

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to the Human Rights Code; extending worker protections to domestic workers; amending Sections 14.04.010, 14.04.020, 14.04.030, 14.04.040, 14.04.050, 14.04.080, 14.04.090, 14.04.130, 14.04.140, 14.04.150, 14.04.180, and 14.04.185 of the Seattle Municipal Code.

..body

WHEREAS, the labor domestic workers provide is an important contribution to The City of Seattle’s (“City”) economy and prosperity, and provides the support services that enable other individuals to participate in the workforce; and

WHEREAS, while the individual nature of domestic work makes it challenging to identify the number of domestic workers, using available labor data from the American Community Survey and Bureau of Labor Statistics and information from their labor and community networks, the Seattle Domestic Workers Alliance (SDWA) estimates there are around 33,000 domestic workers in Seattle; and

WHEREAS, many domestic workers are women, immigrants, and people of color who work in or about private homes, isolated from other workers; and

WHEREAS, due to the isolated nature of their work, many domestic workers are unaware of their rights and many hiring entities are unaware of their responsibilities; and

WHEREAS, Ordinance 125627, passed by the City Council on July 23, 2018, established labor standards for domestic workers and a Domestic Workers Standards Board in Chapter 14.23 of the Seattle Municipal Code; and

WHEREAS, Ordinance 125627 will be implemented and enforced by the City’s Office of Labor Standards; and

1 WHEREAS, the definition of “domestic worker” pursuant to Ordinance 125627 includes  
2 employees and independent contractors, hourly and salaried employees, full-time and  
3 part-time workers, and temporary workers, in recognition that domestic workers are in  
4 varying work arrangements; and

5 WHEREAS, due to the isolated nature of their work many domestic workers are often vulnerable  
6 and at risk of experiencing inappropriate behavior, including sexual harassment, and may  
7 not know how to seek recourse and may be afraid to speak out or complain; and

8 WHEREAS, domestic workers who are employed by an individual household or agency are  
9 covered by Chapter 14.04 of the Seattle Municipal Code, which prohibits employment  
10 discrimination including sexual harassment; and

11 WHEREAS, Chapter 14.04 of the Seattle Municipal Code is implemented and enforced by the  
12 Seattle Office for Civil Rights; and

13 WHEREAS, the City wishes to ensure that domestic workers are protected from discrimination  
14 regardless of status as an employee or independent contractor; NOW, THEREFORE,

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

16 Section 1. Section 14.04.010 of the Seattle Municipal Code, enacted by Ordinance  
17 109116, is amended as follows:

18 **14.04.010 Short title ((=))**

19 This chapter shall constitute the “Seattle Fair Employment Practices Ordinance” and may be  
20 cited as such.

21 Section 2. Section 14.04.020 of the Seattle Municipal Code, last amended by Ordinance  
22 123527, is amended as follows:

23 **14.04.020 Declaration of policy ((=))**

1 \* \* \*

2 C. The provisions of this ~~((chapter))~~ Chapter 14.04 shall apply to ~~((both))~~ private  
3 employers, hiring entities, and the City ~~((,))~~ and shall be liberally construed for accomplishment  
4 of its policies and purposes; ~~((provided that))~~ however, nothing in this ~~((chapter))~~ Chapter 14.04  
5 shall be construed so as to infringe upon the authority vested in the Civil Service Commission,  
6 the Public Safety Civil Service Commission, and City ~~((Departments))~~ departments by the City  
7 Charter. The provisions of this chapter shall apply to both employees and domestic workers and  
8 shall be liberally construed for accomplishment of its policies and purposes.

9 \* \* \*

10 Section 3. Section 14.04.030 of the Seattle Municipal Code, last amended by Ordinance  
11 125576, is amended as follows:

12 **14.04.030 Definitions**

13 When used in this ~~((chapter))~~ Chapter 14.04, unless the context otherwise requires:

14 ~~((A-))~~ “Charging party” means the person aggrieved by an alleged unfair employment or  
15 domestic services practice or the person making a charge on another person’s behalf, or the  
16 Director when the Director files a charge.

17 ~~((B-))~~ “City department” means any agency, office, board, or commission of the City, or  
18 any Department employee acting on its behalf, but shall not mean a public corporation chartered  
19 under ~~((Ordinance 103387, or its successor ordinances))~~ Chapter 3.110, or any contractor,  
20 consultant, concessionaire, or lessee.

