic disciplines for the good of the citizens of Tacoma.

B. The Tacoma Arts Commission shall establish relevant programs; recommend, review, and approve funding guidelines; determine funding levels for each program; participate in competitive selection processes; review and approve recommendations for funding; and evaluate outcomes.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28A.090 Officers and Executive Committee.

A. The Tacoma Arts Commission shall have one Chair and one Vice Chair with terms of one year, elected by simple majority of the Commissioners present at a regular meeting.

B. The Chair and Vice Chair will be elected before the first meeting of the year and will start their term at the first meeting of the year.

C. The Chair shall preside over all meetings of the Tacoma Arts Commission. In the absence of the Chair, the Vice Chair is authorized to perform and carry out all of the duties and obligations of the Chair.

D. If the Chair relinquishes his or her authority or quits before the term's end, the Vice Chair automatically becomes Chair.

E. In the event that the Vice Chair relinquishes his or her authority or quits before his or her term ends, a new general election will take place electing a new Vice Chair for the completion of the term.

F. The Executive Committee shall consist of the Chair and Vice Chair of the Tacoma Arts Commission, any other elected officers, and subcommittee chairs.

G. Committee chairs may be appointed by the Chair or elected by the Tacoma Arts Commission as a whole.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

### 1.28A.100 Meetings of the Tacoma Arts Commission.

A. The Tacoma Arts Commission shall establish a regular time and place of meeting and shall hold at least six regular meetings a year.

B. Special meetings of the Tacoma Arts Commission may be called at any time by the Chair or by a minimum of any three or more members of the Tacoma Arts Commission upon personal notice being given to all members of the Tacoma Arts Commission. If personal notice cannot be given, written notice must be received by such members at least 24 hours prior to said meeting.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

### 1.28A.110 Organization and procedures.

A. The Tacoma Arts Commission may make and alter any rules and regulations governing its organization and procedure not inconsistent with this chapter or any other ordinance of the City.

B. A simple majority of appointed, filled positions shall constitute a quorum.

C. A majority vote of the quorum is required to pass any motion.

D. The Tacoma Arts Commission shall have the power and authority to excuse any member from attendance at any regular business meeting or study session for good cause.

E. Requests for recommendations and study of matters within the area of interest of the Tacoma Arts Commission shall be submitted to the Executive Committee for review and inclusion on the agenda.

F. The Tacoma Arts Commission shall keep an accurate record of its proceedings and transactions. All minutes of the Tacoma Arts Commission's meetings shall be filed with the City Clerk.

G. The Tacoma Arts Commission shall submit an annual report to the City Council.

H. The Tacoma Arts Commission is subject to the provisions of the Open Meetings Act, chapter 42.30 RCW; to public disclosure provisions; and to the provisions of the Ethics Code, Chapter 1.46 TMC.

I. The Tacoma Arts Commission will adopt bylaws and/or administrative rules and regulations that conform to the authority of the Tacoma Municipal Code to support the implementation of Subchapters 1.28A and 1.28B.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

### 1.28A.120 Administration.

The City Manager shall appoint an officer or employee of the City to act as Administrator of the Tacoma Arts Commission. The Tacoma Arts Commission shall be located within the Community and Economic Development Department.

The Tacoma Arts Administrator shall act as ex officio secretary and shall keep accurate records of the Tacoma Arts Commission's proceedings and transactions, conduct official correspondence, assist in organizing and supervising the Tacoma Arts Commission, and organize and supervise clerical and technical work of the Tacoma Arts Commission to the extent required to administer this chapter.

The Tacoma Arts Administrator shall be responsible for providing such other staff service as may be required by the Tacoma Arts Commission within the limits of the budget for the Community and Economic Development Department, as approved by the City Council.

In addition, the Tacoma Arts Administrator shall:

A. Implement and administer the "Contracts for Cultural Services" program;

B. Implement policies and procedures related to arts and cultural planning for the City of Tacoma;

C. Develop and implement cultural programming that supports the purposes of the Tacoma Arts Commission, as set forth in Chapter 1.28 TMC;

D. Act as resource and ombudsman for arts- and culture-related issues in the City;

E. Coordinate the development of a Municipal Art Plan in partnership with client departments and the Tacoma Arts Commission;

F. Manage the selection and implementation of public art projects for all City departments;

G. Manage the stewardship of the Municipal Art Collection, including maintenance and conservation;

H. Upon request by the Public Works Department, review permit applications for compliance with Tacoma Municipal Code Title 13, as related to bonus and variance requests involving art;

I. Represent the City of Tacoma on local, regional, and/or national steering committees, panels, and boards;

J. Make public presentations on issues related to arts and culture;

K. Provide information to civic groups, public agencies, and citizen groups interested in arts and culture;

L. Recommend such policies, rules, and regulations for adoption by the Tacoma Arts Commission, as are deemed necessary to carry out the purposes of this chapter;

M. Respond to requests for interpretations of the codes, policies, and procedures related to public art, as defined herein and within related documents adopted by the Tacoma Arts Commission;

N. Fulfill the essential duties and responsibilities, as outlined in the City of Tacoma's Arts Administrator job description;

O. Perform other duties as required by the City Manager, City Council or the Community and Economic Development Department.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

# SUBCHAPTER 1.28B
# MUNICIPAL ART PROGRAM

Sections:

1.28B.010 Purpose.
1.28B.020 Definitions.
1.28B.030 Municipal Art Fund.
1.28B.040 Appropriate Use of Program Funds.
1.28B.050 Funding Basis.
1.28B.060 Appropriation.
1.28B.070 Utilities.
1.28B.080 Municipal Art Plan.
1.28B.090 Authority of the Commission.
1.28B.100 Severability.

## 1.28B.010 Purpose.

It is the purpose of this chapter and the policy of the City of Tacoma to dedicate 1 percent of the construction costs for Capital Improvement Projects to the selection, acquisition, fabrication, installation, maintenance, management, deaccessioning, community education, and documentation and registration of public art and to provide artists, client departments, and the public with the rules that define the Municipal Art Program.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28B.020 Definitions.

A. “Alteration” means a physical change to a structure or a site. Alteration does not include normal maintenance and repair or total demolition.

B. “Comprehensive Local Improvement Districts (LIDs)”: streetscape improvements that are initiated by the City of Tacoma in highly visible areas, such as downtown, mixed-use centers, and business districts.

C. “Construction Costs” means the total value of all construction work, as well as all finish work, painting, roofing, electrical, plumbing, heating, air-conditioning, elevators, fire-extinguishing systems, site work, and any other permanent work or permanent equipment.

D. “Eligible Capital Improvement Project” means any visible or accessible project paid for, wholly or in part, by the City of Tacoma for the construction or alteration thereof of a structure, park, trail, Comprehensive LID, parking facility, or any portion thereof, within the City of Tacoma limits. Improvement projects that are developed privately or in partnership with the City and leased back to the City of Tacoma participate fully in the Municipal Art Program, pursuant to the provisions of this chapter. The City is not precluded from including a public art component in other capital projects not listed here and may do so voluntarily.

E. "Eligible Fund" means a source fund for construction projects from which art is not precluded as an object of expenditure.

F. “In Lieu Fee” is a payment made to the Municipal Art Fund instead of including artwork in the project. In Lieu Fees shall be equal to the value of 1 percent of construction costs. Projects may include artwork in a project less than the value of 1 percent for art and pay an In Lieu Fee equal to the balance. In Lieu Fees are identified in Title 13 TMC.

G. “Maintenance” means any work that is performed on a regularly scheduled basis, e.g., daily, weekly, monthly, seasonally, semiannually, but not less frequently than once per year, to service, check, or replace items that are not broken, or work that is not regularly scheduled but is required to maintain the asset so that repair does not become necessary.

H. “Municipal Art Collection” means any work of art that has been commissioned by or accepted by the Tacoma Arts Commission and is accessioned into the collective body of artwork owned and managed by the City.

I. “Municipal Art Fund” means a fund within the City of Tacoma into which eligible moneys dedicated to public art, including donations, are deposited.

J. “Municipal Art Plan” means a report that describes the funding sources, budgets, and descriptions of proposed and ongoing public art projects and establishes budgets and descriptions for new public art projects.

K. “Municipal Art Program” means the 1 percent for art program and all the associated management and implementation required to establish and maintain public art in the City of Tacoma.

L. "Municipal Art Program Contribution" means the value equal to 1 percent of construction costs that is paid into the Municipal Art Fund.

M. "Public art" means original artwork which is sited in a manner accessible and visible to the public and/or public employees and which has been approved as public art by the Tacoma Arts Commission acting on behalf of the Tacoma City Council.

N. "Public space" means any place or property within the City limits that is open to the general public for its use or that is in public view or is generally accessible and visible to the public.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28B.030 Municipal Art Fund.

There is hereby established a fund designated as the Municipal Art Fund into which shall be deposited Municipal Art Program Contributions, funds designated or appropriated for public art, public art maintenance, any monetary gifts received, and/or In Lieu Fees.

A. The Municipal Art Fund shall be used exclusively as a means of isolating and identifying all monetary transactions pertaining to the Municipal Art Program. The Tacoma City Treasurer is hereby designated as the custodian of the Municipal Art Fund, and the disbursements of all money therefrom shall be made in the manner provided by law.

B. Separate accounts shall be established within the Municipal Art Fund to segregate receipts by source.

C. A percentage of the Municipal Art Fund shall be appropriated for administrative costs associated with the project.

D. Staff salaries will not be funded from the Municipal Art Fund; however, administrative costs, including directly related staff costs associated with specific projects may be charged against the Municipal Art Fund.

E. In order to offset maintenance costs for the Municipal Art Collection, a maintenance account shall be established within the Municipal Art Fund for purposes of maintaining and repairing any artwork in the Municipal Art Collection. Unless precluded by applicable law, appropriations for artwork shall provide 5 percent be set aside for such maintenance account.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28B.040 Appropriate Use of Program Funds.

The Municipal Art Fund shall support the following uses:

A. The selection, acquisition, and display of works of art, which may be an integral part of the project; or which may be placed in, on, or about the project or other public space;

B. Artist fees, design, planning, and predesign service contracts and commissions;

C. Expenses for technical assistance provided by architects and/or engineers to artists in order to design, document, and/or certify the artwork;

D. Repair and maintenance of City public artworks benefited by the Municipal Art Fund;

E. Citizen forums and educational workshops to gather information and/or educate about public art and the City's public art collection;

F. Documentation and public education material for the Municipal Art Program and public art projects; and

G. Public art project management.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28B.050 Funding Basis.

Calculations for eligible projects will follow these considerations:

A. Calculation Base. All authorizations and/or appropriations for eligible Capital Improvement Projects paid for wholly or in part by the City of Tacoma shall include an amount equal to at least 1 percent of such authorization and/or appropriation.

B. Each eligible project will pay a Municipal Art Program Contribution equivalent to 1 percent of the construction costs.

C. Funds appropriated as part of any one project, but not deemed necessary or appropriate in total or in part for said project site, may be accumulated in the Municipal Art Fund and expended for art in other City projects or existing public facilities that are owned or leased by the City.

D. If the source of funding or other appropriate laws with respect to any particular project precludes art as an object of expenditure of funds, the amount of funds so restricted shall be excluded from the total project cost in making aforesaid calculation.

E. If a component of the project is not eligible to participate in the Municipal Art Program, the value of that component will not be included in the calculation.

F. In all cases where the City appropriates funds that are used for a non-City construction project, 1 percent of eligible City funds shall be transferred to the Municipal Art Fund to be used for public art.

G. Grant Moneys: Grant-funded Capital Improvement Projects will participate unless artwork is explicitly prohibited. City department shall inform all funders that the City of Tacoma contributes amounts equivalent to 1 percent of construction costs for artists' services and/or artworks, as specified herein.

H. General Obligation Bond Proceeds. In the case of any City construction project that involves the use of General Obligation Bond proceeds, the resolution or ordinance submitted to the voters or the City Council shall include an allocation for public art equal to 1 percent of the eligible project cost. Bond proceeds shall be accounted for separately within the Municipal Art Fund and shall be applied directly to the project, if necessary, to comply with these requirements.

I. Comprehensive Local Improvement Districts (LID). Comprehensive LIDs shall contribute 1 percent of the City's contribution. Funding from Comprehensive LIDs shall be accounted for separately within the Municipal Art Fund and shall be applied directly to the project.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28B.060 Appropriation.

At the time a City construction project is proposed, the client department shall calculate and include a budgeted line item identifying the Municipal Art Program Contribution in each eligible project.

The Finance Department shall confirm the calculations with the client department(s) and Tacoma Arts Commission staff and include the agreed upon appropriations for art in the proposed City biennial budget, including amendments. The amounts budgeted for art in particular projects may be adjusted to reflect City Council changes to the budget for the City construction project.

Final construction costs will be calculated from the bids accepted to construct a project.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28B.070 Utilities.

The Tacoma Public Utilities Department is not required to participate in the Municipal Art Program but may do so voluntarily.

General Government Utilities shall participate in the Municipal Art Program.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28B.080 Municipal Art Plan.

When the appropriation for the Municipal Art Fund is approved by the City Council, a draft report identifying budget sources, program strategies, prioritized projects, descriptions, and proposed budgets will be developed by the Tacoma Arts Administrator in partnership with client departments for review by the Tacoma Arts Commission. The Tacoma Arts Commission will review the list of eligible projects to determine which projects will be recommended to include public art.

Upon approval by the Tacoma Arts Commission, the Municipal Art Plan will be transmitted to the City Council for approval.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

## 1.28B.090 Authority of the Commission.

The Tacoma Arts Commission is authorized to adopt rules and policies to administer the Municipal Art Program. The Tacoma Arts Commission will create policies, procedures, and regulations consistent with this chapter and Subchapter 1.28A to facilitate the implementation of responsibilities under Subchapters 1.28A and 1.28B.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

### 1.28B.100 Severability.

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances.

(Ord. 27835 Ex. A; passed Sept. 29, 2009)

# CHAPTER 1.29
# HUMAN RIGHTS COMMISSION

Sections:

1.29.010 Findings.
1.29.020 Creation of a Human Rights Commission.
1.29.030 Commission Responsibilities of the Office of Equity and Human Rights.
1.29.040 Definitions.
1.29.050 Unlawful discriminatory employment practices.
1.29.060 Additional unlawful discriminatory practices.
1.29.070 Liberal construction.
1.29.080 Severability.
1.29.090 Savings clause.
1.29.100 Unlawful discriminatory housing practices.
1.29.110 Discrimination in residential real estate-related transactions.
1.29.120 Prohibition against discrimination because of disability.
1.29.130 Housing for older persons.
1.29.140 Interference, coercion or intimidation.
1.29.150 Adjustment and settlement of complaints.
1.29.160 Election for civil action in lieu of hearing for housing cases.
1.29.170 Enforcement of fair housing provisions by private persons.
1.29.180 Labeling of single-occupant restrooms
1.29.190 Provision of Universal Closed Captioning.

## 1.29.010 Findings.

In response to the problem of unlawful discrimination, the City Council of the City of Tacoma hereby finds that unlawful discrimination on the basis of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, disability, or source of income is inimical to the public welfare and good order of the City of Tacoma. The City Council accordingly finds it necessary, in the exercise of its police powers for the protection of the public health, safety, and welfare, to prohibit such discrimination and to initiate action for the remedy and prevention of unlawful discriminatory acts. Pursuant to this finding, and in accordance with the City of Tacoma's policy of providing and assuring equal opportunity for all Tacoma residents in the areas of employment, education, credit, insurance, access to public accommodations, and the acquisition of real property, the City Council, in order to effect this policy and to achieve the City's goal of eliminating unlawful discrimination, hereby creates and empowers a commission to study and investigate problems of prejudice, bigotry, and discrimination, and to encourage and coordinate the implementation of programs consistent with the needs and the rights of all residents of the City of Tacoma. The Council also hereby establishes an administrative agency to support and assist this commission and to be responsible for the monitoring and enforcement of anti-discrimination ordinances and resolutions within the City.

(Ord. 28558 Ex. A; passed Nov. 20, 2018: Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 26948 § 1; passed Apr. 23, 2002: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.020 Creation of a Human Rights Commission.

There is hereby established a commission, to be known as the Human Rights Commission of the City of Tacoma (hereinafter referred to as the "Commission"), consisting of 15 members representative of the general public, such as students; employer groups; the housing industry; and labor, religious, racial, ethnic, disabled, and women's groups in the City, to be nominated and appointed in accordance with City Council rules and procedures.

A. Duties and Powers of the Commission. The Commission shall have the duty and power to:

1. Initiate complaints charging unlawful practices as set forth in this chapter; provided, that no such action shall be taken with respect to any complaint within the exclusive jurisdiction of any state or federal agency. Each Commissioner shall have the power to initiate a complaint, whether or not such Commissioner is aggrieved, subject to approval by the Commission.

2. Review and act upon case closures as recommended by the Office of Equity and Human Rights staff, petitions for reconsideration, and/or conciliation agreements.

3. Study, investigate, mediate, and hold public meetings on communitywide problems arising in the City of Tacoma which may result in intergroup tensions or discrimination, including race, religion, color, national origin or ancestry, sex, gender

identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability, and make such technical studies as are appropriate to effectuate the purpose and policies of this chapter.

4. Consult with and maintain contact with other public agencies, civil rights organizations, representatives of employers, labor unions, property owners, associations, realtor associations, religious denominations and institutions, professional associations, national origin groups, community organizations concerned with interracial, interreligious and intercultural understanding, social welfare organizations, and any other such organizations and institutions as directed by the City Council or as the Commission shall deem advisable to further the objectives of this chapter.

5. Cooperate with and make written recommendations to the Mayor, City Council, City Manager, and City department heads toward the development and implementation of programs and practices for the purpose of furthering the objectives of this chapter.

6. Form committees and subcommittees and appoint persons, in addition to members of the Commission, to such committees and subcommittees in order to assist the Commission in effectuating the purposes of this chapter.

7. Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any resolution or ordinance of the City.

In prescribing the above duties and functions of the Commission, it is not the intent of the City Council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any department, board, or committee of the City or the responsibilities of the City Manager. Upon request, the Commission shall cooperate with and render assistance and make recommendations to all public officials, departments, and public or private organizations or citizens.

8. The Commission is specifically authorized to adopt and promulgate interpretive rules, regulations, and guidelines to properly implement and administer the provisions hereof. Rules, regulations, and guidelines thus adopted shall be approved by resolution of the City Council of the City of Tacoma prior to their becoming effective.

9. The Commission is specifically authorized to make rules and regulations governing its organization and procedures which are not inconsistent with this chapter or any other chapter or section of the Tacoma Municipal Code.

B. Terms of Office of Commissioners. The term of office of all members of the Commission shall be three years, except for the student member whose term of office shall be for a period no longer than two years or until no longer a student or until attainment of age 24, whichever occurs first; provided, that any individual appointed to fill a vacancy other than a student member shall be appointed only for the unexpired term of the member whom he or she succeeds. Each member of the Commission shall serve only until the expiration of his or her individual term of office. Failure to maintain his or her status as a student shall act as a forfeiture of the student member's Commission position. Any member of the Commission may be removed by the Mayor and City Council for misconduct or malfeasance in office after being given a written statement outlining such behavior and an opportunity to be heard thereon.

C. Termination of Commissioners for Absence. The appointment of any member of the Commission who has been absent from three consecutive regular or special meetings of the Commission without approval of said Commission shall automatically terminate. The City Clerk shall notify any member whose appointment has automatically ended and report to the appointing authority that a vacancy exists on said Commission and that an appointment should be made for the unexpired term. The Commission shall have the power and authority to excuse any member from attendance at any regular business meeting or study session for good cause. The Commission shall also have the power and authority to create and execute a more rigid standard of attendance should a majority of Commission members deem such standard necessary for the effective functioning of the Commission.

D. Commission Officers. The Commission shall elect one of its members as Chairperson and one of its members as Vice-Chairperson, each of whom shall hold office for a period of two years or until his or her successor is duly elected, unless his or her term as a member of the Commission expires sooner.

E. Commission Meetings and Procedures. The Commission shall establish a regular time and place of meeting and shall hold at least one regular meeting each month. Special study sessions may be called by the Chairperson or by a simple majority of the Commission members. Personal notice of all special study sessions shall be given to all Commission members by mail or by telephone at least 24 hours prior to the start of such study session.

1. Quorum of the Commission. A simple majority of those Commission members duly appointed and acting in office at any given time shall constitute a quorum of the Commission at that time. An affirmative vote of at least a majority of those Commissioners present at any given meeting is required to take any official action at such meeting; provided, that a majority vote of the entire Commission shall be required for a finding or decision of the Commission.

2. Commission Public Meetings. All regular, special, and business meetings of the Commission shall be held in strict accordance with and pursuant to any and all applicable state laws as the same now exist, or as hereafter amended, with respect to open and public meetings.

(Ord. 28439 Ex. A; passed Jul. 18, 2017: Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 27092 § 1; passed Jun. 10, 2003: Ord. 26948 § 2; passed Apr. 23, 2002: Ord. 25617 § 1; passed Nov. 1, 1994: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.030 Commission Responsibilities of the Office of Equity and Human Rights.

A. In accordance with all appropriate local, state, and federal laws, and within the legal geographic boundaries of the City of Tacoma, the Office of Equity and Human Rights staff shall:

1. Receive and conduct impartial investigations of complaints that have been filed by individuals who believe they have been discriminated against due to their race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, disability, or source of income; and seek the satisfactory adjustment of such complaints; provided, that no such action shall be taken with respect to any complaint within the exclusive jurisdiction of any state or federal agency.

2. Conduct fact-finding conferences through the City Attorney, subpoenaing witnesses and such books, papers, records, files, etc., as are deemed necessary during an investigation, and requiring and compelling the attendance and testimony of such witnesses and the production of such books, papers, records, files, etc., for examination and reproduction; making findings of fact; publishing such findings as appropriate; and doing all things necessary and proper for the enforcement of this chapter.

3. Notify all appropriate parties to the charge of the decisions rendered as a result of the staff's investigation.

4. Make recommended findings to the Commission based upon its finding of fact as discovered through investigation. If it is discovered that an unlawful violation has occurred and efforts to conciliate the matter fail, it may be necessary to forward the case to the City's Hearing Examiner for a public hearing.

5. Prepare and disseminate educational and informational material relating to prejudice and discrimination and ways and means of eliminating such prejudice and discrimination.

6. Cooperate with and provide information, guidance, and technical assistance to other public agencies and to private persons, organizations, and institutions engaged in activities and programs intended to eliminate prejudice and discrimination.

7. Consult with, and maintain contact with, other public agencies, civil rights organizations, representatives of employers, labor unions, property owners, associations, realtor associations, religious denominations and institutions, professional associations, national origin groups, community organizations concerned with interracial, interreligious and intercultural understanding, social welfare organizations, and any other such organizations and institutions as directed by the City Council or as the Commission shall deem advisable to further the objectives of this chapter.

B. The Director shall send all notices to Commission members; keep and maintain all minutes, documents, and other papers of the Commission; comply with all assignments the Commission may make in the conduct of its business; and perform such other specific tasks and assignments concerning human rights as may be requested by the City Manager. Unless specifically provided otherwise, all duties and powers assigned to the Director may be delegated by the Director.

C. Subpoena power. Subpoenas issued under this section shall be prepared and signed under the direction of the City Attorney’s Office. No person shall be excused from attending fact-finding conferences and testifying or from producing records, correspondence, documents, or other evidence in obedience to the subpoena on the ground that the testimony or evidence required may tend to incriminate or to subject such person to a penalty or forfeiture. However, no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which testimony is compelled after such person has claimed a privilege against self-incrimination, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons compelled to testify.

In case of contumacy or refusal to obey a subpoena issued to any person, the Office of Equity and Human Rights may, through the City Attorney’s Office, petition the Superior Court to issue to such person a subpoena requiring such person to appear before the Commission, its member, agent, or staff, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question. Failure to obey a subpoena of the Superior Court may be punished by the Court as a contempt thereof.

(Ord. 28558 Ex. A; passed Nov. 20, 2018: Ord. 28439 Ex. A; passed Jul. 18, 2017: Ord. 28108 Ex. D; passed Dec. 4, 2012: Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 27092 § 2; passed Jun. 10, 2003: Ord. 26948 § 3; passed Apr. 23, 2002: Ord. 26386 § 7; passed Mar. 23, 1999: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.040 Definitions.

As used in this chapter:

"Age" refers to the number of years since one's birth and only individuals over the age of 40 are considered as a protected class.

"Bona fide occupational qualification (BFOQ)" refers to an exception when discrimination is legal where it is reasonably necessary to the normal operation of the employer's business (e.g., a Methodist church would not be discriminating if it refused to hire a Lutheran minister).

"Business necessity" refers to a policy or practice of screening potential employees on a criterion necessary for the safe and efficient operation of the business. Such a policy or practice is legal if it can be demonstrated to be job-related, to be effective in predicting employee performance, and if there is no acceptable alternative which would have less adverse impact on the class protected by law.

"Charging party" shall include any individual alleging on his or her own behalf to have been personally aggrieved by an unlawful discriminatory practice. Additionally, the Commission may initiate a charge alleging that an unlawful discriminatory act has been committed against a class of persons.

"Commission" means the Human Rights Commission of the City of Tacoma, Washington, herein created.

"Conciliation" means a written settlement generally providing full relief for the charging party after a determination of reasonable cause has been accepted. Such agreement requires the signatures of the respondent and a Commission representative. The charging party shall be signatory to such an agreement.

"Director" means the Director of the Office of Equity and Human Rights.

"Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(a) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(b) For purposes of the definition of "disability", "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(c) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect. A limitation is not substantial if it has only a trivial effect.

"Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Educational institution" includes any private school or training center, except those affiliated with a nonprofit religious institution, which may give preference to members of that religious group in selecting its students.

"Employee" shall mean any person acting in the employ of an employer as herein defined, but such term shall not include any individual employed by his or her parent, spouse, or child.

"Employer" shall have the same meaning as set forth in the current Revised Code of Washington Section 49.60.040(3) and as hereafter amended.

"Employment agency" includes any person undertaking, with or without compensation, to recruit, procure, refer, or place employees for an employer.

"Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with:

1. A parent or another person having legal custody of such individual or individuals; or

2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

"Financial institution" includes any person or organization which participates in any open-end or closed-end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to: banks, savings and loan associations, or other financial lending institutions of whatever nature; stockbrokers; merchant or mercantile establishments; or owners of real property who, as part of their ordinary business, permit or provide that payment for purchases of property or service therefrom may be deferred.

"Gender identity" shall mean the status or perception of being transsexual, intersexed, transvestite, or transgendered. As used in this definition, the term "intersexed" refers to individuals who are born with some combination of both male and female genitalia.

"Honorably discharged veteran or military status" means a person who is:

A veteran, as defined in RCW 41.04.007 or

An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

"Labor organization" includes any organization which exists, in whole or in part, for the purpose of dealing with employers concerning grievances or the terms and conditions of employment, or for other mutual interests or protection in connection with any employment.

"Marital status" means the state of being unmarried, married, divorced, separated, or widowed.

"National origin" refers to one's real or perceived ancestry, heritage, background, or customs that indicate an individual or the individual's forbears came from a particular country.

"Negotiated settlement" means a signed agreement between the charging party and the respondent in a particular case prior to a finding on the merits of the charge. The Commission may also be signatory to such an agreement.

"No reasonable cause" means that a determination has been made that there was insufficient evidence produced by the staff's investigation to support a reasonable conclusion that unlawful discrimination has occurred or is occurring. Such determination completes the administrative process unless the charging party petitions the commission for reconsideration in writing and provides new evidence not previously considered in the course of the investigation.

"Owner" means any person, including managing agents, having the right of ownership or possession, or the right to sell, rent, lease, or sublease any real property.

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

"People with disabilities" means the presence of any physical, sensory, or mental impairment which substantially limits one or more major life activities (e.g., self-care, ambulation, communication, transportation, education, socialization, and employment) but does not prevent the proper performance of the particular worker's job duties.

"Public accommodation" includes any establishment which caters or offers its services, facilities, or goods to the general public.

"Real estate transaction" includes the sale, exchange, purchase, rental, lease, or sublease of real property.

"Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, or any interest in such real property as defined herein; provided, however, that nothing herein contained shall be construed to include or apply to any columbarium, mausoleum, or cemetery operated or maintained by a nonprofit religious or sectarian institution.

"Reasonable cause" means that a determination has been made that the evidence produced by the staff's investigation is sufficient to support a reasonable conclusion that unlawful discrimination has occurred or is occurring. Such determination allows for the continuance of the administrative process including, but not limited to, attempts at conciliation.

"Respondent" includes any person or entity against whom a complaint or charge of unlawful practice is filed with the Commission.

"Sexual orientation" shall mean actual or perceived homosexuality, bisexuality, or heterosexuality.

"Source of income" shall mean benefits or subsidy programs, including housing assistance, public assistance, emergency rental assistance, veterans benefits, social security, supplemental security income or other retirement programs, and other programs administered by any federal, state, local, or nonprofit entity. "Source of income" does not include income derived in an illegal manner.

"Student," for purposes of appointment to the Tacoma Human Rights Commission, shall mean an individual who is at least 15 years of age and under 24 years of age at the time of his or her appointment and who is an enrolled student at the high school or college level.

"Staff" shall mean the staff of the Office of Equity and Human Rights.

(Ord. 28558 Ex. A; passed Nov. 20, 2018: Ord. 28439 Ex. A; passed Jul. 18, 2017: Ord. 28108 Ex. D; passed Dec. 4, 2012: Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 27092 § 3; passed Jun. 10, 2003: Ord. 26948 § 4; passed Apr. 23, 2002: Ord. 26386 § 8; passed Mar. 23, 1999: Ord. 25617 § 2; passed Nov. 1, 1994: Ord. 25474 § 1; passed Apr. 12, 1994: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.050 Unlawful discriminatory employment practices.

The exclusion of a person from, or failure or refusal to extend to a person, equal opportunities because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability is hereby declared to be an unlawful discriminatory practice. Unlawful discriminatory practices shall include, but are not limited to, the following:

A. Employers. It is an unlawful discriminatory practice for any employer to:

1. Fail or refuse to hire or to discharge an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability, unless based upon a bona fide occupational qualification; provided, however, that the prohibition against discrimination because of a sensory, mental, or physical disability shall not apply if such disability prevents the safe and competent job performance of the particular worker involved; provided further, that it shall not be an unlawful practice for a nonprofit religious organization or institution to limit the hiring of employees who will perform religious duties to those persons who are members or followers of such religious organization, denomination, institution, or faith; provided further, that the prohibition against discrimination shall not prevent employers from establishing and enforcing job-related dress code policies.

2. Limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities, or otherwise adversely affect that individual's status as an employee because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability; provided, however that it shall not be an unlawful practice for an employer to segregate washrooms or locker facilities on the basis of sex, unless there is only one such facility on the premises.

3. Confine or limit recruitment or hiring of employees, with intent to circumvent the spirit and purpose of this chapter, to any employment agency, employment service, labor organization, training school, training center, or any other employee-referring source which serves persons who are predominantly of the same race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or free of any disability.

4. Require of any applicant for employment any information concerning race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability unless based upon a bona fide occupational qualification; provided, however, that this section shall not be construed

in any way to preclude or limit the applicability of any federal affirmative action programs to the extent to which such information may be required by these programs. Nothing in this section shall be interpreted to mean that employers shall be required to grant preferential treatment to any person on the basis of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability.

(Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 27092 § 4; passed Jun. 10, 2003: Ord. 26948 § 5; passed Apr. 23, 2002: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.060 Additional unlawful discriminatory practices.

The exclusion of a person from, or failure or refusal to extend to a person, equal opportunities because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability is hereby declared to be an unlawful discriminatory practice. Unlawful discriminatory practices shall include, but are not limited to, the following:

A. Financial Institutions. It is an unlawful discriminatory practice for a financial institution or any person employed by or acting on behalf of a financial institution:

1. To discriminate against any person because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability in granting, withholding, extending, modifying, or renewing the rates, terms, conditions, privileges, or other provisions of financial assistance or in the extension of credit or services in connection therewith.

2. To use a form of application for financial assistance or credit or make or keep a record of inquiry in connection with applications for financial assistance or credit which indicates directly or indirectly a limitation, specification, or discrimination as to race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability or an intent to make such a limitation, specification, or discrimination.

For purposes of this subsection A, rates and terms of financial assistance or credit may vary from the norm for persons possessing a sensory, mental, or physical disability, if the variance is based upon bona fide differentials derived from legitimate actuarial data.

B. Credit Transactions. It is an unfair practice for any person, whether acting for himself or another, in connection with any credit transaction, because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability to:

1. Deny credit to any person.

2. Increase the charges or fees for or collateral required to secure any credit extended to any person.

3. Restrict the amount or use of credit extended or to impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto.

Nothing in this subsection B shall prohibit any party to a credit transaction from considering the credit history of any individual applicant or the application of the community property law to the individual case, or from taking reasonable action thereon.

C. Labor Organizations. It is an unlawful discriminatory practice for a labor organization to:

1. Exclude or expel from its membership or otherwise to discriminate against any member or applicant for membership because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability.

2. Limit, segregate, or classify its membership or to classify or fail or refuse to refer for employment any person in any way which would deprive or tend to deprive that person of employment opportunities or otherwise adversely affect that person's status as an employee or as an applicant for employment because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability.

3. Cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. Discriminate against any person or to limit, segregate, or qualify its membership in any way which would adversely affect that person's hours, tenure, compensation, promotion, discharge, or any other terms, conditions, or privileges directly or indirectly related to employment because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability.

5. Deny to, or withhold from, any person the right to be admitted to or to participate in a guidance program, apprenticeship program, on-the-job training program, or any other occupational training program because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability; provided, however, that the prohibition against discrimination because of a sensory, mental, or physical disability shall not apply if such disability prevents competent and safe participation in such training programs.

D. Employment Agencies. It is an unlawful discriminatory practice for an employment agency to refuse to refer for employment or otherwise discriminate against any person because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability.

E. Advertising. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training programs to print or publish or cause to be published any notice or advertisement relating to employment, training, or apprenticeship opportunities which indicates any preference, limitation, or discrimination based on race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability; unless based upon a bona fide occupational qualification; provided, however that nothing herein contained shall be construed to prohibit advertising in a foreign language.

F. Educational Institutions. It is an unlawful discriminatory practice for any educational institution to deny admittance to any prospective student or enrollee, or to deny any service offered by such institution to any person otherwise qualified for such service on the grounds of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability; provided, however, that any private school or training center affiliated with a nonprofit religious or sectarian organization, in the selecting of students, may give preference to members of the religious faith or denomination associated with said institution.

G. Insurance Transactions. It is an unlawful practice for any person, whether acting for themselves or another, in connection with any insurance transaction, to fail or refuse to issue or renew insurance to any person because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability; provided, however that for the purposes of this subsection G, it shall not be an unlawful discriminatory practice to differentiate in the availability, terms, and rates based upon the above-listed characteristics if such differentiation is derived from legitimate actuarial data.

H. Public Accommodations. It is an unlawful discriminatory practice for a person to deny to any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, on the grounds of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, or disability; provided, however, that nothing herein contained shall be construed to include or apply to a club or place of accommodation which, by its nature, is distinctly private, including fraternal organizations, although where public use or service is involved, the provisions of this chapter shall apply; nor shall anything herein contained apply to any nonprofit religious or sectarian organization, although where public use or service is involved, the provisions of this chapter shall apply.

I. Retaliation. It is an unlawful practice for any employer, employment agency, labor union, property owner, or financial institution to discharge, expel, penalize, or otherwise discriminate against any person because that person has opposed any practice forbidden by this chapter, whether or not such practice in fact exists, or because that person has filed a charge, testified, or assisted in any proceeding under this chapter.

J. Discrimination by Association. It is an unlawful practice to discriminate against any person due to his or her relationship or association with another person protected by this chapter.

K. Americans with Disabilities Act. It is an unlawful practice to discriminate in employment, public accommodation or housing against qualified individuals with disabilities.

(Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 27092 § 5; passed Jun. 10, 2003: Ord. 26948 § 6; passed Apr. 23, 2002: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.070 Liberal construction.

The provisions of this chapter shall be liberally construed in order to effectuate their purpose.

(Ord. 25352 § 1; passed Aug. 31, 1993)

### 1.29.080 Severability.

If, for any reason, any section, subsection, sentence, clause, or phrase of this chapter is held to be unconstitutional or void, such decision shall not affect the validity of any of the remaining portions of this chapter.

(Ord. 25352 § 1; passed Aug. 31, 1993)

### 1.29.090 Savings clause.

The provisions of this chapter, insofar as they are the same as those of the chapter repealed hereby, are intended as a continuation of such chapter and not as new enactments. The enactment of this chapter shall not affect any act done, or proceeding pending, under the authority of the repealed chapter. All rules and regulations adopted pursuant to any chapter repealed by this chapter shall continue with the same force and effect as if such chapter had not been repealed.

(Ord. 25352 § 1; passed Aug. 31, 1993)

### 1.29.100 Unlawful discriminatory housing practices.

The exclusion of a person from, or failure or refusal to extend to a person, equal opportunities because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, honorably discharged veteran or military status, disability, or source of income is hereby declared to be an unlawful discriminatory housing practice. Unlawful housing discriminatory practices shall include, but are not limited to, the following:

(1) Refusal to sell or rent a dwelling after a bona fide offer has been made, or to negotiate for the sale or rental of a dwelling, because of race, color, religion, sex, gender identity, sexual orientation, familial status, honorably discharged veteran or military status, marital status, age, national origin, or source of income, or discrimination in the sale or rental of a dwelling because of disability;

(2) Discrimination in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with sales or rentals, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status marital status, honorably discharged veteran or military status, age, national origin, or source of income;

(3) Engaging in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income;

(4) Making, printing or publishing, or causing to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, source of income, or an intention to make any such preference, limitation or discrimination;

(5) Representing to any person, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, that a dwelling is not available for sale or rental when such dwelling is in fact available;

(6) Engaging in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income; and/or

(7) Denying access to or membership or participation in, or discriminating against any person in his or her access to or membership or participation in, any multiple-listing service, real estate brokers' association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions of membership or participation, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

Application of Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended, with respect to persons with disabilities is discussed in Section 1.29.060K.

A. Exemptions. Nothing in this chapter shall:

1. Apply to the renting, subrenting, leasing, or subleasing of a single-family dwelling, wherein the owner or person entitled to possession thereof maintains a permanent residence, home, or abode; or

2. Prohibit a nonprofit religious or sectarian organization, or any nonprofit organization operated, supervised or controlled by or in conjunction with a nonprofit religious or sectarian organization, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to

such persons, unless membership in such religion is restricted on account of race, color, national origin, or source of income; or

3. Prohibit any person from limiting the rental or occupancy of housing accommodations in any YMCA, YWCA, fraternity, sorority, school dormitory, emergency or transitional shelter, group home, or similar residential hall to persons of one sex where privacy is a concern; or

4. Be construed to protect criminal conduct.

B. Unlawful to Sell or Rent or to Negotiate for the Sale or Rental.

1. It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a bona fide offer, because of race, color, religion, sex, gender identity, sexual orientation, familial status, marital status, age, national origin, or source of income, or to refuse to negotiate with a person for the sale or rental of a dwelling because of race, color, religion, sex, gender identity, sexual orientation, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, or to discriminate against any person in the sale or rental of a dwelling because of disability.

2. Prohibited actions under this section include, but are not limited to:

a. Failing to accept or consider a bona fide offer because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

b. Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with, any person because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

3. Because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, imposing upon any person different sales prices or rental charges for the sale or rental of a dwelling.

4. Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards or procedures, application requirements, application fees, credit analysis, sale or rental approval procedures, or other requirements, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

5. Evicting tenants because of their race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, age, national origin, or source of income, or because of the race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income of a tenant's guest.

C. Discrimination in Terms, Conditions and Privileges, and in Services and Facilities.

1. It shall be unlawful, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income to impose different terms, conditions or privileges relating to the sale or rental of a dwelling or to deny or limit services or facilities in connection with the sale or rental of a dwelling.

2. Prohibited actions under this section include, but are not limited to:

a. Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

b. Failing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

c. Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

d. Limiting privileges or the use of services or facilities associated with a dwelling because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income of an owner, tenant or a person associated with him or her.

e. Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

D. Other Prohibited Sale and Rental Conduct.

1. It shall be unlawful, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, to restrict or attempt to restrict, by word or conduct, the choices of a person in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.

2. It shall be unlawful, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, to engage in any conduct relating to the provision of housing, or of services and facilities in connection therewith, that otherwise makes unavailable or denies dwellings to persons.

3. Prohibited actions under paragraph 1 of this subsection, which are generally referred to as unlawful steering practices, include, but are not limited to:

a. Discouraging any person from inspecting, purchasing or renting a dwelling because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, or because of the race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, age, national origin, or source of income of persons in a community, neighborhood or development.

b. By exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or a community, neighborhood, or development, discouraging the purchase or rental of a dwelling because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, age, national origin, or source of income.

c. Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

d. Assigning any person to a particular section of a community, neighborhood or development, or to a particular floor of a building, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

4. Prohibited activities relating to dwellings under paragraph 2 of this subsection include, but are not limited to:

a. Discharging or taking other adverse action against an employee, broker or agent because he or she refused to participate in a discriminatory housing practice.

b. Employing codes or other devices to segregate or reject applicants, purchasers or renters; refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, age, national origin, or source of income; or refusing to deal with certain brokers or agents because they, or one or more of their clients, are of a particular race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

c. Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

d. Refusing to provide municipal services or property or hazard insurance for dwellings, or providing such services or insurance differently because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

E. Discriminatory Advertisements, Statements and Notices.

1. It shall be unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation or discrimination because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, or an intention to make any such preference limitation or discrimination.

2. The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards or any documents used with respect to the sale or rental of a dwelling.

3. Discriminatory notices, statements and advertisements include, but are not limited to:

a. Using words, phrases, photographs, illustrations, symbols, or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, age, national origin, or source of income of such persons.

b. Expressing to agents, brokers, employees, prospective sellers or renters, or any other persons, a preference for or limitation on any purchaser or renter because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income of such persons.

c. Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

d. Refusing to publish advertising for the sale or rental of dwellings, or requiring different charges or terms for such advertising, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

F. Discriminatory Representations on the Availability of Dwellings.

1. It shall be unlawful, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, to provide inaccurate or untrue information about the availability of dwellings for sale or rent.

2. Prohibited actions under this section include, but are not limited to:

a. Indicating through words or conduct that a dwelling which is available for inspection, sale, or rent has been sold or rented, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

b. Representing that covenants or other deed, trust or lease provisions which purport to restrict the sale or rental of dwellings because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income preclude the sale or rental of a dwelling to a person.

c. Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

d. Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

e. Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

G. Blockbusting.

1. It shall be unlawful, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, gender identity, sexual orientation, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, or with a disability.

2. In establishing a discriminatory housing practice under this section it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity.

3. Prohibited actions under this section include, but are not limited to:

a. Engaging, for profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing, or is about to undergo, a change in the race, color, religion, sex, gender identity, sexual

orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.

b. Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, gender identity, sexual orientation, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income, or with disabilities, can or will result in undesirable consequences for the project, neighborhood or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

H. Discrimination in the Provision of Brokerage Services.

1. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership or participation, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

2. Prohibited actions under this section include, but are not limited to:

a. Setting different fees for access to or membership in a multiple-listing service because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

b. Denying or limiting benefits accruing to members in a real estate brokers' organization because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

c. Imposing different standards or criteria for membership in a real estate sales or rental organization because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

d. Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

(Ord. 28558 Ex. A; passed Nov. 20, 2018: Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 27092 § 6; passed Jun. 10, 2003: Ord. 26948 § 7; passed Apr. 23, 2002: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.110 Discrimination in residential real estate-related transactions.

A. Discriminatory Practices in Residential Real Estate-Related Transactions. It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

B. Residential Real Estate-Related Transactions. The term “residential real estate-related transactions” means:

1. The making or purchasing of loans or providing other financial assistance:

a. For purchasing, constructing, improving, repairing or maintaining a dwelling; or

b. Secured by residential real estate; or

2. The selling, brokering or appraising of residential real property.

C. Discrimination in the Making of Loans and in the Provision of Other Financial Assistance.

1. It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

2. Prohibited practices under this section include, but are not limited to, failing or refusing to provide to any person, in connection with a residential real estate-related transaction, information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of race, color, religion, sex, gender

identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

D. Discrimination in the Purchasing of Loans.

1. It shall be unlawful for any person or entity engaged in the purchasing of loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate, to refuse to purchase such loans, debts, or securities or to impose different terms or conditions for such purchases, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

2. Unlawful conduct under this section includes, but is not limited to:

a. Purchasing loans or other debts or securities which relate to, or which are secured by dwellings in certain communities or neighborhoods but not in others because of the race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

b. Because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin, pooling or packaging differently loans or other debts or securities which relate to, or which are secured by, dwellings.

c. Imposing or using different terms or conditions for the marketing or sale of securities issued on the basis of loans or other debts or securities which relate to, or which are secured by, dwellings because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

3. This section does not prevent consideration, in the purchasing of loans, of factors justified by business necessity, including requirements of Federal law, relating to a transaction's financial security or to protection against default or reduction of the value of the security. Thus, this provision would not preclude considerations employed in normal and prudent transactions; provided, that no such factor may in any way relate to race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

E. Discrimination in the Terms and Conditions for Making Available Loans or Other Financial Assistance.

1. It shall be unlawful for any person or entity engaged in the making of loans or in the provision of other financial assistance relating to the purchase, construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

2. Unlawful conduct under this section includes, but is not limited to:

a. Using different policies, practices or procedures in evaluating or in determining creditworthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or for any loan or other financial assistance which is secured by residential real estate because of race, residential real estate because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

b. Determining the type of loan or other financial assistance to be provided with respect to a dwelling, or fixing the amount, interest rate, duration or other terms for a loan or other financial assistance for a dwelling or which is secured by residential real estate, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

F. Unlawful Practices in the Selling, Brokering, or Appraising of Residential Real Property.

1. It shall be unlawful for any person or other entity whose business includes engaging in the selling, brokering or appraising of residential real property to discriminate against any person in making available such services, or in the performance of such services, because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

2. For the purposes of this section, the term "appraisal" means an estimate or opinion of the value of a specified residential real property made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally.

The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value.

3. Nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

4. Practices which are unlawful under this section include, but are not limited to, using an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, or national origin.

(Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 26948 § 8; passed Apr. 23, 2002: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.120 Prohibition against discrimination because of disability.

A. Definitions. As used in this section:

1. "Accessible," when used with respect to the public and common use areas of a building containing multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities. The phrase "readily accessible to and usable by" is synonymous with "accessible." A public or common use area that complies with the appropriate requirements of the Americans with Disabilities Act Accessibility Guidelines ("ADAAG") or a comparable standard is "accessible" within the meaning of this paragraph.

2. "Accessible route" means a continuous, unobstructed path which:

a. Connects accessible elements and spaces in a building within a site;

b. Can be negotiated by a person with a severe disability using a wheelchair; and

c. Is safe for and usable by people with other disabilities.

Interior accessible routes may include corridors, floors, ramps, elevators, and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. A route that complies with the appropriate requirements of the ADAAG or a comparable standard is an "accessible route."

3. "Building" means a structure or facility, or portion thereof, that contains or serves one or more dwelling units.

4. "Building entrance on an accessible route" means an accessible entrance to a building that is connected by an accessible route to public transportation stops to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with the ADAAG or a comparable standard complies with the requirements of this paragraph.

5. "Common use areas" means rooms, spaces, or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.

6. "Controlled substance" means any drug or other substance, or immediate precursor included in the definition in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

7. "Multifamily dwellings" means buildings consisting of four or more dwelling units if such buildings have one or more elevators and ground floor dwelling units in other buildings consisting of four or more dwelling units.

8. "Dwelling unit" means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single-family home; an apartment unit within an apartment building; and, in other types of dwellings wherein sleeping accommodations are provided but toilet or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

9. "Entrance" means any access point to a building used by residents for the purpose of entering.

10. "Exterior" means all areas of the premises outside of an individual dwelling unit.

11. "First occupancy" means a building that has never before been used for any purpose.

12. "Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.

13. "Disability" means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current illegal use of or addiction to a controlled substance. As used in this definition:

a. "Physical or mental impairment" includes:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organ; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism.

b. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

c. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

d. "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment.

e. "Interior" means the spaces, parts, components, or elements of an individual dwelling unit.

f. "Modification" means any change to the public or common use areas of a building or any change to a dwelling unit.

g. "Premises" means the interior or exterior spaces, parts, components, or elements of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

h. "Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way.

B. General Prohibitions Against Discrimination Because of Disability.

1. It shall be unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

a. That buyer or renter;

b. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c. Any person associated with that person.

2. It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

a. That buyer or renter;

b. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c. Any person associated with that person.

3. It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is sold, rented or made available, or any person associated with that person, has a disability, or to make inquiry as to the nature or severity of a disability of such a person. However, this paragraph does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have disabilities:

a. Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

b. Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of handicap;

c. Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;

d. Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance.

4. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

C. Reasonable Modifications of Existing Premises.

1. It shall be unlawful for any person to refuse to permit, at the expense of a disabled person, reasonable modifications of existing premises, occupied or to be occupied by a disabled person, if the proposed modifications may be necessary to afford the disabled person full enjoyment of the premises of a dwelling. In the case of a rental where it is reasonable to modify the premises, the landlord may qualify permission for such a modification on the basis of the renter's agreeing to restore the premises to the condition that existed prior to the modifications, reasonable wear and tear excepted. The landlord may not increase for a disabled person any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

2. A landlord may condition permission for a modification on the basis of the renter's providing a reasonable description of the proposed modifications as well as reasonable assurance that the work will be done in a professional manner and any required building permits will be obtained.

D. Reasonable Accommodations. It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

E. Design and Construction Requirements.

1. Multifamily dwellings for first occupancy after March 13, 1991, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. For purposes of this section, a multifamily dwelling shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991, if the dwelling was occupied on that date. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the dwellings.

2. All multifamily dwellings for first occupancy after March 13, 1991, with a building entrance on an accessible route shall be designed and constructed in such a manner that:

a. The public and common use areas are readily accessible to and usable by disabled persons;

b. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and

c. All premises within multifamily dwelling units contain the following features of adaptable design:

(i) An accessible route into and through the dwelling unit,

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations,

(iii) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided, and

(iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(Ord. 27092 § 7; passed Jun. 10, 2003: Ord. 26948 § 9; passed Apr. 23, 2002: Ord. 25580 § 1; passed Sept. 20, 1994: Ord. 25474 § 2; passed Apr. 12, 1994: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.130 Housing for older persons.

A. Exemptions.

1. The provisions in this section regarding familial status do not apply to housing which satisfies the requirements of Sections 1.29.130B, 1.29.130C, or 1.29.130D.

2. Nothing in this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of persons permitted to occupy a dwelling.

B. State and Federal Elderly Housing Programs.

1. The provisions in this section regarding familial status shall not apply to housing provided under any federal or state program that the Secretary of the U.S. Department of Housing and Urban Development (HUD) has exempted.

C. Housing for Persons Who Are 62 Years of Age or Older.

1. The provisions in this section regarding familial status shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older. Housing satisfies the requirements of this section even though:

a. There are persons residing in such housing on September 13, 1988, who are under 62 years of age; provided, that all new occupants are persons 62 years of age or older;

b. There are unoccupied units; provided, that such units are reserved for occupancy by persons 62 years of age or older;

c. There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

D. Housing for Persons 55 Years of Age or Older.

1. The provisions in this section regarding familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit; provided, that the housing satisfies the requirements of Section 1.29.130D.2.a and 2.b.

2. a. At least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older per unit, except that a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this paragraph 2.a until 25 percent of the units in the facility are occupied; and

b. The owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this paragraph 2.b:

(i) The manner in which the housing facility is described to prospective residents.

(ii) The nature of any advertising designed to attract prospective resident.

(iii) Age verification procedures.

(iv) Lease provisions.

(v) Written rules and regulations.

(vi) Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

3. Housing satisfies the requirements of this section even though:

a. On September 13, 1988, under 80 percent of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit; provided, that at least 80 percent of the units that are occupied by new occupants after September 13, 1988, are occupied by at least one person 55 years of age or older.

b. There are unoccupied units; provided, that at least 80 percent of such units are reserved for occupancy by at least one person 55 years of age or over.

c. There are units occupied by employees of the housing facility (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

(Ord. 27092 § 8; passed Jun. 10, 2003: Ord. 25474 § 3; passed Apr. 12, 1994: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.140 Interference, coercion or intimidation.

A. Prohibited Interference, Coercion or Intimidation.

1. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section.

2. Conduct made unlawful under this section includes, but is not limited to, the following:

a. Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits; provided, that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of

race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income.

b. Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income of such persons, or of visitors or associates of such persons.

c. Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, because of the race, color, religion, sex, gender identity, sexual orientation, disability, familial status, marital status, honorably discharged veteran or military status, age, national origin, or source of income of that person or any person associated with that person.

d. Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this section.

e. Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended.

(Ord. 28558 Ex. A; passed Nov. 20, 2018: Ord. 27720 Ex. A; passed Jun. 17, 2008: Ord. 26948 § 10; passed Apr. 23, 2002: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.150 Adjustment and settlement of complaints.

Any complaint filed alleging an unlawful discriminatory housing practice shall be so filed within one year after the alleged act of discrimination. All other complaints filed alleging discriminatory acts prohibited by Chapter 1.29 shall be filed within six months after the alleged act.

Upon the filing with the Commission of a verified written complaint alleging that an unlawful discriminatory act has occurred or is occurring, the Commission's staff shall conduct a prompt investigation thereof along with conciliation efforts which shall begin with the filing of a complaint. If, upon the completion of such investigation, it is determined that insufficient evidence exists to support a reasonable cause finding that an unlawful discriminatory act has occurred or is occurring, such determination shall be filed in writing with the Commission and the complaint shall be dismissed. If a determination of reasonable cause is found and conciliation efforts have failed, an administrative hearing proceeding as provided in Chapter 1.29 shall commence.

In any housing discrimination case in which it is determined that an unlawful discriminatory act has been committed, the case will be decided by the City of Tacoma Hearing Examiner if attempts at conciliation should fail. However, in housing discrimination cases, a charging party (including the Commission, if the Commission filed the complaint), a respondent, or an aggrieved person on whose behalf the complaint is filed may elect, in lieu of an administrative proceeding, to have the claims asserted in the charge decided in a civil action pursuant to Section 1.29.160.

In any case in which it is determined that an unlawful discriminatory act has been committed by the City of Tacoma or any department or agency thereof, the Director shall transmit such findings to the City Manager or the Director of Public Utilities, as appropriate, who shall, within 30 days, take such action as is deemed necessary in order to comply with the purposes of this chapter. The Office of Equity and Human Rights shall advise the charging party of his or her legal rights to include his or her recourse if the City/Department of Public Utilities does not conciliate the matter.

A. Conciliation Failure. If the complained of unlawful practice cannot be eliminated through conciliation, the staff's finding of reasonable cause shall be reported to the Commission, accompanied by a determination by the Director to take the unresolved case to a public hearing before the City Hearing Examiner.

NOTE: Based on the discovery of new and relevant evidence, the Director may, at any time following conciliation failure, reopen the case to investigate new and relevant evidence. Based on results of investigation, the original determination may be revised.

1. The case in support of the Commission's finding of reasonable cause shall be presented at hearing by the City Attorney or the City Attorney's designee; provided, however, that the charging party may retain independent counsel, submit testimony, and be fully heard.

2. The respondent shall have the right to file a written answer to the charge and to appear at the hearing with or without counsel, submit testimony, and be fully heard, and to examine and cross-examine witnesses.

3. The Hearing Examiner shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath, and shall be recorded.

4. If, upon all the evidence presented, the Hearing Examiner finds that the respondent has not engaged in an unlawful discriminatory practice, the Hearing Examiner shall issue an order dismissing the complaint.

5. If, upon all the evidence presented, the Hearing Examiner finds that the respondent has engaged or is engaging in an unlawful discriminatory practice, the Examiner shall issue an order which shall effectuate the purposes of this chapter. Such order shall require the respondent to cease and desist from such unlawful discriminatory practice and to take such action as is necessary to effectuate the purposes of this chapter. Orders to take action may include the hiring, reinstatement, or upgrading of employees, with or without back pay; admission or restoration to membership in any respondent labor organization; the selling, renting, or leasing of a housing accommodation or housing accommodations upon equal terms and conditions and with equal facilities, services, and privileges; and any other order which, in the judgment of the Hearing Examiner, will effectuate the purposes of this chapter and is warranted by the facts presented at the hearing, including a requirement for report of the manner of compliance. Such orders requiring action to be taken by the respondent shall include terms requiring performance of such action within 30 days after receipt of notice by the respondent of the entry of such order. When a determination has been made by the Hearing Examiner under this section that an unlawful practice involving real property has been committed, the Hearing Examiner may, in addition to other relief authorized hereunder, issue the following types of orders:

a. To pay damages to the aggrieved person (including damages caused by humiliation and embarrassment).

b. Injunctive or such other equitable relief as may be appropriate. No such order may affect any contract, sale, encumbrance or lease consummated before the issuance of the initial decision that involved a bona fide purchaser, encumbrancer, or tenant without actual knowledge of the charge.

c. To vindicate the public interest, the Hearing Examiner may assess a civil penalty against the respondent.

(i) The amount of the civil penalty may not exceed:

(A) $10,000, if the respondent has not been adjudged to have committed any prior discriminatory housing practice in any administrative hearing or civil action permitted under Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended.

(B) $25,000, if the respondent has been adjudged to have committed one other discriminatory housing practice in any administrative hearing or civil action permitted under Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended.

(C) $50,000, if the respondent has been adjudged to have committed two or more discriminatory housing practices in any administrative hearing or civil actions permitted under Chapter 1.29 of the City of Tacoma Law Against Discrimination, as amended.

B. Municipal Offense. A respondent which has not complied with the terms of an order mandating relief as described above within 30 days of receiving notice of the entry of such order shall be deemed guilty of a municipal offense against the City of Tacoma and shall be liable to the City in an amount not to exceed $100 to be levied by the Municipal Court of the City of Tacoma for each day in excess of the 30 days provided for herein on which such respondent has failed to comply with an order rendered by the Hearing Examiner or to seek Superior Court review of such order.

C. Appeal from Orders of Hearing Examiner. Any respondent or charging party aggrieved by a final order of the Hearing Examiner may obtain a review of such order on the record in the Superior Court of Washington for Pierce County by filing with the Clerk of that Court, within 30 days from the date of receipt of such order, a written petition praying that such order be modified or set aside. The Hearing Examiner shall then cause to be filed in the Court a certified transcript of the entire record of the proceedings, including the pleadings, testimony, and order. The Superior Court shall have jurisdiction to grant to any party such relief as it deems just and equitable. Judicial review of an order of the Hearing Examiner shall be on the record and in accordance with the provisions set forth at RCW 49.60.270. Filing of a petition seeking judicial review of an order of the Hearing Examiner shall operate as a stay of such order.

