

Chapter 3.12

CODE OF ETHICS

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3.12.010 Purpose.

- A. The Pierce County Council recognizes the need for integrity in government and recognizes that the people of Pierce County consider governmental service to be a public trust. Accordingly, it is the purpose of this chapter to establish ethical standards of conduct for all officials and employees of the County, and for all people dealing with Pierce County government. This chapter is not to be construed so as to impair the ability of County officials and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.
- B. This chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for County officials, employees, and persons dealing with Pierce County government.
- C. It is the policy of Pierce County to encourage the full participation and expression of interest of all of the people of Pierce County in the legislative process. The provisions of this ordinance shall be liberally construed to promote full disclosure of lobbying in order to protect the openness and integrity of the legislative process.

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

- A. "Anything of value" means meals, lodging and travel other than that authorized by Chapter 3.92 PCC, entertainment, any real or personal property of any kind or the voluntary rendition of services of any kind or the promise of future employment or personal benefit whether or not such items are in the form of a gift, loan, political contribution or award, but shall not include the following:
1. Items from family members or friends provided that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;
 2. Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;
 3. Items exchanged among officials and employees or a social event hosted or sponsored by a County officer or County employee for coworkers;
 4. Payments by a governmental or nongovernmental entity, provided they are not a lobbyist or lobbyist's employer, of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
 5. Items a County officer or County employee is authorized by law to accept;
 6. Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution provided they are not a lobbyist or lobbyist's employer. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
 7. Items from which the recipient receives no personal benefit and which are returned by the recipient to the donor within thirty (30) days of receipt;
 8. Campaign contributions reported under Chapter 42.17 RCW;
 9. Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group;
 10. Awards, prizes, scholarships, or other items provided in recognition of academic, scientific or other achievement;
 11. Any symbolic presentation the nature of which is not to financially benefit the recipient; and

12. Relatively inexpensive items of personal property such as a box of candy or a bouquet of flowers which are given as a simple act of human kindness, thoughtfulness and appreciation.
- B. "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, consultant, holding company, joint stock company, receivership, trust or any legal entity organized for profit.
- C. "Business with which an individual is associated" means any business in which the person or a member of the person's immediate family:
1. Is a director, officer, partner, employee; or
 2. Knowingly owns, directly or indirectly, an interest (a) that exceeds one-tenth of one percent of the outstanding stock of all categories if the business is incorporated, or (b) that exceeds 1 percent of the net worth of an unincorporated business, or (c) that exceeds 1 percent of all debt obligations of the business, incorporated or unincorporated; or
 3. Attributes five (5) percent or more of the net worth of the individual to ownership of a financial interest in the business.
- D. "Candidate" means any individual who seeks election to public office. Pursuant to RCW 42.17.020, an individual shall be deemed to seek election when he first:
1. Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or
 2. Announces publicly or files for office.
- E. "Compensation" means payment in any form for real or personal property or services of any kind; PROVIDED, that "compensation" shall not include per diem allowances or payments made by a sponsoring entity to reimburse a public official for expenses incurred while engaged in the official business authorized by the sponsoring entity.
- F. "Complainant" means any person filing a complaint of a violation of the Code as set forth in Section 3.12.080.
- G. "Confidential information" means information exempt from public inspection and copying pursuant to RCW 42.17.310, and information required under Sections 3.12.030 and 3.12.080.
- H. "De minimus" means small, slight or trifling.
- I. "Elected or appointed official" means any person elected at a general or special election to any executive, legislative or judicial County office and any person who

is appointed to fill an elective County office. For purposes of this Code, Superior Court Judges are deemed state officials and are thus excluded from this definition.

