



# SEATTLE CITY COUNCIL

## Finance and Housing Committee

### Agenda

Thursday, September 24, 2020

2:00 PM

### Special Meeting

Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or  
Seattle Channel online.

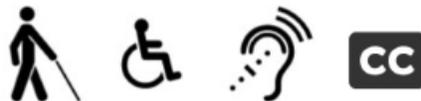
Teresa Mosqueda, Chair  
Lisa Herbold, Vice-Chair  
M. Lorena González, Member  
Andrew J. Lewis, Member  
Dan Strauss, Member  
Tammy J. Morales, Alternate

Chair Info: 206-684-8808; [Teresa.Mosqueda@seattle.gov](mailto:Teresa.Mosqueda@seattle.gov)

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<http://seattle.gov/cityclerk/accommodations>.



**SEATTLE CITY COUNCIL**  
**Finance and Housing Committee**  
**Agenda**  
**September 24, 2020 - 2:00 PM**  
**Special Meeting**

**Meeting Location:**

Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or Seattle Channel online.

**Committee Website:**

<http://www.seattle.gov/council/committees/finance-and-housing>

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This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

*In-person attendance is currently prohibited per Washington State Governor's Proclamation No. 20-28.9, through October 1, 2020. Meeting participation is limited to access by telephone conference line and Seattle Channel online.*

Register online to speak during the Public Comment period at the 2:00 p.m. Finance and Housing meeting at <http://www.seattle.gov/council/committees/public-comment>.

Online registration to speak at the Finance and Housing meeting will begin two hours before the 2:00 p.m. meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to [Teresa.Mosqueda@seattle.gov](mailto:Teresa.Mosqueda@seattle.gov)  
Sign-up to provide Public Comment at the meeting at <http://www.seattle.gov/council/committees/public-comment>

Watch live streaming video of the meeting at <http://www.seattle.gov/council/watch-council-live>

Listen to the meeting by calling the Council Chamber Listen Line at 253-215-8782 Meeting ID: 586 416 9164  
One Tap Mobile No. US: +12532158782,,5864169164#

*Please Note: Times listed are estimated*

**A. Call To Order****B. Approval of the Agenda****C. Public Comment****D. Items of Business****1. Covid-19 Rental Assistance, Homelessness Prevention, and Home Owner Support**

Supporting Documents: [Presentation](#)

**Briefing and Discussion**

**Presenters:** Emily Alvarado, Director, Office of Housing; Lauren McGowan, Sr. Director, United Way of King County; Michelle Merriweather, CEO, Urban League of Metropolitan Seattle

2. [CB 119890](#) **AN ORDINANCE** relating to the transfer of City real property for housing development; transferring the jurisdiction of a 1-foot strip of the property from the Office of Housing to the Department of Transportation for right-of-way purposes; declaring the remaining property located at 7750 28th Avenue NW (“Loyal Heights Property”) surplus to the City’s needs; authorizing transfer of the Loyal Heights Property to Habitat for Humanity or its designee; authorizing the Director of the Office of Housing or the Director’s designee to execute and deliver a contract for transfer of land, deed, and related documents; and ratifying and confirming certain prior acts.

*Attachments:* [Att 1 - Term Sheet](#)

*Supporting*

*Documents:* [Summary and Fiscal Note](#)  
[Summary Att 1 - Map of Property](#)  
[Loyal Heights Presentation](#)

**Briefing, Discussion, and Possible Vote**

**Presenters:** Erika Malone and Daniel Murillo, Office of Housing; Traci Ratzliff, Council Central Staff

3. [CB 119876](#) **AN ORDINANCE relating to transportation network company driver labor standards; establishing minimum labor and compensation standards for transportation network company drivers; establishing provision of or reimbursement for personal protective equipment to transportation network company drivers during the civil emergency declared on March 3, 2020; establishing notice, posting, and data requirements for transportation network companies; prescribing remedies and enforcement procedures; amending Section 3.15.000 of the Seattle Municipal Code; amending the title of Chapter 14.31 and Sections 6.208.020 and 14.31.010 of the Seattle Municipal Code; and adding a new Chapter 14.33 to the Seattle Municipal Code.**

*Supporting  
Documents:*

[Summary and Fiscal Note v2](#)

[Proposed Substitute Bill D2j](#)

[Presentation](#)

[Central Staff Memo](#)

**Briefing, Discussion, and Possible Vote**

**Presenters:**Marissa Baker, University of Washington; Kerem Levitas, Office of Labor Standards; and Karina Bull, Council Central Staff

**E. Adjournment**



Legislation Text

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**File #:** Inf 1685, **Version:** 1

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Covid-19 Rental Assistance, Homelessness Prevention, and Home Owner Support

# COVID-19 Rental Assistance, Homelessness Prevention, and Homeowner Support

Briefing to Finance & Housing Committee  
September 24, 2020

09/24/2020

Office of Housing



**City of Seattle**

# Today's Briefing

## Programs

- Rental Assistance
- Homelessness Prevention
- Homeowner Support

## What We'll Cover

- Funding Breakdown
- Community Partnerships
- How to Access Assistance



# Rental Assistance Funding Breakdown

- \$12M to United Way of King County's Home Base Program
  - \$4M from CARES Act Coronavirus Relief Fund (CRF)
  - \$8M from City's emergency funds
- \$4M to residents of City-funded affordable housing providers
  - All funding from CARES Act Coronavirus Relief Fund (CRF)



# Home Base Rental Assistance Program

- Supported over 8,400 individuals across King County between April - July 2020
- More than 70% of applicants supported were people of color



**United Way of King County**

# Home Base Rental Assistance Program Community Partners



Urban League of  
Metropolitan Seattle



# Home Base Rental Assistance Program Strategy for 2020-2021

## 2020

- Leverage best practices from Home Base Program and existing King County Rent Assistance process
- Incorporate strategies to further improve racial equity outcomes

## 2021

- Continue to leverage Home Base model, with focus on targeted eviction prevention assistance
- Incorporate strategies to further improve racial equity outcomes



# How to Access Home Base Rental Assistance

[uwkc.org/renthelp](http://uwkc.org/renthelp)



**Get Help with Rent**

# Rental Assistance for Residents in City-Funded Affordable Housing

- Assistance supports low-income tenants and helps stabilize income- and rent-restricted affordable housing providers
- Approach will build on lessons learned since first implementation
- Prior investment supported 1,268 households in April and May



# Homelessness Prevention

- \$2.8M of Community Development Block Grant (CDBG) funding to Homelessness Prevention Program
- Community Partners:
  - El Centro de la Raza
  - St. Vincent de Paul
  - YWCA
  - Refugee Women's Alliance (ReWA)
  - InterIm CDA
  - Neighborhood House
  - Seattle Indian Health Board
  - United Indians of All Tribes
  - Lifelong



# Homeowner Support

- \$700,000 to support mortgage counseling and homeowner stabilization loans to prevent foreclosure
- Call the WHRC hotline to get assistance: 1-877-894-4663



Washington  
Homeownership  
Resource  
Center

# Questions?

- Lauren McGowan  
United Way of King County  
[lmcgowan@uwkc.org](mailto:lmcgowan@uwkc.org)
- Michelle Merriweather  
Urban League of Metropolitan Seattle  
[info@urbanleague.org](mailto:info@urbanleague.org)
- Emily Alvarado  
City of Seattle, Office of Housing  
[Emily.Alvarado@seattle.gov](mailto:Emily.Alvarado@seattle.gov)





Legislation Text

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**File #:** CB 119890, **Version:** 1

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**CITY OF SEATTLE**

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

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

AN ORDINANCE relating to the transfer of City real property for housing development; transferring the jurisdiction of a 1-foot strip of the property from the Office of Housing to the Department of Transportation for right-of-way purposes; declaring the remaining property located at 7750 28th Avenue NW (“Loyal Heights Property”) surplus to the City’s needs; authorizing transfer of the Loyal Heights Property to Habitat for Humanity or its designee; authorizing the Director of the Office of Housing or the Director’s designee to execute and deliver a contract for transfer of land, deed, and related documents; and ratifying and confirming certain prior acts.

WHEREAS, in Ordinance 125960, The City of Seattle (“City”) declared the Loyal Heights Property (described below) surplus to the City’s electric utility needs and no longer required for providing continued public utility service, and transferred jurisdiction of the Loyal Heights Property to the Office of Housing for the purpose of developing permanently affordable home ownership for low-income households at or below 80 percent of the median income; and

WHEREAS, the Office of Housing conducted a competitive process and selected Habitat for Humanity Seattle - King County as the developer for permanently affordable homeownership on the Loyal Heights Property; and

WHEREAS, Habitat for Humanity Seattle - King County proposes to develop seven townhomes, to be affordable to households earning less than 80 percent of the area median income; and

WHEREAS, the eastern 1 foot of the Loyal Heights Property is needed for widening of the adjacent alley; and

WHEREAS, upon transfer of title to the Loyal Heights Property, the Office of Housing shall require the transferee to accept the Property “as-is, where-is, with all faults” and to release, indemnify, and hold the City harmless from any future claims regarding the condition of the Property, including but not limited

to any and all claims related to environmental conditions; NOW, THEREFORE,

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

Section 1. The Loyal Heights Property (“Property”) is located at 7750 28th Avenue NW, Seattle, Washington 98117, King County Tax Parcel No. 4443800245, and is legally described below:

LOTS 13 AND 14, BLOCK 2, LOYAL HEIGHTS DIVISION NO. 6, AN ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 19 OF PLATS, PAGE 82, RECORDS OF KING COUNTY, WASHINGTON.

Section 2. Jurisdiction of the eastern 1 foot of the Property is hereby transferred to the Seattle Department of Transportation for street and alley purposes and is hereby laid off, opened, widened, extended, and established upon the land described in this section, and the remainder of the Property is hereby declared surplus to the City’s needs.

Section 3. The Director of the Office of Housing (“Director”) or the Director’s designee is authorized to negotiate a property transfer agreement (“Agreement”) and any ancillary documents to accomplish the transfer of ownership of the remainder of the Property (excluding the eastern 1 foot) to Habitat for Humanity Seattle - King County (“Habitat”), a Washington nonprofit corporation, or with a designee or assignee of Habitat approved by the Director, on the terms and subject to the conditions authorized in this ordinance.

Section 4. The Agreement shall reflect the provisions included in the Term Sheet attached to this ordinance as Attachment A, with such revisions and additions as the Director may determine are reasonably necessary to carry out the intent of this ordinance.

Section 5. The improvements to be developed on the Property are to include at least seven townhomes, to be sold to households with incomes at or below 80 percent of median income at prices deemed to be affordable by the Director. The townhomes, together with any additional improvements to be developed on the Property with the approval of the Director and all necessary regulatory approvals, are referred to in this ordinance as the “Project.”

Section 6. The Director is authorized to execute and deliver such additional documents, which may

include amendments to the Agreement and related covenants, and to take such other actions, as may be necessary or appropriate to implement the intent of this ordinance and development of the Project, and to administer and enforce the Agreement, covenants, and any other such documents that the Director deems appropriate to implement the intent of this ordinance and development of the Project. The authority given to the Director in this ordinance may be delegated to and exercised by the Director's designee.

Section 7. Upon transfer of title to the Property, the Director shall require the transferee to accept the Property "as-is, where-is, with all faults" and to release, indemnify, and hold the City harmless from any future claims regarding the condition of the Property, including but not limited to any and all claims related to environmental conditions.

Section 8. Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

Section 9. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

(Seal)

**Attachments:**

Attachment A - Term Sheet: Transfer of Property from The City of Seattle (“City”) to Habitat for Humanity Seattle-King County or Its Designee or Assignee (“Transferee”)

## Attachment 1: Term Sheet

### TRANSFER OF PROPERTY FROM THE CITY OF SEATTLE (“City”) TO HABITAT FOR HUMANITY SEATTLE–KING COUNTY OR ITS DESIGNEE OR ASSIGNEE (“Transferee”)

This term sheet describes the basic terms of the proposed transfer of property between Transferee and City. The Agreement will include the following terms:

1. **Transfer.** Any transfer of the property shall be by Quit Claim Deed.
2. **Consideration.** In consideration for the City transferring the Property to Transferee, Transferee shall agree to construct or cause to be constructed within the Property improvements substantially as described in those plans and specifications submitted by Habitat for Humanity Seattle-King County which improvements shall be seven townhouses/rowhouses, to be for sale to households with incomes at the time of sale of 80% or less of the area median income (AMI), as defined by the City of Seattle’s Office of Housing.
3. **Conditions precedent to the City’s obligation to transfer the property:**
  - a. Transferee shall have obtained approval from the Director of the Office of Housing (Director) of the final plan set and development budget including projected sales prices.
  - b. Transferee shall have obtained permits for the development of the Property consistent with the designs approved by the Office of Housing.
  - c. Transferee shall have provided evidence satisfactory to the Office of Housing that Transferee has secured all necessary construction financing to fund the construction of the Project.
4. **Other conditions.**
  - a. The Agreement may contain other conditions determined by the Director to be necessary to provide the desired outcomes.
  - b. Upon transfer of title to the property, the Office of Housing shall require the transferee to accept the property “as-is, where-is, with all faults” and to release, indemnify, and hold the City harmless from any future claims regarding the condition of the property, including but not limited to any and all claims related to environmental conditions.
  - c. Transferee to convey to the City a 50-year covenant preserving the townhouses built on the Property as resale-restricted affordable homes. As such, all home sales shall only be to households with incomes at or below 80% of AMI at affordable prices for a period of no less than 50 years.

## SUMMARY and FISCAL NOTE\*

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Office of Housing	Erika Malone/684-0247	Miguel Jimenez/

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### 1. BILL SUMMARY

**Legislation Title:** AN ORDINANCE relating to the transfer of City real property for housing development; transferring the jurisdiction of a 1-foot strip of the property from the Office of Housing to the Department of Transportation for right-of-way purposes; declaring the remaining property located at 7750 28th Avenue NW (“Loyal Heights Property”) surplus to the City’s needs; authorizing transfer of the Loyal Heights Property to Habitat for Humanity or its designee; authorizing the Director of the Office of Housing or the Director’s designee to execute and deliver a contract for transfer of land, deed, and related documents; and ratifying and confirming certain prior acts.

**Summary and background of the Legislation:** Supporting the development of affordable homeownership has long been a City strategy to promote social justice and help reverse racial and wealth inequities caused by decades of discriminatory real estate and lending practices. However, this strategy has become increasingly difficult to implement as home values rise. To help address this difficulty, City of Seattle Resolution 31837 prioritizes the use of surplus City property for development of affordable housing.

This legislation authorizes the Director of the Office of Housing, or her designee (Director) to make the Property available to Habitat for Humanity Seattle-King County at no cost, in exchange for the development of 7 permanently affordable homes.

### 2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project?      \_\_\_ Yes  X  No

### 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget?      \_\_\_ Yes  X  No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

The Office of Housing will loan approximately \$630,000 of Housing Levy Funds as a development subsidy for the 7 affordable, resale-restricted homes.

**Is there financial cost or other impacts of *not* implementing the legislation?**

No.

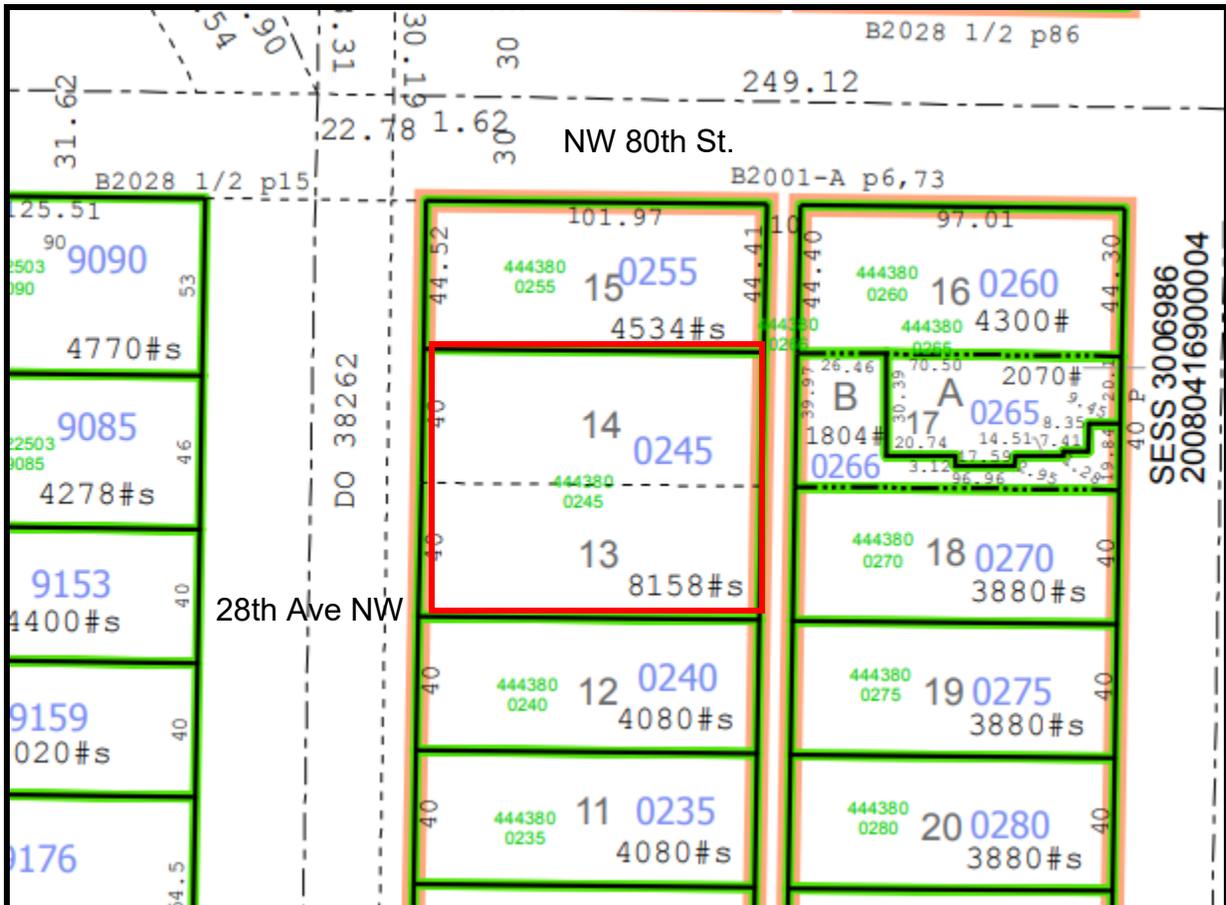
#### 4. OTHER IMPLICATIONS

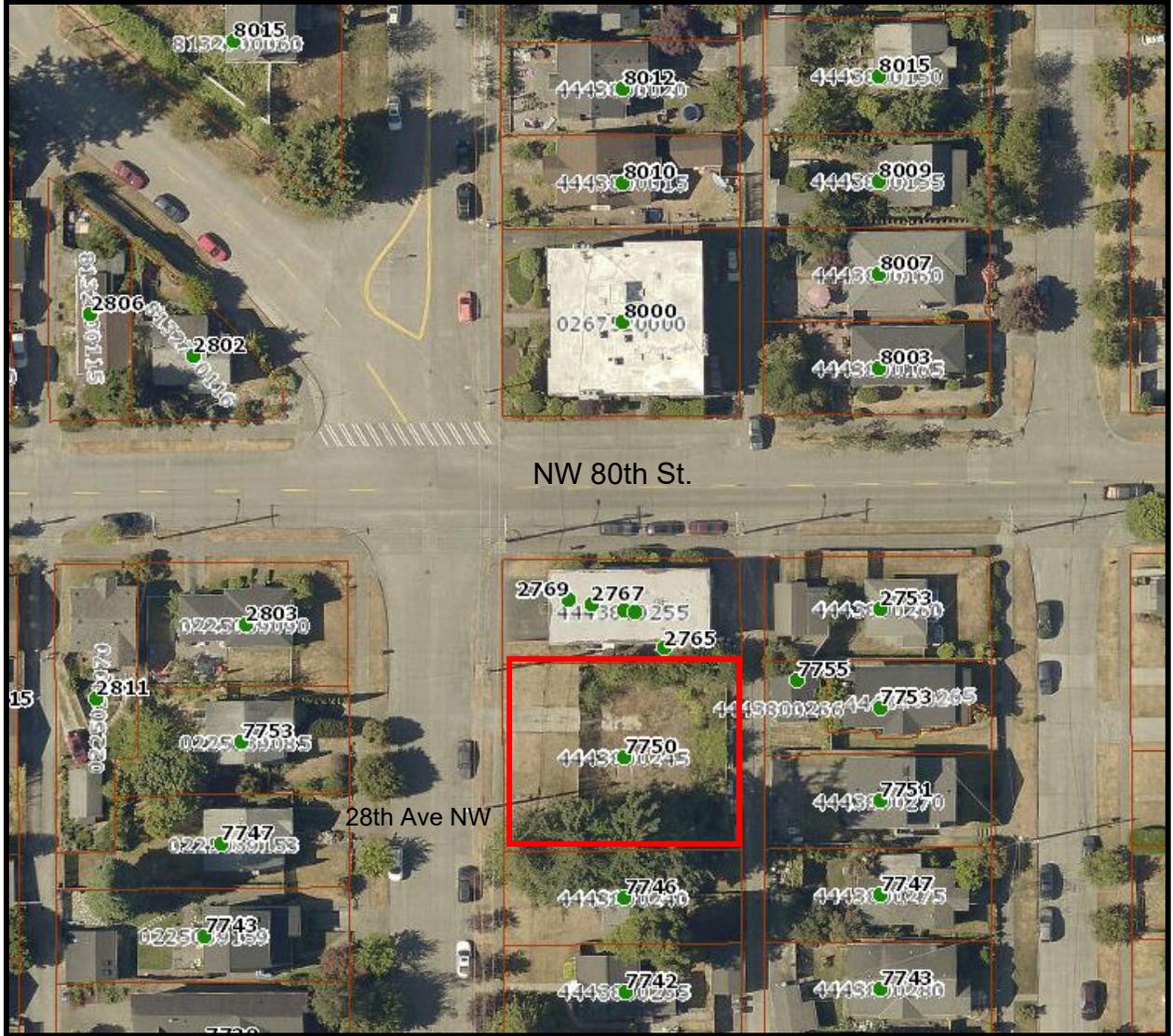
- a. Does this legislation affect any departments besides the originating department?**  
The Office of Housing will loan approximately \$630,000 of Housing Levy Funds for the development of the 7 affordable homes. City of Seattle will be granted a 50-year affordability covenant by the developer and the Office of Housing will monitor compliance with the 50-year affordability term.
- b. Is a public hearing required for this legislation?**  
No.
- c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**  
No, this legislation does not require landlords or sellers to provide information regarding a sale.
- d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
No.
- e. Does this legislation affect a piece of property?**  
Yes. A map of the property showing the property and surrounding area is provided as Attachment 1 to this Summary and Fiscal Note.
- f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**  
The Request for Proposals (RFP) articulated, in the evaluation criteria, that “the successful proposal will be submitted by an organization(s) that has demonstrated success in reaching traditionally underserved populations, including people of diverse ethnic and cultural background and people with disabilities.”
- The chosen developer, Habitat for Humanity, has a history of demonstrated success in this regard. They have a very strong track-record of successfully conducting affirmative marketing, affirmatively fair housing and serving households of color. They will conduct affirmative marketing for this project as well.
- g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)?**  
This legislation is a continuation of the Homebuyer Assistance Program as contemplated under the Development Subsidy section.