D. Court Enforcement of Orders. The City of Tacoma may petition the Superior Court of Washington for Pierce County for enforcement of any order of the Hearing Examiner which has not been complied with during the 30-day period of performance prescribed in such order. The Commission, through the City Attorney or the City Attorney's designee, shall certify and file in Superior Court the findings of fact and final order sought to be enforced. Within five days after filing such petition in Court, the Commission shall cause a notice of the petition to be personally served upon all parties or their representatives. Such review shall be in accordance with the provisions set forth at RCW 49.60.260. D. Court Enforcement of Orders. The City of Tacoma may petition the Superior Court of Washington for Pierce County for enforcement of any order of the Hearing Examiner which has not been complied with during the 30-day period of performance prescribed in such order. The Commission, through the City Attorney or the City Attorney's designee, shall certify and file in Superior Court the findings of fact and final order sought to be enforced. Within five days after filing such petition in Court, the Commission

shall cause a notice of the petition to be personally served upon all parties or their representatives. Such review shall be in accordance with the provisions set forth at RCW 49.60.260.

(Ord. 28439 Ex. A; passed Jul. 18, 2017: Ord. 28108 Ex. D; passed Dec. 4, 2012: Ord. 27092 § 9; passed Jun. 10, 2003: Ord. 25580 § 2; passed Sept. 20, 1994: Ord. 25474 § 4; passed Apr. 12, 1994: Ord. 25352 § 1; passed Aug. 31, 1993)

## 1.29.160 Election for civil action in lieu of hearing for housing cases.

A. Any charging party on whose behalf the reasonable cause finding was made, a respondent, or an aggrieved person may, with respect to unlawful discriminatory housing practices pursuant to Sections 1.29.100 through 1.29.150 hereof, elect to have the claims on which reasonable cause was found decided in a civil action in Pierce County Superior Court in lieu of an administrative hearing under Section 1.29.150. This election must be made not later than 20 days after the service of the reasonable cause finding. The person making such election shall give notice of doing so to the Commission and to all other charging parties and respondents to whom the charge relates. Any reasonable cause finding issued by the Commission pursuant to the procedures contained in this chapter shall become final 20 days after service of the reasonable cause finding, unless a written notice of election is received by the Commission within the 20-day period.

B. If an election is made under subsection A of this section, the Commission shall authorize not later than 30 days after the election is made, and the City Attorney shall commence, a civil action on behalf of the aggrieved person in the Pierce County Superior Court seeking relief under Chapter 1.29.

C. Any aggrieved person with respect to the issues to be determined in a civil action under this section may intervene as of right in that civil action.

D. In a civil action under this section, if the court finds that an unlawful discriminatory housing practice has occurred or is about to occur, the court may grant any relief that a court could grant with respect to such an unlawful discriminatory housing practice in a civil action under state law and as provided by the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.) If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

E. In any administrative proceeding under this section where the respondent is the prevailing party, a charging party who intervenes by filing a notice of independent appearance may be liable for reasonable attorneys' fees and costs only to the extent that the intervening participation in the administrative proceeding was frivolous or vexatious, or was for the purpose of harassment.

F. In any administrative proceeding brought under Section 1.29.150 or any court proceeding arising therefrom, or any civil action under this section, the administrative law judge or the court in its discretion may allow the prevailing party, other than the Commission, reasonable attorneys' fees and costs.

(Ord. 28439 Ex. A; passed Jul. 18, 2017: Ord. 27092 § 10; passed Jun. 10, 2003: Ord. 25580 § 3; passed Sept. 20, 1994: Ord. 25474 § 5; passed Apr. 12, 1994)

## 1.29.170 Enforcement of fair housing provisions by private persons.

A. With respect to discriminatory housing practices, an aggrieved person may commence a civil action in Pierce County Superior Court not later than one year after the occurrence or the termination of an alleged discriminatory housing practice, whichever occurs last, to obtain appropriate relief. An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under Section 1.29.150 hereof and without regard to the status of any such complaint, but if the Commission or HUD has obtained a prefinding or postfinding settlement or conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such agreement.

B. The computation of such one-year period shall not include any time during which an administrative proceeding under this chapter was pending with respect to a complaint or charge under this chapter based upon such discriminatory housing practice.

C. An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a complaint if a hearing on the complaint has been convened by the City of Tacoma Hearing Examiner.

D. In a civil action under subsection A hereof, if the court finds that a discriminatory practice has occurred or is about to occur, the court may order remedies as allowed by the Federal Fair Housing Amendments Act of 1988, at 42 USC Sec. 3613(c) and, subject to the restrictions of subsection E below, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including any order enjoining the defendant

from engaging in such practice or ordering such affirmative action as may be appropriate). The court may also allow reasonable attorneys' fees and costs to the prevailing party.

E. Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Director or a civil action under this chapter.

F. Upon timely application, the City Attorney, or his or her designee, may intervene in such civil action, if the City Attorney, or his or her designee, certifies that the case is of general public importance.

(Ord. 27092 § 11; passed Jun. 10, 2003: Ord. 25474 § 6; passed Apr. 12, 1994)

## 1.29.180 Labeling of single-occupant public restrooms.

A. Definitions.

"Gender identity" means an individual's gender-related identity, appearance, and/or expression, whether or not traditionally associated with such individual's gender assignment at birth, and may include such individual's attitudes, preferences, beliefs, and/or practices pertaining thereto.

"Place of public accommodation," as defined by Tacoma Municipal Code ("TMC") 1.29.040, means any establishment which caters or offers its services, facilities, or goods to the general public.

"Single-occupant public restroom" means any toileting facility that is designed for use and can be used only by a single individual at a time and/or by a single individual assisted by another individual, located in a facility of the City, a facility of a taxing district located in Tacoma, or a place of public accommodations in the City as defined by TMC 1.29.040.

"Taxing District," as defined by Washington Administrative Code 458-19-005(y), means the state and any county, city, town, port district, school district, road district, metropolitan park district, regional transit authority, water-sewer district, and/or other municipal corporation having the power or legal authority to impose burdens upon property within the district on an ad valorem basis, for the purpose of obtaining revenue for public purposes, as distinguished from municipal corporations authorized to impose burdens, or for which burdens may be imposed for public purposes, on property in proportion to the increase in benefits received.

B. Requirements for single-occupant public restrooms. Single-occupant restrooms shall not be restricted to a specific sex or gender identity and shall use appropriate signage to indicate such restrooms are designated for use by any person, regardless of sex or gender identity. Entities covered by this ordinance shall replace existing restrictive-gender-use signage for single-occupant public restrooms with signage indicating that such restrooms can be used by any person, regardless of sex or gender identity. Examples of appropriate signage would include "washroom," "restroom," "all gender restroom," "gender-neutral restroom," or "unisex," and/or that images or symbols to indicating that the all single-occupant restrooms are designated for use by any person, regardless of sex or gender identity.

C. Enforcement. The requirements of this subsection shall be enforced and violations penalized pursuant to Chapter 1.82 TMC.

(Ord. 28563 Ex. A; passed Dec. 4, 2018)

## 1.29.190 Provision of Universal Closed Captioning.

A. Definitions.

"Closed captioning" means a transcript or dialog of the audio portion of a television program that is displayed on either the bottom or top portion of a television receiver screen when the user activates the feature.

"Closed-captioned television receiver" means a receiver of television programming that has the ability to display closed captioning, including but not limited to, a television, digital set top box, and other technology capable of displaying closed captioning for television programming.

"Covered entity" means any place of public accommodation in Tacoma.

"Public area" means any part of a place of public accommodation that is open to the general public.

"Regular hours" means the hours of any day in which a place of public accommodation is generally open to members of the general public.

B. Requirements for closed captioning in places of public accommodation. Any person owning or managing a place of public accommodation with a receiver of television programming in the City must activate closed captioning. Captions should be displayed using sans serif fonts at the maximum size settings on all televisions. Background and foreground text colors should be displayed using high contrast color schemes. Exceptions include:

1. When the only receiver of television programming available in a public area of the place of public accommodation is technically incapable of displaying closed captioning; or

2. If a covered entity is exempt from closed captioning requirements under state or federal law.

C. Enforcement. The requirements of this subsection shall be enforced and violations penalized pursuant to Chapter 1.82 of the Tacoma Municipal Code.

(Ord. 28649 Ex. A; passed Dec. 17, 2019)

# CHAPTER 1.30
# RETIREMENT AND PENSIONS [33]

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[33] Similar statue – See RCW Chapter 41.28 and RCW Sections 41.04.040 – 41.04.110.

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1.30.890 Agreements for portability of retirement benefits with the State of Washington.

## 1.30.010 Purpose.

The purpose of this chapter is to continue the retirement and pension system for officers and employees, as authorized by Section 6.10 of the City Charter. The administration of the Retirement System is vested in the Board of Administration and delegated to the Retirement System Director as set forth in Section 1.30.400.

(Ord. 25955 § 1; passed Sept. 24, 1996: Ord. 25158 § 1; passed Aug. 25, 1992: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 1; passed Dec. 6, 1950)

### 1.30.020 Definitions – Introductory.

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings.

(Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.030 Retirement System defined.

"Retirement System" means "Tacoma Employees' Retirement System," provided for in Section 1.30.280 of this chapter.

(Ord. 27886 Ex. B; passed May 4, 2010; Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.040 Employee defined.

"Employee" means any personnel, including officers, employed in classified or unclassified City Service of the City of Tacoma, a Member Public Agency and other officers and employees of the City eligible to membership in the Retirement System, pursuant to State law. "Employee" includes full-time, part-time, special project or temporary employees; provided, that no employee shall be a member of the Retirement System except as set forth in this chapter.

(Ord. 25955 § 2; passed Sept. 24, 1996: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.050 Member/Member Public Agency defined.

A. "Member" means any person included in the membership of the Retirement System as provided in Sections 1.30.290 through 1.30.330 of this chapter.

B. "Member Public Agency" means the Tacoma Public Library, Tacoma-Pierce County Health Department, Pierce Transit and the Law Enforcement Support Agency.

(Ord. 25955 § 3; passed Sept. 24, 1996: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.055 Spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family defined.

For the purposes of this chapter, effective May 1, 2012, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to Washington state registered domestic partnerships or individuals in Washington state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to Washington state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law.

(Ord. 28061 Ex. A; passed Apr. 3, 2012)

### 1.30.060 City defined.

"City" means the City of Tacoma and the Member Public Agencies for purposes of this chapter only; provided, that, when the term "City of Tacoma" is used hereafter in this chapter, it applies exclusively to the City of Tacoma.

(Ord. 25955 § 4; passed Sept. 24, 1996: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.070 Board defined.

"Board" means "Board of Administration" as provided in Sections 1.30.470 through 1.30.520 of this chapter.

(Ord. 14925; passed Nov. 9, 1953; Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.080 Retirement Fund defined.

"Retirement Fund" means "Employees' Retirement Fund" as created and established in Section 1.30.460 of this chapter.

(Ord. 27886 Ex. B; passed May 4, 2010; Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.090 City Service defined.

"City Service" means service rendered to the City or for a Member Public Agency for compensation and, for the purpose of this chapter, a member shall be considered as being in the "City Service," only while he or she is receiving compensation from the City for such service. Reimbursement or provision for expenses incurred as a member of a City Board or Commission as a volunteer, or otherwise does not constitute "compensation."

(Ord. 25955 § 5; passed Sept. 24, 1996: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.100 Prior service defined.

"Prior service" means the service of a member for compensation rendered to the City prior to January 1, 1941, and shall also include military or naval service of a member and a member's service as an elective official to the extent specified in Sections 1.30.380 through 1.30.390.

(Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.110 Continuous service defined.

"Continuous service" means uninterrupted employment by the City, including intermittent employment, except that discontinuance of City Service of a member caused by layoff, leave of absence, suspension or dismissal, followed by reentrance into City Service within one year, shall not count as a break in the continuity of service.

(Ord. 25955 § 6; passed Sept. 24, 1996: Ord. 17014 § 1; passed Mar. 20, 1962)

### 1.30.115 Voluntary separation and involuntary separation defined.

Within this chapter, "voluntary separation" means and includes any termination or interruption of a member's employment with the City under Sections 1.24.890 and 1.24.940.

"Involuntary separation" means and includes any termination or interruption of any member's employment with the City other than through resignation under Section 1.24.890 or dismissal under Section 1.24.940.

(Ord. 25955 § 7; passed Sept. 24, 1996: Ord. 16045 § 1; passed Feb. 3, 1958)

### 1.30.120 Beneficiary defined.

“Beneficiary" means any persons in receipt of a pension, annuity, retirement allowance, disability allowance or any other benefit provided in this chapter, including any person in receipt of a retirement allowance or other benefit provided from this chapter resulting from City Service rendered by another person. Beneficiary may also mean such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the Board of Administration; or if there be no such designated person or persons still living at the time of the member’s death, then the surviving spouse; or if there be neither such designated person or persons still living at the time of the death nor a surviving spouse, then the member’s estate. A surviving spouse is the spouse that exists at the time of death. A previously designated spousal beneficiary will be invalidated upon divorce.

(Ord. 28091; passed Oct. 9, 2012: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950.)

### 1.30.130 Compensation defined.

A. “Compensation” means the regular monthly salary provided in the Compensation Plan of the City for such member. It shall not be reduced by salary reduction contributions to (i) the City’s Cafeteria Plan under Section 125 of the Internal Revenue Code, (ii) the City’s Eligible Deferred Compensation Plan under Internal Revenue Code Section 457 (or City contributions in lieu of thereof), (iii) effective December 21, 2004, the Post-Employment Health Savings Plan established by the City pursuant to TMC 1.12.116.C, or (iv) effective January 1, 2001, any qualified transportation fringe benefit plan under Internal Revenue Code Section 132(f)(4), but shall be reduced by contributions under Internal Revenue Code Section 457(f), contributions to such Plan as may be established by the City pursuant to TMC 1.12.116.B, and permissible cash-out payments of accrued Personal Time Off as provided for in TMC 1.12.248.B.5. It includes compensation for emergency appointments when a member has a current civil service appointment in another class other than that for which he or she is being paid. It also includes donated sick leave received and personal time taken, pursuant to Section 1.12.248 of the Tacoma Municipal Code, and earnings on overtime worked through December 31, 1999. It does not include earnings on overtime worked on or after January 1, 2000, Training Pay, Standby Pay, Night Premium, Lunch Premium, Travel Time Pay, Accident Report Pay, Penalty Pay, Student Instruction Pay, or Holiday Pay which result in the member contributing on over 2,080 hours annually, and corresponding categories of pay defined by a Member Public Agency’s compensation plan and/or personnel rules. Effective January 1, 2009, it does not include amounts paid pursuant to TMC 1.12.110.H. Effective January 1, 2009, an individual receiving a differential wage payment during military service, as defined by Internal Revenue Code Section 3401(h)(2), is treated as an Employee of the City for purposes of wage withholding, but the differential wage payment is not included in compensation for purposes of the Retirement System.

B. In addition to other applicable limitations set forth in this chapter, and notwithstanding any other provisions of this chapter to the contrary for fiscal years beginning on or after January 1, 1996, the annual compensation of each member taken into account shall not exceed the Omnibus Budget Reconciliation Act of 1993 (hereafter “OBRA ‘93”) annual compensation limit; provided, that the OBRA ’93 limit shall only apply with respect to the compensation of members who become members on or after January 1, 1996. The OBRA ‘93 annual compensation limit shall be the amount, as adjusted by the Commissioner for

increases in the cost of living, set forth in Section 401(a)(17) of the Internal Revenue Code. For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior plan year shall be limited to $200,000, or such greater amount allowed by law for members who became members before January 1, 1996.

(Ord. 28092; passed Oct. 9, 2012: Ord. 27750 Ex. A; passed Oct. 28, 2008: Ord. 27334 § 1; passed Mar. 22, 2005: Ord. 26873 § 1; passed Nov. 13, 2001: Ord. 26530 § 1; passed Nov. 9, 1999: Ord. 26396 § 1; passed Apr. 13, 1999: Ord. 26223 § 1; passed May 5, 1998: Ord. 25955 § 8; passed Sept. 24, 1996: Ord. 25807 § 1; passed Dec. 12, 1995: Ord. 25160 § 1; passed Aug. 25, 1992: Ord. 24507 § 1; passed Dec. 12, 1989: Ord. 21244 § 1; passed Dec. 27, 1977: Ord. 17014 § 1; passed Mar. 20, 1962)

### 1.30.140 Internal Revenue Code defined.

"Internal Revenue Code" means Title 26 of the United States Code, commonly known as the Internal Revenue Code of 1986, as amended from time to time.

(Ord. 25955 § 9; passed Sept. 24, 1996: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.150 Average final compensation defined.

The “average final compensation” means the average annual compensation, as set forth in the basic salary and wage schedule of the City’s Compensation Plan, for the highest two consecutive years of service prior to retirement, unreduced by salary reduction contributions to (i) the City’s Cafeteria Plan under Internal Revenue Code Section 125, (ii) the City’s Eligible Deferred Compensation Plan under Internal Revenue Code Section 457, (or City contributions in lieu thereof), or (iii) effective December 21, 2004, the Post-Employment Health Savings Plan established by the City pursuant to TMC 1.12.116.C, or (iv) effective January 1, 2001, any qualified transportation fringe benefit plan under Internal Revenue Code Section 132(f)(4), but shall be reduced by contributions under Internal Revenue Code Section 457(f), contributions to such Plan as may be established by the City pursuant to TMC 1.12.116.B, and permissible cash-out payments of accrued Personal Time Off as provided for in TMC 1.12.248B.5, or if the member has less than two years of service, then the annual average compensation during his or her total years of service for which service credit is allowed. It includes donated sick leave received and personal time taken, pursuant to Section 1.12.248 of the Tacoma Municipal Code, and compensation for emergency appointments when the member has a current civil service appointment in another class other than that for which he or she is being paid. It does not include overtime earnings, Training Pay, Standby Pay, Night Premium, Lunch Premium, Travel Time Pay, Accident Report Pay, Penalty Pay, Student Instruction Pay, Holiday Pay, or other pay which would result in the member contributing on over 2,080 hours annually and corresponding categories of pay defined by a Member Public Agency’s compensation plan and/or personnel rules. Average final compensation shall not include compensation received while serving in a position in which the employee is excluded from membership pursuant to Section 1.30.300. Effective January 1, 2009, it does not include amounts paid pursuant to TMC 1.12.110.H. Effective January 1, 2009, an individual receiving a differential wage payment during military service, as defined by Internal Revenue Code Section 3401(h)(2), is treated as an Employee of the City for purposes of wage withholding, but the differential wage payment is not included in average final compensation. In addition to other applicable limitations set forth in this chapter, and notwithstanding any other provision of this chapter to the contrary, for fiscal years beginning on or after January 1, 1996, the annual compensation of each member taken into account shall not exceed the OBRA ‘93 annual compensation limit; provided, that the OBRA ‘93 limit shall only apply with respect to the compensation of members who become members on or after January 1, 1996. The OBRA ‘93 annual compensation limit is defined in Section 1.30.130.

(Ord. 28092; passed Oct. 9, 2012: Ord. 27750 Ex. B; passed Oct. 28, 2008: Ord. 27334 § 2; passed Mar. 22, 2005: Ord. 26873 § 2; passed Nov. 13, 2001: Ord. 26396 § 2; passed Apr. 13, 1999: Ord. 26223 § 2; passed May 5, 1998: Ord. 25955 § 10; passed Sept. 24, 1996: Ord. 25807 § 2; passed Dec. 12, 1995: Ord. 25160 § 2; passed Aug. 25, 1992: Ord. 24507 § 2; passed Dec. 12, 1989: Ord. 21244 § 2; passed Dec. 27, 1977: Ord. 19724 § 1; passed Dec. 26, 1972: Ord. 18640 § 1; passed Aug. 13, 1968: Ord. 17014 § 1; passed Mar. 20, 1962)

### 1.30.160 Normal contribution defined.

“Normal contribution” means the contribution at the rate provided for in Section 1.30.340.

(Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.170 Additional contributions defined.

“Additional contributions” means the contributions previously provided for in Section 1.30.370.

(Ord. 27931; passed Oct. 5, 2010: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.180 Regular interest defined.

"Regular interest" means interest compounded quarterly, calculated at such rate and in such manner as shall have been adopted by the Board of Administration in accordance with the provision of this chapter.

(Ord. 21244 § 3; passed Dec. 27, 1977: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.190 Accumulated normal contributions defined.

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

(Ord. 25955 § 11; passed Sept. 24, 1996: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.200 Accumulated additional contributions defined.

"Accumulated additional contributions" means the sum of all additional contributions made by a member, prior to the first pay period of November 2010, standing to the credit of his or her individual account, together with interest thereon, computed at the rate of interest fixed by the Board.

(Ord. 27931 Ex A; passed Oct. 5, 2010: Ord. 25955 § 12; passed Sept. 24, 1996: Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.210 Accumulated contributions defined.

"Accumulated contributions" means accumulated normal contributions.

(Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.215 Cost of living contributions defined. Repealed by Ord. 25159.

(Ord. 25159 § 1; passed Aug. 25, 1992: Ord. 18466 § 1; passed Dec. 26, 1967)

### 1.30.220 Pension defined.

"Pension" means payment derived from the contributions made by the City as provided for in Sections 1.30.580 through 1.30.620 and 1.30.640.

(Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.230 Annuity defined.

"Annuity" means payments derived from contributions made by a member as provided in Sections 1.30.580 through 1.30.620 and 1.30.640.

(Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.240 Retirement allowance defined.

"Retirement allowance" means the pension plus the annuity.

(Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.250 Fiscal year defined.

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

(Ord. 14925; passed Nov. 9, 1953: Ord. 14039 § 2; passed Dec. 6, 1950)

### 1.30.260 Creditable and membership service defined.

"Creditable service" means and includes:

A. Prior service. "Prior service" means service credited on actual time worked prior to January 1, 1941; and

B. Membership service. "Membership service" means service since January 1, 1941, credited pursuant to Section 1.30.270 and, except as otherwise expressly provided in this chapter, is credited only while an employee is a member.

(Ord. 25967 § 1; passed Oct. 22, 1996: Ord. 17014 § 1; passed Mar. 20, 1962)

## 1.30.270 Full year's membership service defined.

A member shall receive service credit for hours of City Service for which the member is paid under the provisions of Section 1.30.130, but in all cases excluding overtime hours.

A full year of membership service will be credited for each full calendar year from date of membership that a member is employed as a full time employee, not counting periods in excess of 15 consecutive calendar days during which the member is in a nonpaid status. A full year of membership service will be credited to each other member for each 2,080 hours of City Service for which the member is paid under the provisions of Section 1.30.130 (excluding overtime hours). A member forced to take dock time due to emergency overtime work shall not lose credit.

A partial year of membership service shall be credited as earned.

(Ord. 26694 § 1; passed Sept. 12, 2000: Ord. 26118 § 1; passed Aug. 19, 1997: Ord. 25955 § 13; passed Sept. 24, 1996: Ord. 18805 § 1; passed Apr. 22, 1969: Ord. 17014 § 1; passed Mar. 20, 1962)

## 1.30.275 Disability defined.

For purposes of this chapter, "disability" means total and permanent, physical or mental incapacity of a Member to perform his or her present job classification or any other job classification for which the Member is qualified within the employing agency. "Employing agency" is limited, only for the purposes of this section and sections 1.30.630, 1.30.640, and 1.30.650, to the City of Tacoma when the City employs the Member, and to the single Member Public Agency when that agency employs the Member. Provided that, if said disability is due to willful misconduct or violation of law as determined in accordance with section 1.30.640 herein, such Member may be limited to the remedy provided in section 1.30.650B; Provided further, that, to the extent that such conduct is protected under the federal Americans with Disabilities Act, state Anti-Discrimination Law (RCW 49.60), or any other federal, state, or local law as now or hereafter enacted, such Member shall not be so limited.

(Ord. 26313 § 1; passed Oct. 27, 1998)

## 1.30.280 Prior system continued.

The Retirement System created and established, effective January 1, 1941, by Ordinance No. 11870 (as thereafter and hereby amended) known as the Tacoma Employees Retirement System, is hereby continued in full force and effect.

(Ord. 17014 § 1; passed Mar. 20, 1962)

## 1.30.290 Membership in Retirement System.

With the exception of those employees who are excluded from membership as provided in Section 1.30.300, all employees shall become members of the Retirement System as follows:

A. Every employee, as defined in this chapter, who was in the City Service on January 1, 1941, shall become a member of the Retirement System on that date, except any employee who was not then in the City Service three months, which employee shall become a member of the system upon the completion of three months' continuous service.

B. Every employee who entered or re-entered the City Service after January 1, 1941, and prior to January 1, 1962, shall become a member of the Retirement System upon the first day of the pay period following completion of three months' continuous service.

C. Every employee who entered, enters, or re-enters City Service after January 1, 1962, shall become a member of the Retirement System as of the date of entry or re-entry.

D. Pursuant to Chapter 52, Laws of 1945, every employee or officer, elective or appointive, with at least five years of continuous service and acting in capacities in which they would not otherwise be entitled to participate in the system, and who elect in writing addressed to the Board of Administration, shall become members as of the date of such election; provided, that a Council member elected in 1997, or thereafter shall become a member in the Tacoma Employees' Retirement System unless, within 30 days of assuming office, he or she shall submit to the Board, in writing, an irrevocable election to not become a member.

E. Membership shall be granted or denied to employees of Member Public Agencies only as provided by this chapter; provided, that the class of employees of Member Public Agencies who are eligible to become members shall be expanded after the effective date of the ordinance codified in this section, with the written consent of the governing body of the respective Member Public Agency.

F. Any person who previously had been disqualified from membership in the Retirement System because of being over 58 years of age at the time of his or her employment, and who is currently an employee of the City of Tacoma in any capacity,

including elected or appointed officials, may make back contributions with interest, and thereby become a member of the Retirement System as though he or she had been a member commencing on the date membership would have started had not the referenced disqualification been in effect. The City shall also pay its appropriate share of pension contributions. Any person qualifying under this section must give written notice to the Board of his or her intent to become a member, and pay the entire amount of back contributions, including interest, within 90 days from the effective date of the ordinance codified herein; but in no event later than the date of his or her retirement from the City. Back contributions shall be an amount equal to the sums which would have been deducted from the employee's gross salary had he or she been a member of the System during the years for which the contributions are being made. Interest, for the purpose of this subsection, shall be determined by using the assumption rate in effect during the period for which the employee is making back contributions.

G. Every person who, having retired under the provisions of Sections 1.30.570 or 1.30.585, re-enters City Service after such retirement shall become a member of the retirement system as of the date of reentry; subject, however, to suspension of their retirement allowance pursuant to Section 1.30.710. Provided, however, that persons re-entering City Service after retirement, under either Sections 1.30.570 or 1.30.585, as a special project employee of the City, as defined by Section 1.24.187 of the Tacoma Municipal Code, hired for and working upon (i) detached or independent construction projects of a temporary duration, or (ii) external government-financed projects or programs such as by grant-in-aid agreements with federal or state entities, shall not be required to become a member as of the date of re-entry. Provided, however, such persons shall have the opportunity to elect, at the date of re-employment, to resume membership by providing written notice to the Board of said election, which election shall be binding and irrevocable; provided further that persons re-entering City Service after retirement, under either Sections 1.30.570 or 1.30.585, shall have their retirement allowance suspended as provided in Section 1.30.710.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 27389 § 1; passed Jul. 26, 2005: Ord. 26574 § 2; passed Feb. 22, 2000: Ord. 26412 § 1; passed May 11, 1999: Ord. 26037 § 2; passed Mar. 4, 1997: Ord. 25955 § 14; passed Sept. 24, 1996: Ord. 20265 § 1; passed Dec. 17, 1974; Ord. 17014 § 1; passed Mar. 20, 1962)

## 1.30.295 Business agents – Reserving rights.

Any regular employee of the City who heretofore or hereafter, under proper grant of leave of absence by the City and who at the time of such grant was or is a member of the Retirement System, has served or will serve as a business manager of a union which bargains collectively with the City, shall during such leave of absence be to all intents and purposes considered as and retained as a member of the system, with all rights reserved and accruing to the employee the same as if such employee had been or was regularly employed by the City; provided, that there be paid into the Retirement Fund at the end of each pay period by or for and on behalf of the employee the total amount that would have been paid into such fund by both the employee and the City, had such employee been regularly employed by the City; provided, however, that the redeposit of funds to pick up the employee's years of service must be made within one year from the effective date of this section; and provided further, that all moneys paid into said fund as and for the City's contribution shall be permanently deposited in said fund and remain, notwithstanding the fact that such employee may leave the City Service and withdraw his or her own contributions.

(Ord. 25955 § 15; passed Sept. 24, 1996: Ord. 17014 § 2; passed Mar. 20, 1962)

## 1.30.296 City employees – South Sound 9-1-1 Agency.

Any regular employee of the City who is a member of the Tacoma Employees' Retirement System who hereafter, under proper grant of leave of absence by the City, will serve as an employee of the South Sound 9-1-1 Agency, be to all intents and purposes considered as and retained as a member of the City Retirement System, with all rights reserved and accruing to the employee the same as if such employee had been or was regularly employed by the City; provided, that there be paid into the Retirement Fund at the end of each pay period by or for and on behalf of the employee the total amount that would have been paid into such fund by both the employee and the City had such employee been regularly employed by the City, and provided further, that all moneys paid into said fund as and for the City's contribution shall be permanently deposited in the said fund and remain, notwithstanding the fact that such employee may leave the City Service or the service of the South Sound 9-1-1 Agency and withdraw his or her own contributions.

(Ord. 28104 Ex. A; passed Nov. 27, 2012: Ord. 27886 Ex. B; passed May 4, 2010: Ord. 25955 § 16; passed Sept. 24, 1996: Ord. 20119 § 1; passed May 21, 1974)

## 1.30.300 Exclusion from membership.

The following employees shall not become members of the Retirement System:

A. Members of the Police Department who are entitled to the benefits of the Police Relief and Pension Fund or membership in the Law Enforcement Officers and Firefighters Retirement System as established by state law.

B. Members of the Fire Department who are entitled to the benefits of the Firemen's Relief and Pension Fund or membership in the Law Enforcement Officers and Firefighters Retirement System as established by state law and any temporarily employed or substitute firemen who have not passed a civil service examination for firemen as defined in said state law.

C. Any employee now or hereafter working for the Belt Line Division, who has been or who may hereafter be found to be entitled to the benefits of the Federal Railroad Retirement Act; provided, that the membership of any such employee in the Tacoma Employees' Retirement System shall be terminated upon the effective date of the ordinance codified in this section or upon the finding that such employee is entitled to the benefits of the Federal Railroad Retirement Act, whichever date is earlier.

D. Special project employees of the City, as defined by Section 1.24.187 of the Tacoma Municipal Code and who are hired for and working upon detached or independent construction projects of temporary duration, shall not become members of the Retirement System unless they shall elect at date of employment by notice of the Board in writing so to do said election to be binding and irrevocable; special project employees of the City who are working upon external government-financed projects or programs such as by grant-in-aid agreements with federal or state entities, shall become members unless the ordinance or resolution of the City creating the project authorizes a one-time, binding and irrevocable, written election at date of employment or excludes membership; provided, further, that a copy of the ordinance or resolution must be filed with the TERS office as provided in Section 1.30.310 herein.

E. Employees of the transit system who enter City service as new employees under the blanket agreement effective February 1, 1961, and who have attained the age of 57-1/2 years at the time of such entry, shall not become members of the Retirement System unless they shall elect by notice to the Board in writing to do so.

F. Employees under an emergency appointment, as defined by Tacoma Municipal Code Section 1.24.113, and temporary student employees and occupational interns.

G. Any employee not having completed three months of continuous service, except those employees who are re-entering the system and have previously completed three months of continuous service. Provided, however, effective January 1, 2000, the foregoing shall no longer apply to individuals hired on or after said date, except that individuals hired in a temporary or emergency capacity or other classification which, at date of hire, is scheduled to be for a period of less than six months of continuous service shall not become members until completion of six months of continuous service.

H. Any part-time event or temporary event employee working not more than 40 hours in any biweekly payroll period who is an employee of the Tacoma Venues and Events Department. Such part-time event or temporary event employee shall not earn additional service credit based upon such employment.

I. Pro Tem Hearing Examiners and Pro Tem Judges and Commissioners of the Municipal Court.

J. Employees of the Tacoma Public Library regularly scheduled to work less than 20 hours per week or temporary/substitutes not having completed six months of nonintermittent, uninterrupted service, including, without limitation, those classified as temporary/substitutes, student employees, or pages.

K. Volunteers, including but not limited to members of boards, committees, or commissions who do not receive compensation as defined in this chapter.

L. Any persons providing services under written contract specifying that the persons are independent contractors, regardless of their status under Federal employment tax provisions of the Internal Revenue Code or their status under Washington's Industrial Insurance laws.

M. Any employee of a Member Public Agency that is a member of the Public Employees' Retirement System or any employee excluded pursuant to contracts existing as of the effective date of the ordinance codified in this section.

N. Any temporary employee of the Department of Public Utilities Light Division classified as Code 7 pursuant to Temporary Employment Memorandum between Local 483 IBEW and the City of Tacoma dated October 3, 1997.

(Ord. 28450 Ex. A; passed Aug. 29, 2017: Ord. 27886 Ex. B; passed May 4, 2010: Ord. 27433 § 1; passed Nov. 29, 2005: Ord. 26530 § 2; passed Nov. 9, 1999: Ord. 26396 § 3; passed Apr. 13, 1999: Ord. 26118 § 2; passed Aug. 19, 1997: Ord. 25955 § 17; passed Sept. 24, 1996: Ord. 23170 § 1; passed May 1, 1984: Ord. 22752 § 1; passed Aug. 3, 1982: Ord. 21244 § 4; passed Dec. 27, 1977: Ord. 20154 § 1; passed Jul. 2, 1974: Ord. 18032 § 1; passed Mar. 22, 1966: Ord. 17699 § 1; passed Oct. 20, 1964: Ord. 17187 § 1; passed Oct. 16, 1962: Ord. 17014 § 3; passed Mar. 20, 1962)

## 1.30.310 Notice of change in status.

It shall be the duty of the head of each office or department of the City to give immediate notice in writing to the Board of Administration of the change in status of any member of his or her office or department resulting from transfer, promotion,

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

(Ord. 25955 § 18; passed Sept. 24, 1996: Ord. 14925; passed Nov. 9, 1953; Ord. 14039 § 4; passed Dec. 6, 1950)

### 1.30.330 Withdrawal of contributions.

The accumulated contributions made or accruing subsequent to January 1, 1952, of any member who shall be permanently separated from City Service and who shall not be retired or who has not elected a deferred retirement under any of the provisions of this chapter or who has not retained his or her service credits on account of transfer to another retirement system in accordance with the provisions hereof, shall be subject to withdrawal by such member at any time within five years from the date of such separation and, upon the neglect or failure of any such member to withdraw said contributions within said period, the same shall become the absolute property of the Tacoma Employees' Retirement System and be included in the funds held by the System to meet the service credit obligations of the City; provided, that nothing herein contained shall be construed to authorize the forfeiture of the accumulated contributions made by or accrued to any member prior to January 1, 1952. Upon a member's retirement or permanent separation from City Service, such member may withdraw his or her contributions made on his or her overtime earnings, together with regular interest thereon.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 26118 § 3; passed Aug. 19, 1997: Ord. 25955 § 19; passed Sept. 24, 1996: Ord. 21244 § 5; passed Dec. 27, 1977: Ord. 17014 § 3; passed Mar. 20, 1962)

### 1.30.340 Contributions – Normal rates.

The normal rates of contributions of all members shall be the percent of compensation as defined in Section 1.30.130 as is determined necessary on the basis of actuarial investigation in conformance with this section, but does not include that compensation received by members at the time of retirement or termination/separation for accumulated sick leave, vacation leave, and personal time, pursuant to Chapter 1.12 of the Tacoma Municipal Code. The normal rate of contribution of members may be increased or decreased on the basis of actuarial investigation, as hereinafter provided in Section 1.30.410, and a change in said rate shall be made when necessary to ensure the actuarial and financial soundness of the System.

(Ord. 27932 Ex. A; passed Oct. 5, 2010: Ord. 27779 Ex. A; passed Jan. 13, 2009: Ord. 27334 § 3; passed Mar. 22, 2005: Ord. 26734 § 1; passed Nov. 14, 2000: Ord. 26223 § 3; passed May 5, 1998: Ord. 25967 § 2; passed Oct. 22, 1996: Ord. 25955 § 20; passed Sept. 24, 1996: Ord. 25159 § 1; passed Aug. 25, 1992: Ord. 24507 § 3; passed Dec. 12, 1989: Ord. 21915 § 1; passed Dec. 11, 1979: Ord. 20929 § 1; passed Dec. 28, 1976: Ord. 19724 § 2; passed Dec. 26, 1972: Ord. 18971 § 1; passed Nov. 25, 1969: Ord. 17014 § 3; passed Mar. 20, 1962)

### 1.30.350 Contributions – Deductions.

The Director of Finance shall deduct 8.28 percent, including the required contributions by the member to the cost of living increase as provided in Section 1.30.665 hereof, from the compensation as defined in Section 1.30.130, and shall provide the Retirement Board with a certified copy of each time roll. The deduction shall be 9.66%, effective as of the first pay period in February 2018. Each of the amounts so deducted by the Director of Finance shall forthwith be paid into the Retirement Fund and shall be credited by the Board to the individual account of the member. Regular interest shall be credited to each individual account upon such dates as may be determined by the Board. Every employee shall be deemed to have conclusively consented and agreed to the contributions deducted as above provided.

(Ord. 28471 Ex. A; passed Nov. 28, 2017: Ord. 27932 Ex. A; passed Oct. 5, 2010: Ord. 27779 Ex. A; passed Jan. 13, 2009: Ord. 26734 § 2; passed Nov. 14, 2000: Ord. 25967 § 3; passed Oct. 22, 1996: Ord. 25955 § 21; passed Sept. 24, 1996: Ord. 24507 § 4; passed Dec. 12, 1989: Ord. 21915 § 2; passed Dec. 11, 1979: Ord. 20929 § 2; passed Dec. 28, 1976: Ord. 17014 § 3; passed Mar. 20, 1962)

### 1.30.360 Contributions – City's share.

At the end of each payroll period, the Director of Finance shall determine the aggregate amount of covered payroll for each department and shall certify such aggregate amount to the Retirement Board and shall thereupon transfer to the Retirement Fund, hereinafter provided for, from the money appropriated for that purpose, that percentage of the aggregate covered payroll of each utility, the Retirement System and General Fund, which is determined by the Retirement Board based on actuarial investigation as the amount necessary to fund membership service, prior service, and basic service pensions on an actuarially-sound basis. Effective January 1, 2000, no contributions shall be made on overtime. The percentage is established at 11.34%, effective as of the first pay period in February 2018, including the required contributions by the City to the cost of living increase as provided for in Section 1.30.665, until increased or decreased on the basis of actuarial investigation, as hereinafter provided in Section 1.30.410. Said percentage shall be changed when found to be necessary to ensure the actuarial and

financial soundness of the System. Regular interest shall be credited to the accumulated contributions of the City in the manner and upon such dates as may be determined by the Board.

(Ord. 28471 Ex. A; passed Nov. 28, 2017: Ord. 27932 Ex. A; passed Oct. 5, 2010: Ord. 27779 Ex. A; passed Jan. 13, 2009: Ord. 26734 § 3; passed Nov. 14, 2000: Ord. 26530 § 3; passed Nov. 9, 1999: Ord. 25967 § 4; passed Oct. 22, 1996: Ord. 21915 § 3; passed Dec. 11, 1979: Ord. 20929 § 3; passed Dec. 28, 1976: Ord. 19724 § 3; passed Dec. 26, 1972: Ord. 18805 § 2; passed Apr. 22, 1969: Ord. 17014 § 3; passed Mar. 20, 1962)

## 1.30.365 Contributions by Belt Line for prior and membership service.

Notwithstanding any other provision herein contained, the Belt Line Division shall continue for so long as may be necessary to provide funds necessary to pay prior service pensions and any membership service pensions that are not funded to which any of its employees may be entitled.

(Ord. 17014 § 3; passed Mar. 20, 1962)

## 1.30.370 Contributions – Additional permitted before November 2010.

Effective the first pay period of November 2010, members may no longer elect to contribute in excess of contributions provided for in Section 1.30.340, however, any such excess contributions made prior to the effective date of this section shall be considered "accumulated additional contributions" as such term is defined in Section 1.30.200 and interest will be computed accordingly. Refunds of additional contributions shall be governed by the same rules governing normal contributions unless the Board shall establish separate rules therefor.

(Ord. 27931 Ex. A; passed Oct. 5, 2010: Ord. 15495; passed Dec. 12, 1955: Ord. 14039 § 5; passed Dec. 6, 1950)

## 1.30.380 Allowance for service – Credit for military service.

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

A. Time during which a member is absent on leave without pay shall not be allowed in computing service; provided, however, that any member shall be given service credit for a period of military service, equal to and with all benefits of a prior service credit for any period served by him or her in full-time active duty in the Armed Forces of the United States upon the call of the President, or for any period served by the member, as an enlistee in full-time active duty in the Armed Forces of the United States during a national emergency as proclaimed by the President, if the member enlisted after the national emergency was declared and entered one of the branches of the Armed Forces directly from City of Tacoma service, and if at the time of such service the member was or is a regular employee on leave of absence. Such credit for military service shall not be granted for any period of time beyond the earliest date that the member could have obtained a discharge from the military service to return to City of Tacoma service, and further such credit shall likewise not be granted unless the member makes application for reinstatement into City of Tacoma service within 90 days immediately following the date that he or she could have obtained a discharge from military service as mentioned above. Certificate of honorable discharge from and/or documentary evidence of such service shall be submitted by the member to the Board in order to obtain credit for such service.

B. In addition to the military service credit, hereinabove provided, the Board shall hereafter grant retirement credit to any member or retired member of the Retirement System who is or was formally a member of the Washington National Guard or of the Army, Navy, Air Force, Coast Guard, or Marine Corps reserve of the United States, or of any organized reserve or armed forces of the United States, for periods of military leaves of absence from City employment heretofore taken by the member in order for the member to report for active duty, when called, or take part in active training duty in such manner and at such times as he or she may be ordered to active duty or active training duty; provided, however, that such retirement service credit shall not exceed 21 days during any one year beginning October 1 and ending the following September 30, effective October 1, 2008; provided, further, that any member or retired member shall receive retirement service credit for the portion of any month during which they were in a paid status with the City and for which period they have not heretofore been granted such credit as a result of their not having been in a paid status for 120 days or 80 percent of the month when the loss of credit was due to an annual military leave of absence during a portion of the month. All retired members who receive additional service credit under the terms of this paragraph shall have their pensions recalculated and, thereafter, their pensions shall be for the amount indicated by such recalculation.

C. To the extent not otherwise provided herein, effective as of December 12, 1994, a member who returns to City Service from qualifying military service as defined in Chapter 43 of Title 38 of the United States Code, within 90 days after being honorably released, shall be entitled to service credit equal to the length of the member's military service, not to exceed five years; provided, however, that the member must pay an amount equal to the employee contributions that would have been payable for such additional period of service credit, under Section 1.30.340, as in effect at the time the member left City

Service to serve in a uniformed service of the United States. Such payment may be made in a lump sum, provided such lump sum payment is made within five years of the member's date of reemployment or five years from the effective date of this ordinance, whichever is later, using any form of payment permitted under Section 1.30.550.D of this chapter. Alternatively, a member may make an irrevocable salary reduction election in an amount sufficient to accumulate the required contribution necessary to pay for said qualifying service over a period of time not greater than that permitted under Chapter 43 of Title 38 of the United States Code. Once such irrevocable election is made, the member will have no subsequent option to receive the salary reductions directly and any direct payment for such service will not be allowed while the member is employed. Should a member who has made an irrevocable salary deduction election become unable to accumulate the full required service credit contribution necessary due to death, disability resulting in separation from City Service, layoff, or termination of employment, said member shall be entitled to receive a prorated amount of service credit based on the contributions accumulated by the member to the date of death, disability, layoff, or termination; provided, however, any such member, or the member's estate in the case of death, may complete the remainder of the payments by making a lump sum payment within 60 days of the date of the member's death, disability, layoff, or termination to receive full service credit. The employer contributions for the member's period of military service credit shall be paid by the member's public agency employing the member, as defined in Section 1.30.275, commensurate to and contemporaneous with the member's payment of contributions. The Board may promulgate regulations implementing this subsection.

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

(Ord. 27798 Ex. A; passed May 5, 2009: Ord. 27111 § 1; passed Jul. 1, 2003: Ord. 26820 § 1; passed Jun. 26, 2001: Ord. 25955 § 22; passed Sept. 24, 1996: Ord. 20754 § 1; passed Jul. 20, 1976: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.390 Allowance for service – Credit for prior service.

The Board shall grant credit for prior service to each member who entered the Retirement System on January 1, 1941, and to each member entering after that date, if such entry is within two years after rendering City Service prior to January 1, 1941; provided, however, that the Board may grant credit for prior service to those entering the Retirement System after January 1, 1941, where the employee, because of sickness or other disability, has been on leave of absence regularly granted since discontinuance of City Service, regardless of the length of such leave.

Such credit shall also be granted to members of the System for any period served as an elective officer of the City prior to May 1, 1946.

No prior service credit shall be used as a basis for retirement or other benefit unless the membership continues until retirement on a retirement allowance or until the granting of other benefits.

(Ord. 14358; passed Dec. 19, 1951: Ord. 14039 § 6; passed Dec. 6, 1950)

## 1.30.400 Administration vested in Board – Duties.

The administration of the Retirement System is hereby vested in the Board of Administration created in Sections 1.30.470 through 1.30.520. The Board shall exercise the powers and the duties conferred upon it by those sections and in addition those powers and duties set out in Sections 1.30.410 through 1.30.450 and shall have the power to appoint or remove the Retirement System Director of the Retirement Board subject to the approval of the City Council. The Retirement Director is responsible for duties as delegated by the Retirement Board, including the operation and administration of the Retirement Office and its staff.

(Ord. 25158 § 2; passed Aug. 25, 1992: Ord. 19829 § l; passed May 22, 1973: Ord. 14039 § 7; passed Dec. 6, 1950)

## 1.30.410 Duty to keep actuarial valuation of Fund.

The Board shall keep in convenient form such data as shall be necessary for the actuarial valuation of the Retirement Fund created by this chapter. The Board shall, from time to time, set the investment earnings assumption used in the actuarial valuation of the Fund. At least as often as is required by state law, the Board shall cause to be made an actuarial valuation of the assets and liabilities of the Retirement Fund, and shall further cause to be made an actuarial investigation (experience study) into the mortality, service, and compensation experience of the members and beneficiaries. Upon the basis of such investigation and valuation, and subject to the approval of the City Council, the Board shall:

A. Make any necessary changes in the investment earnings assumption used in the actuarial valuation, subject to subsequent periodic changes as hereinbefore provided;

B. Adopt for the Retirement System such mortality, service and other tables as shall be necessary;

C. Revise or change the rate of contributions by the City and by the member employee on the basis of the actuarial investigation and valuation.

(Ord. 27997 Ex. A; passed Jun. 21, 2011: Ord. 27886 Ex. A; passed May 4, 2010: Ord. 26313 § 2; passed Oct. 27, 1998: Ord. 25955 § 23; passed Sept. 24, 1996: Ord. 21915 § 4; passed Dec. 11, 1979: Ord. 21244 § 6; passed Dec. 27, 1977: Ord. 18805 § 2; passed Apr. 22, 1969: Ord. 18032 § 2; passed Mar. 22, 1966: Ord. 17014 § 4; passed Mar. 20, 1962)

### 1.30.420 Report of actuarial investigation to Council.

The Board shall promptly transmit to the City Council a report covering the actuarial investigation and actuarial valuation provided for in Section 1.30.410.

(Ord. 14039 § 7; passed Dec. 6, 1950)

### 1.30.430 Duty to keep accounts and records.

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

(Ord. 14039 § 7; passed Dec. 6, 1950)

### 1.30.440 Report showing financial condition.

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

(Ord. 14039 § 7; passed Dec. 6, 1950)

### 1.30.450 Right to make changes.

Nothing in Sections 1.30.400 through 1.30.450 shall be construed to limit the right of the Board, subject to approval of the City Council, to make changes in the rates of interest, or in the rates of contributions by members and the City whenever said Board deems it necessary, or advisable, or to secure actuarial reports more often than every five years

(Ord. 17014 § 4; passed Mar. 20, 1962)

### 1.30.460 Creation of Fund.

A fund is hereby created and established to be known as the "Employees' Retirement Fund" and shall consist of all the moneys paid into it in accordance with the provisions of this chapter whether such moneys shall take the form of cash, securities or other assets

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 17014 § 4; passed Mar. 20, 1962)

### 1.30.470 Creation of Board of Administration.

A. Composition and Powers. There is hereby created and established a Board of Administration which shall, under the provisions of this chapter and the direction of the City Council, administer the Retirement System and Retirement Fund created by this chapter. Under and pursuant to the direction of the City Council, the Board shall provide for the proper investment of the moneys in the Retirement Fund. The Board of Administration shall not require City Council action to enter into contracts within the scope of its functions to provide for the proper investment of moneys in the Retirement Fund. The Board's authority shall include, but not be limited to, the authority to negotiate such contracts, select investment managers, add investment categories, or change investment allocations, all without action on the part of City Council. The City Council also delegates to the Board contracting and purchasing authority other than that described above as is consistent with the authority granted the City Manager, or his or her designee, or the Director of Utilities, or his or her designee, contained in Chapter 1.06 TMC or as hereinafter amended. However, the Board shall provide the City Council with quarterly status reports justifying the overall investment strategy for the Tacoma Employees' Retirement System.

The Board of Administration shall consist of nine regular members and one alternate member as follows: The Mayor, a designee of the Tacoma Public Utilities Director, a designee of the City Manager, the Director of Finance, three City employees who are eligible for membership in the Retirement System heretofore or hereafter elected by the employee members, and one member of the Retirement System who need not be a City resident but who has heretofore retired under this Retirement System, elected by the retired members of this Retirement System or surviving beneficiaries. The above eight members shall appoint the ninth member, who shall be a City resident not employed by the City.

The Board of Administration shall appoint a member of the Retirement System, either active or retired, to serve as an alternate. The alternate shall serve a three-year term. The alternate may participate at meetings of the Board of Administration as a non-voting member of the Board. The alternate shall participate as a voting member of the Board of Administration when the alternate's presence is necessary to constitute a quorum under the Board's rules or By-Laws, or when necessary to fill a temporary vacancy among the elected members of the Board. When filling a temporary vacancy, the Board shall, by motion, set forth the duration of the temporary vacancy.

The Board shall solicit applications of individuals interested in appointment as the alternate by providing notice for not less than 28 days to eligible members by posting, in the case of active members, and mailing, in the case of retired members.

B. Filling of Permanent Vacancies. In the case of a permanent vacancy in office or inability of any Board member to attend to the duties thereof, the City Council shall designate, by resolution, one or more of its members to supply the place of either the Mayor or the Director of Finance, with such designee continuing in such position only until a successor has been elected or appointed and qualified. The positions of the elected members of the Board shall be filled by special election as hereinafter provided for, for the unexpired term; provided, however, if, at the time that the vacancy occurs, there remain less than 180 days in such term, then the position shall be filled by appointment made by the remaining elective members. A vacancy in the position of the appointive member shall be filled by appointment by the Board of Administration for the unexpired term after the Board has solicited applications from individuals interested in appointment.

C. Elections

The City Clerk of the City shall conduct an election each year for the election of one active employee of the City to the Board of Administration. The City Clerk of the City shall conduct an election every third year for the election by the retired members of the System of a retired member to the Board of Administration. The term of office for the active employee and retired member so elected shall be for three years. In connection with the election of the active employee member, on the second Tuesday of February of each year, the Clerk of the City shall post written notices of the next annual election of a City employee member to the Board of Administration. The written notices shall be posted in a prominent place in the office of the City Clerk, and on bulletin boards at the following locations: Entrances to the Tacoma Municipal Building, County-City Building, Public Utilities Administration Building, Main Library, Public Works Barn, Tacoma-Pierce County Health Department, and all other locations which 50 or more employee members use as headquarters. In connection with the election of a retired member, the City Clerk shall provide notice to retirees by mailing notice to retirees at their address of record with the Retirement Office. These notices shall state the position, term of office, and conditions and dates under which candidates must file. Dates for filing shall be set by the City Clerk and shall be the last Tuesday in February. Candidates shall declare their candidacy by filing a petition of nomination with the City Clerk signed by not less than 20 employees of the City of Tacoma who are active members of the City of Tacoma Retirement System, in the case of the election of an active member, and by not less than five retirees in the case of an election of a retired member. Those filing shall have until the Friday following the last Tuesday in February in which to withdraw. On or before the second Tuesday in March an official list of nominees shall be posted with each notice of election.

If, after the expiration of the date for filing petitions of nomination, it appears that only one qualified candidate has been nominated for the position to be filled, it shall not be necessary to hold an election, and the Board of Administration shall, at their next meeting, declare such candidate elected as a member of the Board of Administration.

If more than one qualified candidate has been nominated, the Retirement Office shall assist the City Clerk's office with the preparation of an official ballot and two envelopes for each member of the Retirement System entitled to vote. One envelope shall be smaller than the other and shall have the words "OFFICIAL BALLOT" stamped or printed on it. The larger envelope shall be preaddressed to the City Clerk and, in the case of the election of an active member, shall have the member's name, employee number, and payroll location printed in the upper left-hand corner and in the case of the election of a retired member, shall have the member's name and return address printed in the upper left-hand corner. The ballots and envelopes shall be distributed or mailed to the members entitled to vote three weeks preceding the second Tuesday in April. In the case of an election of a retired member, ballots and envelopes shall be mailed to members entitled to vote three weeks preceding the second Tuesday in April.

Should the City Clerk's office be unable to distribute or mail ballots to members entitled to vote as described above due to technical, administrative, or other matters causing ballots to not be ready by the dates prescribed above, then the City Clerk shall have the discretion to extend the date(s) by which ballots shall be due provided that any such revised due date shall be no less than three weeks from the date of distribution or mailing of ballots which due date shall be clearly printed on ballots.

Upon receiving his or her ballot, the member shall mark the same and enclose and seal it in the smaller envelope marked "OFFICIAL BALLOT." This envelope shall be placed in the larger preaddressed envelope and be returned either directly or by mail to the City Clerk.

Upon receipt of the envelopes, the City Clerk shall check the name on the upper left-hand corner of the preaddressed envelope against the membership roster, open the envelope, remove the smaller envelope marked "OFFICIAL BALLOT," and insert the same in ballot box. No envelope bearing a postmark later than midnight or otherwise received later than the second Tuesday in April shall be opened by the City Clerk; provided, however, that if the City Clerk shall have extended the ballot due date, then no envelope bearing a postmark later than midnight or otherwise received later than the printed ballot due date shall be opened by the City Clerk.

The City Clerk shall open the "OFFICIAL BALLOT" envelopes, count the ballots, and certify the results in writing to the candidates, and post the results in the locations provided above.

All election records, including ballots, shall be preserved for 30 days from the last date for filing ballots, after which the same shall be destroyed unless a question has arisen in connection therewith.

Any candidate for office may be present or have another member as an observer present at the counting of the ballots.

In the event no nominee receives a majority of the total votes cast at the primary election, the City Clerk shall conduct a final election between the two leading nominees. The final election shall be conducted by the City Clerk in the same manner as the primary election. An official list of nominees certified to run in the final election shall be posted on or before the third Tuesday of April, or such other corresponding date as may be reasonable where the City Clerk shall have extended a ballot due date. The ballots shall be returned not later than four weeks thereafter. The nominee receiving the highest number of votes cast at the final election shall be declared elected. In the event of a tie resulting from the final election, a run-off election shall be required and shall be held in substantially the same manner as provided in Subsection C hereof for the conducting of final elections, except as to times and dates. The ballots in the final election shall be prepared, distributed, and returned to the City Clerk's office not less than 30 days after the result of the tying final election is known.

The term of the newly elected member of the Board shall commence on the first Monday in June following his or her election; provided, that, in the event of a delay due to a tie from the final election or delay due to technical, administrative, or other matters causing a delay in the distribution or mailing of ballots as provided herein, the member elected shall commence his or her term immediately, and his or her term shall end as if no delay had occurred; provided, further, that in the event of a delay as provided herein, the term of the incumbent shall be extended until such time as the election is completed.

D. Special Elections

A special election for the purpose of filling a vacancy in the position of an elected member shall be conducted as follows: Within 15 days after the vacancy occurs, or in the event that a member files notice of his or her resignation prior to the effective date thereof, within 15 days of the filing of such notice, the City Clerk shall give written notice of such special election and post said notices as provided in Subsection C hereof. Persons desiring to file for the unexpired term shall declare their candidacy within 10 days after such notice shall have first been posted, in the same manner as provided in Subsection C hereof. At the expiration of said 10-day period, official ballots shall be prepared and distributed by the Retirement Office in substantially the same manner as provided in Subsection C hereof, except that the times and dates set forth in said subsection shall not apply. The first distribution of ballots shall be made not more than 15 days after the preparation thereof. In the event that no candidate receives a majority of the votes cast, a final election shall be required and be held in substantially the same manner as provided in Subsection C hereof for the conducting of final elections, except as to times and dates. The ballots in the final election shall be prepared, distributed, and returned to the City Clerk's office not less than 30 days after the result of the primary or first election is known. In the event of a tie resulting from the final election, a run-off election shall be required and held in substantially the same manner as provided in Subsection C hereof for the conducting of final elections, except as to times and dates. The ballots in the final election shall be prepared, distributed, and returned to the City Clerk's office not less than 30 days after the result of the tying final election is known. The term of any newly elected member of the Board filling an unexpired term shall commence as of the first meeting of the Board following certification of the election.

(Ord. 28092; passed Oct. 9, 2012: Ord. 27914 Ex. A; passed Aug. 24, 2010: Ord. 27886 Ex. B; passed May 4, 2010: Ord. 27886 Ex. a; passed Aug. 24, 2010: Ord. 27799 Ex. A; passed Jul. 21, 2009: Ord. 27646 § 1-4; passed Sept. 25, 2007: Ord. 27254 § 1; passed Jul. 27, 2004: Ord. 26572 § 1; passed Feb. 22, 2000: Ord. 26512 § 1; passed Sept. 28, 1999: Ord. 25967 § 5; passed Oct. 22, 1996: Ord. 25955 § 24; passed Sept. 24, 1996: Ord. 23506 § 1; passed Nov. 5, 1985: Ord. 21526 § 1; passed Oct. 31, 1978: Ord. 21244 § 7; passed Dec. 27, 1977: Ord. 20930 § 1; passed Dec. 14, 1976: Ord. 18494 § 1; passed Feb. 6, 1968: Ord. 16112; passed May 26, 1958: Ord. 14039 § 9; passed Dec. 6, 1950)

## 1.30.480 Board – Officers.

The Mayor shall be ex officio Chairman and the Director of Finance ex officio Secretary and ex officio Treasurer of the Board.