- J. "Ethics Commission" or "Commission" means the Commission referred to in the Pierce County Charter, Section 9.50 and established in Section 3.12.070.
- K. "Executive" means the individual who serves as Chief Executive Officer of Pierce County pursuant to Pierce County Charter Section 3.20.
- L. "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, gift, contract, promise or agreement to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value. For the purposes of this chapter, agreements to make expenditures, contracts and promises to pay may be reported as estimated obligations until actual payment is made.
- M. "Governmental body" means any department, office, commission, council, board, administration or other establishment in the administrative, legislative or judicial branch of County government over which County government may lawfully exercise its jurisdiction.
- N. "Hearing Officer" means that person designated in Sections 3.12.060 and 3.12.080 as the proper person to receive complaints of violations of this Ethics Code and to make an initial review of such complaints for the purposes and in the manner as set forth herein.
- O. "Honorarium" means money or thing of value offered to a County officer or County employee for a speech, appearance, article, or similar item or activity in connection with the County officer's or County employee's official role, but does not include reimbursement of expenses reasonably incurred.
- P. "Immediate family" means spouse (unless a legal separation exists), dependents, and any other individuals residing in the person's household.
- Q. "Lobby" and "lobbying" each mean attempting to influence, by communicating with Council members or Council staff of the Pierce County Council to develop, adopt, modify or reject legislation, or attempting to influence, by communicating with the Executive or Executive staff, to approve or veto adopted legislation, or part thereof, presented to him or her.

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

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

3. **Communications or actions made by a person related to proposed motions to confirm or reject appointments by the Executive;**
 4. **Communications or actions made by a person related to proposed motions to exercise the Council's power of confirmation or removal;**
 5. **Communications or other actions related to proposed employment actions concerning legislative branch employees;**
 6. **Communications or other actions by any County employee acting within the scope of his or her employment with the County; or**
 7. **Communications or other actions by representatives of labor organizations related to existing or proposed collective bargaining agreement(s) with the County or other legislation which could affect specific existing or proposed collective bargaining agreements.**
- R. "Lobbyist" means any person who lobbies for compensation.**
- S. "Lobbyist's employer" means the person or persons by whom a lobbyist is employed or otherwise compensated for acting as a lobbyist. For purposes of this chapter, the term "lobbyist's employer" includes, but is not limited to:**
1. **Every person who engages or utilizes the services of any other person to lobby, upon an agreement express or implied, for compensation or for other consideration; and**
 2. **The officers and employees of such person and/or any third party who is engaged, employed, or utilized by such person to lobby.**
- T. "Person" means:**
1. **An individual;**
 2. **A partnership, limited partnership, public or private corporation, or joint venture;**
 3. **A nonprofit corporation, organization, or association, including but not limited to, a national, state, or local labor union or collective bargaining organization and a national, state, or local trade or professional association;**
 4. **A federal, state, or local governmental entity or agency, however constituted;**
 5. **A candidate, committee, political committee, bona fide political party, or executive committee thereof; and**
 6. **Any other organization or group of persons, however organized.**

- U. **"Pierce County employee"** means any individual who holds a position listed in Section 3.08.120 PCC or who is responsible for taking or recommending Pierce County official action of a nonministerial nature with regard to:
 - 1. **Contracting or procurement;**
 - 2. **Administering or monitoring grants or subsidies;**
 - 3. **Planning or zoning;**
 - 4. **Inspecting, licensing, regulating or auditing any person;**
 - 5. **Any other activity where the official action has an economic impact of greater than a de minimus nature on the interests of any person.**

- V. **"Pierce County personnel"** means any employee or elected or appointed official of Pierce County.

- W. **"Political contribution"** means any advance, conveyance, distribution, transfer of funds or anything of value, including personal and professional services for less than full consideration, loan, payment, pledge, forgiveness of indebtedness, forbearance, gift, deposit, subscription or purchase of a ticket to a testimonial or similar fund-raising affair in connection with a political campaign and any agreement or other obligation to make a political contribution.

- X. **"Section X. Entity"** means any entity, organization, association or agency that receives \$100,000 or more from Pierce County in any fiscal year as compensation, in full or in part, for providing direct services to residents of Pierce County. The Ethics Commission shall appoint a task force which shall hold public hearings, develop criteria for identifying Section X. entities and recommend a list of entities, organizations, associations, and agencies that meet that criteria for adoption by the Ethics Commission. Said list may be amended from time to time by the Commission.