**List attachments/exhibits below:**

Summary Attachment 1 - Maps of Property

Attachment 1 - Maps of Property





# Transfer of Property for the Development of Permanently Affordable Homeownership

Finance and Housing Committee

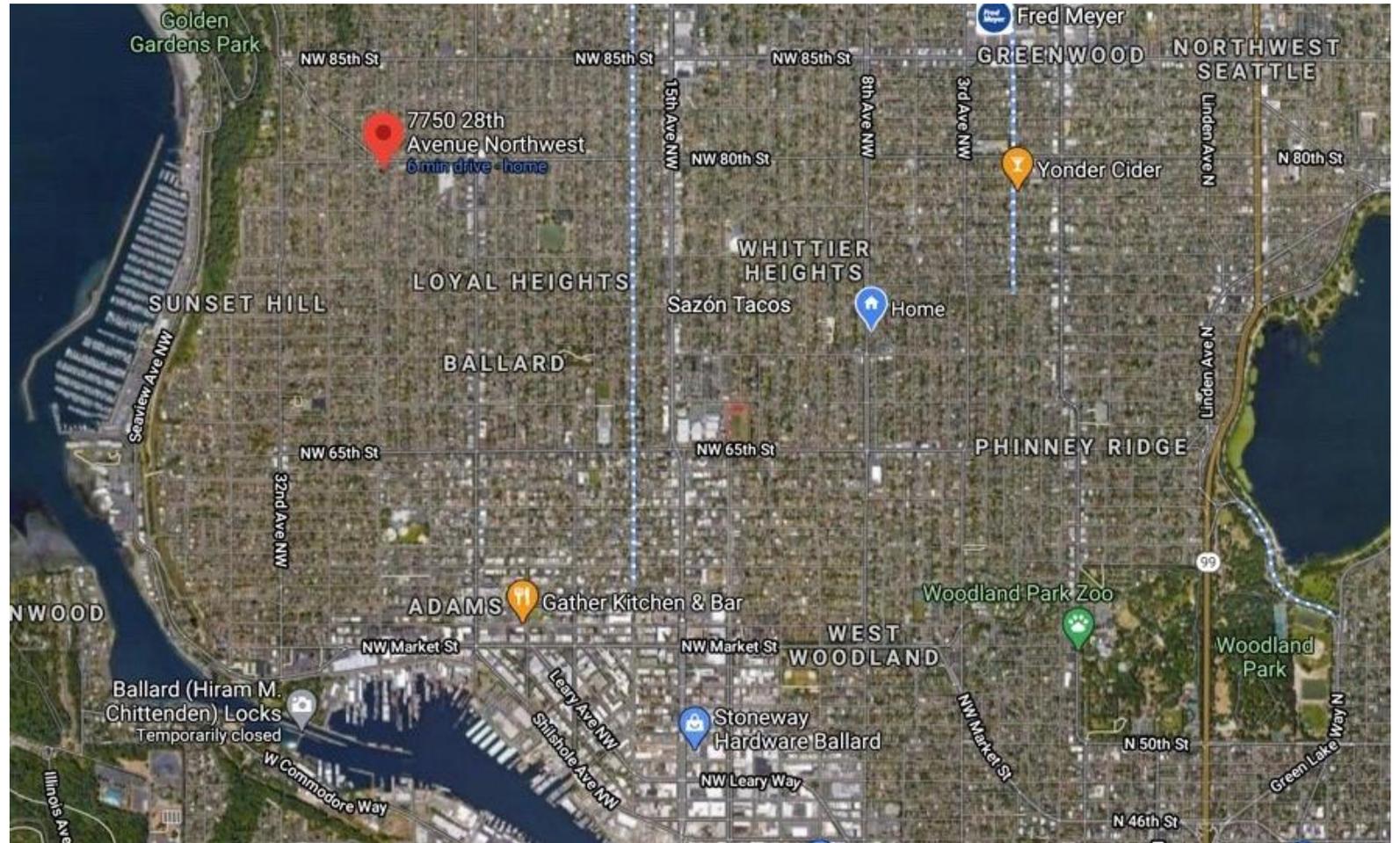
September 24, 2020



City of Seattle 27

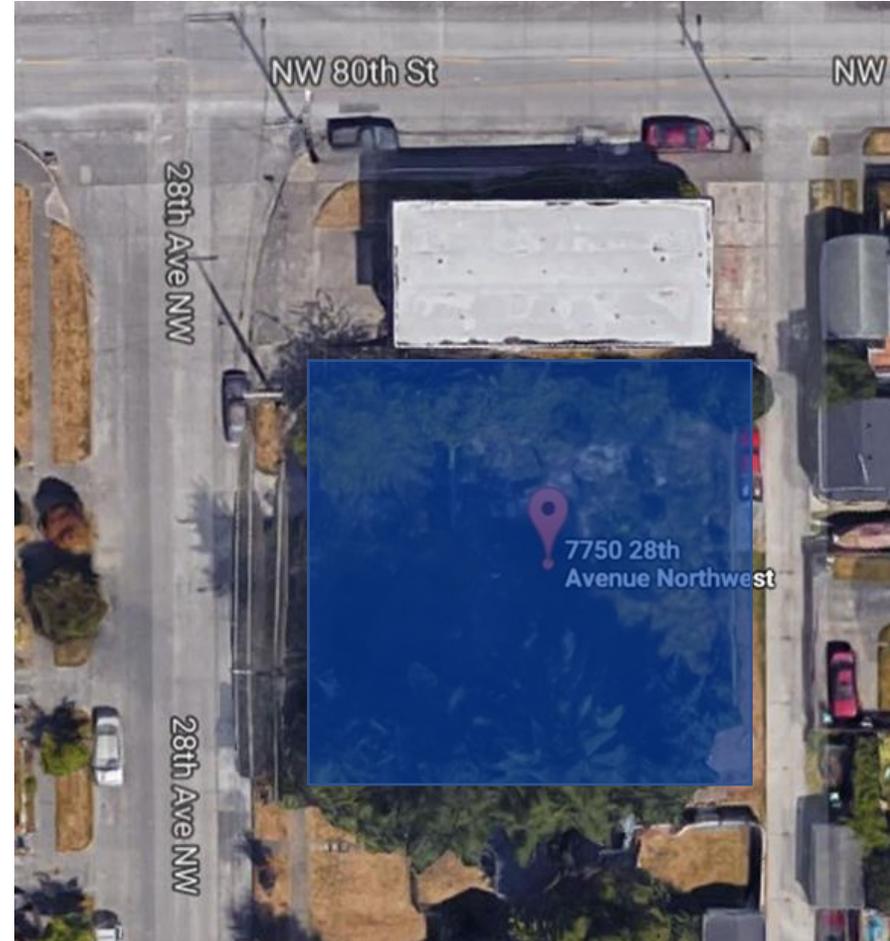
# LOYAL HEIGHTS PROPERTY:

- Close to transit, services
- Near Whittier Elementary and Loyal Heights Community Center



# LOYAL HEIGHTS PROPERTY:

- Address - 7750 28th Ave NW
- 28th Ave NW, south of NW 80th St



# BACKGROUND

- September 2019
  - Council approved transfer of land from Seattle City Light to Office of Housing
  - Through a competitive RFP process, Habitat for Humanity selected as the preferred developer

# LEGISLATION OVERVIEW

- Authorizes
  - OH to enter into a transfer agreement with Habitat for Humanity
  - A jurisdictional transfer from OH to SDOT as an alley dedication (1 foot on backside of property)

# HABITAT FOR HUMANITY - LOYAL HEIGHTS



- 7 three-bedroom townhomes
- Permanently affordable, family-sized housing in a high-opportunity neighborhood



Legislation Text

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**File #:** CB 119876, **Version:** 1

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**CITY OF SEATTLE**

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

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

AN ORDINANCE relating to transportation network company driver labor standards; establishing minimum labor and compensation standards for transportation network company drivers; establishing provision of or reimbursement for personal protective equipment to transportation network company drivers during the civil emergency declared on March 3, 2020; establishing notice, posting, and data requirements for transportation network companies; prescribing remedies and enforcement procedures; amending Section 3.15.000 of the Seattle Municipal Code; amending the title of Chapter 14.31 and Sections 6.208.020 and 14.31.010 of the Seattle Municipal Code; and adding a new Chapter 14.33 to the Seattle Municipal Code.

WHEREAS, the Washington Constitution provides in Article XI, Section 11 that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws”; and

WHEREAS, the state of Washington, in Revised Code of Washington (RCW) 46.72.001, has authorized political subdivisions of the state to regulate for-hire drivers and for-hire transportation services, which terms encompass the regulation of transportation network company (TNC) drivers, TNCs, and TNC services, to ensure safe and reliable TNC services; and

WHEREAS, TNCs provide application dispatch services that allow passengers to directly request the dispatch of drivers via the internet using mobile interfaces such as smartphone applications; and

WHEREAS, in 2019, the two largest TNCs accounted for over 26 million trips in the City of Seattle. At their peak in 2012, taxicabs in the City and King County provided about 5.2 million trips; and

WHEREAS, the two largest TNCs are also major hiring entities, accounting for most of the 33,058 TNC drivers issued permits by King County in 2019 as recorded by the King County Department of Licensing; and

WHEREAS, the City, TNC drivers, TNCs, and the public agree that TNC drivers should be compensated fairly and earn at least the equivalent of the “hourly minimum wage” established for Schedule 1 employers in Chapter 14.19 plus reasonable expenses; and

WHEREAS, the establishment of a minimum compensation standard better ensures that drivers can perform their services in a safe and reliable manner and thereby promotes the welfare of the people and is thus a fundamental governmental function; and

WHEREAS, the City is a leader on wage, labor, and workforce practices that improve workers’ lives, support economic security, and contribute to a fair, healthy, and vibrant economy; and

WHEREAS, the establishment of minimum labor standards for TNC drivers is a subject of vital and imminent concern to the people of this City and requires appropriate action by City Council to establish such minimum labor standards within the City; NOW, THEREFORE,

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

Section 1. Findings

A. In order to protect the public health, safety, and welfare, The City of Seattle is granted express authority to regulate for-hire transportation services pursuant to chapter 46.72 RCW. This authority includes regulating entry, requiring a license, controlling rates, establishing safety requirements, and any other requirement to ensure safe and reliable transportation services.

B. Studies around the nation, including a 2018 study commissioned by the New York City Taxi and Limousine Commission (New York TLC) entitled *An Earnings Standard for New York City’s App-based Drivers: Economic Analysis and Policy Assessment* and a 2018 nationwide study by the Economic Policy Institute entitled *Uber and the Labor Market: Uber Drivers’ Compensation, Wages, and the Scale of Uber and the Gig Economy* (Economic Policy Institute Study), have shown that many transportation network company (TNC) drivers earn below the equivalent of the hourly minimum wage rate established by Chapter 14.19 of the Seattle Municipal Code for Schedule 1 employers.

C. A 2018 JPMorgan Chase Institute study entitled *The Online Platform Economy in 2018* reported a decrease in TNC driver earnings nationwide between 2013 and 2017, a 2019 Seattle Times report showed a decrease in the percentage of the passenger fares that drivers are paid, and Uber Technology, Inc.'s April 2019 Form S-1 filing with the Securities and Exchange Commission states "we aim to reduce Driver incentives to improve our financial performance."

D. In November 2019, City Council passed and the Mayor signed Ordinance 125977, creating Seattle Municipal Code (SMC) Chapter 14.31 and establishing as City policy that the City create "a minimum compensation standard for TNC drivers that is comprised of at least the equivalent of the 'hourly minimum wage' established for Schedule 1 employers in Chapter 14.19 plus "reasonable expenses" and which considers "compensation for available platform time, dispatch platform time, [and] passenger platform time."

E. The two largest TNCs (Uber and Lyft) have both publicly stated that they support the City's policy as established in SMC Chapter 14.31. In an April 10, 2020 press release Uber stated "We also are committed to supporting Mayor Durkan's work on a new earnings standard equal to the City's minimum wage plus reasonable expenses..." and that they expected to "avoid the need for any further challenges to the ordinances, whether legally or through a local or state ballot measure." Similarly, on April 10, 2020, Lyft stated "[a] new safety net with a minimum earnings guarantee and fair worker protections would strengthen the opportunities for independent rideshare drivers to supplement their income through the platform" and that Lyft anticipated that "there should be no need for further legal or ballot challenges to the Fare Share ordinance."

F. In furtherance of that policy and to better understand local TNC driver earnings, expenses, and working time, the City commissioned an independent study to evaluate these issues and retained Dr. James Parrott of The New School and Dr. Michael Reich of the University of California at Berkeley to conduct the study. Parrott and Reich based their research on a survey of over 7,390 Seattle TNC drivers, data provided directly by the TNCs, and existing licensing and regulatory data from the City and King County.

G. Parrott and Reich found that 84 percent of TNC drivers currently earn below the equivalent of the

hourly minimum wage rate established by SMC Chapter 14.19 for Schedule 1 employers after accounting for reasonable expenses. Parrott and Reich determined that such reasonable expenses amount to \$11.80 on an hourly basis or \$0.725 per mile and that average gross TNC driver earnings were \$21.53. Accordingly, they concluded that TNC drivers average hourly earnings are \$9.73 after accounting for reasonable expenses.

H. The study found that 32 percent of TNC drivers drive full time (more than 32 hours a week) and these full-time drivers provide 55 percent of all trips. The JPMorgan Chase Institute study similarly found that the top ten percent of transportation gig workers earned 56.9 percent of earnings. Further, Parrott and Reich determined that 72 percent of full-time drivers and 58 percent of intermediate drivers (20 to 32 hours per week) rely on TNC driving as their sole source of income.

I. Despite this commitment to providing TNC services, many drivers struggle to pay for basic necessities. Thirty percent of drivers receive federal supplemental nutritional assistance, while 27 percent have no health insurance and 37 percent have incomes low enough to qualify for Medicaid coverage.

J. In the pursuit of economic opportunity, many TNC drivers are immigrants and people of color-72 percent and 73 percent, respectively-who have taken on debt or invested their savings to purchase and/or lease vehicles to provide TNC services. The Parrott and Reich Study found that 83 percent of full-time drivers and 75 percent of intermediate drivers purchased their vehicles primarily to provide TNC services. Further, 70 percent of drivers who own vehicles are still paying loan payments for those vehicles.

K. To more fully understand the driver experience, the City engaged in an extensive qualitative research and outreach effort by conducting five driver roundtables, two randomly selected focus groups, an online survey, one-on-one interviews, a telephone town hall, as well as many additional meetings and phone calls, that collectively reached over 9,000 drivers. The driver roundtables included two roundtables organized and convened by Uber and Lyft, respectively, which included drivers that they selected to present a perspective that Uber and Lyft believed was important for the City to consider. This research found that many TNC drivers struggle to pay for basic necessities like housing and health insurance. The research further found that TNC

drivers incur significant expenses by reason of performing TNC services.

L. TNC drivers in all of the roundtable groups-including the TNC drivers in the roundtables organized and convened by Uber and Lyft-identified several significant expenses that affect their overall earnings from providing TNC services. Specifically, drivers identified gas, maintenance, insurance, interior and exterior cleaning, cell phone and service plans, the cost of vehicle acquisition, financing, and depreciation, among other costs. TNC drivers in the Uber-convened driver roundtable stated that maintenance costs alone account for 25 percent of TNC driver earnings, that gas is “a very large cost,” that they perform car washing “every other day,” and that cars depreciate quickly. Similarly, TNC drivers in the Lyft-convened roundtable stated “My insurance tripled the day I became a rideshare driver,” that expenses can amount to \$32 a day, and that one TNC driver purchased a vehicle specifically to provide TNC services and such services accounted for 93 percent of the miles driven. Similarly, a driver in the online survey commented that “After deducting my cost for car maintenance and gas...I make less than minimum wage driving for Uber...”, while a focus group participant reported “[g]ross shows a lot of money [but] the expenses are almost half of it.”

M. The qualitative research also paralleled Parrott and Reich’s findings in other ways. Of the respondents to the City’s telephone town-hall and online survey, 40 to 50 percent work more than 32 hours per week providing TNC services. Further, two-thirds of TNC drivers that responded to the online survey said that driving for a TNC is their sole job.

N. Uber and Lyft likewise commissioned a study to determine TNC hourly earnings, which the City has thoroughly considered. While the Uber/Lyft commissioned study reaches different conclusions in some respects, it is similar to the Parrott and Reich report in that it also found that significant numbers of TNC drivers earn less than the equivalent of the hourly minimum wage rate established by SMC Chapter 14.19 for Schedule 1 employers plus reasonable expenses.

O. The TNCs represent that their business models rely on TNC drivers being classified as independent contractors and that they are exempt from minimum labor standards established by federal, state, and local law.

P. TNC drivers receive unpredictable income due to the high variability and opacity of the rates of compensation paid by TNCs, the amount of available platform time and dispatch platform time spent by TNC drivers between passenger trips, and the difficulty TNC drivers experience in determining their reasonable expenses. TNC drivers do not have guaranteed access to information about their expected earnings and expenses, the composition of trip payments or the amount of tips provided by passengers and a 2019 Georgetown University Study entitled *The Uber Workplace in D.C.* found that “100% of drivers experienced difficulties with, or barriers to, calculating their actual compensation.” Similarly, a driver who participated in the City’s focus group research reported “[t]he flexibility is great, but how many jobs do you ever go to that you don’t know what you are going to be paid. We just don’t know.”

Q. Numerous studies, including the Economic Policy Institute Study, calculate driver pay and driver work time by including waiting time or available platform time. In a 2019 study entitled *The Gender Earnings Gap in the Gig Economy: Evidence from over a Million Rideshare Drivers*, researchers found, in part, “that driver earnings are a function of wait times between trips.”

R. Failure to account for available platform time in a minimum compensation standard likely would result in hourly pay below the equivalent of the hourly minimum wage rate established by SMC Chapter 14.19 for Schedule 1 employers.

S. The Parrott and Reich study found that TNCs compensate TNC drivers in Seattle only for passenger platform time, but TNC drivers spend an average of 50.8 percent of each hour or 30.48 minutes per hour without a passenger in the car, but while logged on to the driver platform to perform TNC services. The study further determined that TNC drivers in Seattle drive an average of 37.8 per cent of the total miles driven per hour or 6.15 miles per hour without a passenger in the car, but while logged on to the driver platform to perform TNC services.

T. The City has repeatedly called on the TNCs to produce data on driver working time, earnings, and expenses in order to analyze and formulate policy to ensure that drivers earn a fair wage and can perform their

work in a safe and reliable manner.

U. In April 2018, the City Council passed Resolution 31808 calling on the TNCs to voluntarily share anonymized data on an individual driver and trip level (commonly referred to as “trip level data”), including data on driver working time, trip volumes, distances traveled in available platform time, dispatch platform time, and passenger platform time, fare information, and driver earnings by May 31, 2018. Between May 31, 2018 and January 10, 2020, neither Uber nor Lyft provided the City with any of the requested data.

V. Following the passage of SMC Chapter 14.31, which required the City to conduct a study into TNC driver earnings, working time, and reasonable expenses and propose a minimum compensation standard, Uber and Lyft advised the City that they believed the study should be informed by Uber and Lyft’s data. The City welcomed this offer and called on the companies to voluntarily provide trip-level data covering TNC driver working time, earnings, distances traveled in available platform time, dispatch platform time, and passenger platform time, and other information sufficient to determine TNC driver earnings and expenses.