(Ord. 25967 § 6; passed Oct. 22, 1996: Ord. 15669; passed Aug. 20, 1956: Ord. 14039 § 9; passed Dec. 6, 1950)

### 1.30.490 Investment of Retirement Fund.

The investment of all or any part of the Retirement Fund shall be subject to the terms, conditions, limitations and restrictions imposed by the laws of the State of Washington, as amended or as hereafter may be amended.

(Ord. 17031 § 1; passed Apr. 10, 1962)

### 1.30.500 Deposit of Retirement Fund.

Subject to such provisions as may be prescribed by law for the deposit of municipal funds in banks, cash belonging to the Retirement Fund may be deposited in any licensed national bank or banks in this State, or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of the State of Washington.

(Ord. 15669; passed Aug. 20, 1956: Ord. 14039 § 9; passed Dec. 6, 1950)

### 1.30.510 Custody of Fund.

The City Treasurer shall be the custodian of the Retirement Fund. All payments from said Fund shall be made by the City Treasurer, but only upon warrant duly executed by the Director of Finance.

(Ord. 15669; passed Aug. 20, 1956: Ord. 14039 § 9; passed Dec. 6, 1950)

### 1.30.520 Pecuniary interest in Fund prohibited.

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

(Ord. 25955 § 25; passed Sept. 24, 1996: Ord. 15669; passed Aug. 20, 1956: Ord. 14039 § 9; passed Dec. 6, 1950)

### 1.30.530 City's liability.

There shall be paid into the Retirement Fund by the City the contributions as provided for in Sections 1.30.360 and 1.30.365, which are the amounts necessary to pay all pensions and all other benefits allowable to members and their beneficiaries under the provisions of this chapter, except such as are provided by the contributions of members as provided in Section 1.30.340 and as amended. Compensation received by members at the time of retirement for accumulated sick leave and vacation leave shall not be subject to contributions based thereon from the City.

(Ord. 18971 § 3; passed Nov. 25, 1969: Ord. 17014 § 4; passed Mar. 20, 1962)

### 1.30.540 Payments by City.

The payments of the City due the Retirement Fund as provided for in this chapter are hereby made obligations of the City, as defined in this chapter. The Board shall annually prepare an estimate of amounts necessary to meet such obligations, and submit the same as soon as practicable thereafter to the City Council, and the City Council shall provide for the raising of such amounts as are necessary to make such payments.

(Ord. 21244 § 8; passed Dec. 27, 1977: Ord. 14039 § 11; passed Dec. 6, 1950)

### 1.30.550 Refund of contributions/Service credit buybacks.

A. Refunds/Transfers. Should the City service of a member be discontinued, except by death or retirement, the member shall be paid, not later than six months after the date of discontinuance, such part of his or her accumulated contributions and accumulated additional contributions as he or she shall demand. A member who files an application for a refund of his or her contributions and subsequently becomes employed in a position with the City before the expiration of 30 days, or before a refund payment has been made, shall not be eligible for such refund payment. If, in the opinion of the Board, said member is permanently separated from City service by reason of such discontinuance, the member shall be paid all his or her accumulated contributions with interest. If the City service of a member is discontinued after December 31, 1996, other than by death or retirement, after completion of five years of membership service, the member shall be entitled to withdraw 1.5 times the member's accumulated normal contributions with interest; provided, however, the foregoing sentence shall not apply to contributions repaid pursuant to subsection B or C of this section unless such contributions shall have been on deposit with the System for five or more years. Provided that effective February 1, 2009, such a member shall be entitled to withdraw 1.5 times the member's accumulated normal contributions as of February 1, 2009, plus 1.5 times the member's accumulated

normal contributions after such date up to a rate of 6.44% of compensation as defined in Section 1.30.130. Effective January 1, 2001, if a member with five or more years of membership service retires from City Service pursuant to Section 1.30.570, elects a deferred retirement pursuant to Section 1.30.600, or dies, the member or the named beneficiary shall be entitled to withdraw in a lump sum an amount equal to 1.5 times the member's overtime contributions, plus interest, or may elect to apply such amount to the purchase of service credit pursuant to subsection D below. If a member has less than five years of membership service, the member or the named beneficiary shall be entitled to withdraw the member's overtime contributions and interest. Alternatively, in either case, the amount of overtime contributions and interest subject to withdrawal may be applied toward the purchase of an additional annuity, as provided in Section 1.30.620. While a member is in City service, the member may elect a direct trust-to-trust transfer of a lump sum in an amount up to 1.5 times the member's overtime contributions, plus interest, to another retirement system with which the System has portability under Chapter 41.54 RCW and Section 1.30.890, for purposes of restoring or purchasing service credit under the other system; provided, that such transfer shall only be available if the Retirement Board confirms to its satisfaction that the other system will accept the transfer on behalf of the member; provided further, that under no circumstances shall the lump sum be distributed or made available to the member while the member is in City service.

B. Repayment of contributions on rehire. Any member or former member who re-enters City service may redeposit in the Retirement Fund, in one lump sum, an amount equal to the amount he or she received at the time of the last termination or interruption of membership as a refund calculated in accordance with subsection A, plus interest. Effective October 1, 1999, individuals may purchase partial service credit by making a partial redeposit. The member may purchase as many full quarters as he or she wishes in a lump sum deposit, up to the total value of withdrawn contributions and interest. The full amount of the prior refund and interest from the withdrawal date shall be determined and divided by the number of quarters of service associated with the refund to arrive at a quarterly cost. A member shall be entitled to only one opportunity to repurchase partial service credit on re-entering City service. The deposit shall be paid into the Retirement Fund in accordance with rules established by the Board at an interest rate to be fixed annually by the Board of Administration. Payment shall be made within five years of the resumption of service or prior to retirement, whichever shall occur first. Effective January 1, 2002, repayment may also be made by a direct trustee-to-trustee transfer to the Retirement Fund from a plan qualified under Internal Revenue Code Section 457 or 403(b). Effective September 1, 2002, repayment may also be made by a direct rollover to the Retirement Fund from an individual retirement account or annuity qualified under Internal Revenue Code Section 408. The Board of Administration shall establish rules and procedures for acceptance of such deposits, transfers, or rollovers, including procedures to account for pre-tax transfers and rollovers and after-tax payments. Upon such redeposit being made, the City shall reinstate the applicable membership service credit and prior service credit for such member in the same manner as provided in subsection C hereof.

C. Repayment window. Any member who has heretofore withdrawn his or her contributions from the Retirement System and who has further failed to redeposit them in the Retirement Fund upon the resumption of membership in the Retirement System may, for a one-time only repayment period of one year commencing December 1, 1986, redeposit the total amount withdrawn, together with interest compounded annually at a rate established by the Board of Administration of the Tacoma Employees' Retirement System. Any member who has heretofore withdrawn his or her contributions from the Retirement System and who has further failed to redeposit them in the Retirement Fund upon the resumption of membership in the Retirement System may, for a one-time only repayment period of 3.5 years, commencing January 1, 1997, redeposit the total amount withdrawn, or effective October 1, 1999, a portion thereof, together with interest compounded annually at a rate established by the Board of Administration of the Tacoma Employees' Retirement System; provided, that effective May 1, 2000, a member may elect to accomplish the redepositing of contributions, or any part thereof, by irrevocably electing to transfer all of his or her account balance representing his or her accumulated contributions on overtime earnings to his or her unrestricted Accumulated Normal Contributions account, except that if the member's account balance representing contributions on overtime earnings exceeds the amount needed to redeposit contributions, then only the amount needed for redeposit of contributions shall be transferred. Upon transfer, the amount shall be for all purposes treated as Accumulated Normal Contributions attributable to Compensation other than overtime.

Any member who has heretofore withdrawn his or her contributions from the Retirement System and who has further failed to redeposit them in the Retirement Fund upon the resumption of membership in the Retirement System may, for a one-time only repayment period of one year, commencing January 1, 2004, redeposit the total amount withdrawn or, consistent with the provisions of this section, a portion thereof, together with interest compounded annually at a rate established by the Board of Administration. Any redeposit made under the provisions of this subsection may be accomplished by any of the repayment methods authorized by this section.

D. Purchase of Permissive Service Credit. Effective January 1, 2002, any Member who is vested and has five or more years of City Service as a Member may purchase up to five years of creditable service at the time of retirement, provided that no purchase made pursuant to this paragraph shall result in a member's total years of creditable service exceeding 30. Payment shall be in a lump sum on an after-tax basis, by a direct trustee-to-trustee transfer to the Retirement Fund from a plan qualified under Internal Revenue Code Section 457 or 403(b), or, effective September 1, 2002, by a direct rollover to the Retirement

Fund from an individual retirement account or annuity qualified under Internal Revenue Code Section 408, or by irrevocably electing to apply the amount equal to 1.5 times the Member's overtime contributions, plus interest, that could be withdrawn under subsection A above. The Board of Administration shall establish rules and procedures for acceptance of such payments, transfers, rollovers, or elections, including procedures to account for pre-tax transfers, rollovers, elections, and after-tax payments. The amount of payment shall be the full actuarial costs of the increased benefit obtained by the purchase of additional creditable services as determined by the Retirement System. This provision will be interpreted to comply with Internal Revenue Code Section 415(n), but shall not establish a vested right to purchase service credit nor establish a contractual obligation on behalf of the City, and may be revoked at any time. Purchase of creditable service is not treated as an employee contribution and does not affect the 150 percent refund of accumulated normal contributions and interest as defined under Section 1.30.550 or the minimum benefit of the actuarial equivalent of 200 percent of accumulated normal contributions as defined under Section 1.30.580.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 27779 Ex. A; passed Jan. 13, 2009: Ord. 27174 § 1; passed Dec. 16, 2003: Ord. 26975 § 1; passed Aug. 13, 2002: Ord. 26873 § 3; passed Nov. 13, 2001: Ord. 26734 § 4; passed Nov. 14, 2000: Ord. 26602 § 1; passed Mar. 28, 2000: Ord. 26545 § 1; passed Dec. 7, 1999: Ord. 26512 § 2; passed Sept. 28, 1999: Ord. 26484 § 1; passed Aug. 3, 1999: Ord. 26331 § 1; passed Dec. 8, 1998: Ord. 26163 § 1; passed Dec. 16, 1997: Ord. 26118 § 4; passed Aug. 19, 1997: Ord. 25967 § 7; passed Oct. 22, 1996: Ord. 24507 § 5; passed Dec. 12, 1989: Ord. 23715 § 1; passed Oct. 7, 1986: Ord. 23032 § 1; passed Nov. 22, 1983: Ord. 20099 § 1; passed May 14, 1974: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.560 Retention of service credits.

To comply with the mandate of the 1951 Washington Legislature, as set forth in Chapter 98 of the Laws of 1951 of the State of Washington, the Board of Administration, subject to the approval of the City Council by resolution, is hereby authorized to enter into agreements with regards to the transfer of retirement credit and related funds with other public retirement systems within the State of Washington to permit the exchange of retirement credit and the transfer of funds, in accordance with rules and regulations now or hereafter adopted by the Board of Administration. Notwithstanding anything to the contrary in this chapter contained, such agreements may provide:

A. That service credits earned in the Tacoma Employees' Retirement System may be preserved for a member who transfers employment to another public body within the state and becomes a member of its retirement system.

B. That service credits previously lost or lapsed in the Tacoma Employees' Retirement System because of previous lack of authority to proceed may be regained.

C. That, when authorized by the Board, retirement benefits may be paid when a member becomes eligible for retirement under this system or under another system with which an agreement is in effect, whether such member becomes eligible under the rules of the latter system, under the rules of this system, or under laws of the State of Washington, that such agreement may provide for the combining of service credits and number of years of service in various retirement systems to establish eligibility for retirement, but notwithstanding anything elsewhere in this chapter to the contrary, such monthly retirement payments from this system will be for such amounts only as are actuarial equivalents of the member's accumulated contributions and from the City's funds an amount equal to the actuarial equivalent of the member's accumulated normal contributions in the Tacoma Employees' Retirement System on the date of the member's retirement, reduced only in those cases where the combined retirement allowance exceeds the maximum permissible by State law and the agreements entered into between the systems in accordance therewith. Additional pension payments required to bring the member's monthly retirement allowance to any guaranteed minimums, elsewhere provided for in this chapter, shall not be paid unless the members have earned such minimum benefits solely within this system in accordance with requirements established elsewhere in this chapter.

D. That it shall be the sole responsibility of the member to apply for the retention, regaining or preservation of any such credits.

E. Credits so regained, retained or preserved may be lost or lapsed if membership is not maintained in accordance with rules and regulations now or hereafter established by such agreements or by the Board of Administration.

F. That granting of such rights or payments as these agreements may provide for shall be done only in accordance with rules and regulations to be established by the Board of Administration.

If an employee of the City of Tacoma, who is also a member of the Tacoma Employees' Retirement System, should transfer to employment with the Municipal Belt Line while same is operated by the City, said employee member, so long as he or she shall remain an employee of the Belt Line or the City of Tacoma, shall be entitled, in accordance with rules and regulations now or hereafter established by the Board of Administration, to the rights of preservation, retention and regaining of service credits and ultimate retirement allowances similar to those affected by agreements, as in this section provided, between the

Tacoma Employees' Retirement System and other public retirement systems within the state, even though no agreement may be effected between the Railroad Retirement System and the Tacoma Employees' Retirement System.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 25955 § 26; passed Sept. 24, 1996: Ord. 20395 § 1; passed Apr. 15, 1975: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.570 Service retirement.

Subject to Section 1.30.710, retirement of a member for service shall be made by the Board of Administration as follows:

A. Each member of the Retirement System may retire on the first day of the calendar month next succeeding the month in which the member shall have attained eligibility for service retirement.

B. Any member in the City Service may retire by filing with the Board a written application stating when he or she desires to be retired, such application to be made at least 30 days prior to date of retirement; provided, however, that said member, at the time specified for his or her retirement, shall have completed 10 years of City Service as defined in this chapter and shall have attained the age of 55 years, or shall have completed 20 years of such City Service and shall have attained the age of 40 years, or shall have attained the age of 60 years regardless of years of service, or shall have completed 30 years of City Service as defined in this chapter, regardless of age. A member is fully vested upon attaining any of the foregoing service retirement dates.

(Ord. 27931 Ex. A; passed Oct. 5, 2010: Ord. 26412 § 2; passed May 11, 1999: Ord. 25967 § 8; passed Oct. 22, 1996: Ord. 25955 § 27; passed Sept. 24, 1996: Ord. 24507 § 6; passed Dec. 12, 1989: Ord. 24155 § 1; passed Aug. 2, 1988: Ord. 23903 § 1; passed Jul. 22, 1987: Ord. 21564 § 1; passed Dec. 19, 1978: Ord. 21244 § 9; passed Dec. 27, 1977: Ord. 20693 § 1; passed Mar. 30, 1976: Ord. 20059 § 1; passed Mar. 12, 1974: Ord. 19649 § 1; passed Aug. 15, 1972: Ord. 19181 § 1; passed Aug. 18, 1970: Ord. 18970 § 1; passed Nov. 25, 1969: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.580 Allowance on service retirement.

A. Upon retirement from City service on or after January 1, 1997, a member shall receive an annual retirement allowance which shall consist of the following three items, plus any amount that might be provided under Section 1.30.620:

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

2. A service pension purchased by the contributions of the City, which shall be an additional pension for members, such that when added to the annuity equals the percentage of his or her average final compensation applied to his or her age and creditable service at retirement in accordance with the table at the end of this subsection A multiplied by his or her years of creditable service;

3. A basic service pension of $150.00 per annum, payable only if a member retires after age 60 with 20 years' service to his or her credit and the basic service pension shall be allowed in the computation of pension benefits only to the extent that the same, when added to the annuity and service pension, will not result in a pension benefit in excess of $3,000.00 per annum.

| **Age** | **Creditable Service** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 30 | 29 | 28 | 27 | 26 | 25 | 24 | 23 | 22 | 21 | 20 | 19-10 | 9-1 |
| 40 | | | | | | | 0.759 | 0.698 | 0.642 | 0.591 | 0.544 | NA | NA |
| 41 | | | | | | 0.897 | 0.825 | 0.759 | 0.698 | 0.642 | 0.591 | NA | NA |
| 42 | | | | | 1.060 | 0.975 | 0.897 | 0.825 | 0.759 | 0.698 | 0.642 | NA | NA |
| 43 | | | | 1.252 | 1.152 | 1.060 | 0.975 | 0.897 | 0.825 | 0.759 | 0.698 | NA | NA |
| 44 | | | 1.417 | 1.332 | 1.252 | 1.152 | 1.060 | 0.975 | 0.897 | 0.825 | 0.759 | NA | NA |
| 45 | | 1.603 | 1.507 | 1.417 | 1.332 | 1.252 | 1.152 | 1.060 | 0.975 | 0.897 | 0.825 | NA | NA |
| 46 | 2.000 | 1.706 | 1.603 | 1.507 | 1.417 | 1.332 | 1.252 | 1.152 | 1.060 | 0.975 | 0.897 | NA | NA |
| 47 | 2.000 | 1.815 | 1.706 | 1.603 | 1.507 | 1.417 | 1.332 | 1.252 | 1.152 | 1.060 | 0.975 | NA | NA |
| 48 | 2.000 | 1.871 | 1.815 | 1.706 | 1.603 | 1.507 | 1.417 | 1.332 | 1.252 | 1.152 | 1.060 | NA | NA |
| 49 | 2.000 | 1.929 | 1.871 | 1.815 | 1.706 | 1.603 | 1.507 | 1.417 | 1.332 | 1.252 | 1.152 | NA | NA |
| 50 | 2.000 | 1.964 | 1.929 | 1.871 | 1.815 | 1.706 | 1.603 | 1.507 | 1.417 | 1.332 | 1.252 | NA | NA |
| 51 | 2.000 | 2.000 | 1.964 | 1.929 | 1.871 | 1.815 | 1.706 | 1.603 | 1.507 | 1.417 | 1.332 | NA | NA |

| Age | Creditable Service | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 30 | 29 | 28 | 27 | 26 | 25 | 24 | 23 | 22 | 21 | 20 | 19-10 | 9-1 |
| 52 | 2.000 | 2.000 | 2.000 | 1.964 | 1.929 | 1.871 | 1.815 | 1.706 | 1.603 | 1.507 | 1.417 | NA | NA |
| 53 | 2.000 | 2.000 | 2.000 | 2.000 | 1.964 | 1.929 | 1.871 | 1.815 | 1.706 | 1.603 | 1.507 | NA | NA |
| 54 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 1.964 | 1.929 | 1.871 | 1.815 | 1.706 | 1.603 | NA | NA |
| 55 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 1.964 | 1.929 | 1.871 | 1.815 | 1.706 | 1.706 | NA |
| 56 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 1.964 | 1.929 | 1.871 | 1.815 | 1.815 | NA |
| 57 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 1.964 | 1.929 | 1.871 | 1.871 | NA |
| 58 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 1.964 | 1.929 | 1.929 | NA |
| 59 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 1.964 | 1.964 | NA |
| 60 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 | 2.000 |

Notwithstanding the foregoing table, in the event the sum of age and creditable service equals 80 or more, the percentage of average final compensation shall be two percent.

B. Effective January 1, 1976, and thereafter any employee with 30 or more years of membership service shall receive no further membership service credit, but shall continue to make contributions as long as employment continues.

C. Notwithstanding the foregoing, effective with respect to a retirement from City service on and after January 1, 1997, a service pension shall not be less than the actuarial equivalent of 200 percent of the member's accumulated normal contributions; provided, however, that a member's contributions on his or her overtime earnings shall not be included in the term "accumulated normal contributions" for the purposes of subsection C of this section only. Provided that effective February 1, 2009, a service pension shall not be less than the actuarial equivalent of 200 percent of the member's accumulated normal contributions as of February 1, 2009, plus 200 percent of the member's accumulated normal contributions after such date up to a rate of 6.44% of compensation as defined in Section 1.30.130.

(Ord. 27779 Ex. A; passed Jan. 13, 2009: Ord. 26118 § 5; passed Aug. 19, 1997: Ord. 25967 § 9; passed Oct. 22, 1996: Ord. 25955 § 28; passed Sept. 24, 1996: Ord. 24155 § 2; passed Aug. 2, 1988: Ord. 19724 § 4; passed Dec. 26, 1972: Ord. 19256 § 1; passed Dec. 15, 1970: Ord. 18805 § 2; passed Apr. 22, 1969: Ord. 17014 § 4; passed Mar. 10, 1962)

### 1.30.585 Special early retirement window benefit.

A. Notwithstanding any other provision of Chapter 1.30 of the Tacoma Municipal Code to the contrary, an eligible member (as defined in this section) electing to retire from the employment of the City under Section 1.30.570 on the applicable retirement date shall be entitled to a service pension equal to the service pension payable pursuant to Section 1.30.580, but adjusted as follows:

1. For an eligible member who is age 60 or older, three years shall be added to membership service.

2. For any other eligible member, three years will be added to membership service and three years will be added to age.

In no event shall a member receive more than 30 years of creditable service.

Age will be expressed as years and full months. Actual ages will be used in calculating the actuarial equivalent optional allowances on retirement.

B. If a member meets the eligibility requirements to benefit under the provisions of this special early retirement benefit, elects to receive such benefits under an optional form of allowance providing a survivor benefit to his or her spouse, and dies prior to the commencement of benefit payments and is survived by the spouse, the death benefit to which the spouse is entitled will be calculated by taking into account the provisions of this section.

C. An eligible member is a member hereunder who meets the following requirements:

1. He or she is employed by the City on January 1, 1997.

2. He or she meets one of the following criteria on or before December 31, 1997:

a. Age 52 or older with not less than 22 years of creditable service;

b. Age 57 or older; or

c. Twenty-seven years of creditable service.

3. He or she elects to retire from City Service by a written election made on or after January 1, 1997, and before close of business on October 31, 1997, and does not withdraw his or her election to retire prior to December 31, 1997.

4. He or she signs and delivers and does not revoke the form of general release required by the City.

5. He or she retires on the applicable retirement date with not less than two months advance notice.

The applicable retirement date is the first day of the month subsequent to February 28, 1997, but not later than January 1, 1998.

D. Any member who re-enters City Service, having retired under this section, shall have his or her benefits suspended pursuant to Section 1.30.710. On subsequent retirement, the member's annual retirement allowance shall equal the greater of: (1) the benefit the member was receiving prior to re-entering City Service, or (2) the benefit calculated under Section 1.30.570 without consideration of this section and reduced by the actuarial equivalent of the benefits received pursuant to this section, unless the actuarial equivalent of the benefits received is repaid in a lump sum prior to subsequent retirement, all as determined by the Retirement System.

(Ord. 26873 § 4; passed Nov. 13, 2001: Ord. 26412 § 3; passed May 11, 1999: Ord. 26090 § 1; passed Jun. 24, 1997: Ord. 25967 § 10; passed Oct. 22, 1996)

## 1.30.586 Increase for retired members.

Those members who became entitled to pension benefits prior to January 1, 1971, except those who were mandatorily retired at age 65 between July 1, 1970, and January 1, 1971, shall thereafter receive a seven percent increase limited to their annuity, membership service pension, and basic service pension entitlement.

Those members who became entitled to pension benefits prior to January 1, 1973, except those who were mandatorily retired at age 65 between July 1, 1972, and January 1, 1973, shall thereafter receive a four-and-one-half percent increase limited to their annuity, membership service pension, and basic pension entitlement.

Those members who became entitled to pension benefits during the period from January 1, 1951, through December 31, 1975, shall receive an increase in their pension benefits. Their pension benefits shall be adjusted effective January 1, 1995, to reflect the cost of living. The appropriate inflation measure shall be the change in the Seattle Consumer Price Index for urban wager earners and clerical works (CPI-W) from the time of retirement to the end of 1993, as reported by the Bureau of Labor Statistics in mid-February 1994. This increase shall restore the members' benefits to 50 percent of their original earning power determined as of the date of retirement.

(Ord. 25650 § 1; passed Dec. 20, 1994: Ord. 19724 § 5; passed Dec. 26, 1972: Ord. 19256 § 2; passed Dec. 15, 1970: Ord. 18805 § 3; passed Apr. 22, 1969)

## 1.30.600 Deferred retirement.

A member who leaves City service after five or more years' creditable service may elect in writing to the Retirement Board to leave his or her accumulated contributions in the Retirement Fund. Such contributions shall be credited with regular interest and are refundable upon written request at any time; however, if said funds are not withdrawn the member may elect to receive a retirement allowance as provided under Section 1.30.580 after satisfying the requirements of Section 1.30.570. The retirement allowance shall be calculated pursuant to the provisions of Section 1.30.580 as in effect when the member ceased to be in City service and ceased contributions to the System, except for members covered under Sections 1.30.880 and 1.30.890. Members eligible to retire under the portability provisions of said sections shall have their retirement allowance calculated pursuant to the provisions of Section 1.30.580 as in effect when the member ceased service and contributions to all participating retirement systems covered under the portability provisions.

(Ord. 26873 § 5; passed Nov. 13, 2001: Ord. 26530 § 4; passed Nov. 9, 1999: Ord. 25967 § 11; passed Oct. 22, 1996: Ord. 25955 § 29; passed Sept. 24, 1996: Ord. 24402 § 1; passed Aug. 1, 1989: Ord. 21244 § 10; passed Dec. 27, 1977: Ord. 17699 § 2; passed Oct. 20, 1964: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.620 Additional annuity – Waiver of allowance.

A member, upon retirement from service, shall receive, in addition to the retirement allowance provided elsewhere in Sections 1.30.580 through 1.30.610, an additional annuity which shall be the actuarial equivalent of any accumulated additional contributions which he or she has to his or her credit at the time of his or her retirement.

Notwithstanding the provisions in Sections 1.30.580 through 1.30.620 contained, any member retired from service or entitled to so retire may, upon written request, waive temporarily or permanently the right to receive any portion of his or her retirement allowance as hereinabove set forth, upon the following terms and conditions:

That the portion so waived shall be so applied as to first reduce the basic pension and prior service pension and thereafter to reduce proportionately the amount designated to be paid the pensioner under the annuity and membership service pension benefits to which he or she may be entitled. In the event that any such waiver is made pursuant to such request, the same shall, upon becoming effective, constitute, while the same is in effect, full authority for the City to reduce the payments to the pensioner, as herein and therein provided, and shall forever relieve the City of any obligation to at any time pay the full specific benefits in this section or elsewhere provided for which would otherwise accrue during the period that said waiver is in force and effect.

(Ord. 25955 § 30; passed Sept. 24, 1996: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.630 Disability retirement – Authorization.

Any member while in City Service or any member on leave of absence or disability leave may be retired by the Board of Administration for permanent and total disability upon examination as follows:

A. Any member who becomes incapacitated for the performance of duty because of any accident or fortuitous event caused by or incurred as a result of the performance of duties as an employee of the City of Tacoma, regardless of length of service with the City, may be retired upon disability, as provided in this Section 1.30.630. Any member who has not elected to receive a service retirement allowance as provided in Sections 1.30.570 through 1.30.610, and who has at least five years of creditable service as defined by this chapter (provided, that the required five years of City Service shall have been credited to the member over a period not to exceed ten years immediately preceding retirement), may apply for a disability retirement. Any member who entered the Retirement System on or before June 1, 2012 may use the portability provisions in Sections 1.30.880 and 1.30.890 to accrue the five years of creditable service required to apply for disability retirement under this Section. Any member who enters the Retirement System after June 1, 2012 must accrue the entire five years of creditable service required to apply for disability retirement under this Section as a member of the Retirement System. Effective January 1, 2009, a member may apply for a disability retirement within one year of discontinuance of City Service if the member applied for benefits under the City's Basic Long-Term Disability Insurance Plan within 180 days of discontinuance of City Service for a condition that was present while in City Service and is receiving Long-Term Disability payments. Otherwise a member must apply for a disability retirement within three months after discontinuance of City Service and show that the member's incapacity has been continuous from discontinuance of City Service. The member shall be examined by a physician or surgeon appointed by the Board of Administration upon application of the head of the office or department in which the member is employed, or upon application of the member or a person acting in his or her behalf. The examining physician or surgeon must find in writing that the member is permanently and totally incapacitated, either physically or mentally, for the performance of duty and ought to be retired. If such medical examination shows to the satisfaction of the Board that the member is permanently and totally incapacitated either physically or mentally, for the performance of duty and ought to be retired, the Board shall retire the member for disability forthwith.

B. A member may, for a period of up to six months after denial of a member's application for disability retirement, reapply to the Board of Administration for disability retirement. The member must include with said reapplication newly obtained medical information or diagnoses evidencing that the member is permanently and totally incapacitated and that the member's sickness or disability existed at the time of discontinuance of City Service and continues to the date of reapplication. Upon such reapplication, the member shall be re-examined by a physician or surgeon appointed by the Board of Administration. If such medical examination shows, to the satisfaction of the Board, that the member is permanently and totally incapacitated, either physically or mentally, for the performance of duty and ought to be retired, the Board shall retire the member for disability forthwith.

C. The Board shall secure such medical services and advice as it may deem necessary to carry out the purpose of this section and Section 1.30.650 of this chapter and shall pay for such medical services and advice such compensation as the Board shall deem reasonable.

(Ord. 28062 Ex. A; passed Apr. 3, 2012: Ord. 27800 Ex. A; passed May 5, 2009: Ord. 26695 § 1; passed Sept. 12, 2000: Ord. 25955 § 31; passed Sept. 24, 1996: Ord. 25231 § 1; passed Dec. 22, 1992: Ord. 21244 § 11; passed Dec. 27, 1977: Ord. 14039 § 15; passed Dec. 6, 1950)

## 1.30.640 Disability retirement – Allowance.

A. Any member retiring on or after May 1, 1969, for disability as herein provided, provided the disability is not due to willful misconduct or violation of law, of which the Board shall be the sole judge, shall receive an annual retirement allowance which

shall be such an amount as with that portion of his or her annuity provided by his or her accumulated normal contributions will make his or her disability retirement allowance equal:

1. One and one-half percent of his or her average final compensation multiplied by the number of years of service credited to him or her, if such disability retirement allowance exceeds one-third of his or her average final compensation.

2. If the disability retirement allowance computed under subsection A.1 does not exceed one-third of his or her average final compensation, 1.5 percent of his or her average final compensation multiplied by the number of years of service which would be creditable to him or her were his or her service to continue until attainment by him or her of age 65, but in such case, the retirement allowance shall not exceed one-third of his or her average final compensation.

3. If the disability retirement allowance computed under subsections A.1 or A.2 above does not exceed the sum of $100 per month, then the disability retirement allowance shall be the sum of $100 per month.

B. If disability is due to willful misconduct or violation of law on the part of the member, the Board of Administration in its discretion may pay to the member in one lump sum his or her accumulated contributions in lieu of a retirement allowance, and such payment shall constitute full satisfaction of all obligations of the City to such member, and upon receipt of such payment he or she shall cease to be a member of the Retirement System.

C. Upon retiring for disability as above provided, a member shall receive an additional annuity which shall be the actuarial equivalent of any accumulated additional contributions which he or she has to his or her credit at the time of his retirement.

D. A member retired under the provisions of Section 1.30.630 of this chapter may elect optional allowances on retirement as set forth in Section 1.30.660 of this chapter. Any option elected shall be in writing and shall be irrevocable. Upon the death of a member receiving a disability retirement allowance, benefits will be paid according to the option elected. Effective September 1, 2002, any member (i) who retired prior to November 26, 2000, under the provisions of Section 1.30.630 of this chapter; and (ii) who is receiving disability benefits as of said effective date is eligible to elect prospectively optional allowances D, E, or F, as set forth in Section 1.30.660 of this chapter. Any election of an optional allowance by such a member shall be made in writing no later than December 31, 2002, and shall be irrevocable. A beneficiary or heir of a deceased member is not eligible to elect an optional allowance. The actuarial equivalent value of the optional allowance will be based on the Member's age and other applicable factors as of the date the new election is made.

(Ord. 26975 § 2; passed Aug. 13, 2002: Ord. 26734 § 5; passed Nov. 14, 2000: Ord. 25955 § 32; passed Sept. 24, 1996: Ord. 21244 § 12; passed Dec. 27, 1977: Ord. 18852; passed Jun. 17, 1969: Ord. 18805; passed Apr. 22, 1969: Ord. 18651; passed Oct. 22, 1968: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.650 Disability retirement – Safeguards.

A. The Board of Administration may, at its pleasure, require any member who is receiving a disability retirement allowance ("disability beneficiary") or disability applicant under age 60 to undergo medical examination to be made by a physician or surgeon appointed by the Board at a place to be designated by the Board. Upon the basis of such examination the Board shall determine whether such disability beneficiary or disability applicant is still totally and permanently incapacitated, either physically or mentally, for service in the office or department of the City where he or she was employed or in other City Service for which he or she is qualified. If the Board of Administration shall determine that the beneficiary or disability applicant is not so incapacitated, his or her retirement allowance shall be canceled in 30 days.

B. Should a disability beneficiary reenter the City Service and be eligible for membership in the Retirement System in accordance with Section 1.30.290, his or her retirement allowance shall be canceled and he or she shall immediately become a member of the Retirement System. His or her individual account shall be credited with his or her accumulated contributions less the annuity payments made to him or her. Such member shall receive credit for prior service and membership service previously credited in the same manner as if he or she had never been retired for disability.

C. Should any disability beneficiary under age 60 years refuse to submit to medical examination, his or her pension may be discontinued until his or her withdrawal of such refusal, and should refusal continue for one year his or her retirement allowance may be canceled. Should the disability beneficiary, prior to attaining age 60 years, engage in a gainful occupation not in City Service or should he or she reenter the City Service and be ineligible for membership in the Retirement System in accordance with Section 1.30.300, the Board of Administration shall reduce the amount of his or her retirement allowance to an amount which, when added to the compensation earned by him or her in such occupation, shall not exceed 70 percent of the salary currently payable for the last job classification filled by the disability beneficiary or, in case the classification no longer exists, for a comparable classification. Should the earning capacity of such disability beneficiary be further altered, the Board may further alter his or her retirement allowance to an amount which shall not exceed the retirement allowance otherwise payable but which, subject to such limitation, shall equal, when added to the compensation earned by him or her, 70 percent of the salary currently payable for the last job classification filed by the disability beneficiary or, in case the classification no longer exists, for a comparable classification. When the disability beneficiary reaches the age of 60 years, any

reductions in his or her retirement allowance because of compensation earned by him or her shall be restored and his or her allowance shall not again be modified for any cause except as otherwise provided in this chapter.

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

(Ord. 25955 § 33; passed Sept. 24, 1996: Ord. 25231 § 2; passed Dec. 22, 1992: Ord. 23264 § 1; passed Sept. 25, 1984: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.660 Optional allowances on retirement.

A member may elect to receive, in lieu of the retirement allowance provided for in Sections 1.30.580 through 1.30.620, its actuarial equivalent in the form of a lesser retirement allowance, payable in accordance with the terms and conditions of one of the options set forth below in this section. Election of any option must be made by written application filed with the Board of Administration at least 30 days in advance of retirement as provided in Section 1.30.570 and shall be irrevocable.

Option A. The lesser retirement allowance shall be payable to the member throughout his or her life; provided, that if he or she dies before he or she receives in annuity payments referred to in subsection A.1 of Section 1.30.580 and in Section 1.30.620, a total amount equal to the amounts of his or her accumulated contributions and his or her accumulated additional contributions combined as they were at the date of his or her retirement, the balances of these accumulated contributions and accumulated additional contributions shall be paid in one sum to his or her estate or to such person as he or she shall nominate by written designation duly executed and filed with the Board.

Option B. The lesser retirement allowance shall be payable to a member throughout his or her life; provided, that if he or she dies before he or she receives in annuity payments referred to in subsection A.1 of Section 1.30.580 and in Section 1.30.620, a total amount equal to the amounts of his or her accumulated contributions and his or her accumulated additional contributions combined as they were at the date of his or her retirement, the annuity payments resulting from his or her accumulated contributions and accumulated additional contributions shall be continued and paid to his or her estate or to such person as he or she shall nominate by written designation duly executed and filed with the Board, until the total amount of annuity payments shall equal the total amounts of his or her accumulated contributions and accumulated additional contributions as they were at the date of his or her retirement.

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

Option D. The lesser retirement allowance shall be payable to the member throughout life, and after the death of the member one-half of the lesser retirement allowance shall be continued throughout the life of and paid to the wife or husband of the member, which wife or husband shall hold such relationship at the time of retirement. Provided, with respect to members retiring on or after January 1, 1999, in the event the wife or husband of the member predeceases the member, the benefit payable to the member effective as of the first day of the month following the death of the wife or the husband shall be increased to the retirement allowance provided for in Sections 1.30.580 through 1.30.620 as if the member had not elected an optional allowance under this section upon his or her retirement; provided further, that effective January 1, 2006, in the event the wife or husband of a member electing hereunder, or who has previously elected hereunder, predeceases the member and the member thereafter remarries, said member shall have, within three months of remarriage, or until March 31, 2006, if already remarried, the option to irrevocably designate the member's new spouse as the wife or husband of the member under this Option D, but said designation shall not become effective until the expiration of six months from the date of exercise of said election and shall be null and void if the member dies before it becomes effective. The retirement allowance payable to the member effective as of the first day of the month following the effectiveness of the designation of the new spouse shall be the lesser retirement allowance the member was receiving (or the increased allowance if the member retired on or after January 1, 1999, as the case may be), actuarially adjusted by the same factors as if the member were electing this Option D at the effective date. If the member exercises the option to designate a new spouse and the member's new spouse predeceases the member, the benefit payable to the member effective as of the first day of the month following the death of the wife or the husband shall be increased to the retirement allowance provided for in Sections 1.30.580 through 1.30.620 as if the member had not elected an optional allowance under this section. Provided further, that with respect to members retiring on or after January 1, 2008, in the event the member and husband or wife are divorced and Section 1.30.690.C is satisfied, the benefit payable to the member effective as of the first day of the month following the entry of the Order shall be increased to the retirement allowance provided for in Sections 1.30.580 through 1.30.620 as if the member had not elected an optional allowance under this section upon his or her retirement; provided further, that in the event the member is divorced hereunder and thereafter remarries, said member shall have, within three months of remarriage, the option to irrevocably designate the

member's new spouse as the wife or husband of the member under this Option D, subject to the same conditions as provided in this Option D for a member who remarries after the death of a husband or wife.

Option E. The lesser retirement allowance shall be payable to the member through life, and after death of the member it shall be continued throughout the life of and paid to the wife or husband of the member, which wife or husband shall hold such relationship at the time of retirement. Provided, with respect to members retiring on or after January 1, 1999, in the event the wife or husband of the member predeceases the member, the benefit payable to the member effective as of the first day of the month following the death of the wife or the husband shall be increased to the retirement allowance provided for in Sections 1.30.580 through 1.30.620 as if the member had not elected an optional allowance under this section upon his or her retirement; provided further, that effective January 1, 2006, in the event the wife or husband of a member electing hereunder, or who has previously elected hereunder, predeceases the member and the member thereafter remarries, said member shall have, within three months of remarriage, or until March 31, 2006, if already remarried, the option to irrevocably designate the member's new spouse as the wife or husband of the member under this Option E, but said designation shall not become effective until the expiration of six months from the date of exercise of said election and shall be null and void if the member dies before it becomes effective. The retirement allowance payable to the member effective as of the first day of the month following the effectiveness of the designation of the new spouse shall be the lesser retirement allowance the member was receiving (or the increased allowance if the member retired on or after January 1, 1999, as the case may be), actuarially adjusted by the same factors as if the member were electing this Option at the effective date. If the member exercises the option to designate a new spouse and the member's new spouse predeceases the member, the benefit payable to the member effective as of the first day of the month following the death of the wife or the husband shall be increased to the retirement allowance provided for in Sections 1.30.580 through 1.30.620 as if the member had not elected an optional allowance under this section. Provided further, that with respect to members retiring on or after January 1, 2008, in the event the member and husband or wife are divorced and Section 1.30.690.C is satisfied, the benefit payable to the member effective as of the first day of the month following the entry of the Order shall be increased to the retirement allowance provided for in Sections 1.30.580 through 1.30.620 as if the member had not elected an optional allowance under this section upon his or her retirement; provided further, that in the event the member is divorced hereunder and thereafter remarries, said member shall have, within three months of remarriage, the option to irrevocably designate the member's new spouse as the wife or husband of the member under this Option E, subject to the same conditions as provided in this Option E for a member who remarries after the death of a husband or wife.

Option F. If a member at the time of his or her retirement has no wife or husband, then and in that event the lesser retirement allowance shall be payable to the member throughout his or her life; and, after the death of the member,

1. One-half of the lesser retirement allowance shall be continued throughout the life of and paid to the beneficiary designated by the member who is over the age of 18 years, or

2. The lesser retirement allowance shall be continued throughout the life of and paid to the beneficiary designated by the member who is over the age of 18 years.

Provided, with respect to members retiring on or after January 1, 1999, in the event the beneficiary of the member predeceases the member, the benefit payable to the member effective as of the first day of the month following the death of the beneficiary shall be increased to the retirement allowance provided for in Sections 1.30.580 through 1.30.620 as if the member had not elected an optional allowance under this section upon his or her retirement.

(Ord. 27647 § 1; Ex. A; passed Sept.. 25, 2007: Ord. 27433 § 2; passed Nov. 29, 2005: Ord. 26573 § 1; passed Feb. 22, 2000: Ord. 26350 § 1; passed Jan. 12, 1999: Ord. 25955 § 34; passed Sept. 24, 1996: Ord. 24507 § 7; passed Dec. 12, 1989: Ord. 21244 § 13; passed Dec. 27, 1977: Ord. 17014 § 4; passed Mar. 20, 1962)

## 1.30.662 Modification to coordinate member's retirement allowance with benefits receivable from federal system.

A. A member who retires from service prior to the age of becoming eligible for retirement payments under the federal system, commonly known as Social Security, and who at the time of retiring is fully insured under the federal system, may elect to have his or her retirement allowance payable during his or her life only, increased prior to such eligible age and reduced after such age by amounts which have equivalent actuarial values, provided the subsequent decrease in his or her retirement allowance, and provided further that it shall be the responsibility of the member to obtain an estimate of his or her Old-Age Benefit at age 62 from the federal system.

B. If a member who has elected the provision under subsection A dies leaving a beneficiary entitled to an allowance, the beneficiary's allowance shall be the same as the beneficiary would have received had the member not elected the provision under subsection A.

(Ord. 25955 § 35; passed Sept. 24, 1996: Ord. 24507 § 8; passed Dec. 12, 1989: Ord. 19419 § 1; passed Aug. 17, 1971)

## 1.30.665 Cost of living increase.

A. Notwithstanding any other provisions of this chapter, and subject to the provisions of this section, as of July 1 of each year, commencing with January 1, 1997, every monthly retirement allowance, less that portion attributable to additional contributions, payable to or on account of any person who has heretofore retired or died or who shall hereafter retire or die as a member of the Retirement System and whose retirement or death occurred on or before July 1 of the preceding year, shall be increased or decreased by a percentage of the monthly retirement allowance then being received, which shall approximate, to the nearest 0.05 of one percent, the percentage of annual increase or decrease in the cost of living during the preceding calendar year, as determined by the Retirement Board in the manner provided in this section; provided, that such increase or decrease shall not exceed 2.125 percent of any monthly retirement allowance in any year, regardless of the percentage of change in such cost of living. After applying the above adjustment, if the member's inflation adjusted service pension shall equal less than 50 percent of the service pension at date of retirement adjusted for inflation by application of the Seattle Consumer Price Index for Urban Wage Earners and Clerical Workers (the "Indexed Benefit"), such service pension shall be further increased so that it shall not be less than 50 percent of such Indexed Benefit.

B. Determination of the percentage of annual increase or decrease in the cost of living shall be made by the Board of Administration each year by reference to the Seattle Consumer Price Index for Urban Wage Earners and Clerical Workers, for each of the two immediately preceding calendar years. The percentage by which such index for the most recent full calendar year shall have increased or decreased over or below such index for the full calendar year immediately prior thereto shall be the percentage used to calculate adjustments in the monthly retirement allowances pursuant to Subsection A of this section.

C. The amount of any cost of living increase or decrease in any year which is in excess of the maximum annual retirement allowance adjustment of 2.125 percent, provided in subsection A of this section shall be accumulated from year to year and included in the computation of increases or decreases in succeeding years.

D. No monthly retirement allowance shall be reduced by operation of this section below the amount payable on the effective date of entitlement thereto.

(Ord. 26734 § 6; passed Nov. 14, 2000: Ord. 25967 § 12; passed Oct. 22, 1996: Ord. 25159 § 3; passed Aug. 25, 1992: Ord. 20099 § 2; passed May 14, 1974: Ord. 18971 § 2; passed Nov. 25, 1969: Ord. 18805 § 2; passed Apr. 22, 1969: Ord. 18466 § 2; passed Dec. 26, 1967)

## 1.30.667 Health insurance.

Any member receiving a pension for years of service hereunder, who because of lack of age only, cannot qualify for Social Security and Medicare benefits, shall be granted the privilege and option, at his or her own expense, to purchase from a health care contractor or insurer furnishing such service to active employees of the City, a policy or policies of health insurance embodying therein terms substantially similar to those granted active employees, paying therefor the same amount as the City pays for its employees on a composite rate. Payment for said insurance shall be an authorized deduction from any pension check, and the Board of Administration and Director of Finance are authorized to make such deductions. The option and privilege herein granted shall terminate automatically upon the member’s reaching an eligible age to qualify for Medicare, whether in fact or not such member obtains the same. In no event shall the granting of this privilege give or grant the retired member any preferential treatment with reference to the health contracts over and above that of active employees of the City of Tacoma, and such privilege is at all times subject to the ability of the City of Tacoma to negotiate for and obtain said health care coverage. There shall exist no obligation on the part of the City to contribute any part of the purchase price of said policy, nor shall the City’s General or Revenue Funds nor the Employee’s Retirement Fund make any contribution therefor; provided, however, that if in fact any change results in the composite rate charged the City for all its employees from the granting of this privilege, such adjustment in the composite rate shall not be deemed a contribution of the City or Board of Administration hereunder.

(Ord. 25955 § 36; passed Sept. 24, 1996: Ord. 20377 § 1; passed Mar. 25, 1975)

## 1.30.670 Death of member – Effect.

A. Upon the death of any member who has not been retired, pursuant to the provisions of this chapter, there shall be paid to his or her beneficiary his or her accumulated contributions and his or her accumulated additional contributions, less any payments therefrom already made to the member, if any. Such payments may be made in one lump sum or may be paid in installments over a period of not to exceed five years, as may be designated by the beneficiary, in accordance with such rules as may be established by the Board of Administration, and with such rate of interest applicable as may be determined by the Board of Administration.

B. Upon the death of any member who has not retired but who, as of the date of death, was eligible for service retirement in accordance with subsection B of Section 1.30.570 of this chapter, the beneficiary may elect to receive one of the following death benefits:

1. the benefit provided in subsection A above;

2. a retirement allowance payable only for the remainder of his or her life and equal to that which would have been received had the deceased member retired on the date of death having elected a lesser retirement allowance payable to the member for life and continuing for the life of the named beneficiary, provided that effective January 1, 2000, any non-spouse beneficiary electing hereunder must be over the age of 18 years; or

3. a lump sum cash payment not to exceed one-half of the deceased member's accumulated contributions and accumulated additional contributions and a retirement allowance payable only for the remainder of his or her life and equal to that which would have been received had the deceased member retired on the date of death having elected a lesser retirement allowance payable to the member for life and continuing for the life of the named beneficiary, but reduced proportionately by the lump sum cash payment provided that effective January 1, 2000, any non-spouse beneficiary electing hereunder must be over the age of 18 years.

C. Upon the death of any member who has not retired but who, as of the date of his or her death, had five years' creditable service, the beneficiary may elect to receive the death benefit provided in subsection A above or, in lieu thereof, may elect to receive a monthly retirement allowance payable for ten years in an amount that is the actuarial equivalent of 200 percent of the member's accumulated normal contributions, with interest. Provided that effective February 1, 2009, such allowance shall be equal to the actuarial equivalent of 200 percent of the member's accumulated normal contributions as of February 1, 2009, plus 200 percent of the member's accumulated normal contributions after such date up to a rate of 6.44% of compensation as defined in Section 1.30.130. The member's contributions and interest on overtime, if any, shall be paid to the beneficiary in accordance with Section 1.30.550.

D. In the event the beneficiary is the member's surviving spouse, upon the death of any member who has not retired but who, as of the date of his or her death, had five years' creditable service, in lieu of the death benefit provided under subsection C, the spouse may elect to defer payment of a death benefit, leaving the member's accumulated contributions with interest, not including contributions on overtime with interest, in the Retirement Fund until a deferral date. A deferral date is any date following the date when the member could have elected to start receiving a retirement allowance under Section 1.30.570 based on the member's date of birth and years of service at the time of death; provided, however, that if the spouse is older than the member, the spouse's age and date of birth may be used in lieu of the member's age for purposes of determining eligibility to start receiving a benefit under Section 1.30.570. Such contributions shall be credited with regular interest and shall be payable in accordance with subsection C, above, upon written request at any time prior to the deferral date. The value of the deferred death benefit payable under this section at the deferral date shall be twice the value of the member's normal contributions plus interest earned to the deferral date, excluding contributions on overtime and interest thereon which are payable in accordance with Section 1.30.550 at the member's death. The form of the benefit payable under this section at the deferral date shall be a monthly retirement allowance converted on an actuarial equivalent basis to a life annuity for the life of the spouse.

If the spouse should die before the commencement of the deferred death benefit, then a death benefit will be payable to the spouse's estate in a lump sum equal to the value of the benefit under subsection C, above, with the member's normal contributions accruing interest to the date of the spouse's death.

If the spouse should die after the commencement of the deferred death benefit, then a death benefit may be payable to the spouse's estate in a lump sum equal to twice the value of the member's normal contributions, plus interest earned to the date the deferred death benefit payments to the spouse began (excluding contributions on overtime and interest thereon), less any payments already made to the spouse.

E. In the case of a death occurring on or after January 1, 2007, if a member dies while performing qualified military service (as defined by Internal Revenue Code Section 414(u)), the member's survivors are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service), such as full vesting upon death, provided under this Section 1.30.670 as if the member had resumed and then terminated employment on account of death.

(Ord. 28092; passed Oct. 9, 2012: Ord. 28091; passed Oct. 9, 2012: Ord. 27779 Ex. A; passed Jan. 13, 2009: Ord. 27582 § 1; passed Jan. 16, 2007: Ord. 26868 § 1; passed Oct. 23, 2001: Ord. 26734 § 7; passed Nov. 14, 2000: Ord. 26603 § 1; passed Mar. 28, 2000: Ord. 25955 § 37; passed Sept. 24, 1996: Ord. 21244 § 14; passed Dec. 27, 1977: Ord. 19701 § 1; passed Nov. 14, 1972; Ord. 18805 § 21; passed Apr. 22, 1969: Ord. 18466 § 3; passed Dec. 26, 1967: Ord. 14039 § 19; passed Dec. 6, 1950)

## 1.30.680 Retirement allowance payable monthly.

A pension, annuity, or a retirement allowance granted under the provisions of this chapter, unless otherwise specified herein, shall be payable in monthly installments, and each installment shall cover for the current calendar month. Effective January 1, 2002, all new retirees shall be required to receive payment of their retirement allowance by electronic direct deposit with their bank or credit union. Upon the death of a member while receiving a pension, annuity, or retirement allowance, the final month's payment shall be pro-rated for the portion of the month that the member survived, and shall be paid to the member's bank or credit union account by direct deposit, if applicable. Upon the death of a surviving spouse or other beneficiary designated by the member who is receiving monthly payments, if applicable, the final month's payment shall be pro-rated for the portion of the month that the spouse or designated beneficiary survived, and shall be paid to such spouse or beneficiary's account by direct deposit, if applicable.

(Ord. 27997 Ex. B; passed Jun. 21, 2011: Ord. 26873 § 6; passed Nov. 13, 2001: Ord. 26868 § 2; passed Oct. 23, 2001: Ord. 14039 § 20; passed Dec. 6, 1950)

## 1.30.690 Exemption from process.

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

B. Notwithstanding the foregoing, benefits due a member hereunder pursuant to the provisions of this chapter shall be paid to an alternate payee in accordance with the applicable requirements of any Qualified Domestic Relations Order, or as directed in an Order to Withhold and Deliver under RCW 74.20A.080. A Qualified Domestic Relations Order means a domestic relations order which creates or recognizes the existence of an alternate payee's right to, or assigns to the alternate payee the right to, receive all or a portion of the benefits payable with respect to a member under this chapter. A Domestic Relations Order means any judgment, decree, or order (including approval of a property settlement agreement) which relates to the provisions of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member and is made pursuant to a state domestic relations law. A Domestic Relations Order will be qualified only if it:

1. Unambiguously specifies the amount or percentage of the member's benefits to be paid by the Retirement System to each alternate payee or the manner in which such amount or percentage is to be determined;

2. Does not require the Retirement System to provide any type of form or benefits or any option not otherwise provided under this chapter;

3. Does not require the Retirement System to provide increased benefits (determined on the basis of actuarial value);

4. Does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee or to a person pursuant to an Order to Withhold and Deliver;

5. Does not require the Retirement System to pay a benefit to the alternate payee before the earliest date on which a benefit could be elected by a member who had the same years of City Service as a member had at the date of the entry of the order; and

6. Complies in all respects with the requirements of the Board of Administration's rules with respect to Qualified Domestic Relations Orders as they are in effect from time to time.

C. In order for a member to obtain the increased benefit upon divorce, as provided in Options D and E under Section 1.30.660, the member must submit either a Qualified Domestic Relations Order that meets the requirements of this section and specifies that the former husband or wife shall have no survivor benefit upon the member's death and does not purport to provide a survivor benefit to anyone else, or other proof satisfactory to the Board of Administration that the former husband or wife has irrevocably waived any survivor benefit. If the conditions in the preceding sentence are not met, a member who has retired with Option D or E under Section 1.30.660, and divorced, cannot change the form of benefit and the member's former husband or wife retains the survivor benefit, but the member's lesser retirement allowance under Option D or E may be divided by a Qualified Domestic Relations Order while the member and former husband or wife are both living.

(Ord. 27647 § 2; passed Sept. 25, 2007: Ord. 26118 § 6; passed Aug. 19, 1997: Ord. 25955 § 38; passed Sept. 24, 1996: Ord. 14039 § 21; passed Dec. 6, 1950)

### 1.30.700 Incomplete records – Pension based on estimates.

If it shall be impracticable for the Board of Administration to determine from the records the length of service, the compensation or the age of any member, the Board may estimate for the purpose of this chapter such length of service, compensation or age.

(Ord. 14039 § 22; passed Dec. 6, 1950)

### 1.30.710 Suspension of payments – Receipt of other compensation.

The payment of any retirement allowance to a member who has been retired from service shall be suspended during the time that the member is for any reason an employee of the City and is in receipt of compensation for such City Service, except as to the amount by which such retirement allowance may exceed such compensation for the same period; provided, that payment for vacation earned in the City Service prior to retirement of a member may be made without any suspension of allowance. This section shall not apply to any persons excluded from membership in the Retirement System under Section 1.30.300, 1.30.290.G, or to persons who elect not to become a member under the option granted under Section 1.30.290.D.

(Ord. 27448 § 1; passed Dec. 13, 2005: Ord. 26118 § 7; passed Aug. 19, 1997: Ord. 25955 § 39; passed Sept. 24, 1996: Ord. 22753 § 1; passed Aug. 3, 1982: Ord. 14039 § 23; passed Dec. 6, 1950)

### 1.30.720 Appropriation for administration of system.

The City Council shall appropriate annually from the Retirement Fund the amount it deems necessary for the purpose of paying the expenses of administering the Retirement System. The Board of Administration shall annually submit to the City Council its estimate of the amount necessary to pay such expenses.

(Ord. 14039 § 24; passed Dec. 6, 1950)

### 1.30.730 Federal O.A.S.I. – No reduction in contributions.

There shall be no reduction in the contributions by members and the City to the Tacoma Employees' Retirement System hereinabove and hereafter provided for, and the City and the members shall be responsible for the payment of any additional cost to them by reason of having taken advantage of the benefits of the Federal Old Age and Survivors Insurance embodied in the Federal Social Security Act.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 25955 § 40; passed Sept. 24, 1996: Ord. 17014 § 4; passed Mar. 20, 1962)

### 1.30.740 Federal O.A.S.I. – Minimum allowance.

If any member of the Tacoma Employees' Retirement System, whether or not entitled to any benefits under the Federal Old Age and Survivors Insurance embodied in the Federal Social Security Act upon retirement for any reason provided for in said Tacoma Employees' Retirement System, shall receive a less amount, including all benefits received from the Federal Old Age and Survivors Insurance, if any, but excluding any amounts received from such member's additional contributions, than such member would have been entitled to receive under the provisions of the Tacoma Employees' Retirement System in effect immediately prior to the effective date of the agreement providing for benefits under the Federal Old Age and Survivors Insurance embodied in the Federal Social Security Act, then and in that event such member or his beneficiary shall receive the difference between the total amount actually received as above computed and the minimum amount provided for in said Tacoma Employees' Retirement System in effect at the time of the effective date of the agreement above mentioned.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 15495 § 7; passed Dec. 12, 1955)

### 1.30.750 Federal O.A.S.I. – Increase in benefits.

Any person who has heretofore elected or who may hereafter elect to receive one of the options provided for in Section 1.30.660, and whose retirement allowance will be increased by the adoption of the benefits of the Federal Social Security Act, shall receive only the proper actuarial equivalent of such increase.