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

3.12.030 Ethical Standards and Prohibited Practices Enumerated.

- A. **No County personnel shall, except for compensation as provided by law, use his or her office or any confidential information received thereby for any private purpose, including, without limitation: commercial purposes, financial gain, or present or future employment. Private purpose includes benefits received by the County personnel, members of his or her immediate family, and/or a business with which the County personnel is associated.**

- B. **1. No person shall offer or give anything of value to County personnel, members of their immediate family or business with which they are associated or to any candidate for elected County office, member of his or her immediate family or business with which he is associated based on any agreement or understanding**

that the vote or official action of any County personnel or any candidate for elected County office would be determined thereby.

2. No County personnel or candidate for elected County office shall solicit or accept anything of value based on any agreement or understanding that the vote or official action of any County personnel or any candidate for elected County office would be determined thereby.
- C.
1. No County personnel or candidate for elected County office shall solicit or encourage, directly or indirectly, any political contribution from any County personnel, nor knowingly accept any monetary contribution from County personnel in excess of one hundred dollars (\$100.00) per candidate per calendar year.
 2. Subsection C.1. above shall not apply to contributions by County personnel who are members of the immediate family of the elected official or candidate; provided, further, that each such contribution by County personnel shall be clearly identified by the donor as having been made by County personnel so that the candidate and/or the candidate's political organization can verify that the funds received are not in excess of the one hundred (\$100.00) per calendar year limitation. This limitation on contributions is not intended to prohibit County personnel from voluntarily participating during off-duty hours in political activities on behalf of a candidate for County office.
 3. No County personnel or candidate for County office shall use the power or authority of his or her office or position and/or the prospect of future office or position in a manner intended to induce or coerce any other person to provide, directly or indirectly, anything of value to said personnel, candidate or any other person, other than that which results naturally from the lawful and proper performance of one's official duties.
- D. No County personnel shall accept anything of value, other than compensation as provided by law, for assisting any person to present a matter to a governmental body, or to any other County personnel.
- E. No County personnel shall accept anything of value, other than compensation provided by law, for rendering the services for which he or she is legally compensated.
- F. No County personnel shall accept honoraria for any action or activity which is within the scope and duty of his or her employment by Pierce County.
- G. No County officer or County employee may receive, accept, take, seek, or solicit, directly or indirectly, anything of value for a matter connected with or related to the officer's or employee's services as such officer or employee unless otherwise provided for by law.
- H. No former County personnel shall, during the period of one year after leaving County office or employment, disclose or use any information gained by reason of his/her County employment to obtain anything of value for himself or for any

other person unless the information is a matter of public knowledge or is available to the public on request.

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

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

- a. Unsolicited flowers, plants, and floral arrangements;
 - b. Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
 - c. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
 - d. Informational material, publications, or subscriptions related to the recipient's performance of official duties;
 - e. Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature;
 - f. Food and beverages consumed at hosted receptions where attendance is related to the employee or candidate's official or prospective duties; and
 - g. Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization.
3. The presumption in Subsection 2. of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.
 4. For purposes of Subsections 1. and 2. of this section, the definition of gift does not include political contributions otherwise permitted by law.