W. Both Uber and Lyft declined to provide this data.

X. In an attempt at compromise, the City proposed that Uber and Lyft provide summary aggregate data for one representative week in each month beginning October 2018 and ending October 2019 and including:

1. The total number of TNC drivers, trips, trip miles, and trip minutes;
2. The distribution of TNC driver trip miles and trip minutes at defined percentile distributions;
3. The distribution of aggregate available platform time, dispatch platform time, and passenger platform time at defined percentile distributions;
4. The distribution of passenger fares at defined percentile distributions;
5. The distribution of TNC driver pay at defined percentile distributions;
6. The percentage of trips, trip miles, trip minutes, passenger fares, and TNC driver pay that represent shared or pooled trips; and
7. The composition of the vehicles providing the trips.

Y. On January 10, 2020, Uber provided a portion of the requested data. Specifically, Uber provided the distribution of aggregate available platform time, dispatch platform time, and passenger platform time, the distribution of driver pay, and the total number of trips. While not requested by the City, Uber also provided the average speed traveled by TNC drivers during available platform time, dispatch platform time, and passenger platform time as well as the top ten vehicles providing trips originating in Seattle ranked by mileage during the sample period, which comprised 67.16 percent of the total vehicles for this period.

Z. On January 10, 2020, Lyft notified the City that it would not provide any of the requested data. Subsequently, on February 13, 2020, Lyft provided a list of the top ten vehicles types providing trips that originated in Seattle between October 2018 and ending October 2019, which comprised 56 percent of the total vehicles. Lyft declined to provide any data on TNC driver earnings or working time.

AA. Requirements for affirmative data production by the TNCs covered by SMC Chapter 14.33 as created by this ordinance are necessary to effectively enforce the ordinance and understand the effects of the minimum compensation standard. Further, the California Public Utilities Commission, the City of Chicago, the New York TLC, Washington, D.C., and Toronto currently require such affirmative production of trip-level data. The California Public Utilities Commission recently found that TNC trip level data was not protected by trade-secret principles because “neither Uber nor Lyft identify a competitor by name who would gain an unfair competitive disadvantage if their annual reports were made public” and neither “company [could] honestly state that they will be surprised or learn something new about the other if their annual reports were disclosed publicly.” Similarly, the New York TLC and the City of Chicago release anonymized trip-level data publicly. Neither Uber nor Lyft have experienced adverse effects on their businesses due to the release of this data, nor have passengers or TNC drivers had their privacy interests infringed by such release.

BB. Numerous studies suggest minimum compensation and minimum wage standards benefit employers and hiring entities by improving worker performance, reducing worker turnover, and thereby improving productivity and the quality of the services provided by workers, including TNC drivers.

CC. Many Seattle workers, including TNC drivers, cannot fully participate in the community's dynamic civic life or pursue its myriad educational, cultural, and recreational opportunities because they struggle to meet their households' most basic needs.

DD. Minimum compensation standards support stable incomes and promote job retention by ensuring that TNC drivers are compensated at sufficient levels to support themselves and their families. Further, minimum compensation standards promote the general welfare, health, and prosperity of Seattle by ensuring that workers have stable incomes and can better support and care for their families and fully participate in Seattle's civic, cultural, and economic life.

EE. Providing a minimum compensation standard for TNC drivers would benefit the Seattle economy by significantly increasing TNC driver earnings and thereby boosting consumer spending in Seattle and benefiting the economy overall.

FF. Establishing minimum compensation standards and transparency requirements will help ensure that the compensation that thousands of drivers who provide vital transportation services in Seattle every day receive for their services is sufficient to alleviate undue financial pressure to provide transportation in an unsafe manner by working longer hours than is safe, skipping needed breaks, or operating vehicles at unsafe speeds in order to maximize the number of trips completed or to ignore maintenance necessary to the safe and reliable operation of their vehicles.

GG. TNC drivers who have the protection of minimum labor standards and transparency requirements will be more likely to remain in their positions over time, and to devote more time to their work as TNC drivers. Such experienced drivers will improve the safety and reliability of the TNC services provided by the TNCs to passengers and thus reduce safety and reliability problems created by frequent turnover in the TNC services industry.

Section 2. A new Chapter 14.33 is added to the Seattle Municipal Code as follows:

**CHAPTER 14.33 TRANSPORTATION NETWORK COMPANY DRIVER MINIMUM**

## **COMPENSATION**

### **14.33.010 Short title**

This Chapter 14.33 shall constitute the “Transportation Network Company Driver Minimum Compensation Ordinance” and may be cited as such.

### **14.33.015 Declaration of policy**

It is declared to be the policy of the City, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to ensure that TNC drivers can perform their services in a safe and reliable manner, and thereby promote the welfare of TNC drivers and the people who rely on such services to meet their transportation needs. The role of the Office of Labor Standards is to enforce the provisions of this Chapter 14.33 in furtherance of this policy.

### **14.33.020 Definitions**

For the purposes of this Chapter 14.33:

“Adverse action” means reducing the rates of compensation to the TNC driver, garnishing tips or gratuities, temporarily or permanently denying or limiting access to work, incentives, or bonuses, offering less desirable work, demoting, terminating, deactivating, changing a TNC driver’s status to provide TNC services from eligible to ineligible, putting a TNC driver on hold status, failing to rehire a TNC driver after a seasonal interruption of work, threatening, penalizing, retaliating, denying authorization to provide TNC services, threatening, penalizing, engaging in unfair immigration-related practices, filing a false report with a government agency, or otherwise discriminating against any person for any reason prohibited by Section 14.33.120. “Adverse action” for a TNC driver may involve any aspect of TNC services, including compensation, work hours, volume and frequency of trips assigned, responsibilities, or other material change in the ability of a TNC driver to perform TNC services. “Adverse action” also includes any action that would dissuade a reasonable TNC driver from exercising their rights under this Chapter 14.33;

“Agency” means the Office of Labor Standards and any division therein;

“Aggrieved party” means the TNC driver or other person who suffers tangible or intangible harm due to the TNC or other person's violation of this Chapter 14.33;

“Application dispatch” means technology that allows consumers to directly request dispatch of TNC drivers for trips and/or allows TNC drivers or TNCs to accept trip requests and payments for trips via the internet using mobile interfaces such as, but not limited to, smartphone and tablet applications;

“Available platform time” means the time a TNC driver is logged in to the driver platform and available to receive a TNC dispatched trip prior to receiving a trip request from a TNC. A TNC driver cannot simultaneously be engaged in available platform time, dispatch platform time, and/or passenger platform time for the same TNC. For trips involving multiple passengers picked up from different passenger pick-up locations, available platform time means the period of time when a TNC driver is logged in to the driver platform prior to receiving the first trip request from a TNC;

“City” means the City of Seattle;

“Compensation” means payment owed to a TNC driver by reason of providing TNC services including, but not limited to the minimum payment for passenger platform time and mileage under Section 14.33.050, incentives, and tips;

“Deactivation” means the blocking of a TNC driver’s access to the driver platform, changing a TNC driver’s status from eligible to provide TNC services to ineligible, or other material restriction in access to the driver platform that is effected by a TNC.

“Director” means the Director of the Office of Labor Standards or the Director's designee;

“Dispatch location” means the location of the TNC driver at the time the TNC driver accepts a trip request through the driver platform;

“Dispatch platform time” means the time a TNC driver spends traveling from dispatch location to passenger pick-up location. Dispatch platform time ends when a passenger cancels a trip, a driver cancels a trip, or the driver begins the trip in the driver platform. A TNC driver cannot simultaneously be engaged in available

platform time, dispatch platform time, and/or passenger platform time for the same TNC. For trips involving multiple passengers picked up from different passenger pick-up locations, dispatch platform time means the time a TNC driver spends travelling from the first dispatch location to the first passenger pick-up location;

“Driver platform” means the driver-facing application dispatch system software or any online-enabled application service, website, or system, used by a TNC driver, that enables the prearrangement of passenger trips for compensation;

“Front pay” means the compensation the TNC driver would earn or would have earned if reinstated to the TNC driver’s former position;

“Hearing Examiner” means the official appointed by the City Council and designated as the Hearing Examiner under Chapter 3.02 or that person's designee (e.g., Deputy Hearing Examiner or Hearing Examiner Pro Tem);

“Incentives” means a sum of money paid to a TNC driver upon completion of a task, usually completing a certain amount of trips, a certain amount of consecutive trips, a trip subject to a price multiplier or variable pricing policy, or some other provision of TNC services;

“Operating in the City” means, with respect to a TNC, providing application dispatch services to any affiliated driver at any time for the transport of any passenger for compensation from or to a point within the geographical confines of the City;

“Passenger drop-off location” means the location of a TNC driver’s vehicle when a TNC driver ends the trip in the driver platform;

“Passenger mileage utilization rate” means the percentage of miles that TNC drivers drive during passenger platform time relative to the total miles TNC drivers drive during available platform time, dispatch platform time, and passenger platform time.

1. The passenger mileage utilization rate is calculated by dividing the total miles TNC drivers drive during passenger platform time by the total miles TNC drivers drive during available platform time,

dispatch platform time, and passenger platform time.

2. If data on mileage driven by TNC drivers during available platform time, dispatch platform time, or passenger platform time is not available or complete, the Director is authorized to calculate the passenger mileage utilization rate pursuant to subsection 14.33.050.B;

“Passenger pick-up location” means the location of the TNC driver’s vehicle at the time the TNC driver starts the trip in the driver platform;

“Passenger platform time” means the period of time commencing when the TNC driver starts the trip in the driver platform until the time when the TNC driver ends the trip in the driver platform. For trips involving multiple passengers picked up from different passenger pick-up locations, passenger platform time means the period of time commencing when the TNC driver starts the trip in the driver platform after the first passenger enters the TNC driver’s vehicle until the time when the TNC driver ends the trip in the driver platform after the last passenger exits the TNC driver’s vehicle at the end of the trip. A TNC driver cannot simultaneously be engaged in available platform time, dispatch platform time, and/or passenger platform time for the same TNC;

“Passenger platform time utilization rate” means the percentage of time that TNC drivers spend during passenger platform time relative to the total of the time TNC drivers spend during available platform time, dispatch platform time, and passenger platform time.

1. The passenger platform time utilization rate is calculated by dividing the total amount of time that TNC drivers spend during passenger platform time by the total of the time TNC drivers spend during available platform time, dispatch platform time, and passenger platform time.

2. If data on available platform time, dispatch platform time, or passenger platform time is not available or complete, the Director is authorized to calculate the passenger platform time utilization rate pursuant to subsection 14.33.050.B;

“Per minute rate” means the per minute equivalent of the “hourly minimum wage” established for Schedule 1 employers in Chapter 14.19. For example, in 2020 the “hourly minimum wage” established for

Schedule 1 employers in Chapter 14.19 is \$16.39 and the resultant per minute rate is \$0.27;

“Per mile rate” means the per mile equivalent of the reasonable expenses necessary for a TNC driver to provide TNC services;

“Rate of inflation” means 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the percentage increase shall not be less than zero;

“Reasonable expenses” means (1) the per mile cost of operating a vehicle for purposes of providing TNC services and (2) the non-mileage expenses incurred by TNC drivers to provide TNC services. Reasonable expenses may include, but are not limited to:

1. Vehicle acquisition and financing costs;
2. Depreciation;
3. Lease payments;
4. Maintenance and repairs;
5. Tires;
6. Gasoline (including all taxes thereon);
7. Oil;
8. Vehicle insurance;
9. License and vehicle registration fees;
10. Cell phone and cell phone service plans;
11. Cost of medical, dental, and vision insurance;
12. The amount of employer-side payroll taxes that TNC drivers must pay;
13. The amount of business taxes that TNC drivers must pay;
14. Business license fees that TNC drivers must pay; and
15. Any other cost or information the Director determines is necessary to further the purposes of

this Chapter 14.33;

“Respondent” means the TNC or any person who is alleged or found to have committed a violation of this Chapter 14.33;

“Tips” means a verifiable sum to be presented by a passenger as a gift or gratuity in recognition of some service performed for the passenger by the TNC driver receiving the tip;

“TNC services” means services related to the transportation of passengers through the driver platform that are provided by a TNC driver while logged in to that driver platform, including services provided during available platform time, dispatch platform time, and passenger platform time;

“Transportation network company” or “TNC” means an organization, licensed or required to be licensed under Chapter 6.310, operating in the City that offers prearranged transportation services for compensation using an online-enabled application or platform, such as an application dispatch system, to connect passengers with drivers using a “transportation network company (TNC) endorsed vehicle,” as defined in Chapter 6.310.

“Transportation network company” includes any such entity or person acting directly or indirectly in the interest of a transportation network company in relation to the transportation network company driver;

“Transportation network company driver” or “TNC driver” means a licensed for-hire driver, as defined in Chapter 6.310, affiliated with and accepting trips from a licensed transportation network company. For purposes of this Chapter 14.33, at any time that a driver is logged into the driver platform, the driver is considered a TNC driver;

“TNC dispatched trip” or “trip” means the dispatch of a TNC driver to provide transportation to a passenger in a TNC endorsed vehicle through the use of a TNC’s application dispatch system. A trip is completed when the TNC driver ends the trip in the driver platform. The term “TNC dispatched trip” or “trip” does not include transportation provided by taxicabs or for-hire vehicles, as defined in Chapter 6.310;

“Written” or “writing” means a printed or printable communication in physical or electronic format including a communication that is transmitted through email, text message or a computer system, or is

otherwise sent and maintained electronically, including via the driver platform.

#### **14.33.030 TNC driver coverage**

A. A TNC driver is covered by this Chapter 14.33 if the TNC driver provides TNC services within the geographic boundaries of the City for a TNC covered by this Chapter 14.33.

B. For a trip with a passenger pick-up location in the City, all minimum compensation requirements under Section 14.33.050 apply, regardless of the passenger drop-off location.

C. For a trip with a passenger pick-up location outside the City, minimum compensation under Section 14.33.050 is due only for the portion of passenger platform time and mileage that occurs within the City.

#### **14.33.040 TNC coverage**

A. TNCs that report 200,000 or more rides that originate in the City per the most recent quarterly report received by the City under Section 6.310.540 are covered under this Chapter 14.33.

B. Separate entities that form an integrated enterprise shall be considered a single TNC under this Chapter 14.33. Separate entities will be considered an integrated enterprise and a single TNC under this Chapter 14.33 where a separate entity controls the operation of another entity. The factors to consider include, but are not limited to:

1. Degree of interrelation between the operations of multiple entities;
2. Degree to which the entities share common management;
3. Centralized control of labor relations;
4. Degree of common ownership or financial control over the entities; and
5. Use of a common brand, trade, business, or operating name.

#### **14.33.050 Minimum compensation**

For each TNC dispatched trip, a TNC shall compensate TNC drivers by providing at least the equivalent of the minimum per minute amount for passenger platform time under subsection 14.33.050.A.1 and the minimum per -mile amount for passenger platform time under subsection 14.33.050.A.2.

A. Minimum payment

1. Per minute amount. For each minute of passenger platform time on each trip, a TNC shall compensate TNC drivers at least the equivalent of the per minute rate divided by the passenger platform time utilization rate, except that in the first three months after the effective date of this section, the per minute amount shall be phased in according to a rate schedule filed by the Agency with the City Clerk. The minimum per minute amount during the three month phase in period shall not fall below \$0.32 per minute.

a. Passenger platform time utilization rate. For a period of one year after the effective date of this section the passenger platform utilization rate shall be 0.492.

2. Per mile amount. For each mile driven during passenger platform time on each trip, a TNC shall compensate TNC drivers at least the equivalent of the per mile rate divided by the passenger mileage utilization rate. For a period of one year after the effective date of this section, this amount is \$1.17.

a. For a period of one year after the effective date of this section, the per mile rate shall be \$0.725.

b. For a period of one year after the effective date of this section, the passenger mileage utilization rate shall be 0.622.

3. The calculations described in this subsection 14.33.050.A are expressed in equation form as:

$$\left( \frac{\text{Per minute rate} \times \text{Passenger Platform Time Minutes}}{\text{Passenger Platform Time Utilization Rate}} \right) + \left( \frac{\text{Per mile rate} \times \text{Passenger Platform Time Miles}}{\text{Passenger Mileage Utilization Rate}} \right) = \text{Minimum Payment Per Trip}$$

B. Adjustment of the per mile rate, passenger platform time utilization rate, and the passenger mileage utilization rate

1. Adjustment of the per mile rate. Beginning one year after the effective date of this section, and thereafter on January 1 of each year, the Director by rule may adjust the per-mile rate. In adjusting the per-mile rate each year, the Director shall consider the best available sources of data, which may include, but are not

limited to: TNC driver surveys, data provided by TNCs, data provided by TNC drivers, data provided by passengers, data from other jurisdictions, data available through academic, policy, or community based organizations, and stakeholder interviews. The Director shall base the adjustment on an assessment of relevant factors or costs during the 12-month period ending in August. Provided however, that this adjustment shall not result in reduction of the per mile rate below \$0.725. The Director may consider the following non-exhaustive factors or costs:

- a. Vehicle acquisition and financing costs;
- b. Depreciation;
- c. Lease payments;
- d. Maintenance and repairs;
- e. Tires;
- f. Gasoline (including all taxes thereon);
- g. Oil;
- h. Vehicle Insurance;
- i. License and vehicle registration fees;
- j. Cell phone and cell phone plans;
- k. Cost of medical, dental, and vision insurance;
- l. The amount of employer-side payroll taxes that TNC drivers must pay;
- m. The amount of businesses taxes that TNC drivers must pay;
- n. Business license fees that TNC drivers must pay;
- o. Any other cost or information the Director determines is necessary to further the

purposes of this Chapter 14.33.

If the Director does not adjust the per-mile rate in any given year, the per-mile rate shall be increased on a percentage basis to reflect the rate of inflation and calculated to the nearest cent on January 1 of

each year. The Agency shall determine the amount and file a schedule of such amount with the City Clerk.

2. Adjustment of the passenger platform time utilization rate and the passenger mileage utilization rate. Beginning one year after the effective date of this section, the Director by rule may adjust the passenger platform time utilization rate or the passenger mileage utilization rate. The Agency shall provide notice to the public no less than three months before the effective date of any adjustment under this subsection 14.33.050.B.2. The purpose of any adjustment is to reflect changes in the percentage of time that TNC drivers spend in passenger platform time relative to the total time that TNC drivers spend in available platform time, dispatch platform time and passenger platform time or the percentage of miles TNC drivers drive during passenger platform time relative to the total miles TNC drivers drive during available platform time, dispatch platform time, and passenger platform time. The Director shall have discretion to determine a passenger platform time utilization rate or a passenger mileage utilization rate on an industry-wide basis or for each TNC covered by this Chapter 14.33.

a. The Director may choose not to adjust the passenger platform time utilization rate or the passenger mileage utilization rate for any time period that the Director determines is necessary to further the purposes of this Chapter 14.33, including but not limited to: while the civil emergency proclaimed by Mayor Durkan on March 3, 2020 remains in effect; or while the combined total trips reported by all TNCs that originate in the City covered by this Chapter 14.33 is less than 3,000,000 per the most recent quarterly report received by the City under Section 6.310.540.

b. Prior to beginning any assessment period on which the Agency will base a passenger platform time utilization rate or the passenger mileage utilization rate adjustment, the Agency shall provide reasonable notice to the TNCs and other stakeholders of the date on which the assessment period begins.

c. In adjusting the passenger platform time utilization rate or the passenger mileage utilization rate, the Director may consider the following sources of information:

1) The best available sources of data, which may include, but are not limited to:

TNC driver surveys, data provided by TNCs, data provided by TNC drivers, data provided by passengers, data from other jurisdictions, data available through academic, policy, or community based organizations, and stakeholder interviews;

2) Input from stakeholders on the method and time period for assessment or adjustment of the passenger platform time utilization rate or the passenger mileage utilization rate; and

3) Any other information the Director determines is necessary to further the purposes of this Chapter 14.33.

d. The Director shall base any adjustment to the passenger platform time utilization rate or passenger mileage utilization rate on an assessment of relevant factors during an assessment period of up to 12 months prior to the date of adjustment. The Director may consider the following factors:

1) The average and median amount of available platform time, dispatch platform time, and passenger platform time for TNC drivers;

2) The average and median mileage driven by TNC drivers during available platform time, dispatch platform time, and passenger platform time;

3) The average and median speeds driven by TNC drivers during available platform time, dispatch platform time, and passenger platform time;

4) The percentage of total trips that each TNC covered by this Chapter 14.33 represents;

5) The impact of the adjustment of the passenger platform time utilization rate or the passenger mileage utilization rate on TNCs, TNC passengers, and TNC drivers, including the impact on TNC driver earnings and work hours, the availability of TNC services, and any other factor the Director deems relevant. and

6) Any other information the Director determines is necessary to further the purposes of this Chapter 14.33.

3. The Agency shall file a schedule of such amounts described in this Section 14.33.050 with the City Clerk.

C. Cancellations

If a passenger cancels a trip, or fails to appear at the passenger pickup location, the TNC shall pay the TNC driver any cancellation fee that the TNC charged to the passenger, except in instances where the TNC refunds the cancellation fee to the passenger.

