

**PROPOSED AMENDMENT 1, sponsored by CM Herbold: Removing the definition of “sexual harassment” and specifying that discrimination includes harassment, both racial and sexual, and based on other protected classes.**

Note: In this document, double underlines indicate proposed new language. ~~Double strikeouts~~ indicate language added in the original Council Bill that would be removed. A dashed underline indicates language previously proposed to be removed from the Seattle Municipal Code that would instead be retained if this amendment is passed.

..title

AN ORDINANCE relating to the Human Rights code; extending the amount of time available to a person to file a charge with the Office for Civil Rights regarding unfair employment, public accommodations, housing, and contracting processes; specifying that discrimination includes sexual harassment; defining the term sexual harassment; and amending Sections 14.04.030, 14.04.090, 14.06.020, 14.06.050, 14.08.020, 14.10.020, and 14.10.060 of the Seattle Municipal Code.

..body

WHEREAS, sexual violence, discrimination, and harassment have been in the national and local spotlight recently, and the City of Seattle’s employees and residents have and likely are experiencing sexual discrimination and harassment in varied facets of their lives; and

WHEREAS, sexual harassment is illegal discrimination based on sex, and harassment based on race, sexual orientation, national origin, religion, or other protected classes is also illegal discrimination that is prohibited by Chapters 14.04, 14.06, 14.08 and 14.10 of the Seattle Municipal Code; and

WHEREAS, sexual harassment in the workplace is in violation of Title VII of the Civil Rights Act, 42 U.S.C. 2000e, *et seq.*, chapter 49.60 RCW, Seattle Municipal Code Chapter 14.04, and City policy; and

WHEREAS, harassment will not be tolerated by the City of Seattle, as the City is committed to fostering an environment free from discrimination, promoting equal employment opportunities, and equitable treatment, in line with the City’s race and social justice values and City policy; and

WHEREAS, the Mayor and City Council adopted policies and procedures governing harassment complaints in 1989 through Resolution 28119 and have revised and updated them periodically since that time; and

WHEREAS, City employees and Seattle residents who allege sexual harassment under the City's fair employment, unfair public accommodations, or fair contracting laws and wish to file an administrative charge with the Seattle Office for Civil Rights must do so 180 days after the occurrence of the alleged incident, and if filing an administrative charge under the City's unfair housing laws, must file within one year of the alleged incident; and

WHEREAS, state and federal statutes provide a longer period of time for persons alleging harassment to file claims—the Equal Employment Opportunity Commission (EEOC) allows a person to file a charge of discrimination within 300 days of the alleged incident if there is a state or local law with prohibitions similar to federal law and the Fair Housing Act allows a person to file a charge of discrimination within one year of the alleged incident; and

WHEREAS, a person alleging sexual harassment should have longer than 180 days to decide whether to file an administrative charge with the Seattle Office for Civil Rights; and

WHEREAS, extending the statute of limitations for filing administrative charges with the City does not affect the statute of limitations for filing independent private civil actions under City, State, or Federal laws or filing administrative charges at other bodies at the state or federal level, though it might affect the order in which a person filing an administrative charge does so;<sup>1</sup> NOW, THEREFORE,

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<sup>1</sup> For example, with the current 180-day statute of limitation to file an administrative charge under Seattle Municipal Code Chapter 14.04, a race or sex discrimination filing would be dual filed with the EEOC within its 300-day statute of limitation. With an administrative charge statute of limitations longer than 300 days, the EEOC claim must be filed first for dual filing to result, and if a person only files an administrative charge with the City after 300 days,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 14.04.030 of the Seattle Municipal Code, last amended by Ordinance 124829, is amended as follows:

**14.04.030 Definitions((:))**

\* \* \*

I. “Discrimination,” “discriminate,” and/or “discriminatory act” means any act, by itself or as part of a practice, which is intended to or results in different treatment or differentiates between or among individuals or groups of individuals by reason of race, color, age, sex, marital status, sexual orientation, gender identity, genetic information, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status, or the presence of any disability. “Discrimination,” “discriminate,” and/or “discriminatory act” includes ~~sexual harassment~~, ~~such as racial and sexual harassment~~, ~~as well as harassment based on other protected classes.~~

\* \* \*

~~V. “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature between two or more individuals if:~~

~~1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of an individual’s employment;~~

~~2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual’s employment; or~~

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that person will lose the ability to gain relief through the EEOC, including the ability to file a lawsuit under Title VII of the Civil Rights Act of 1964.

~~3. That conduct or communication has the purpose or effect of unreasonably interfering with an individual's work performance, or of creating an intimidating, hostile, or offensive work environment.~~

~~(V)~~ ~~W~~. “Sexual orientation” means actual or perceived male or female heterosexuality, bisexuality, or homosexuality and includes a person's attitudes, preferences, beliefs and practices pertaining thereto.

~~(W)~~ ~~X~~. “Honorably discharged veteran or military status” means:

1. A veteran, as defined in RCW 41.04.007; or
2. 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.

~~(X)~~ ~~Y~~. “Service animal” means an animal that provides medically necessary support for the benefit of an individual with a disability.

Section 2. Section 14.04.090 of the Seattle Municipal Code, last amended by Ordinance 123527, is amended as follows:

**14.04.090 Charge—Time for filing(())**

A. Charges filed under this (~~chapter~~) Chapter 14.04 must be filed within (~~180 days~~) one year and six months after the occurrence of the alleged unfair employment practice with the Office for Civil Rights.