21 ~~((C-))~~ “Commission” means the Seattle Human Rights Commission.

22 ~~((D-))~~ “Department” means the Seattle Office for Civil Rights, ~~((of the City.))~~

23 ~~((E-))~~ “Director” means the Director of the Office for Civil Rights.

1           ~~((F.))~~ “Disabled” means a person who has a disability.

2           ~~((G.1.))~~ “Disability” means the presence of a sensory, mental, or physical impairment  
3 that: ~~((a.1s))~~ is medically cognizable or diagnosable; ~~((or b. Exists))~~ exists as a record or history;  
4 or ~~((c. Is))~~ is perceived to exist, whether or not it exists in fact.

5           ~~((2))~~ A.           A disability exists whether it is temporary or permanent, common or  
6 uncommon, mitigated or unmitigated; ~~((7-0F))~~ whether or not it limits the ability to work  
7 generally or work at a particular job; or whether or not it limits any other activity within the  
8 scope of this ~~((chapter))~~ Chapter 14.04.

9           ~~((3))~~ B.           For purposes of this definition, “impairment” includes, but is not limited  
10 to:

11                   ~~((a))~~ 1.           Any physiological disorder ~~((7))~~ or condition, cosmetic  
12 disfigurement, or anatomical loss affecting one or more of the following body systems:  
13 neurological, musculoskeletal, special sense organs, respiratory ~~((7))~~ (including speech organs),  
14 cardiovascular, reproductive, digestive, ~~((genitor))~~ genito-urinary, hemic and lymphatic, skin,  
15 and endocrine; or

16                   ~~((b))~~ 2.           Any mental, developmental, traumatic, or psychological disorder,  
17 including but not limited to cognitive limitation, organic brain syndrome, emotional or mental  
18 illness, and specific learning disabilities.

19           ~~((4))~~ C.           Only for the purposes of qualifying for reasonable accommodation in  
20 employment and domestic services, an impairment must be known or shown through an  
21 interactive process to exist in fact and:

22                   ~~((a))~~ 1.           The impairment must have a substantially limiting effect upon the  
23 individual’s ability to perform ~~((his or her))~~ that individual’s job, the individual’s ability to apply

1 or be considered for a job, or the individual’s access to equal benefits, privileges, or terms or  
2 conditions of employment or domestic services; or

3                   ((b)) 2.           The employee or domestic worker must have put the employer or  
4 hiring entity on notice of the existence of an impairment, and medical documentation must  
5 establish a reasonable likelihood that engaging in job functions without an accommodation  
6 would aggravate the impairment to the extent that it would create a substantially limiting effect.

7                   ((5)) D.           For purposes of ~~(((4) of this))~~ subsection C of this definition, a limitation  
8 is not substantial if it has only a trivial effect.

9                   ~~((H.—“Genetic Information” means any information regarding inherited characteristics~~  
10 ~~that can be derived from a DNA-based or other laboratory test, family history, or medical~~  
11 ~~examination. “Genetic information” for purposes of this chapter, does not include: (1) Routine~~  
12 ~~physical measurements, including chemical, blood, and urine analysis, unless conducted~~  
13 ~~purposefully to diagnose genetic or inherited characteristics; and (2) results from tests for abuse~~  
14 ~~of alcohol or drugs.))~~

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

1           “Domestic worker” is narrowly construed to mean any worker who (1) is paid by one or  
2 more hiring entities; and (2) provides domestic services to an individual or household in or about  
3 a private home as a nanny, house cleaner, home care worker, gardener, cook, or household  
4 manager. “Domestic worker” includes hourly and salaried employees, independent contractors,  
5 full-time and part-time workers, and temporary workers. “Domestic worker” does not include  
6 any individual who is:

7           A. Working on a casual basis. For the purposes of this definition, “casual” refers to  
8 work that is: a) irregular, uncertain, or incidental in nature and duration, and b) different in  
9 nature from the type of paid work in which the worker is customarily engaged in.

10          B. In a family relationship with the hiring entity; or

11          C. A home care worker who is paid through public funds.

12          ~~((J.))~~ “Employee” means any person employed by, or applying for employment with, an  
13 employer, and shall include traditional employees, temporary workers, and part-time employees.

14          ~~((K.))~~ “Employer” means any person who has one or more employees, or the employer’s  
15 designee or any person acting in the interest of such employer.