D. Deductions

1. A TNC may only deduct compensation when the TNC driver expressly authorizes the deduction in writing and does so in advance for a lawful purpose for the benefit of the TNC driver. Any such authorization by a TNC driver must be voluntary and knowing.

2. Neither the TNC nor any person acting in the interest of the TNC may derive any financial profit or benefit from any of the deductions under this subsection 14.33.050.D. For the purposes of this subsection 14.33.050.D, reasonable interest charged by the TNC, or any person acting in the interest of a TNC, for a loan or credit extended to the TNC driver is not considered to be of financial benefit to the TNC, or any person acting in the interest of a TNC.

**14.33.060 Tip and incentive compensation**

A. A TNC shall pay to its TNC drivers all tips and gratuities. Tips paid to a TNC driver are in addition to, and may not count towards, the TNC driver's minimum compensation under Section 14.33.050.

B. Incentives may count towards the TNC's minimum compensation requirements under Section 14.33.050 only for the particular trip in which the incentives are earned.

**14.33.070 Provision of personal protective equipment and disinfecting supplies**

A. While the civil emergency proclaimed by Mayor Durkan on March 3, 2020 remains in effect, each TNC covered by this Chapter 14.33 must provide to each TNC driver, at the TNC's expense, a reasonable amount of non-medical grade face coverings, gloves, hand sanitizing agents, and disinfecting supplies, such as

disinfecting wipes or sprays. A reasonable amount of supplies may be considered as those necessary to meet any TNC industry-specific health and safety requirements promulgated by local, state, or federal agencies. At a minimum shall include, but not be limited to, the following supplies or their equivalent: one disposable mask for every ten trips; one pair of gloves for every ten trips; one 8-ounce bottle of hand sanitizer for every 100 trips; and one 32-ounce bottle of disinfecting spray for every 200 trips.

B. If a TNC determines that directly providing all TNC drivers with the supplies referenced in subsection 14.33.070.A is infeasible, the TNC may, in addition to or in lieu of direct delivery, allow for:

1. TNC drivers to pick up the items at one or more centralized location(s), which shall be open for pickups some evening and weekend hours; and/or
2. TNC drivers to be reimbursed for the reasonable cost of the items.

C. Each TNC covered by this Chapter 14.33 shall provide each TNC driver with written notice of the TNC's policy and procedure for meeting the requirements of this Section 14.33.070. The policy and procedure shall include:

1. The amount of supplies available to each TNC driver;
2. The method of distribution of such supplies;
3. If supplies will not be delivered directly to TNC drivers, the location where such supplies are available for pickup and the hours during which the location is open for pickup; and
4. If supplies will not be provided to TNC drivers, the reasonable cost of the items to be reimbursed to a TNC driver.

#### **14.33.100 Notice and posting**

A. TNCs shall provide each TNC driver with a written notice of rights established by this Chapter 14.33. The Agency may create and distribute a model notice of rights in English and other languages. However, TNCs are responsible for providing TNC drivers with the notice of rights required by this subsection 14.33.100.A, in a form and manner sufficient to inform TNC drivers of their rights under this Chapter 14.33,

regardless of whether the Agency has created and distributed a model notice of rights. The notice of rights shall provide information on:

1. The right to the applicable per minute rate and per mile rate guaranteed by this Chapter 14.33;
2. The right to be protected from retaliation for exercising in good faith the rights protected by this Chapter 14.33; and
3. The right to file a complaint with the Agency or bring a civil action for violation of the requirements of this Chapter 14.33, including a TNC or any person's failure to pay the minimum per minute rate or per mile rate, and a TNC or other person's retaliation against a TNC driver or other person for engaging in an activity protected by this Chapter 14.33.

B. TNCs shall provide the notice of rights required by subsection 14.33.100.A in an electronic format that is readily accessible to the TNC driver. The notice of rights shall be made available to the TNC driver via smartphone application or online web portal, in English and any language that the TNC knows or has reason to know is the primary language of the TNC driver. The Director may issue rules governing the form and content of the notice of rights, the manner of its distribution, and required languages for its translation.

C. Within 24 hours of each trip completion, a TNC must transmit an electronic receipt to the TNC driver that contains the following information for each unique trip, or portion of a unique trip, covered by this Chapter 14.33:

1. The total amount of passenger platform time;
2. The total mileage driven during passenger platform time;
3. Passenger pick-up location and passenger drop-off location. The Director shall issue rules regarding the precision with which a TNC must describe the passenger pick-up location and passenger drop-off location and may consider methods to protect the privacy of passengers, to the maximum extent permitted by applicable laws. Prior to the issuance of such rules, a TNC's current practice of describing the passenger pick-up location and passenger drop-off location as of the effective date of this section shall be deemed to comply

with this subsection 14.33.100.C.3;

4. Rate or rates of pay, including but not limited to the rate per minute, rate per mile, percentage of passenger fare, and any applicable price multiplier or variable pricing policy in effect for the trip;
5. Tip compensation;
6. Gross payment;
7. Net payment after deductions, fees, tolls, surcharges, lease fees, or other charges;
8. Itemized deductions or fees, including any toll, surcharge, commission, lease fees, and other charges;
9. Pursuant to rules issued by the Director, other information that is material and necessary to effectuate the terms of this Chapter 14.33.

D. On a weekly basis, the TNC shall provide written notice to the TNC driver that contains the following information for trips, or a portion of a trip, that is covered by this Chapter 14.33 and which occurred in the prior week:

1. The TNC driver's total passenger platform time;
2. Total mileage driven by the TNC driver during passenger platform time;
3. The TNC driver's total tip compensation;
4. The TNC driver's gross payment, itemized by:
  - a. Rate per minute;
  - b. Rate per mile; and
  - c. Any other method used to calculate pay including, but not limited to, base pay, percentage of passenger fare, or any applicable price multiplier or variable pricing policy in effect for the trip.
5. The TNC driver's net payment after deductions, fees, tolls, surcharges, lease fees, or other charges;
6. Itemized deductions or fees, including all tolls, surcharges, commissions, lease fees, and other

charges, from the TNC driver's payment; and

7. Pursuant to rules issued by the Director, other information that is material and necessary to effectuate the terms of this Chapter 14.33.

E. Within 24 hours of a trip's completion, a TNC must transmit an electronic receipt to the passenger on behalf of the TNC driver that lists:

1. The date and time of the trip;

2. The passenger pick-up and passenger drop-off locations for the trip. The Director shall issue rules regarding the precision with which a TNC must describe the passenger pick-up location and passenger drop-off location and may consider methods to protect the privacy of passengers, to the maximum extent permitted by applicable laws. Prior to the issuance of such rules, a TNC's current practice of describing the passenger pick-up location and passenger drop-off location as of the effective date of this section shall be deemed to comply with this subsection 14.33.100.E.2;

3. The total duration and distance of the trip;

4. Driver first name;

5. The total fare paid, itemizing all charges and fees;

6. Pursuant to rules issued by the Director, other information that is material and necessary to effectuate the terms of this Chapter 14.33.

#### **14.33.110 TNC records**

A. Each TNC shall retain for three years records that document compliance with this Chapter 14.33 including:

1. Records of compensation paid to TNC drivers pursuant to Section 14.33.050, including records of payment of the per-minute amount pursuant to subsection 14.33.050.A.1, payment of the per-mile amount pursuant to subsection 14.33.050.A.2, payment of cancellation fees pursuant to subsection 14.33.050.C, and any tip or incentive compensation pursuant to Section 14.33.060;

2. Records of time spent during available platform time, dispatch platform time, and passenger platform time, including but not limited to the duration that each TNC driver is logged in to the driver platform, the amount of time each TNC driver spends travelling from dispatch location to passenger pickup location for each trip, and amount of time each TNC driver spends travelling from passenger pickup location to passenger drop-off location for each trip.

3. Records of TNC driver mileage driven during available platform time, dispatch platform time, and passenger platform time, including but not limited to the date, time, and location of dispatch location, passenger pickup location, and passenger drop-off location for each trip. The Director is authorized to issue rules regarding the precision with which a TNC must describe the dispatch location, passenger pick-up location, and passenger drop-off location;

4. Written per-trip driver receipts and weekly statements of trip information pursuant to subsections 14.33.100.C and 14.33.100.D;

5. Written per-trip passenger receipts pursuant to subsection 14.33.100.E; and

6. Pursuant to rules issued by the Director, other records that are material and necessary to effectuate the terms of this Chapter 14.33.

B. If a TNC fails to retain adequate records required under subsection 14.33.110.A, including records required by Director's rule pursuant to subsection 14.33.110.A.6, there shall be a presumption, rebuttable by clear and convincing evidence, that the TNC violated this Chapter 14.33 for the periods and for each TNC driver for whom records were not retained.

C. Respondents in any case closed by the Agency shall allow the Office of City Auditor access to such records to permit the Office of City Auditor to evaluate the Agency's enforcement efforts. Before requesting records from such a respondent, the Office of City Auditor shall first consult the Agency's respondent records on file and determine if additional records are necessary. The City Auditor may apply by affidavit or declaration in the form allowed under RCW 9A.72.085 to the Hearing Examiner for the issuance of subpoenas under this

subsection 14.33.110.C. The Hearing Examiner shall issue such subpoenas upon a showing that the records are required to fulfill the purposes of this subsection 14.33.110.C.

#### **14.33.113 Production of records**

A. The TNC shall routinely and affirmatively transmit to the Agency such records as required by rules issued by the Director. The Director shall have the authority to require aggregated or disaggregated records.

Such records may include, but are not limited to:

1. The length and duration of each trip;
2. The amount of time spent and miles travelled in available platform time, dispatch platform time, and passenger platform time;
3. Per-trip TNC driver compensation;
4. For each trip, the date, time, and location of dispatch, passenger pickup and passenger drop-off;
5. Unique vehicle and driver identifier;
6. Passenger fares for each trip; and
7. Any other records that the Director determines are necessary to effectuate the purposes of this Chapter 14.33.

B. The Director shall issue rules governing the submission format, security, and privacy protocols relating to the submission of TNC records, to the extent permitted by law.

#### **14.33.116 Rulemaking authority**

The Director is authorized to enforce and administer this Chapter 14.33. The Director shall exercise all responsibilities under this Chapter 14.33 pursuant to rules and regulations developed under Chapter 3.02. The Director is authorized to promulgate, revise, or rescind rules and regulations deemed necessary, appropriate, or convenient to administer, evaluate and enforce the provisions of this Chapter 14.33, providing affected entities with due process of law and in conformity with the intent and purpose of this Chapter 14.33.

**14.33.120 Retaliation prohibited**

A. No TNC or any other person shall interfere with, restrain, deny, or attempt to deny the exercise of any right protected under this Chapter 14.33.

B. No TNC or any other person shall take any adverse action against any person because the person has exercised in good faith the rights protected under this Chapter 14.33. Such rights include but are not limited to the right to make inquiries about the rights protected under this Chapter 14.33; the right to inform others about their rights under this Chapter 14.33; the right to inform the person's TNC, union, or similar organization, and/or the person's legal counsel or any other person about an alleged violation of this Chapter 14.33; the right to file an oral or written complaint with the Agency, or bring a civil action for an alleged violation of this Chapter 14.33; the right to cooperate with the Agency in its investigations of this Chapter 14.33; the right to testify in a proceeding under or related to this Chapter 14.33; the right to refuse to participate in an activity that would result in a violation of city, state or federal law; and the right to oppose any policy, practice, or act that is unlawful under this Chapter 14.33.

C. No TNC or any other person shall communicate to a person exercising rights protected under this Section 14.33.120, directly or indirectly, the willingness to inform a government employee or contracted organization that the person is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness to report, suspected citizenship or immigration status of a TNC driver or a family member of the TNC driver to a federal, state, or local agency because the TNC driver has exercised a right under this Chapter 14.33.

D. It shall be considered a rebuttable presumption of retaliation if the TNC or any other person takes an adverse action against a person within 90 calendar days of the person's exercise of rights protected in this Section 14.33.120. The TNC may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

E. Proof of retaliation under this Section 14.33.120 shall be sufficient upon a showing that the TNC or

any other person has taken an adverse action against a person and the person's exercise of rights protected in Section 14.33.120 was a motivating factor in the adverse action, unless the TNC can prove that the action would have been taken in the absence of such protected activity.

F. The protections afforded under this Section 14.33.120 shall apply to any person who mistakenly but in good faith alleges violations of this Chapter 14.33.

G. A complaint or other communication by any person triggers the protections of this Section 14.33.120 regardless of whether the complaint or communication is in writing or makes explicit reference to this Chapter 14.33.

#### **14.33.130 Enforcement power and duties**

Subject to the provisions of this Section 14.33.130, the Agency shall have the power to investigate violations of this Chapter 14.33, as defined herein, and shall have such powers and duties in the performance of these functions as are defined in this Chapter 14.33 and otherwise necessary and proper in the performance of the same and provided for by law.

#### **14.33.140 Violation**

The failure of any respondent to comply with any requirement imposed on the respondent under this Chapter 14.33 is a violation.

#### **14.33.150 Investigation**

A. Subject to the provisions of this subsection 14.33.150.A, the Agency shall have the power to investigate any violations of this Chapter 14.33 by any respondent. The Agency may initiate an investigation pursuant to rules issued by the Director including, but not limited to:

1. Situations when the Director has reason to believe that a violation has occurred or will occur, or when circumstances show that violations are likely to occur within a business or class of businesses because the workforce contains significant numbers of workers who are vulnerable to violations of this Chapter 14.33 or the workforce is unlikely to volunteer information regarding such violations; and

2. Following the receipt by the Agency of a report or complaint filed by a TNC driver or any other person.

B. A TNC driver or other person may report to the Agency any suspected violation of this Chapter 14.33. The Agency shall encourage reporting pursuant to this Section 14.33.150 by taking the following measures:

1. The Agency shall keep confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the TNC driver or person reporting the violation. However, with the authorization of such person, the Agency may disclose the TNC driver's or person's name and identifying information as necessary to enforce this Chapter 14.33 or for other appropriate purposes.

2. The Agency may require the TNC to post or otherwise notify TNC drivers that the Agency is conducting an investigation, in a form, place, and manner designated by the Agency. The TNC may provide the form on an individual basis in physical or electronic format that is reasonably conspicuous and accessible in in English and other languages as provided by rules issued by the Director.

3. The Agency may certify the eligibility of eligible persons for "U" visas under the provisions of 8 U.S.C. § 1184(p) and 8 U.S.C. § 1101(a)(15)(U). The certification is subject to applicable federal law and regulations, and rules issued by the Director.

C. The Agency's investigation must commence within three years of the alleged violation. To the extent permitted by law, the applicable statute of limitations for civil actions is tolled during any investigation under this Chapter 14.33 and any administrative enforcement proceeding under this Chapter 14.33 based upon the same facts. For purposes of this Chapter 14.33:

1. The Agency's investigation begins on the earlier date of when the Agency receives a complaint from a person under this Chapter 14.33, or when the Agency provides notice to the respondent that an investigation has commenced under this Chapter 14.33.

2. The Agency's investigation ends when the Agency issues a final order concluding the matter

and any appeals have been exhausted; the time to file any appeal has expired; or the Agency notifies the respondent in writing that the investigation has been otherwise resolved.

D. The Agency's investigation shall be conducted in an objective and impartial manner.

E. The Director may apply by affidavit or declaration in the form allowed under RCW 9A.72.085 to the Hearing Examiner for the issuance of subpoenas requiring the TNC to produce the records identified in Section 14.33.110, or for the attendance and testimony of witnesses, or for the production of documents required to be retained under Section 14.33.110, or any other document relevant to the issue of whether any TNC driver or group of TNC drivers has been or is afforded proper amounts of compensation under this Chapter 14.33 and/or to whether the TNC has violated any provision of this Chapter 14.33. The Hearing Examiner shall conduct the review without hearing as soon as practicable and shall issue subpoenas upon a showing that there is reason to believe that a violation has occurred if a complaint has been filed with the Agency, or that circumstances show that violations are likely to occur within a business or class of businesses because the workforce contains significant numbers of workers who are vulnerable to violations of this Chapter 14.33 or the workforce is unlikely to volunteer information regarding such violations.

F. A TNC that fails to comply with the terms of any subpoena issued under subsection 14.33.150.E in an investigation by the Agency under this Chapter 14.33 prior to the issuance of a Director's Order issued pursuant to subsection 14.33.160.C may not use such records in any appeal to challenge the correctness of any determination by the Agency of liability, damages owed, or penalties assessed.

G. In addition to other remedies, the Director may refer any subpoena issued under subsection 14.33.150.E to the City Attorney to seek a court order to enforce any subpoena.

H. Where the Director has reason to believe that a violation has occurred, the Director may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing, including but not limited to a deposit of funds or bond sufficient to satisfy a good-faith estimate of compensation, interest, damages and penalties due. A respondent may appeal any such

order in accordance with Section 14.33.180.

#### **14.33.160 Findings of fact and determination**

A. Except when there is an agreed upon settlement, the Director shall issue a written determination with findings of fact resulting from the investigation and statement of whether a violation of this Chapter 14.33 has or has not occurred based on a preponderance of the evidence before the Director.

B. If the Director determines that there is no violation of this Chapter 14.33, the Director shall issue a "Determination of No Violation" with notice of a TNC driver's or other person's right to appeal the decision, subject to the rules of the Director.

C. If the Director determines that a violation of this Chapter 14.33 has occurred, the Director shall issue a "Director's Order" that shall include a notice of violation identifying the violation or violations.

1. The Director's Order shall state with specificity the amounts due under this Chapter 14.33 for each violation, including payment of unpaid compensation, liquidated damages, civil penalties, penalties payable to aggrieved parties, and interest pursuant to Section 14.33.170.

2. The Director's Order may specify that civil penalties due to the Agency can be mitigated for respondent's timely payment of remedy due to an aggrieved party under subsection 14.33.170.A.4.

3. The Director's Order may specify that civil penalties and fines are due to the aggrieved party rather than due to the Agency.

4. The Director's Order may direct the respondent to take such corrective action as is necessary to comply with the requirements of this Chapter 14.33, including, but not limited to, monitored compliance for a reasonable time period.

5. The Director's Order shall include notice of the respondent's right to appeal the decision, pursuant to Section 14.33.180.

#### **14.33.170 Remedies**

A. The payment of unpaid compensation, liquidated damages, civil penalties, penalties payable to

aggrieved parties, and interest provided under this Chapter 14.33 are cumulative and are not intended to be exclusive of any other available remedies, penalties, and procedures.

1. The amounts of all civil penalties and penalties payable to aggrieved parties contained in this Section 14.33.170 shall be increased annually to reflect the rate of inflation and calculated to the nearest cent on January 1 of each year. The Agency shall determine the amounts and file a schedule of such amounts with the City Clerk.

2. If a violation is ongoing when the Agency receives a complaint or opens an investigation, the Director may order payment of unpaid compensation plus interest that accrues after receipt of the complaint or after the investigation opens and before the date of the Director's Order.

3. Interest shall accrue from the date the unpaid compensation was first due at 12 percent annum, or the maximum rate permitted under RCW 19.52.020.

4. If there is a remedy due to an aggrieved party, the Director may waive the total amount of civil penalties due to the Agency if the Director determines that the respondent paid the full remedy due to the aggrieved party within ten days of service of the Director's Order. The Director may waive half the amount of civil penalties due to the Agency if the Director determines that the respondent paid the full remedy due to the aggrieved party within 15 days of service of the Director's Order. The Director shall not waive any amount of civil penalties due to the Agency if the Director determines that the respondent has not paid the full remedy due to the aggrieved party after 15 days of service of the Director's Order.

5. When determining the amount of liquidated damages, civil penalties, and penalties payable to aggrieved parties due under this Section 14.33.170, for a settlement agreement or Director's Order, including but not limited to the mitigation of civil penalties due to the Agency for timely payment of remedy due to an aggrieved party under subsection 14.33.170.A.4, the Director shall consider:

a. The total amount of unpaid compensation, liquidated damages, penalties, and interest due;

- b. The nature and persistence of the violations;
- c. The extent of the respondent's culpability;
- d. The substantive or technical nature of the violations;
- e. The size, revenue, and human resources capacity of the respondent;
- f. The circumstances of each situation;
- g. The amounts of penalties in similar situations; and
- h. Other factors pursuant to rules issued by the Director.

B. A respondent found to be in violation of this Chapter 14.33 shall be liable for full payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of this Chapter 14.33, and other equitable relief. Where the precise amount of unpaid compensation cannot be determined due to a respondent's failure to produce records, or where a respondent produces records in a manner or form which makes timely determination of the amount of unpaid compensation impracticable, the Director may designate an amount for unpaid compensation in a minimum amount of \$200 for the Director may assess unpaid compensation in an amount to be determined by rules issued by the Director in favor of the aggrieved party for each week that each violation occurred or continued. For a first violation of this Chapter 14.33, the Director may assess liquidated damages in an additional amount of up to twice the unpaid compensation.

1. For subsequent violations of this Chapter 14.33, the Director shall assess an amount of liquidated damages in an additional amount of twice the unpaid compensation.

2. For purposes of establishing a first and subsequent violation for this Section 14.33.170, the violation must have occurred within ten years of the settlement agreement or Director's Order.

C. A respondent found to be in violation of this Chapter 14.33 for retaliation under Section 14.33.120 shall be subject to any appropriate relief at law or equity including, but not limited to reinstatement of the aggrieved party, front pay in lieu of reinstatement with full payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of this Chapter 14.33, and liquidated damages in an additional

amount of up to twice the unpaid compensation. The Director also shall order the imposition of a penalty payable to the aggrieved party of up to \$5,462.70.