(Ord. 15495 § 8; passed Dec. 12, 1955)

### 1.30.760 Federal O.A.S.I. – Benefits computed on funds actually received.

All benefits which are due because of the accumulated contributions of a member shall be computed only on the actual accumulated funds received and retained by the Tacoma Employees' Retirement System which are standing to the credit of the member at the time of his retirement, notwithstanding any other provision herein contained.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 15495 § 9; passed Dec. 12, 1955)

### 1.30.770 Federal O.A.S.I. – Agreement – Referendum.

The Governor of the State of Washington is hereby requested to approve this plan and to enter into an agreement with the Secretary of Health, Education and Welfare of the United States for the purpose of extending to officers and employees of the City of Tacoma the benefits of Federal Old Age and Survivors Insurance embodied in the Federal Social Security Act on this plan providing for such insurance, in addition to adjusted Retirement System benefits under the Tacoma Employees' Retirement System; and said Governor is requested to authorize a referendum thereon at the earliest possible date in accordance with Section 3 (4), Chapter 4, Laws of Washington, 1955, Ex. Sess., and Section 218 (d), (3), of the Federal Social Security Act, to the eligible officers and employees of the City of Tacoma upon the question whether they desire to be included under, or excluded from, the provisions of Federal Old Age and Survivors Insurance embodied in the Federal Social Security Act on such plan.[34]

(Ord. 27886 Ex. B; passed May 4, 2010; Ord. 15495 § 10; passed Dec. 12, 1955)

### 1.30.780 Federal O.A.S.I. – Funds.

Upon adoption of such plan, in conformity with the provisions of the Federal Social Security Act and the agreement entered into under the State act, each year there shall be provided, in the respective funds from which City officers and employees of the various departments receive their salaries, sufficient funds to make the payments required by Section 5 (3) (a) and (4), Chapter 4, Laws of Washington, 1955, Ex. Sess.

(Ord. 27886 Ex. A; passed May 4, 2010: Ord. 15495 § 11; passed Dec. 12, 1955)

### 1.30.790 Federal O.A.S.I. – Duties of Director of Finance.

The Director of Finance of the City of Tacoma is hereby designated as the officer to administer such accounting, reporting and other functions as are required for the effective operation of said plan within the City of Tacoma; he or she shall establish and set up such funds and shall make such reports, in such form and containing such information, as the Governor may from time to time require; and shall comply with such provisions as the Governor or the Secretary of Health, Education and Welfare of the United States may from time to time find necessary to assure the correctness and verification of such reports; and the Governor is authorized to terminate said plan if he or she finds there has been failure to comply substantially with its provisions, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the Governor consistent with the provisions of the Federal Social Security Act.

(Ord. 25955 § 41; passed Sept. 24, 1996: Ord. 15495 § 12; passed Dec. 12, 1955)

### 1.30.800 Federal O.A.S.I. – Effective date.

In the event that this plan is properly approved by the eligible officers and employees of the City of Tacoma, the effective date of this plan shall be January 1, 1955, and retroactive to said date.

(Ord. 15495 § 13; passed Dec. 12, 1955)

### 1.30.810 Federal O.A.S.I. – Director of Finance to be certifying officer.

The Director of Finance of the City of Tacoma is hereby appointed as the certifying agent or officer, and such officer is hereby authorized and empowered to do all things necessary as provided for in the statutes pertaining to said plan.

(Ord. 15495 § 14; passed Dec. 12, 1955)

### 1.30.820 Federal O.A.S.I. – Contributions – Fund.

The Director of Finance of the City is hereby authorized and directed, beginning January 1, 1956, to deduct from the salaries and wages of each employee and officer of the City eligible for coverage under the Federal Social Security Act, the amounts required to be deducted from such employees and officers as provided for by the Federal Insurance Contributions Act. Failure to make such deduction shall not relieve the officers or employees from liability for such contribution.

The said Director of Finance is further authorized and directed to likewise collect from the City such amounts as required to be paid by the City employer under the provisions of the Federal Insurance Contributions Act.

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[34] Referendum held and passed.

The said Director of Finance shall establish a fund to be known as the "O.A.S.I. Contributions Fund", and all moneys collected from the employees and officers and the City under the Federal Insurance Contributions Act or under any other act pertaining to said plan shall be deposited in this fund and shall be withdrawn and paid out of said fund for coverage under the Federal Social Security Act as by law provided.

(Ord. 15495 § 15; passed Dec. 12, 1955)

### 1.30.830 Contributions to Tacoma Employees' Retirement System – Adjustment for federal income tax purposes.

The City of Tacoma hereby elects to extend to members of the Tacoma Employees' Retirement System the tax deferral benefits allowed by 26 U.S.C. Section 414(h) and Chapter 227, Laws of 1984 effective January 1, 1985, or as soon thereafter as is permissible by the Internal Revenue Service (the effective date). For such purpose, the City will pay the member's contribution to the Tacoma Employees' Retirement System contemplated by Sections 1.30.295, 1.30.296, 1.30.340, 1.30.350, and 1.30.550, and the salary reduction option under Section 1.30.380, for pay periods commencing on or after the effective date and will reduce the member's paid compensation by the amount of the City's contribution so paid. The City contribution made under this section, plus accumulated interest, shall be subject to withdrawal pursuant to Section 1.30.550 and forfeiture pursuant to Section 1.30.330.

A member's paid compensation for purposes of the Federal Insurance Contributions Act (Social Security tax), for purposes of workers' compensation and for all purposes other than federal income taxation shall be computed as if the foregoing contribution and corresponding reduction in a member's paid compensation had not been made.

The City reserves the right to discontinue this arrangement for a City contribution and corresponding paid compensation reduction at any time as to compensation earned afterwards. No affected member shall have any contract rights to compel the City to continue the arrangement should the City decide to pay the member his or her full paid compensation and then require that the member pay to the Tacoma Employees' Retirement System the member's contributions contemplated by Sections 1.30.295, 1.30.296, 1.30.340, 1.30.350, 1.30.380, and 1.30.550.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 27111 § 2; passed Jul. 1, 2003: Ord. 23411 § 1; passed Jun. 11, 1985)

### 1.30.840 Trust fund.

A. The retirement fund created pursuant to Section 1.30.460 shall be a trust fund held for the exclusive benefit of the members of the Tacoma Employees' Retirement System and their beneficiaries. No part of the corpus or income of the retirement fund shall be used for, or diverted to, purposes other than for the exclusive benefit of the members or their beneficiaries and the payment of fees and expenses of maintaining and administering the Retirement System.

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

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

2. The making of refunds required by law;

3. Termination of the Retirement System and distribution of its assets to the City after all liabilities with respect to the members and their beneficiaries have been satisfied.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 23411 § 2; passed Jun. 11, 1985)

### 1.30.850 Status of benefits in event of termination of system.

If the City terminates or partially terminates the Retirement System, each member affected shall have a nonforfeitable right to the retirement allowance accrued prior to the date of such termination or partial termination, to the extent funded as of that date, or if greater the normal contribution and additional contribution plus interest credited to the members' accounts. As used in this section, "terminate" means to discontinue the system completely without a comparable replacement plan; "partially terminate" means to exclude a segment of employees from coverage without the provision of a comparable replacement plan; and "nonforfeitable" means that a member's or beneficiary's right to an immediate or deferred benefit that arises from the member's City Service may not be forfeited by termination of service.

(Ord. 23411 § 2; passed Jun. 11, 1985)

## 1.30.860 Compliance with applicable provisions of the Internal Revenue Code by regulations of the Board of Administration.

A. Chapter 1.30 shall be administered in a manner to comply with the requirements of Internal Revenue Code Section 401(a)(8), (9), (16), (25), (30), and (31) and the Board shall promulgate regulations designed to assure compliance with the requirements of such law which will become a part of the Retirement System subject to change only by amendment of said regulations by the Board.

B. Membership of any new classification of employees will be denied if such participation will have an adverse impact on the tax qualification of TERS, pursuant to applicable federal law and regulation, including but not limited to those sections set forth above in subsection A.

C. Excess Limits Plan. Any retiree or beneficiary whose benefit or survivor benefit is limited by Internal Revenue Code Section 415 shall participate in an excess limits plan under this provision for any year in which his or her benefit is limited by Section 415. The excess limits plan shall pay the retiree or beneficiary a monthly benefit equal to the difference between the retirement allowance otherwise payable under this chapter before the application of Internal Revenue Code Section 415, and the retirement allowance as limited by Section 415. This benefit shall be payable by the City when due and shall not be paid from the Retirement Fund. The excess limits benefit shall be subject to income and employment tax withholding in accordance with applicable law. The benefit will be adjusted for the member's share of any employment taxes paid by the City on the member's behalf. This provision shall be interpreted to comply with Internal Revenue Code Section 415(m).

(Ord. 26873 § 7; passed Nov. 13, 2001: Ord. 25955 § 42; passed Sept. 24, 1996: Ord. 24507 § 9; passed Dec. 12, 1989: Ord. 23411 § 2; passed Jun. 11, 1985)

## 1.30.870 Severability.

If anyone or more sections, subsections, subdivisions, sentences, clauses or phrases of this chapter are for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter, but the same shall remain in full force and effect.

(Ord. 23411 § 2; passed Jun. 11, 1985.)

## 1.30.880 Agreement for portability of retirement benefits – Terms.

A. The Board of Administration of the Tacoma Employees' Retirement System is authorized to contract with the Board of Administration of the Seattle City Employees' Retirement System and/or Board of Administration of the Spokane Employees' Retirement System (each called a "participating system") for the portability of retirement benefits of employees who are also members of the retirement systems of the cities of Seattle and Spokane, respectively.

B. The following terms and conditions shall apply in addition to such other requirements as may be established by rule of the Board or the agreement with participating systems:

1. The member must be in the active service of a participating system on or after the effective date of the Board's agreement for portability; a member retired from any of the three systems on the effective date of this chapter is not eligible.

2. Creditable service may accrue in only one participating system at a time. A member who leaves City employment to enter military service may only receive creditable service for his or her military service in one of the participating systems according to its rules.

3. A member may combine service credit in two or more participating systems for the sole purpose of determining the member's eligibility to receive a service retirement allowance, but the member may not aggregate service credit in two or more retirement systems for the purpose of determining the percentage factor to be used in calculating a service retirement allowance; PROVIDED, however, a member retiring on or after February 1, 1997, may aggregate service credit in two or more retirement systems for the purpose of determining the percentage factor to be used in calculating a service retirement allowance as provided elsewhere in this chapter. The service retirement allowances from a system, which but for this agreement would not be allowed to be paid at this date based on the dual member's age, shall be either actuarially adjusted from the earliest age upon which the combined service would have been made such dual member eligible in that system, or the dual member may choose to defer the benefit until fully eligible.

4. A member of two or more participating systems who is eligible to retire under any system may elect to retire from all the members' systems and to receive a service retirement allowance. Each participating system shall calculate the allowance using its own criteria, except that the member shall be allowed to use the member's "base salary" from any participating system as the compensation used in calculating the allowance. "Base salary" means the salary or wages used by the participating system during a payroll period for making contributions to the system by its members generally. It includes salary or wages paid for personal services and wages and salary deferred under the provisions of the United States Internal Revenue Code. It excludes

overtime payments (except as to service for the City of Spokane), nonmoney maintenance compensation, and lump sum payments for deferred annual leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

5. The retirement allowances shall be paid separately by each participating system. Post-retirement adjustments, if any, shall be based on the payments made by each participating system to the member.

6. The total retirement allowances provided through portability of benefits shall not be less than the benefits payable by each participating system were there no portability, nor more than the benefits that would be payable had all service been with one participating system.

7. A participating system may pay a member of two or more systems a lump sum in lieu of a monthly benefit if the initial monthly benefit would be less than $50.00.

8. If a member of two or more participating systems dies in service in any system, the surviving spouse shall receive the same benefit from each system that would have been received if the member were active in the system at the time of his or her death based on service actually established in that system.

9. The terms and conditions of the Board's agreement with the board of a participating system both establishes and limits the portability of benefits provided. The Board's agreements may be amended from time to time or supplemented by an agreement with the State of Washington for portability with State Retirement Systems. If the Board amends its agreement with the board of a participating system or makes modifications to provide portability with State systems, the rights, terms and conditions for portability are subject to amendment or abolition at any time before a member retires.

10. A member who: (a) earned retirement credit for service in a participating system, (b) withdrew his or her contributions from that system, (c) lost service credit by making the withdrawal, and (d) is now an active member of another participating system, may restore his or her prior service credit in the participating system of his or her former municipal employer by redepositing an amount determined by the system Board. Any individual hired after January 1, 1992, shall be provided with a one-year period under portability to repay contributions. This would not extend the time period for those individuals presently in the system who have not taken advantage of the one-year "windowed" period from January 1, 1991, to December 31, 1991. The amount shall be measured by the accumulated contributions withdrawn plus compound interest which would have accumulated on the withdrawn contributions from the date of withdrawal until the date of redeposit.

(Ord. 27886 Ex. B; passed May 4, 2010: Ord. 26530 § 5; passed Nov. 9, 1999: Ord. 25049 § 1; passed Jan. 21, 1992: Ord. 24782 § 1; passed Dec. 11, 1990)

## 1.30.890 Agreements for portability of retirement benefits with the State of Washington.

The City of Tacoma irrevocably elects to participate in the portability of public retirement benefits in Washington State public retirement systems, as contemplated by Chapter 41.54 RCW, and to pay for the additional costs it may incur as a result of the benefits provided.

The eligibility of members for the portability of public retirement benefits, the benefits available thereunder, the limitations (including those set forth in RCW 41.54.080), and the procedures necessary to implement portability shall be as set forth in Chapter 41.54 RCW and to the extent inconsistent with Section 1.30.880, shall govern. With respect to retirements effective on or after February 1, 1997, a member may combine service credit in two or more systems for the purpose of determining the percentage factor to be used in calculating a service retirement allowance as provided elsewhere in this chapter.

(Ord. 26530 § 6; passed Nov. 9, 1999: Ord. 25375 § 1; passed Oct. 5, 1993)

# CHAPTER 1.32
# VEHICLES – USE

Sections:

1.32.010 City vehicles to be marked.
1.32.020 Used only on City business.
1.32.030 Penalty.

## 1.32.010 City vehicles to be marked.

Upon every vehicle belonging to the City of Tacoma, except as hereinafter specified, there shall be painted in letters of contrasting color, not less than two inches in height, in a conspicuous place on the left side thereof, the words "City of Tacoma", together with the name of the department or office upon the business of which the vehicle is used; provided, that this section shall not apply to vehicles of the Police Department or vehicles used by peace officers under public authority for special or general police purposes; provided further, that it shall be lawful and constitute compliance with the provisions of this section for any general department, with the approval of the City Manager, and for any department under the jurisdiction of the Public Utility Board, with the approval of the Director of Utilities, to adopt and use, in lieu of the lettering required, a distinctive insignia approved by the State Commission on Equipment and bearing substantially the same information as required herein.

(Ord. 15030; passed Jun. 1, 1954: Ord. 5763 § 1; passed May 20, 1914)

## 1.32.020 Used only on City business.

No person shall use any automobile belonging to said City for any purpose other than the business of the City of Tacoma.

(Ord. 5763 § 2; passed May 20, 1914)

## 1.32.030 Penalty.

Any person violating the provisions of this chapter shall upon conviction, be fined in any sum not exceeding $100.00, or imprisoned in the county jail for a period not exceeding 30 days, or both, in the discretion of the Court.

(Ord. 5763 § 3; passed May 20, 1914)

# CHAPTER 1.34
# WORKING FUND ADVANCES [35]

Sections:

1.34.010 Working fund advances established – Purpose.
1.34.020 Payments from funds – Receipts.
1.34.030 Creation of advances by warrants.
1.34.100 Director of Finance – General fund departments.
1.34.110 Director of Environmental Services Department – Solid Waste Management Division.
1.34.120 Director of Environmental Services Department – Sewer Utility.
1.34.200 Finance Director – Belt Line Division.
1.34.210 Finance Director – Light Division.
1.34.220 Finance Director – Water Division.
1.34.230 Utilities Controller – Fleet Services.
1.34.300 Library Board – Library Director.
1.34.310 Tacoma Employees' Retirement System – Manager.
1.34.340 Comprehensive Employment Services Director.
1.34.350 *Repealed*.
1.34.360 Bicentennial Pavilion Manager.
1.34.370 Tacoma-Pierce County Health Department – Health Director.
1.34.380 Police Department – Investigation, extradition, etc.
1.34.390 Tacoma Venues and Events Department.
1.34.400 Performing Arts Center.
1.34.410 Law Enforcement Support Agency.

## 1.34.010 Working fund advances established – Purpose.

The creation and maintenance of working fund advances in certain departments, offices and boards of the City, is necessary in order to facilitate the payment of petty office, incidental and other necessary expenses in connection with the efficient operation of said offices and for providing change funds, and for said reasons there are hereby established and created working fund advances in the departments, offices and boards set forth and described in the succeeding sections of this chapter, to be used for the purposes hereinabove set forth, in the amounts in said sections hereinafter set forth.

(Ord. 22288 § 1; passed Dec. 23, 1980: Ord. 17068 § 1; passed Jun. 5, 1962)

## 1.34.020 Payments from funds – Receipts.

Receipts shall be taken for payments made from said funds, except where disbursements are made by check and each department shall support payments from said funds by said receipts or canceled checks, with information thereon sufficient to establish the validity thereof and to permit the Director of Finance to audit such funds.

(Ord. 17068 § 1; passed Jun. 5, 1962)

## 1.34.030 Creation of advances by warrants.

The Director of Finance is hereby authorized to make any necessary advances and to issue any warrants therefor on the respective funds of the City applicable to each of the departments, offices or divisions hereinafter set forth in this chapter, or as the same may be hereafter amended.

(Ord. 17068 § 1; passed Jun. 5, 1962)

## 1.34.100 Director of Finance – General fund departments.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Director of Finance in the sum of $20,000.00.

[35] See Ordinance 14531 on file with Director of Finance establishing working fund advance in the amount of $800.00 in office of Chief of Police.

(Ord. 24970 § 1; passed Sept. 10, 1991: Ord. 24711 § 1; passed Aug. 28, 1990: Ord. 24357 § 1; passed May 30, 1989: Ord. 23512 § 1; passed Nov. 19, 1985: Ord. 22288 § 2; passed Dec. 23, 1980: Ord. 17068 § 1; passed Jun. 5, 1962)

### 1.34.110 Director of Environmental Services Department – Solid Waste Management Division.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Director of Environmental Services Department, Solid Waste Management Division, in the sum of $500.00.

(Ord. 28093 Ex. C; passed Oct. 16, 2012: Ord. 25341 § 1; passed Aug. 3, 1993: Ord. 23001 § 1; passed Aug. 30, 1983: Ord. 22718 § 1; passed Jun. 22, 1982: Ord. 19167 § 1; passed Aug. 4, 1970: Ord. 17068 § 1; passed Jun. 5, 1962)

### 1.34.120 Director of Environmental Services Department – Sewer Utility.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Director of Environmental Services Department, Sewer Utility, in the sum of $1,000.00.

(Ord. 28093 Ex. C; passed Oct. 16, 2012: Ord. 25290 § 1; passed Apr. 6, 1993: Ord. 24711 § 2; passed Aug. 28, 1990: Ord. 22685 § 1; passed May 11, 1982: Ord. 17068 § 1; passed Jun. 5, 1962)

### 1.34.200 Finance Director – Belt Line Division.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Finance Director, Belt Line Division, in the sum of $300.00.

(Ord. 25335 § 24; passed Jul. 20, 1993: Ord. 17068 § 1; passed Jun. 5, 1962)

### 1.34.210 Finance Director – Light Division.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Finance Director, Light Division, in the sum of $15,000.00.

(Ord. 25335 § 25; passed Jul. 20, 1993: Ord. 23562 § 1; passed Feb. 11, 1986: Ord. 17068 § 1; passed Jun. 5, 1962)

### 1.34.220 Finance Director – Water Division.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Finance Director, Water Division, in the sum of $1,000.00.

(Ord. 25335 § 26; passed Jul. 20, 1993: Ord. 23562 § 2; passed Feb. 11, 1986: Ord. 17068 § 1; passed Jun. 5, 1962)

### 1.34.230 Utilities Controller – Fleet Services.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Utilities Controller, Fleet Services, in the sum of $300.00.

(Ord. 23562 § 3; passed Feb. 11, 1986)

### 1.34.300 Library Board – Library Director.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Library Board, Library Director, in the sum of $4,000.00.

(Ord. 24758 § 1; passed Nov. 13, 1990: Ord. 24513 § 1; passed Dec. 12, 1989: Ord. 22178 § 1; passed Aug. 26, 1980: Ord. 17068 § 1; passed Jun. 5, 1962)

### 1.34.310 Tacoma Employees' Retirement System – Manager.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Tacoma Employees' Retirement System Manager in the sum of $300.00.

(Ord. 27886 Ex. B; passed May 4, 2010; Ord. 23505 § 1; passed Nov. 5, 1985: Ord. 17068 § 1; passed Jun. 5, 1962)

### 1.34.340 Comprehensive Employment Services Director.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Comprehensive Employment Services Director in the sum of $100.00.

(Ord. 22288 § 3; passed Dec. 23, 1980: Ord. 20486 § 1; passed Jul. 15, 1976)

### 1.34.350 Director of Community Development. *Repealed by Ord. 26386.*

(Ord. 26386 § 9; passed Mar. 23, 1999: Ord. 20531 § 1; passed Aug. 26, 1975)

### 1.34.360 Bicentennial Pavilion Manager.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the Bicentennial Pavilion office in the sum of $100.00.

(Ord. 20788 § 1; passed Jul. 6, 1976)

### 1.34.370 Tacoma-Pierce County Health Department – Health Director.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Tacoma-Pierce County Health Department in the sum of $700.00.

(Ord. 22401 § 2; passed May 12, 1981)

### 1.34.380 Police Department – Investigation, extradition, etc.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the Police Department in the sum of $2,000.00.

(Ord. 22582 § 1; passed Dec. 8, 1981)

### 1.34.390 Tacoma Venues and Events Department.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the Tacoma Venues and Events Department in the sum of $200.00.

(Ord. 28450 Ex. A; passed Aug. 29, 2017: Ord. 22973 § 1; passed Aug. 2, 1983: Ord. 22661 § 1; passed Mar. 30, 1982: Ord. 22644 § 1; passed Mar. 9, 1982)

### 1.34.400 Performing Arts Center.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Performing Arts Center in the sum of $100.00.

(Ord. 22769 § 1; passed Sept. 7, 1982)

### 1.34.410 Law Enforcement Support Agency.

A working fund advance for the purposes set forth in Section 1.34.010 is hereby created in the office of the Record Center of the Law Enforcement Support Agency in the sum of $150.00.

(Ord. 24443 § 1; passed Sept. 26, 1989)

# CHAPTER 1.35
# PERFORMANCE AUDITS

Sections:

1.35.010 Performance audits.
1.35.020 Performance audits.

## 1.35.010 Performance audits.

The City Manager shall be responsible for incorporating performance audits into a comprehensive performance program. This program will link performance measurements, employee performance evaluations, and performance audits to the Strategic Plan. The purpose of the performance program is to create an ongoing cost-effective method to evaluate the efficiency, effectiveness, and quality of City services.

(Ord. 26541 § 1; passed Nov. 30, 1999)

## 1.35.020 Performance audits.

Performance audits, as a component of the performance program, shall be scheduled and conducted in a manner designed to realize the greatest cost benefit to the City. Performance audits may be accomplished through a variety of methods, including, but not limited to, ongoing evaluations, as part of the performance measurement program; internal audits; and/or peer review. Subject to Council appropriation, and where potential cost savings justify the expense, audits by independent consultants may be conducted.

(Ord. 26541 § 1; passed Nov. 30, 1999: Ord. 26107 § 1; passed Aug. 12, 1997)

# CHAPTER 1.36
# BAD CHECK AND OTHER CHARGES

Sections:

1.36.010 Collection charges for unpaid or dishonored check, credit card, debit card, and Automated Clearing House payments.
1.36.020 Late payment charges on obligations owed to City.

## 1.36.010 Collection charges for unpaid or dishonored check, credit card, debit card, and Automated Clearing House payments.

Whenever any person, firm, or corporation gives or causes to be given to the City, or any department, division, or agency thereof, a check, credit card, debit card, or Automated Clearing House("ACH") payment drawn on or processed by a bank or other financial entity in purported payment of any obligation due the City, which check, credit card, debit card, or ACH payment is subsequently dishonored or unpaid because of an improper signature thereon, or by reason of the drawer or obligor of said check, credit card, debit card, or ACH payment item having no account in the bank or other financial entity upon which check is drawn, or because of the drawer or obligor thereof having insufficient funds in said bank or other financial entity, or because of the drawer or obligor having stopped payment on such check or transaction item, or for any other reason resulting in dishonored payment, then in any of these events, there may be added to the obligation due the City the sum of $20 to cover the additional cost to the City thereby entailed. Such sum may be collected in the same manner as any other indebtedness due the City, and any receipt theretofore given in reliance upon said dishonored payment item shall be null and void and no other receipt shall be given for the payment of the original indebtedness until said additional collection charge has also been paid. For City accounting purposes, this charge will be allocated to each utility in the same ratio as credit and collection costs (when the charge is assessed for a utility payment), and recorded as revenue for City tax purposes. The charge will be recorded as revenue for City tax purposes in the appropriate fund when the charge is assessed for other than a utility payment.

(Ord. 27026 § 1; passed Dec. 10, 2002: Ord. 23337 § 1; passed Sept. 10, 1985)

## 1.36.020 Late payment charges on obligations owed to City.

Any person or entity who fails within 30 days of the initial invoice date, to make full payment to the City of Tacoma on any obligation owed to the City of Tacoma, shall also be charged and liable (to the extent permitted by law) for a late payment charge of one percent per month on the delinquent balance with a minimum monthly late payment charge of $3.00. The charge will be recorded as a revenue for City tax purposes in the fund issuing the initial invoice. Notwithstanding the provisions for the imposition of late payment charges contained in this section, such late payment charges shall not commence to be imposed against obligations owed to the City as a result of the City's failure to deduct FICA from unused sick leave to former City employees leaving City employment; provided, that such obligations are paid either in full or in monthly installments of not less than one-twelfth of the obligation owed, commencing on or before February 1, 1988.

(Ord. 24007 § 1; passed Dec. 29, 1987: Ord. 23337 § 1; passed Sept. 10, 1985)

# CHAPTER 1.37
# TRANSFER OF DEVELOPMENT RIGHTS PROGRAM ADMINISTRATIVE CODE

Sections:

1.37.010 Purpose.
1.37.020 Definitions.
1.37.030 Sending Areas.
1.37.040 Sending Area Development Limitations.
1.37.050 Sending Area TDR Allocation.
1.37.060 Receiving Area Baselines, Maximum Development and Exchange Ratios for Receiving Areas Where Bonus Development Is Allowed By TDR.
1.37.070 Sending Area Process / TDR Certification.
1.37.080 Receiving Area Process.
1.37.090 TDR Manager Responsibilities.

## 1.37.010 Purpose.

The Transfer of Development Rights (TDR) Administrative Code establishes procedures for the operation of the City‘s TDR Program. The TDR Program is designed to advance the goals of the State’s Growth Management Act by providing a tool to advance the City’s conservation goals, historical preservation goals, and built environment goals by encouraging the voluntary redirection of development potential away from areas where the City wants less or no development potential, called sending areas, toward areas that the City has designated as suitable for bonus development potential, called receiving areas.

(Ord. 28087 Ex. A; passed Sept. 25, 2012)

## 1.37.020 Definitions.

“Baseline development potential” is the maximum development density or intensity allowed in TDR receiving areas when property owners choose not to use the bonus palette in Title 13 TMC to achieve bonus height.

“Bonus development” is development that exceeds baseline development potential in accordance with this chapter and the TDR provisions in Title 13 TMC.

“Receiving areas” are lands designated by this chapter which TDRs can be used in compliance with this chapter and Title 13 TMC.

“Sending areas” are lands or structures qualified to generate TDRs for use within receiving areas in compliance with this chapter.

“Sending area TDR allocation” means the number of TDRs that a sending area owner is issued per acre or lot conserved, or per landmark structure preserved.

“TDR Administrative Procedures” are procedures in Title 1 TMC that implement this chapter and the TDR bonus provisions in Title 13 TMC.

“TDR Manager” is an employee of the Tacoma Planning and Development Services Department tasked with accomplishing the duties specified by this chapter.

“Transferable development rights (TDR or TDRs)” are whole or fractional units of development potential transferred from sending areas that can be used in receiving areas to increase development density or intensity in compliance with this chapter.

(Ord. 28230 Ex. A; passed Jul. 22, 2014: Ord. 28087 Ex. A; passed Sept. 25, 2012)

## 1.37.030 Sending Areas.

The following five categories of land or structures qualify as sending areas:

A. Pierce County Farm Land: Farm land designated as Agriculture Resource Land (ARL) in unincorporated Pierce County situated in Pierce County’s Puyallup Valley (Alderton-McMillin or Mid County Community Planning Areas).

B. Pierce County Forest Land: Forest land designated as Forest Land (FL) situated in unincorporated Pierce County.

C. Resource lands in King County and Snohomish County.

D. Tacoma Habitat: Lands providing high habitat and natural value located within, or in proximity to, designated Open Space Corridors in the Comprehensive Plan, and lands providing exceptional habitat and natural value located within the City and outside of the designated Open Space Corridors.

E. Tacoma Landmarks: Structures designated as a landmark as identified in the Tacoma Register of Historic Places.

Publicly owned lands are not eligible sending areas. Public or privately owned lands that are currently encumbered by a perpetual conservation easement or a similar instrument are not eligible sending areas.

The City may modify eligible sending areas situated in unincorporated Pierce County or unincorporated King County and Snohomish County through an interlocal agreement or resolution that references WAC 365-198. In the event that the City modifies eligible sending areas with an interlocal agreement or resolution, the terms of the interlocal agreement or resolution are controlling.

(Ord. 28376 Ex. E; passed Aug. 16, 2016: Ord. 28230 Ex. A; passed Jul. 22, 2014: Ord. 28087 Ex. A; passed Sept. 25, 2012)

## 1.37.040 Sending Area Development Limitations.

With the sole exception of Tacoma Landmarks, property owners who participate in the TDR Program shall record a conservation easement on the sending area property that achieves the following standards:

A. For sending areas situated in unincorporated Pierce County, the sending area must be encumbered by a conservation easement approved by Pierce County.

B. For sending areas situated in unincorporated King County, the sending area must be encumbered by a conservation easement approved by King County.

C. For Tacoma Habitat, the sending area must be encumbered by a conservation easement approved by the City.

D. For Tacoma Landmarks, the sending area must continue to be regulated by the landmark development controls and a conservation easement specific to the sending area property.

All conservation easements used to achieve development bonuses encumber real property pursuant to this chapter and Title 13 TMC must be conveyed in a manner consistent with RCW 64.04.130. The grantee of the conservation easement must be the City or a third party with the express right to enforce the terms of the conservation easement.

(Ord. 28087 Ex. A; passed Sept. 25, 2012)

## 1.37.050 Sending Area TDR Allocation.

Upon recordation of a qualifying easement, TDRs shall be issued to the participating sending area property owners as follows:

A. For sending areas situated in unincorporated Pierce County, Pierce County will establish the sending area allocation ratios for the TDRs that are consistent with Pierce County Code 18G.10.040, or any amendment thereof.

B. For sending areas situated in unincorporated King County, King County will establish the sending area allocation ratios for the TDRs that are consistent with King County Code 21A.37.040, or any amendment thereof.

C. For Tacoma Habitat sending areas:

1. For residential zones: one TDR for each forgone dwelling allowed by the property's current zoning.

2. For nonresidential or multifamily zones: one TDR for each 8,000 square feet of potential but foregone floor area allowed by the property's current zoning.

3. In determining development potential for this purpose, the TDR Manager shall make a reasonable estimate of the number of dwelling units or square feet of floor area buildable on the sending area under its current zoning restrictions and all other applicable land use, development standards, and environmental controls (e.g. applicable setbacks, infrastructure requirements, or critical area regulations).

D. For Tacoma Landmarks sending areas: the transferable floor area from Tacoma-designated landmarks shall be the maximum square feet of floor area achievable within the area's zoning and other applicable codes minus the floor area of the designated landmark.

1. Designated Tacoma landmarks DCC-Downtown and DCC-City Hall: one TDR per 600 square feet of foregone or unused potential floor area allowed by the property's current zoning.

2. Designated Tacoma Landmarks not within DCC-Downtown and DCC-City Hall: one TDR shall be allocated per 1,200 square feet of foregone or unused potential floor area allowed by the property's current zoning.

(Ord. 28613 Ex. A; passed Sept. 24, 2019: Ord. 28230 Ex. A; passed Jul. 22, 2014: Ord. 28087 Ex. A; passed Sept. 25, 2012)

## 1.37.060 Receiving Area Baselines, Maximum Development and Exchange Ratios for Receiving Areas Where Bonus Development Is Allowed By TDR.

In zones where Title 13 TMC expresses bonus development in terms of height, the number of TDRs required to obtain a development bonus shall be calculated using square feet of bonus floor area.

As provided in Title 13 TMC, the relevant zoning regulations for each TDR receiving area establish the property's base height limit development potential and the ability to use TDRs to achieve the property's maximum development potential. TDRs may be used as follows to achieve the height bonus as provided in Title 13 TMC:

A. For sending areas situated in unincorporated Pierce County: one TDR allows 5,000 square feet of bonus floor area.

B. For sending areas situated in unincorporated King County: one TDR allows 10,000 square feet of bonus floor area.

C. For Tacoma Habitat sending areas: one TDR allows 15,000 square feet of bonus floor area.

D. For Tacoma Landmarks sending area: one TDR allows 10,000 square feet of bonus floor area.

Project applicants may use TDRs from one or more sending sites for an individual project. If the project results in unused TDRs, the City's TDR Manager shall, upon the project applicant's request, mark the TDR certificate as having a fractional TDR value. Fractional TDRs may be transferred to third parties.

(Ord. 28613 Ex. A; passed Sept. 24, 2019: Ord. 28157 Ex. A; passed Jun. 25, 2013: Ord. 28087 Ex. A; passed Sept. 25, 2012)

## 1.37.070 Sending Area Process / TDR Certification.

The following must occur before the City recognizes a TDR for bonus development purposes:

A. For sending areas situated in unincorporated Pierce County: the TDR must be certified pursuant to the Pierce County Code 18G.10.070, or any amendment thereof. For the purposes of this TDR program, the City will honor Pierce County's transferrable development credits (TDCs) as TDRs on a one to one basis.

B. For sending areas situated in unincorporated King County: the TDR must be certified pursuant to the King County Code 21A.37.070, or any amendment thereof.

C. For Tacoma Habitat sending areas:

1. Prior to recordation of a conservation easement on an eligible TDR sending area, the landowner shall submit an application, application fee and proposed, unsigned easement in compliance with the TDR Administrative Procedures. This application shall include the documentation required by the TDR Administrative Procedures to prove ownership. All lien holders must provide written consent to the recordation of the proposed easement.

2. When the TDR Manager and the applicant agree that all requirements have been satisfied, the easement shall be signed and recorded. The grantee may be the City, another governmental entity, or an authorized conservation organization acceptable to the City.

3. Upon recordation of the easement, the TDR Manager shall issue to the applicant a specified number of TDRs, each with a serial number. The TDR Manager shall document the issuance and retirement of all TDRs as well as all transfers of TDR ownership in accordance with the TDR Administrative Procedures. TDRs from the same sending area are not required to be transferred or retired as a group. In accordance with the TDR Administrative Procedures, TDRs may be transferred together or individually. Any person, organization or government, including the City, may acquire TDRs and hold them for preservation purposes or resale.

D. For Tacoma Landmark sending areas:

1. The owners of designated Tacoma landmarks who choose to participate in the TDR program shall submit an application and application fee. This application shall include the documentation required by the TDR Administrative Procedures to prove ownership.

2. When the TDR Manager and the applicant agree that all requirements have been satisfied, the TDR Manager shall issue to the applicant a specified number of TDRs, each with a serial number. The TDR Manager shall document the issuance and retirement of all TDRs. TDRs from the same sending area are not required to be transferred or retired as a group. In accordance with the TDR Administrative Procedures, individual TDRs may be transferred together or individually. Any person, organization or government, including the City, may acquire TDRs and hold them for preservation purposes or resale.

(Ord. 28087 Ex. A; passed Sept. 25, 2012)

## 1.37.080 Receiving Area Process.

Developers who intend to exceed baseline development potential in a TDR receiving area, as identified in Title 13 TMC, shall acknowledge in development-related application materials that they will be required to submit the prescribed number of TDRs at the time the developer submits the building permit application. Preliminary application approval, where applicable, will indicate the estimated number of TDRs required prior to final approval. Applicants are not required to own or control TDRs at the time of submitting the application, and TDRs do not impact a project's ability to vest to current regulations. Instead, applicants shall submit the prescribed number of TDRs prior to the City's issuance of building permits.

Developers may obtain TDRs directly from a sending area landowner, from TDR banks, or from any other intermediary.

Final building permit approval shall not be granted until the TDR Manager has provided written documentation of compliance with TDR requirements. The serial numbers of all TDRs shall be recorded on the building permit for all projects using TDRs.

(Ord. 28087 Ex. A; passed Sept. 25, 2012)

## 1.37.090 TDR Manager Responsibilities.

A. The TDR Manager shall maintain a TDR registry documenting the ownership history of all TDRs by serial number from the time they are granted to the sending area owner to their retirement in a receiving area development.

B. The TDR Manager may adjust the value of a serially numbered TDR to reflect TDRs that have been partially used as contemplated in this chapter.

C. Upon the City Council's request, the TDR Manager shall prepare for City Council an annual TDR report documenting all TDRs issued, transferred and retired. The report may include recommendations on amendments that could improve the effectiveness of the TDR program. If necessary, the TDR Manager may recommend establishing limits on the number of TDRs from any of the sending area categories or other mechanisms designed to maximize achievement of City goals including but not limited to compliance with the requirements of a TDR-based Tax Increment Financing District (as authorized in chapter 39.108 RCW).

D. The TDR Manager shall recommend adjustments in 1.37.060 as market conditions change in a significant manner.

(Ord. 28087 Ex. A; passed Sept. 25, 2012)

# CHAPTER 1.38
## *REPEALED*

### MODEL CITIES LAND USE REVIEW BOARD

Repealed by Ord. 25574

(Ord. 25574; passed Aug. 30, 1994)

# CHAPTER 1.39
# AFFORDABLE HOUSING INCENTIVES AND BONUSES ADMINISTRATIVE CODE

Sections:

1.39.010 Purpose.
1.39.020 Definitions.
1.39.030 Applicability.
1.39.040 Program Requirements.
1.39.050 Financial Incentives.
1.39.060 Development Incentives.
1.39.070 Residential Upzones.
1.39.080 Incorporation of Affordable Housing Units.
1.39.090 Procedures.
1.39.100 Affordable Housing Inclusionary Development Requirements.

## 1.39.010 Purpose.

The purpose of this Chapter is to encourage the development of affordable housing for rental households earning 50 percent or less, and ownership households earning 80 percent or less of the Tacoma median household income, pursuant to the provisions of RCW 36.70A.540. The Growth Management Act ("GMA") requires Tacoma to make adequate provisions for existing and projected housing needs of all economic segments of the community. The City recognizes that the real estate market provides adequate housing for those households in the upper economic segments; however, a combination of financial and regulatory incentives will be necessary to adequately provide for the needs of households whose incomes are at or below the City's median household income. The City recognizes the public benefits affordable housing contributes to local communities and businesses.

(Ord. 28511 Ex. A; passed May 15, 2018: Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.020 Definitions.

A. Affordable Housing Incentives Program Covenant Agreement. That document to be signed by the applicant and the City and representing a recorded agreement, lien and covenant running with the land, binding all the assigns, heirs and successors of the applicant securing affordability requirements and more fully described pursuant to TMC Section 1.39.030.G below.

B. Annual Portion of Net Proceeds Table. An Exhibit to the Affordable Housing Incentives Program Covenant Agreement which details the applicable in-lieu fee percentage to use when determining the required in-lieu fee payment for homeownership projects.

C. Back-End Ratio. Housing costs for homeownership projects calculated as the principal, interest, taxes and insurance plus recurring household expenses paid on a monthly basis divided by the household's gross monthly income.

D. Density Bonus. Additional development capacity available in exchange for the affordable housing provisions proscribed in this Chapter as well as in TMC 13.06 and 13.06A.

E. Front-End Ratio. Housing costs for homeownership projects calculated as the principal, interest, taxes and insurance paid on a monthly basis by a household divided by the household's gross monthly income.

F. Household. Household is defined as all persons living in the same household who are related or unrelated persons who reside in the same dwelling unit as their permanent residence. This does not include live-in aides and/or unrelated persons paying rent for a room.

G. Successor-in-Interest. The household that buys the home from the most recent income qualified household selling the home. The Successor-in-Interest may or may not be income qualified.

H. Up-Front In-Lieu Fee. The per unit in-lieu fee as described in TMC Section 1.39.080 multiplied by the additional units created.

(Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.030 Applicability.

The affordable housing incentives for low-income households may be utilized within a range of zoning designations throughout the City. The incentives and bonuses offered through the provisions of this Chapter may be utilized to gain an

increase in height or density pursuant to the provisions and ratios of the applicable provisions of Title 13 of the Tacoma Municipal Code ("TMC"), as specified in Chapters 13.06 and 13.06A. Additional permitting incentives, including fee reductions and expedited City review, are also authorized through this Chapter. Finally, this Chapter lays out requirements to incorporate housing affordability in certain circumstances, including with the grant of residential upzone requests and for development within areas designated for inclusionary housing.

Areas designated in TMC 13.18, Affordable Housing Inclusionary Development Areas, are subject to the requirements of Section 1.39.100 below, which modifies some of the general provisions of this Chapter.

(Ord. 28511 Ex. A; passed May 15, 2018: Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.040 Program Requirements.

A. Duration of Affordability. Affordable housing units created as a result of the provisions of this Chapter shall remain affordable for 50 years, unless an in lieu fee is paid pursuant to the requirements of this Chapter. A recorded agreement, lien and covenant running with the land, binding all the assigns, heirs and successors of the applicant shall secure the affordability requirements. The recorded covenant must provide that if the affected unit in the property is converted to a use other than for low-income affordable housing as defined under this Chapter within the required affordability duration, the property owner must pay the applicable Affordable Housing in-lieu fees in effect at the time of conversion.

B. Number of units. A minimum of 20 units shall be included in a project in order to qualify to enter the program.

C. Affordable Housing units shall be rented or sold to income-qualified households. To qualify, rental occupied households shall earn no more than 50 percent of Area Median Income (AMI) for Pierce County, adjusted for family size. To qualify, owner households shall earn no more than 80 percent of AMI for Pierce County, adjusted for family size. The establishment of rental levels and housing prices will be updated as needed to reflect changing household affordability needs in the community.

D. Maximum rent and purchase price for designated units.

1. Rental. The maximum cost of rent and utilities which may be charged for designated affordable units shall not exceed 30 percent of the tenant's monthly gross income.

2. Ownership. The maximum Front-End Ratio cost for purchase of for-sale units shall be 33 percent, and the maximum Back-End Ratio cost shall be 50 percent.

E. Construction of Affordable Housing Units. If affordable housing units are constructed in phases or over a period of more than 12 months, a proportional amount of affordable housing units must be completed at or prior to the completion of related market rate housing units.

F. Size/Location/Appearance of Affordable Housing Units. The affordable housing units shall be provided in a range of sizes comparable to those units that are available to other residents. To the extent practicable, the number of bedrooms in low income units must be in the same proportion as the number of bedrooms in units throughout the entire development. Affordable housing units shall generally be distributed throughout the development and have substantially the same functionality and amenities as the market rate units in the development. The exterior appearance of the affordable housing units shall be indistinguishable from the market rate housing units within the project in terms of finish materials and design vocabulary. Interior finish materials and content of affordable units shall be generally comparable with market rate housing units within the project.

G. Affordable Housing Incentives Program Covenant Agreement. An application for a proposed project that incorporates any of the incentives in this Chapter shall not be deemed complete until the applicant has submitted a signed Affordable Housing Incentives Program Covenant Agreement as a component of the application package. The agreement shall include, but not be limited to:

1. The term of affordability;

2. Identification of all the development and financial incentives that the project proposes to incorporate;

3. Identification of the minimum number of affordable housing units required to be provided in the project to qualify for use of these provisions;

4. Binding language recorded on the title of the property that protects the City's interests in the event that a developer obtains affordable housing incentives through the platting or building phases but fails to provide low-income affordable housing;

5. Language that requires recording the required low-income affordability provisions prior to the approval of a final plat, multi-family or mixed use building permit, or other development approval;

6. Language that recognizes the potential need to modify the agreement if the submitted project requires alteration through the review and approval process; and

7. Language that sets forth the consequences of a breach of contract action where the applicant fails to provide the required number of affordable housing units as required under the Agreement.

H. Monitoring Continued Affordability. The Housing Development Division of the Community and Economic Development Department shall monitor the continued affordability of both rental and owner-occupied housing units. The City reserves the right to establish in the Affordable Housing Incentives Program Covenant Agreement monitoring fees for the affordable housing units, which can be adjusted over time to account for inflation. The purpose of any monitoring fee is for the review and processing of documents to maintain compliance with income and affordability restrictions of the Affordable Housing Incentives Program Covenant Agreement.

I. Resale of Affordable Homeownership Units. Affordable Housing units provided for under this Chapter may be sold or resold to eligible low-income households or a nonprofit organization through the end of the required affordability duration. Any sale to a non-income eligible household would require the seller to forfeit a portion of net sales proceeds consistent with the seller's tenure of ownership relative to the in-lieu fee reduction schedule identified in the Affordable Housing Incentives Program Covenant Agreement.

(Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.050 Financial Incentives.

A. Financial incentives are intended to reduce the financial burden of carrying a loan through the review process and alleviate up-front financial costs to developers and builders associated with participating in this program, and to reduce costs in exchange for providing affordable housing units.

B. Expedited Permit Processing. The City will seek opportunities to expedite the review of development proposals incorporating affordable housing under the provisions of this Chapter. Actions to implement this shall be resource dependent.

C. Fee Reductions. Permit fees applicable to development proposals which commit to incorporating affordable housing units under the provisions of this Chapter may be fully or partially paid by City funding allocated for the purpose of promoting affordable housing. Such action will be resource dependent.

(Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.060 Development Incentives.

A. Development incentives are voluntary options intended to promote the incorporation of affordable housing units within private developments by offering sufficient value to offset the cost of the reduced revenue from rents or purchase prices, in order to promote a range of housing unit costs integrated within for-profit housing developments and thus promote a distribution of affordable housing throughout the neighborhoods of the City.

B. Planned Residential Districts. Per the provisions of TMC 13.06.140, PRDs offer a zoning mechanism to develop a site specific proposal on larger sites that can incorporate additional density in exchange for the provision of affordable housing units pursuant to the requirements of this Chapter. PRDs may allow up to two times the number of dwelling units permitted in the underlying residential district. Fifty percent of this bonus development capacity is reserved for the provision of affordable housing pursuant to the requirements of this Chapter.

C. Downtown Tacoma. Per the provisions of TMC 13.06A.080, development proposals within Downtown zoning districts seeking to gain additional Floor Area Ratio may choose from a list of public benefit features including the provision of affordable housing pursuant to the requirements of this Chapter.

D. Mixed-use Centers. Per the provisions of TMC 13.06.300.(E).7 Height Bonus Palette, development proposals within certain mixed-use center zoning districts seeking to gain additional height may choose from a list of public benefit features, including a contribution to the City of Tacoma's Affordable Housing Trust Fund.

E. Affordable Housing Inclusionary Development Areas. Areas designated in TMC 13.18 as Affordable Housing Inclusionary Development Areas have been granted increased development capacity at the time of their designation to offset the cost of providing affordable housing. In addition, such areas are eligible for incentives in exchange for incorporation of affordable housing, pursuant to Section 1.39.100, below.

(Ord. 28511 Ex. A; passed May 15, 2018: Ord. 28376 Ex. E; passed Aug. 16, 2016: Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.070 Residential Upzones.

A. The grant of a change in zoning designation to a zone that allows higher development capacity increases the value of the land. This provision creates the mechanism for some of that increase in value to be allocated to the provision of affordable housing units. Zoning changes are governed by the provisions of TMC 13.06.650.

B. Per TMC 13.06.650, privately-initiated upzone requests shall be conditioned to provide for the incorporation of affordable housing units per the provisions of this Chapter. City-initiated upzones shall also be evaluated for housing affordability needs and may also result in a determination that housing units shall be incorporated under the provisions of this Chapter.

(Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.080 Incorporation of Affordable Housing Units.

A. To obtain the Financial and Development Incentives offered, to gain approval of a residential upzone, or to meet inclusionary housing requirements, the following provisions must be met. These include the incorporation of affordable housing units within the project or the payment of an in-lieu fee to the City to be utilized for the creation of housing affordability.

B. Incorporation of Affordable Units. To satisfy the provisions of this section the following is required:

1. Density bonuses – Planned Residential Districts and Downtown Floor Area Ratio. For each additional market rate dwelling unit allowed through a density bonus, pursuant to the provisions of this Chapter and of TMC 13.06 and 13.06A, an additional affordable unit shall also be included. The ratio of bonus density market rate to affordable units shall be one to one.

2. Density bonuses – Residential Upzones. For every three additional market rate dwelling units allowed through a privately-initiated upzone request, an additional affordable unit shall also be included per the provisions of this section and of TMC 13.06.650. The ratio of upzone market rate to affordable units shall be three to one.

3. Density bonuses – Affordable Housing Inclusionary Development Areas. Areas designated in TMC 13.18 as Affordable Housing Inclusionary Development Areas shall incorporate the required percentage of total units as affordable, pursuant Section 1.39.100, below.

4. Affordability requirements. To qualify as affordable per the provisions of this section, rental households shall be affordable to households earning up to 50 percent of the Pierce County Area Median Income (AMI), and ownership households shall be affordable to households earning up to 80 percent of AMI, adjusted for household size.

5. A combination of affordable rental and ownership households is acceptable within a qualifying development.

6. Affordable housing units provided pursuant to the provisions of this section shall remain affordable for a 50 year term, pursuant to the requirements of RCW 36.70A.560.

C. In-lieu Fee option. As an alternative to incorporation of affordable housing units within the development, the project proponent may choose to pay an in-lieu fee as a contribution to the City's Housing Trust Fund. This fee is based on the increased land value as a function of City approval to allow more density, and has been calibrated to provide equivalent affordable housing benefit to the community as compared to the incorporation of affordable housing units within the development.

1. Density bonus types. The density bonus provisions of this section function either as an increase in the number of dwelling units permitted (in the case of PRDs), or as an increase in over height and bulk (in the case of Floor Area Ratios or height increases). Upzone requests can work in either fashion. The in lieu fee options for each are calculated as follows:

a. Calculation - Dwelling Units bonus. If paid prior to issuance of the Certificate of Occupancy, the in-lieu fee shall be $10,000 for Planned Residential Districts, Mixed-use Center Height bonuses, and Downtown Floor Area Ratio bonuses, and $5,000 for upzones, as of July 1, 2016, adjusted per the Consumer Price Index annually, for each additional dwelling unit (both market-rate and affordable) permitted through the bonus density or upzones provisions of this Chapter. For density bonuses and upzones which grant additional height or Floor Area Ratio, the additional dwellings shall be calculated as the additional square footage permitted through the density bonus divided by the average dwelling unit size within the development.

2. In lieu fee payment Timing. The project proponent or subsequent property owner can choose to pay the in-lieu fee at any point during the 50 year required period of affordability. If paid after issuance of the Certificate of Occupancy, the in lieu fee shall be paid as follows:

a. Multifamily rental projects. The per unit in-lieu fee as described in C.1.a above multiplied by the additional units created through the Density Bonus. This number constitutes the Up-Front In-Lieu Fee. The Up Front In-Lieu Fee is multiplied by two

percent multiplied by the number of years the project has been in service per the Affordable Housing Incentives Program Covenant Agreement.

b. Homeownership projects. If the home is resold to a non-income qualified Successor-in-Interest within the first 5 years of the period of affordability, 100 percent of the net proceeds upon resale would constitute the in-lieu fee. If the home is resold to a non-income qualified Successor-in-Interest in year 6 or after, the in-lieu fee would be the net proceeds from the resale of the home multiplied by the following in-lieu fee percentage: At year 6 the in-lieu fee is 50 percent of net proceeds, declining thereafter by 1 percent per year in years 7 through 48 with a two percent decrease at year 49.

3. Use of in lieu fee funds. Funds paid pursuant to the in-lieu fee option into the Housing Trust Fund shall be utilized by the City for the creation of housing affordability pursuant to the strategies identified through the City of Tacoma's Consolidated Plan and other related City of Tacoma affordable housing policy documents.

(Ord. 28511 Ex. A; passed May 15, 2018: Ord. 28376 Ex. E; passed Aug. 16, 2016: Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.090 Procedures.

A. Predevelopment Meeting. A meeting shall be required for any land application that incorporates any of the provisions of this Chapter.

B. Affordable Housing Incentives Program Covenant Agreement. An application for a proposed project that incorporates any of the provisions of this Chapter shall not be deemed complete until the applicant has submitted a signed Affordable Housing Incentives Program Covenant Agreement as set forth in this Chapter, as a component of the application package.

C. Development Review. The Planning and Development Services Department shall integrate additional density or other bonuses resulting from the incorporation of affordable housing units into a development proposal under the provisions of this Chapter into their review and approvals for the proposal.

D. Required Documentation. Prior to the final approval of any land use application or building permit that incorporates any incentives provided for within this Chapter, the owner of the property shall provide a signed and recorded Affordable Housing Incentives Program Covenant Agreement which will serve as a recorded agreement, lien and covenant running with the land, binding all the assigns, heirs and successors of the applicant to secure the affordability requirements as stated under this Chapter. The recorded Affordable Housing Incentives Program Covenant Agreement must provide that if the property is converted to a use other than for low-income affordable housing as defined under this Chapter within the required affordability duration, the property owner must pay the applicable in lieu fees in effect at the time of conversion.

(Ord. 28336 Ex. A; passed Dec. 1, 2015)

## 1.39.100 Affordable Housing Inclusionary Development Requirements.

A. Purpose. This section is intended to address housing needs in priority areas, to reduce involuntary displacement, to meet the City's housing choice and affordability goals, and to support the achievement of the City's Comprehensive Plan and housing policies. This section integrates and modifies the general standards of Chapter 1.39, as specified below.

B. Definitions. The definitions of Section 1.39.020 apply.

C. Applicability. This section applies to areas designated in TMC 13.18, Affordable Housing Inclusionary Development Areas.

D. Program Requirements. The Program Requirements of Section 1.39.040 apply, except as follows, regarding the number of units.

1. Number of units – 15 or more. Developments including 15 units or more shall provide a minimum of 10 percent of the total units in the development as affordable, pursuant to the provisions of this Chapter.

E. Financial Incentives. The provisions of Section 1.39.050 apply, and are modified as follows:

1. Fee reductions. In order to promote and offset the cost of creating affordable housing, developments subject to these requirements shall be eligible for permit fee reductions. The permit fee reductions shall be proportionate to the percentage of affordable units provided through the development. If the fee in-lieu approach is used, the project will not be eligible for this option. Fee reductions will be resource dependent.

F. Development Incentives. The designation of Affordable Housing Inclusionary Development Areas is accompanied by an increase in maximum building height, maximum density, or other regulatory change that increases development capacity and creates an incentive to provide affordable housing.

G. Incorporation of Affordable Housing Units. The provisions of Section 1.39.080 apply, with the following modifications:

1. Developments subject to these provisions shall incorporate at least 10 percent affordable units, per the provisions of this Chapter.

2. As an alternative to incorporation of affordable housing units within the development, the project proponent may choose to pay an in-lieu fee as a contribution to the City's Housing Trust Fund. This option shall become available at such time as the City establishes an Inclusionary Zoning fee in lieu amount.

H. Procedures. The provisions of Section 1.39.090 apply.

(Ord. 28511 Ex. A; passed May 15, 2018)

# CHAPTER 1.40
## *REPEALED*

### CITY OF TACOMA BEAUTIFICATION COMMITTEE

*Repealed by Ord. 26386*

*(Ord. 26386 § 10; passed Mar. 23, 1999: Ord. 21316 § 1; passed Apr. 11, 1978)*

# CHAPTER 1.42
# LANDMARKS PRESERVATION COMMISSION

Sections:

1.42.010 Short title.
1.42.020 Landmarks Preservation Commission—Declaration of purpose.
1.42.030 Creation of a Landmarks Preservation Commission.
1.42.040 Composition of the Landmarks Preservation Commission.
1.42.050 Terms of Landmarks Commissioners.
1.42.060 Ex officio members.
1.42.070 Members shall serve without compensation.
1.42.080 Rules and officers.
1.42.090 Powers and duties of the Commission.
1.42.100 Meetings and procedures.
1.42.110 Historic Preservation Officer.

## 1.42.010 Short Title.

This chapter may be referenced as "Landmarks Preservation Commission Code."

(Ord. 27429 § 2; passed Nov. 15, 2005)

## 1.42.020 Landmarks Preservation Commission -Declaration of purpose.

It is hereby declared, as a matter of public policy, that the protection, enhancement, perpetuation, and use of objects, sites, structures, buildings, and districts of special historical or cultural significance within the City is a public necessity and required in the interest of the prosperity, civic pride, and general welfare of the people.

The purpose of this legislation is to:

A. Establish the Landmarks Preservation Commission (also referred to in this chapter as "Commission") and to provide the administrative process by which these significant objects, sites, structures, buildings, and districts that possess integrity of design, setting, materials, feeling and association located within the City may be preserved and protected;

B. Foster civic pride in the beauty and accomplishments of the past through the publicizing and/or publishing of information concerning historic Tacoma;

C. Promote the use of the outstanding historic or architectural objects, sites, structures, buildings, and districts for the education, stimulation, and welfare of the people of the City; and

D. Promote and encourage continued private ownership and use of such objects, sites, structures, buildings, and districts now so owned and used, to the extent that the objectives listed above can be attained under such policy.

(Ord. 27429 § 2; passed Nov. 15, 2005)

## 1.42.030 Creation of a Landmarks Preservation Commission.

In order to fulfill the purposes of this chapter, a Landmarks Preservation Commission, consisting of 11 members, is hereby established. The members of the Commission shall be appointed by the City Council in accordance with the City Charter and Rules of Procedure of the City Council.

(Ord. 27429 § 2; passed Nov. 15, 2005)

## 1.42.040 Composition of the Landmarks Preservation Commission.

All members of the Commission shall have a demonstrated interest and familiarity with basic historic preservation issues, either through professional practice or volunteer work, and shall be residents within the boundaries of the City, except as provided elsewhere in this chapter.

The Landmarks Preservation Commission shall consist of 11 members as follows:

A. Architect Positions: The Commission shall include a minimum of three members who are currently or have been in the past professionally certified architects. These positions shall be named Architect Positions 1 through 3.

B. Professional Positions: In addition to the above, the Commission shall include a minimum of four individuals who have had professional experience or training related to Historic Preservation originating from employment or study within the following

disciplines: Arts or art history, architecture, history, architectural history, planning, prehistoric and/or historic archaeology, conservation, construction or building trades, landscape architecture, urban planning or design, structural engineering, land use or real estate law, real estate, appraisal or real estate finance, project management or contracting, or a related discipline. These positions shall be named Professional Positions 1 through 4.