16          ~~((L.))~~ “Employment agency” means any person undertaking with or without  
17 compensation to procure opportunities to work or to procure, recruit, refer, or place individuals  
18 with an employer or in employment.

19          ~~((M.))~~ “Gender identity” means a person’s gender-related identity, appearance, or  
20 expression, whether or not traditionally associated with one’s biological sex or one’s sex at birth,  
21 and includes a person’s attitudes, preferences, beliefs, and practices pertaining thereto.

1           “Genetic information” means any information regarding inherited characteristics that can  
2 be derived from a DNA-based or other laboratory test, family history, or medical examination.

3 “Genetic information” does not include:

4           A. Routine physical measurements, including chemical, blood, and urine analysis,  
5 unless conducted purposefully to diagnose genetic or inherited characteristics; and

6           B. Results from tests for abuse of alcohol or drugs.

7           “Hiring entity” means any individual, partnership, association, corporation, business  
8 trust, or any entity, person, or group of persons that pays a wage or pays for the services of a  
9 domestic worker. It includes any such entity or person acting directly or indirectly in the interest  
10 of a hiring entity in relation to the domestic worker.

11           “Honorably discharged veteran or military status” means:

12           A. A veteran, as defined in RCW 41.04.007; or

13           B. An active or reserve member in any branch of the armed forces of the United  
14 States, including the national guard, coast guard, and armed forces reserves.

15           ~~((N-))~~ “Labor organization” means any organization or employee group or association in  
16 which employees participate and which exists for the purpose of (1) collective bargaining for or  
17 on behalf of employees, (2) dealing with employers concerning grievances, labor disputes, terms  
18 or conditions of employment, or (3) other mutual aid or protection of such employees in relation  
19 to their employment.

20           ~~((O-))~~ “Marital status” means the presence or absence of a marital relationship and  
21 includes the status of married, separated, divorced, engaged, widowed, single, or cohabitating.

22           ~~((P-))~~ “Party” includes the person charging or making a complaint or upon whose behalf a  
23 complaint is made alleging an unfair employment or domestic services practice, the person

1 alleged or found to have committed an unfair employment or domestic services practice and the  
2 Office for Civil Rights.

3 ((Q-)) “Person” includes one or more individuals, partnerships, associations,  
4 organizations, trade or professional associations, corporations, public corporations, cooperatives,  
5 legal representatives, trustees, trustees in bankruptcy and receivers, or any group of persons; it  
6 includes any employer, hiring entity, owner, lessee, proprietor, manager, agent, domestic worker,  
7 or employee, whether one or more natural persons, and further includes any department, office,  
8 agency, or instrumentality of the City.

9 ((R-)) “Political ideology” means any idea or belief, or coordinated body of ideas or  
10 beliefs, relating to the purpose, conduct, organization, function, or basis of government and  
11 related institutions and activities, whether or not characteristic of any political party or group.  
12 This term includes membership in a political party or group and includes conduct, reasonably  
13 related to political ideology, which does not interfere with job performance.

14 ((S-)) The term “reasonable accommodation” may include:

15 ((1-)) A. Making existing facilities used by employees or domestic workers readily  
16 accessible to and usable by individuals with disabilities; and

17 ((2-)) B. Job restructuring, part-time or modified work schedules, reassignment to a  
18 vacant position, acquisition or modification of equipment or devices, appropriate adjustment or  
19 modifications of examinations, training materials or policies, the provision of qualified readers or  
20 interpreters, and other similar accommodations for individuals with disabilities.

21 ((T-)) “Respondent” means any person who is alleged or found to have committed an  
22 unfair employment or domestic services practice prohibited by this ((chapter)) Chapter 14.04.

1           “Service animal” means an animal that provides medically necessary support for the  
2 benefit of an individual with a disability.

3           ~~((U.))~~ The terms “because of sex,” “on the basis of sex,” or “by reason of sex” include,  
4 but are not limited to, because of or on the basis of or by reason of pregnancy, childbirth, or  
5 related medical conditions; and women affected by pregnancy, childbirth, or related medical  
6 conditions shall be treated the same for all employment- or domestic services-related purposes,  
7 including receipt of benefits under fringe benefit programs, as other persons not so affected but  
8 similar in their ability or inability to work, and nothing in this ~~((chapter))~~ Chapter 14.04 shall be  
9 interpreted to permit otherwise.