D. A respondent who willfully violates the notice and posting requirements of subsection 14.33.100.B shall be subject to a civil penalty of \$819.61 for the first violation and \$1,092.13 for subsequent violations.

E. A respondent who willfully hinders, prevents, impedes, or interferes with the Director or Hearing Examiner in the performance of their duties under this Chapter 14.33 shall be subject to a civil penalty of not less than \$1,092.13 and not more than \$5,462.70.

F. A respondent found to be in violation of this Chapter 14.33 shall be subject to civil penalties. Pursuant to subsection 14.33.160.C.3, the Director may specify that civil penalties are due to the aggrieved party rather than due to the Agency.

1. For a first violation of this Chapter 14.33, the Director may assess a civil penalty of up to \$546.07 per aggrieved party.

2. For a second violation of this Chapter 14.33, the Director shall assess a civil penalty of up to \$1,092.13 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater.

3. For a third or any subsequent violation of this Chapter 14.33, the Director shall assess a civil penalty of up to \$5,462.70 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater. The maximum civil penalty for a violation of this Chapter 14.33 shall be \$21,849.79 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater.

4. For purposes of this Section 14.33.170, a violation is a second, third, or subsequent violation if the respondent has been a party to one, two, or more than two settlement agreements, respectively, stipulating that a violation has occurred; and/or one, two, or more than two Director's Orders, respectively, have issued against the respondent in the ten years preceding the date of the violation; otherwise, it is a first violation.

G. For the following violations, the Director may assess a fine in the amounts set forth below:

Violation	Fine
Failure to provide reasonable supplies under subsection 14.33.070.	\$546.07 per aggrieved party
Failure to provide TNC drivers with written notice of rights under subsection 14.33.100.B	\$546.07 per aggrieved party
Failure to provide TNC drivers with per-trip receipts or weekly statements under subsection 14.33.100.C	\$546.07 per aggrieved party
Failure to maintain compensation or trip records for three years under subsection 14.33.110.A and 14.33.110.B	\$546.07 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under Section 14.33.120	\$1,092.13 per aggrieved party
Failure to provide notice of investigation to TNC drivers under subsection 14.33.150.B.2	\$546.07 per aggrieved party
Failure to provide notice of failure to comply with final order to the public under subsection 14.33.210.A.1	\$546.07 per aggrieved party

The fine amounts shall be increased cumulatively by 50 percent of the fine for each preceding violation for each subsequent violation of the same provision by the same TNC or person within a ten-year period. The maximum amount that may be imposed in fines in any one-year period for each type of violation listed above is \$5,462.70 unless a fine for retaliation is issued, in which case the maximum amount is \$21,849.79.

H. In addition to the unpaid compensation, penalties, fines, liquidated damages, and interest, the Agency may assess against the respondent in favor of the City reasonable costs incurred in enforcing this Chapter 14.33, including but not limited to reasonable attorneys' fees.

I. The TNC that is the subject of a settlement agreement stipulating that a violation shall count for debarment, or final order for which all appeal rights have been exhausted shall not be permitted to bid, or have a bid considered, on any City contract until such amounts due under the final order have been paid in full to the

Director. If the TNC is the subject of a final order two times or more within a five-year period, the contractor or subcontractor shall not be allowed to bid on any City contract for two years. This subsection 14.33.170.I shall be construed to provide grounds for debarment separate from, and in addition to, those contained in Chapter 20.70 and shall not be governed by that chapter, provided that nothing in this subsection 14.33.170.I shall be construed to limit the application of Chapter 20.70. The Director shall notify the Director of Finance and Administrative Services of all TNCs subject to debarment under this subsection 14.33.170.I.

#### **14.33.180 Appeal period and failure to respond**

A. A TNC driver or other person who claims an injury as a result of an alleged violation of this Chapter 14.33 may appeal the Determination of No Violation Shown, pursuant to the rules of the Director.

B. A respondent may appeal the Director's Order, including all remedies issued pursuant to Section 14.33.170, by requesting a contested hearing before the Hearing Examiner in writing within 15 days of service of the Director's Order. If a respondent fails to appeal the Director's Order within 15 days of service, the Director's Order shall be final. If the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run until 5 p.m. on the next business day.

#### **14.33.190 Appeal procedure and failure to appear**

A. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases. The review shall be conducted de novo and the Director shall have the burden of proof by a preponderance of the evidence before the Hearing Examiner. Upon establishing such proof, the remedies and penalties imposed by the Director shall be upheld unless it is shown that the Director abused discretion. Failure to appear for a contested hearing will result in an order being entered finding that the TNC committed the violation stated in the Director's Order. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon failure to appear.

B. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying, or reversing

the Director's Order.

#### **14.33.200 Appeal from Hearing Examiner order**

A. The respondent may obtain judicial review of the decision of the Hearing Examiner by applying for a Writ of Review in the King County Superior Court within 30 days from the date of the decision in accordance with the procedure set forth in chapter 7.16 RCW, other applicable law, and court rules.

B. The decision of the Hearing Examiner shall be final and conclusive unless review is sought in compliance with this Section 14.33.200.

#### **14.33.210 Failure to comply with final order**

A. If a respondent fails to comply within 30 days of service of any settlement agreement with the Agency, or with any final order issued by the Director or the Hearing Examiner for which all appeal rights have been exhausted, the Agency may pursue, but is not limited to, the following measures to secure compliance:

1. The Director may require the respondent to post public notice of the respondent's failure to comply in a form and manner determined by the Agency.

2. The Director may refer the matter to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed to between the City and the collection agency, and added to the amounts due.

3. The Director may refer the matter to the City Attorney for the filing of a civil action in a court of competent jurisdiction to enforce such order or to collect amounts due. In the alternative, the Director may seek to enforce a settlement agreement, Director's Order, or a final order of the Hearing Examiner under Section 14.33.190.

4. The Director may request that the City's Department of Finance and Administrative Services deny, suspend, refuse to renew, or revoke any business license held or requested by the TNC or person until such time as the TNC complies with the remedy as defined in the settlement agreement or final order. The City's Department of Finance and Administrative Services shall have the authority to deny, refuse to renew, or

revoke any business license in accordance with this subsection 14.33.210.A.4.

B. No respondent that is the subject of a settlement agreement or final order issued under this Chapter 14.33 shall quit business, sell out, exchange, convey, or otherwise dispose of the respondent's business or stock of goods without first notifying the Agency and without first notifying the respondent's successor of the amounts owed under the settlement agreement or final order at least three business days prior to such transaction. At the time the respondent quits business, or sells out, exchanges, or otherwise disposes of the respondent's business or stock of goods, the full amount of the remedy, as defined in the settlement agreement or the final order issued by the Director or the Hearing Examiner, shall become immediately due and payable. If the amount due under the settlement agreement or final order is not paid by respondent within ten days from the date of such sale, exchange, conveyance, or disposal, the successor shall become liable for the payment of the amount due, provided that the successor has actual knowledge of the order and the amounts due or has prompt, reasonable, and effective means of accessing and verifying the fact and amount of the order and the amounts due. The successor shall withhold from the purchase price a sum sufficient to pay the amount of the full remedy. When the successor makes such payment, that payment shall be deemed a payment upon the purchase price in the amount paid, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such successor from the TNC.

#### **14.33.220 Debt owed The City of Seattle**

A. All monetary amounts due under a settlement agreement or Director's Order shall be a debt owed to the City and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies, provided that amounts collected by the City for unpaid compensation, liquidated damages, penalties payable to aggrieved parties, or front pay shall be held in trust by the City for the aggrieved party and, once collected by the City, shall be paid by the City to the aggrieved party.

B. If a respondent fails to appeal a Director's Order to the Hearing Examiner within the time period set forth in subsection 14.33.180.B the Director's Order shall be final, and the Director may petition the Seattle

Municipal Court to enforce the Director's Order by entering judgment in favor of the City finding that the respondent has failed to exhaust its administrative remedies and that all amounts and relief contained in the order are due. The Director's Order shall constitute prima facie evidence that a violation occurred and shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing evidence that the respondent has failed to comply with the order or any parts thereof, and is therefore in default, or that the respondent has failed to appeal the Director's Order to the Hearing Examiner within the time period set forth in subsection 14.33.180.B and therefore has failed to exhaust the respondent's administrative remedies, shall also be admissible without further evidentiary foundation.

C. If a respondent fails to obtain judicial review of an order of the Hearing Examiner within the time period set forth in subsection 14.33.200.A, the order of the Hearing Examiner shall be final, and the Director may petition the Seattle Municipal Court to enforce the Director's Order by entering judgment in favor of the City for all amounts and relief due under the order of the Hearing Examiner. The order of the Hearing Examiner shall constitute conclusive evidence that the violations contained therein occurred and shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing evidence that the respondent has failed to comply with the order or any parts thereof, and is therefore in default, or that the respondent has failed to avail itself of judicial review in accordance with subsection 14.33.200.A, shall also be admissible without further evidentiary foundation.

D. In considering matters brought under subsections 14.33.220.B and 14.33.220.C, the Municipal Court may include within its judgment all terms, conditions, and remedies contained in the Director's Order or the order of the Hearing Examiner, whichever is applicable, that are consistent with the provisions of this Chapter 14.33.

### **14.33.230 Private right of action**

A. Any person or class of persons that suffers financial injury as a result of a violation of this Chapter 14.33 or is the subject of prohibited retaliation under Section 14.33.120, may bring a civil action in a court of

competent jurisdiction against the TNC or other person violating this Chapter 14.33 and, upon prevailing, may be awarded reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any unpaid compensation plus interest due to the person and liquidated damages in an additional amount of up to twice the unpaid compensation; a penalty payable to any aggrieved party of up to \$5,462.70 if the aggrieved party was subject to prohibited retaliation. Interest shall accrue from the date the unpaid compensation was first due at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.

B. For purposes of this Section 14.33.230, "person" includes any entity a member of which has suffered financial injury or retaliation, or any other individual or entity acting on behalf of an aggrieved party that has suffered financial injury or retaliation.

C. For purposes of determining membership within a class of persons entitled to bring an action under this Section 14.33.230, two or more TNC drivers are similarly situated if they:

1. Are or were contracted to perform TNC services by the same TNC or TNCs, whether concurrently or otherwise, at some point during the applicable statute of limitations period,
2. Allege one or more violations that raise similar questions as to liability, and
3. Seek similar forms of relief.

D. For purposes of subsection 14.33.230.C, TNC drivers shall not be considered dissimilar solely because their:

1. Claims seek damages that differ in amount, or
2. Job titles or other means of classifying TNC drivers differ in ways that are unrelated to their claims.

E. Nothing contained in this Chapter 14.33 is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from or by reason of any act or omission in connection with the implementation or enforcement of this

chapter on the part of the City by its officers, employees or agents.

#### **14.33.235 Encouragement of more generous policies**

A. Nothing in this Chapter 14.33 shall be construed to discourage or prohibit a TNC from the adoption or retention of protections more generous than the ones required by this Chapter 14.33.

B. Nothing in this Chapter 14.33 shall be construed as diminishing the obligation of a TNC to comply with any contract, or other agreement providing more generous protections to TNC drivers than required by this Chapter 14.33.

#### **14.33.240 Other legal requirements**

This Chapter 14.33 defines requirements for TNC driver protections and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater requirements; and nothing in this Chapter 14.33 shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor shall this Chapter 14.33 be construed to preclude any person aggrieved from seeking judicial review of any final administrative decision or order made under this Chapter 14.33 affecting such person.

#### **14.33.245 Study of application of TNC driver protections**

A. The Council shall request the City Auditor, in collaboration with the Agency, to contract with academic researchers who have a proven track record of rigorous analysis of the impacts of labor standards regulations to conduct an evaluation of the impacts of this ordinance following implementation. The City Auditor should complete the evaluation within two years of the effective date of this section and shall have discretion to determine whether the evaluation shall consist of a single report for the entire evaluation period or periodic reports focused on shorter time periods. Areas of evaluation may include, but not be limited to, the impacts of this ordinance on TNCs, TNC drivers, including TNC driver earnings and work hours, the share of time TNC drivers spend in or miles they drive during available platform time, dispatch platform time, and passenger platform time, TNC passengers, including passenger fares and average passenger wait times, new

TNC driver applications, and total active TNC drivers.

B. The Council shall use the results of the evaluation to identify possible areas for revision to accomplish the goals of this ordinance.

C. The requirements set forth in subsection 14.33.245.A shall be conditioned on the City Council appropriating sufficient monies to fund the evaluation described in subsection 14.33.245.A.

D. During the first year following the effective date of this section, the Agency may conduct an evaluation of the impacts of this ordinance following implementation. Areas of evaluation may include, but not be limited to, the impacts of this ordinance on TNCs, TNC drivers, including TNC driver earnings and work hours, the share of time TNC drivers spend in or miles they drive during available platform time, dispatch platform time, and passenger platform time, TNC passengers, including passenger fares and average passenger wait times, new TNC driver applications, and total active TNC drivers. If at any time the Agency determines that the ordinance is not achieving its stated purposes, the Agency may propose changes either through a rulemaking process or by proposing amendments to the Ordinance.

**14.33.250 Severability**

The provisions of this Chapter 14.33 are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.33, or the application thereof to any TNC, TNC driver, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this Chapter 14.33, or the validity of its application to other persons or circumstances.

Section 3. Section 3.02.125 of the Seattle Municipal Code, last amended by Ordinance 126094, is amended as follows:

**3.02.125 Hearing Examiner filing fees**

A. The filing fee for a case before the City Hearing Examiner is \$85, with the following exceptions:

Basis for Case	Fee in dollars
* * *	

Third Party Utility Billing (Chapter 7.25)	No fee
Transportation Network Company Driver Minimum Compensation (Chapter 14.33)	No fee
Type III or Type IV Land Use Application (Chapter 23.76)	No fee
* * *	

\* \* \*

Section 4. Section 3.15.000 of the Seattle Municipal Code, last amended by Ordinance 125976, is amended as follows:

**3.15.000 Office of Labor Standards created - Functions**

There is created within the Executive Department an Office of Labor Standards, under the direction of the Mayor. The mission of the Office of Labor Standards is to advance labor standards through thoughtful community and business engagement, strategic enforcement and innovative policy development, with a commitment to race and social justice. The Office of Labor Standards seeks to promote greater economic opportunity and further the health, safety, and welfare of employees; support employers in their implementation of labor standards requirements; and end barriers to workplace equity for women, communities of color, immigrants and refugees, and other vulnerable workers.

The functions of the Office of Labor Standards are as follows:

- A. Promoting labor standards through outreach, education, technical assistance, and training for employees and employers;
- B. Collecting and analyzing data on labor standards enforcement;
- C. Partnering with community, businesses, and workers for stakeholder input and collaboration;
- D. Developing innovative labor standards policy;
- E. Administering and enforcing City of Seattle ordinances relating to (~~minimum wage and minimum compensation (Chapter 14.19),~~) paid sick and safe time (Chapter 14.16), use of criminal history in employment decisions (Chapter 14.17), minimum wage and minimum compensation (Chapter 14.19), wage and tip compensation requirements (Chapter 14.20), secure scheduling (Chapter 14.22), domestic workers (Chapter

14.23), hotel employees safety protections (Chapter 14.26), protecting hotel employees from injury (Chapter 14.27), improving access to medical care for hotel employees (Chapter 14.28), hotel employees job retention (Chapter 14.29), commuter benefits (Chapter 14.30), transportation network company driver deactivation protections (Chapter 14.32), transportation network company driver minimum compensation (Chapter 14.33), and other labor standards ordinances that may be enacted in the future.

Section 5. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last amended by Ordinance 126108, is amended as follows:

**6.208.020 Denial, revocation of, or refusal to renew business license**

A. In addition to any other powers and authority provided under this Title 6, the Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license issued under the provisions of this Chapter 6.208. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any license issued under this Chapter 6.208 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this Chapter 6.208.
3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, or 5.52.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.
5. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in Chapter 10.09.
6. The applicant or licensee has been convicted of theft under subsection 12A.08.060.A.4 within the last ten years.
7. The applicant or licensee is a person subject within the last ten years to a court order entering

final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of either:

a. The expiration of the time for filing an appeal from the final judgment order under the court rules in effect at the time of the final judgment order; or

b. If a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial affirmation of the findings of violations of chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.

8. The applicant or licensee is a person subject within the last ten years to a final and binding citation and notice of assessment from the Washington Department of Labor and Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

9. Pursuant to subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4, 14.20.080.A.4, 14.22.115.A.4, 14.23.115.A.4, 14.26.210.A.4, 14.27.210.A.4, 14.28.210.A.4, ~~((and))~~ 14.30.180.A.4, and 14.33.210.A.4, subsection 100.240.A.4 of Ordinance 126091, and subsection 100.240.A.4 of Ordinance 126094, the applicant or licensee has failed to comply, within 30 days of service of any settlement agreement, with any final order issued by the Director of the Office of Labor Standards, or any final order issued by the Hearing Examiner under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, ~~((and))~~ 14.30, and 14.33, Ordinance 126091, and Ordinance 126094 for which all appeal rights have been exhausted, and the Director of the Office of Labor Standards has requested that the Director deny, refuse to renew, or revoke any business license held or requested by the applicant or licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the violation(s) under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, ~~((and))~~ 14.30, and 14.33, Ordinance 126091, and Ordinance 126094 are remedied.

10. The business is one that requires an additional license under this Title 6 and the business

does not hold that license.

11. The business has been determined under a separate enforcement process to be operating in violation of law.

Section 6. The title of Chapter 14.31 of the Seattle Municipal Code, enacted by Ordinance 125977, is amended as follows:

**CHAPTER 14.31 TRANSPORTATION NETWORK COMPANY DRIVERS MINIMUM  
COMPENSATION STUDY**

Section 7. Section 14.31.010 of the Seattle Municipal Code, enacted by Ordinance 125977, is amended as follows:

**14.31.010 Short title**

This Chapter 14.31 shall constitute the “Transportation Network Company Driver Minimum Compensation Study Ordinance” and may be cited as such.

Section 8. No provision of this ordinance shall be construed as providing any determination regarding the legal status of TNC drivers as employees or independent contractors.

Section 9. Section 2 of this ordinance shall take effect on January 1, 2021.

Section 10. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

(Seal)

## **SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
Office of Labor Standards	Kerem Levitas, 6-9758	Arushi Kumar, 4-0225

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to transportation network company driver labor standards; establishing minimum labor and compensation standards for transportation network company drivers; establishing provision of or reimbursement for personal protective equipment to transportation network company drivers during the civil emergency declared on March 3, 2020; establishing notice, posting, and data requirements for transportation network companies; prescribing remedies and enforcement procedures; amending Section 3.15.000 of the Seattle Municipal Code; amending the title of Chapter 14.31 and Sections 6.208.020 and 14.31.010 of the Seattle Municipal Code; and adding a new Chapter 14.33 to the Seattle Municipal Code.

**Summary and background of the Legislation:** The ordinance takes effect on January 1, 2021. The ordinance establishes minimum labor standards as well as notice and posting requirements for Transportation Network Company (TNC) drivers. The key components of the legislation are:

1. **Establishment of minimum compensation standards for TNC drivers.** TNCs must compensate TNC drivers at a minimum per minute and per mile rate for each minute of time and each mile travelled while transporting a passenger (termed “passenger platform time” in the ordinance).
  - a. The per minute rate is based on the per minute equivalent of the minimum wage for Schedule 1 employers under Seattle Municipal Code Chapter 14.19, but is scaled up to compensate drivers for time they spend without a passenger in the car.
  - b. The per mile rate is based on the reasonable expenses drivers incur while providing TNC services and is also scaled up to compensate drivers for the miles they travel without a passenger in the car.
  - c. The OLS Director has authority to adjust the scale up factor based on the proportion of time TNC drivers spend without a passenger.
2. **Protection from unlawful deductions.** A TNC may only deduct compensation when the TNC driver authorizes the deduction in writing and does so for a lawful purpose for the benefit of the TNC driver. A TNC may not derive financial benefit from deductions.
3. **Tip Protection.** TNCs must pay all customer tips to drivers. Tips may not count towards the minimum payment or expense requirements of the ordinance.
4. **Provision of personal protective equipment and disinfecting supplies.** During the COVID-19 civil emergency, covered TNCs must supply drivers with, or reimburse drivers for, a reasonable amount of personal protective equipment and disinfecting supplies.

5. **Notice and Posting.** TNCs must provide the following notices to drivers or passengers:
  - a. Notice of rights afforded under the ordinance;
  - b. Per-trip receipts, including time and mileage records for passenger platform time; total compensation; tip compensation; deductions;
  - c. Weekly pay statements, including total time and mileage records for passenger platform time; total compensation; total tip compensation; deductions; and
  - d. Passenger receipts, including: date/time of trip; pickup/drop-off locations; duration and distance of trip; driver first name; total fare paid; the standard per mile and per minute rate.
6. **Recordkeeping.** TNCs must maintain records necessary for OLS enforcement for a period of three years.
7. **OLS Enforcement and Outreach.** The legislation provides authority to OLS to provide rulemaking, outreach and enforcement related to the new labor standards.

## 2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project?  Yes  No

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget?  Yes  No

**Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

Yes. The legislation creates new labor standards for TNC drivers. The legislation provides authority to the Office of Labor Standards (OLS) to provide rulemaking, outreach/education and enforcement related to the new labor standards.