C. At-Large Positions: The remaining positions may be filled at-large. These shall be referred to as At-Large Positions 1 through 4.

D. Temporary vacancies of one or all of the professional positions shall not render actions by the Commission invalid, unless the Commission action is related to meeting Certified Local Government ("CLG") responsibilities cited in the Certification Agreement between the Mayor and the State Historic Preservation Officer on behalf of the state.

E. Exception to the residency requirement may be granted by City Council in order to fill vacancies for professional positions.

F. The Appointments Committee may, at its discretion, solicit nominations from neighborhood community associations, business districts, and professional organizations to ensure geographic and professional diversity within the Commission.

G. The provisions of this chapter shall be enforced as vacancies occur following the adoption of this legislation.

(Ord. 28611 Ex. A; passed Sept. 24, 2019: Ord. 27429 § 2; passed Nov. 15, 2005)

### 1.42.050 Terms of Commissioners.

Terms of the Commissioners of the Landmarks Preservation Commission shall be three years.

A. Terms of all Commissioners shall begin on January 1 and end on December 31.

B. Each Commissioner may serve until an appointment and qualification of a successor.

C. In the event that a position is vacated before the expiration of the term, the City Council may appoint a successor to serve the remainder of the unexpired term.

(Ord. 27429 § 2; passed Nov. 15, 2005)

### 1.42.060 Ex officio members.

The City Council may appoint one resident, property owner, or business owner from each local Historic Special Review District or Conservation District, as provided for in Chapter 13.07 of the Tacoma Municipal Code ("TMC"), to serve as an ex officio member of the Landmarks Preservation Commission, who shall act in a non-voting advisory capacity to the Commission for matters relating only to his or her Historic District under the jurisdiction of the Commission.

The Appointments Committee of City Council may, at its discretion, solicit nominations for the ex officio from community and business groups within said historic or conservation districts. Ex officio members shall be appointed by the City Council in accordance with the City Charter and Rules of Procedure of the City Council for terms of four years. Terms shall end on December 31 and begin on January 1.

(Ord. 27429 § 2; passed Nov. 15, 2005)

### 1.42.070 Members shall serve without compensation.

Members of the Landmarks Preservation Commission shall serve without compensation.

(Ord. 27429 § 2; passed Nov. 15, 2005)

### 1.42.080 Rules and officers.

A. The Commission shall have a chairperson and at least one vice chairperson with terms of one year, elected by quorum vote of the Commissioners present at a regular meeting.

B. Any Commissioner who fails to attend three consecutive meetings of the Commission without being excused may be deemed to have forfeited his or her office. The Commission shall take the necessary action to enforce this provision by causing such absence and the resulting forfeiture of office to be recorded in its official minutes, which minutes shall be transmitted to the Mayor for the purpose of nominating a successor to fill the unexpired term.

C. Members shall abide by the City's Code of Ethics as provided in TMC 1.46.

(Ord. 27429 § 2; passed Nov. 15, 2005)

## 1.42.090 Powers and duties of the Commission.

The primary duty of the Landmarks Preservation Commission is to identify and actively encourage the conservation of the City's historic resources by establishing and maintaining a register of historic landmarks, landmark sites, historic special review districts, and conservation districts; reviewing proposed changes to register properties; raising community awareness of the City's history and historic resources; and serving as the City's primary resource in matters of history, historic planning, and preservation, as provided for in this chapter and Chapter 13.07 of the TMC.

In carrying out these responsibilities, the Landmarks Preservation Commission shall engage in the following:

A. Serve as liaison to the City Council on matters of historic preservation policy.

B. Establish and maintain the Tacoma Register of Historic Places ("Register"), as provided for in TMC 13.07. The Register shall consist of buildings, structures, sites, objects, and districts identified by the Commission as having historic significance worthy of recognition and protection by the City in accordance with the purposes of this chapter.

C. Review and advise the City Council regarding nominations to the Tacoma Register of Historic Places for individual listings as well as for potential historic districts, according to criteria and procedures listed in TMC 13.07.

D. Review proposals to construct, change, alter, modify, remodel, move, demolish, or significantly affect properties or districts on the register, as provided in TMC 13.05 and 13.07, and adopt standards, design guidelines, and district rules to be used to guide this review and the issuance of a certificate of approval.

E. Actively encourage the conservation of historic materials and make recommendations regarding mitigation measures for projects adversely affecting historic resources.

F. Review, advise, and comment to the Tacoma Planning Commission and City Council on land use, housing and redevelopment, municipal improvements and other types of planning and programs undertaken by any agency of the City, other neighboring communities, the county, and state or federal governments, as they relate to historic resources within the City.

G. Review nominations to the State and National Registers of Historic Places for historic properties within the City.

H. Make recommendations to the City Council on the use of various federal, state, local, or private funding sources available for preservation purposes within the City.

I. Officially recognize excellence in the rehabilitation of historic buildings, structures, sites, districts, and new construction in historic areas; and encourage appropriate measures for such recognition.

J. Provide information to the public on methods of maintaining and rehabilitating historic properties, incentives for the rehabilitation of historic properties, and the regulations concerning such properties. This may take the form of pamphlets, newsletters, workshops, or similar activities.

K. Serve as the local review board for the special tax valuation program and:

1. Make determination concerning the eligibility of historic properties for special valuation;

2. Verify that the improvements are consistent with the Washington State Advisory Council's Standards for Rehabilitation and Maintenance;

3. Approve or deny applications for special valuation;

4. Advise the City Council regarding implementing agreements with property owners for the duration of the special valuation period, as required under WAC 254-20-070(2);

5. Monitor the property for continued compliance with the agreement and statutory eligibility requirements during the 10-year special valuation period; and

6. Adopt bylaws and/or administrative rules and comply with all other local review board responsibilities identified in Chapter 84.26 RCW.

L. Adopt and maintain architectural standards and design guidelines for Historic Special Review Districts and historic properties.

M. The Commission shall have such further powers and duties as may, from time to time, be delegated to it by the City Council.

(Ord. 28611 Ex. A; passed Sept. 24, 2019: Ord. 27429 § 2; passed Nov. 15, 2005)

## 1.42.100 Meetings and procedures.

A. The Commission shall establish a regular time and place for meetings and shall meet a minimum of 12 times per calendar year, or additionally, as necessary, to conduct Commission business. Special meetings may be called by the chairman or by any three members of the Commission upon personal notice being given to all members or written notice being mailed to each member at least 24 hours prior to the date set for such meeting, unless such notice requirement is waived in writing.

B. A simple majority of appointed filled positions shall constitute a quorum.

C. All Commission meetings shall be conducted in compliance with Chapter 42.30 RCW, Open Public Meetings Act, to provide for adequate public participation, and the Commission shall adopt standards in its rules to guide this action.

D. The Commission's chairperson shall submit an annual report to the City Council, sending a copy thereof to the City Clerk.

(Ord. 28611 Ex. A; passed Sept. 24, 2019: Ord. 27429 § 2; passed Nov. 15, 2005)

## 1.42.110 Historic Preservation Officer.

To ensure adequate commission and professional staff assistance, the Director of the Planning and Development Services Department shall appoint a Historic Preservation Officer for the City. The Historic Preservation Officer shall possess expertise in the field of historic preservation, with professional qualifications in the disciplines of archaeology, architecture, architectural history, history, urban planning, art history, or a closely related field.

Under the direction of the Commission, the Historic Preservation Officer shall act as ex officio secretary and shall keep accurate records of the Commission's proceedings and transactions, conduct official correspondence, assist in organizing and supervising the Landmarks Preservation Commission, and organize and supervise clerical and technical work of the Commission to the extent required to administer this chapter.

In addition, the Historic Preservation Officer shall:

A. Carry out, assist, and collaborate in surveys and programs designed to identify and evaluate objects, improvements, and sites worthy of preservation;

B. Provide information to civic groups, public agencies, and citizens interested in historic preservation;

C. Provide recommendations to the Landmarks Preservation Commission regarding objects, improvements, and sites which are believed worthy of preservation;

D. Provide information to the public concerning objects, improvements, and sites deemed worthy of preservation, and encourage and advise owners in the protection, enhancement, and perpetuation of such objects, improvements, and sites;

E. Advise the City and its agencies regarding methods and practices that encourage historic preservation and adaptive reuse, and make appropriate recommendations to the City and other bodies and agencies, both public and private;

F. Recommend such policies, rules, and regulations for adoption by the Commission as are deemed necessary to carry out the purposes of this chapter and Chapter 13.07 of the TMC;

G. Subject to such limitations and within such standards as the Commission may establish from time to time, grant administrative certificates of approval, all without prejudice to the right of the owner at any time to apply directly to the Commission for its consideration and action on such matters;

H. With respect to the goals and policies contained within this chapter and the Comprehensive Plan, represent the Historic Preservation CLG program for Tacoma and review, advise, and comment upon environmental analyses performed by other agencies and mitigation proposed, including NEPA and SEPA, Section 106, and other similar duties;

I. Upon request by the Planning and Development Services Department, review permit applications for appropriateness and consistency with the purposes of this chapter and Chapter 13.07 of the TMC;

J. Respond to requests for interpretations of the codes relating to landmarks and to landmark districts, as provided in those codes;

K. From time to time, perform other duties as required by the City Manager or City Council.

(Ord. 28611 Ex. A; passed Sept. 24, 2019: Ord. 28109 Ex. D; passed Dec. 4, 2012: Ord. 27466 § 16; passed Jan. 17, 2006: Ord. 27429 § 2; passed Nov. 15, 2005)

# CHAPTER 1.43
## *REPEALED*

### CITIZEN SUGGESTION/OUTSTANDING ACHIEVEMENT AWARDS COMMITTEE

*Repealed by Ord. 24872*

*(Ord. 24872 § 1; passed Mar. 26, 1991)*

# CHAPTER 1.44
# CITY COUNCIL ELECTION DISTRICTS

Sections:

1.44.010 Creation of City Council Election Districts.
1.44.020 Council District Number One designated.
1.44.030 Council District Number Two designated.
1.44.040 Council District Number Three designated.
1.44.050 Council District Number Four designated.
1.44.060 Council District Number Five designated.

## 1.44.010 Creation of City Council Election Districts.

In accordance with Section 5.4 of the Charter of the City of Tacoma, as amended by the qualified voters effective September 18, 1973, the boundaries of the five City Council Election Districts shall be as hereinafter set forth in Sections 1.44.020 through 1.44.060.

(Ord. 24998 § 1; passed Oct. 15, 1991: Ord. 20177 § 1; passed Jul. 30, 1974)

## 1.44.020 Council District Number One designated.

The following area shall comprise City Council Election District No. 1:

Bounded on the west by the City Limits; on the south following the City Limits easterly to Pearl Street; thence north along South Pearl Street to 6th Avenue; thence east along 6th Avenue to North Union Avenue; thence north along North Union Avenue to North 30th Street; thence east along North 30th Street to North Alder Street; thence north along North Alder Street to Commencement Bay; thence northwest along Commencement Bay and the City Limits to the point of beginning.

(Ord. 28028 § 1; passed Nov. 15, 2011: Ord. 26913 § 1; passed Dec. 18, 2001: Ord. 24998 § 2; passed Oct. 15, 1991: Ord. 23876 § 1; passed Jun. 16, 1987: Ord. 22923 § 1; passed May 24, 1983: Ord. 22881 § 1; passed Mar. 15, 1983)

## 1.44.030 Council District Number Two designated.

The following area shall comprise City Council Election District No. 2:

Bounded on the east by the City Limits around northeast Tacoma; thence south along the shoreline of the Port Industrial Area, the shoreline of downtown and the shoreline of Old Tacoma to North Alder Street; thence south along North Alder Street to North 30th Street; thence west along North 30th Street to North Union Avenue; thence south along North Union Avenue to 6th Avenue; thence east along 6th Avenue to Tacoma Avenue South; thence south along Tacoma Avenue South to Delin Street; thence south on Delin Street to its overpass with Interstate 5 and east along the centerline of Interstate 5 to City Limits; thence north and east along City Limits to the point of beginning.

(Ord. 28028 § 2; passed Nov. 15, 2011: Ord. 26913 § 2; passed Dec. 18, 2001: Ord. 24998 § 2; passed Oct. 15, 1991: Ord. 23876 § 1; passed Jun. 16, 1987: Ord. 22923 § 1; passed May 24, 1983: Ord. 22881 § 1; passed Mar. 15, 1983)

## 1.44.040 Council District Number Three designated.

The following area shall comprise City Council Election District No. 3:

Beginning at the intersection of South Pearl Street and the City Limits; thence continuing east and south along the City Limits to South 56th Street; thence east along South 56th Street to the centerline of Interstate 5; thence north then easterly along Interstate 5 to the Delin Street Overpass; thence north along the Delin Street Overpass and Delin Street to Tacoma Avenue South; thence north along Tacoma Avenue South to 6th Avenue; thence west along 6th Avenue to Pearl Street; thence south along South Pearl Street to the point of beginning.

Also:

That portion of KEYSTONE ADDITION TO TACOMA, W.T., according to the plat thereof recorded in Volume 2 of Plats at page 146, records of Pierce County, Washington, described as follows:

Beginning at the northeast corner of Lot 15 in Block 5 of said plat; thence west along the north line of said Lot 15 and along said north line extended west of Lot 15 in Block 6 of said plat to the southwest corner of Lot 14 in Block 7 of said plat; thence north along the west line of said Block 7 to the south line of 35th Street West; thence west along said south line of 35th Street West to the northwest corner of Lot 1, Block 14, in said KEYSTONE ADDITION; thence south along the west line of said Block 14 and along said west line extended to the centerline of 36th Street West (Fremont Street), vacated; thence east along

said centerline to its intersection with the east line of said Block 14, extended; thence south along said extended east line and continuing south along the west line of Block 31 of said plat to the southwest corner of Lot 11 of said Block 31; thence east along the south line of said Lot 11 and along said line extended east to the west line of Block 30 in said plat; thence along said west line to the southwest corner of Lot 13 in said Block 30; thence east along the south line of said Lot 13 to the west line of Block 29 in said plat; thence south along said west line to the north line of 37th Street West; thence east along the north line of said 37th Street West to the southeast corner of Block 21 in said KEYSTONE ADDITION; thence north along the east line of said Block 21 to the northeast corner thereof; thence west along the north line of said block and along said north line extended to intersect the southerly extension of the east line of Block 5 of said plat; thence north along said southerly extension and along the east line of said Block 5 to the point of beginning.

Also the south half of 35th Street West from the easterly line of Block 8 extended to the center line of Berkeley Street vacated. Also the east half of Berkeley Street vacated from the southerly line of 35th Street West extended to the northerly right-of-way line of 36th Street West. Also the north half of 37th Street West from the west line of Block 29 of said KEYSTONE ADDITION extended south to the center line of Idaho Street. Also the west half of Idaho Street from the north right-of-way line of 37th Street West to the center line of 36th Street West. Also the south half of 36th Street West from the west right-of-way line of Idaho Street to the west right-of-way line of Owyhe Street. Also the west half of Owyhe Street from the center line of 36th Street West to the south line of Lot 14, Block 5 extended.

(Ord. 28028 § 3; passed Nov. 15, 2011: Ord. 26913 § 3; passed Dec. 18, 2001: Ord. 24998 § 2; passed Oct. 15, 1991: Ord. 23876 § 1; passed Jun. 16, 1987: Ord. 22881 § 1; passed Mar. 15, 1983)

### 1.44.050 Council District Number Four designated.

The following area shall comprise City Council Election District No. 4:

Bounded on the north and west by the centerline of Interstate 5 as it proceeds southward from the City Limits to South 56th Street; thence east along South 56th Street to McKinley Avenue; thence south along McKinley Avenue to East72nd Street; thence east along the southerly City Limits; thence north along the easterly City Limits to the point of beginning.

(Ord. 28028 § 4; passed Nov. 15, 2011: Ord. 26913 § 4; passed Dec. 18, 2001: Ord. 24998 § 2; passed Oct. 15, 1991: Ord. 23876 § 1; passed Jun. 16, 1987: Ord. 22881 § 1; passed Mar. 15, 1983)

### 1.44.060 Council District Number Five designated.

The following area shall comprise City Council Election District No. 5:

Beginning at the intersection of South 56th Street and the westerly City Limits; thence south, east, and north along the City Limits to the intersection of East 72nd Street and McKinley Avenue; thence north along McKinley Avenue to East 56th Street; thence west along 56th Street to the point of beginning.

(Ord. 28028 § 5; passed Nov. 15, 2011: Ord. 26913 § 5; passed Dec. 18, 2001: Ord. 24998 § 2; passed Oct. 15, 1991: Ord. 23876 § 1; passed Jun. 16, 1987: Ord. 22881 § 1; passed Mar. 15, 1983)

# CHAPTER 1.45
# NEIGHBORHOOD COUNCILS [36]

Sections:

1.45.010 Purpose.
1.45.020 Intent.
1.45.030 Standards and guidelines.
1.45.040 Neighborhood Council duties and expectations.
1.45.050 Neighborhood Council boundaries and participation.
1.45.060 Community Council of Tacoma duties and expectations.
1.45.070 *Repealed.*
1.45.080 Administrative provisions.
1.45.090 Review and revision.
1.45.100 *Repealed.*

## 1.45.010 Purpose.

The purpose of this chapter is to establish the Neighborhood Council Program and establish a Standards and Guidelines document that defines administrative responsibilities and expectations of the Neighborhood Councils and the Community Council of Tacoma.

(Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 25188 § 1; passed Sept. 22, 1992)

## 1.45.020 Intent.

It is the intent of the City Council to support and promote a Neighborhood Council Program to foster a partnership of open communication between the City and its neighborhoods to create an environment in which residents are afforded an opportunity to meaningfully discuss City programs and policies that affect the neighborhood, bring neighborhood concerns, priorities, and goals to the attention of the City, and encourage diverse relationships, representative participation, and the inclusion of differing viewpoints and perspectives that allow all residents to feel included and empowered to contribute to improving the livability of their communities.

The City will support the Neighborhood Council Program in recruiting and developing diverse Neighborhood Council representation among participants that creates an inclusive and accessible atmosphere where neighbors from low-income communities, communities of color, and other historically underrepresented populations are represented in a way that reflects the neighborhood.

(Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 25188 § 1; passed Sept. 22, 1992)

## 1.45.030 Standards and guidelines.

A Neighborhood Council Program Standards and Guidelines document will be created by the City Manager, or designee. In order to be eligible for funding or support from the City, the Neighborhood Councils and Community Council must meet the expectations and requirements contained in the Standards and Guidelines. The Standards and Guidelines document will outline the administrative responsibilities of the City. The Community Council of Tacoma will be notified of any changes to the Standards and Guidelines and be given opportunity to provide input on changes.

(Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 27466 § 17; passed Jan. 17, 2006: Ord. 26386 § 12; passed Mar. 23, 1999: Ord. 25966 § 1; passed Oct. 8, 1996: Ord. 25188 § 1; passed Sept. 22, 1992)

## 1.45.040 Neighborhood Council duties and expectations.

Neighborhood Councils will serve independent of the City as the primary forum for discussions on City programs, policies, and neighborhood concerns for residents and participants within the Neighborhood Council boundaries. The expectations of the Neighborhood Councils are contained in the Standards and Guidelines document.

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[36] Chapter 1.45 was repealed and reenacted by Ordinance 28195, passed December 17, 2013

(Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 25188 § 1; passed Sept. 22, 1992)

## 1.45.050 Neighborhood Council boundaries and participation.

A. Neighborhood Council boundaries. The City Council shall determine the boundaries of the Neighborhood Councils and shall set those boundaries by resolution. The Community Council may propose boundary adjustments for consideration by the City Council, so long as there is written agreement by any affected existing Neighborhood Councils prior to request for consideration by the City Council, and no boundaries overlap. Individual Neighborhood Councils shall not submit proposed boundary changes to the City Council directly. The Community Council shall not reject any proposals by Neighborhood Councils to adjust boundaries as long as the proposal meets the above requirements, but may note its support or opposition to a proposal.

B. Formation of New Neighborhood Councils. The Community Council of Tacoma must consult with City staff prior to approval in order to create new Neighborhood Councils. New Neighborhood Councils may be considered to better represent diverse interests, provide fair and equitable representation, and better advocate for the needs of the neighborhood, but must meet the following requirements.

1. No more than two Neighborhood Councils will be created by the City Council in a calendar year.

2. There may be no more than five Neighborhood Councils per City Council District.

3. Neighborhood Council boundaries must have a population of at least three percent of the total population of Tacoma.

In order to create a new Neighborhood Council, both the affected Neighborhood Councils and the new proposed Neighborhood Council must affirm, in writing, their consent to changing their boundaries so that no Neighborhood Council boundaries overlap. The proposed Neighborhood Council must hold a public meeting in the proposed boundary area to get public input on whether to form a new Neighborhood Council, and what form of governance the new body will take prior to submitting their proposal to the Community Council. The public meeting must be announced and advertised at a minimum two weeks in advance, and have at least 30 attendees signed in and/or have a petition with 80 unique signatures, including addresses from the proposed boundary area supporting the proposed Neighborhood Council. After the public meeting, the Community Council of Tacoma must submit the public meeting notes, proposed boundaries of affected Neighborhood Councils, proposed leadership and governance of the new Neighborhood Council, and their recommendation to City staff for review. Following City staff review, the proposal will be submitted and go to the City Council for consideration. The City Council must adopt by resolution the new Neighborhood Council and adjusted boundaries before they can operate. Following adoption, the Neighborhood Council will be in a one-year probationary period where they must operate in compliance with the City Code and Standards and Guidelines. Should the Neighborhood Council fail to comply or fail to establish a governing board and regular meetings within this period, staff will propose a resolution to the City Council, revoking the Neighborhood Council's status and reinstating the boundaries that existed prior to the New Neighborhood Council forming.

C. Neighborhood Council participation. Any resident, renter, or owner of property, business, or nonprofit and their employees, who live or work within a Neighborhood Council Boundary, may participate fully in that Neighborhood Council without conditions. Participation means attending meetings and events, voting, engaging in the creation of annual reports, budgets, and plans, and utilizing Neighborhood Council resources. Individual Neighborhood Councils may choose to adopt bylaws that limit members of the governing board to residents that live within the Neighborhood Council boundaries. No Neighborhood Council may discriminate against any individual nor limit participation based on race, ethnicity, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence or perceived presence of any sensory, mental or physical disability.

(Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 27627 Exhibit A; passed Jun. 19, 2007: Ord. 25966 § 2; passed Oct. 8, 1996: Ord. 25188 § 1; passed Sept. 22, 1992)

## 1.45.060 Community Council of Tacoma duties and expectations.

The Community Council of Tacoma shall act as a coalition of the individual Neighborhood Councils. The Community Council shall serve as a forum for discussion of issues of broad interest or Citywide impact, and the advocacy of the needs of individual Neighborhood Councils. The Community Council of Tacoma will consist of representatives from each of the Neighborhood Councils selected by the means identified in the bylaws of the Community Council. The responsibilities and functions of the Community Council are contained in the Standards and Guidelines document.

(Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 25188 § 1; passed Sept. 22, 1992)

### 1.45.070 City responsibilities. *Repealed by Ordinance No. 28644*.

(Repealed by Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 25966 § 3; passed Oct. 8, 1996: Ord. 25188 § 1; passed Sept. 22, 1992)

### 1.45.080 Administrative provisions.

A. This chapter does not limit the right of any person or group to participate directly in the decision-making process of the City Council or any City department.

B. Compliance with the Neighborhood Council program is not jurisdictional. Failure of the City or any City department to comply with any provision of this chapter will not invalidate any later action taken by any officer of the City; any City commission, committee, or board; or the City Council.

C. It is not the intent of this chapter to provide for new procedures or processes for legislative enactment, policy formulation, quasi-judicial decision-making or administrative practices.

D. It is not the intent of the City to delegate any portion of its authority to the Neighborhood Councils or the Community Council.

E. Residents of the City of Tacoma retain all duties and obligations to participate in existing processes for legislative enactment, policy formulation, and quasi-judicial decision-making or administrative practices. Participation in the Neighborhood Council program does not limit such duties and obligations.

(Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 25966 § 4; passed Oct. 8, 1996: Ord. 25188 § 1; passed Sept. 22, 1992)

### 1.45.090 Review and revision.

The Neighborhood Council Program shall be reviewed by the City Council at least every five years. The City Manager, or designee, will provide a presentation to the City Council on the state of the Program and recommendations, if any, for revisions to the Tacoma Municipal Code.

(Ord. 28644 Ex. A; passed Dec. 17, 2019: Repealed and reenacted by Ord. 28195; passed Dec. 17, 2013: Ord. 27627 Exhibit A; passed Jun. 19, 2007: Ord. 25966 § 5; passed Oct. 8, 1996: Ord. 25188 § 1; passed Sept. 22, 1992)

### 1.45.100 *Repealed*.

(Repealed by Ord. 28195; passed Dec. 17, 2013: Ord. 25966 § 6; passed Oct. 8, 1996: Ord. 25188 § 1; passed Sept. 22, 1992)

# CHAPTER 1.46
# CODE OF ETHICS [37]

Sections:

1.46.010 Purpose.
1.46.020 Definitions.
1.46.025 Jurisdiction.
1.46.030 Prohibited conduct.
1.46.040 Complaint process.
1.46.045 Board of Ethics.
1.46.050 Penalties for noncompliance.
1.46.060 Where to seek review.
1.46.070 Severability.
1.46.080 Financial disclosure.

## 1.46.010 Purpose.

A. The policy of the City of Tacoma is to uphold, promote, and demand the highest standards of ethics from all City officers and employees, whether elected, appointed, or hired. City officers and employees shall maintain the utmost standards of personal integrity, truthfulness, honesty, and fairness in carrying out their public duties; avoid any improprieties in their roles as public servants, including the appearance of impropriety; and never use their City position or powers for improper personal gain.

B. The purpose for this policy is to protect the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of this Code of Ethics.

C. Construction. It is the intention of the City Council that this chapter be liberally construed within the confines of chapter 42.23 RCW and Section 6.6 of the Tacoma City Charter to accomplish this purpose. Those construing this chapter should be guided by common sense and practicality. This Code of Ethics is supplemental to state law, chapter 42.23 RCW, as now or hereafter amended.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

## 1.46.020 Definitions.

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

A. “Board of Ethics” (“Board”) means the Board authorized to hear and decide complaints of violations of this Code of Ethics by current and former Covered Officials pursuant to Section 1.46.045 TMC and as that section may be hereinafter amended.

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. “City-elected official” means any person who is elected at a general or special election to any public office of the City of Tacoma and any person appointed to fill a vacancy in any such office.

D. “City officer or employee” means a current or former City-elected official; an appointed member of a City Board, Commission, Committee, task force, or other multi-member body; and any City employee.

E. “Compensation” means payment in any form for real or personal property or services of any kind.

F. “Covered Official” means a current or former City-elected official; the City Manager; the Director of Public Utilities; a member of the Public Utility Board; or an appointed member of a City Board, Commission, Committee, task force, or other multi-member body.

G. “Gift” means a voluntary transfer of real or personal property of any kind or the voluntary rendition of services of any kind without consideration of equal or greater value.

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[37] Chapter 1.46 was repealed and reenacted by Ordinance 27973, passed March 8, 2011

H. "Hearing Examiner" shall mean the duly appointed and qualified Hearing Examiner or Deputy Examiner of the City of Tacoma, or his or her designee, who shall possess qualifications comparable to those required of the Hearing Examiner and Deputy Examiner pursuant to Chapter 1.23 TMC.

I. "Immediate family" shall have the meaning set forth in Section 1.24.130 TMC and as that section may be hereinafter amended.

J. "Person" means any individual or corporation, business, or other entity, however constituted, organized, or designated.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

## 1.46.025 Jurisdiction.

The following four groups of people are bound by the Code of Ethics:

A. Current Covered Officials;

B. Former Covered Officials;

C. Current City officers and employees; and

D. Former City officers and employees who come back as contractors.

E. Jurisdiction over complaints of violations of this code against current and former Covered Officials lies with the Board of Ethics.

F. Jurisdiction over complaints of violation of this code against current and former City officers and employees, other than current or former Covered Officials, lies with the City Manager or Director of Utilities and, in the event of request for formal hearing following disposition by the City Manager or Director of Utilities, with the Hearing Examiner.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

## 1.46.030 Prohibited conduct.

The following shall constitute violations of this Code of Ethics:

A. Beneficial Interests in Contracts Prohibited. No City officer or employee shall participate in his or her capacity as a City officer or employee in the making of a contract in which he or she has a financial interest, direct or indirect, within the meaning of Section 6.6 of the Charter of the City of Tacoma or performs in regard to such a contract some function requiring the exercise of discretion on behalf of the City. Except, that this prohibition shall not apply where the City officer or employee has only a remote interest in the contract and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract and thereafter the City Council authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer(s) having the remote interest. For purposes of this section, a "remote interest" means:

1. That of a nonsalaried officer of a nonprofit corporation;

2. That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;

3. That of a landlord or tenant of a contracting party;

4. That of a holder of less than 1 percent of the shares of a corporation, limited liability company, or other entity which is a contracting party.

B. Beneficial Influence in Contract Selection Prohibited. No City officer or employee shall influence the City's selection of or its conduct of business with a corporation, person, or firm having or proposing to do business with the City if the City officer or employee has a financial interest in or with the corporation, person, or firm, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract, as defined in the preceding section.

C. Representation of Private Person at City Proceeding Prohibited. No City officer or employee shall appear on behalf of a private person, other than himself or herself or an immediate family member or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the City or a City officer or employee in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the City.

D. Certain Private Employment Prohibited. No City officer or employee shall engage in or accept private employment or render services for any private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

E. Beneficial Interest in Legislation Prohibited. No City officer or employee, in appearing before the City Council or when giving an official opinion before the City Council, shall have a financial interest in any legislation coming before the City Council and participate in discussion with or give an official opinion to the City Council, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted on the record of the City Council, or similar records of the City, prior to consideration of the legislation by the City Council.

F. Continuing Financial Interest. Where a City officer or employee has a substantial ongoing financial relationship with a corporation, firm, or person seeking a contract, or proposing to do business with the City, such City officer or employee shall not:

1. Influence or participate in the City's contract selection of or conduct business with such corporation, firm, or person; nor

2. Influence or participate in the City's contract selection of, or conduct business with, a corporation, firm, or party competing against a party that a City officer or employee has such a substantial ongoing financial relationship.

For purpose of this section, a substantial ongoing financial relationship is defined as: expanding beyond just a formal contractual relationship. Rather it encompasses any financial interest, direct or indirect, where a City officer or employee is involved in a client-service relationship in which:

a. the City officer or employee receives a substantial portion of his or her revenue or like compensation through such relationship, whether received through his or her corporation, firm, or as an individual; or

b. Such client-service relationship is likely to continue to provide considerable potential business or has provided substantial business in the past. This does not include prior financial relationships that are so far removed in time or rare in frequency as to be insignificant.

G. Disclosure of Confidential Information Prohibited. No City officer or employee shall disclose or use any confidential, privileged, or proprietary information gained by reason of his or her official position for a purpose which is for other than a City purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge or which is available to the public on request.

H. Improper Use of Position Prohibited. No City officer or employee shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain, or profits of any other persons.

I. Improper Use of City Personnel Prohibited. No City officer or employee shall employ or use any person under his or her official control or direction for the personal benefit, gain, or profit of the City officer or employee or another.

J. Improper Use of City Property Prohibited. No City officer or employee shall use City-owned vehicles, equipment, materials, money, or property for personal or private convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official business, and for such purposes and under such conditions as are approved by administrative order of the City Manager or Director of Public Utilities; provided, that the use of a City vehicle by a City officer or employee participating in a carpooling program established by the City and for a purpose authorized under such program shall not be considered a violation of this section or of any other provision of this chapter.

K. Acceptance of Compensation, Gifts, Favors, Rewards, or Gratuity Prohibited. No City officer or employee may, directly or indirectly, give or receive, or agree to give or receive, any compensation, gift, favor, reward, or gratuity for a matter connected with or related to the City officer or employee's services with the City of Tacoma, except this prohibition shall not apply to:

1. Attendance of a City officer or employee at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of City business or where official attendance by the City officer or employee as a City representative is appropriate;

2. An award publicly presented in recognition of public service; or

3. Nominal promotional items including, but not limited to, items such as ball point pens, calendars, wearing apparel, or food items which cannot reasonably be presumed to influence the vote, action, or judgment of the City Official or be considered as part of a reward for action or inaction.

L. Commission of Acts of Moral Turpitude. No City officer or employee shall commit any act of moral turpitude or dishonesty relating to his or her duties or position as a City officer or employee or arising from business with the City. Conviction of a felony or a misdemeanor involving moral turpitude, the nature of which demonstrates lack of fitness for the position held, is conclusive evidence of a violation of this Code of Ethics.

M. Failure to Comply with Section 1.46.080 TMC. Failure to comply with the requirements of Section 1.46.080 TMC (Financial Disclosure for Covered Officials) is a violation of this Code of Ethics.

N. Impermissible Conduct After Leaving City Service.

1. Disclosure of Privileged, Confidential, or Proprietary Information Prohibited. No former City officer or employee shall disclose or use any privileged, confidential, or proprietary information gained because of his or her City employment or office.

2. Participation in City Matters Prohibited**.** No former City officer or employee shall, during the period of one year after leaving City office or employment:

a. Assist any person in matters involving the City if, while in the course of duty with the City, the former City officer or employee was officially involved in the matter or personally and substantially participated in the matter or acted on the matter.

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

c. Participate as or with a bidder, vendor, or consultant in any competitive selection process for a City contract in which he or she assisted the City in determining the project or work to be done or the process to be used.

3. Duty to Inform. Whenever a current City officer or employee wishes to contract with a former City officer or employee for expert or consultant services within one year of the latter leaving City service or office, advance notice shall be given to the City Manager for matters concerning City government or to the Director of Public Utilities for matters concerning the Department of Public Utilities about the proposed agreement. The City Manager or Director of Utilities shall evaluate the proposed contract to determine if there is a conflict with this Code of Ethics. If there is a question of this nature, the City Manager or Director of Utilities may submit the matter to the Board of Ethics for an opinion. If the proposed contract is found to present a conflict with this Code, it shall not be allowed.

4. Exceptions. The prohibitions of subsections 2.a and 2.b of this section shall not apply to a former City officer or employee acting on behalf of a governmental agency, unless such assistance or representation is adverse to the interest of the City.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

## 1.46.040 Complaint process.

A. A complaint alleging that this Code of Ethics has been violated may be filed with any City officer or employee.

B. A complaint alleging that the Code of Ethics has been violated by a current or former Covered Official shall be referred to the Board of Ethics for disposition pursuant to the procedures set forth in Section 1.46.045 TMC.

C. A complaint alleging that the Code of Ethics has been violated by any City officer or employee (other than a Covered Official) shall be referred to the City Manager or the Director of Public Utilities, as appropriate. The City Manager or the Director of Public Utilities shall promptly designate an individual to conduct an investigation of the complaint.

D. The person designated by the City Manager or the Director of Public Utilities to conduct an investigation of a complaint involving any City officer or employee (other than a Covered Official) shall complete the investigation and prepare written findings, conclusions, and recommended disposition within 60 days of the date the complaint was received by the City, unless an extension is granted in writing by either the City Manager or the Director of Public Utilities. A copy of the investigator's written findings, conclusions, and recommended disposition shall be provided to the City Manager or the Director of Public Utilities, as appropriate.

E. Within five business days of receipt of the investigator's written findings, conclusions, and recommended disposition, the City Manager or the Director of Public Utilities, as appropriate, shall cause to be prepared a written disposition of the complaint. Copies of the recommended disposition and the investigation findings and conclusions shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies of the recommended disposition shall be forwarded to the investigator, the City Attorney or the City Attorney's designee, and the person(s) responsible for acting on the recommended disposition. The recommended disposition shall not be implemented until the time for requesting a formal hearing, pursuant to subsection F below, has lapsed and no such hearing has been requested. A disposition involving discipline shall not be implemented except upon compliance with the predisciplinary procedures to which the City officer or employee is entitled.

F. The City officer or employee (other than a Covered Official) complained against may, within ten business days following the date of the disposition, finding a violation of this Code of Ethics, request in writing a formal hearing before the Hearing Examiner. In the event a formal hearing is requested, the Hearing Examiner shall conduct the hearing process in a manner consistent with the procedures set forth in Chapter 1.23 TMC and as such chapter may be hereinafter amended.

G. Within 30 days after the conclusion of the hearing, the Hearing Examiner shall, based upon a preponderance of the evidence, prepare findings of fact, conclusions of law, and his or her order or recommendation. Copies of the Hearing Examiner's findings, conclusions, and order or recommendation shall be forwarded by certified mail to the complaining party

and the party complained against at their last known addresses. Additional copies of the findings, conclusions, and order shall be forwarded to the investigator, the City Attorney or the City Attorney's designee, and the person(s) or body responsible for acting on the Hearing Examiner's order or recommendation.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

## 1.46.045 Board of Ethics.

A. Purpose. The Board of Ethics shall receive, investigate, and make recommendations for disposition of complaints of violations of the Code of Ethics by current and former Covered Officials.

B. Composition.

1. The Board of Ethics shall be composed of five regular members who are residents of the City appointed by majority vote of the City Council upon recommendation by the City Council Appointments Committee. Members of the Board shall serve without compensation and shall not, except for their appointment as a member of the Board of Ethics, be a City officer or employee.

2. Board members shall serve staggered terms of three years. The initial terms shall be one year for the first member appointed, two years for the second and third members appointed, and three years for the fourth and fifth members appointed. No person shall serve more than two consecutive full terms as a member of the Board. A member shall hold office until a member's successor is appointed; provided, that the term of the successor shall be deemed to have commenced upon the expiration of the term of the member holding over and shall be considered a full term.

3. Appointments to a vacant position shall be made in the same manner as appointments for a full term.

4. The Board shall select its own Chair and Vice Chair from among its members.

5. The City Manager shall provide such staff support for the Board as the City Council determines to be necessary for the Board to fulfill its duties.

6. The Board's meetings shall be open to the public in accordance with the Open Public Meetings Act.

7. The City Attorney is designated to be the legal advisor for the Board, except that the City Attorney is not authorized to advise the Board in any matter if doing so would create a conflict for the City Attorney under the Rules of Professional Conduct.

C. Duties and Powers of the Board.

1. Adopt written rules governing its procedures and providing for the holding of regular and special meetings, which rules shall be subject to the approval of the City Council and a copy of the rules shall be filed with the City Clerk; and

2. Conduct hearings, as needed, to hear and decide specific cases in which a violation of the Code of Ethics by a current or former Covered Official is alleged, whether such cases arise from a complaint or are brought on the Board's own motion; and

3. Subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Board; and

4. No later than March 1 of each year, submit an annual report to the City Council concerning its action in the preceding year. The report shall contain a summary of its decisions and opinions, both open and confidential, and the Board shall make any alterations in the summaries necessary to prevent disclosure of any confidential information pertaining to any individual or to any organization if the disclosure could lead to the disclosure of the identity of a person who is entitled to confidentiality; and

5. When circumstances make it necessary to do so, retain outside legal counsel and other experts, as needed, after solicitation of recommendations from the City Attorney (unless the need to retain outside counsel is caused by a conflict involving the City Attorney's Office); and

6. Serve as legal custodian of the Board's records and accept, file, maintain, and administer, in accordance with all applicable laws, any information related to the purposes of this Code of Ethics; and

7. Make recommendations to the City Manager and to the City Council for amendments to this chapter, the City Charter, and for such other legislation affecting the subject matter of this chapter as the Board of Ethics may deem necessary or desirable.

D. All opinions and recommendations of the Board shall be filed with the City Clerk and are open to public inspection.

E. The Board may, in addition to its other duties:

1. Respond, as it deems appropriate, to requests from City officials and employees for opinions regarding prospective conduct. Provided, however, that neither a request for an opinion nor the making of a statement concerning a potential conflict of interest made by a Covered Official in the course of abstaining from voting or making a motion of self-recusal shall create a presumption or inference that such Covered Official has a personal interest in the matter about which the opinion was requested.

2. Render and publish opinions on any matter within the scope of the Board's authority which it may deem appropriate. The Board may initiate opinions on its own motion or upon request; any formal opinion shall be in writing. Rendering any such opinion shall not preclude the Board from considering subsequent complaints on the matter addressed in the opinion.

3. Refer a complaint received by the Board to other legal authority for investigation or criminal prosecution, as may be appropriate. Before any such referral, the Board shall consult with the City Attorney (or other legal advisor, if a conflict prevents the City Attorney from advising the Board). If the Board determines that it may, under the Code of Ethics, have jurisdiction over a complaint that also alleges conduct that could be a violation of another code, statutory, or regulatory provision, the Board may stay its consideration of the complaint pending the outcome of any official investigation or criminal prosecution either on its own motion or at the request of the appropriate legal authority.

F. Complaint Process of the Board of Ethics.

1. Any City official knowingly receiving a complaint that the Code of Ethics has been violated by a Covered Official shall promptly forward the complaint to the Board or the Board's designee.

2. The Board, upon receipt of the complaint, shall acknowledge receipt of the complaint, forward the complaint simultaneously to the person who is complained against, if known, and the City Attorney, and promptly meet and review the complaint. As soon as practicable after giving due consideration to a complaint the Board shall either:

a. dismiss the complaint based on any of the following grounds: (i) the complaint does not allege facts sufficient to constitute a violation of the Code of Ethics; or (ii) the Board has no jurisdiction over the matter; or (iii) the failure of the complainant to cooperate in the Board's review and consideration of the complaint; or

b. determine that: (i) the complaint alleges facts which, if found to be true, would be sufficient to constitute a violation of the Code of Ethics; or (ii) that further information must be presented for the Board to determine if a violation of the Code of Ethics has occurred.

3. In order to establish the factual record necessary for the Board to determine whether a violation of the Code of Ethics has occurred, the Board can either appoint an investigator to conduct an investigation of the facts or convene a hearing at a future date certain.

a. If the Board appoints an investigator, the investigator shall interview witnesses, as well as procure and examine relevant documents and records. The investigator shall complete the investigation and prepare written findings within 60 days of the date the complaint was received by the Board, unless an extension is granted in writing by the Board. A copy of the investigator's written findings shall be provided to the Board. Within ten business days of receipt of the investigator's written findings, the Board shall convene to review the complaint and the findings of the investigator. After due deliberation on the findings presented by the investigator, the Board may take one of the following actions.

i. Determine that no violation of the Code of Ethics has occurred.

ii. Make a preliminary finding that a violation of the Code of Ethics has occurred. If the Board, based on the findings presented by the investigator, finds that a violation of the Code of Ethics has occurred, it shall issue preliminary findings of fact and conclusions of law, and the person complained against shall have ten days following the receipt of the Board's preliminary findings to request a hearing before the Board to present any additional testimony, statements, or documentary evidence, as may be relevant. At such a hearing, the Board may call additional witnesses or consider additional documentary evidence. After final deliberations on the investigator's findings, as well as any additional testimony, statements, or documents presented at the hearing, the Board shall determine whether or not a violation of the Code of Ethics has occurred.

4. A complaint dismissed under subsection F(2) shall be deemed to be dismissed with prejudice. A complaint dismissed by Board under subsections F(2)(a)(i) or (ii) will not be reconsidered if resubmitted by the complainant unless factual allegations not present in the original complaint are presented. A complaint dismissed by the Board under subsection F(2)(a)(iii) cannot be resubmitted.

5. After the Board has made its final determination under subsection F(2)(a) or F(3)(a) or (b), the Board shall issue its written findings of fact and conclusions of law, along with its recommended disposition (if applicable). The Board may, in addition, issue any additional reports, opinions, or recommendations as it deems advisable under the circumstances. All such reports shall be reviewed by the City Attorney (or independent legal counsel in the event that a conflict of interest prevents the City

Attorney from conducting the review) prior to their issuance. The Board's conclusions shall be based on the preponderance of the evidence standard.

6. Copies of the written findings of fact, conclusions, and recommended disposition of the Board of Ethics shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies of the written findings of fact, conclusions, and recommended disposition of the Board of Ethics shall be forwarded to the investigator, the City Attorney (or independent legal counsel), the City Council for matters involving a City-elected official, an appointed member of the Public Utilities Board or other City board, commission, committee, task force or other multimember body, or the City Manager and the Public Utilities Board, for matters involving the Director of Public Utilities. All other recommendations shall be forwarded, as is appropriate, by the City Attorney.

G. Limitations on the Board of Ethics' Power. The Board does not have the authority to reverse or otherwise modify a prior action of a City officer or employee. If the Board finds a prior action of a City officer or employee to have been performed in violation of the Code of Ethics, the Board may advise the appropriate party or parties that the action should be reconsidered. Upon such advice by the Board, the action shall be reconsidered by the appropriate person or public body. If the Board determines an existing City contract to be in violation of the Code of Ethics after such determination and advice from the Board, the City may void or seek termination of the contract if legally permissible.

H. Ex Parte Communications. After a complaint has been filed and during the pendency of a complaint before the Board, no member of the Board may communicate directly or indirectly with any party or other person about any issue of fact or law regarding the complaint, except that:

1. The members of the Board may obtain legal advice from the City Attorney or, in the event of a conflict, with independent legal counsel and may discuss the complaint with their staff.

2. The members of the Board may discuss the complaint at a lawfully conducted meeting. Board deliberations concerning complaints are subject to exemption from the Open Public Meetings Act, as permitted by law. If any person attempts to communicate with a Board member regarding the pending complaint, the Board member shall report the substance of the communication to the Board on the public record at the next regular meeting of the Board.

3. The Board shall not take testimony or comments from any person regarding a complaint except as presented in an investigative report or in the course of a duly noticed public hearing.

I. Statute of Limitations. No action may be taken on any complaint which is filed later than three years after a violation of the Code of Ethics is alleged to have occurred.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

## 1.46.050 Penalties for noncompliance.

A. The Board may recommend and the Tacoma Public Utility Board or City Council, as appropriate, may impose upon any Covered Official found, by a preponderance of the evidence, to have violated any provision of this Code of Ethics any of or a combination of the following penalties. The City Manager or Director of Public Utilities may similarly impose upon any City officer or employee (other than Covered Officials) found by a preponderance of evidence to have violated any provision of the Code of Ethics any of or a combination of the following penalties:

1. A cease and desist order as to violations of this Code of Ethics;

2. An order to disclose any reports or other documents or information requested by the City Manager, the Director of Public Utilities, the Hearing Examiner, the Public Utility Board, the City Council, or the Board of Ethics;

3. Discipline, up to and including termination or removal from any position, whether paid or unpaid, excluding elected positions, only after notice and hearing as provided by law. The predisciplinary procedure set forth in the provisions of the Tacoma City Charter and Section 1.24.955 TMC, and as such may be hereinafter amended, shall be followed for permanent employees in the Classified City Service.

4. Exclusion from bidding on City contracts for a period of up to five years; and/or

5. Termination or invalidation of contract(s) entered into in violation of the Code of Ethics, only if such contract(s) provide for termination in the event of a Code of Ethics violation.

B. Removal–Member of Board, Commission, or Committee. In addition to any other penalties that may be imposed under this chapter, the City Council may remove any appointed member of a City board, commission, committee, task force, or other multimember body, including the Public Utility Board, if that member is found by the Board of Ethics to have violated the Code of Ethics. The recommendation of the Board of Ethics shall be subject to review by the City Council. The City Council's

final decision shall be based on evidence in the record. The provisions of this section shall supplement any other procedures required by the Tacoma City Charter or other applicable state or federal law for removal of such persons.

C. In addition to any other penalties set forth in this chapter, any current or former City-elected official against whom a complaint has been made and whom the City Council determines to be found by a preponderance of the evidence to have violated the Code of Ethics may be subject to any one or more of the following actions by a majority vote of the City Council:

1. Admonition. An admonition shall be a verbal statement approved by the City Council and made to the individual by the Mayor, or his or her designee, or if the complaint is against the Mayor, the Deputy Mayor, or his or her designee.

2. Reprimand. A reprimand shall be administered to the individual by a resolution of reprimand by the City Council. The resolution shall be prepared by the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor. If the City-elected official objects to the content of such resolution, he or she may file with the Mayor or, if the complaint is against the Mayor, the Deputy Mayor, a request for review stating the reasons for his or her objections and asking for a review of the content of the resolution of reprimand by the City Council. The City Council shall review the resolution of reprimand in light of the City Council's findings and the request for review and may take whatever action, if any, appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law.

3. Censure. A resolution of censure shall be a resolution read personally to the individual in public. The resolution shall be prepared by the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor. The City-elected official shall appear at a City Council meeting at a time and place directed by the City Council to receive the resolution of censure. Notice shall be given at least 20 calendar days before the scheduled appearance, at which time a copy of the proposed resolution of censure shall be provided to the City-elected official. Within seven days of receipt of the notice, if the City-elected official objects to the contents of such resolution, he or she may file with the Mayor or, if the complaint is against the Mayor, the Deputy Mayor, a request stating the reasons for objections and asking for a review of the content of the proposed resolution of censure by the City Council. Such request will stay the administration of the censure. The City Council shall review the proposed censure in light of the City Council's findings and the request for review and may take whatever action, if any, appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law. If no such request is received, the resolution of censure shall be administered at the time and place set. It shall be read publicly, and the City-elected official shall not make any statement in support of or in opposition thereto, or in mitigation thereof. A censure shall be administered at the time it is scheduled whether or not the individual appears as required.

4. Other penalties. Budget reduction or restriction, loss of seniority, loss of a committee assignment, or loss of appointment as a representative of the City on any board, commission, committee, task force, or other multi-member bodies which require an appointment or confirmation of an appointment by the City Council.

If the Covered Official objects to the action taken by the City Council, he or she may file a request with the Mayor or, if the complaint is against the Mayor, the Deputy Mayor, stating the reasons for his or her objections and asking for a review of the action taken. The City Council shall review the action taken in light of the City Council's findings and request for review and may take whatever further action, if any, appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

## 1.46.060 Where to seek review.

A. Cease and Desist Order. If ordered to cease and desist violating this Code of Ethics, an affected party may seek review by writ of review from the Pierce County Superior Court pursuant to chapter 7.16 RCW or other appropriate legal action.

B. Public Disclosure. If ordered to disclose any documents or papers pursuant to this Code of Ethics, an affected party may seek review by writ of review from the Pierce County Superior Court pursuant to chapter 7.16 RCW or other appropriate legal action.

C. Discipline or Removal. If a City officer or employee is disciplined or removed from office, then the person disciplined or removed from office may seek whatever remedies exist at law or in equity.

D. Exclusion from Public Bidding. If ordered to be excluded from bidding on public contracts and the exclusion actually occurs, the person excluded may seek whatever remedies exist at law or in equity.

E. Termination of Contract(s). If termination of contract(s) is ordered, the person whose contract(s) was/were terminated may seek whatever remedies exist at law or in equity.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

### 1.46.070 Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

### 1.46.080 Financial disclosure.

All persons presently required to file reports under the public disclosure law of the state of Washington shall, upon assuming City office or position, file with the City Clerk a true and correct copy of the completed report required to be filed under state law.

(Ord. 27973 Ex. A; passed Mar. 8, 2011)

# CHAPTER 1.47
# NEIGHBORHOOD BUSINESS DISTRICT PROGRAM

Sections:

1.47.010 Purpose.
1.47.020 Intent.
1.47.030 Creation and Recognition of Neighborhood Business Districts.
1.47.040 Cross District Association of Tacoma and City Relationship.
1.47.050 Neighborhood Business District Program Services.
1.47.060 Capital Improvement Services.
1.47.070 Application Process.
1.47.080 Appeal Process.
1.47.090 Revocation of Recognition of Supporting Organization.

## 1.47.010 Purpose.

The purpose of this chapter is to set forth the responsibilities and procedures relating to Neighborhood Business District Associations and the Cross District Association. This chapter establishes Neighborhood Business Districts and their supporting organizations ("Neighborhood Business District Associations") and their relationship to the Cross District Association. This chapter assigns functions and responsibilities to the Neighborhood Business District Associations, the Cross District Association, and the City to support and promote the Neighborhood Business District Program.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

## 1.47.020 Intent.

The intent of the City is to build and maintain healthy Neighborhood Business Districts in the City of Tacoma through partnership with the Cross District Association in the areas of organization, design, promotion, and economic restructuring. The program seeks to improve economic growth and redevelopment within Tacoma's oldest neighborhood business areas—those which have traditionally supported surrounding residential neighborhoods—by assisting independent, local small businesses to organize into viable professional organizations, and by improving the physical attributes of the commercial core with place-making design elements.

The City accomplishes this through alignment with other City policies, including, but not limited to, the strategic plan and the comprehensive plan and by building the capacity of and coordinating with Neighborhood Business District Associations; by providing customer-oriented market research services to individual entrepreneurs and small businesses; by working with individual property and business owners on their development and marketing efforts; by improving the livability of surrounding neighborhoods; by fostering open communication and partnerships; and by creating mutual understanding among businesses, neighborhoods, and the City.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

## 1.47.030 Creation and Recognition of Neighborhood Business Districts.

The City shall establish Neighborhood Business Districts and their supporting organizations ("Neighborhood Business District Associations"). It shall also establish one Cross District Association acting as a peer coalition of the independent Neighborhood Business District Associations.

In order for the City to approve establishment of a Neighborhood Business District, the area must meet the criteria laid out in sections 1.47.030.A. and 1.47.030.B.

A. Criteria for Neighborhood Business Districts.

Neighborhood Business Districts shall:

1. Be located within a designated Neighborhood Commercial Mixed-Use District within the City limits of Tacoma, as set forth in The Comprehensive Plan; OR

2. Meet all of the following criteria:

a. Be physically located within the City limits of Tacoma;

b. Contain at least the physical locations of greater than 20 independent, locally owned businesses licensed by the City of Tacoma, each of which is routinely open to the general public;

c. Contain at least five different commercial property ownership interests;

d. At least 75 percent of buildings within its boundaries must front on or be adjacent to the sidewalk;

e. Be properly zoned for commercial development with such zoning being contiguous;

f. Include at least one principle, minor or collector arterial street;

g. Have passenger rail, streetcar, or bus access to public transit services, or the prospect of such services in the future, as identified in an adopted City or Pierce Transit policy;

h. Be contiguous and compact—be an easily walkable area of not more than 3/8 mile in length, containing pedestrian-oriented amenities.

Neighborhood Business Districts shall not be created within designated Regional Growth Centers, as defined in Vision 2040 adopted by the Puget Sound Regional Council.

B. Standards for Recognition of a Neighborhood Business District Supporting Organization ("Neighborhood Business District Associations").

There shall be one City-recognized organization at any one time in each Neighborhood Business District. In order to be recognized as a Neighborhood Business District Association, it must be organized as follows:

1. Be a not-for-profit organization registered with the state of Washington;

2. Be open to participation by all business owners, property owners, and entrepreneurs located within the Neighborhood Business District core area and include in its membership at least six businesses or commercial property owners within the Neighborhood Business District core area, as designated by the City;

3. Have a board of directors including at least five members elected by majority vote of the membership. Boards shall have an uneven number of members at least 18 years of age. A majority of the board members shall own commercial property or businesses within the Neighborhood Business District core area. In no case shall any person serve on more than one Neighborhood Business District board at any one time unless the person is a business or property owner within more than one district;

4. Have met regularly for a full calendar year;

5. Approve and maintain a set of bylaws, which includes a mission statement supportive of the Neighborhood Business District Program and the goals of the Cross District Association.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

## 1.47.040 Cross District Association of Tacoma and City Relationship.

The Cross District Association is a peer coalition ("Board of Directors") of all independent Neighborhood Business District Associations recognized by the City, which serves as a forum for issues of interest related to the Neighborhood Business District Program. Each Neighborhood Business District Association shall select two representatives to serve on the Cross District Association Board of Directors and one alternate.

The primary responsibilities of the Cross District Association Board of Directors include:

A. Support and promote business and commercial property owner participation and neighborhood enhancement.

B. Collaborate with all existing Neighborhood Business District Associations to promote, market and advertise the districts as destination shopping and commercial centers through regional and local media, including, but not limited to, tourism brochures, print advertising, and websites, with economic development as the primary goal.

C. Promote and facilitate open communication between the City and Neighborhood Business District Associations and provide a stakeholder-based means of communication among individual Neighborhood Business District Associations and other business associations.

D. Support and assist individual Neighborhood Business District Associations in performing their functions and responsibilities.

E. Serve as an information source to Neighborhood Business District Associations.

F. Provide to the City a unique communitywide business perspective and source of advice on the needs and aspirations of the Neighborhood Business District Program participants.

G. Further relationships among the Cross District Association, the Neighborhood Business District Associations, the Neighborhood Councils, and the Community Council.

H. Provide the City with analysis, assessment, and recommendations regarding applications for establishment of additional districts and for recognition of Neighborhood Business District Associations.

I. Advise the City on priorities and policies regarding capital funding for improvements within Neighborhood Business District core areas.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

## 1.47.050 Neighborhood Business District Program Services.

The City intends to regularly provide a liaison service to established and recognized Neighborhood Business Districts and their associations. Such services will focus on communication outreach, capacity-building and board development; promotional and marketing strategy assistance; assistance with prioritizing physical improvements; and identifying and providing resources to assist with the growth and diversification of its economic base.

Program Services Resource and Funding Allocation Guidelines

The City will give priority funding and resource consideration to Neighborhood Business Districts and their associations with the following characteristics:

1. Assessment by the City and the Cross District Association that determines that a Neighborhood Business District and its association is in need of, or otherwise qualified for, funding and resources; or

2. Formation of a Business Improvement Area in accordance with Chapter 35.87A RCW that includes the Neighborhood Business District core area; or

3. Availability of matching funds, pledges, or other investments have been acquired from the Neighborhood Business District Association or its member businesses and property owners through private fundraising efforts separate from City grants; or

4. Allocation or pledge of funds from the Neighborhood Council within which the Neighborhood Business District core area is located; AND

5. Current and complete record keeping and reporting requirements, as provided by state law or City contracts and is otherwise in good standing in terms of existing agreements with the City.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

## 1.47.060 Capital Improvement Services.

From time to time the City may provide funding for capital improvements to create a sense of place, visually identify a Neighborhood Business District area; increase and improve public safety and walkability; and beautify the district.