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

13           ~~((W. — “Honorably discharged veteran or military status” means:~~

14                   1. ~~— A veteran, as defined in RCW 41.04.007; or~~

15                   2. ~~— An active or reserve member in any branch of the armed forces of the~~  
16 ~~United States, including the national guard, coast guard, and armed forces reserves.~~

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

19           Section 4. Section 14.04.040 of the Seattle Municipal Code, last amended by Ordinance  
20 123527, is amended as follows:

21 **14.04.040 Unfair employment and domestic services practices designated ((:))**

22 It is an unfair employment practice within the City for any:

1           A.     Employer or hiring entity to discriminate against any person with respect to  
2 hiring, tenure, promotion, terms, conditions, wages, or privileges of employment or domestic  
3 services, or with respect to any matter related to employment or domestic services;

4           B.     Employer, employment agency, hiring entity, or labor organization to  
5 discriminate by establishing, announcing, or following a policy of denying or limiting  
6 employment, domestic services, or membership opportunities to any person;

7           C.     Employer, employment agency, hiring entity, or labor organization to print,  
8 circulate, or cause to be printed, published, or circulated ((;)) any statement, advertisement, or  
9 publication relating to employment, domestic services, or membership, or to use any form of  
10 application therefor, which indicates any preference, limitation, specification, or discrimination  
11 based upon race, color, sex, marital status, sexual orientation, gender identity, genetic  
12 information, political ideology, age, creed, religion, ancestry, national origin, honorably  
13 discharged veteran or military status, or the presence of any sensory, mental, or physical  
14 handicap; (~~provided that~~) however, nothing in this ((chapter)) Chapter 14.04 shall prevent an  
15 employer or hiring entity from ascertaining and recording data as to race, color, sex, marital  
16 status, sexual orientation, gender identity, political ideology, age, creed, religion, ancestry,  
17 national origin, honorably discharged veteran or military status, or the presence of any sensory,  
18 mental, or physical handicap, whether before or after employment or domestic services, for the  
19 purpose of making reports specifically required by agencies of federal, state, or local government  
20 for the purpose of eliminating and preventing discrimination or overcoming its effects, or for  
21 other purposes authorized by law or the rules and regulations of Washington State Human Rights  
22 Commission, the Equal Employment Opportunities Commission, or the Department;

1           D.     Employment agency or hiring entity to discriminate against any person with  
2 respect to any reference for employment or domestic services, assignment as to job  
3 classification, or otherwise;

4           E.     Labor organization to discriminate against any person by limiting, segregating, or  
5 classifying its membership in any way that would:

- 6                   1.     Deprive or tend to deprive any person of employment opportunities,  
7                   2.     Limit any person's employment opportunities or otherwise adversely  
8 affect such person's status as an applicant for employment or as an employee,  
9                   3.     Adversely affect the wages, hours, or conditions of employment of any  
10 person;

11           F.     Employer, employment agency, hiring entity, or labor organization to penalize or  
12 discriminate in any manner against any person because they opposed any practice forbidden by  
13 this ~~((chapter))~~ Chapter 14.04 or because they made a charge, testified, or assisted in any manner  
14 in any investigation, proceeding, or hearing initiated under the provisions of this ~~((chapter))~~  
15 Chapter 14.04;

16           G.     Employer, employment agency, hiring entity, labor organization, or any joint  
17 labor-management committee controlling apprenticeship or other training or retraining programs  
18 to discriminate against any person with respect to admission to or participation in any guidance  
19 program, apprenticeship training program, or other occupational training program;

20           H.     Publisher, firm, corporation, organization, or association printing, publishing, or  
21 circulating any newspaper, magazine, or other written publication, to print or cause to be printed  
22 or circulated any advertisement with knowledge that the same is in violation of ~~((Section))~~  
23 subsection 14.04.040\_C, or to segregate and separately designate advertisements as applying only

1 to ~~((men or women))~~ particular genders unless such designation is a bona fide occupational  
2 qualification reasonably necessary to the particular business, ~~((or))~~ employment, or domestic  
3 service;

4 I. Person to:

5 1. Knowingly and ~~((willfully))~~ willfully aid, abet, initiate, compel, or coerce  
6 the doing of any act declared in this ~~((chapter))~~ Chapter 14.04 to be an unfair employment or  
7 domestic services practice; provided that, this ~~((subparagraph))~~ subsection 14.04.040.I.1 shall  
8 have no application to any act declared to be an unfair employment or domestic services practice  
9 under subsection 14.04.040.H; ~~((of this section,))~~

10 2. Obstruct or prevent any person from complying with the provisions of this  
11 ~~((chapter,))~~ Chapter 14.04; or

12 3. Attempt directly or indirectly to commit any act declared by this  
13 ~~((section))~~ Section 14.04.040 to be an unfair employment or domestic services practice.