The City Budget Office has indicated OLS' existing base budget appropriations and staffing levels are insufficient to do the work outlined in the legislation. Therefore, CBO estimates that OLS will need up to \$602,850 in ongoing annual appropriations to support up to four new positions and \$45,000 in one-time appropriations to support initial implementation activities, including translation and interpretation services and other rulemaking costs and activities, external counsel legal fees, and outreach, communication, and educational activities for the initial outreach to those impacted by the ordinance.

This work will be supported by revenue generated by collection of the tax set forth in Seattle Municipal Code 5.39.

**Is there financial cost or other impacts of *not* implementing the legislation?**

There are no financial costs to the City of not implementing the legislation.

#### 4. OTHER IMPLICATIONS

- a. **Does this legislation affect any departments besides the originating department?**  
No.
- b. **Is a public hearing required for this legislation?**  
No.
- c. **Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**  
No.
- d. **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
No.
- e. **Does this legislation affect a piece of property?**  
No.
- f. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

This ordinance establishes minimum labor standards for TNC drivers. TNCs classify these drivers as independent contractors and represent that they are exempt from existing minimum labor standards established by federal, state, and local law. In 2019, the King County Department of Licensing issued 33,058 TNC driver permits. A large number of those drivers are immigrants and people of color—72 and 73 percent, respectively—who have taken on debt or invested their savings to purchase and/or lease vehicles to provide TNC services. Additionally, these drivers often lack basic information regarding the potential earnings and expenses associated with driving for a TNC. A 2019 Georgetown University Study titled *The Uber Workplace in D.C.* found that “100% of drivers experienced difficulties with, or barriers to, calculating their actual compensation.” This ordinance would guarantee drivers minimum compensation that is the equivalent to Seattle’s Schedule 1 Minimum Wage (SMC 14.19) plus compensation for reasonable expenses, as well as provide workers with clear information regarding earnings and trip details.

The ordinance requires TNCs to provide a notice of rights to TNC drivers in “English and any language that the TNC knows or has reason to know is the primary language of the TNC driver.” By requiring this notice be provided by the companies, this legislation ensures that the companies play an active role in making their workplaces accessible. Contingent upon funding and capacity, OLS would support making sample language available for the companies.

Contingent upon sufficient funding, OLS also intends to make its educational materials available in multiple languages translated. OLS has extensive experience developing

materials in other languages and working with community partners to ensure that translations are appropriate for the particular demographic groups in impacted communities. OLS intends to provide translations based on the specific demographics of the TNC driver community, as established through available data and consultation with driver and community-based organizations, as well as information and best practices made available by the Office of Immigrant and Refugee Affairs.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

This legislation will be the 16th local labor standard that OLS will provide education and outreach on and implement and enforce. The same metrics OLS uses for other local labor laws should apply here (e.g., number of inquiries, number of complaints, case completion time).

Education, outreach and enforcement will be key to the effectiveness of providing TNCs with information on their responsibilities, TNC drivers on their rights, and compliance with required legal protections and benefits.

**List attachments/exhibits below:**

**CITY OF SEATTLE**

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

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

..title

AN ORDINANCE relating to transportation network company driver labor standards; establishing minimum labor and compensation standards for transportation network company drivers; establishing provision of or reimbursement for personal protective equipment to transportation network company drivers during the civil emergency declared on March 3, 2020; establishing notice, posting, and data requirements for transportation network companies; prescribing remedies and enforcement procedures; amending Section 3.15.000 of the Seattle Municipal Code; amending the title of Chapter 14.31 and Sections 6.208.020 and 14.31.010 of the Seattle Municipal Code; and adding a new Chapter 14.33 to the Seattle Municipal Code.

..body

WHEREAS, the Washington Constitution provides in Article XI, Section 11 that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws”; and

WHEREAS, the state of Washington, in Revised Code of Washington (RCW) 46.72.001, has authorized political subdivisions of the state to regulate for-hire drivers and for-hire transportation services, which terms encompass the regulation of transportation network company (TNC) drivers, TNCs, and TNC services, to ensure safe and reliable TNC services; and

WHEREAS, TNCs provide application dispatch services that allow passengers to directly request the dispatch of drivers via the internet using mobile interfaces such as smartphone applications; and

WHEREAS, in 2019, the two largest TNCs accounted for over 26 million trips in the City of Seattle. At their peak in 2012, taxicabs in the City and King County provided about 5.2 million trips; and

1 WHEREAS, the two largest TNCs are also major hiring entities, accounting for most of the  
2 33,058 TNC drivers issued permits by King County in 2019 as recorded by the King  
3 County Department of Licensing; and

4 WHEREAS, the City, TNC drivers, TNCs, and the public agree that TNC drivers should be  
5 compensated fairly and earn at least the equivalent of the “hourly minimum wage”  
6 established for Schedule 1 employers in Chapter 14.19 plus reasonable expenses; and

7 WHEREAS, the establishment of a minimum compensation standard better ensures that drivers  
8 can perform their services in a safe and reliable manner and thereby promotes the welfare  
9 of the people and is thus a fundamental governmental function; and

10 WHEREAS, the City is a leader on wage, labor, and workforce practices that improve workers’  
11 lives, support economic security, and contribute to a fair, healthy, and vibrant economy;  
12 and

13 WHEREAS, the establishment of minimum labor standards for TNC drivers is a subject of vital  
14 and imminent concern to the people of this City and requires appropriate action by City  
15 Council to establish such minimum labor standards within the City; NOW,

16 THEREFORE,

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

18 Section 1. Findings

19 A. In order to protect the public health, safety, and welfare, The City of Seattle is granted  
20 express authority to regulate for-hire transportation services pursuant to chapter 46.72 RCW.

21 This authority includes regulating entry, requiring a license, controlling rates, establishing safety  
22 requirements, and any other requirement to ensure safe and reliable transportation services.

1           B. Studies around the nation, including a 2018 study commissioned by the New York  
2 City Taxi and Limousine Commission (New York TLC) entitled *An Earnings Standard for New*  
3 *York City's App-based Drivers: Economic Analysis and Policy Assessment* and a 2018  
4 nationwide study by the Economic Policy Institute entitled *Uber and the Labor Market: Uber*  
5 *Drivers' Compensation, Wages, and the Scale of Uber and the Gig Economy* (Economic Policy  
6 Institute Study), have shown that many transportation network company (TNC) drivers earn  
7 below the equivalent of the hourly minimum wage rate established by Chapter 14.19 of the  
8 Seattle Municipal Code for Schedule 1 employers.

9           C. A 2018 JPMorgan Chase Institute study entitled *The Online Platform Economy in*  
10 *2018* reported a decrease in TNC driver earnings nationwide between 2013 and 2017, a 2019  
11 Seattle Times report showed a decrease in the percentage of the passenger fares that drivers are  
12 paid, and Uber Technology, Inc.'s April 2019 Form S-1 filing with the Securities and Exchange  
13 Commission states "we aim to reduce Driver incentives to improve our financial performance."

14           D. In November 2019, City Council passed and the Mayor signed Ordinance 125977,  
15 creating Seattle Municipal Code (SMC) Chapter 14.31 and establishing as City policy that the  
16 City create "a minimum compensation standard for TNC drivers that is comprised of at least the  
17 equivalent of the 'hourly minimum wage' established for Schedule 1 employers in Chapter 14.19  
18 plus "reasonable expenses" and which considers "compensation for available platform time,  
19 dispatch platform time, [and] passenger platform time."

20           E. The two largest TNCs (Uber and Lyft) have both publicly stated that they support the  
21 City's policy as established in SMC Chapter 14.31. In an April 10, 2020 press release Uber  
22 stated "We also are committed to supporting Mayor Durkan's work on a new earnings standard  
23 equal to the City's minimum wage plus reasonable expenses..." and that they expected to "avoid

1 the need for any further challenges to the ordinances, whether legally or through a local or state  
2 ballot measure.” Similarly, on April 10, 2020, Lyft stated “[a] new safety net with a minimum  
3 earnings guarantee and fair worker protections would strengthen the opportunities for  
4 independent rideshare drivers to supplement their income through the platform” and that Lyft  
5 anticipated that “there should be no need for further legal or ballot challenges to the Fare Share<sup>1</sup>  
6 ordinance.”<sup>2</sup>

7 F. In furtherance of that policy and to better understand local TNC driver earnings,  
8 expenses, and working time, the City commissioned an independent study to evaluate these  
9 issues and retained Dr. James Parrott of The New School and Dr. Michael Reich of the  
10 University of California at Berkeley to conduct the study. Parrott and Reich based their research  
11 on a survey of over 7,390 Seattle TNC drivers, data provided directly by the TNCs, and existing  
12 licensing and regulatory data from the City and King County.

13 G. Parrott and Reich found that 84 percent of TNC drivers currently earn below the  
14 equivalent of the hourly minimum wage rate established by SMC Chapter 14.19 for Schedule 1  
15 employers after accounting for reasonable expenses. Parrott and Reich determined that such  
16 reasonable expenses amount to \$11.80 on an hourly basis or \$0.725 per mile and that average  
17 gross TNC driver earnings were \$21.53. Accordingly, they concluded that TNC drivers average  
18 hourly earnings are \$9.73 after accounting for reasonable expenses.<sup>3</sup>

19 H. In Parrott and Reich’s determination of reasonable expenses, they included a \$.004 per  
20 mile rate for vehicle cleaning to cover 12 car washes a year. Parrott and Reich found that

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<sup>1</sup> Fare Share is the public facing name for the Mayor’s minimum compensation proposal codified in this ordinance.

<sup>2</sup> <https://news.seattle.gov/2020/04/10/city-u-s-chamber-of-commerce-rasier-llc-agree-to-dismiss-collective-negotiations-ordinance-lawsuit/>

<sup>3</sup> James Parrott and Michael Reich, *A Minimum Compensation Standard for Seattle TNC Drivers: Report for the City of Seattle* at 1-2; 35 (July 2020), available at [https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5effff2647a3f573481a187c/1593835306875/Parrott\\_Report\\_July22020.pdf](https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5effff2647a3f573481a187c/1593835306875/Parrott_Report_July22020.pdf).

1 customer ratings are an integral feature of TNC services and drivers need to keep their vehicles  
2 clean to enhance their chances of getting high ratings.

3 I. Dr. Marissa Baker of the School of Public Health at the University of Washington has  
4 reported to Council, in letters dated August 26, 2020 and September 17, 2020, on the scientific  
5 and occupational health justifications for paying TNC drivers for 30 minutes per day to clean and  
6 disinfect their vehicles to ensure that TNC drivers and passengers are safe in TNC vehicles  
7 during and after the COVID-19 emergency. Dr. Baker has found that in addition to infectious  
8 disease exposure, there are other events that occur in a TNC vehicle, such as a passenger  
9 vomiting or bleeding, that warrant increased cleaning. Dr. Baker reported that adequate safety  
10 measures would require TNC drivers to take time between passengers to clean all aspects of the  
11 vehicle that could have been infected by the passenger, including but not limited to cleaning door  
12 handles, seat belts, windows, and seat backs, and seats. For the smallest of vehicles, Dr. Baker  
13 determined that cleaning would take at least two to three minutes between passengers, and over  
14 the course of a day could easily amount to greater than 30 minutes of time.

15 J. Applying Parrott and Reich’s methods for determining TNC driver reasonable  
16 expenses to 30 minutes of cleaning per day amounts to a \$.0629 per mile rate.

17 K. In addition to determining that reasonable expenses for vehicle cleaning and other  
18 standard operating costs, health insurance costs, and independent contractor taxes amount to a  
19 \$.725 per mile rate, Parrott and Reich found that compensation for state-mandated rest breaks  
20 (i.e., paid rest periods of at least ten minutes for every four hours worked) amounts to \$.6835 on  
21 an hourly basis, or a \$.042 per mile rate.

1 L. The Parrott and Reich study also found that 32 percent of TNC drivers drive full time  
2 (more than 32 hours a week) and these full-time drivers provide 55 percent of all trips.<sup>4</sup> The  
3 JPMorgan Chase Institute study similarly found that the top ten percent of transportation gig  
4 workers earned 56.9 percent of earnings. Further, Parrott and Reich determined that 72 percent  
5 of full-time drivers and 58 percent of intermediate drivers (20 to 32 hours per week) rely on TNC  
6 driving as their sole source of income.<sup>5</sup>

7 M. Despite this commitment to providing TNC services, many drivers struggle to pay for  
8 basic necessities. Thirty percent of drivers receive federal supplemental nutritional assistance,  
9 while 27 percent have no health insurance and 37 percent have incomes low enough to qualify  
10 for Medicaid coverage.<sup>6</sup>

11 N. In the pursuit of economic opportunity, many TNC drivers are immigrants and people  
12 of color—72 percent and 73 percent, respectively—who have taken on debt or invested their  
13 savings to purchase and/or lease vehicles to provide TNC services. The Parrott and Reich study  
14 found that 83 percent of full-time drivers and 75 percent of intermediate drivers purchased their  
15 vehicles primarily to provide TNC services. Further, 70 percent of drivers who own vehicles are  
16 still paying loan payments for those vehicles.<sup>7</sup>

17 O. To more fully understand the driver experience, the City engaged in an extensive  
18 qualitative research and outreach effort by conducting five driver roundtables, two randomly  
19 selected focus groups, an online survey, one-on-one interviews, a telephone town hall, as well as  
20 many additional meetings and phone calls, that collectively reached over 9,000 drivers. The  
21 driver roundtables included two roundtables organized and convened by Uber and Lyft,

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<sup>4</sup> *Id.* at 1-2.

<sup>5</sup> *Id.* at 32-33.

<sup>6</sup> *Id.* at 24.

<sup>7</sup> *Id.* at 34.

1 respectively, which included drivers that they selected to present a perspective that Uber and  
2 Lyft believed was important for the City to consider. This research found that many TNC drivers  
3 struggle to pay for basic necessities like housing and health insurance. The research further  
4 found that TNC drivers incur significant expenses by reason of performing TNC services.<sup>8</sup>

5 P. TNC drivers in all of the roundtable groups—including the TNC drivers in the  
6 roundtables organized and convened by Uber and Lyft—identified several significant expenses  
7 that affect their overall earnings from providing TNC services. Specifically, drivers identified  
8 gas, maintenance, insurance, interior and exterior cleaning, cell phone and service plans, the cost  
9 of vehicle acquisition, financing, and depreciation, among other costs. TNC drivers in the Uber-  
10 convened driver roundtable stated that maintenance costs alone account for 25 percent of TNC  
11 driver earnings, that gas is “a very large cost,” that they perform car washing “every other day,”  
12 and that cars depreciate quickly. Similarly, TNC drivers in the Lyft-convened roundtable stated  
13 “My insurance tripled the day I became a rideshare driver,” that expenses can amount to \$32 a  
14 day, and that one TNC driver purchased a vehicle specifically to provide TNC services and such  
15 services accounted for 93 percent of the miles driven. Similarly, a driver in the online survey  
16 commented that “After deducting my cost for car maintenance and gas...I make less than  
17 minimum wage driving for Uber...”, while a focus group participant reported “[g]ross shows a lot  
18 of money [but] the expenses are almost half of it.”<sup>9</sup>

19 Q. The qualitative research also paralleled Parrott and Reich’s findings in other ways. Of  
20 the respondents to the City’s telephone town-hall and online survey, 40 to 50 percent work more

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<sup>8</sup> City of Seattle, *TNC Driver Outreach and Engagement* at 8 (August 13, 2020), available at <https://durkan.seattle.gov/wp-content/uploads/sites/9/2020/08/Final-Outreach-Report.pdf>.

<sup>9</sup> *Id.*

1 than 32 hours per week providing TNC services. Further, two-thirds of TNC drivers that  
2 responded to the online survey said that driving for a TNC is their sole job.<sup>10</sup>

3 R. Uber and Lyft likewise commissioned a study to determine TNC hourly earnings,  
4 which the City has thoroughly considered. While the Uber/Lyft commissioned study reaches  
5 different conclusions in some respects, it is similar to the Parrott and Reich report in that it also  
6 found that significant numbers of TNC drivers earn less than the equivalent of the hourly  
7 minimum wage rate established by SMC Chapter 14.19 for Schedule 1 employers plus  
8 reasonable expenses.<sup>11</sup>

9 S. The TNCs represent that their business models rely on TNC drivers being classified as  
10 independent contractors and that they are exempt from minimum labor standards established by  
11 federal, state, and local law.

12 T. TNC drivers receive unpredictable income due to the high variability and opacity of  
13 the rates of compensation paid by TNCs, the amount of available platform time and dispatch  
14 platform time spent by TNC drivers between passenger trips, and the difficulty TNC drivers  
15 experience in determining their reasonable expenses. TNC drivers do not have guaranteed access  
16 to information about their expected earnings and expenses, the composition of trip payments or  
17 the amount of tips provided by passengers and a 2019 Georgetown University study entitled *The*  
18 *Uber Workplace in D.C.* found that “100% of drivers experienced difficulties with, or barriers to,  
19 calculating their actual compensation.” Similarly, a driver who participated in the City’s focus  
20 group research reported “[t]he flexibility is great, but how many jobs do you ever go to that you  
21 don’t know what you are going to be paid. We just don’t know.”<sup>12</sup>

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<sup>10</sup> *Id.* at 7.

<sup>11</sup> Hyman, Louis et. al., *Platform Driving in Seattle* at 2; 7 (July 2020) available at <https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1070&context=reports>.

<sup>12</sup> City of Seattle, *TNC Driver Outreach and Engagement* at 11.

1 U. Numerous studies, including the Economic Policy Institute Study, calculate driver pay  
2 and driver work time by including waiting time or available platform time. In a 2019 study  
3 entitled *The Gender Earnings Gap in the Gig Economy: Evidence from over a Million Rideshare*  
4 *Drivers*, researchers found, in part, “that driver earnings are a function of wait times between  
5 trips.”

6 V. Failure to account for available platform time in a minimum compensation standard  
7 likely would result in hourly pay below the equivalent of the hourly minimum wage rate  
8 established by SMC Chapter 14.19 for Schedule 1 employers.

9 W. The Parrott and Reich study found that TNCs compensate TNC drivers in Seattle only  
10 for passenger platform time, but TNC drivers spend an average of 50.8 percent of each hour or  
11 30.48 minutes per hour without a passenger in the car, but while logged on to the driver platform  
12 to perform TNC services. The study further determined that TNC drivers in Seattle drive an  
13 average of 37.8 per cent of the total miles driven per hour or 6.15 miles per hour without a  
14 passenger in the car, but while logged on to the driver platform to perform TNC services.

15 X. The City has repeatedly called on the TNCs to produce data on driver working time,  
16 earnings, and expenses in order to analyze and formulate policy to ensure that drivers earn a fair  
17 wage and can perform their work in a safe and reliable manner.

18 Y. In April 2018, the City Council passed Resolution 31808 calling on the TNCs to  
19 voluntarily share anonymized data on an individual driver and trip level (commonly referred to  
20 as “trip level data”), including data on driver working time, trip volumes, distances traveled in  
21 available platform time, dispatch platform time, and passenger platform time, fare information,  
22 and driver earnings by May 31, 2018. Between May 31, 2018 and January 10, 2020, neither Uber  
23 nor Lyft provided the City with any of the requested data.

1           Z. Following the passage of SMC Chapter 14.31, which required the City to conduct a  
2 study into TNC driver earnings, working time, and reasonable expenses and propose a minimum  
3 compensation standard, Uber and Lyft advised the City that they believed the study should be  
4 informed by Uber and Lyft’s data. The City welcomed this offer and called on the companies to  
5 voluntarily provide trip-level data covering TNC driver working time, earnings, distances  
6 traveled in available platform time, dispatch platform time, and passenger platform time, and  
7 other information sufficient to determine TNC driver earnings and expenses.

8           AA. Both Uber and Lyft declined to provide this data.

9           BB. In an attempt at compromise, the City proposed that Uber and Lyft provide summary  
10 aggregate data for one representative week in each month beginning October 2018 and ending  
11 October 2019 and including:

- 12           1. The total number of TNC drivers, trips, trip miles, and trip minutes;
- 13           2. The distribution of TNC driver trip miles and trip minutes at defined percentile  
14 distributions;
- 15           3. The distribution of aggregate available platform time, dispatch platform time,  
16 and passenger platform time at defined percentile distributions;
- 17           4. The distribution of passenger fares at defined percentile distributions;
- 18           5. The distribution of TNC driver pay at defined percentile distributions;
- 19           6. The percentage of trips, trip miles, trip minutes, passenger fares, and TNC  
20 driver pay that represent shared or pooled trips; and
- 21           7. The composition of the vehicles providing the trips.

22           CC. On January 10, 2020, Uber provided a portion of the requested data. Specifically,  
23 Uber provided the distribution of aggregate available platform time, dispatch platform time, and

1 passenger platform time, the distribution of driver pay, and the total number of trips. While not  
2 requested by the City, Uber also provided the average speed traveled by TNC drivers during  
3 available platform time, dispatch platform time, and passenger platform time as well as the top  
4 ten vehicles providing trips originating in Seattle ranked by mileage during the sample period,  
5 which comprised 67.16 percent of the total vehicles for this period.