Capital Improvement Funding Allocation Guidelines

The intent of the City is to leverage Neighborhood Business District Program funds; therefore, the City will give priority funding consideration to Neighborhood Business Districts and their associations with the following characteristics:

1. Existence of a Local Improvement District formed under TMC Chapters 10.04, 10.06, 10.08, and 10.09, that includes the Neighborhood Business District core area; or

2. Formation of a Business Improvement Area, in accordance with Chapter 35.87A RCW that includes the Neighborhood Business District core area; or

3. Availability of matching funds, pledges, or other investments from the Neighborhood Business District Association or its member businesses and property owners through private fundraising efforts separate from City grants; or

4. Allocation or pledge of funds from the Neighborhood Council within which the Neighborhood Business District core area is located; AND

5. Current and complete record keeping and reporting requirements, as provided by state law or City contracts and is otherwise in good standing in terms of existing agreements with the City.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

## 1.47.070 Application Process.

An application to form a new Neighborhood Business District, or to be recognized as the supporting organization for a Neighborhood Business District, shall be submitted as follows:

A. Make a formal written request for establishment to the Cross District Association, which will trigger the official application request.

B. Be a fully recognized, paying member of the Cross District Association for at least one year (twelve months) and appoint two representatives (and one alternate) to sit on the Cross District Association Board of Directors.

C. Application to create a new Neighborhood Business District and/or to be recognized as the supporting organization shall be submitted on forms provided by the Director of the Community and Economic Development Department.

D. Applications that meet the criteria set forth in Section .030 shall be granted provisional approval.

E. After being granted provisional approval, the applicant shall join the Cross District Association Board of Directors, and shall participate in the Association's mentoring and other programs for a period of one year (twelve months) after the date of provisional approval.

F. After the provisional period ends, and after receiving a recommendation from the Cross District Association Board of Directors, the Community and Economic Development Department Director or the Director's designee shall make a determination regarding whether to permanently recognize the area boundaries and/or the supporting organization, and shall inform the applicant in writing of the decision. The decision shall include an analysis of applicable criteria. If the decision is to not permanently recognize the area/organization, the Director shall set forth her or his reasons in writing.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

## 1.47.080 Appeal Process.

A. Any person aggrieved by a decision to establish or not establish an area or to recognize or not recognize an organization may appeal the decision within 30 working days of the date of the decision to the City Manager or designee.

B. The appellant has the burden to prove by a preponderance of the evidence that the decision was not substantially supported by the record or that the decision maker clearly erred in the application of the criteria set forth in this chapter.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

## 1.47.090 Revocation of Recognition of Supporting Organization.

A. The Department shall review each Neighborhood Business District and supporting organization at least once every two years. Additionally, any person may file a complaint with the Department that a Supporting Organization no longer meets the criteria set forth in TMC 1.47.030.

B. If the Department determines that the Neighborhood Business District and supporting organization no longer meets the criteria set forth in TMC 1.47.030, it shall notify the Neighborhood Business District and supporting organization in writing of the deficiencies and shall give the Neighborhood Business District and supporting organization 90 working days to correct any deficiencies.

C. If, after the specified period, the Neighborhood Business District and supporting organization has not come back into compliance, the Director's designee shall issue a letter revoking the City's recognition of the Neighborhood Business District and supporting organization.

D. The Neighborhood Business District and supporting organization may contest the issuance of a letter revoking its recognition by appealing to the City Manager or designee within ten working days of the date of the letter. The appellant has the burden to prove by a preponderance of the evidence that the decision was not substantially supported by the record or that the decision maker clearly erred in the application of the criteria set forth in this chapter

E. The City Manager or designee shall review the contesting letter and may hold a hearing. The City Manager or designee may affirm, modify, or reject the decision of the designee. The City Manager's or designee's decision shall be in writing and shall set forth the reasons for the decision.

(Ord. 27737 Ex. A; passed Aug. 19, 2008)

# CHAPTER 1.48
## *REPEALED*

### PROCUREMENT PROGRAM FOR RECYCLED PAPER AND PAPER PRODUCTS

*Repealed by Ord. 27777*

*(Ord. 27777 § 2; passed Jan. 6, 2009: Ord. 24831 § 1; passed Feb. 5, 1991)*

# CHAPTER 1.49
# DONATIONS, DEVISES, OR BEQUESTS

Sections:

1.49.010 Purpose.
1.49.020 "Donation" defined.
1.49.030 City Manager and/or Director of Utilities authorized to accept.
1.49.040 Disposition of property.
1.49.050 Funds and accounting.
1.49.060 Policies and procedure.
1.49.070 Donations related to art.

## 1.49.010 Purpose.

The purpose of this chapter is to authorize the acceptance of donations for any public purpose, pursuant to RCW 35.21.100.

(Ord. 28004 Ex. A; passed Jul. 19, 2011)

## 1.49.020 "Donation" defined.

As used in this chapter, the term "donation" refers to any money or property, real or personal, donated, devised or bequeathed, with or without restriction, to the City.

(Ord. 28004 Ex. A; passed Jul. 19, 2011)

## 1.49.030 City Manager and/or Director of Utilities authorized to accept.

The City Manager and Director of Utilities are authorized to accept donations and to carry out any conditions thereof, if same is within the powers granted by law to the City and consistent with the policies, plans, goals or ordinances of the City. The City Manager or the Director of Utilities may decline to accept a donation if such donation is not consistent with the policies, plans, goals or ordinances of the City or if acceptance of same presents an undue resource and/or budgetary impact or is contrary to law.

(Ord. 28004 Ex. A; passed Jul. 19, 2011)

## 1.49.040 Disposition of property.

The City Manager or the Director of Utilities shall use or dispose of any property donated in accordance with any terms and conditions of said donation. If the donation is without conditions, the City Manager shall use or dispose of the property in the manner deemed most appropriate under the laws policies, goals and plans of the City; provided, that the City Manager or the Director of Utilities shall refer to the City Council and/or the Public Utility Board the matter of acceptance or use or disposition of real property. Monetary donations shall be deposited in the appropriate fund to carry out the conditions thereof; and if said donations are given without conditions said funds shall be deposited in the general fund to be appropriated pursuant to the budget process.

(Ord. 28004 Ex. A; passed Jul. 19, 2011)

## 1.49.050 Funds and accounting.

The Finance Director is authorized and directed to establish such funds and accounting procedures as may be necessary to carry out the terms and conditions of any donation, devise or bequest, in accordance with the city ordinances, the laws of the State of Washington and requirements of the Office of the State Auditor.

(Ord. 28004 Ex. A; passed Jul. 19, 2011)

## 1.49.060 Policies and procedure.

The City Manager or the Director of Utilities shall promulgate appropriate policies and procedures, with the recommendation of the various city departments, to encourage and facilitate the making of donations to the City.

(Ord. 28004 Ex. A; passed Jul. 19, 2011)

### 1.49.070 Donations related to art.

Notwithstanding any other provision of this chapter, donations relating to art will be governed by Chapter 1.28.

(Ord. 28004 Ex. A; passed Jul. 19, 2011)

# CHAPTER 1.50
## *EXPIRED*

### MINORITY AND WOMEN'S BUSINESS ENTERPRISES

*Expired December 31, 2005*

*(Ord. 25394 § 1; passed Nov. 9, 1993)*

# CHAPTER 1.55
# TACOMA CREATES

Sections:

1.55.010 Creation of Tacoma Creates.
1.55.020 Declaration of purpose.
1.55.030 Allocation of funding.
1.55.040 Definitions.
1.55.050 Eligibility.
1.55.060 Funding programs.
1.55.070 Application review panels.
1.55.080 Public School Cultural Access Program ("PSCAP").
1.55.090 Tacoma Creates Advisory Board.
1.55.100 Administration.

## 1.55.010 Creation of Tacoma Creates.

There is hereby established a Cultural Access Program in the City of Tacoma, enabled by RCW 36.160 and approved by Tacoma voters in November 2018 by a vote of 67.2 percent, to be known as "Tacoma Creates." This chapter may also be referred to as the "Tacoma Creates Code."

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.020 Declaration of purpose.

It is hereby declared, as a matter of public policy, that support for arts, culture, heritage, and science organizations throughout the City is in the public interest, and will serve multiple public purposes including, among others, enhancing and extending the education reach and offerings of cultural organizations; ensuring continued and expanded access to the facilities and programs of organizations by economically and geographically underserved populations; and providing financial stability to organizations to continue and extend the numerous public benefits they provide. Tacoma Creates will invest in cultural organizations of all types and sizes, and will ensure that equity and access goals are central in all funding programs.

The purpose of Tacoma Creates is to:

A. Systemically support existing and nascent efforts of the cultural sector and aligned partners to actively engage the community, reach traditionally underserved populations, increase civic participation, and grow the talent, participation, and creativity across the City.

B. Leverage and grow the significant public and private investment that has been committed to the revitalization of Tacoma through its cultural sector; expand investments to reach deeper into the neighborhoods; and expand access for all Tacoma residents to arts, culture, heritage and science events, venues, performances, large-scale City events, exhibits, and neighborhood activities.

C. Increase and expand access to arts, culture, heritage, and/or science activities and experiences by creating welcoming places, relevant and diverse programming, and affordable and free programs.

D. Support an increase in cultural activities in neighborhoods that reflect diverse cultures, lifestyles and interests, including, but not limited to, community festivals, street fairs, and creative place-making.

E. Invest in organizations whose primary purpose is to advance or preserve arts, culture, heritage, and/or science, and who provide public programming in these areas.

F. Support a diversity of arts, culture, heritage, and/or science programs that are Tacoma based and occur in Tacoma.

G. Prioritize equity and access in programming and funding decisions.

H. Invest in youth education opportunities and the partnerships and systems that increase access to these opportunities; and enhance and extend arts, culture, heritage, and science education for Tacoma Public Schools students through the Public School Cultural Access Program ("PSCAP").

I. Provide capacity building funding, training, and programs to support to strengthen, sustain and grow the ability of organizations to thrive and meet the needs of the community.

J. To increase public awareness and highlight the importance of tribal cultural resources and the history of all the region's native and indigenous peoples.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.030 Allocation of funding.

Pursuant to Resolution No. 40046, the following funding allocations were proposed and approved by the voters:

A. Neighborhood Funding. A minimum of 52 percent of all revenues will equitably support programming located throughout Tacoma's neighborhoods.

Programming in neighborhoods will include all public programs, youth education programs, and community events that occur outside of Tacoma's downtown core but within the boundaries of the City of Tacoma.

Funding for the Public School Cultural Access Program will be a portion of Neighborhood Funding.

B. Increased Public Access. Up to 26 percent of all revenues will support enhanced access to cultural sector programming for the benefit of Tacoma residents.

This may include the development or expansion of free or reduced-price admission programs or scholarship programs; expansion of open public hours at cultural facilities; expansion of programming locations or transportation options; displays and installations in all communities that raise awareness of cultural resources within the City; expansion of inclusive programming that considers cultural relevance, language access, and ADA accessibility; strengthening and supporting existing work in any of these areas; and/or other efforts to reduce barriers to access for people across Tacoma.

C. Capacity Building. Up to 6 percent of all revenues will support efforts that build capacity for developing and implementing Tacoma Creates programming.

This may include funding for cultural organizations to improve or expand their internal capacity to deliver equitable public programs; professional development programs for cultural organization staff to enhance skills related to Tacoma Creates programming; providing technical support for cultural organizations in responding to Tacoma Creates application, grant management, or reporting requirements; and other opportunities to support growth and development for the cultural sector.

D. Transportation. Up to 8 percent of all revenues will support transportation options for students enrolled in Tacoma Public Schools to increase their access to cultural sector programming.

E. Administration. Up to 8 percent of all revenues will support administrative costs related to program management.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.040 Definitions.

"Arts organization" means an organization that provides programming across one or more of the following artistic fields: creative place-making, dance, design, folk and traditional arts, literary arts, multi-disciplinary arts, music, media arts, theater, and visual arts.

"Cultural organizations" and/or "Cultural sector" means, collectively, organizations whose primary purpose is to advance and/or preserve arts, culture, heritage, and/or science, and who provide public programming in these areas.

"Culture organization" means an organization that provides programming that focuses on extending or sustaining the traditions, customs, language, knowledge, skills, trades, and/or celebrate the achievements of a particular nation, people, or other social identity group.

"Downtown core" means the area within the following boundaries: North border is 6th Avenue; West border is Thea Foss Waterway and East L Street; South border is I-5; East border is Tacoma Avenue South.

"Equity" means minimizing historical, systematic, and institutional disparities and maximizing opportunities for all people. Equity takes into account context: history, current realities, and future outcomes. The purpose of equity in Tacoma Creates programming is to foster greater inclusiveness, increase diversity, and broaden participation in arts, culture, science, and heritage experiences.

"Fiscal sponsorship" means a formal arrangement in which a 501©(3) organization, based in Washington State, provides financial management and other administrative services for an organization that provides public benefit but lacks 501©(3) status. Fiscal sponsors will be eligible to receive and manage a funding contract from Tacoma Creates on behalf of the sponsored organization; fees charged by the fiscal sponsor to cover administrative costs may not exceed 10% of any funding contract.

"Heritage organization" means an organization that provides programming that focuses on the identification, documentation, exhibition, interpretation, and/or preservation of the past, including the people, places, events, and physical spaces of any community of people.

"Panel" means a group of individuals convened by staff to review applications or nominations using published review criteria, and make recommendations to the Advisory Board.

"Science organization" means an organization that provides programming across one or more of the following scientific fields: physical sciences, life sciences, natural sciences, earth and space sciences, engineering, technology, and work that applies scientific methods or engineering design cycles.

"Tacoma Creates Administration" means the Office of Arts & Cultural Vitality within the Tacoma Venues and Events Department, or its successor within Tacoma's administration.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.050 Eligibility.

A. Organizations which fulfill the following eligibility criteria may apply for Tacoma Creates funding programs. Specific eligibility and criteria may vary, depending on the funding program, and may be revised from time to time by the Tacoma Creates Administration, in consultation with the Tacoma Creates Advisory Board, based on experience with the program to ensure it continues to fulfill its purpose.

1. Eligibility Category A – Organizations meet all five primary eligibility criteria.

a. Primary Purpose: The organization's primary purpose must be to advance and/or preserve arts, culture, heritage, and/or science.

b. Non-Profit Status: The organization must be a 501(c)(3) nonprofit corporation, incorporated under the laws of the state of Washington and recognized by the Internal Revenue Service.

c. Location: The organization's official business address is in the City of Tacoma.

d. Program Delivery: The organization must directly provide programming or experiences to the general public in the City of Tacoma.

e. Track Record: The organization must have a two-year track record of providing programming or experiences to the general public in the City of Tacoma.

2. Eligibility Category B – An organization that does not meet the Track Record criteria, but meets all other criteria listed in Category A.

3. Eligibility Category C – An organization that does not meet the Non-Profit Status criteria, and may not meet the Track Record criteria, but does meet all other criteria listed in Category A. Organizations in this category may apply with a Fiscal Sponsor.

4. Eligibility Category D – An organization that does not meet the Location criteria, but meets all other criteria listed in Category A, and has a business address within Pierce County, and is able to demonstrate that at least 65 percent of its public programming occurs within the City of Tacoma.

5. Eligibility Category E – Affiliate Cultural Programs within a larger non-profit. Established and distinct cultural programs that meet the Primary Purpose, Location, and Program Delivery criteria, and are part of a larger non-profit, public-serving organization, may apply if the following additional eligibility criteria are met:

a. Independent mission: Have a published mission statement independent of the parent organization.

b. Independent board: Have a board or steering committee that guides the program, independent of the parent organization's board.

c. Independent budget: Have a distinct, balanced budget, independent of the parent organization.

d. Track record: Five years providing public programming in arts, culture, heritage, and/or science.

e. Staff: Have dedicated, paid staff, equal to at least one full-time employee.

f. Matching Funds: Provide a 1:1 cash match for Tacoma Creates funds.

g. The parent organization must:

(1) Be a public-serving 501(c)(3) or 501(c)(6) non-profit organization.

(2) Be based in the City of Tacoma.

(3) Retain no more than 10 percent of any Tacoma Creates grant to support administrative services.

6. Eligibility Category F – Business District Associations and Neighborhood Councils. Business District Associations (Tacoma Municipal Code ("TMC") 1.47) and Neighborhood Councils (TMC 1.45) recognized by the City of Tacoma may apply for funding for neighborhood-based arts, culture, heritage, and/or science programs or events, especially fairs and festivals, but must have a Fiscal Sponsor that is a 501(c)(3) organization in Tacoma that meets the Primary Purpose criteria of advancing or preserving arts, culture, heritage, and/or science.

B. Eligibility exclusions.

The specific eligibility exclusions noted in RCW 36.160 apply to all eligibility categories:

Funding cannot be distributed to any agency of the state or any of its political subdivisions; any municipal corporation; any organization that raises funds for redistribution to multiple cultural organizations; or any radio or television broadcasting network or station, cable communications system, internet-based communications venture or service, newspaper, or magazine.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.060 Funding Programs.

Tacoma Creates funding programs will be designed to support a variety of types and sizes of organizations and programs that will provide public benefit in Tacoma, with a demonstrated commitment to improving equity and access. Organizational requirements for equity and inclusion, which will be detailed in funding application guidelines and evaluation criteria, will be designed to ensure a rigorous focus on addressing historical inequities in the cultural sector and in Tacoma.

Funding programs may be revised from time to time by the Tacoma Creates Administration, in consultation with the Tacoma Creates Advisory Board, based on experience with the program to ensure it continues to fulfill its purpose.

A. Funding Category 1. Organizations in any eligibility category may apply for funding that will support public programs in arts, culture, heritage, and/or science, and will address one or more of these primary public benefit areas:

1. Increasing public access to cultural programs and/or facilities;

2. Providing neighborhood and community-based programs; or

3. Providing educational programs for youth.

Funding levels will be determined by the Advisory Board.

B. Funding Category 2. Organizations in Eligibility Category A may apply for funding in this category if they commit to meeting all three primary public benefit areas:

1. Increasing public access to cultural programs and/or facilities;

2. Providing neighborhood and community-based programs; and

3. Providing educational programs for youth.

Organizations applying in this funding category will be encouraged to demonstrate collaborative efforts and continuous improvement towards sustainability of the organization. Funding levels in this grant category will be determined by the Advisory Board, but set at a maximum of 15 percent of an organization's total budget, up to a maximum of $400,000 per year.

Eligible organizations may apply in either Funding Category 1 or Category 2, but not both.

Eligible organizations may participate in the PSCAP.

Additional funding programs may be developed over the life of the Tacoma Creates program in order to meet emerging needs and opportunities.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.070 Application review Panels.

A. An independent panel will be convened to review applications for each round of funding. The application review panel will consist of members of the Advisory Board, in addition to a diverse representation of community members who provide content expertise and community-based knowledge.

B. Panel members may be recommended by the Advisory Board, as well as staff.

C. A unique group of individuals will be convened for each application review panel.

D. Panels will review applications using published review criteria, and submit funding recommendations to the Advisory Board for review and approval.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.080 Public School Cultural Access Program ("PSCAP").

Pursuant to RCW 36.160.110, Tacoma Creates must designate a percentage of total funds available annually to be reserved for a public school cultural access program established and managed by the City to increase access to cultural activities and programming for public school students resident in the City. Tacoma Creates will dedicate 15-30 percent of total funds to support PSCAP, inclusive of systems support.

PSCAP programs will be developed for the benefit of Tacoma Public Schools ("TPS") students and teachers. Tacoma Creates will invest in cultural organizations that provide programming, and in the partnerships and systems that increase access to these opportunities.

PSCAP will offer benefits to every public school in TPS, while prioritizing schools based on various indicators of gaps in equity and opportunity, including free and reduced-price meals percentages.

Tacoma Creates will support a wide range of programming within the PSCAP, as described below.

Tacoma Creates will build the capacity of cultural organizations to develop and deliver high quality and inclusive programs that help TPS meet their goals for student success, academically and socially, and in alignment with the Whole Child Initiative. Tacoma Creates will support the development of tools and materials to support alignment with school curricula and state standards.

A. Programming that may be covered by PSCAP funds:

1. Expanded Learning Opportunities ("ELO"): Before/after-school classes, summer classes, offered in partnership with and on the campuses of TPS, and in collaboration with one or more ELO partners that manage logistics required to enable successful programming.

2. Systems support for ELO: Tacoma Creates will help support ELO partner(s) expenses related to staffing, marketing, coordinating registration, transportation, snacks, etc. necessary to support a comprehensive ELO system that serves all students.

3. School Day Programs at TPS sites: Learning opportunities offered by Tacoma Creates-funded organizations that occur during the regular school day, as part of basic education.

4. School Day and School Break Field Trips: TPS classes traveling off-campus to an arts, culture, heritage, and/or science learning experience led by a Tacoma Creates-funded organization. Tacoma Creates funding would cover bus transportation as well as the cost of the learning experience.

5. Professional Development and Curriculum Support: Tacoma Creates-supported organizations may collaborate with TPS to offer professional learning programs for certified teachers/district staff, and/or collaborative curriculum development, in order to improve schools' capacity to deliver high-quality learning experiences in arts, culture, heritage, and science.

6. Capacity Building for Cultural Organization Educators: Professional learning programming offered by Tacoma Creates to support high-quality instruction in PSCAP programs. This may include, but not be limited to, topics such as instructional design, social justice and racial equity in K-12 education, social emotional learning, and trauma-informed practice.

7. Early Learning Programs: Arts/culture/heritage/science education programs offered in collaboration with TPS pre-school programs (Head Start and Early Childhood Education and Assistance Program ("ECEAP")).

8. High School Internships: Opportunities for students in grades 9-12 to earn relevant work experience within an arts, culture, heritage, and/or science organization.

9. Emerging Opportunities: Additional opportunities not detailed here, but which support arts, culture, heritage, and/or science learning for TPS students and teachers may be included in PSCAP funding.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.090 Tacoma Creates Advisory Board.

A. Composition of Tacoma Creates Advisory Board. The Advisory Board will consist of 12 volunteer members appointed by City Council. All members will be residents of the City of Tacoma. All members will have interest in and familiarity with

public programming in the arts, culture, heritage, and/or science. All members will have an interest in Tacoma Creates goals regarding equity, access, and programs that provide public benefit for residents across Tacoma.

The Advisory Board, as a whole, will reflect the diversity of the City; board appointments will take into account racial and ethnic backgrounds, gender, age, and other aspects of personal and professional identity.

B. The Advisory Board shall consist of members who represent the following:

1. A community member from Council District 1.

2. A community member from Council District 2.

3. A community member from Council District 3.

4. A community member from Council District 4.

5. A community member from Council District 5.

6. Professional expertise in the arts.

7. Professional expertise in culture.

8. Professional expertise in heritage.

9. Professional expertise in science.

10. Professional expertise in Pre-K-12 public education in Tacoma.

11. Expertise in community engagement/community development

12. Youth Seat: A representative from the Mayor's Youth Commission.

C. Terms of Advisory Board Members. For the initial board appointments, the terms will be staggered as follows: four seats, for a one-year term; four seats, for a two-year term; and four seats, for a three-year term. Thereafter, all terms shall be for three years, except the youth seat, which shall be a one-year appointment. Members may be reappointed for a second term, but shall serve no more than six consecutive years. In the event that a position is vacated before the expiration of the term, the position shall be filled by the City Council for the remainder of the unexpired term.

D. Authority of the Advisory Board.

1. The Advisory Board will be advisory to the Tacoma Creates Administration on funding programs to support public benefit in arts, culture, heritage, and science programs throughout Tacoma.

E. Roles and Responsibilities of the Advisory Board. The Advisory Board will:

1. Act in an advisory capacity to the Tacoma Creates Administration on matters related to Tacoma Creates.

2. Review and recommend funding guidelines and review criteria, including funding levels.

3. Participate in application review panels, along with additional community member representatives.

4. Review and approve funding recommendations from review panels to ensure fidelity to review criteria and process.

5. Review and provide input on reporting processes to ensure alignment with public benefit goals.

6. Review outcomes from funded organizations to ensure compliance with Tacoma Creates mandates and to ensure effective stewardship of Tacoma Creates funds.

7. Participate in the preparation of annual reports to the City Council.

8. Review and provide input on a variety of Tacoma Creates efforts in addition to grant funding, such as capacity building efforts to support the sector, building collaborative partnerships, and advancing the visibility of the program in the community.

9. Serve as outreach ambassadors of Tacoma Creates to arts, culture, heritage, and science organizations, and the general public.

F. Meetings of the Advisory Board. The Advisory Board shall convene during a regular time and place of meeting, and shall hold a minimum of six regular meetings a year.

G. Organization and procedures.

1. In consultation with the Tacoma Creates Administration, the Advisory Board may make and alter any rules and regulations governing its organization and procedure not inconsistent with this chapter or any other ordinance of the City.

2. A simple majority of appointed, filled positions shall constitute a quorum.

3. A majority vote of the quorum is required to pass any motion.

4. A Chair and Vice-Chair will be elected by the Advisory Board, from among the Advisory Board members, to serve one-year terms. Chair and Vice-Chair terms are renewable by vote of the Advisory Board.

5. The Chair shall preside over all meetings of the Advisory Board. In the absence of the Chair, the Vice Chair is authorized to perform and carry out all of the duties and obligations of the Chair.

6. If the Chair relinquishes authority or quits before the Chair's term ends, the Vice Chair automatically becomes Chair.

7. In the event that the Vice Chair relinquishes authority or quits before the Vice Chair's term ends, a new general election will take place, electing a new Vice Chair for the completion of the term.

8. Committee chairs may be appointed by the Chair or elected by the Advisory Board as a whole.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

## 1.55.100 Administration.

Tacoma Creates will be administered by the Office of Arts & Cultural Vitality. Staff from the Office of Arts & Cultural Vitality will be dedicated to implementing Tacoma Creates and supporting the Advisory Board.

The Office of Arts & Cultural Vitality will adopt an Equity and Inclusion strategy to guide the work of the Office, the Advisory Board, grantmaking, and programming.

Staff will keep accurate records of the Advisory Board's proceedings and transactions, conduct official correspondence, organizing meetings and providing technical support to the Advisory Board to the extent required to administer this chapter.

In addition, the Office of Arts & Cultural Vitality staff will:

A. Implement and administer Tacoma Creates funding programs;

B. Develop and implement programming that supports the purposes of Tacoma Creates;

C. Act as resource and ombudsman for Tacoma Creates;

D. Coordinate the development of funding guidelines and review criteria, for review and approval by the Advisory Board;

E. Manage and implement the application review panels;

F. Manage contracting according to City procedures;

G. Make public presentations on issues related to Tacoma Creates;

H. Recommend such policies, rules, and regulations for adoption by the Advisory Board as are deemed necessary to carry out the purposes of this chapter;

I. Respond to requests for interpretations of the codes, policies, and procedures related to Tacoma Creates, as defined herein and within related documents adopted by the Advisory Board.

J. In addition to the Advisory Board, convene one or more technical work groups including perspectives such as, but not limited to, arts, culture, heritage and science sector representatives from various sized organizations, education, transportation delivery, and equity and inclusion to better inform and provide input on a regular basis on the delivery of Tacoma Creates for the benefit of the public.

K. Perform other duties as required to carry out the intent and purpose of Tacoma Creates.

(Ord. 28626 Ex. A; passed Dec. 3, 2019)

# CHAPTER 1.60
# PUBLIC CORPORATIONS

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## 1.60.010 Authorization.

The City of Tacoma hereby authorizes the establishment and chartering of one or more public corporations, commissions, and/or authorities, each as an independent legal entity, to perform all manner and type of community services in furtherance of

Grant Agreements between the City of Tacoma and the United States, or in furtherance of an agreement or agreements by such public corporations, commissions, and/or authorities with the United States; and/or to administer and execute other federal grants or programs as may be authorized by agreements between the City of Tacoma and the United States and any department or agency thereof, and by agreement between the City of Tacoma and the United States and any department or agency thereof, and by agreement between the City of Tacoma and such public corporation, commission, and/or authority; and/or in furtherance, subject to approval by resolution of the City Council, of an agreement or agreements by such public corporation, commission, and/or authority with the United States to administer and execute such federal grants or programs as provided by such agreement; and to perform any other lawful public purpose or public function as authorized by RCW 35.21.660, 35.21.670, 35.21.730, 35.21.735, 35.21.740, 35.21.745, 35.21.747, 35.21.750, 35.21.755, 35.21.757, and any amendment thereto and any other applicable laws.

Each such public corporation, commission, and/or authority shall have the power and authority described in Sections 1.60.040, 1.60.050 and 1.60.060 hereof insofar as the same are authorized by its charter; be limited by the restrictions and provisions set forth in Section 1.60.070 hereof; be organized in accordance with the process outlined in Sections 1.60.090, 1.60.100, and 1.60.110 hereof and with the structure, purposes, and organization provided for by Sections 1.60.150 through 1.60.340 hereof and its charter; observe the constitutional limitations set forth in Sections 1.60.350 and 1.60.360 hereof; adhere to the provisions derived from a Grant Agreement and contained in Section 1.60.370 hereof; fulfill the affirmative duties to the City stated in Section 1.60.380 hereof; incur indebtedness as allowed by Section 1.60.390 hereof; and shall be subject to the powers reserved by the City and the supervening conditions stated in Sections 1.60.400, 1.60.410, and 1.60.420 hereof.

All liabilities incurred by any public corporation, commission, or authority created pursuant hereto shall be satisfied exclusively from the assets and credit of such public corporation, commission, or authority, and no creditor or other person shall have any recourse to the assets, credit, or services of the City of Tacoma on account of any debts, obligations, or liabilities of such public corporation, commission, or authority.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.020 Definitions.

As used in this chapter, the term:

1. "Bonds" shall mean any bonds, promissory notes, interim certificates, debentures, certificates of indebtedness or other obligations issued by a public corporation pursuant to its charter and this chapter.

2. "Charter" shall mean the articles of organization of a public corporation created pursuant to this chapter, irrespective of the name applied thereto, and all amendments thereto. Such term shall include, but not be limited to, such designations as "Charter," "Compact," "Articles of Incorporation," and "Articles of Association."

3. "City" shall mean the City of Tacoma, Washington.

4. "City Council" shall mean the duly elected, qualified, and acting Council of the City of Tacoma, Washington.

5. "Clerk" shall mean the City Clerk of the City of Tacoma.

6. "Commission" shall mean the group of persons vested with the management of the affairs of the public corporation, irrespective of the name by which such group is designated. Such term shall include, but not be limited to, such designations as "Board of Directors," "Trustees," "Managers," "Directorate," "Commission," or "Council."

7. "Comptroller General" shall mean the Comptroller General of the United States of America or a person authorized to act on his/her behalf.

8. "Constituency" shall mean the class of persons entitled to participate, whether in a voting or advisory capacity, in the internal processes of a public corporation in accordance with its charter or rules and regulations. Such term may include, but shall not be limited to, such designations as the membership, the electorate, the public, interested citizens, or residents within a district.

9. "Constituent" shall mean a member of the constituency.

10. "Corporate" shall refer or pertain to a public corporation created pursuant to this chapter.

11. "Corporate Office" shall mean an office or official position of the public corporation, irrespective of designation, but excludes membership positions of the Commission.

12. "Corporate Officer" shall mean an officer or official of the public corporation, irrespective of designation, but excludes members of the Commission who do not hold a corporate office.

13. "Corporate Official" shall mean an officer or official of the public corporation, irrespective of designation, and include members of the Commission.

14. “Director of the CEDD” or “CEDD Director” shall mean the Director of the Community and Economic Development Department, a person authorized to act on his or her behalf, and any successor official performing, besides other duties, the duties of the Director of Community and Economic Development Services.

15. "Finance Director" shall mean the Finance Director of the City of Tacoma, or a person authorized to act on his/her behalf. In the event of reorganization of the office of the City Finance Director, such term shall mean the successor official performing such duties or a person authorized to act on his/her behalf.

16. "Federal Program" shall mean a program or programs which have been heretofore or are hereafter undertaken and funded, in whole or in part, with funds received from the United States or any agency or department thereof, and/or any program, whether or not funded with federal funds, which the City Council determines, by resolution, advances or tends to accomplish objectives or purposes (or similar objectives or purposes) of a program heretofore or hereafter funded, in whole or in part, with federal funds, including but not limited to, the HUD approved Comprehensive City Demonstration Program of the City of Tacoma as the same may from time to time be amended, and the Community Development Program of the City of Tacoma as the same may from time to time exist pursuant to the Housing and Community Development Act of 1974, as amended.

17. "Grant Agreement" shall mean an agreement or agreements heretofore or hereafter entered into between the City of Tacoma and the United States of America, pursuant to which federal grants or programs have been or are hereafter authorized, including, but not limited to, that certain Grant Agreement for a Comprehensive City Demonstration Program between the City of Tacoma and the United States of America, Department of Housing and Urban Development, adopted April 1, 1971, pursuant to Resolution No. 21096, as now existing or hereafter amended, and agreements between the City of Tacoma and the United States of America pursuant to the Housing and Community Development Act of 1974, as amended.

18. "HUD" shall mean the Secretary of Housing and Urban Development of the United States of America or a person authorized to act on his/her behalf.

19. "Insolvent" or "insolvency" mean the inability of a public corporation to pay debts as they become due in the usual course of its affairs.

20. "Mayor" shall mean the Mayor of the City of Tacoma.

21. "Public corporation" shall mean a corporation, commission, or authority organized under this chapter.

22. "Public Program" shall mean any program or activity which a public corporation may be authorized to undertake or perform.

23. "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

24. "Resolution" shall mean an action of the Commission with the quorum required in Section 1.60.320 hereof.

25. "Rules and Regulations" shall mean the code or codes of rules adopted for the regulation or management of the affairs of the public corporation, irrespective of the name or names by which such rules and regulations are designated.

26. "State" (when used as a noun) shall mean the State of Washington.

(Ord. 27466 § 18; passed Jan. 17, 2006: Ord. 26386 § 13; passed Mar. 23, 1999: Ord. 25482 § 1; passed May 3, 1994)

## 1.60.030 Corporate life.

The charter of the public corporation shall establish the character or term of its existence. The charter may provide:

A. The public corporation shall have perpetual existence;

B. The public corporation shall exist for a stated period of years, until a fixed expiration date, or during a set time period; or

C. The public corporation shall cease to exist upon the occurrence of certain events or upon an expiration date measured from such events; or the charter may combine any term or condition set forth in subsection B with that set forth in subsection C. Should the charter fail to set forth the character or term of the public corporation's existence, the existence of the public corporation shall expire five years after the date of issuance of its charter.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.040 Powers.

Except as otherwise limited by this chapter or by its charter or by any applicable law, a public corporation shall have the power:

A. To own and sell real and personal property;

B. To contract with individuals, associations, and corporations, and the State and the United States;

C. To sue and be sued;

D. To lend and borrow funds;

E. To do anything a natural person may do; and

F. To perform all manner and type of community services and activities in furtherance of a Grant Agreement or an agreement by the public corporation with the United States, subject to approval by resolution of the City Council, to carry out the purposes of a Federal Program, and to undertake and perform any Public Program.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.050 Powers specified.

A. Except as otherwise limited by this chapter or by its charter or by applicable law, the powers granted a public corporation by Section 1.60.040 include but are not limited to the power to:

1. Purchase, lease, exchange, improve, use, or otherwise transfer real or personal property or any interests therein; grant or acquire options; and contract regarding the income or receipts from real property.

2. Issue negotiable bonds and notes in conformity with applicable provisions of the Uniform Commercial Code and State laws in such principal amounts as in the discretion of the public corporation shall be necessary or appropriate to provide sufficient funds for achieving any corporate purposes or to secure financial assistance from the United States for corporate projects and activities;

3. Contract for and accept gifts or loans of funds or property from the United States, the State, the City, other corporations, associations, individuals, or any other source, and to comply with the terms and conditions thereof;

4. Lend its funds, property, credit or services for corporate purposes, or act as a surety or guarantor for corporate purposes;

5. Provide advisory, consultative, training, educational and community services or advice to individuals, associations, corporations, or governmental agencies, with or without charge;

6. Donate money, property, or services on such terms and conditions as the public corporation may in its discretion deem advisable, to individuals, associations, or corporations for corporate purposes;

7. Control the use and disposition of corporate property, assets, and credit;

8. Invest and reinvest its funds;

9. Fix and collect charges for services rendered or to be rendered, and establish the consideration for property transferred;

10. Maintain books and records as appropriate for the conduct of its affairs and as may be required by the City pursuant to a Grant Agreement;

11. Conduct corporate affairs, carry on its operations, and use its property as allowed by applicable law and consistent with this chapter, its charter, and its Rules and Regulations; and

12. Name corporate officials, designate agents and engage employees, prescribe their duties, qualifications and compensation, and secure the services of consultants for professional services, technical assistance, or advice.

B. All the aforesaid powers are to be exercised for corporate purposes in implementation of projects and activities contemplated by a Grant Agreement or any contract with the City or in furtherance of an agreement by the public corporation with the United States to carry out the purposes of a Federal Program.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.060 Additional powers.

Except as otherwise limited by this chapter or by its charter or by applicable law, a public corporation shall have, in addition to the powers enumerated above, the power and authority:

A. To have a corporate seal and alter the same at its pleasure;

B. To cease its activities and operations and surrender its charter through dissolution procedures as provided in Section 1.60.430 hereof;

C. To exercise and enjoy such additional powers as may be authorized by law; and

D. To have and exercise all lawful powers necessary or convenient to effect the purposes for which the public corporation was organized and to perform authorized corporate functions.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.070 Limitation of powers.

A public corporation organized under this chapter shall have no power of eminent domain nor any power to levy taxes or special assessments.

No public corporation may incur or create any liability that permits recourse by any contracting party or member of the public to or upon any assets, services, or credit of the City.

No funds, assets, or property of any public corporation shall be used for any partisan political activity or to further the election or defeat of any candidate for public office, nor shall the same be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States, the Legislature of the State, or this City.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.080 Purview of affairs.

A. All funds, assets, or credit of the public corporation shall be applied toward or expended upon community services and projects and activities authorized by its charter and in furtherance of a Public Program or an agreement by the City or by the public corporation with the United States to carry out the purposes of a Federal Program or programs heretofore or hereafter authorized. A public corporation organized under this chapter shall not issue shares of stock, pay dividends, make private distribution of assets, make loans to corporate officials, or engage in business for profit.

B. The foregoing limitation does not preclude the following transactions, and a public corporation, unless restricted by its charter or by law, may:

1. Compensate corporate officials or constituents a reasonable amount for services rendered, reimburse reasonable expenses actually incurred in performing their duties, and extend to constituents derivative benefits of projects and activities accorded to the community generally or the members of the community by criteria equally applied, and as appropriate in order to avoid unreasonably impeding attainment of widespread citizen participation in carrying out projects and activities of a Federal Program or a Public Program;

2. Assist corporate officials or constituents as members of a general class of persons to be assisted by a project or activity of an approved program to the same extent as other members of the class and as long as no special privileges or treatment accrue to any such corporate official or constituent by reason of his/her status or position in the public corporation;

3. Return to corporate officials or constituents fees, dues, or service charges originally contributed by them and surplus to the purposes for which collected;

4. Indemnify, defend and hold harmless, to the full extent permitted by applicable law as then in effect, any corporate official or former corporate official, who is made a party to, or is otherwise involved in any actual or threatened action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was an official of the public corporation, including any proceeding initiated by such official and authorized by the Commission, against all expense, liability and loss (including attorney's fees, judgments, fines, and amounts to be paid in settlement) actually and reasonably incurred by such person in connection with such proceeding; provided, the public corporation shall not indemnify any person from, or on account of, matters on which such person shall be adjudged in such action or proceeding to be liable for an act performed without corporate capacity or authority, or for willful misconduct in the performance of duty, or to have personally received a benefit in money, property, or services to which such person is not legally entitled; and

5. Sell assets for a consideration greater than their reasonable market value or acquisition costs, or charge more for services than the expense of providing them, or otherwise secure an increment in any transaction as long as such gain is not the object or purpose of the public corporation's transactions or activities and is not applied to or expended upon community services and projects and activities as aforesaid.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.090 Application for charter.

A. To initiate proceedings to charter a public corporation under this chapter, any person or group of persons shall apply in duplicate to the City Clerk therefor. The application shall set forth:

1. The proposed name of the public corporation;

2. The character or period of its duration;

3. The precise purposes or functions to be performed, and the relationship of such purposes or functions and activities to a Federal Program or a Public Program;

4. The charter requested;

5. The proposed initial Rules and Regulations;

6. The names and addresses of persons nominated as the initial corporate officials, together with a brief statement of each nominee's qualifications;

7. The funds and other assets necessary to undertake the activities or functions contemplated within the coming year, the anticipated sources of such funds and assets, and any other supporting data the applicants deem appropriate and necessary to evaluate their application; and

8. The name and address of each applicant, together with the Qualification Statement set forth in Section 1.60.130.

B. The applicant(s) may amend, correct, or supplement the application during review and processing thereof.

C. One copy of the application shall be filed with the City Clerk as a public record open to public inspection, and one copy shall be forwarded to the CEDD Director for review and recommendation. To allow for public inspection and review, at least 15 days shall elapse between filing of an application and issuance of a charter.

D. When the City Manager requests the initiation of proceedings to charter a public corporation under this chapter, an application shall not be required and the procedure for review and approval of such charter may be, as authorized by resolution of intent, adopted by the City Council authorizing the City Manager to proceed with the drafting and presentation of the proposed charter and related documents to the City Council for review and approval, together with the City Manager's recommendations in respect thereto as requested.

(Ord. 27466 § 19; passed Jan. 17, 2006: Ord. 26386 § 14; passed Mar. 23, 1999: Ord. 25922 § 1; passed Jun. 25, 1996: Ord. 25482 § 1; passed May 3, 1994)

## 1.60.100 Review of application.

A. The CEDD Director shall review the charter applications required under this chapter to determine the following matters, refer to the City Council his or her findings, and make recommendations thereon:

1. Whether chartering the public corporation will help fulfill the purposes of a Federal or Public Program, perform activities or functions contemplated by a Grant Agreement, and complement and be of benefit in the administration and implementation of such Federal or Public Program;

2. Whether the requested character or duration of the public corporation is reasonably necessary for the activities or functions to be performed;

3. Whether changes, revisions, or modifications should be made in the proposed charter or in the proposed initial Rules and Regulations to comply with a Grant Agreement or this chapter, to encourage citizen participation, and to further the best interests of a Federal or Public Program;

4. Whether the corporate officials nominated are qualified to hold such positions, dedicated to further the best interests of a Federal or Public Program and the purposes of the public corporation, and as a group have the necessary background and experience to conduct the affairs and operations contemplated by the public corporation;

5. Whether any funding described in the application as derived from the United States pursuant to an existing or contemplated Grant Agreement will be made available; and

6. Whether the charter should issue as requested, or with changes, revisions, or modifications, or upon certain conditions, restrictions, or the occurrence of certain events; or whether the application should be denied.

B. The City Council may, in its discretion, in the public interest issue a charter:

1. Upon its concurrence in affirmative findings and favorable recommendations by the CEDD Director; or

2. Upon acceptance by the applicants of changes, revisions, modifications, conditions, restrictions, or contingencies recommended by the CEDD Director or the City Council; or

3. Upon satisfactory resolution of differences between the applicant and the CEDD Director.

(Ord. 27466 § 20; passed Jan. 17, 2006: Ord. 26386 § 15; passed Mar. 23, 1999: Ord. 25922 § 2; passed Jun. 25, 1996: Ord. 25482 § 1; passed May 3, 1994)

### 1.60.110 Issuance of charter.

If approved by resolution of the City Council, a charter establishing a public corporation shall be issued in duplicate originals, each signed by the Mayor and bearing the City seal attested by the City Clerk. One original shall be retained by the City Clerk and filed as a public record; and a duplicate original shall be delivered to the applicant(s). The City Clerk shall give notice of the issuance of the charter to the Secretary of State of this State, and furnish a copy of the charter and this chapter to any public official upon request therefor.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.120 Effect of issuance of charter.

The public corporation shall commence its existence effective upon filing of its charter as issued and attested, unless a different time be specified therein. Except as against the State or the City in a proceeding to cancel or revoke the charter, filing of an original charter and delivery of a duplicate original charter shall conclusively indicate that all conditions precedent have been fulfilled and that the public corporation has been established in compliance with the procedures of this chapter.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.130 Qualification statement.

Unless waived by the City, the applicant(s) and all corporate officials before assuming their positions or commencing an additional term shall sign in duplicate originals the following Qualification Statement, or an amended form superseding the same:

_____

(date)

QUALIFICATION STATEMENT

I shall faithfully perform my duties as _____.

(status or position)

I will adhere to that portion of Section 501 (Conflict of Interest; Public Officials and Others) of the Grant Agreement between the City of Tacoma and the United States of America for federal assistance (called "this Agreement" below), which provides as follows:

(A) General. (1) No member of the City's governing body or of the governing body of the locality and (2) no official or employee of the City or of the locality or any person who exercises any functions or responsibilities in connection with this Agreement (a) may be admitted, directly or indirectly, to any share or part of this Agreement or to any benefit to arise from the same, or (b) shall own or acquire any personal interest in any property, contract, or proposed contract which would conflict with the performance of his/her duties or responsibilities under this Agreement, except to the extent provided for in this section. If any such member, official, employee or other person (hereafter referred to collectively as "person") presently, or in the future, acquires, owns, or controls any such share, benefit, or personal interest, he/she shall immediately disclose such share, benefit, or personal interest to the City. Upon such disclosure, such person shall not continue his/her participation unless the City and Government shall determine that, in the light of such share, benefit, or personal interest, the participation of such person in any such action would not be contrary to the public interest.

I presently have no interest and shall not acquire any interest, direct or indirect, in the program or project receiving federal assistance under this Agreement which would conflict in any manner or degree with the performance of my duties.

_____

(Signature of applicant or corporate official)

The City may amend the Qualification Statement by resolution of the City Council to comply with or reflect any changes in the Grant Agreement, and/or to comply with applicable requirements of any Grant Agreement heretofore or hereafter entered into, and such amended Qualifications Statement shall supersede the foregoing and be executed by all corporate officials. One

original of the Qualification Statement shall be filed with the City Clerk as a public record and the duplicate original filed with the public corporation.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.140 Organizational meeting.

Upon issuance of the charter and appointment of Commission members, the applicant(s), the person or persons designated in the charter or in the City resolution approving the charter shall call an organizational meeting of the persons appointed as Commission members within 30 days, giving at least 10 days' advance notice to each, unless waived in writing, provided the organizational meeting may be postponed to a more appropriate time when the charter provides for a corporate existence contingent on certain events or occurrences or commencing at a future time. At such meeting, the Commission shall organize itself, may appoint interim officers and nonvoting members of the Commission to serve until the selection processes provided in or by the charter be complied with, select the temporary place of business, and assist in organizing the constituency.

(Ord. 25922 § 3; passed Jun. 25, 1996: Ord. 25482 § 1; passed May 3, 1994)

## 1.60.150 Charter contents.

A. The charter shall set forth the following:

1. The name of the public corporation and its corporate seal;

2. The character or period of duration of the public corporation as provided in Section 3;

3. This statement in a prominent place:

"[name of public corporation]" is organized pursuant to Chapter 1.60 of the Tacoma Municipal Code and the Laws of the State of Washington. The applicable provisions of such laws provide:

"All liabilities incurred by such public corporation, commission or authority shall be satisfied exclusively from the assets and credit of such public corporation, commission or authority; and no creditor or other person shall have any recourse to the assets, credit, or services of the municipal corporation creating the same on account of any debts, obligations, or liabilities of such public corporation, commission or authority."

4. The purpose and scope of activities of the public corporation;

5. The powers of the public corporation and any limitations thereon as provided in Sections 1.60.040, 1.60.050, and 1.60.060;

6. The structure or fundamental organization of the public corporation;

7. A division of duties within the corporate structure as provided in Section 1.60.200;

8. The powers and duties of the Commission;

9. The powers and duties of any constituency with advisory or voting rights;

10. The method of amending its Rules and Regulations or adopting another set; and

11. The method of proposing amendments to its charter to the City.

B. The charter shall set forth the following matters in conformity with Sections 1.60.250 through 1.60.300 and 1.60.320 and 1.60.330, respectively, or, within stated guidelines, shall authorize rules and regulations to define any or all of the following matters:

1. The corporate offices and tenure of officers; the number of positions, powers and duties and term of each corporate office; the manner of appointment, selection, or election of office holders and the appointing, selecting, or electing authority; performance of duties of the office upon illness, death, incapacity or absence of the corporate officer; the filling of vacancies; and any qualifications for the office and conditions upon exercising its powers;

2. The composition of the Commission; its size and numbers; the term and qualifications for member positions; the organization and powers of its positions; the manner of appointment, selection or election and the appointing, selecting or electing authority; Commission committees and duties; and the filling of vacancies;

3. The composition of the constituency, if any; its character, powers, and voting rights; any division by classes and the powers of such classes; any referendum to or initiative by the constituency; eligibility of citizens to become a constituent and the method of acquiring such status; participation by persons in limited capacities, such as honorary or advisory positions or status, affiliation, and the rights and powers of persons in such limited capacity; termination of constituent status;

4. The maintenance of corporate records and public access thereto;

5. Regular and special meetings of the Commission and notice requirements;

6. Regular and special meetings of any constituency necessary to conduct affairs;

7. The method of voting and for representation of persons absent from meetings if allowed;

8. A provision that any Commission member or corporate officer may be removed with or without cause by a majority vote of the Tacoma City Council.

9. Suspension or removal of corporate officials from an office or position, and conditions which would require such suspension; and

10. Any other provision pertaining to the internal affairs of the public corporation as deemed appropriate.

C. The provisions of the charter, insofar as consistent with federal and state law and with this chapter, shall control the affairs and operations of the public corporation.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.160 Limits upon name – Seal.

A. The corporate name shall not:

1. End with "incorporated," "company," or "corporation," or any abbreviation thereof, or use the term "grange" or the name "the City of Tacoma" therein; and

2. Adopt or appear deceptively similar to the name of any corporation, existing or organized under the laws of this State or authorized to transact business or conduct affairs in this State, or any corporate name reserved or registered as permitted by the laws of this State.

B. The corporate seal shall carry the name of the public corporation.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.170 Mandatory statement – Reservation.

The City Council may by resolution amend the statement required by Section 1.60.150A.3 from time to time to reflect any subsequent State legislation amending or supplementing Chapter 177, Laws of 1971, Extraordinary Session, Sections 5 and 7, or any recodification of such sections, and to reflect any subsequent legislation amending or supplementing Chapter 37, Laws of 1974, 1st Ex. Sess. or any recodification of the sections thereof, and such amendatory statement shall be attached as an amendment to the charter of the public corporation.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.180 Scope of activities – Constraint.

Whenever the laws of this State or of the United States or a City ordinance shall require a license or permit to undertake certain activities or perform an act, the public corporation shall comply therewith prior to undertaking the activity or performing the act.

A public corporation may undertake any lawful projects and activities or perform acts outside the limits of the City upon an affirmative authorization by its charter to do so, subject, however, to the limitations set forth in Chapter 37, Laws of 1974, 1st Ex. Sess., Section 4 (RCW 35.21.740).

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.190 Corporate structure – Basic pattern.

Power and responsibility within the corporate structure shall be distributed among the corporate officers, the Commission, and any constituency.

The corporate officers shall manage the daily affairs and operations of the public corporation. If the charter so provides, corporate officers may be members of the Commission.

The Commission shall oversee the activities of the corporate officers, establish and implement policy, and participate in corporate activities as prescribed by the charter at least to the extent provided by Section 1.60.210 of this chapter.

If the charter reposes stewardship for management and determination of all corporate affairs in the Commission, the charter need not provide for any constituency or may prescribe a constituency with advisory capacity only. In all other cases, the charter shall establish a constituency and designate its powers in compliance with Section 1.60.220.

If a constituency be provided, the Commission or a committee thereof shall report to the constituency at a meeting held at least quarterly and receive such advice, counsel, or directions as the charter may designate.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.200 Officers, division of duties.

A public corporation shall have two or more corporate officers. The same person shall not occupy both the chief executive office of the corporation and the office responsible for the custody of funds and maintenance of accounts and finances.

Unless the charter provides otherwise, the chief executive officer shall be the agent of the public corporation for service of process. The rules and regulations may designate additional corporate officials as agents to receive or initiate process.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.210 Commission concurrence required.

General or particular authorization or concurrence of the Commission by resolution shall be necessary for any of the following transactions:

A. Transfer or conveyance of an interest in real estate other than a release of a lien or satisfaction of a mortgage after payment has been received and the execution of a lease for a current term of less than one year;

B. The contracting of debts, issuance of notes, debentures, or bonds, and the mortgaging or pledging of corporate assets to secure the same;

C. The donation of money, property, or other assets belonging to the public corporation;

D. An action by the public corporation as a surety or guarantor;

E. All transactions in which the public corporation assumes duties to the City, the State, or the United States;

F. Any project or activity outside the limits of the City;

G. Adoption of an annual budget;

H. Certification of annual reports and statements to be filed with the City Clerk as true and correct in the opinion of the Commission and of its members, except as noted;

I. Proposed amendments to the charter; and

J. Such other transactions, duties, and responsibilities as the charter shall repose in the Commission or in which it shall require Commission participation by resolution.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.220 Constituency concurrence required.

If the charter provides for a constituency with power to participate in determination of corporate policy in addition to advising, to vote upon corporate affairs, or to elect some or all corporate officials, or to pass on action by referendum or commence action by initiative, then the concurrence of the constituency shall be necessary upon any of the following matters:

A. Proposed amendments to the charter;

B. Proposed amendments to the rules and regulations of the public corporation on matters within the power and responsibility of the constituency;

C. Fixing the compensation of corporate officials and the nature and limit of expenses incurred by corporate officials that may be reimbursed, unless the charter sets the same;

D. The election or selection of an independent auditor; and

E. Such other matters as the charter may designate.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.230 Rules and Regulations.

The Rules and Regulations shall be subordinate to and consistent with the charter, and may be altered, amended, or repealed from time to time as the charter shall prescribe. Such Rules and Regulations shall set forth such matters designated in Section 1.60.150, subsections B.1 through B.9 hereof, as the charter shall authorize. The Rules and Regulations contained in the application for the charter as approved by the City Council shall be the initial Rules and Regulations of the public corporation.

Amendments to the Rules and Regulations shall not take effect until 10 days after filing of the same with the City Clerk, unless such amendment(s) shall have been passed by unanimous vote of the Commission and the constituency (if affected by the amendment), and an earlier effective date be set.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.240 Proposed charter amendments.

A public corporation may propose to the City that its charter be amended by resolution of its Commission passed by a procedure outlined in its charter and in conformity with Section 1.60.320 hereof at a regular or special meeting of which 30 days' advance notice was given; and where concurrence of the constituency be required by the charter or by Section 1.60.220, by approval of the constituency through either written ballots by mail or a vote of constituents at a regular or special meeting at which consideration of the proposed amendment was scheduled and 30 days' advance notice given. Each method shall comply with procedures prescribed by the charter in accordance with Section 1.60.320 hereof.

Notice of a proposed charter amendment given to members of the Commission and to constituents shall set forth the proposed amendment and a statement of its purpose and effect.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.250 Corporate offices and officers.

Corporate officers may be elected or appointed by the Commission, by the constituency, by a nomination-selection process of both the Commission and the constituency, by other persons, or by any other process or combination of the above as the charter may set forth or as may be provided in the Rules and Regulations.

No term of office shall exceed four years. Unless the charter so provides, indefinite terms conditioning tenure in office upon the continued confidence or pleasure of the Commission and/or constituency shall not be allowed.

The charter or the Rules and Regulations shall require that any official responsible for accounts and finances shall file a fidelity bond in an amount determined by the public corporation before taking office, and may hold the corporate office only as long as such a bond continues in effect.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.260 Composition of the Commission.

The Commission shall have three or more members. No term of a position on the Commission shall exceed four years. If no duration of term be provided by the charter, the term of a position on the Commission shall be two years.

The charter may but need not establish different terms for various positions on the Commission; stagger the terms; require special qualifications for certain positions; include corporate officers as ex-officio members or observers; select members by districts or from classes of persons or from community agencies; provide for election, selection, or appointment of all or some positions by the constituency, by other members of the Commission, or by other appointing authorities; and establish advisory or honorary positions without voting powers or with limited voting powers.

If the charter provides for Commission committees, the Commission by resolution may designate and appoint one or more committees consisting of at least three or more members to represent the Commission and, on matters other than those described in Section 1.60.210, act for and on behalf of the Commission. Unless the charter or Rules and Regulations shall require a greater number, the Commission may designate a committee of its membership to present quarterly reports to the constituency, so long as the number of the Commission's representatives attending and making the report to the constituency equal or exceed two voting members when the voting membership of the Commission is five or less, or the nearest integer to 30 percent of the Commission's voting membership when the Commission has six or more voting members.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.270 Composition of the constituency.

A. Insofar as such differences or provisions further the objectives of the Federal or Public Program or are related to the projects and activities to be undertaken by the public corporation, the charter may:

1. Divide the constituency into classes by district or residence, by adult or minor, or other objective criteria, and assign differing powers or duties to each class;

2. Confer on certain classes of constituents advisory capacity only, while other classes of constituents may vote on specific matters or have general voting powers; or

3. Provide for limited membership in the constituency or establish dues or a membership fee.

B. The charter may provide for open participation and for affiliation by persons not eligible or unwilling to assume status as a constituent.

C. Constituency status shall be personal and may not be transferred by purchase, sale, assignment, or payment of any other consideration.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.280 Records – Access thereto.

A public corporation shall keep an official journal containing the minutes of proceedings at all meetings of the Commission and any meetings of any constituency and the resolutions of the Commission.

Any constituent, including persons in an advisory status, and corporate official may examine the official journal and every constituent shall have access to records and information of the public corporation to the same degree as a citizen enjoys to records and information of the City.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.290 Meetings of the Commission.

The Commission shall meet at least quarterly or at a more frequent interval as provided in or by the charter. Special meetings of the Commission may be called as provided by the charter or in the Rules and Regulations. All meetings of the Commission shall be held and conducted in accordance with Chapter 250, Laws of 1971, Extraordinary Session, and any amendments thereto, and special meetings may be called as therein provided.

All meetings shall be open and public; provided, that the Commission may hold an executive session to consider matters enumerated in Chapter 250, Laws of 1971, Extraordinary Session, Section 11, and any amendments thereto, and shall enter the cause therefor upon its official journal.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.300 Meetings of any constituency.

Meetings of the constituency shall be held at least once every calendar quarter or at more frequent intervals as provided in the charter. Special meetings of the constituency may be called by the Commission or by petition of the constituents as provided by the charter or the Rules and Regulations.

Notice of meeting, stating the place, day, and hour, shall be mailed to constituents entitled to be present at least 10 days and not more than 30 days before the meeting; provided, that if the constituency be the public-at-large or a class in excess of 1,000 persons, notice may be made by publication of notice for three days in a newspaper of general circulation in the area, together with posting in a prominent place in the public corporation's offices.

Any constituent or corporate official may call a special meeting of the constituency upon the notice aforesaid, with the expense of notice to be borne by the public corporation, to consider matters appropriate to a quarterly meeting if 90 days have elapsed after the previous meeting and no meeting of the constituency shall have been scheduled within 30 days.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.310 Meetings – City participation.