14 J. For purposes of this Section 14.04.040, when an individual or household contracts  
15 with a separate hiring entity that employs the domestic worker(s) to provide domestic services,  
16 the separate hiring entity is solely liable for violations of this Chapter 14.04 unless the individual  
17 or household interferes with the rights established for domestic worker(s) in this Chapter 14.04.

18 Section 5. Section 14.04.050 of the Seattle Municipal Code, last amended by Ordinance  
19 118392, is amended as follows:

20 **14.04.050 Exclusions from unfair practices ((-))**

21 A. Notwithstanding any other provision of Section 14.04.040, it is not an unfair  
22 employment or domestic services practice under this ~~((chapter))~~ Chapter 14.04 for an employer,  
23 employment agency, hiring entity, or labor organization to discriminate in those instances where

1 religion, sex, national origin, or age is a bona fide occupational qualification reasonably  
2 necessary to the normal operation of that particular business or enterprise.

3 B. Notwithstanding any other provisions of this ((chapter)) Chapter 14.04, it is not an  
4 unfair employment or domestic services practice under this ((chapter)) Chapter 14.04 to act to  
5 accomplish the purposes and goals of the affirmative action plan of an employer, employment  
6 agency, hiring entity, or labor organization.

7 C. The provisions of Section 14.04.040, insofar as they declare discrimination on the  
8 basis of age to be an unfair employment or domestic services practice, shall not be applicable  
9 with respect to individuals who are under ((forty (40))) 40 years of age.

10 D. The provisions of Section 14.04.040, insofar as they declare discrimination on the  
11 basis of the presence of any sensory, mental, or physical handicap to be an unfair employment or  
12 domestic services practice, shall not apply if the particular disability prevents the proper  
13 performance of the particular worker involved.

14 E. Nothing in this ((chapter)) Chapter 14.04.040 shall be construed to protect  
15 criminal conduct.

16 F. Notwithstanding any provision of Sections 14.04.030 and 14.04.040, it is not an  
17 unfair practice under this ((chapter)) Chapter 14.04 for an employer or hiring entity, with a  
18 demonstrated security or public safety need, to discriminate on the basis of participation in  
19 activities ((which)) that involve the use of force or violence or advocate or incite force or  
20 violence.

21 Section 6. Section 14.04.080 of the Seattle Municipal Code, last amended by Ordinance  
22 118392, is amended as follows:

23 **14.04.080 Charge filing.**

1           A.    A charge alleging an unfair employment or domestic services practice shall be in  
2 writing on a form or in a format determined by the Department, and signed under oath or  
3 affirmation by or on behalf of a charging party before the Director, one of the Department's  
4 employees, or any other person authorized to administer oaths, and shall describe the unfair  
5 employment or domestic services practice complained of and should include a statement of the  
6 dates, places and circumstances and the persons responsible for such acts and practices.

7           B.    Whenever charges are made by or on behalf of a person claiming to be aggrieved,  
8 the person making the charge must provide the Director with the name, address and telephone  
9 number of the individual on whose behalf the charge is made. Thereafter, the Director shall  
10 verify the authorization of such charge by the person on whose behalf the charge is made and  
11 upon the request of such person may keep his or her identity confidential.

12           C.    A charge shall not be rejected as insufficient because of failure to include all  
13 required information so long as it substantially satisfies the informational requirements necessary  
14 for processing.

15           D.    A charge alleging an unfair employment or domestic services practice or pattern of  
16 unfair practices may also be filed by the Director whenever the Director has reason to believe  
17 that any person has been engaged or is engaging in an unfair employment or domestic services  
18 practice.

19           Section 7. Section 14.04.090 of the Seattle Municipal Code, last amended by Ordinance  
20 125576, is amended as follows:

21    **14.04.090 - Charge—Time for filing**

1           A.    Charges filed under this Chapter 14.04 must be filed within one year and six months  
2 after the occurrence of the alleged unfair employment or domestic services practice with the  
3 Office for Civil Rights.