3.12.035 Advisory Opinions.

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

3.12.040 Financial Disclosure.

- A. 1. All candidates for County elective office, within two (2) weeks of becoming a candidate as defined under RCW 42.17.020, as enacted or hereafter amended and all persons recommended by a party central committee to the County Council for appointment to a vacant elective County office, within five (5) days of acceptance of such recommendation; shall file with the County Auditor a copy of the completed report required to be filed under RCW 42.17.240, as enacted or hereafter amended, and commonly referred to as Form F-1 or F-1-A, which bears an original signature of the person filing the report. All elected or appointed officials, on or before the date provided by State law, shall file with the County Auditor a copy of the completed report required to be filed under RCW 42.17.240, as enacted or hereafter amended. These reports shall be public documents filed in the Auditor's office.**
- 2. In addition to the persons enumerated in Subsection A.1. above, the County Council may, by ordinance, require other County personnel to file with the County Auditor a copy of the report required to be filed by RCW 42.17.240, as enacted or hereafter amended, and commonly referred to as Form F-1, which bears an original signature of the person filing the report.**
- B. It shall be sufficient to report amounts disclosed under Subsection A. of this section as within the ranges permitted by State law, Ch. 42.17 RCW and WAC 390-24:**
- C. Council Administrators, the District Court Administrator, the Superior Court Administrator, the Executive's Chief of Staff, all Executive department directors, and appointees to Executive department director positions shall comply with the financial disclosure requirements of this section.**
- D. Chief Executive Officers, or the equivalent, of Section X. entities shall make the financial disclosures required of County officials in this section. This subsection shall not be implemented until the Ethics Commission has adopted its list of Section X. entities as described in PCC 3.12.020 X.**

3.12.050 Administration of Reports. With respect to those reports required to be filed under Section 3.12.040, the County Auditor shall:

- A. Provide forms for reports, statements, notices and other forms required, and furnish the same to persons required to file such statements and reports;**
- B. Accept and file any information voluntarily supplied that exceeds the requirements;**
- C. Make statements and reports filed available during regular office hours for public inspection and copying upon written and signed request, and make copying facilities available at a charge not to exceed actual cost;**
- D. Compile and maintain an index of all reports and statements filed to facilitate public access to such reports and statements;**

- E. Preserve statements and reports filed for a period consistent with the period provided in RCW 42.17.450, as enacted or hereafter amended; and
- F. Post an index of statements and reports filed on the Auditor's website.

3.12.054 Lobbyist Registration.

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

3.12.056 Lobbyist Reporting.

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

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

- A. Citizen Lobbyists. Persons who lobby without compensation or with compensation or other consideration limited to reimbursement for minor incidental personal expenses, such as mileage, parking, meals, photocopying, telephone, and facsimiles, for acting as a lobbyist shall be considered citizen

lobbyists and shall be exempt from registration. The exemption contained in this section is intended to permit and encourage citizens of the County to lobby any Council member or the Executive without incurring any registration or reporting obligation. Any person exempt under this section may, at his or her option, register and report under this chapter.

- B. Technical Experts.** It is understood that some entities or organizations may employ a specific person or persons as lobbyists. In addition, other employees of certain entities or organizations, or contracted experts, may have occasion to meet on an irregular basis with Council members or the Executive or appear before public sessions of the Council or its committees to provide information or expert testimony. Such other employees or contracted experts shall not be required to register or report under this chapter only if:
1. They restrict their activities as defined in this section to no more than six (6) days or parts thereof during any quarter. Appearing before public sessions of the Council and committees of the Council are not counted towards the six (6) days; and
 2. They are not registered as a lobbyist with the Washington State Public Disclosure Commission as a representative of the same client or organization for which they are an employee or contracted technical expert.

Any person exempt under this section may, at his or her option, register and report under this chapter.

- C. Governmental Officials, Officers and Employees.** Except for a person or persons specifically employed or otherwise retained by a governmental agency to lobby, elected officials, officers and employees of any local, state or federal government agency acting within the scope of their representation of or employment with such agency are not required to register or report under this chapter.
- D. Media Persons.** News or feature reporting activities and editorial comment by working members of the press, radio or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, on-line media person or television station shall be exempt from registration and reporting under this chapter. Any person exempt under this section may, at his or her option, register and report under this chapter.