6 DD. On January 10, 2020, Lyft notified the City that it would not provide any of the  
7 requested data. Subsequently, on February 13, 2020, Lyft provided a list of the top ten vehicles  
8 types providing trips that originated in Seattle between October 2018 and ending October 2019,  
9 which comprised 56 percent of the total vehicles. Lyft declined to provide any data on TNC  
10 driver earnings or working time.

11 EE. Requirements for affirmative data production by the TNCs covered by SMC Chapter  
12 14.33 as created by this ordinance are necessary to effectively enforce the ordinance and  
13 understand the effects of the minimum compensation standard. Further, the California Public  
14 Utilities Commission, the City of Chicago, the New York TLC, Washington, D.C., and Toronto  
15 currently require such affirmative production of trip-level data. The California Public Utilities  
16 Commission recently found that TNC trip level data was not protected by trade-secret principles  
17 because “neither Uber nor Lyft identify a competitor by name who would gain an unfair  
18 competitive disadvantage if their annual reports were made public” and neither “company  
19 [could] honestly state that they will be surprised or learn something new about the other if their  
20 annual reports were disclosed publicly.”<sup>13</sup> Similarly, the New York TLC and the City of Chicago  
21 release anonymized trip-level data publicly. Neither Uber nor Lyft have experienced adverse

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<sup>13</sup> Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing and New Online Enabled Transportation Services, R.12-12-011 at 20; 36 (March 12, 2020) (available at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M329/K477/329477640.pdf>).

1 effects on their businesses due to the release of this data, nor have passengers or TNC drivers had  
2 their privacy interests infringed by such release.

3 FF. Numerous studies suggest minimum compensation and minimum wage standards  
4 benefit employers and hiring entities by improving worker performance, reducing worker  
5 turnover, and thereby improving productivity and the quality of the services provided by  
6 workers, including TNC drivers.

7 GG. Many Seattle workers, including TNC drivers, cannot fully participate in the  
8 community's dynamic civic life or pursue its myriad educational, cultural, and recreational  
9 opportunities because they struggle to meet their households' most basic needs.

10 HH. Minimum compensation standards support stable incomes and promote job retention  
11 by ensuring that TNC drivers are compensated at sufficient levels to support themselves and their  
12 families. Further, minimum compensation standards promote the general welfare, health, and  
13 prosperity of Seattle by ensuring that workers have stable incomes and can better support and  
14 care for their families and fully participate in Seattle's civic, cultural, and economic life.

15 II. Providing a minimum compensation standard for TNC drivers would benefit the  
16 Seattle economy by significantly increasing TNC driver earnings and thereby boosting consumer  
17 spending in Seattle and benefiting the economy overall.

18 JJ. Establishing minimum compensation standards and transparency requirements will  
19 help ensure that the compensation that thousands of drivers who provide vital transportation  
20 services in Seattle every day receive for their services is sufficient to alleviate undue financial  
21 pressure to provide transportation in an unsafe manner by working longer hours than is safe,  
22 skipping needed breaks, or operating vehicles at unsafe speeds in order to maximize the number

1 of trips completed or to ignore maintenance necessary to the safe and reliable operation of their  
2 vehicles.

3           KK. TNC drivers who have the protection of minimum labor standards and transparency  
4 requirements will be more likely to remain in their positions over time, and to devote more time  
5 to their work as TNC drivers. Such experienced drivers will improve the safety and reliability of  
6 the TNC services provided by the TNCs to passengers and thus reduce safety and reliability  
7 problems created by frequent turnover in the TNC services industry.

8           Section 2. A new Chapter 14.33 is added to the Seattle Municipal Code as follows:

9 **CHAPTER 14.33 TRANSPORTATION NETWORK COMPANY DRIVER MINIMUM**  
10 **COMPENSATION**

11 **14.33.010 Short title**

12 This Chapter 14.33 shall constitute the “Transportation Network Company Driver Minimum  
13 Compensation Ordinance” and may be cited as such.

14 **14.33.015 Declaration of policy**

15 It is declared to be the policy of the City, in the exercise of its police powers for the protection of  
16 the public health, safety, and general welfare, and for the maintenance of peace and good  
17 government, to ensure that TNC drivers can perform their services in a safe and reliable manner,  
18 and thereby promote the welfare of TNC drivers and the people who rely on such services to  
19 meet their transportation needs. The role of the Office of Labor Standards is to enforce the  
20 provisions of this Chapter 14.33 in furtherance of this policy.

21 **14.33.020 Definitions**

22 For the purposes of this Chapter 14.33:

1 “Adverse action” means reducing the rates of compensation to the TNC driver,  
2 garnishing tips or gratuities, temporarily or permanently denying or limiting access to work,  
3 incentives, or bonuses, offering less desirable work, demoting, terminating, deactivating,  
4 changing a TNC driver’s status to provide TNC services from eligible to ineligible, putting a  
5 TNC driver on hold status, failing to rehire a TNC driver after a seasonal interruption of work,  
6 denying authorization to provide TNC services, threatening, penalizing, engaging in unfair  
7 immigration-related practices, filing a false report with a government agency, or otherwise  
8 discriminating against any person for any reason prohibited by Section 14.33.120. “Adverse  
9 action” for a TNC driver may involve any aspect of TNC services, including compensation, work  
10 hours, volume and frequency of trips assigned, responsibilities, or other material change in the  
11 ability of a TNC driver to perform TNC services. “Adverse action” also includes any action that  
12 would dissuade a reasonable TNC driver from exercising their rights under this Chapter 14.33;

13 “Agency” means the Office of Labor Standards and any division therein;

14 “Aggrieved party” means the TNC driver or other person who suffers tangible or  
15 intangible harm due to the TNC or other person's violation of this Chapter 14.33;

16 “Application dispatch” means technology that allows consumers to directly request  
17 dispatch of TNC drivers for trips and/or allows TNC drivers or TNCs to accept trip requests and  
18 payments for trips via the internet using mobile interfaces such as, but not limited to, smartphone  
19 and tablet applications;

20 “Available platform time” means the time a TNC driver is logged in to the driver  
21 platform and available to receive a TNC dispatched trip prior to receiving a trip request from a  
22 TNC. A TNC driver cannot simultaneously be engaged in available platform time, dispatch  
23 platform time, and/or passenger platform time for the same TNC. For trips involving multiple

1 passengers picked up from different passenger pick-up locations, available platform time means  
2 the period of time when a TNC driver is logged in to the driver platform prior to receiving the  
3 first trip request from a TNC;

4 “City” means the City of Seattle;

5 “Compensation” means payment owed to a TNC driver by reason of providing TNC  
6 services including, but not limited to the minimum payment for passenger platform time and  
7 mileage under Section 14.33.050, incentives, and tips;

8 “Deactivation” means the blocking of a TNC driver’s access to the driver platform,  
9 changing a TNC driver’s status from eligible to provide TNC services to ineligible, or other  
10 material restriction in access to the driver platform that is effected by a TNC.

11 “Director” means the Director of the Office of Labor Standards or the Director's  
12 designee;

13 “Dispatch location” means the location of the TNC driver at the time the TNC driver  
14 accepts a trip request through the driver platform;

15 “Dispatch platform time” means the time a TNC driver spends traveling from dispatch  
16 location to passenger pick-up location. Dispatch platform time ends when a passenger cancels a  
17 trip, a driver cancels a trip, or the driver begins the trip in the driver platform. A TNC driver  
18 cannot simultaneously be engaged in available platform time, dispatch platform time, and/or  
19 passenger platform time for the same TNC. For trips involving multiple passengers picked up  
20 from different passenger pick-up locations, dispatch platform time means the time a TNC driver  
21 spends travelling from the first dispatch location to the first passenger pick-up location;

1 “Driver platform” means the driver-facing application dispatch system software or any  
2 online-enabled application service, website, or system, used by a TNC driver, that enables the  
3 prearrangement of passenger trips for compensation;

4 “Front pay” means the compensation the TNC driver would earn or would have earned if  
5 reinstated to the TNC driver’s former position;

6 “Hearing Examiner” means the official appointed by the City Council and designated as  
7 the Hearing Examiner under Chapter 3.02 or that person's designee (e.g., Deputy Hearing  
8 Examiner or Hearing Examiner Pro Tem);

9 “Incentives” means a sum of money paid to a TNC driver upon completion of a task,  
10 usually completing a certain amount of trips, a certain amount of consecutive trips, a trip subject  
11 to a price multiplier or variable pricing policy, or some other provision of TNC services;

12 “Operating in the City” means, with respect to a TNC, providing application dispatch  
13 services to any affiliated driver at any time for the transport of any passenger for compensation  
14 from or to a point within the geographical confines of the City;

15 “Passenger drop-off location” means the location of a TNC driver’s vehicle when a TNC  
16 driver ends the trip in the driver platform;

17 “Passenger mileage utilization rate” means the percentage of miles that TNC drivers  
18 drive during passenger platform time relative to the total miles TNC drivers drive during  
19 available platform time, dispatch platform time, and passenger platform time.

20 1. The passenger mileage utilization rate is calculated by dividing the total miles  
21 TNC drivers drive during passenger platform time by the total miles TNC drivers drive during  
22 available platform time, dispatch platform time, and passenger platform time.

1                   2. If data on mileage driven by TNC drivers during available platform time,  
2 dispatch platform time, or passenger platform time is not available or complete, the Director is  
3 authorized to calculate the passenger mileage utilization rate pursuant to subsection 14.33.050.B;

4                   “Passenger pick-up location” means the location of the TNC driver’s vehicle at the time  
5 the TNC driver starts the trip in the driver platform;

6                   “Passenger platform time” means the period of time commencing when the TNC driver  
7 starts the trip in the driver platform until the time when the TNC driver ends the trip in the driver  
8 platform. For trips involving multiple passengers picked up from different passenger pick-up  
9 locations, passenger platform time means the period of time commencing when the TNC driver  
10 starts the trip in the driver platform after the first passenger enters the TNC driver’s vehicle until  
11 the time when the TNC driver ends the trip in the driver platform after the last passenger exits  
12 the TNC driver’s vehicle at the end of the trip. A TNC driver cannot simultaneously be engaged  
13 in available platform time, dispatch platform time, and/or passenger platform time for the same  
14 TNC;

15                   “Passenger platform time utilization rate” means the percentage of time that TNC drivers  
16 spend during passenger platform time relative to the total of the time TNC drivers spend during  
17 available platform time, dispatch platform time, and passenger platform time.

18                   1. The passenger platform time utilization rate is calculated by dividing the total  
19 amount of time that TNC drivers spend during passenger platform time by the total of the time  
20 TNC drivers spend during available platform time, dispatch platform time, and passenger  
21 platform time.

1                   2. If data on available platform time, dispatch platform time, or passenger  
2 platform time is not available or complete, the Director is authorized to calculate the passenger  
3 platform time utilization rate pursuant to subsection 14.33.050.B;

4                   “Per minute rate” means the per minute equivalent of the “hourly minimum wage”  
5 established for Schedule 1 employers in Chapter 14.19. For example, in 2020 the “hourly  
6 minimum wage” established for Schedule 1 employers in Chapter 14.19 is \$16.39 and the  
7 resultant per minute rate is \$0.27;

8                   “Per mile rate” means the per mile equivalent of the reasonable expenses necessary for a  
9 TNC driver to provide TNC services;

10                   “Rate of inflation” means 100 percent of the annual average growth rate of the bi-  
11 monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and  
12 Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the  
13 percentage increase shall not be less than zero;

14                   “Reasonable expenses” means (1) the per mile cost of operating a vehicle for purposes of  
15 providing TNC services and (2) the non-mileage expenses incurred by TNC drivers to provide  
16 TNC services. Reasonable expenses may include, but are not limited to:

- 17                   1. Vehicle acquisition and financing costs;
- 18                   2. Depreciation;
- 19                   3. Lease payments;
- 20                   4. Maintenance and repairs;
- 21                   5. Vehicle cleaning;
- 22                   6. Tires;
- 23                   7. Gasoline (including all taxes thereon);

- 1 8. Oil;
- 2 9. Vehicle insurance;
- 3 10. License and vehicle registration fees;
- 4 11. Cell phone and cell phone service plans;
- 5 12. Cost of medical, dental, and vision insurance;
- 6 13. The amount of employer-side payroll taxes that TNC drivers must pay;
- 7 14. The amount of business taxes that TNC drivers must pay;
- 8 15. Business license fees that TNC drivers must pay;
- 9 16. Rest breaks; and
- 10 17. Any other cost or information the Director determines is necessary to further

11 the purposes of this Chapter 14.33;

12 “Respondent” means the TNC or any person who is alleged or found to have committed a  
13 violation of this Chapter 14.33;

14 “Tips” means a verifiable sum to be presented by a passenger as a gift or gratuity in  
15 recognition of some service performed for the passenger by the TNC driver receiving the tip;

16 “TNC services” means services related to the transportation of passengers through the  
17 driver platform that are provided by a TNC driver while logged in to that driver platform,  
18 including services provided during available platform time, dispatch platform time, and  
19 passenger platform time;

20 “Transportation network company” or “TNC” means an organization, licensed or  
21 required to be licensed under Chapter 6.310, operating in the City that offers prearranged  
22 transportation services for compensation using an online-enabled application or platform, such as  
23 an application dispatch system, to connect passengers with drivers using a “transportation

1 network company (TNC) endorsed vehicle,” as defined in Chapter 6.310. “Transportation  
2 network company” includes any such entity or person acting directly or indirectly in the interest  
3 of a transportation network company in relation to the transportation network company driver;

4 “Transportation network company driver” or “TNC driver” means a licensed for-hire  
5 driver, as defined in Chapter 6.310, affiliated with and accepting trips from a licensed  
6 transportation network company. For purposes of this Chapter 14.33, at any time that a driver is  
7 logged into the driver platform, the driver is considered a TNC driver;

8 “TNC dispatched trip” or “trip” means the dispatch of a TNC driver to provide  
9 transportation to a passenger in a TNC endorsed vehicle through the use of a TNC’s application  
10 dispatch system. A trip is completed when the TNC driver ends the trip in the driver platform.

11 The term “TNC dispatched trip” or “trip” does not include transportation provided by taxicabs or  
12 for-hire vehicles, as defined in Chapter 6.310;

13 “Written” or “writing” means a printed or printable communication in physical or  
14 electronic format including a communication that is transmitted through email, text message or a  
15 computer system, or is otherwise sent and maintained electronically, including via the driver  
16 platform.

#### 17 **14.33.030 TNC driver coverage**

18 A. A TNC driver is covered by this Chapter 14.33 if the TNC driver provides TNC  
19 services within the geographic boundaries of the City for a TNC covered by this Chapter 14.33.

20 B. For a trip with a passenger pick-up location in the City, all minimum compensation  
21 requirements under Section 14.33.050 apply, regardless of the passenger drop-off location.

1 C. For a trip with a passenger pick-up location outside the City, minimum compensation  
2 under Section 14.33.050 is due only for the portion of passenger platform time and mileage that  
3 occurs within the City.

4 **14.33.040 TNC coverage**

5 A. TNCs that report 200,000 or more rides that originate in the City per the most recent  
6 quarterly report received by the City under Section 6.310.540 are covered under this Chapter  
7 14.33.

8 B. Separate entities that form an integrated enterprise shall be considered a single TNC  
9 under this Chapter 14.33. Separate entities will be considered an integrated enterprise and a  
10 single TNC under this Chapter 14.33 where a separate entity controls the operation of another  
11 entity. The factors to consider include, but are not limited to:

- 12 1. Degree of interrelation between the operations of multiple entities;
- 13 2. Degree to which the entities share common management;
- 14 3. Centralized control of labor relations;
- 15 4. Degree of common ownership or financial control over the entities; and
- 16 5. Use of a common brand, trade, business, or operating name.

17 **14.33.050 Minimum compensation**

18 For each TNC dispatched trip, a TNC shall compensate TNC drivers by providing at least the  
19 equivalent of: (1) the minimum per minute amount for passenger platform time under subsection  
20 14.33.050.A.1 plus the minimum per-mile amount for passenger platform time under subsection  
21 14.33.050.A.2; or (2) the minimum per trip amount for each TNC dispatched trip under  
22 subsection 14.33.050.A.4, whichever amount is greater.

23 A. Minimum payment

1                   1. Per minute amount. For each minute of passenger platform time on each trip, a  
2 TNC shall compensate TNC drivers at least the equivalent of the per minute rate divided by the  
3 passenger platform time utilization rate, except that in the first three months after the effective  
4 date of this section, the per minute amount shall be phased in according to a rate schedule filed  
5 by the Agency with the City Clerk. The minimum per minute amount during the three-month  
6 phase in period shall not fall below \$0.32 per minute.

7                   a. Passenger platform time utilization rate. Subject to the provisions in  
8 subsection 14.33.050.B, the passenger platform utilization rate is 0.492.

9                   2. Per mile amount. For each mile driven during passenger platform time on each  
10 trip, a TNC shall compensate TNC drivers at least the equivalent of the per mile rate divided by  
11 the passenger mileage utilization rate. Subject to the provisions in subsection 14.33.050.B,

12                   a. The per mile amount is \$1.33.

13                   b. The per mile rate is \$0.830.

14                   c. The passenger mileage utilization rate is 0.622.

15                   3. The calculations described in this subsection 14.33.050.A are expressed in  
16 equation form as:

17 
$$\left( \frac{\text{Per minute rate} \times \text{Passenger Platform Time Minutes}}{\text{Passenger Platform Time Utilization Rate}} \right) + \left( \frac{\text{Per mile rate} \times \text{Passenger Platform Time Miles}}{\text{Passenger Mileage Utilization Rate}} \right) = \text{Minimum Payment Per Trip}$$

18                   4. Per trip amount. For each TNC dispatched trip, a TNC shall compensate TNC  
19 drivers a minimum per trip amount of at least \$5.

20                   a. For the purposes of this subsection 14.33.050.A.4, “each TNC  
21 dispatched trip” includes but is not limited to a trip in which the TNC driver transports the  
22 passenger to the passenger’s desired drop-off location, a trip cancelled by a passenger or the  
23 TNC unless the TNC refunds the passenger cancellation fee due to driver conduct, and a trip

1 where the passenger does not appear at the passenger pick-up location. For trips involving  
2 multiple passengers picked-up from different locations, the minimum per trip amount applies to  
3 the period of time commencing when the TNC driver starts the trip in the driver platform after  
4 the first passenger enters the TNC driver’s vehicle until the time when the TNC driver ends the  
5 trip in the driver platform after the last passenger exits the TNC driver’s vehicle at the end of the  
6 trip. “Each TNC dispatched trip” does not include a trip cancelled by the TNC driver.

7                   b. Effective January 1, 2022, the minimum per trip amount paid to a TNC  
8 driver shall be increased on a percentage basis to reflect the rate of inflation and calculated to the  
9 nearest cent on January 1 of each year thereafter. The Agency shall determine the amount and  
10 file a schedule of such amount with the City Clerk.

11           B. Adjustment of the per mile rate, passenger platform time utilization rate, and the  
12 passenger mileage utilization rate

13                   1. Adjustment of the per mile rate. Beginning one year after the effective date of  
14 this section, and thereafter on January 1 of each year, the Director by rule may adjust the per-  
15 mile rate. In adjusting the per-mile rate each year, the Director shall consider the best available  
16 sources of data, which may include, but are not limited to: TNC driver surveys, data provided by  
17 TNCs, data provided by TNC drivers, data provided by passengers, data from other jurisdictions,  
18 data available through academic, policy, or community based organizations, and stakeholder  
19 interviews. The Director shall base the adjustment on an assessment of relevant factors or costs  
20 during the 12-month period ending in August. Provided however, that this adjustment shall not  
21 result in reduction of the per mile rate below \$0.830. The Director may consider the following  
22 non-exhaustive factors or costs:

23                   a. Vehicle acquisition and financing costs;

- 1                           b. Depreciation;
- 2                           c. Lease payments;
- 3                           d. Maintenance and repairs;
- 4                           e. Vehicle cleaning;
- 5                           f. Tires;
- 6                           g. Gasoline (including all taxes thereon);
- 7                           h. Oil;
- 8                           i. Vehicle Insurance;
- 9                           j. License and vehicle registration fees;
- 10                          k. Cell phone and cell phone plans;
- 11                          l. Cost of medical, dental, and vision insurance;
- 12                          m. The amount of employer-side payroll taxes that TNC drivers must pay;
- 13                          n. The amount of businesses taxes that TNC drivers must pay;
- 14                          o. Business license fees that TNC drivers must pay;
- 15                          p. Rest breaks; and
- 16                          q. Any other cost or information the Director determines is necessary to
- 17 further the purposes of this Chapter 14.33.

18                           If the Director does not adjust the per-mile rate in any given year, the per-mile  
19 rate shall be increased on a percentage basis to reflect the rate of inflation and calculated to the  
20 nearest cent on January 1 of each year. The Agency shall determine the amount and file a  
21 schedule of such amount with the City Clerk.

22                           2. Adjustment of the passenger platform time utilization rate and the passenger  
23 mileage utilization rate. Subject to the provisions in subsection 14.33.030.B.2.a, the Director by

1 rule may adjust the passenger platform time utilization rate or the passenger mileage utilization  
2 rate. The Agency shall provide notice to the public no less than three months before the effective  
3 date of any adjustment under this subsection 14.33.050.B.2. The purpose of any adjustment is to  
4 reflect changes in the percentage of time that TNC drivers spend in passenger platform time  
5 relative to the total time that TNC drivers spend in available platform time, dispatch platform  
6 time and passenger platform time or the percentage of miles TNC drivers drive during passenger  
7 platform time relative to the total miles TNC drivers drive during available platform time,  
8 dispatch platform time, and passenger platform time. The Director shall have discretion to  
9 determine a passenger platform time utilization rate or a passenger mileage utilization rate on an  
10 industry-wide basis or for each TNC covered by this Chapter 14.33.