4           B.    For purposes of this chapter, an unfair employment or domestic services practice  
5 occurs, with respect to discrimination in compensation in violation of this chapter, when a  
6 discriminatory compensation decision or other practice is adopted, when an individual becomes  
7 subject to a discriminatory compensation decision or other practice, or when an individual is  
8 affected by application of a discriminatory compensation decision or other practice, including  
9 each time wages, benefits, or other compensation is paid, resulting in whole or in part from such  
10 a decision or other practice.

11 In addition to any relief authorized by this chapter, liability may accrue and an aggrieved person  
12 may obtain relief as provided in this chapter, including recovery of back pay for up to two years  
13 preceding the filing of the charge, where the unfair((unlawful)) employment or domestic services  
14 practices that have occurred during the charge filing period are similar or related to  
15 unfair((unlawful)) employment or domestic services practices with regard to discrimination in  
16 compensation that occurred outside the time for filing a charge.

17           Section 8. Section 14.04.130 of the Seattle Municipal Code, last amended by Ordinance  
18 123864, is amended as follows:

19 **14.04.130 Determination of no reasonable cause—Appeal from and dismissal.**

20 If a determination is made that there is no reasonable cause for believing an unfair employment  
21 or domestic services practice under this chapter has been committed, the charging party shall  
22 have the right to appeal such determination to the Commission within 30 days of the date the  
23 determination is signed by the Director by filing a written statement of appeal with the

1 Commission. The Commission shall promptly deliver a copy of the statement to the Department  
2 and respondent and shall promptly consider and act upon such appeal by either affirming the  
3 Director's determination or, if the Commission believes the Director should investigate further,  
4 remanding it to the Director with a request for specific further investigation. In the event no  
5 appeal is taken or such appeal results in affirmance or if the Commission has not decided the  
6 appeal within 90 days from the date the appeal statement is filed, the determination of the  
7 Director shall be final and the charge deemed dismissed and the same shall be entered on the  
8 records of the Department.

9 Section 9. Section 14.04.140 of the Seattle Municipal Code, last amended by Ordinance  
10 117615, is amended as follows:

11 **14.04.140 Determination of reasonable cause—Conciliation and settlement of cases**  
12 **involving all respondents except City departments.**

13 A. In all cases except a case in which a City department is the respondent, if a  
14 determination is made that reasonable cause exists to believe that an unfair practice has occurred,  
15 the Director shall endeavor to eliminate the unfair practice by conference, conciliation and  
16 persuasion. Conditions of settlement may include (but are not limited to) the elimination of the  
17 unfair employment or domestic services practice, hiring, reinstatement or upgrading with or  
18 without back pay, lost benefits, attorney's fees, admittance or restoration to membership in a  
19 labor organization, admittance to participation in a guidance, apprentice training or retraining  
20 program or such other action which will effectuate the purposes of this chapter, including action  
21 which could be ordered by a court, except that damages for humiliation and mental suffering  
22 shall not exceed Ten Thousand Dollars (\$10,000.00). Any settlement agreement shall be reduced  
23 to writing and signed by the Director and the respondent. An order shall then be entered by the

1 Director setting forth the terms of the agreement. Copies of such order shall be delivered to all  
2 affected parties.

3 B. In case of failure to reach an agreement and of conciliation and upon a written  
4 finding to that effect furnished to the charging party and respondent, except a case in which a  
5 City department is a respondent, the Director shall promptly cause to be delivered the entire  
6 investigatory file, including the charge and any and all findings made, to the City Attorney for  
7 further proceedings and hearing under this chapter pursuant to Section 14.04.170.

8 Section 10. Section 14.04.150 of the Seattle Municipal Code, last amended by Ordinance  
9 117615, is amended as follows:

10 **14.04.150 Determinations of reasonable cause—Conciliation, settlement and conclusion of**  
11 **cases involving City departments as respondents.**

12 In all cases in which a City department is a respondent:

13 A. A determination of reasonable cause by the Director shall be deemed a finding that  
14 an unfair employment or domestic services practice has been committed by respondent and is  
15 dispositive of this issue for all future proceedings under this chapter, unless appealed, reversed  
16 and remanded as provided in this chapter.