3.12.060 Hearing Officer.

- A.** There is established the position of "Hearing Officer" whose function will be to receive written complaints of alleged violations of this Ethics Code, and to investigate the complaints in order to make an initial threshold determination whether probable cause exists to believe that a violation of this Code has occurred, all as set forth in Section 3.12.080.
- B.** The Hearing Officer shall be selected by the Ethics Commission by majority vote for a one year contract. The Hearing Officer's contract may be renewed by a majority vote of the Commission. The Hearing Officer shall be a member in good

standing with the Washington State Bar Association, shall have been licensed to practice law in the State of Washington for a minimum of five (5) years, and shall have prior judicial experience as a member of the Superior Court or Appellate Court Bench. If an individual with prior judicial experience is unavailable to serve, this requirement may be waived. Because of its sensitive position, the Hearing Officer must avoid even the appearance of a conflict of interest. Therefore, the Hearing Officer shall be bound by the same restrictions as are set forth in Section 3.12.070 for members of the Ethics Commission.

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

3.12.070 Ethics Commission.

- A. There is established an "Ethics Commission" composed of five (5) members appointed by the County Executive and subject to confirmation by a majority of the Council. These members shall serve without pay.
- B. At least one (1) member of the Commission shall be licensed to practice law in the State of Washington and all members shall be registered voters in the State of Washington.
- C. At least three (3) members of the Commission shall be employed in or retired from the private sector.
- D. The original members shall be appointed within sixty (60) days after adoption of the ordinance codified in this Chapter. Two of the original five members shall serve initial terms of two years and one of the original members shall serve an initial term of one year, as determined by the drawing of lots. Thereafter, members of the Commission shall be appointed to three-year terms. Members shall serve until his or her successor is appointed or for sixty (60) days following the expiration of the term, whichever is sooner.
- E. No member of the Commission, during his or her tenure, shall:
 - 1. Hold or campaign for elective office;
 - 2. Be an officer of any political party or political committee;
 - 3. Make contributions, or permit his or her name to be used in support of, or in opposition to, any candidate for County office;

- 4. Lobby or employ or assist a lobbyist.**
- F. No person shall be eligible for appointment to more than two three-year terms, except as provided in Subsection G. of this section.**
- G. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds, and shall be eligible for appointment to two full three-year terms thereafter. Any vacancy occurring on the Commission shall be filled within sixty (60) days in the manner in which that position was originally filled. A vacancy shall not impair the powers of the remaining members to exercise all the powers of the Commission.**
- H. The Commission may select a presiding officer in the manner it deems appropriate.**
- I. Three (3) members of the Commission shall constitute a quorum and a vote of three (3) members is required for any action or recommendation of the Commission. The Commission shall meet as frequently as it deems necessary, provided that ten (10) days advance written notice is mailed to each Commission member and to any person who has filed a request to be notified of such meetings.**
- J. In addition to the duties prescribed by the Code of Ethics, the Commission shall have the following powers:**
 - 1. Following a determination of probable cause by the Hearing Officer, act as the primary investigative body for violations of the provisions of this chapter.**
 - 2. Preserve all files, statements, correspondence and records of proceedings for a period of seven (7) years.**
 - 3. To adopt procedures to govern the conduct of the Commission.**
 - 4. To conduct investigations and hold hearings.**
 - 5. To advise the Executive as to budget requirements and make expenditures in accordance with the annual budget.**
 - 6. To request the services of the Prosecuting Attorney.**
 - 7. To consider questions of ethical conduct if in the public interest, and to issue advisory opinions.**
 - 8. To make recommendations to the County Executive and the County Council for amendments to this chapter and for such other legislation affecting the subject matter of this chapter as the Commission may deem necessary or desirable.**

9. To provide through coordination with the Human Resources Department, a continuing program of education, assistance, and information regarding ethical conduct to all county officers and employees.
- K. When, in the judgment of the Executive, a member of the Ethics Commission has violated any provision of this Ethics Code or other law or has engaged in any of the activities prohibited in Subsection E. of this section, the Executive may recommend to the County Council that the member be removed. Upon concurrence of a majority of the Council the member shall be removed from the Commission, a vacancy declared and a new member appointed.
- L. Members of the Ethics Commission shall not discuss any hearing or investigation regarding a violation or alleged violation of this Code of Ethics, nor divulge the identity of any complainant or respondent except through the process prescribed by this Code.
- M. All meetings of the Ethics Commission shall comply with the Open Public Meetings Act, Chapter 42.30 RCW.
- N. The County shall provide ten thousand dollars (\$10,000) annually to the Commission, through the annual budget process, to cover the costs of staff assistance.