The failure to hold and conduct a regular meeting shall not work a forfeiture of dissolution of the public corporation, but upon notice from the City the public corporation shall promptly call and conduct a special meeting to consider matters appropriate to the regular meeting by-passed.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.320 Quorum.

The charter or the Rules and Regulations pursuant thereto shall establish the quorum necessary for action by the Commission or the constituency. Such quorum shall equal or exceed the following minimums:

A. Any resolution authorizing or approving an action described in Section 1.60.210, subsections A through H hereof, may only be passed by a vote representing both a majority of the Commission members voting on the issue and one-third of the Commission's voting membership; and

B. Proposed charter amendments shall require an affirmative vote representing two-thirds of the Commission members voting on the issue and a majority of the Commission's voting membership, and where the charter or Section 1.60.220 hereof provides for concurrence of the constituency, such occurrence shall require an affirmative vote representing two-thirds of the constituents voting on the issue and at least 20 percent of any constituency comprising less than 500 persons.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.330 Voting – Representation.

The charter or Rules and Regulations pursuant thereto shall provide for the manner of balloting and any representation of persons absent from meetings.

No proxy or voting trusts or pooling arrangements shall be allowed delegating to the holder discretion in casting a ballot or to act for a principal on undisclosed or general matters to be raised at a meeting of the Commission or of the constituency.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.340 Tenure in office.

A corporate official shall serve for the term designated and until his/her successor shall have been elected or appointed and qualified.

Any corporate official may be removed from any corporate office or position in such manner as the charter or Rules and Regulations pursuant thereto shall prescribe. Any position or corporate office may be abrogated or extinguished during an existing term. Upon removal from a corporate office or position or upon the abrogation or extinction thereof, such corporate official shall have no power of office, but the same shall be without prejudice to any vested contract right to compensation for services rendered or tendered.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.350 Deposit of public funds.

All moneys belonging to or collected for the use of the public corporation coming into the hands of any officer thereof shall immediately be deposited with the treasurer or other legal depository to the credit of such public corporation for the benefit of the funds to which they belong.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.360 Private use of public funds prohibited.

The use of the funds of the Public Corporation for any purpose not authorized by law by any officer having the possession or control thereof is prohibited.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.370 Obligations from a grant agreement.

In any projects or activities financed in whole or in part, directly or indirectly, from funds derived pursuant to a Grant Agreement and upon any projects or activities comprising part of or undertaken in conjunction with a Federal Program, the public corporation will comply with the following obligations:

A. Safeguarding of Funds. The public corporation shall deposit all funds derived directly or indirectly from a Grant Agreement in a depository acceptable to HUD, or other Federal, State, or local Agency having jurisdiction with respect to such funds, and otherwise safeguard such funds pursuant to such instructions as HUD or such other Public Agency may from time to time issue. Such Federal, State, or local Agency having jurisdiction with respect to such funds or Grant Agreement is hereafter collectively referred to as the "Public Agency."

B. Establishment and Maintenance of Records. The public corporation shall establish and maintain records in accordance with requirements prescribed by the Public Agency, with respect to all matters connected with any projects or activities financed from funds derived directly or indirectly from a Grant Agreement or undertaken in conjunction with a Federal or Public Program. Except as otherwise authorized by the Public Agency, the public corporation shall retain such records for a period of three years after completion of the Program.

C. Reports and Information. The public corporation, at such times and in such forms as the Public Agency may require, shall furnish the Public Agency such statements, records, reports, data, and information as the Public Agency may request pertaining to matters financed from funds derived directly or indirectly from a Grant Agreement or undertaken in conjunction with a Federal or Public Program.

D. Audits and Inspections. The public corporation will, at any time during normal business hours and as often as the City, the Public Agency, and/or the Comptroller General may deem necessary, make available to the City, the Public Agency, and the Comptroller General for examination all of its records with respect to all matters connected with any projects or activities financed from funds derived directly or indirectly from a Grant Agreement or undertaken in conjunction with a Federal or Public Program and will permit the City, the Public Agency, and the Comptroller General to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all of the aforesaid matters.

E. Conflict of Interest – Public Officials and Others. (1) No member of the City's governing body or of the governing body of the locality and (2) no official or employee of the City or of the locality or any person who exercises any functions or responsibilities in connection with a Grant Agreement:

1. May be admitted, directly or indirectly, to any share or part of a Grant Agreement or to any benefit to arise from the same; or

2. Shall own or acquire any personal interest in any property, contract, or proposed contract which would conflict with the performance of his/her duties or responsibilities under a Grant Agreement, except to the extent provided for in this subsection.

If any such member, official, employee or other person (hereafter referred to collectively as "person"), presently or in the future, acquires, owns, or controls any such share, benefit, or personal interest, he/she shall immediately disclose such share, benefit, or personal interest to the City. Upon such disclosure, such person shall not continue his/her participation unless the City and the Public Agency shall determine that, in the light of such share, benefit, or personal interest, the participation of such person in any such action would not be contrary to the public interest. The City will promptly advise the Public Agency of the facts and circumstances concerning any disclosure made to it pursuant hereto or any information obtained by it relating to conflicts of interest.

F. Citizen Participation. The public corporation will conduct its operations and affairs and will implement subsection E above in such a manner so as not to unreasonably impede attainment of widespread citizen participation as may be required in the implementation of an applicable Grant Agreement.

G. "Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities. In all work made possible by or resulting from a Grant Agreement, the public corporation shall be subject to the applicable requirements of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended, the HUD regulations issued pursuant thereto at 24 CFR Part 135, and any applicable rules and orders of HUD issued thereunder. The public corporation will comply with directives and policy statements issued by HUD from time to time to implement this provision.

H. Fair Housing. In all housing projects and activities and in all relocation activities made possible by or resulting from a Grant Agreement, the public corporation agrees to take affirmative action to further the fair housing policies of the United States.

I. Discrimination Prohibited.

1. In all hiring or employment made possible by or resulting from a Grant Agreement, the public corporation and each employer (1) will not discriminate because of race, color, religion, sex, or national origin; and (2) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The public corporation shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the United States setting forth the provisions of this nondiscrimination clause. The public corporation will, in all solicitations or advertisements for employees placed by or on behalf of the public corporation, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

2. The public corporation will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the applicable regulations of the Secretary of Labor, which is paid for in whole or in part with funds pursuant to a Grant Agreement, the equal opportunity clause which is part of the labor standards provision attached to any applicable Grant Agreement.

The public corporation will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work.

The public corporation will assist and cooperate actively with the Public Agency and the United States Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, will furnish the Public Agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and will otherwise assist the Public Agency in the discharge of its primary responsibility for securing compliance.

The public corporation will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, United States Government contracts and federally assisted construction contracts pursuant to said Executive Order. If the public corporation fails or refuses to comply with these undertakings, the Public Agency may take such action with respect to the public corporation as is by law allowed.

3. No person in the United States shall, on the ground of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from a Grant Agreement and this chapter. The public corporation and each employer will comply with all requirements imposed by or pursuant to the regulations of the Public Agency effectuating Title VI of the Civil Rights Act of 1964.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.380 Affirmative obligations to the City.

A public corporation shall:

A. Maintain a principal office at a location within the limits of the City;

B. File and maintain current with the City Clerk a listing of all corporate officials, their positions, and their home addresses; the address of its principal office and of all other offices used by it; and a current set of its Rules and Regulations;

C. File an original Qualification Statement for each corporate official as provided by Section 1.60.130 hereof;

D. Place the statement set forth in Section 1.60.150A.3 hereof, or as amended pursuant to Section 1.60.170 hereof, in a prominent location in its principal office and at all other offices where the public may readily see it; stamp or print said statement upon all stationery or correspondence (except as may be waived by the CEDD Director) used by the public corporation in the conduct of its operations or affairs and projects and activities (exclusive of internal communications); and print or stamp the said statement on all contracts, bonds, and other documents that may entail any debt or liability by the public corporation;

E. Maintain in full force and effect public liability insurance in an amount specified by the City Manager and approved by the City Attorney sufficient to cover potential claims for bodily injury, death, or disability, and for property damage, which may arise from or be related to the public corporation's projects and activities in connection with a Federal or Public Program, naming the City as an additional insured;

F. File an annual report with the City Clerk containing an audited statement of assets and liabilities and of income and expenditures during the previous year with a summary of projects and activities conducted; and

G. Answer fully and within a reasonable time any written inquiries by City officials in the course of their duties about its finances, organization, or activities.

(Ord. 27466 § 21; passed Jan. 17, 2006: Ord. 26386 § 16; passed Mar. 23, 1999: Ord. 25482 § 1; passed May 3, 1994)

## 1.60.390 Bonds and notes.

Bonds and notes issued by the public corporation may be secured by the full faith and credit of the public corporation or may be made payable solely out of certain revenues and receipts as may be designated in the proceedings under which the issuance of the bonds and notes are authorized. All bonds or notes issued shall carry in a prominent place thereon the statement set forth in Section 1.60.150A.3 hereof or as amended pursuant to Section 1.60.170 hereof. All bonds and notes or liabilities occurring thereunder shall be satisfied exclusively from the assets or credit of such public corporation, and no creditor or other

person shall have any recourse to the assets, credit, or services of the City thereby, unless the City shall expressly, in writing, guarantee such bonds or notes.

Bonds and notes of the public corporation may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by the public corporation, provided no bonds may be sold at private sale without prior City approval. Bonds and notes may be payable at such place or places whether within or without the State, may bear interest at such rate or rates, may be in such form and denominations and of such tenor and maturities, may be in bearer form or in registered form as to principal and interest or as to principal alone, reserve such rights to redeem at such price or prices and after such notice or notices and on such terms and conditions, all as the public corporation may determine and provide in the proceedings under which such bonds and notes shall be issued.

The public corporation may at the time of the issuance of such bonds and notes make such covenants with the purchasers and holders of said bonds and notes as it may deem necessary to secure and guarantee the payment of the principal thereof and the interest thereon, including but not limited to: covenants to set aside adequate reserves to guarantee payment of principal and interest; to appoint a trustee or trustees to safeguard the expenditure of the proceeds of sale of such bonds and notes and to take possession and use or operate and manage corporate assets securing the bonds and notes in event of default or insolvency of the public corporation, with such powers as may be contained in any covenants relating to the bonds and notes; and to limit the amount, time, and conditions under which additional bonds and notes may be issued or debts incurred.

The public corporation may pay expenses, premiums and commissions which it may deem necessary in connection with the issuance and sale of its bonds and notes and take such other actions or make such commitments as are necessary or convenient in the issuance and servicing of such bonds and notes and as are consistent with this chapter although not enumerated herein.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.400 Charter amendment.

The City reserves the right to and may amend this chapter and any charter issued pursuant hereto, as may be required by or necessary to comply with amendments or supplements to a Grant Agreement, State legislation as may be enacted in the future, and decisions of courts of competent jurisdiction, irrespective of any concurrence by or prejudice to the public corporation. In all other cases, charter amendments shall require the concurrence of both the City Council and the public corporation.

A public corporation proposing an amendment to its charter after approval in accordance with Section 1.60.240 hereof shall file the same in duplicate with the City Clerk. One proposed amendment shall be filed as a public record and the other forwarded to the CEDD Director for review and recommendation thereon with attention to the criteria set forth in Sections 1.60.100.A.2 and A.3 hereof. The City Council may approve the proposed amendment upon the recommendation of the CEDD Director, or may disapprove the same. A charter amendment proposed by a public corporation shall take effect and become part of the charter upon approval by the City Council, and such approval is evidenced by the filing of the Mayor's attestation with the City Clerk.

(Ord. 27466 § 22; passed Jan. 17, 2006: Ord. 26386 § 17; passed Mar. 23, 1999: Ord. 25482 § 1; passed May 3, 1994)

## 1.60.410 Trusteeship.

A. The City Council by resolution at a public hearing held with notice to the public corporation may impose a trusteeship over a public corporation organized pursuant to this chapter or if authorized by law initiate proceedings in the Superior Court for such trusteeship under any of the following circumstances:

1. The Commission of the public corporation has requested the same by resolution;

2. The public corporation has filed a statement of dissolution preparatory to termination of its existence;

3. The public corporation has failed to set forth the statement required by Section 1.60.380D hereof and set forth in Section 1.60.150A.3 hereof in written contracts, bonds, or other documents or has failed to display the same in its offices;

4. The public corporation has represented to the public or to creditors that recourse may be had to the assets, property, or credit of the City on account of acts or omissions of the public corporation, unless such secondary or direct liability be in fact expressly assumed by the City;

5. The public corporation becomes insolvent or otherwise unable to carry out its contractual obligations to creditors and other persons;

6. The charter was procured through fraud or misrepresentation of any material matter that has an effect upon the projects or activities to be undertaken;

7. The public corporation has filed false annual reports with the City Clerk, failed to file an annual report as required by Section 1.60.380F hereof, after notice of such omission, or has failed to answer or made false or misleading answers to inquiries by the City made pursuant to Section 1.60.380G hereof;

8. A deadlock has occurred in the Commission, or the membership of the Commission is insufficient to constitute a quorum for conduct of affairs so that the public corporation is unable to conduct its operations or perform its projects and activities undertaken by contract in connection with a Federal or Public Program;

9. The Commission has continuously failed to conduct meetings at least quarterly or more frequently as required by its charter; no quarterly or special meetings of the constituency have been held for a year; or the public corporation has neglected or refused to conduct a meeting after notice from the City to do so pursuant to Section 1.60.310 hereof; or

10. The City Council, at or after a public hearing held with notice to the public corporation and affording it a reasonable opportunity to be heard and present evidence, finds upon the evidence presented any one of the following:

a. A Public Agency has advised the City that the public corporation is incompetent or ineligible to participate as a contracting party in the project or activity of a Federal Program for which it was authorized or created, or has recommended in writing that the public corporation be excluded from further participation in a Federal Program, or has or will suspend financial assistance previously approved on account of the performance of the public corporation;

b. HUD or the Public Agency has reported to the City that the provisions of Section 1.60.370, subsections A through J hereof, are not being fully complied with by the public corporation, or such noncompliance exists;

c. The Commission has unreasonably impaired public participation in conduct of projects and activities of a Federal or Public Program, or oppressed or hindered any constituency in its exercise of its powers and responsibilities;

d. The assets of the public corporation have been or are committed to be misapplied, wasted, or illegally expended;

e. The public corporation has misused, abused, or continuously exceeded the power or authority conferred by this chapter or its charter; or

f. The public corporation has committed or is about to commit a material violation of this chapter or its charter, or has committed repeated violations of this chapter or its charter.

B. The City shall take such actions as are necessary during the trusteeship to achieve the object thereof as expeditiously as reasonable or, if so authorized by law, authorize or initiate proceedings in the Superior Court for appointment of one or more trustees to achieve such objects and for supervision of the trustee's administration. Except in case of dissolution, the City or such trustee(s) shall transfer management of the public corporation to corporate officials upon completion thereof and terminate the trusteeship. During the trusteeship, the City may reorganize the public corporation, amend its charter or its Rules and Regulations, and the City or the trustee(s) may suspend or remove corporate officials, and manage the assets and affairs and exercise any and all corporate powers as are necessary or appropriate to fulfill outstanding agreements in connection with the projects or activities of a Federal or Public Program, to restore the capability of the public corporation to perform the functions and activities for which it was chartered, to reinstate its credit or credibility with HUD, the Public Agency, or the Comptroller General or its creditors or obligees; or to oversee its dissolution; provided, however, that all liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and property of such public corporation, commission, or authority, and no creditor or other person shall have any right of action against the City of Tacoma on account of any debts, obligations, or liabilities of such public corporation, commission, or authority.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.420 Termination.

A. The existence of the public corporation may be terminated by the City upon direction of HUD or the Public Agency to do so or, in the absence of such direction, by resolution of the City Council at or after a public hearing, held with notice to the public corporation and affording it a reasonable opportunity to be heard and present evidence, under any of the following circumstances:

1. The Commission of the public corporation has requested the same by resolution;

2. The public corporation has discontinued its projects and activities for which chartered and/or for which its charter has been amended, or remained inactive for a period of six months in succession;

3. A judgment of a court of competent jurisdiction shall have become final, which judgment annuls the existence of the public corporation, or prohibits it from conducting all or a major portion of the activities for which chartered and/or for which its charter has been amended, or permits recourse by creditors of the public corporation or other persons to the assets, property, or credit of the City on account of any debts, obligations, or liabilities of the public corporation;

4. Any one or more of the circumstances for imposition of a trusteeship by the City stated in Section 1.60.410A.5 through A.10 inclusive hereof, together with an affirmative finding by the City Council that a trusteeship would not be feasible under the circumstances or could not attain its objective, and that termination is warranted;

5. The finding by the City Council of any of the matters in 1.60.410A.10, subparts (a) through (f) hereof, as cause for a trusteeship, together with an additional finding that management or reorganization under a trusteeship would not correct the deficiency, enable the public corporation to fulfill its outstanding agreements in connection with projects or activities of a Federal or Public Program, perform functions for which chartered and/or for which its charter has been amended, reinstate its credit or credibility with HUD or the affected Public Agency, or the Comptroller General, or for other cause is impractical or infeasible, and that termination is warranted under the circumstances;

6. Repeal or amendment of applicable State laws which singularly or cumulatively restrict all or a major portion of the activities by the public corporation for which chartered and/or for which its charter has been amended, or permits recourse by creditors of the public corporation or other persons to the assets, property, or credit of the City on account of any debts, obligations, or liabilities of such public corporation; or

7. Continuous trusteeship of the public corporation for one year, or the imposition of a trusteeship for whatever cause(s) three times in any one-year period.

B. Subject to any limitations that may be imposed by the judgment of a court of competent jurisdiction, provision shall be made in any termination of the public corporation's existence for causes designated above for payment of any obligations, bonds, notes, or other contracts of indebtedness from the rights and assets of the public corporation so that such bonds and contracts be not impaired.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.430 Dissolution – Statement.

A. Upon enactment of a resolution by the City Council for dissolution of the public corporation or by the public corporation for its own dissolution other than for purposes of merger or reorganization in a plan approved by the City, the public corporation shall file a dissolution statement signed by its chief executive officer setting forth:

1. The name and principal office of the public corporation;

2. The debts, obligations and liabilities of the public corporation, and the property and assets available to satisfy the same; the provisions to be made for satisfaction of outstanding liabilities and performance of executory contracts, and the estimated time for completion of its dissolution;

3. Any pending litigation or contingent liabilities;

4. The Commission resolution providing for such dissolution and the date(s) and proceedings leading toward its adoption, whenever the dissolution be voluntary; and

5. A list of persons to be notified upon completion of dissolution.

B. The City shall review the statement filed and oversee the dissolution to protect the public interest and prevent impairment of obligation, or if so authorized by law, authorize or initiate proceedings in the Superior Court for the appointment and supervision of a Receiver for such purposes. Upon satisfactory completion of dissolution proceedings, the City shall indicate such dissolution by inscription of "charter canceled" on the original charter of the public corporation, on file with the City Clerk, and, when available, on the duplicate original of the Charter of the public corporation, and the existence of the public corporation shall cease. The City Clerk shall give notice thereof to the Secretary of State of this State, to HUD, and to other persons designated by the public corporation in its dissolution statement.

(Ord. 25482 § 1; passed May 3, 1994)

## 1.60.440 Merger with public corporation.

An application by a public corporation to merge with or into another public corporation organized under this chapter shall be processed in the same manner as a charter amendment by the public corporation and as an application for charter by the City in accordance with Sections 1.60.090 and 1.60.100 hereof; and approval by the City Council shall authorize the merger. In the event of such a merger, all of the rights, assets and property of the public corporation shall vest in the surviving public corporation or successor public corporation, unless an agreement or covenants with HUD or the City shall specify otherwise.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.450 Termination – Disposition of assets.

A. Upon termination of the existence of a public corporation, all of the rights, assets, and property of the public corporation shall pass to and be distributed as provided by the applicable Grant Agreement or agreements, covenants with HUD or agreements with donors or other parties at the time of acquisition of the property regarding its disposition. Subject thereto, all of the rights, assets and property of a public corporation shall be tendered to the entity first listed below, and if not applicable or not accepted, to the next listed entity in succession:

1. To the surviving or successor public corporation in event of merger as provided in Section 1.60.440 hereof;

2. To the City;

3. To some other local municipal corporation that performs similar activities or functions for which the assets were acquired or devoted, or which covenants to use the same in a manner to fulfill the purposes of the Federal or Public Programs;

4. To the State of Washington for use in or application upon projects and activities or functions for which the assets were acquired or are devoted, or for accomplishment of purposes of the Federal or Public Program involved;

5. To the United States, any of its departments or agencies, a public authority created by the United States, or an organization acting as an authorized agent of the United States for accomplishment of purposes of the Federal or Public Program involved;

6. To a corporate fiduciary or other trustee, in trust for or use under the direction of any of the aforesaid entities for the purposes, projects and activities for which the assets were acquired or devoted; or other related purposes in respect to the Federal or Public Program which may be involved.

7. To nonprofit organizations performing community service, charitable or educational activities similar to the projects and activities for which the assets were acquired or seeking to accomplish purposes in respect to the Federal or Public Program which may be involved;

8. Provided the City Council may in its discretion by resolution with respect to any particular dissolution:

a. Authorize an appropriate officer for and on behalf of the City to contract with the public corporation for the disposition of its rights, assets, and property, and thereby designate the recipient and the terms and purposes of the transfer of assets and property; and

b. Establish procedures and terms and conditions for transfer and acceptance of the rights, assets, and property of the public corporation to any of the aforesaid entities; and

c. Request some or all of the aforesaid eligible entities identified in subsections A.2 through A.5 of this section to submit applications for transfer of such rights, assets, and property of the public corporation setting forth the proposed uses thereof, and accept the application and contract with the entity or organization that would make the most appropriate use of such rights, assets, and property in performing the projects and activities for which the public corporation was chartered and/or for which the charter has been amended, or for fulfilling the purposes of the Federal or Public Program which may be involved, without respect to the aforesaid designation of priorities.

B. All rights, property, and assets of the public corporation upon transfer shall be vested in the entity receiving and accepting the same, together with any appurtenant obligations and liabilities.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.460 Ancillary authority.

The City Manager, the CEDD Director, and the City Clerk are hereby granted all such power and authority as reasonably necessary or convenient to enable them to administer this chapter efficiently and to perform the duties herein imposed.

(Ord. 27466 § 23; passed Jan. 17, 2006: Ord. 26386 § 18; passed Mar. 23, 1999: Ord. 25482 § 1; passed May 3, 1994)

### 1.60.470 Construction.

This chapter and amendments thereto shall be liberally construed so as to effectuate its purpose.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.480 Severability.

In the event a court of competent jurisdiction shall adjudge any clause, sentence, or paragraph or section of this chapter to be invalid or unconstitutional, such judgment or decree shall not affect, invalidate or impair the remainder thereof as long as the intent or purpose of such clause, sentence, paragraph, or section has not been altered or frustrated thereby; and as long as no

recourse is permitted to the assets, credit, or services of the City on account of the acts or omissions of the public corporation or of any debts, obligations, or liabilities of such public corporation, the effect of such judgment or decree shall be confined to the clause, sentence, paragraph, section, or part of this chapter so adjudged to be invalid or unconstitutional.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.490 Ratification of prior acts.

Receipt by the City and review by City officials of an application for a charter for a public corporation and any other actions, exclusive of issuance of such a charter, pursuant to the authority and prior to the effective date of this chapter are hereby ratified and confirmed.

(Ord. 25482 § 1; passed May 3, 1994)

### 1.60.500 South Sound 911.

Notwithstanding anything in this chapter to the contrary, nothing in this chapter shall prevent the City Council from establishing, by ordinance, a public corporation that is not subject to the terms of this chapter. Upon the establishment and chartering of such public corporation, the ordinance authorizing such public corporation shall state that the public corporation is formed pursuant to its formation ordinance and charter and not pursuant to Chapter 1.60 of the Tacoma Municipal Code.

(Ord. 28595 § 15; passed Jul. 9, 2019)

# CHAPTER 1.70
# APPEALS TO THE CITY COUNCIL

Sections:

1.70.010 Right to appeal.
1.70.020 Notice of appeal.
1.70.030 Appeal procedure.
1.70.040 City Council action.
1.70.050 Review of Council decision.

## 1.70.010 Right to appeal.

A. Any aggrieved person having legal standing under the ordinance governing such application shall submit an appeal, in writing, to the City Council of those recommendations of the Hearing Examiner set forth in Section 1.23.050.A. Only those persons or entities having legal standing under the ordinance governing the application, or as otherwise provided by law, have the right to appeal the recommendation to the City Council. Such appeal shall set forth, with specificity, the alleged errors of fact or law.

B. Appeals to the Council must be filed with the City Clerk within 14 calendar days of the issuance of the Hearing Examiner's final recommendation, not counting the day of issuance of the recommendation. If the last day for filing the appeal falls on a weekend day or a holiday, the last day for filing shall be the next working day.

C. The Council may grant relief only if the appellant seeking relief has carried the burden of establishing that one of the standards set forth in (a) through (d) of this subsection has been met. The standards are:

(a) The Hearing Examiner is engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The recommendation is an erroneous interpretation of the law;

(c) The recommendation is not supported by evidence that is substantial when viewed in light of the whole record before the Council; and

(d) The recommendation is a clearly erroneous application of the law to the facts.

D. The requirements set forth herein regarding the time limits for, and contents of, such appeals are mandatory.

Failure to comply with the above requirements shall result in the City Council's dismissal of the appeal.

(Ord. 27387 § 1; passed Jul. 26, 2005: Ord. 25849 § 1; passed Mar. 12, 1996)

## 1.70.020 Notice of appeal.

Notice of filing of an appeal shall be made to all parties to the proceeding before the Hearing Examiner. A party with standing desiring to intervene in an appeal shall file with the City Clerk a notice of intervention within ten days of the date of mailing of notice of the filing of an appeal as provided herein. An intervening party, at the time of the filing of his/her notice of intervention with the City Clerk, shall send by first-class mail the notice of intervention to all other parties listed on the City Clerk's notice regarding the filing of the appeal. Thereafter, the City Council shall set the date on which the appeal will be heard and the City Clerk shall notify all parties to the appeal of the date and time of the hearing of the appeal. The City Council shall consider and decide such an appeal within 90 days of the filing of such appeal; provided, however, that the parties to the appeal may agree to extend the foregoing time period.

(Ord. 26645 § 3; passed Jun. 27, 2000: Ord. 25849 § 1; passed Mar. 12, 1996)

## 1.70.030 Appeal procedure.

Parties to the appeal may submit written argument to the City Council in support of their positions. Such written arguments shall not contain any evidence or statement of facts not contained in the hearing record made before the Hearing Examiner, and shall be filed with the City Clerk no later than seven calendar days prior to the date the matter is scheduled to be heard by the City Council. At the time an appeal is heard by the City Council, each side shall be afforded an equal amount of time pursuant to the Rules of Procedure of the Council of the City of Tacoma for oral argument. In the event there are multiple appellants or respondents, each side shall divide its time limit between or among the appellants or respondents, or, if agreement cannot be reached, as directed by the Mayor. No new evidence or testimony shall be presented to the Council during such presentation. The City Council shall accept, modify, or reject any findings or conclusions, or remand the recommendation of the Hearing Examiner for further hearing. Any decision of the City Council shall be based on the original

record of the hearing conducted by the Hearing Examiner; however, the Council, at its discretion, may publicly request additional information of the parties to an appeal, or from the Hearing Examiner. The Council's decision shall be in writing and shall specify findings and conclusions whenever such findings and conclusions are different from those of the appealed recommendation.

(Ord. 27387 § 2; passed Jul. 26, 2005: Ord. 25849 § 1; passed Mar. 12, 1996)

## 1.70.040 City Council action.

When taking any final action, the City Council shall make and enter findings of fact of the record and conclusions therefrom which support its action. Such findings and conclusions regarding appeals of recommendations of the Hearing Examiner shall set forth and demonstrate the manner in which the action carries out and helps to implement the goals and policies of the comprehensive plan and the standards of the various land use regulatory codes. The City Council may adopt all or portions of the Hearing Examiner's findings and conclusions supporting the recommendation. In the case of an ordinance for reclassification of property or right-of-way vacation, the City Clerk shall place the ordinance on the Council's agenda for first reading or, after denial of appeal, on the next available City Council agenda for first reading. The final reading of the ordinance shall not occur until all conditions, restrictions, or modifications which may have been imposed by recommendation of the Hearing Examiner or added by the City Council have been accomplished or provisions for compliance made to the satisfaction of the City Attorney.

(Ord. 27079 § 4; passed Apr. 29, 2003: Ord. 25849 § 1; passed Mar. 12, 1996)

## 1.70.050 Review of Council decision.

Any court action to set aside, enjoin, review, or otherwise challenge the decision of the City Council concerning an appeal shall be commenced in Superior Court within 21 days of the final decision of the City Council. Pursuant to RCW Chapter 36.70C, the final date of the decision of the City Council on the appeal shall be deemed to be the date the motion concerning the appeal is adopted by the City Council and shall be considered to have been entered into the public record on that date.

(Ord. 25849 § 1; passed Mar. 12, 1996)

# CHAPTER 1.80
## *REPEALED*

### YOUTH BUILDING TACOMA TRAINING AND EMPLOYMENT PROGRAM

*Repealed by Ord. 28362*

*(Repealed by Ord. 28362 Ex. A; passed Jun. 7, 2016: Ord. 26128 § 1; passed Sept. 16, 1997)*

# CHAPTER 1.82
# UNIFORM ENFORCEMENT CODE

Sections:

1.82.010 Definitions.
1.82.020 Code enforcement – General.
1.82.030 Methods of service.
1.82.040 Voluntary correction.
1.82.050 Civil violations.
1.82.060 Compliance order.
1.82.070 Corporate and personal liability.
1.82.080 Additional enforcement procedures.

## 1.82.010 Definitions.

As used in this chapter the following words, terms, and phrases shall have the meanings ascribed to them in this section. Words, terms, and phrases not defined herein shall be defined by their plain meaning.

"Abate" or "correct" or "remedy," or any derivation thereof, means to act to stop an activity, and/or to repair, replace, remove, restore, rehabilitate, or otherwise remedy a condition, where such activity or condition constitutes a violation; provided that, the actions taken must not endanger the general health, safety, and welfare of the community and must resolve the violation by bringing the activity or condition into compliance with the regulation alleged to have been violated, and into compliance with any standards or requirements applicable to the actions taken to repair, replace, remove, restore, rehabilitate, or otherwise remedy the condition.

"Building Official" shall mean and refer to the individual authorized by the Director of Planning and Development Services Department of the City to administer and enforce the Building Code, or a duly authorized representative.

"Business day" shall mean Monday through Friday, excluding all state and national holidays and days that City Administrative Offices are closed due to inclement weather conditions, war, riots, or natural disaster.

"City" means City of Tacoma, Washington.

"Civil infraction" shall mean any act or omission that constitutes a violation of any regulation and which violation is designated in the City code as a civil infraction.

"Compliance officer," "code enforcement officer," and "enforcement officer" shall mean and refer to a person authorized by law to enforce the provisions of any regulation a violation of which is made subject to enforcement under the provisions of this chapter.

"Compliance order" shall mean an order or directive that is subject to enforcement under this chapter and issued by a compliance officer directing the responsible person to take corrective action or to cease certain action identified in the order. Compliance orders include, by way of example only and not limitation, an order to take corrective action; a stop-work order; a stop-use order; an emergency order; and an order to vacate, repair, or demolish a non-compliant structure.

"Corporation" means any firm, business, association, partnership, limited liability company, corporation, or other legal entity, public or private, however organized.

"Correction notice" means a verbal or written statement, made or issued by a compliance officer, notifying a responsible person that a violation(s) has occurred or may occur, informing such person of the legal and factual basis for the determination that a violation has occurred or may occur, and informing such person that the violation(s) must be abated or mitigated or that certain action must be taken to prevent a violation(s) from occurring. A correction notice is intended to be a warning and is not the equivalent of a compliance order and is not subject to appeal.

"Corrective action" means action to abate, mitigate, or remediate.

"Costs of abatement" or "costs of remediation" or "costs of mitigation" shall mean the costs of any abatement, remediation, or mitigation action taken by the City to abate, remediate, or mitigate the violation using lawful means in the event that the responsible person fails so to do. The term includes incidental expenses including, but not limited to, personnel costs, both direct and indirect and including attorneys' fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual costs and expenses of the City in preparing notices, specifications, and contracts, and in accomplishing and/or contracting and inspecting the work; the costs of any required printing and mailing; and other administrative costs.

"Development" means the erection, installation, alteration, enlargement, demolition, maintenance, or use of any building, structure, or associated equipment, or the alteration or use of land above, at, or below ground or water level, and all acts authorized by a City permit, approval, provision of the development code, or other regulation.

"Day" or "days," as used in this chapter, shall mean calendar days, unless expressly stated otherwise in a given section or subsection. Any portion of a 24-hour day shall constitute a full calendar day.

"Emergency" means a situation that requires immediate action to prevent or eliminate an imminent threat to the health, welfare, or safety of persons or property.

"Hearing Examiner" means the Tacoma Hearing Examiner, and the office thereof established pursuant to Tacoma Municipal Code ("TMC") 1.23 to hear appeals of civil violations and compliance orders.

"Mailing" or "service by mail" shall mean sending the document by regular, first-class mail, postage prepaid and properly addressed, to the last known address of the person subject to the document. The last known address shall be an address provided to the City by the person to whom the document is directed; if an address has not been provided to the City, the last known address shall be any of the following as they appear at the time the document is mailed: the address of the property where the violation is occurring, or the taxpayer address appearing for the property on the official property tax information website for Pierce County; the address used for the payment of utilities for the property at which the violations are occurring; or the address appearing on the project permit application. Where service of the notice of violation is by mail, service shall be deemed complete upon the third day following the day upon which the notice is placed in the mail, unless the third day falls on a Saturday, Sunday, or federal legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday, or legal holiday following the third day.

"Mitigate" means to take measures, subject to City approval, to minimize the harmful effects of the violation where abatement is either impossible or unreasonably burdensome.

"Notice of violation" or "notice of civil violation" means a written statement, issued by a compliance officer, which contains the information required under TMC 1.82.050.B, and which notifies a person that the person is responsible for one or more violations.

"Notice of infraction" or "notice of civil infraction" means a written statement compliant with the rules of the Washington Supreme Court, representing a determination that a civil infraction has been committed, and issued under authority of Chapter 7.80 RCW or a civil infraction system approved by ordinance adopting a civil infraction system under authority of Chapter 7.80 RCW.

"Owner" means any person, including any person, agent, operator, or corporation having a legal or equitable interest in the property; or recorded in the official records of the Pierce County Assessor as holding title to the property; or otherwise having control of the property, including tenants, the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court, as well as a bankruptcy trustee.

"Person" means any individual or corporation. Because "person" shall include both human and non-human entities, any of the following pronouns may be used to describe a person: he, she, or it.

"Personal service" shall mean handing the document to the person subject to the document or leaving it at the person's dwelling or usual place of abode with some person of suitable age and discretion then residing therein, or leaving it at the person's office or place of employment with a person in charge thereof.

"Posting" shall mean affixing a copy of the document in a conspicuous place on the property(ies) where the violation occurred, with at least one copy of such document placed at an entryway to the property or structure if an entryway exists. Service by posting shall be accomplished on the date of the posting in compliance with this section.

"Project permit" or "project permit application" means any land use or environmental permit, approval, or license required from the City for a project action, including, by way of example and not limitation, building permits, street cut permits, clearing and grading permits, street excavation permits, sign permits, subdivisions, short subdivisions, re-plats, re-divisions, boundary line adjustments, lot combinations, binding site plans, planned unit developments, development permits, conditional use permits, shoreline substantial development permits, site plan reviews, permits or approvals required by critical area ordinances or flood control ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

"Public official" means the City Manager or designee, the Building Official, and any Director, or other City official, vested with authority under the TMC for the interpretation or enforcement of any regulation subject to enforcement under the provisions of this chapter.

"Publication" shall mean publication as set forth in RCW 4.28.100 and 4.28.110 as now, or may be hereafter amended.

"Regulation" or "City regulation" means and includes any of the following:

A. Any title, chapter, section, or subsection of the TMC, as now or may be hereafter amended, renumbered, or recodified, that is by law made subject to enforcement under the provisions of this chapter;

B. All standards, regulations, rules, requirements, and procedures, and any amendments thereto, adopted or promulgated by the City Council, or by a City officer pursuant to or under authority of the TMC or state law, that are by law made subject to enforcement under the provisions of this chapter;

C. The terms and conditions of any project permit or approval issued or granted by the City pursuant to or under authority of the TMC or state law, that are by law made subject to enforcement under the provisions of this chapter;

D. The terms and conditions of any order, compliance order, permit, or license issued or granted by a City official pursuant to or under authority of the TMC or state law, that are by law made subject to enforcement under the provisions of this chapter; and

E. The terms and conditions of any concomitant or development agreement, with the City, and any amendments thereto, which has been issued, granted or authorized by the City pursuant to provisions of the TMC or state law, that are by law made subject to enforcement under the provisions of this chapter.

"Remediate" means to restore to a condition that complies with the development code or, for sites that have been degraded upon prior ownerships, to restore to a condition that does not pose a probable threat to the environment or to the public health, safety, or welfare.

"Repeat violation" means, as evidenced by the prior issuance of a correction notice, compliance order, a notice of violation or a notice of civil infraction, that a violation has occurred on the same development site, property, premises, or structure within a two-year period, or the responsible person has committed a violation elsewhere within the City of Tacoma within a two-year period. To constitute a repeat violation, the violation need not be the same type of violation as the prior violation. Policies and procedures promulgated pursuant to Section 1.82.020.D may provide that evidence of a prior violation shall be limited to a time period less than two years.

"Responsible person" means any of the following: the owner of the building, premises, structure, or land that is subject to the regulation alleged to have been violated; an occupant, or other person, in control of the building, premises, structure, or land that is subject to the regulation alleged to have been violated; a developer, builder, business operator, or owner who is developing, building, or operating a business on the building, premises, structure, or land that is subject to the regulation alleged to have been violated; any person who created, caused, or has allowed the violation to occur; or any person causing, allowing, or knowingly participating in the violation.

"Stop-Use Order" means a compliance order, or that part of a compliance order, directing the responsible person to immediately cease and desist a use identified in the order.

"Stop-Work Order" means a compliance order, or that part of a compliance order, directing the responsible person to immediately cease and desist, and/or to take, certain action identified in the order.

"Violation" means an act or omission proscribed by a provision of a regulation, which act or omission is by law made subject to enforcement under the provisions of this chapter.

(Ord. 28510 Ex. A; passed May 15, 2018)

## 1.82.020 Code enforcement – General.

A. Application; Purpose. The policies, procedures, and remedies provided herein shall apply to any violation. The purpose of this chapter is to establish a uniform and consistent administrative system for the enforcement of City regulations, and to ensure the health, safety, and welfare of the citizens of Tacoma. Nothing in this chapter is intended to create a duty on the part of the City to any particular person or class of persons, or form the basis of any liability on the part of the City, its officials, officers, employees, or agents, for any injury or damage resulting from any act or omission on the part of the City, its officials, officers, employees, or agents. The provisions of this chapter, including the provision for monetary penalties, are not intended to affect a substantive or vested right and are remedial in nature and intent. Compliance orders issued under authority of this chapter are intended to bring the activity, use, property, or structure into compliance with applicable standards and legal requirements.

B. Responsibility for Compliance. It is the intent of this chapter to place the obligation of complying with regulatory requirements that are made subject to enforcement under the provisions of this chapter upon the owner, occupier, or other person responsible for the condition of the land and/or structures, and upon persons otherwise responsible for actions regulated pursuant to such regulations.

C. Policy. It is the general policy of the City of Tacoma to emphasize code compliance by education and prevention and to pursue abatement, correction, remediation, or mitigation, when appropriate and feasible.

D. Policies and Procedures. The director of each department of the City and the superintendents of each operating division of Tacoma Public Utilities having responsibility for enforcement of a regulation are authorized to develop, promulgate, revise, and implement policies and procedures governing enforcement actions under this chapter over which such department or division has responsibility, authority, and control. Such policies and procedures are intended to supplement the provisions of this chapter, and are not intended to replace, modify, or supersede any of the provisions of this chapter. Such policies and procedures may include provisions for suspension, reduction, or waiver of the monetary penalties imposed pursuant to a notice of civil violation upon a showing of hardship, substantial completion of the necessary correction, unforeseeable circumstances beyond the control of the responsible person which render completion impossible by the date established as a good cause, or other factors or considerations establishing a basis for mitigation of the monetary penalty.

E. Choice of Action. The choice of enforcement action to be taken under this chapter and the severity of any penalty to be imposed should be guided by the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the person or persons subject to the enforcement action, the economic benefit that the violator derives from the violation, as measured by the greater of the resulting increase in market value of the property or the value received by the violator, the savings of construction costs realized by the violator, the reasonable value of property damaged, and such other factors related to the remedial purposes of enforcement action under this chapter and the enforcement policies authorized herein.

F. Joint and Several Responsibility and Liability. Responsibility for violations subject to enforcement under this chapter is joint and several, and the City is not prohibited from taking action against a person where other persons may also be potentially responsible persons, nor is the City required to take action against all potentially responsible persons.

G. Presumption. Except as may be otherwise provided by law, proof that a violation exists or existed on privately owned (non-governmental) property shall constitute prima facie evidence that each owner of the property is a responsible person. However, this presumption shall not relieve or prevent enforcement against any other person who may also be a responsible person. Proof that a violation occurred on property subject to a project permit shall constitute prima facie evidence that the applicant for the project permit is a responsible person. However, this presumption shall not relieve or prevent enforcement against any other person who may also be a responsible person.

H. Prohibited Acts Include Causing and Permitting. Whenever in a regulation any act or omission constitutes a violation, such act or omission includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

I. Separate and Continuing Offense. Every act or omission which constitutes a violation shall constitute a separate violation for each and every day during any portion of which the act or omission constituting the violation is committed, continued, allowed, abetted, suffered, or permitted. A violation continues to exist until abated, corrected, or remedied.

J. Non-Exclusive. The provisions of this chapter are not exclusive and may be used in addition to other enforcement provisions authorized by the TMC, state or federal law or regulation.

K. Conflicts. In the event of a conflict between a provision of a regulation made subject to enforcement under this chapter and a provision of this chapter, such conflicting provisions of the regulation shall control to the extent of the conflict.

L. Reference to Laws and Regulations. All references in this chapter to any title, chapter, section, or subsection of the TMC, state law, or federal law, or any city, state, or federal rule or regulation, shall mean and refer to such title, chapter, section or subsection, rule, or regulation as it exists on the effective date of the ordinance enacting this chapter, or as it, or any part thereof, may thereafter be amended, renumbered, retitled or recodified.

M. Title. The provisions of this chapter, as now or may hereafter be amended, may be referred to throughout the TMC as the "Uniform Enforcement Code" or "UEC."

(Ord. 28510 Ex. A; passed May 15, 2018)

## 1.82.030 Methods of service.

A. Methods of Service. For purposes of this chapter, the methods of service of any documents related to enforcement, such as notices of civil violation and compliance orders (hereinafter "document") shall be by mailing, personal service, posting, or publication.

B. When First-Class Mail Deemed Service. Any correction notice, notice of civil violation, notice of hearing, compliance order, or other code enforcement document shall be deemed legally served upon a party by mailing, unless another method of service is expressly required in a particular subsection of this chapter, TMC, state law, or court rule.

(Ord. 28510 Ex. A; passed May 15, 2018)

## 1.82.040 Voluntary correction.

A. General. A compliance officer may attempt to secure the voluntary correction of a violation by contacting the responsible person and providing a correction notice.

B. Voluntary Correction Agreement - General. At the sole and reasonable discretion of the compliance officer, a written voluntary correction agreement may be entered into between the responsible person and the City. A voluntary correction agreement may be implemented following an oral or written notice of correction, service of a compliance order, issuance of a notice of violation or notice of infraction, or filing of a criminal complaint.

C. Effect of Agreement. Execution of a voluntary correction agreement represents acknowledgement and agreement by the responsible person that (1) the person is, as to each of the violations set forth in the voluntary correction agreement, the responsible person; (2) the voluntary correction agreement represents a determination that the violation or violations as set forth in the voluntary correction agreement have been committed; and (3) this determination is final and conclusive.

D. Contents of Voluntary Correction Agreement. The voluntary correction agreement is a contract between the City and the responsible person under which that person agrees to take corrective action within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

1. A statement identifying the necessary corrective action to be taken, the date or time by which the corrective action must be completed, and an acknowledgement by the responsible person that the person will correct the violation within the time specified in the voluntary correction agreement;

2. An acknowledgement by the responsible person that if the violation is not corrected in compliance with the terms and conditions of the voluntary correction agreement, the City may issue a notice of civil violation and impose monetary penalties for the time period for the violation or violations described in the voluntary correction agreement;

3. The name and last known address of the responsible person;

4. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;

5. A description of the nature, extent, and time of the violation and a reference to the regulation or provision of the TMC that has been violated;

6. An acknowledgement by the responsible person that each violation described in the voluntary correction agreement exists, that the person is the responsible person for the violations set forth in the voluntary correction agreement, that the agreement represents a determination that the violation or violations as set forth in the voluntary correction agreement have been committed, and that this determination is final and conclusive;

7. Acknowledgement by the responsible person that the City may enter the building, structure, premises, or land and inspect the building, structure, premises, or land as may be necessary to determine compliance with the voluntary correction agreement;

8. Acknowledgement by the responsible person that the compliance officer shall have the decision-making authority to determine if corrective action has been taken in compliance with the terms and conditions of the voluntary correction agreement;

9. The signature or official mark of the responsible person and the signature or official mark of the compliance officer; and

10. Any additional information that may be required under the regulation alleged to have been violated.

(Ord. 28510 Ex. A; passed May 15, 2018)

## 1.82.050 Civil violations.

A. Civil Violation. A compliance officer may issue a notice of civil violation when there is reasonable cause to believe that there is or has been a violation.

B. Content of Notice of Civil Violation. The notice of civil violation shall set forth and contain:

1. The name and last known address of the responsible person;

2. The name and business address and telephone number of the compliance officer issuing the notice of civil violation;

3. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;

4. A description of the nature, extent, and time of the violation and a reference to the regulation that has been violated;

5. If a monetary penalty is imposed, a statement setting forth the monetary penalty(ies) imposed and each violation or violations that are subject to such monetary penalty(ies);

6. If the notice of civil violation is issued in conjunction or combined with a compliance order, and the violation is continuing in nature and will accrue daily monetary penalties until the violation is corrected, a statement (a) setting forth the amount of the daily monetary penalty for each such continuing violation, (b) that the violation is continuing in nature, and (c) that daily monetary penalties will accrue until the violation is corrected as set forth in the compliance order;

7. If the notice of civil violation is combined with a compliance order, the notice of violation shall include the content required pursuant to TMC 1.82.060.B for issuance of a compliance order;

8. A statement that the person to whom the notice of civil violation is issued may appeal the notice of civil violation as provided in TMC 1.82.050.J;

9. A statement that a notice of civil violation issued pursuant to this section represents a determination that the violation/violations identified in the notice has/have been committed and that this determination is final and conclusive unless appealed as provided in TMC 1.82.050.J; and

10. Any additional information that may be required under the regulation that is alleged to have been violated.

C. Service. Except as provided herein, service of a notice of civil violation shall be by personal service or by mailing. If personal service is not accomplished after reasonable effort and if an address for mailed service cannot be ascertained, service shall be accomplished by posting a copy of the order conspicuously on the affected building, structure, premises, or land. If service by posting is ineffective or cannot be lawfully accomplished, service shall be accomplished by publication.

D. Effect of Notice of Civil Violation. A notice of civil violation issued pursuant to this section represents a determination that the violation/violations identified in the notice of civil violation has/have been committed. This determination is final and conclusive as to the violation or violations set forth in the notice of violation, unless a timely appealed is filed as provided in TMC 1.82.050.J. Nothing herein is intended to preclude timely appeal of a separate or subsequent compliance order, notice of civil violation, notice of infraction, or imposition of criminal penalties related to the same or continuing violation or violations, to the extent an appeal may be available.

E. Continued Duty to Correct. Payment of a monetary penalty imposed pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the compliance officer.

F. Monetary Penalty. Unless a different monetary penalty is specified in the TMC or state or federal law for a particular violation, the maximum monetary penalty for each violation per day or portion thereof, and each continuing day or portion thereof, shall be as follows:

1. First day of each violation, $100;

2. Second day of each violation, $200;

3. Third day of each violation, $300;

4. Fourth day of each violation, $400;

5. Each additional day of each violation continuing beyond four days, $500 per day;

6. For each repeat violation, $500 per day; and

7. The monetary penalty for a violation may alternatively be assessed in an amount up to $10,000 per day, upon consideration of the criteria set forth at TMC 1.82.020.E.

G. Other Action. In addition to the issuance of the notice of civil violation, the City may take other enforcement action available at law or in equity, including, by way of example and not limitation, issuance of a notice of civil infraction, seeking injunctive or declaratory relief, seeking an order of abatement, taking action to seek imposition of criminal penalties, and where applicable, rescission as set forth in RCW 90.58.140. The City may also issue a notice of civil violation in conjunction with a compliance order.

H. Collection of Monetary Penalty. The monetary penalty constitutes a personal obligation of the person to whom the notice of civil violation is directed. Any monetary penalty assessed shall be immediately due and payable and must be paid to the City within ten calendar days from the date the notice of civil violation becomes final and non-appealable. Any monetary penalties that accrue for ongoing violations after the date the notice of civil violation becomes final and non-appealable must be paid within ten calendar days from the date the penalty(ies) have accrued. The City Attorney is authorized to take appropriate action to collect the monetary penalty when past due and owing.

I. Application for Remission or Mitigation. When remission or mitigation of the monetary penalty is authorized under the TMC or state or federal law, any person incurring a monetary penalty for a civil violation may, within ten days of service of the notice of violation, apply in writing to the responsible public official for remission or mitigation of the monetary penalty. The responsible public official shall issue a decision on the application within 15 business days following receipt of such application. Upon timely receipt of a complete application for remission or mitigation, the responsible public official, or designee, shall consider the application, together with any information the responsible public official, or designee, determines is relevant, and may remit or mitigate the penalty only upon a finding by a preponderance of the evidence that applicant has demonstrated extraordinary circumstances, such as the presence of information or factors not considered in setting the original monetary penalty. When a monetary penalty is imposed jointly by the Department of Ecology and the City, the penalty may be remitted or mitigated only upon such terms as both the Department of Ecology and the City agree.

J. Appeal. A notice of civil violation may be appealed to the Hearing Examiner pursuant to the procedures set forth in TMC 1.82 for appeal of a notice of civil violation; provided that, an appeal of an enforcement action under the provisions of TMC 13.11, Shoreline Management, shall be governed by TMC 13.11. In the event that a notice of civil violation is combined with a compliance order, the compliance order is subject to appeal pursuant to TMC 1.82.060.M and may be subject to expedited informal review pursuant to TMC 1.82.060.H. Accrual and payment of the monetary penalty imposed shall be stayed during the pendency of any administrative appeal of the violation for which such monetary penalties have been imposed.

(Ord. 28510 Ex. A; passed May 15, 2018)

## 1.82.060 Compliance orders.

A. General. A compliance officer may issue a compliance order when there is reasonable cause to believe that there is or has been a violation or that failure to take action or to refrain from taking action will result in a violation. The compliance order is remedial in nature and intended to prevent future violations, protect persons and property from injury or the imminent threat of injury, terminate ongoing violations, and bring the activities, omissions, use, property, and structures that are the subject of the order into compliance, as nearly as practicable, within applicable standards and requirements of the applicable regulation(s).

B. Content of Compliance Order. The order shall set forth and contain:

1. The name and last known address of the responsible person(s);

2. The name and business address and telephone number of the compliance officer issuing the compliance order;

3. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation will occur, has occurred, or is occurring;

4. A description of the nature, extent, and time of the violation and a reference to the regulation that has been or may be violated;

5. An order that the act or omission or use causing or leading to a violation or a potential violation shall immediately cease and desist, and/or, in appropriate cases, an order to take specific corrective action in compliance with the TMC immediately or within a specific and reasonable time, which corrective action may include, but is not limited to, abatement, remediation, correction, and/or mitigation of the site and other property damaged;

6. A statement that any act or omission contrary to a provision of the compliance order constitutes a civil violation and is subject to enforcement under TMC 1.82;

7. A statement that the person to whom the compliance order is issued may appeal the compliance order as provided at TMC 1.82.060.M;

8. If a stop-work or stop-use order is issued, a statement that the person to whom the compliance order is issued may, in addition to the right to appeal the order, seek expedited informal review as provided at TMC 1.82.060.H. The statement shall identify the public official vested with authority to review the stop-work or stop-use order and the phone number, name, and title of the person authorized to initiate the process for informal expedited review;

9. A statement that the compliance order is final and conclusive unless appealed;

10. If the compliance order is combined with a notice of civil violation, the compliance order shall include the content required pursuant to TMC 1.82.050.B for issuance of a notice of violation; and

11. Any additional information that may be required to be included in the compliance order under the regulation that is alleged to have been violated.

C. Service. Except as provided herein, service of a compliance order shall be by personal service or by mailing. If personal service is not accomplished after reasonable efforts and if an address for mailed service cannot be ascertained, service shall be

accomplished by posting a copy of the order conspicuously on the affected building, structure, premises, or land. If service by posting is ineffective or cannot be lawfully accomplished, service shall be accomplished by publication.

D. Effective Date. A compliance order issued under this section shall become effective immediately upon service of the order upon the person to whom it is directed.

E. Effect of Compliance Order. A compliance order represents notice to the responsible person of a determination that the violation/violations identified in the compliance order has/have been committed, or that there is reasonable cause to believe that a violation will occur, and represents a determination that corrective action as described in the compliance order, or cessation of certain action identified in the order, is required to abate, correct, mitigate, remedy, or prevent the violation. These determinations are final and conclusive unless appealed as provided in this chapter; provided that, nothing herein is intended to preclude timely appeal of a separate or subsequent order, notice of civil violation, notice of infraction, or imposition of criminal penalties related to the same or continuing violation or violations, to the extent an appeal may be available.

F. Extension. Upon written request received prior to the expiration of the correction date or time, the compliance officer may extend the date set for correction for good cause or in order to accommodate a voluntary correction agreement. The compliance officer may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible or impracticable by the completion date established as a good cause.

G. Stop-work order; Stop-use order. Whenever a compliance officer finds reasonable cause to believe that a violation would, if the violation continued, (1) result in irreparable harm, (2) exacerbate injury already caused to any person or property, (3) result in damage or injury to wetlands or critical areas, (4) materially impair the code enforcement officer's ability to secure compliance, (5) materially impair the responsible persons' ability to correct the violation, or (6) cause or contribute to an emergency, the compliance officer may issue a stop-work or stop-use order, or issue a compliance order that includes a stop-work or stop-use order. The stop-work and stop-use order shall be deemed served and effective upon posting of the order; provided that, nothing herein shall preclude service in person, by mail, or by publication.

H. Expedited Informal Review.

1. Purpose. Expedited informal review is an informal process that is intended to provide an opportunity for the person to whom the stop-work or stop-use order is issued to seek immediate review to address any claimed errors in the determination by the compliance officer to issue such an order.

2. Who May Seek Review. The person to whom the stop-work or stop-use order is directed, or an authorized representative of that person, may seek expedited informal review of the order by a public official vested with authority to review and uphold or terminate the stop-work or stop-use order.

3. Request For Review. The person seeking expedited informal review may request review within ten days of service of the order by contacting, during normal City business hours, the person identified in the order as the person authorized to initiate the review, requesting initiation of expedited informal review and providing a phone number at which the requesting person can be reached during business hours.

4. Review. The public official designated to conduct the review, or designee, shall provide a reasonable opportunity for the person requesting review to submit in writing or orally, or both, a statement describing the error(s) of law and error(s) of fact, and any other supporting records or documents or information in any form, establishing why the stop-work or stop-use order was issued in error. The public official may consult with any person(s) who the public official determines may have relevant information, and take into consideration any relevant records or documents or information in any form.

5. Decision. The public official shall, within three business days following the date of the request for review, notify the person requesting review of the public official's decision to either terminate or uphold the issuance of the order; provided that, the public official may extend this time period for good cause.

6. Decision Not Subject to Administrative Appeal. The decision of the public official shall not be subject to appeal to the Hearing Examiner.

7. Effect of Filing an Appeal. Submitting a request for expedited informal review will not impair the right to appeal the stop-work or stop-use order pursuant to TMC 1.82.060.M, and will not operate to toll the time period for filing such an appeal. A person appealing a stop-work or stop-use order is not required to request expedited informal review as a condition of filing an appeal. The filing of an appeal shall not operate to deprive the public official of jurisdiction to conduct an expedited informal review that has been timely requested.

I. Violation – Unlawful. When a compliance order has been issued, posted, and/or served pursuant to this section, it is unlawful for any person to whom the order is directed or any person with actual or constructive knowledge of the order to conduct any activity or perform any work prohibited by the terms of the order, even if the order has been appealed, until the

enforcement officer has removed the copy of the order, if posted, and issued written authorization for the activity or work to be resumed.

J. Removal of Compliance Order – Violation. It shall be unlawful to remove a compliance order posted in conformity with the requirements of this chapter without the prior authorization of a compliance officer, responsible public official of the City, the City Hearing Examiner, or an order of a court with jurisdiction. A violation of the provisions of this subsection shall constitute a misdemeanor.

K. Compliance – Violation. It is unlawful to fail to comply with the terms and conditions of the compliance order. Failure to comply with a compliance order can result in enforcement actions, including, but not limited to, the issuance of a notice of civil violation, issuance of a civil infraction, and imposition of criminal penalties.

L. Other Action. In addition to the issuance of the compliance order, the City may take other enforcement action available at law or in equity including, by way of example and not limitation, issuance of a notice of civil violation and penalties, issuance of a civil infraction, seeking injunctive or declaratory relief, imposition of criminal penalties, modification or revocation of the project permit or approval, seeking an order of abatement, and rescission as set forth in RCW 90.58.140. The City may also issue a notice of civil violation concurrent with a compliance order.

M. Appeal; Exhaustion. A compliance order may be appealed to the Hearing Examiner pursuant to the procedures set forth in TMC 1.82, Hearing Examiner – Appeal of Code Enforcement Actions, for appeal of a compliance order; provided that, an appeal of an enforcement action under the provisions of TMC 13.11, Shoreline Management, shall be governed by TMC 13.11. In the event that the TMC provides that the applicant may request administrative review, remission, or mitigation of the compliance order by a public official, applicant shall exhaust such administrative remedies prior to filing an appeal to the Hearing Examiner; provided that, expedited informal review pursuant to TMC 1.82.060.H is not considered an administrative remedy for purposes of this exhaustion requirement. In the event that a notice of civil violation is combined with the compliance order, payment of the monetary penalty imposed shall be stayed during the pendency of any administrative appeal. In the event of a notice of appeal of an order revoking or rescinding a project permit or approval, the order shall be stayed during the pendency of any administrative appeal.