17 B. Within sixty (60) days of a determination of reasonable cause, the Director shall  
18 confer with the parties and determine an appropriate remedy, which remedy may include (but is  
19 not limited to) hiring, reinstatement or upgrading with or without back pay, lost benefits,  
20 attorney's fees, admittance to participation in a guidance, apprentice training or retraining  
21 program, or such other action as will effectuate the purposes of this chapter, including action  
22 which could be ordered by a court, except that damages for humiliation and mental suffering

1 shall not exceed Ten Thousand Dollars (\$10,000.00). Such remedy shall be reduced to writing in  
2 an order of the Director.

3 C. The charging party must sign a release in the form and manner requested by the  
4 Department, releasing the City from further liability for acts giving rise to the charge in order to  
5 obtain the benefits of the remedy provided under this section and before payment can be made.  
6 Without such release, the Director's order with respect to the charging party's individual relief  
7 shall have no force and effect. In such event the Director shall notify the parties involved in  
8 writing.

9 D. In all cases where the remedy determined by the Director before or after any appeal  
10 includes a monetary payment which exceeds the sum of Five Thousand Dollars (\$5,000.00), the  
11 charge or claim, the Director's determination, order, the charging party's signed release and such  
12 further documentation as may be required shall be presented to the City Council for passage by  
13 separate ordinance. If the City Council fails or refuses to appropriate the amount ordered by the  
14 Director within ninety (90) days, the Director shall certify the case to the Hearing Examiner for a  
15 hearing to determine the appropriate monetary relief in the case which determination shall be  
16 final and binding upon the City.

17 E. Where the Director's order includes a monetary payment of Five Thousand Dollars  
18 (\$5,000.00) or less, such payment shall be made under the authority and in the form and manner  
19 otherwise provided for by law for payment of such claims.

20 Section 11. Section 14.04.180 of the Seattle Municipal Code, last amended by Ordinance  
21 123899, is amended as follows:

22 **14.04.180 Decision and order**

1           A.    Within 30 days after conclusion of the hearing, the Hearing Examiner (or the  
2 Examiner and Commissioners as the case may be) shall prepare a written decision and order, file  
3 it as a public record with the City Clerk, and provide a copy to each party of record and to the  
4 Department.

5           B.    Such decision shall contain a brief summary of the evidence considered and shall  
6 contain findings of fact, conclusions of law upon which the decision is based, and an order  
7 detailing the relief deemed appropriate, together with a brief statement of the reasons therefor.

8           C.    In the event the Hearing Examiner (or a majority of the panel composed of the  
9 Examiner and Commissioners), determines that a respondent has committed an unfair  
10 employment or domestic services practice under this chapter, the Hearing Examiner (or panel  
11 majority) may order the respondent to take such affirmative action or provide for such relief as is  
12 deemed necessary to correct the practice, effectuate the purpose of this Chapter 14.04, and secure  
13 compliance therewith, including but not limited to hiring, reinstatement, or upgrading with or  
14 without back pay, lost benefits, attorney's fees, admittance or restoration to membership in a  
15 labor organization, admittance to participation in a guidance, apprentice training or retraining  
16 program, or such other action which will effectuate the purposes of this Chapter 14.04, including  
17 action which could be ordered by a court, except that damages for humiliation and mental  
18 suffering shall not exceed \$10,000.00. Back pay liability shall not accrue from a date more than  
19 two years prior to the initial filing of the charge.

20           D.    Respondent shall comply with the provisions of any order affording relief and shall  
21 furnish proof of compliance to the Department as specified in the order. In the event respondent  
22 refuses or fails to comply with the order, the Director shall notify the City Attorney of the same

1 and the City Attorney shall invoke the aid of the appropriate court to secure enforcement or  
2 compliance with the order.

3 Section 12. Section 14.04.185 of the Seattle Municipal Code, last amended by Ordinance  
4 119678, is amended as follows:

5 **14.04.185 Enforcement by private persons.**

6 A. Any person who claims to have been injured by an unfair employment or domestic  
7 services practice may commence a civil action in Superior Court or any other court of competent  
8 jurisdiction, not later than three (3) years after the occurrence of the alleged unfair employment  
9 or domestic services practice or ninety (90) days after a determination of reasonable cause by the  
10 Director, whichever occurs last, to obtain appropriate relief with respect to such unfair  
11 employment or domestic services practice. In an action brought under this section, the court  
12 having jurisdiction may, upon written findings by the judge that the action was frivolous and  
13 advanced without reasonable cause, require the nonprevailing party to pay the prevailing party  
14 the reasonable expenses, including attorneys fees, incurred in opposing such action pursuant to  
15 RCW 4.84.185.