3.12.080 Enforcement Procedures.

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

has been filed constitutes a Class 1 civil infraction as defined by Chapter 1.16 PCC.

- B. If a complainant breaches confidentiality regarding the fact that a complaint has been filed, the complaint may be dismissed as provided in Section 3.12.090 C. unless the subject of the complaint files a request with the Commission to complete the investigation.**
- C. Upon receipt of the above-described complaint, the Hearing Officer shall conduct such investigation of the allegations contained therein as he or she deems necessary and appropriate in order to make an initial determination as to whether probable cause exists to believe that a violation of this Ethics Code has occurred.**
- D. If the Hearing Officer is satisfied that there is no probable cause to believe that a violation of this Ethics Code has occurred, he or she shall:**
 - 1. So notify the complainant and the subject of the complaint; in writing. Written correspondence shall be deemed received within three days of the postmarked date;**
 - 2. Prepare written findings and conclusions regarding the complaint stating the factual basis for the findings and the legal basis for the conclusions;**
 - 3. File the findings, conclusions and a notice of no probable cause with the Ethics Commission;**
 - 4. If he or she believes a criminal act of a type not covered by the Ethics Code was committed, submit his or her file to the appropriate law enforcement authorities;**
 - 5. Take no further action other than as specified above and maintain confidentiality regarding his or her investigation.**
- E. In the event complainant believes that the Hearing Officer did not fairly and impartially review his or her complaint prior to determining no probable cause, complainant may file, by mailing to the Ethics Commission, a request for reconsideration with the Chair of the Commission. A statement that the Hearing Officer did not make a fair and impartial review because of reasons of conflict of interest, bias or prejudice must be attached to the request for reconsideration.**
 - 1. The statement must set forth facts and reasons for the belief that the conflict of interest, bias or prejudice exists.**
 - 2. The statement shall be postmarked no more than twenty (20) calendar days after complainant is deemed to receive notice of the Hearing Officer's original finding of no probable cause.**
 - 3. The Chair shall rule on the adequacy of the statement prior to referring the statement to the Commission. The Commission shall then review the original complaint, the statement, any other written materials which were considered**

by the Hearing Officer, and the Hearing Officer's findings and conclusions, to determine if probable cause exists. If four (4) Commission members find that probable cause does exist, the Commission shall:

- a. Prepare and file its own written findings and conclusions;
 - b. Proceed as set forth in Subsection F. of this section.
4. Should it appear to the satisfaction of four (4) members of the Commission at any time that any of the statements presented to it pursuant to this section are presented in bad faith or solely for the purpose of harassing a respondent or prolonging the investigation, the Commission shall order the complainant submitting them to pay to the Commission and the respondent the amount of reasonable expenses which the filing of the statement caused it to incur, including reasonable attorneys fees, and shall declare no violation has occurred.
- F. If the Hearing Officer finds probable cause to believe an Ethics Code violation has occurred, he or she shall:
1. Prepare written findings and conclusions regarding the complaint stating the factual basis for the findings and the legal basis for the conclusions;
 2. File the findings and conclusions and a notice of probable cause with the Ethics Commission;
 3. Submit his or her file to the appropriate law enforcement authorities if he or she believes a criminal act of a type not covered by the Ethics Code was committed;
 4. Take no further action other than as specified above and maintain confidentiality regarding the complaint, the investigation and findings.
- G. Except as set forth in this section, the Hearing Officer and the Commission shall keep in strict confidentiality the fact that a complaint has been received, the contents of the complaint, the identity of the party making the complaint, the results of the investigation and the Hearing Officer's findings and conclusions.
- H. Upon receipt of the Hearing Officer's findings of probable cause, the Commission may choose between the two courses of action as follows:
1. Refer the matter to the office of the Pierce County Prosecutor for criminal prosecution; provided, that upon a determination that the proof beyond a reasonable doubt necessary for criminal conviction is not available, the office of the County Prosecutor may refer the matter back to the Commission for proceedings consistent with the civil burden of proof; e.g., a simple preponderance of the evidence; or