(Ord. 28510 Ex. A; passed May 15, 2018)

## 1.82.070 Corporate and personal liability.

A. As used in this section:

“Agent” means any director, officer, or employee of a corporation, or any other person who is authorized to act on behalf of the corporation.

“High managerial agent” means an officer or director of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

B. A corporation is strictly liable for the acts or omissions of its agents that constitute a civil violation.

C. A corporation is guilty of a criminal offense when:

1. The act or omission constituting the offense consists of an omission to discharge a specific duty of performance imposed on corporations by law; or

2. The act or omission constituting the offense is engaged in, authorized, solicited, requested, commanded, or tolerated by the board of directors or by a high managerial agent acting within the scope of the agent’s employment and on behalf of the corporation; or

3. The act or omission constituting the offense is engaged in by an agent of the corporation, other than a high managerial agent, while acting within the scope of the agent’s employment and in behalf of the corporation and (i) the offense is a gross misdemeanor or misdemeanor, or (ii) the offense is one defined by the TMC which clearly indicates an intent to impose such criminal liability on a corporation.

D. A person is civilly liable for an act or omission constituting a violation which the person performs or causes to be performed in the name of or on behalf of a corporation to the same extent as if such conduct were performed in the person’s own name or behalf.

E. A person is criminally liable for an act or omission constituting a criminal offense which the person performs or causes to be performed in the name of or on behalf of a corporation to the same extent as if such conduct were performed in the person’s own name or behalf.

F. Whenever a duty to act is imposed by law upon a corporation, any agent of the corporation who knows the agent has or shares primary responsibility for the discharge of the duty is criminally liable for a reckless or, if a high managerial agent,

criminally negligent omission to perform the required act to the same extent as if the duty were by law imposed directly upon such agent.

(Ord. 28510 Ex. A; passed May 15, 2018)

### 1.82.080 Additional enforcement procedures.

The provisions of this chapter are not exclusive and may be used in addition to other enforcement provisions authorized by regulation or state law.

(Ord. 28510 Ex. A; passed May 15, 2018)

# CHAPTER 1.84
# HEARING EXAMINER – APPEALS OF CODE ENFORCEMENT ACTIONS

Sections:

1.84.010 Purpose.
1.84.020 Appeal - Request for hearing.
1.84.030 Hearing procedure.
1.84.040 Decision of the Hearing Examiner.

## 1.84.010 Purpose.

The purpose of this chapter is to provide an opportunity for a prompt hearing and decision on all enforcement actions for which an appeal to the Hearing Examiner is provided pursuant to Tacoma Municipal Code ("TMC") 1.82, Uniform Code Enforcement. The Office of the Hearing Examiner, created pursuant to TMC 1.23, shall have jurisdiction to hear all appeals filed pursuant to TMC 1.82 and exercise such authority as provided pursuant to this chapter. The provisions of this chapter are not intended to apply to or replace appeals of administrative land use decisions including, by way of example and not limitation, any administrative order, requirement, permit, decision, or determination on land use proposals made by the Planning Director, or a shoreline permit decisions or exemptions or any other action or land use decision.

(Ord. 28510 Ex. B; passed May 15, 2018)

## 1.84.020 Appeal – Request for hearing.

A. Appeal – Request for Hearing.

1. Review of Civil Violation. A person to whom a notice of civil violation is issued pursuant to TMC 1.82 ("appellant") may appeal such notice to the Hearing Examiner within ten calendar days after the date the notice of civil violation is served as determined in accordance with TMC 1.82; provided that, a notice of civil violation issued for a violation of TMC 13.11, Shoreline Management, or any rule or regulation adopted pursuant to TMC 13.11, Shoreline Management, or any project permit or approval issued or granted pursuant to TMC 13.11, Shoreline Management, may be appealed in accordance with the time period and procedures set forth in Chapter 90.58 RCW and Chapter 173-27 WAC, as now or may hereafter be amended.

2. Review of Compliance Order. A person to whom a compliance order is issued pursuant to TMC 1.82 ("appellant") may appeal such order to the Hearing Examiner within ten calendar days after the date the notice of compliance order is served as determined in accordance with TMC 1.82; provided that, a compliance order pursuant to TMC 13.11, Shoreline Management, or any rule or regulation adopted pursuant to TMC 13.11, Shoreline Management, or any project permit or approval issued or granted pursuant to TMC 13.11, Shoreline Management, may be appealed in accordance with the time period and procedures set forth in Chapter 90.58 RCW and Chapter 173-27 WAC, as now or may hereafter be amended. A request for expedited informal review shall not operate to toll the time period for filing an appeal of a stop-work or stop-use order.

B. Appeal – Filing.

1. Filing; Where. A notice of appeal shall be filed in writing with the Office of the City Hearing Examiner during regular business hours by the appellant, or, in the case of a corporation, a duly authorized agent of the appellant. The Hearing Examiner may adopt rules consistent with this chapter allowing electronic filing of a notice of appeal.

2. Weekends; Holidays. If the final day to file a notice of appeal is on a weekend or holiday, the appeal will be timely if filed before the close of business on the next business day following the holiday or weekend. For purposes of this section, holiday shall mean those weekdays during which the City offices are closed for established holidays.

3. Jurisdiction of Hearing Examiner. The Hearing Examiner shall not have jurisdiction to hear an appeal for which the notice of appeal is not filed within the time periods set forth in this chapter.

4. Remission; Mitigation. A person to whom a notice of civil violation or compliance order has been issued, which civil violation or compliance order is subject to an application for mitigation or remission which application has been timely filed under the applicable provisions of the TMC, may appeal the underlying notice of violation and/or compliance order, and the decision on the application for mitigation or remission, by filing an appeal within ten calendar days after the date of service of the decision on the application for mitigation or remission.

C. Content of Notice – Filing.

1. Notice of Appeal of Civil Violation. The written notice of appeal of a civil violation and request for hearing shall identify with specificity, (a) the name of the appellant, (b) the mailing address at which the appellant may receive notices related to the

hearing, (c) the notice of civil violation sought to be appealed, (d) the violation or violations being appealed, and (e) a statement identifying the relief the appellant is seeking from the Hearing Examiner. If the notice of civil violation is issued in conjunction with a compliance order and the appellant intends to appeal the compliance order, the notice of appeal and request for hearing must also comply with TMC 1.84.020.C.2 below. The notice of appeal shall be signed by the appellant or a duly authorized representative of the appellant,, and in the case of a corporation, a duly authorized agent of the appellant.

2. Compliance Order. The written notice of appeal of a compliance order and request for hearing shall identify with specificity, (a) the name of the appellant, (b) the mailing address at which the appellant may receive notices related to the hearing, (c) the compliance order sought to be appealed, (d) the parts of the order that the appellant alleges are in error, (e) a concise statement of each alleged error(s) of law and/or error(s) of fact that form the basis for the appeal, (f) a concise statement of facts upon which the appellant relies to sustain the statement of error, and (g) a statement identifying the relief the appellant is seeking from the Hearing Examiner. If the compliance order is issued in conjunction with a notice of civil violation and the appellant intends to appeal the notice of violation, the notice of appeal and request for hearing must also comply with TMC 1.84.020.C.1 above. The notice of appeal shall be signed by the appellant, or a duly authorized representative of the appellant, and in the case of a corporation, a duly authorized agent of the appellant. The filing of such an appeal shall not alter the time for compliance with the compliance order unless modified by the Hearing Examiner following a hearing.

D. Hearing To Be Scheduled. The Office of the Hearing Examiner will determine and schedule the time and date for a hearing before the Hearing Examiner. Extensions may be granted by the Hearing Examiner for good cause shown or when there is mutual agreement of the parties or to accommodate the schedule of the Hearing Examiner.

(Ord. 28510 Ex. B; passed May 15, 2018)

## 1.84.030 Hearing; procedure.

A. Hearing – Procedure. The Hearing Examiner shall conduct an adjudicative hearing on the appeal pursuant to the rules of procedure of the Hearing Examiner. The City and the appellant shall be the parties in the hearing and each party may call witnesses and may be represented by legal counsel, may present testimony, confront and cross-examine adverse witnesses, and submit evidence and information in accordance with procedures prescribed by the Hearing Examiner. The Hearing Examiner shall give substantial weight to any discretionary decision, or any construction of the TMC or related regulation, rendered by the compliance officer or responsible public official. The written administrative record underlying the contested action or determination may be submitted to the Hearing Examiner and made a part of the record on appeal.

B. Burden of Proof. The City shall have the burden of proof to demonstrate by a preponderance of the evidence that the violation or violations that are the subject of the appeal was or were committed and that the appellant is the responsible person. In the case of an appeal of a compliance order, the appellant shall have the burden of proof to demonstrate by a preponderance of the evidence that the compliance order was imposed, issued or determined in error.

C. Proceedings.

1. Prehearing Conference. A prehearing conference may be required by the Hearing Examiner in accordance with TMC 1.23.080, Prehearing conference.

2. Conduct of proceedings. All hearings shall be conducted in accordance with TMC 1.23.100, Conduct of proceedings.

3. Subpoenas. The Hearing Examiner shall have authority to issue and enforce subpoenas as provided in TMC 1.23.105, Hearing Examiner Subpoenas.

D. Stay of Action Pending Appeal. An appellant may request the Hearing Examiner to stay or suspend an action by the City to implement the decision under review pending the outcome of the administrative appeal. The request must set forth a statement of grounds for the stay and the factual basis for the request. The Hearing Examiner may grant a stay only if the Hearing Examiner finds that:

1. The party requesting the stay is likely to prevail on the merits;

2. Without the stay, the party requesting it will suffer irreparable harm;

3. The grant of a stay will not substantially harm other parties to the proceedings;

4. The grant of a stay will not cause or contribute to an imminent threat of harm to persons or property; and

5. The request for the stay is timely in light of the circumstances of the case.

The Hearing Examiner may grant the request for a stay upon such terms and conditions, including the filing of security, as are necessary to prevent harm to other parties by the stay.

(Ord. 28510 Ex. B; passed May 15, 2018)

### 1.84.040 Decision of the Hearing Examiner.

A. Determination. The Hearing Examiner shall, as to each violation subject to appeal, determine whether the City has established by a preponderance of the evidence that the violation was committed and that the appellant is the responsible person, and shall affirm or vacate the City's decision regarding such violation or violations.

The Hearing Examiner shall, as to each compliance order subject to appeal, determine whether the appellant has established by a preponderance of the evidence that the order was imposed, issued, or determined in error based upon one or more of the following:

1. The order was imposed, issued, or determined in excess of the authority or jurisdiction of the City or compliance officer; or

2. The order was imposed, issued, or determined upon unlawful procedure; or

3. The order was affected by material error of law or fact; or

4. The order was clearly erroneous in view of the entire record as submitted*;* or

5. The order was arbitrary or capricious.

The Hearing Examiner may, as to each compliance order subject to appeal, (a) affirm the decision of the compliance officer, (b) remand the matter back to the compliance officer for further action consistent with the decision of the Hearing Examiner, (c) reverse the order or determination if the substantial rights of the appellant may have been prejudiced because the order or determination was in violation of one or more factors set forth above, or (d) modify the order or decision to the extent necessary to correct the error.

B. Issue Order. The Hearing Examiner shall issue an order to the parties, which order shall contain the following information:

1. The decision regarding the matter being appealed, including findings of fact and conclusions based thereon in support of the decision; and/or

2. The required corrective action; and/or

3. The date and time by which the correction must be completed; and/or

4. The monetary penalties assessed; and/or

5. A remand and order for further action.

C. Notice of Decision. The Hearing Examiner shall give notice of the decision to the appellant and the applicable City official within a reasonable period of time following the hearing. This decision shall be considered the final decision in the absence of a motion for reconsideration as provided at TMC 1.84.040.F.

D. Failure to Appear. If the appellant fails to appear at the scheduled hearing, the Hearing Examiner shall enter an order of dismissal of the appeal, unless good cause is found to extend the hearing date or the City agrees to extend the hearing date, or the Hearing Examiner finds that notice of the hearing was not provided to the appellant.

E. Failure to Comply. It shall be unlawful to fail to comply with a final non-appealable decision of the Hearing Examiner. For purposes of this section, non-appealable means that all administrative and judicial appeals have been exhausted. Violations of a final non-appealable decision of the Hearing Examiner are subject to enforcement pursuant to TMC 1.82. Willful noncompliance with a final non-appealable decision of the Hearing Examiner shall constitute a misdemeanor and shall be punished by a fine of up to $1,000 or 90 days in jail, or by both such fine and imprisonment. Each day that a violation continues shall constitute a separate and continuing offense.

F. Reconsideration. An appellant may seek reconsideration of the decision of the Hearing Examiner in conformance with the provisions of TMC 1.23.140. If a timely motion is filed meeting the jurisdictional requirements for reconsideration of the decision of the Hearing Examiner, the decision of the Hearing Examiner shall not be final until the decision of the Hearing Examiner upon the motion for reconsideration is served personally or by mailing.

G. Final Decision. A party aggrieved by a final decision of the Hearing Examiner may appeal or seek review of the decision in accordance with applicable law. Unless another period of time applies under applicable law or court rule, any appeal of the decision of the Hearing Examiner must be filed within 21 calendar days from the date the Hearing Examiner's final decision was served, personally or by mailing.

H. Subsequent Repeat Violation – Failure to Abate – Misdemeanor. The commission of a subsequent violation or the failure or refusal to take corrective action pursuant to a decision of the Hearing Examiner after receipt of written notice of such

decision shall constitute a misdemeanor. The City Attorney, or designee, shall have discretionary authority to file a subsequent violation as either a civil violation pursuant to this chapter, or a civil infraction, or a misdemeanor.

(Ord. 28510 Ex. B; passed May 15, 2018)

# CHAPTER 1.90
# LOCAL EMPLOYMENT AND APPRENTICESHIP TRAINING PROGRAM

Sections:

1.90.010 Purpose.
1.90.020 Scope.
1.90.030 Definitions.
1.90.040 LEAP goals.
1.90.050 *Repealed.*
1.90.060 Effect of program on prime contractor/subcontractor relationship.
1.90.070 Apprentice utilization requirements – Bidding and contractual documents.
1.90.080 Enforcement.
1.90.090 Compliance with applicable law.
1.90.100 Review and reporting.
1.90.105 Authority
1.90.110 Interpretation.

## 1.90.010 Purpose.

The purpose of this Chapter is to establish a means of providing for the development of a trained and capable workforce possessing the skills necessary to fully participate in the construction trades.

(Ord. 26301 § 1; passed Oct. 6, 1998)

## 1.90.020 Scope.

The provisions of this Chapter shall apply to all Public Works or Improvements funded in whole or in part with City funds or funds which the City expends or administers in accordance with the terms of a grant.

(Ord. 26301 § 1; passed Oct. 6, 1998)

## 1.90.030 Definitions.

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

A. "Apprentice" shall mean a person enrolled in a course of training specific to a particular construction trade or craft, which training shall be approved by the Washington State Apprenticeship and Training Council established pursuant to RCW 49.04.010.

B. "Building Projects" shall mean all Public Works or Improvements having an Estimated Cost greater than $750,000.00, and for which a building permit must be issued pursuant to Chapter 1 of the current edition of the state building code (Uniform Building Code).

C. "City" shall mean all divisions and departments of the City of Tacoma, and all affiliated agencies, provided, however, that the Tacoma Community Redevelopment Authority shall not be included within this definition.

D. "Civil Projects" shall mean all Public Works or Improvements that are not defined as a "Building Project," provided that those projects having an Estimated Cost of less than $250,000.00 shall not be included in this definition.

E. "Contractor or Service Provider" means a person, corporation, partnership, or joint venture entering into a contract with the City to construct a Public Work or Improvement.

F. "Director" shall mean the Director of Community and Economic Development, or the Director's Designee.

G. "Economically Distressed ZIP Codes" shall mean ZIP codes in the Tacoma Public Utilities Service Area that meet two out of three (2/3) of the thresholds of:

1. High concentrations of residents living under 200% of the federal poverty line in terms of persons per acre (69th percentile)

2. High concentrations of unemployed people in terms of persons per acre (45th percentile)

3. High concentrations of people 25 years or older without a college degree in terms of persons per acre (75th percentile)

Said thresholds shall be updated within 30 days following any Prevailing Wage updates issued by the Washington State Labor and Industry. All updates are to be published on the first business day in August and in February of each calendar year.

H. “Electrical Utility” and “Water Utility” shall mean, respectively, the Light Division of the Department of Public Utilities of the City of Tacoma, and shall include the electrical and telecommunications services of that Division, and the Water Division of the Department of Public Utilities of the City of Tacoma.

I. “Estimated Cost” shall mean the anticipated cost of a Public Work or Improvement, as determined by the City, based upon the expected costs of materials, supplies, equipment, and labor, but excluding taxes and contingency funds.

J. “Estimated Labor Hours” shall mean the anticipated number of Labor Hours determined by the City to be necessary to construct a Public Work or Improvement and set forth in the specifications for the project, or as may be subsequently revised due to contract or project adjustment, or pursuant to an agreed upon change order.

K. “Existing Employee” shall mean an employee whom the Contractor or Service Provider can demonstrate was actively employed by the Contractor or Service Provider for at least 1000 hours in the calendar year prior to bid opening plus one month following bid opening, and who was performing work in the construction trades.

L. “Labor Hours” shall mean the actual number of hours worked by workers receiving an hourly wage who are employed on the site of a Public Work or Improvement, and who are subject to state or federal prevailing wage requirements. The term “Labor Hours” shall include hours performed by workers employed by the Contractor or Service Provider and all Subcontractors, and shall include additional hours worked as a result of a contract or project adjustment or pursuant to an agreed upon change order. The term “Labor Hours” shall not include hours worked by workers who are not subject to the prevailing wage requirements set forth in either RCW 39.12 or the Davis-Bacon Act - 40 U.S.C. 276 (a).

M. “LEAP Coordinator” shall mean the City of Tacoma staff member who administers LEAP.

N. “LEAP Program” or “Program” shall mean the City of Tacoma’s Local Employment and Apprenticeship Training Program, as described in this chapter.

O. “LEAP Regulations” or “Regulations” shall mean the rules and practices established in this document.

P. “LEAP Utilization Plan” shall mean the document submitted by the Contractor to the LEAP Coordinator which outlines how the associated goals will be met on the project.

Q. “Priority Hire Resident” shall mean any resident within the Economically Distressed ZIP Codes.

R. “Project Engineer” shall mean the City employee who directly supervises the engineering or administration of a particular construction project subject to this chapter.

S. “Public Work or Improvement” shall have the same meaning as provided in Section 39.04.010 RCW, as that Section may now exist or hereafter be amended.

T. “Resident of Tacoma” shall mean any person, not defined as a Resident of the Community Empowerment Zone, who continues to occupy a dwelling within the boundaries of the City of Tacoma, has a present intent to continue residency within the boundaries of the City, and who demonstrates the genuineness of that intent by producing evidence that the person’s presence is more than merely transitory in nature.

U. “Service Area - Electrical” or “Electrical Service Area” shall mean that area served with retail sales by the Electrical Utility of the City of Tacoma at the time a bid is published by the Electrical Utility for a Public Work or Improvement to be performed primarily for the Electrical Utility.

V. “Service Area - Water” or “Water Service Area” shall mean that area served with retail sales by the water utility of the City of Tacoma at the time a bid is published by the water utility for a Public Work or Improvement to be performed primarily for the water utility.

W. “Service Contract” shall mean all City contracts relating to a Public Work or Improvement which utilize labor at a City site and which are not within the exceptions to nor defined as “Building Projects” or “Civil Projects.”

X. “Subcontractor” means a person, corporation, partnership, or joint venture that has contracted with the Contractor or Service Provider to perform all or part of the work to construct a Public Work or Improvement by a Contractor.

Y. “Tacoma Public Utilities” means the City of Tacoma, Department of Public Utilities.

Z. “Tacoma Public Utilities Service Area” shall mean every ZIP code listed by Tacoma Public Utilities as an area that either receives services or maintains infrastructure to provide services.

AA. Washington State Labor and Industry Prevailing Wage shall mean the hourly wage, usual benefits and overtime, paid in the largest city in each county, to the majority of workers, laborers, and mechanics. Prevailing wages are established, by the Department of Labor & Industries, for each trade and occupation employed in the performance of public work. They are established separately for each county, and are reflective of local wage conditions.

(Ord. 28520 Ex. A; passed Jul. 17, 2018: Ord. 28147 Ex. B; passed May 7, 2013: Ord. 28110 Ex. C; passed Dec. 4, 2012: Ord. 27815 Ex. A; passed Jun. 30, 2009: Ord. 27368 § 1; passed Jun. 21, 2005: Ord. 26698 § 1; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

## 1.90.040 LEAP goals.

A. Utilization Goals.

1. All Contractors constructing Civil Projects or Building Projects, and all Service Providers involved with the construction of a Public Work or Improvement, shall ensure that at least 15 percent of the total Labor Hours actually worked on the Project are performed by persons having their residence within the boundaries of the City of Tacoma or Economically Distressed ZIP Codes, whether or not any such person is an Apprentice.

a. The thresholds for this section shall be $250,000.00 for Civil Projects and $750,000.00 for Building Projects.

2. Fifteen percent (15%) of the Total Labor Hours on contracts above one-million dollars ($1,000,000.00) shall have work performed by Apprentices who are residents of the Tacoma Public Utilities Service Area consistent with RCW 39.04.320(1)(a), subject to waiver based on exceptions as specified in RCW 39.04.320(2)(a), (b), and (c).

3. Labor Hours performed by non-residents of the State of Washington will be deducted from a project's total Labor Hours for purposes of determining compliance with the requirements of this chapter.

4. All Contractors and Service Providers shall submit a LEAP Utilization Plan as provided for in the regulations adopted under this chapter, and shall meet with the LEAP Coordinator to review said Plan prior to being issued a Notice to Proceed. Failure to submit a LEAP Utilization Plan may be grounds for the City to withhold remittance of a progress payment until such Plan is received from the responsible Contractor or Provider. A meeting with the LEAP Coordinator prior to issuance of a Notice to Proceed shall be excused only when the LEAP Coordinator is unavailable to meet prior to the scheduled date for issuance of the Notice to Proceed and the Contractor and the LEAP Coordinator have otherwise scheduled a meeting for the coordinator to review the Contractor's or Provider's plan.

The Contractor or Service Provider shall be responsible for meeting the LEAP utilization goal requirements of the contract, including all amendments and change orders thereto, and shall be responsible for overall compliance for all hours worked by Subcontractors. To the extent possible, the Contractor or Service Provider shall recruit Apprentices from multiple trades or crafts.

B. Failure to Meet Utilization Goal.

1. Contracts for the construction of Building projects or Civil projects and Service Contracts shall provide that Contractors or Service Providers failing to meet the LEAP utilization goals shall be assessed an amount for each hour that is not achieved. The amount per hour shall be based on the extent the Contractor or Service Provider met its goal. The amount per hour that shall be assessed shall be as follows:

| Percent of Goal Met | Assessment per unmet hour |
|---|---|
| 100% | $ 0.00 |
| 90% - 99% | $ 2.00 |
| 75% to 89% | $ 3.50 |
| 50% to 74% | $ 5.00 |
| 1% to 49% | $ 7.50 |
| 0% | $10.00 |

When determining the percent of goal that is met, all rounding shall be down to the nearest whole percent. No penalty shall be waived by the City unless it is determined by the Director to be in the best interests of the City, which determination shall be made after consultation with the LEAP Coordinator.

2. Deposit of Assessments. All assessments imposed pursuant to this section shall be deposited into a separate account and utilized to support the City's pre-apprenticeship and training program. The policies and regulations adopted by the City Manager and Director of Utilities pursuant to this chapter shall address issues pertaining to a Contractor's existing workforce. Contributions need not be made for Labor Hours that have been adjusted in accordance with Section 1.90.040(E).

C. LEAP Reports. Notwithstanding the provisions of TMC 1.90.100, the Director shall, not less than annually, publish a LEAP report setting forth Contractor compliance with this chapter. Said report shall include information on all contracts and all Contractors to which this chapter applies, and shall detail the level and nature of LEAP participation by contract and by Contractor, The Director's LEAP report may include such other information as may be helpful to assuring fair and accurate

representation of the contracts, Contractors or projects covered in the report. The Director's LEAP reports may be considered by the Board of Contracts and Awards in its determinations as to bidder responsibility.

D. LEAP Goal Adjustments.

1. LEAP utilization goals may be adjusted prior to bid opening and/or as a result of a contract amendment or change order on a Building Project, Civil Project, or Service Contract.

a. If LEAP utilization goals are adjusted prior to bid opening, they shall be set forth in the bid or Request For Proposal advertisement and specification documents or in an addendum timely provided to prospective bidders, provided that such adjustment shall be based upon a finding by the Project Engineer that the reasonable and necessary requirements of the contract render LEAP utilization unfeasible at the required levels. The Director shall concur with the Project Engineer's finding, provided that should the Project Engineer and the Director fail to reach agreement on the Project Engineer's finding, then in that circumstance the matter shall be referred to the City Manager or the Director of Utilities, as appropriate, for ultimate resolution. Notwithstanding any other provision of this chapter to the contrary, the decision of the City Manager or the Director of Utilities with regard to LEAP goal adjustment may not be appealed.

b. If LEAP utilization goals are adjusted due to contract amendment or change order, the amount of adjustment shall be consistent with the utilization goals set forth in this chapter and shall be determined pursuant to regulations adopted pursuant to this chapter for administration of LEAP utilization goal adjustments.

2. The methodology of determining the appropriate adjustments to LEAP utilization goals shall be determined in consultation with the LEAP Advisory Committee, established pursuant to this ordinance for so long as the LEAP Advisory Committee remains in existence.

3. LEAP utilization goals shall not apply to those portions of a project that are funded by sources other than (a) City funds, or (b) funds which the City expends or administers in accordance with the terms of a grant to the City, provided that the Project Engineer shall notify the Director of such non-application prior to bid advertisement. For the purposes of this paragraph, credits extended by another entity for the purpose of providing project funding shall not be considered to be City funds.

E. Utilization - Electrical Projects Outside Electrical Service Area. Civil Projects or Building Projects that are constructed primarily for the benefit or use by the City's Electrical Utility, which are wholly situated outside the Electrical Service Area, and for which the estimated cost is less than $1,000,000.00, are exempt from the requirements of this chapter.

F. Utilization - Water Projects Outside Water Service Area. Civil Projects or Building Projects that are constructed primarily for the benefit or use by the City's water utility, which are wholly situated outside the Water Service Area, and for which the estimated cost is less than $1,000,000.00 are exempt from the requirements of this chapter.

G. Utilization - Projects Outside Tacoma Public Utilities Service Area. Civil Projects or Building Projects that are constructed primarily for the benefit or use by Tacoma Public Utilities, which are wholly situated outside the retail service area of the Tacoma Public Utilities Service Area, and for which the estimated cost is less than $1,000,000.00 are exempt from the requirements of this chapter. Projects wholly situated outside the Tacoma Public Utilities Service Area, and for which the estimated cost is more than $1,000,000.00, shall be exempt from 15% utilization goal specified in subsection A1. of this section. The 15% utilization goal specified in subsection A2. of this section may be met if project work is performed by Apprentices who are enrolled in a course of training specific to a particular construction trade or craft, provided such training has been approved by the Washington State Apprenticeship and Training Council in accordance with Chapter 49.04, RCW.

H. Emergency. This chapter shall not apply in the event of an Emergency. For the purposes of this section, an "Emergency" means unforeseen circumstances beyond the control of the City that either: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

I. Conflict with State or Federal Requirements. If any part of this chapter is found to be in conflict with federal or state requirements which are a prescribed condition to the allocation of federal or state funds to the City, then the conflicting part of this chapter is inoperative solely to the extent of the conflict and with respect to the City departments directly affected. This provision does not affect the operation of the remainder of this chapter. Administrative rules or regulations adopted under this chapter shall meet federal and state requirements which are a necessary condition to the receipt of federal or state funds by the City.

(Ord. 28520 Ex. A; passed Jul. 17, 2018: Ord. 28147 Ex. B; passed May 7, 2013: Ord. 27815 Ex. A; passed Jun. 30, 2009: Ord. 27368 § 2; passed Jun. 21, 2005: Ord. 26992 § 1; passed Oct. 15, 2002: Ord. 26698 § 2; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

### 1.90.050 Good faith efforts. *Repealed by Ord. 27368.*

(Ord. 27368 § 3; passed Jun. 21, 2005: Ord. 26698 § 3; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

### 1.90.060 Effect of program on prime contractor/service provider - subcontractor relationship.

The LEAP Program shall not be construed so as to modify or interfere with any relationship between any Contractor or Service Provider and Subcontractor. The LEAP Program shall not grant the City any authority to control the manner or method of accomplishing any construction work that is additional to any authority retained by the City in a Public Works contract.

(Ord. 26698 § 4; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

### 1.90.070 Apprentice utilization requirements – Bidding and contractual documents.

All packages of bid documents for every Building Project and every Civil Project shall incorporate provisions satisfactory to the City Attorney so as to allow enforcement of the provisions contained in this Chapter. Such contractual provisions may include liquidated damages, calculated to reimburse the City for the Contractor's breach of these performance requirements, which shall be published with the City's call for bids.

(Ord. 26301 § 1; passed Oct. 6, 1998)

### 1.90.080 Enforcement.

A. The Director shall review the Contractor's or Service Provider's and all Subcontractor's employment practices during the performance of the work for compliance with LEAP Program requirements. On-site visits may be conducted as necessary to verify compliance with the requirements of the LEAP Program. The Contractor, Service Provider, or Subcontractors shall not deny to the City the right to interview its employees, provided that the Director shall make reasonable efforts to coordinate employee interviews with employers.

B. Any knowing failure or refusal to cooperate in compliance monitoring may disqualify the defaulting Contractor, Service Provider, or Subcontractor from eligibility for other City contracts.

C. The making of any material misrepresentation may disqualify the defaulting Contractor, Service Provider, or Subcontractor from eligibility for other City contracts.

D. Any action by the City, its officers and employees, under the provisions of this Chapter may be reviewed by the Board of Contracts and Awards, upon written application of the party so affected. Application shall be made within twenty (20) days of the date of the action upon which the appeal is based, and provided to the City by certified mail or by personal service. Any action taken by the Board of Contracts and Awards may be appealed to the City Council or Public Utility Board, as appropriate, and thereafter if desired, to the Superior Court of Pierce County, Washington, within fifteen (15) days of the previous decision.

(Ord. 26698 § 5; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

### 1.90.090 Compliance with applicable law.

Nothing in this Chapter shall excuse a Prime Contractor, Service Provider, or Subcontractor from complying with all relevant federal, state, and local laws.

(Ord. 26698 § 6; passed Sept. 12, 2000; Ord. 26301 § 1; passed Oct. 6, 1998)

### 1.90.100 Review and reporting.

The City Manager and Director of Utilities shall review the Program on or before January 1, 2000, and every two (2) years thereafter, and shall report to the City Council and Public Utility Board the Manager's and Director's findings, conclusions, and recommendations as to the continued need for the Program, and any revisions thereto that should be considered by the Council and Board.

(Ord. 26301 § 1; passed Oct. 6, 1998)

### 1.90.105 Authority.

The City Manager and the Director of Utilities shall have authority to jointly adopt policies and regulations consistent with this chapter to implement the LEAP program.

(Ord. 26698 § 7; passed Sept. 12, 2000: Ord. 26301 § 1; passed Oct. 6, 1998)

### 1.90.110 Interpretation.

This Chapter shall not be interpreted or construed so as to conflict with any state or federal law, nor shall this Chapter be enforced such that enforcement results in the violation of any applicable judicial order.

(Ord. 26301 § 1; passed Oct. 6, 1998)

# CHAPTER 1.95
# RENTAL HOUSING CODE

Sections:

1.95.010 Purpose and Intent.
1.95.020 Definitions.
1.95.030 Distribution of information required.
1.95.040 Deposit requirements and installment payments permitted.
1.95.050 Notice requirement generally—reasonable accommodation request.
1.95.060 Notice to increase rent requirements.
1.95.070 Notice to vacate requirements.
1.95.080 Tenant relocation assistance
1.95.090 Compliance and enforcement.
1.95.100 Severability.

## 1.95.010 Purpose and Intent.

The purpose of this chapter is to establish regulations supporting the topic of increasing housing security, and to establish standards and enforcement mechanisms as they relate to rental housing within the City limits of Tacoma.

It is the City's intent to continue its long-term commitment to maintain vibrant and diverse neighborhoods within Tacoma. The regulations contained in this chapter balance the needs of the landlord, tenant, and the City while creating a partnership to ensure safe, healthy, and thriving rental housing in Tacoma. The City recognizes that the renting of residential property is a commercial venture where owners and landlords must evaluate risk, profit, and loss. Providing housing for Tacoma residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that it is equitably undertaken. This chapter strives to ensure housing security for current and future residents, and addresses potential retaliation against tenants who make complaints about housing conditions.

(Ord. 28559 Ex. A; passed Nov. 20, 2018)

## 1.95.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

"Assisted housing development" means a multifamily rental housing development that either receives government assistance and is defined as federally assisted housing in RCW 59.28.020, or that receives other federal, state, or local government assistance and is subject to use restrictions.

"Change of use" means the conversion of any dwelling unit from a residential use to a nonresidential use; conversion from one type residential use to another type residential use, such as a conversion to a retirement home, emergency shelter, transient hotel, or short-term rental as defined in Tacoma Municipal Code ("TMC") 13.06.700; the removal of use restrictions, including those in an assisted housing development; provided that an owner displacing a tenant so that the owner or immediate family member can occupy the rental dwelling unit shall not constitute a change of use. Any "change of use" are provided herein requires displacement of a tenant.

"Days" means calendar days unless otherwise provided.

"Demolition" means the destruction of any dwelling unit. Any "demolition" as provided herein requires displacement of a tenant.

"Director" means the Director of the City of Tacoma Neighborhood and Community Services Department, or the Director's designee.

"Displacement" or "displaced" means the demolition, substantial rehabilitation, or change of use requiring existing tenants to vacate the dwelling unit, but shall not include the relocation of a tenant from one dwelling unit to another dwelling unit with the tenant's consent.

"Dwelling unit" means a structure or part of a structure used as a home, residence, or sleeping place by one, two, or more persons maintaining a common household, including, but not limited to, single-family residences and multiplexes, apartment buildings, and mobile homes.

"Housing costs" means the compensation or fees paid or charged, usually periodically, for the use of any property, land, buildings, or equipment for residential purposes. For purposes of this chapter, housing costs include the basic rent charge, but

do not include utility charges that are based on usage and that the tenant has agreed in the rental agreement to pay, unless the obligation to pay those charges is itself a change in the terms of the rental agreement.

"Immediate family member" includes the spouse or domestic partner, dependent children, and other dependent relatives.

"Landlord" means a landlord as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed. As of the effective day of this ordinance, the RLTA defines "landlord" as "the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager."

"Non-refundable move-in fees" means non-refundable payment paid by a tenant to a landlord to cover administrative, pet, or damage fees, or to pay for cleaning of the dwelling unit upon termination of the tenancy, but does not include payment of a holding fee authorized by RCW 59.18.253(2).

"Owner" means one or more persons, or entities, jointly or severally, in whom is vested:

A. All or any part of the real title to property; or

B. All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

"Rental agreement" means a rental agreement as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the state RLTA in effect at the time the rental agreement is executed. As of the effective day of this ordinance, the state RLTA defines "rental agreement" as "all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit."

"Security deposit" means a refundable payment or deposit of money, however designated, the primary function of which is to secure performance of a rental agreement or any part of a rental agreement. "Security deposit" does not include a fee.

"Substantial rehabilitation" means extensive structural repair or extensive remodeling and requires a building, electrical, plumbing, or mechanical permit for the tenant's dwelling unit at issue. Any "substantial rehabilitation" as provided herein requires displacement of a tenant.

"Tenant" means any person who is permitted to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement and includes those persons who are considered to be tenants under the state RLTA, chapter 59.18 RCW and those tenants whose living arrangements are exempted from the state RLTA under RCW 59.18.040(3). For purposes of this chapter, "tenant" shall not include the owner of a dwelling unit or members of the owner's immediate family.

(Ord. 28559 Ex. A; passed Nov. 20, 2018)

## 1.95.030 Distribution of information required.

A. Distribution of resources by landlord.

1. At the time a prospective tenant applies to reside in a dwelling unit, the landlord shall provide the prospective tenant with the landlord's written rental criteria and, once created by the City, with a City of Tacoma informational website address designated by the City for the purpose of providing information about the property and its landlord, which may include, but is not limited to, local code enforcement information relating to properties within City limits, findings or settlements related to housing discrimination against the landlord pursuant to TMC 1.29, Human Rights Commission, and a website address for the Washington Secretary of State for the purpose of providing information on how to register to vote or change their address, if the individual is already registered to vote.

2. In the event a prospective tenant cannot reasonably access the internet and at their request, a landlord shall provide the prospective tenant a paper copy of the property and landlord information that can be found on the website identified above.

B. Distribution of information packets by landlord.

1. The Director shall prepare and update as necessary, summaries of this chapter, the Minimum Buildings and Structures Code (TMC 2.01), state RLTA (RCW 59.18), Forcible Entry and Forcible and Unlawful Detainer (RCW 59.12), and Fair Housing laws, describing the respective rights, obligations, and remedies of landlords and tenants, including information about legal resources available to tenants.

2. A landlord shall provide a copy of the summaries prepared by the Director to any tenant or prospective tenant when a rental agreement is offered, whether or not the agreement is for a new or renewal agreement.

3. Where there is an oral rental agreement, the landlord shall give the tenant copies of the summaries described herein, either before entering into the oral rental agreement or as soon as reasonably possible after entering into the oral rental agreement.

4. For existing tenants, landlords shall, within 30 days after the summaries are made available by the City, distribute current copies of the summaries to existing tenants.

5. The initial distribution of information to tenants must be in written form and landlords shall obtain the tenant's signature documenting tenant's receipt of such information. If a tenant refuses to provide a signature documenting the tenant's receipt of the information, the landlord may draft a declaration stating when and where the landlord provided tenant with the required information. After the initial distribution of the summaries to tenants, a landlord shall provide existing tenants with updated summaries by the City, and may do so in electronic form unless a tenant otherwise requests written summaries.

6. The packet prepared by the Director includes informational documents only, and nothing in the summaries therein shall be construed as binding on or affecting any judicial determination of the rights and responsibilities of landlords and tenants, nor is the Director liable for any misstatement or misinterpretation of the applicable laws.

C. Notice of resources. A landlord is required to provide a copy of a resource summary, prepared by the City, to any tenant when the landlord provides a notice to a tenant under RCW 59.12.030.

(Ord. 28559 Ex. A; passed Nov. 20, 2018)

## 1.95.040 Deposit requirements and installment payments permitted.

A. Installment payments, generally. Upon a tenant's written request, tenants may pay security deposits, non-refundable move-in fees, and/or last month's rent in installments as provided herein; except that the tenant cannot elect to pay the security deposit and non-refundable move-in fees in installments if (1) the total amount of the security deposit and nonrefundable move-in fees does not exceed 25 percent of the first full month's rent for the tenant's dwelling unit; and (2) payment of last month's rent is not required at the inception of the tenancy. Landlords may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because a tenant elects to pay in installments. Installment payments are due at the same time as rent is due. All installment schedules must be in writing, signed by both parties.

B. Fixed-term tenancies for three months or longer. For any rental agreement term that establishes a tenancy for three months or longer, the tenant may elect to pay the security deposit, non-refundable move-in fees, and last month's rent, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost of obtaining a tenant screening report, in three consecutive, equal monthly installments that begin at the inception of the tenancy.

C. Month-to-month or two-month tenancy. For any rental agreement term that establishes a tenancy from month-to-month or two months, the tenant may elect to pay the security deposit, non-refundable move-in fees, and last month's rent, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to reimburse the landlord for the cost of obtaining a tenant screening report, in two equal installments. The first payment is due at the inception of the tenancy, and the second payment is due on the first day of the second month or period of the tenancy.

D. A tenant's failure to pay a security deposit, non-refundable move-in fees, and last month's rent according to an agreed payment schedule is a breach of the rental agreement and subjects the tenant to a ten-day notice pursuant to RCW 59.12.030(4), and shall mean that the entire amount of any outstanding payments shall become due when the next rent payment is due, unless otherwise agreed to in writing by the landlord and tenant.

E. Paying in installments does not apply to a landlord obtaining a tenant screening report, which report cost paid by the tenant shall be limited to the standard and actual cost of the tenant screening report.

F. No security deposit may be collected by a landlord unless the rental agreement is in writing and a written checklist or statement specifically describing the condition and cleanliness of or existing damages to the premises and furnishings, including, but not limited to, walls, floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the tenant at the beginning of the tenancy. The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or statement.

G. A landlord must place any required security deposit in a trust account and provide a written receipt and notice of the name, address, and location of the depository and any subsequent change thereof to the tenant, in compliance with the requirements of RCW 59.18.270.

H. Nothing in this Chapter 1.95 prohibits a landlord from bringing an action against a tenant to recover sums exceeding the amount of the tenant's security deposit for damage to the dwelling unit for which the tenant is responsible. The landlord may seek attorney's fees for such an action as authorized by chapter 59.18 RCW.

(Ord. 28559 Ex. A; passed Nov. 20, 2018)

### 1.95.050 Notice requirement generally – reasonable accommodation request.

A landlord shall review and comply with all reasonable accommodation requests, as required in TMC 1.29.120.D, received from a tenant related to the service of any notice required by this chapter.

(Ord. 28559 Ex. A; passed Nov. 20, 2018)

### 1.95.060 Notice to increase rent requirements.

A landlord is required to provide the minimum written notice, as outlined in Chapter 59.18.140 RCW, as it currently exists or is hereinafter amended, whenever the periodic or monthly housing costs to be charged a tenant will increase by any amount charged the same tenant for the same housing unit.

(Ord. 28596 Ex. A; passed Jul. 9, 2019: Ord. 28559 Ex. A; passed Nov. 20, 2018)

### 1.95.070 Notice to vacate requirements.

A. The notice requirements provided in this subsection apply when premises are rented with monthly or other periodic tenancy and apply before the expiration of a fixed-term lease, unless the lease automatically converts to a month-to-month or periodic tenancy at the end of its expiration.

B. Requirement for notice to tenant when tenant displaced. When a tenant is to be displaced, a landlord may only terminate the tenancy by providing a tenant with written notice of at least 120 days preceding the end of the month or period of tenancy. For any notice provided under this subsection, the landlord shall also serve at the same time the Tenant Relocation Information Packet and further comply with the Tenant Relocation Assistance requirements in TMC 1.95.080.B.

C. Requirement for notice to tenant for no cause termination. Unless provided otherwise under federal or state law applicable to low-income or affordable housing programs or under subsection B above, a landlord may only terminate a tenancy for no cause by providing the tenant written notice of at least 60 days preceding the end of the month or period of tenancy. Notices that are exempt from this subsection include, but are not limited to, notices authorized under RCW 59.12.030, as it currently exists or as hereinafter amended.

D. Notice requirements, generally.

1. Notices provided in this section shall comply with RCW 59.12.040, as it exists and as hereinafter amended.

2. The notice shall list the name of the tenant and the dwelling unit number.

3. Proof of any service under this section must be made by the affidavit or declaration of the person providing the notice. When a copy of the notice is sent through the mail as provided in this section, service shall be deemed complete when such copy is deposited in the United States mail.

E. Tenant meeting. A tenant who receives a 120-day notice as provided herein may request an in person meeting with the landlord to discuss the upcoming termination. If such request is made, the landlord shall schedule, notify tenants in writing, and hold such a meeting within 20 days of such request, at a time and location reasonably convenient for the parties. A landlord may schedule and hold one meeting for multiple tenants and requests. A landlord holding such meeting at a reasonable time and location shall meet the requirements herein, regardless of whether the impacted tenants attend.

F. The notices required herein do not apply when:

1. A landlord terminates for nonpayment of rent or for other cause allowed by the state RLTA, chapter 59.18 RCW, or the Forcible Entry and Forcible and Unlawful Detainer Act, chapter 59.12 RCW; or

2. A landlord is required to repair the dwelling unit due to a violation of the Minimum Building and Structures Code, TMC 2.01.050, and is found to be either derelict or unfit.

(Ord. 28645 Ex. A; passed Dec. 17, 2019: Ord. 28559 Ex. A; passed Nov. 20, 2018)

### 1.95.080 Tenant relocation assistance.

A. Tenant relocation assistance for condemned or unlawful dwelling. Landlords are required to comply with the relocation assistance and related requirements pursuant to RCW 59.18.085, Rental of condemned or unlawful dwelling – Tenant's remedies – Relocation assistance – Penalties.

B. Tenant relocation assistance for low-income tenants when residential property demolished, substantially rehabilitated, or upon the change of use.

1. When tenant relocation assistance applies. This section shall apply to low-income tenants when a notice is required under TMC 1.95.070.B, except as otherwise expressly required by state or federal law, and with the exception of displacement of tenants from the following:

a. Any dwelling unit demolished or vacated because of damage caused by an event beyond the landlord's control, including that caused by fire, civil commotion, malicious mischief, vandalism, tenant waste, natural disaster, or other destruction;

b. Any dwelling unit ordered vacated or demolished pursuant to TMC 2.01.050, Minimum Building and Structures Code, because of damage within the landlord's control;

c. Any dwelling unit owned or managed by the Tacoma Housing Authority;

d. Any dwelling unit located inside the boundaries of a major educational institution which is owned by the institution and which is occupied by students, faculty, or staff of the institution;

e. Any dwelling unit for which relocation assistance is required to be paid to the tenants pursuant to another state, federal, or local law; and

f. Any dwelling unit functioning as emergency or temporary shelter for homeless persons (whether or not such persons have assigned rooms or beds, and regardless of duration of stay for any occupant) operated by a nonprofit organization or public agency owning, leasing, or managing such dwelling unit.

2. Tenant Relocation Information Packet. When a landlord intends to displace a tenant, prior to the landlord providing the notice outlined in TMC 1.95.070.B, the landlord shall obtain from the City one Tenant Relocation Information Packet for each dwelling unit where tenants will be displaced. The Tenant Relocation Information Packet shall contain the following:

a. A Relocation Assistance Certification Form with instructions for its submission to the Director; and

b. A description of the relocation benefits potentially available to eligible tenants.

3. Delivery of Tenant Relocation Information Packet. When a landlord serves the notice required under TMC 1.95.070.B. the landlord shall also deliver a Tenant Relocation Information Packet to each dwelling unit where the tenants will be displaced.

4. Within 20 days of providing the Tenant Relocation Information Packet to tenants, the landlord shall provide the Director with a list of names of the legal tenants and number of dwelling units for the dwelling units at issue.

5. Tenant eligibility for relocation assistance. Low income tenants who are parties to a rental agreement for the dwelling unit may be eligible for relocation assistance only if the tenant to be displaced resides in a dwelling unit at issue when the landlord delivers the Tenant Relocation Assistance Packet. As used in this section, "low-income tenants" means tenants whose combined total income per dwelling unit is at or below 50 percent of the median income, adjusted for family size, in Pierce County.

6. Tenant income verification.

a. Within 20 days after the date of delivery of the Tenant Relocation Information Packet, each displaced legal tenant of a dwelling unit wanting to apply for relocation assistance must submit to the Director a signed and completed Relocation Assistance Certification Form certifying the names and addresses of all occupants of the dwelling unit, the total combined annual income of the legal occupants of the dwelling unit for the previous calendar year, the total combined income of all of the adult occupants for the current calendar year, and any other information that the Director may require to determine eligibility for this program. A tenant who, with good cause, is unable to return the certification form within 20 days may, within 20 days after the date of delivery of the Tenant Relocation Information Packet, submit to the Director a written request for an extension of time which details the facts supporting the claim of "good cause." If the request is submitted within the 20-day period and the facts constitute good cause in accordance with rules adopted pursuant to this chapter, the deadline for submission of the Relocation Assistance Certification Form may be extended by the Director another 20 days. The Director shall review the request and notify the tenant and landlord if an extension has been granted within ten business days.

b. If information submitted by a tenant on a Relocation Assistance Certification Form is incomplete or appears to be inaccurate, the Director may require the tenant to submit additional information to establish eligibility for relocation assistance.

c. Any tenant who fails or declines the opportunity to submit the Relocation Assistance Certification Form, who refuses to provide the information in a timely manner as required, or who is found to have intentionally misrepresented any material information regarding income or eligibility to relocation benefits, shall not be eligible for relocation assistance under this chapter.

7. Relocation assistance verification. Within 14 days of the Director's receipt of the signed Relocation Assistance Certification Forms from all tenants who are parties to a rental agreement in a dwelling unit, or within 14 days of the expiration of the same

tenants' 20-day period for submitting signed Relocation Assistance Certification Forms to the Director, whichever occurs first, the Director shall send to each dwelling unit household who submitted a signed certification form and to the landlord, by both regular United States mail and certified mail, return receipt requested, a notice stating whether the dwelling unit's certification form indicates eligibility for relocation assistance.

8. Relocation assistance payments.

a. Low-income tenants who are displaced, who comply with the requirements of this chapter, and are determined to be eligible by the Director, may receive a total relocation assistance payment of $2,000 for their eligible dwelling unit. The amount of relocation assistance shall be adjusted annually on or before January 1 by the percentage amount of change in the housing component of the Consumer Price Index, as published by the United States Department of Labor, Bureau of Labor Statistics. The relocation assistance payment shall be in addition to the refund from the landlord of any deposits or other sums to which the tenant is lawfully qualified to receive.

b. The landlord that is displacing a tenant is responsible for payment of one-half of the total amount of relocation assistance due to eligible tenants pursuant to this chapter and the City is responsible for one-half the relocation assistance due to eligible tenants pursuant to this chapter.

c. A tenant may be eligible to obtain a relocation assistance payment only after receipt of a notice from the Director of eligibility for tenant relocation assistance or, if an appeal was taken as outlined herein, after receipt of a final unappealed decision from the Hearing Examiner or a court that the tenant is eligible for relocation assistance.

d. An eligible tenant may obtain the relocation assistance payment by completing a request for relocation assistance. The Director shall notify the landlord obligated to pay such relocation assistance of the request. Within 21 days after submission of the tenants' request to the Director, the landlord and the City shall provide eligible tenants who will be displaced with their portion of the relocation assistance. A landlord must submit written proof to the City that it provided the eligible tenants with the required payment within five business days of such payment.

9. Appeal.

a. Either the tenant or the landlord may file an appeal with the Hearing Examiner, pursuant to TMC Chapter 1.23, of the Director's determination of the tenant's eligibility for relocation assistance or to resolve a dispute between the parties relating to unlawful detainer actions during relocation. An appeal regarding eligibility for relocation assistance shall be filed within ten days after the landlord or tenant receives the Director's notice of tenant eligibility. All requests for an appeal shall be in writing and shall clearly state specific objections and the relief sought, and shall be filed with the City Clerk. A record shall be established at the hearing before the Hearing Examiner. Appeals shall be considered de novo. The Hearing Examiner shall issue a decision within 30 days of a request for a hearing by either the tenant or landlord.

b. Judicial review of an administrative hearing decision relating to relocation assistance may be made by filing a petition in Pierce County Superior Court within ten days of the Hearing Examiner's decision. Judicial review shall be confined to the record of the administrative hearing and the court may reverse the decision only if the administrative findings, inferences, conclusions, or decision is:

(1) In violation of constitutional provisions;

(2) In excess of the authority or jurisdiction of the administrative hearing officer;

(3) Made upon unlawful procedure or otherwise is contrary to law; or

(4) Arbitrary and capricious.

10. If the City makes no appropriation to support this relocation assistance program in this subsection TMC 1.95.080.B, then neither the landlord nor the City shall be subject to the relocation assistance requirements for low-income tenants, and tenants shall not be entitled to relocation assistance as otherwise provided.

(Ord. 28559 Ex. A; passed Nov. 20, 2018)

## 1.95.090 Compliance and enforcement.

A. Compliance.

1. Any rental agreement or renewal of a rental agreement in a residential unit in the City of Tacoma entered into after February 1, 2019, shall include, or is deemed to include, a provision requiring the provisions outlined in this chapter.

2. A landlord is prohibited from engaging in reprisals or retaliatory actions pursuant to RCW 59.18.240 and 59.18.250, as they exist or are hereinafter amended, including reprisals or retaliatory actions against a tenant's good faith and lawful rights to organize.

3. Pursuant to provisions of the state RLTA (Chapter 59.18 RCW), landlords may not evict residential tenants without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.380).

a. In addition to any other legal defense a tenant may have, it is an additional affirmative defense to an unlawful detainer action that a landlord failed to:

(1) Give a 120-day or 60-day "no cause" notice to a monthly or periodic tenant as provided in Section 1.95.070, with service conforming with RCW 59.12.040, prior to the end of such month or period, unless a different for cause notice period is specifically authorized by law; or

(2) Provide relocation assistance in a timely manner as provided in Sections 1.95.080 or 1.95.090.

b. Any rental agreement provision which waives or purports to waive any right, benefit or entitlement created by this section shall be deemed void and of no lawful force or effect.

4. Joint and Several Responsibility and Liability. Responsibility for violations subject to enforcement under this chapter is joint and several, and the City is not prohibited from taking action against a person where other persons may also be potentially responsible persons, nor is the City required to take action against all potentially responsible persons.

B. Rebuttable Presumption.

1. If a landlord provides a 60-day notice to vacate under TMC 1.95.070.C, and within 90 days after the tenant vacates the dwelling unit, the landlord commences activity to demolish or substantially rehabilitate or change the use of the dwelling unit, the City shall presume that the landlord intended to avoid the 120-day notice to terminate requirement in TMC 1.95.070.B.

2. To overcome the presumption in subsection B.1, the landlord must demonstrate by a preponderance of evidence that either the termination was due to proper cause or, in the case of substantial rehabilitation, that the tenant left the dwelling uninhabitable such that substantial rehabilitation was necessary to rent the dwelling.

C. Powers and duties of the Director.

1. The Director is authorized to enforce this chapter and may promulgate rules and regulations consistent with this chapter, provided that the Director shall hold one or more public hearings prior to adoption of final rules and regulations.

2. The Director shall attempt to settle by agreement any alleged violation or failures to comply with the provisions of this chapter; provided that nothing herein shall create a right or entitlement of a landlord to settlement by agreement.

3. The Director is authorized to request records from landlord and the landlord shall allow the Director access to such records, as well as a complete roster of tenants names and contact information, when requested, with at least five business days' notice and at a mutually agreeable time, to investigate potential violations of the requirements of this chapter.

E. Notice of Violation.

1. If a violation of this chapter occurs, the Director shall issue a Notice of Violation. A Notice of Violation shall include:

a. The street address or a description of the building, structure, premises, or land in terms reasonably sufficient to identify its location where the violation occurred;

b. A description of the violation and a reference to the provisions of this chapter which have been violated;

c. A description of the action required to comply with the provisions of this chapter;

d. A statement that the landlord to whom a Notice of Violation is directed may request a hearing. Such request for hearing must be submitted in writing and must be received by the City Clerk no later than ten days after the Notice of Violation has been issued;

e. A statement that penalties will accrue as provided in this chapter;

f. An Advisory Letter to provide the Landlord with a timeline of the process and an invitation to conciliate.

2. The Notice of Violation shall be delivered, in writing, to the person to whom the Notice of Violation is issued by personal delivery or first-class mail.

F. Civil Penalties.

1. Any person violating a provision of this chapter shall be subject to the penalties as outlined below.

a. For a violation of Distribution of information required (TMC 1.95.030), Deposit requirements and installment payments (TMC 1.95.040), Notice requirement generally (TMC 1.95.050), or Notice to increase rent requirements (TMC 1.95.060), a landlord shall be subject to the following penalties:

(1) For the first violation for each affected dwelling unit, $500; and

(2) For each affected dwelling unit for each subsequent violation within a three year period, $1,000.

b. For a violation of a Notice to vacate (TMC 1.95.070), Tenant Relocation Assistance (TMC 1.95.080), and Retaliation prohibited (TMC 1.95.090.A.2), a landlord shall be subject to the following penalties:

(1) For each violation from the date the violation begins for the first ten days of noncompliance, $250 per day, per dwelling unit;

(2) For each violation for each day beyond ten days of noncompliance until compliance is achieved, $500 per day, per dwelling unit.

3. If the tenants have already relocated, but a violation of the notices required pursuant to Section 1.95.070 can be demonstrated by the City by a preponderance of the evidence, then any person violating any provision of this chapter shall be subject to a penalty in the amount of $1,000 per dwelling unit for which the violation occurred.

4. The Director may waive or reduce the penalty if the landlord comes into compliance within ten days of the Notice of Violation or shows that its failure to comply was due to reasonable cause and not willful neglect. If the Director finds a willful violation of this chapter, which resulted in a Notice of Violation outlined above, the Director may issue a Penalty that shall be $1,000.

5. Any civil penalties paid by the landlord shall be kept by the City.

F. Administrative Review by Director.

1. General. A person to whom a Notice of Violation or penalty is assessed may request an administrative review of the Notice of Violation or penalty.

2. How to request administrative review. A person may request an administrative review of the Notice of Violation or penalty by filing a written request with the Director within ten days from the date the Notice of Violation or penalty was issued. The request shall state, in writing, the reasons the Director should review the Notice of Violation or penalty. Failure to state the basis for the review in writing shall be cause for dismissal of the review. Upon receipt of the request for administrative review, the Director shall review the information provided. The City has the burden to prove a violation exists by a preponderance of the evidence.

3. Decision of Director. After considering all of the information provided, the Director shall determine whether a violation has occurred and shall affirm, vacate, suspend, or modify the Notice of Violation or penalty. The Director's decision shall be delivered, in writing, to the person to whom the notice of violation was issued by personal delivery or first class mail.

H. Appeals to the Hearing Examiner of Director's Decision. Appeal of the Director's decision shall be made within ten days from the date of the Director's decision by filing a written notice of appeal, clearly stating the grounds that the appeal is based upon, with the Hearing Examiner, which appeal shall be governed by TMC 1.23.

(Ord. 28559 Ex. A; passed Nov. 20, 2018)

## 1.95.100 Severability.

If any provision or section of this chapter shall be held to be void or unconstitutional, all other parts, provisions, and sections of this chapter not expressly so held to be void or unconstitutional shall continue in full force and effect.

(Ord. 28559 Ex. A; passed Nov. 20, 2018)