16 B. A complaint may be filed under this section whether or not an administrative charge  
17 has been filed under SMC Section 14.04.090, and without regard to the status of such charge, but  
18 if the Department has obtained a pre-finding or post-finding settlement or conciliation agreement  
19 with the consent of the charging party, no action may be filed under this section with respect to  
20 the alleged unfair employment or domestic services practice which forms the basis for such  
21 complaint except for the purpose of enforcing the terms of the agreement. To preclude such  
22 filing, the charging party must be provided with written notice that consent to a pre-finding or

1 post-finding settlement or conciliation agreement will terminate the charging party's right to file  
2 a civil action under this section.

3 C. 1. Subject to the provisions of subsection C2, upon the filing of a civil action  
4 involving the same claim or arising from the same facts and circumstances, whether under this  
5 subchapter or similar law, a complaint of an unfair employment or domestic services practice  
6 may be administratively closed by the Director.

7 2. In the event that a court dismisses a private cause of action on grounds that  
8 would not preclude pursuit of a charge under this subchapter, the charging party may request,  
9 within ninety (90) days of the entry of the Court's order of dismissal, that the Department reopen  
10 a previously filed charged. Upon such request, the Director may reopen a case that was  
11 administratively closed upon the filing of a civil action. If the Department closes a case based on  
12 a "no reasonable cause" finding, the case shall not be reopened except as provided through  
13 appeal pursuant to SMC Section 14.04.030.

14 3. No complainant or aggrieved person may secure relief from more than one  
15 (1) governmental agency, instrumentality or tribunal for the same harm or injury.

16 4. Where the complainant or aggrieved person elects to pursue simultaneous  
17 claims in more than one (1) forum, the factual and legal determinations issued by the first  
18 tribunal to rule on the claims may, under the doctrines of "res judicata" or "collateral estoppel,"  
19 be binding on all or portions of the claims pending before other tribunals.

20 5. No civil action may be commenced under this section with respect to an  
21 alleged unfair employment or domestic services practice which forms the basis of a complaint if  
22 a hearing on the record has been commenced by The City of Seattle Office of the Hearing  
23 Examiner. To preclude such filing, a charging party must be provided with written notice at least

1 thirty (30) days prior to the commencement of a hearing before The City of Seattle Office of the  
2 Hearing Examiner that the commencement of such a hearing will terminate the charging party's  
3 right to file a civil action.

4 D. In a civil action under this section, if the court, or jury, finds that an unfair  
5 employment or domestic services practice has occurred, the court may grant such relief as may  
6 be awarded by the hearing examiner under this chapter or is authorized by the Washington Law  
7 Against Discrimination, Chapter 49.60 RCW, as amended. Damages awarded under this section  
8 for humiliation and mental suffering are not subject to the limitation of SMC Section 14.04.140  
9 A or SMC Section 14.04.150 B.

10 E. Upon time application, the City Attorney may intervene in such civil action, if the  
11 City Attorney certifies that the case is of general public importance, and may obtain such relief  
12 as would be available in an action brought under SMC Sections 14.04.140 and 14.04.180. Such  
13 intervention shall not be permitted in an action in which the City is a defendant.

14 F. It is the intent of The City of Seattle, in enacting this section, to provide private  
15 judicial remedies for violations of this chapter that are as expansive as possible consistent with  
16 the powers granted by the Constitution and Laws of The State of Washington. In the event that  
17 any provision or aspect of this section is adjudicated to be invalid or unenforceable under  
18 applicable law, the validity or enforceability of the remaining provisions shall be unaffected.

19 Section 13. The provisions of this ordinance are declared to be separate and severable.  
20 The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this  
21 ordinance, or the invalidity of its application to any person or circumstance, does not affect the  
22 validity of the remainder of this ordinance or the validity of its application to other persons or  
23 circumstances.

1 Section 14. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
5 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
6 \_\_\_\_\_, 2018.

7 \_\_\_\_\_  
8 President \_\_\_\_\_ of the City Council

9 Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

10 \_\_\_\_\_  
11 Jenny A. Durkan, Mayor

12 Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

13 \_\_\_\_\_  
14 Monica Martinez Simmons, City Clerk

15 (Seal)