2. Retain the matter for its own formal investigation with a view toward the ultimate imposition of a civil penalty or penalties in the event it is determined an actual violation has occurred.
- I. Should the Commission decide to retain the matter for its own formal investigation pursuant to Subsection G.2. above, the Commission shall notify, in writing, the complainant, and the respondent, of its decision to pursue a formal investigation by way of holding a hearing to determine if a violation has occurred.
 - J. Respondents shall be informed as to their rights to have the hearing either open or closed to the public pursuant to the requirements of RCW 42.30.110(1)(f) and (2).
 - K.
 1. Hearings conducted by the Commission shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law. The respondent may be represented by legal counsel and/or by his or her bargaining representative and may present and cross-examine witnesses and give evidence before the Commission. The Commission may call witnesses on its own motion and compel the production of books, records, papers or other evidence needed. To that end the Ethics Commission shall issue subpoenas and subpoenas duces tecum at the request of the Commission or the person complained against. All testimony shall be under oath administered by a member of the Commission. The Commission may adjourn its hearing from time to time in order to allow for the orderly presentation of evidence.
 2. Upon motion of respondent or upon its own motion, the Commission may temporarily stay or permanently suspend its investigation when, in its informed discretion, the manifest needs of justice and fairness will be better served thereby.
 3. Commission shall prepare an official record of the hearing, including all testimony which shall be recorded manually or by mechanical device, and exhibits; provided, the Commission shall not be required to transcribe such records unless an individual entitled to knowledge of the contents of the record presents a request accompanied by payment of the cost of transcription.
 - L. Within thirty (30) calendar days after the conclusion of the hearing, the Commission shall, based upon a preponderance of the evidence, make and fully record, in its permanent records, findings of fact, conclusions of law, and an order containing the final disposition including where appropriate the civil sanction(s) imposed. A copy of the findings, conclusions and order shall be forwarded by registered mail to the complainant and to the respondent at addresses provided by both persons to the Commission.
 - M. Any person found, by final written order of the Commission, to be in violation of this Code of Ethics may appeal the Commission's decision in the manner and form as provided by State law.
 - N. If no appeal is perfected within the thirty (30) calendar days following the date of the Commission's final order, and voluntary compliance with the order does not

occur, the County Prosecutor shall petition in Superior Court for enforcement of the Commission's order in a manner patterned after that which is currently provided for enforcement of orders entered by the State Public Disclosure Commission in RCW 42.17.397 (Laws of Washington, 1975-76 2d ex. s.c. 112-13).

3.12.085 Breach of Confidentiality - Civil Infraction. Any complainant who breaches confidentiality regarding the fact that a complaint has been filed with the Ethics Commission shall be subject to a Class 1 civil infraction citation pursuant to Chapter 1.16 PCC.

3.12.090 Civil Penalties – Other Sanctions Preserved.

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

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

3.12.100 Criminal Penalties.

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

3.12.110 Miscellaneous Administrative Provisions. It shall be the responsibility of all elected or appointed officials to distribute this Code of Ethics to each employee under his or her official authority. Distribution must be made within ninety (90) days of the adoption hereof. Each employee receiving a copy shall initial a list indicating receipt of the Code. The Human Resources Department shall be responsible for maintaining the lists as public documents. The responsibility of distributing Ethics Codes shall be continuous, requiring present and future elected officials to distribute true copies to all new employees and to require written indication of receipt of such copies.

3.12.120 Limitation on Actions.

- A. Prosecutions for misdemeanors as set forth in this Code of Ethics must be commenced within one (1) year after the date when the violation occurred.
- B. Any other action brought under the provisions of this Ethics Code must be commenced within two (2) years after the date when the violation occurred. For purposes of this limitation, the filing of a complaint with the Hearing Officer shall be deemed to have "commenced" an action.

3.12.130 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.