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Section 3. Section 14.06.020 of the Seattle Municipal Code, last amended by Ordinance 124829, is amended as follows:

**14.06.020 Definitions(())**

\* \* \*

L. “Discrimination” means any conduct, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, participation in a Section 8 program, the presence of any disability, the use of a service animal by a disabled person, or the right of a mother to breastfeed her child. “Discrimination” includes sexual harassment, such as racial and sexual harassment, as well as harassment based on other protected classes.

\* \* \*

~~Y. “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature between two or more individuals if:~~

~~1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of full and equal enjoyment of facilities, goods, and services;~~

~~2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual’s ability to fully and equally enjoy facilities, goods, or services; or~~

~~3. That conduct or communication has the purpose or effect of unreasonably interfering with an individual’s ability to fully and equally enjoy facilities, goods, or services by creating an intimidating, hostile, or offensive environment.~~

~~(Y)~~ Z. “Sexual orientation” means actual or perceived male or female heterosexuality, bisexuality, or homosexuality, and includes a person's attitudes, preferences, beliefs and practices pertaining thereto.

~~((Z)) AA.~~ “Honorably discharged veteran or military status” means:

1. A veteran, as defined in RCW 41.04.007; or
2. 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.

~~((AA)) BB.~~ “The right of a mother to breastfeed her child” means a mother's right to feed her child directly with milk from her breast or to pump milk from her breast for future consumption by her child, without being required to cover her breast or to move to a particular location within or outside of the public accommodation on account of the act of breastfeeding.

Section 4. Section 14.06.050 of the Seattle Municipal Code, enacted by Ordinance 121593, is amended as follows:

**14.06.050 Charge—Filing((:))**

A. An aggrieved person may, not later than ~~((one hundred eighty (180) days))~~ one year after an alleged unfair practice has occurred or terminated, file a charge with the Director alleging such unfair practice. The charge shall be in writing and signed under oath or affirmation before the Director, one of the Department's employees, or any other person authorized to administer oaths. The charge shall describe the alleged unfair practice and should include a statement of the dates, places and circumstances, and the persons responsible for such acts and practices. Upon the filing of a charge alleging an unfair practice, the Director shall cause to be served upon the charging party a written notice acknowledging the filing, and notifying the charging party of the time limits and choice of forums provided in this ~~((chapter))~~ Chapter 14.06.

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Section 5. Section 14.08.020 of the Seattle Municipal Code, last amended by Ordinance 125228, is amended as follows:

## 14.08.020 Definitions

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“Discrimination” means any conduct, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, alternative source of income, participation in a Section 8 or other subsidy program, the presence of any disability, or the use of a service animal by a disabled person. “Discrimination” includes ~~sexual harassment, such as racial and sexual harassment, as well as harassment based on other protected classes.~~

\* \* \*

“Sexual orientation” means actual or perceived male or female heterosexuality, bisexuality, or homosexuality, and includes a person's attitudes, preferences, beliefs, and practices pertaining thereto.

~~“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature between two or more individuals if:~~

~~1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of access to or retention of an individual's housing or housing-related services or transactions;~~

~~2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's housing or housing-related services or transactions; or~~

~~3. That conduct or communication has the purpose or effect of unreasonably interfering with the terms or conditions of an individual's tenancy, or of creating an intimidating, hostile, or offensive environment.~~

“Steering” means to show or otherwise take an action which results, directly or indirectly, in steering a person or persons to any section of the City or to a particular real property in a manner tending to segregate or maintain segregation on the basis of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, alternative source of income, participation in a Section 8 or other subsidy program, the presence of any disability, or the use of a service animal by a disabled person.

“Verifiable” means the source of income can be confirmed as to its amount or receipt.

“Honorably discharged veteran or military status” means:

1. A veteran, as defined in RCW 41.04.007; or
2. 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.

Section 6. Section 14.10.020 of the Seattle Municipal Code, last amended by Ordinance 124829, is amended as follows:

#### **14.10.020 Definitions**

\* \* \*

“Discrimination,” “discriminate,” and/or “discriminatory act” means any act (other than an action taken in accordance with a lawful affirmative action program) or failure to act whether by itself or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals by reason of race, color, age, sex, marital status,



sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status or the presence of disability, unless based upon a bona fide occupational qualification. “Discrimination,” “discriminate,” and/or “discriminatory act” includes ~~sexual harassment, such as racial and sexual harassment, as well as harassment based on other protected classes.~~

\* \* \*

“Respondent” means any person who has been alleged or found to have committed an unfair contracting practice prohibited by this ((chapter)) Chapter 14.10.

~~“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature between two or more individuals if:~~

~~1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of the award, referral, or assignment of a contract, including price, performance standards, or other provisions of a contract;~~

~~2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting the terms, conditions, award, referral, or assignment of a contract; or~~

~~3. That conduct or communication has the purpose or effect of unreasonably interfering with contract performance, or of creating an intimidating, hostile, or offensive environment during the contracting process.~~

“Sexual orientation” means actual or perceived male or female heterosexuality, bisexuality, or homosexuality and includes a person's attitudes, preferences, beliefs and practices pertaining thereto.

“Trade association” means an association of business organizations engaged in similar fields of business which is formed for mutual protection, the interchange of ideas, information and statistics or the maintenance of standards within their industry.

Section 7. Section 14.10.060 of the Seattle Municipal Code, enacted by Ordinance 119601, is amended as follows:

**14.10.060 Charge—Time for filing((;))**

Charges filed under this ((chapter)) Chapter 14.10 must be filed with the Department within ((one hundred eighty (180) days)) one year and six months after the occurrence of the alleged unfair contracting practice.