11 a. The Director shall not adjust the passenger platform time utilization rate  
12 or the passenger mileage utilization rate until three years after the effective date of this  
13 ordinance.

14 b. The Director may choose not to adjust the passenger platform time  
15 utilization rate or the passenger mileage utilization rate for any time period that the Director  
16 determines is necessary to further the purposes of this Chapter 14.33, including but not limited to  
17 while the combined total trips reported by all TNCs that originate in the City covered by this  
18 Chapter 14.33 is less than 3,000,000 per the most recent quarterly report received by the City  
19 under Section 6.310.540.

20 c. Prior to beginning any assessment period on which the Agency will  
21 base a passenger platform time utilization rate or the passenger mileage utilization rate  
22 adjustment, the Agency shall provide reasonable notice to the TNCs and other stakeholders of  
23 the date on which the assessment period begins.

1                                   d. In adjusting the passenger platform time utilization rate or the passenger  
2 mileage utilization rate, the Director may consider the following sources of information:

3                                   1) The best available sources of data, which may include, but are  
4 not limited to: TNC driver surveys, data provided by TNCs, data provided by TNC drivers, data  
5 provided by passengers, data from other jurisdictions, data available through academic, policy, or  
6 community based organizations, and stakeholder interviews;

7                                   2) Input from stakeholders on the method and time period for  
8 assessment or adjustment of the passenger platform time utilization rate or the passenger mileage  
9 utilization rate; and

10                                  3) Any other information the Director determines is necessary to  
11 further the purposes of this Chapter 14.33.

12                                  e. The Director shall base any adjustment to the passenger platform time  
13 utilization rate or passenger mileage utilization rate on an assessment of relevant factors during  
14 an assessment period prior to the date of adjustment. The assessment period for the first  
15 adjustment of the passenger platform time utilization rate or passenger mileage utilization rate  
16 shall be 12 months in duration. The assessment period for any subsequent adjustment to the  
17 passenger platform time utilization rate or passenger mileage utilization rate shall be up to 12  
18 months in duration. The Director may consider the following factors for the assessment:

19                                  1) The average and median amount of available platform time,  
20 dispatch platform time, and passenger platform time for TNC drivers;

21                                  2) The average and median mileage driven by TNC drivers during  
22 available platform time, dispatch platform time, and passenger platform time;



1           A. A TNC shall pay to its TNC drivers all tips and gratuities. Tips paid to a TNC driver  
2 are in addition to, and may not count towards, the TNC driver’s minimum compensation under  
3 Section 14.33.050.

4           B. Incentives may count towards the TNC’s minimum compensation requirements under  
5 Section 14.33.050 only for the particular trip in which the incentives are earned.

6 **14.33.070 Provision of personal protective equipment and disinfecting supplies**

7           A. While the civil emergency proclaimed by Mayor Durkan on March 3, 2020 remains in  
8 effect, each TNC covered by this Chapter 14.33 must provide to each TNC driver, at the TNC’s  
9 expense, a reasonable amount of non-medical grade face coverings, gloves, hand sanitizing  
10 agents, and disinfecting supplies, such as disinfecting wipes or sprays. A reasonable amount of  
11 supplies may be considered as those necessary to meet any TNC industry-specific health and  
12 safety requirements promulgated by local, state, or federal agencies. At a minimum shall include,  
13 but not be limited to, the following supplies or their equivalent: one disposable mask for every  
14 ten trips; one pair of gloves for every ten trips; one 8-ounce bottle of hand sanitizer for every 100  
15 trips; and one 32-ounce bottle of disinfecting spray for every 200 trips.

16           B. If a TNC determines that directly providing all TNC drivers with the supplies  
17 referenced in subsection 14.33.070.A is infeasible, the TNC may, in addition to or in lieu of  
18 direct delivery, allow for:

19                   1. TNC drivers to pick up the items at one or more centralized location(s), which  
20 shall be open for pickups some evening and weekend hours; and/or

21                   2. TNC drivers to be reimbursed for the reasonable cost of the items.

1 C. Each TNC covered by this Chapter 14.33 shall provide each TNC driver with written  
2 notice of the TNC's policy and procedure for meeting the requirements of this Section

3 14.33.070. The policy and procedure shall include:

- 4 1. The amount of supplies available to each TNC driver;
- 5 2. The method of distribution of such supplies;
- 6 3. If supplies will not be delivered directly to TNC drivers, the location where  
7 such supplies are available for pickup and the hours during which the location is open for pickup;  
8 and

9 4. If supplies will not be provided to TNC drivers, the reasonable cost of the items  
10 to be reimbursed to a TNC driver.

11 **14.33.100 Notice and posting**

12 A. TNCs shall provide each TNC driver with a written notice of rights established by this  
13 Chapter 14.33. The Agency may create and distribute a model notice of rights in English and  
14 other languages. However, TNCs are responsible for providing TNC drivers with the notice of  
15 rights required by this subsection 14.33.100.A, in a form and manner sufficient to inform TNC  
16 drivers of their rights under this Chapter 14.33, regardless of whether the Agency has created and  
17 distributed a model notice of rights. The notice of rights shall provide information on:

- 18 1. The right to the applicable per minute rate and per mile rate guaranteed by this  
19 Chapter 14.33;
- 20 2. The right to be protected from retaliation for exercising in good faith the rights  
21 protected by this Chapter 14.33; and
- 22 3. The right to file a complaint with the Agency or bring a civil action for  
23 violation of the requirements of this Chapter 14.33, including a TNC or any person's failure to

1 pay the minimum per minute rate or per mile rate, and a TNC or other person's retaliation against  
2 a TNC driver or other person for engaging in an activity protected by this Chapter 14.33.

3 B. TNCs shall provide the notice of rights required by subsection 14.33.100.A in an  
4 electronic format that is readily accessible to the TNC driver. The notice of rights shall be made  
5 available to the TNC driver via smartphone application or online web portal, in English and any  
6 language that the TNC knows or has reason to know is the primary language of the TNC driver.  
7 The Director may issue rules governing the form and content of the notice of rights, the manner  
8 of its distribution, and required languages for its translation.

9 C. Within 24 hours of each trip completion, a TNC must transmit an electronic receipt to  
10 the TNC driver that contains the following information for each unique trip, or portion of a  
11 unique trip, covered by this Chapter 14.33:

12 1. The total amount of passenger platform time;  
13 2. The total mileage driven during passenger platform time;  
14 3. Passenger pick-up location and passenger drop-off location. The Director shall  
15 issue rules regarding the precision with which a TNC must describe the passenger pick-up  
16 location and passenger drop-off location and may consider methods to protect the privacy of  
17 passengers, to the maximum extent permitted by applicable laws. Prior to the issuance of such  
18 rules, a TNC's current practice of describing the passenger pick-up location and passenger drop-  
19 off location as of the effective date of this section shall be deemed to comply with this subsection  
20 14.33.100.C.3;

21 4. Passenger fare;

1                   5. Rate or rates of pay, including but not limited to the rate per minute, rate per  
2 mile, percentage of passenger fare, and any applicable price multiplier or variable pricing policy  
3 in effect for the trip;

4                   6. Tip compensation;

5                   7. Gross payment;

6                   8. Net payment after deductions, fees, tolls, surcharges, lease fees, or other  
7 charges;

8                   9. Itemized deductions or fees, including any toll, surcharge, commission, lease  
9 fees, and other charges; and

10                  10. Pursuant to rules issued by the Director, other information that is material and  
11 necessary to effectuate the terms of this Chapter 14.33.

12                  D. On a weekly basis, the TNC shall provide written notice to the TNC driver that  
13 contains the following information for trips, or a portion of a trip, that is covered by this Chapter  
14 14.33 and which occurred in the prior week:

15                   1. The TNC driver's total passenger platform time;

16                   2. Total mileage driven by the TNC driver during passenger platform time;

17                   3. Total amount of passenger fares;

18                   4. The TNC driver's total tip compensation;

19                   5. The TNC driver's gross payment, itemized by:

20                   a. Rate per minute;

21                   b. Rate per mile; and

1 c. Any other method used to calculate pay including, but not limited to,  
2 base pay, percentage of passenger fare, or any applicable price multiplier or variable pricing  
3 policy in effect for the trip.

4 6. The TNC driver's net payment after deductions, fees, tolls, surcharges, lease  
5 fees, or other charges;

6 7. Itemized deductions or fees, including all tolls, surcharges, commissions, lease  
7 fees, and other charges, from the TNC driver's payment; and

8 8. Pursuant to rules issued by the Director, other information that is material and  
9 necessary to effectuate the terms of this Chapter 14.33.

10 E. Within 24 hours of a trip's completion, a TNC must transmit an electronic receipt to  
11 the passenger on behalf of the TNC driver that lists:

12 1. The date and time of the trip;

13 2. The passenger pick-up and passenger drop-off locations for the trip. The  
14 Director shall issue rules regarding the precision with which a TNC must describe the passenger  
15 pick-up location and passenger drop-off location and may consider methods to protect the  
16 privacy of passengers, to the maximum extent permitted by applicable laws. Prior to the issuance  
17 of such rules, a TNC's current practice of describing the passenger pick-up location and  
18 passenger drop-off location as of the effective date of this section shall be deemed to comply  
19 with this subsection 14.33.100.E.2;

20 3. The total duration and distance of the trip;

21 4. Driver first name;

22 5. The total fare paid, itemizing all charges and fees;

1                   6. Compensation paid to the driver with passenger-paid tips separately itemized;  
2 and

3                   7. Pursuant to rules issued by the Director, other information that is material and  
4 necessary to effectuate the terms of this Chapter 14.33.

5 **14.33.110 TNC records**

6           A. Each TNC shall retain for three years records that document compliance with this  
7 Chapter 14.33 including:

8                   1. Records of compensation paid to TNC drivers pursuant to Section 14.33.050,  
9 including records of payment of the per-minute amount pursuant to subsection 14.33.050.A.1,  
10 payment of the per-mile amount pursuant to subsection 14.33.050.A.2, payment of the minimum  
11 per trip amount pursuant to subsection 14.33.050.A.4, and any tip or incentive compensation  
12 pursuant to Section 14.33.060;

13                   2. Records of time spent during available platform time, dispatch platform time,  
14 and passenger platform time, including but not limited to the duration that each TNC driver is  
15 logged in to the driver platform, the amount of time each TNC driver spends travelling from  
16 dispatch location to passenger pickup location for each trip, and amount of time each TNC driver  
17 spends travelling from passenger pickup location to passenger drop-off location for each trip.

18                   3. Records of TNC driver mileage driven during available platform time, dispatch  
19 platform time, and passenger platform time, including but not limited to the date, time, and  
20 location of dispatch location, passenger pickup location, and passenger drop-off location for each  
21 trip. The Director is authorized to issue rules regarding the precision with which a TNC must  
22 describe the dispatch location, passenger pick-up location, and passenger drop-off location;

1                   4. Written per-trip driver receipts and weekly statements of trip information  
2 pursuant to subsections 14.33.100.C and 14.33.100.D;

3                   5. Written per-trip passenger receipts pursuant to subsection 14.33.100.E; and

4                   6. Pursuant to rules issued by the Director, other records that are material and  
5 necessary to effectuate the terms of this Chapter 14.33.

6                   B. If a TNC fails to retain adequate records required under subsection 14.33.110.A,  
7 including records required by Director's rule pursuant to subsection 14.33.110.A.6, there shall be  
8 a presumption, rebuttable by clear and convincing evidence, that the TNC violated this Chapter  
9 14.33 for the periods and for each TNC driver for whom records were not retained.

10                  C. Respondents in any case closed by the Agency shall allow the Office of City Auditor  
11 access to such records to permit the Office of City Auditor to evaluate the Agency's enforcement  
12 efforts. Before requesting records from such a respondent, the Office of City Auditor shall first  
13 consult the Agency's respondent records on file and determine if additional records are  
14 necessary. The City Auditor may apply by affidavit or declaration in the form allowed under  
15 RCW 9A.72.085 to the Hearing Examiner for the issuance of subpoenas under this subsection  
16 14.33.110.C. The Hearing Examiner shall issue such subpoenas upon a showing that the records  
17 are required to fulfill the purposes of this subsection 14.33.110.C.

18 **14.33.113 Production of records**

19                  A. The TNC shall routinely and affirmatively transmit to the Agency such records as  
20 required by rules issued by the Director. The Director shall have the authority to require  
21 aggregated or disaggregated records. Such records may include, but are not limited to:

22                   1. The length and duration of each trip;

- 1                   2. The amount of time spent and miles travelled in available platform time,  
2 dispatch platform time, and passenger platform time;
- 3                   3. Per-trip TNC driver compensation;
- 4                   4. For each trip, the date, time, and location of dispatch, passenger pickup and  
5 passenger drop-off;
- 6                   5. Unique vehicle and driver identifier;
- 7                   6. Passenger fares for each trip; and
- 8                   7. Any other records that the Director determines are necessary to effectuate the  
9 purposes of this Chapter 14.33.

10           B. The Director shall issue rules governing the submission format, security, and privacy  
11 protocols relating to the submission of TNC records, to the extent permitted by law.

12 **14.33.116 Rulemaking authority**

13 The Director is authorized to enforce and administer this Chapter 14.33. The Director shall  
14 exercise all responsibilities under this Chapter 14.33 pursuant to rules and regulations developed  
15 under Chapter 3.02. The Director is authorized to promulgate, revise, or rescind rules and  
16 regulations deemed necessary, appropriate, or convenient to administer, evaluate and enforce the  
17 provisions of this Chapter 14.33, providing affected entities with due process of law and in  
18 conformity with the intent and purpose of this Chapter 14.33.

19 **14.33.120 Retaliation prohibited**

20           A. No TNC or any other person shall interfere with, restrain, deny, or attempt to deny the  
21 exercise of any right protected under this Chapter 14.33.

22           B. No TNC or any other person shall take any adverse action against any person because  
23 the person has exercised in good faith the rights protected under this Chapter 14.33. Such rights

1 include but are not limited to the right to make inquiries about the rights protected under this  
2 Chapter 14.33; the right to inform others about their rights under this Chapter 14.33; the right to  
3 inform the person's TNC, union, or similar organization, and/or the person's legal counsel or any  
4 other person about an alleged violation of this Chapter 14.33; the right to file an oral or written  
5 complaint with the Agency, or bring a civil action for an alleged violation of this Chapter 14.33;  
6 the right to cooperate with the Agency in its investigations of this Chapter 14.33; the right to  
7 testify in a proceeding under or related to this Chapter 14.33; the right to refuse to participate in  
8 an activity that would result in a violation of city, state or federal law; and the right to oppose  
9 any policy, practice, or act that is unlawful under this Chapter 14.33.

10 C. No TNC or any other person shall communicate to a person exercising rights protected  
11 under this Section 14.33.120, directly or indirectly, the willingness to inform a government  
12 employee or contracted organization that the person is not lawfully in the United States, or to  
13 report, or to make an implied or express assertion of a willingness to report, suspected  
14 citizenship or immigration status of a TNC driver or a family member of the TNC driver to a  
15 federal, state, or local agency because the TNC driver has exercised a right under this Chapter  
16 14.33.

17 D. It shall be considered a rebuttable presumption of retaliation if the TNC or any other  
18 person takes an adverse action against a person within 90 calendar days of the person's exercise  
19 of rights protected in this Section 14.33.120. The TNC may rebut the presumption with clear and  
20 convincing evidence that the adverse action was taken for a permissible purpose.

21 E. Proof of retaliation under this Section 14.33.120 shall be sufficient upon a showing  
22 that the TNC or any other person has taken an adverse action against a person and the person's  
23 exercise of rights protected in Section 14.33.120 was a motivating factor in the adverse action,

1 unless the TNC can prove that the action would have been taken in the absence of such protected  
2 activity.

3 F. The protections afforded under this Section 14.33.120 shall apply to any person who  
4 mistakenly but in good faith alleges violations of this Chapter 14.33.

5 G. A complaint or other communication by any person triggers the protections of this  
6 Section 14.33.120 regardless of whether the complaint or communication is in writing or makes  
7 explicit reference to this Chapter 14.33.

### 8 **14.33.130 Enforcement power and duties**

9 Subject to the provisions of this Section 14.33.130, the Agency shall have the power to  
10 investigate violations of this Chapter 14.33, as defined herein, and shall have such powers and  
11 duties in the performance of these functions as are defined in this Chapter 14.33 and otherwise  
12 necessary and proper in the performance of the same and provided for by law.

### 13 **14.33.140 Violation**

14 The failure of any respondent to comply with any requirement imposed on the respondent under  
15 this Chapter 14.33 is a violation.

### 16 **14.33.150 Investigation**

17 A. Subject to the provisions of this subsection 14.33.150.A, the Agency shall have the  
18 power to investigate any violations of this Chapter 14.33 by any respondent. The Agency may  
19 initiate an investigation pursuant to rules issued by the Director including, but not limited to:

20 1. Situations when the Director has reason to believe that a violation has occurred  
21 or will occur, or when circumstances show that violations are likely to occur within a business or  
22 class of businesses because the workforce contains significant numbers of workers who are

1 vulnerable to violations of this Chapter 14.33 or the workforce is unlikely to volunteer  
2 information regarding such violations; and

3           2. Following the receipt by the Agency of a report or complaint filed by a TNC  
4 driver or any other person.

5           B. A TNC driver or other person may report to the Agency any suspected violation of this  
6 Chapter 14.33. The Agency shall encourage reporting pursuant to this Section 14.33.150 by  
7 taking the following measures:

8           1. The Agency shall keep confidential, to the maximum extent permitted by  
9 applicable laws, the name and other identifying information of the TNC driver or person  
10 reporting the violation. However, with the authorization of such person, the Agency may disclose  
11 the TNC driver's or person's name and identifying information as necessary to enforce this  
12 Chapter 14.33 or for other appropriate purposes.

13           2. The Agency may require the TNC to post or otherwise notify TNC drivers that  
14 the Agency is conducting an investigation, in a form, place, and manner designated by the  
15 Agency. The TNC may provide the form on an individual basis in physical or electronic format  
16 that is reasonably conspicuous and accessible in in English and other languages as provided by  
17 rules issued by the Director.

18           3. The Agency may certify the eligibility of eligible persons for "U" visas under  
19 the provisions of 8 U.S.C. § 1184(p) and 8 U.S.C. § 1101(a)(15)(U). The certification is subject  
20 to applicable federal law and regulations, and rules issued by the Director.

21           C. The Agency's investigation must commence within three years of the alleged  
22 violation. To the extent permitted by law, the applicable statute of limitations for civil actions is  
23 tolled during any investigation under this Chapter 14.33 and any administrative enforcement

1 proceeding under this Chapter 14.33 based upon the same facts. For purposes of this Chapter  
2 14.33:

3           1. The Agency's investigation begins on the earlier date of when the Agency  
4 receives a complaint from a person under this Chapter 14.33, or when the Agency provides  
5 notice to the respondent that an investigation has commenced under this Chapter 14.33.

6           2. The Agency's investigation ends when the Agency issues a final order  
7 concluding the matter and any appeals have been exhausted; the time to file any appeal has  
8 expired; or the Agency notifies the respondent in writing that the investigation has been  
9 otherwise resolved.

10           D. The Agency's investigation shall be conducted in an objective and impartial manner.

11           E. The Director may apply by affidavit or declaration in the form allowed under RCW  
12 9A.72.085 to the Hearing Examiner for the issuance of subpoenas requiring the TNC to produce  
13 the records identified in Section 14.33.110, or for the attendance and testimony of witnesses, or  
14 for the production of documents required to be retained under Section 14.33.110, or any other  
15 document relevant to the issue of whether any TNC driver or group of TNC drivers has been or  
16 is afforded proper amounts of compensation under this Chapter 14.33 and/or to whether the TNC  
17 has violated any provision of this Chapter 14.33. The Hearing Examiner shall conduct the review  
18 without hearing as soon as practicable and shall issue subpoenas upon a showing that there is  
19 reason to believe that a violation has occurred if a complaint has been filed with the Agency, or  
20 that circumstances show that violations are likely to occur within a business or class of  
21 businesses because the workforce contains significant numbers of workers who are vulnerable to  
22 violations of this Chapter 14.33 or the workforce is unlikely to volunteer information regarding  
23 such violations.

1 F. A TNC that fails to comply with the terms of any subpoena issued under subsection  
2 14.33.150.E in an investigation by the Agency under this Chapter 14.33 prior to the issuance of a  
3 Director's Order issued pursuant to subsection 14.33.160.C may not use such records in any  
4 appeal to challenge the correctness of any determination by the Agency of liability, damages  
5 owed, or penalties assessed.

6 G. In addition to other remedies, the Director may refer any subpoena issued under  
7 subsection 14.33.150.E to the City Attorney to seek a court order to enforce any subpoena.

8 H. Where the Director has reason to believe that a violation has occurred, the Director  
9 may order any appropriate temporary or interim relief to mitigate the violation or maintain the  
10 status quo pending completion of a full investigation or hearing, including but not limited to a  
11 deposit of funds or bond sufficient to satisfy a good-faith estimate of compensation, interest,  
12 damages and penalties due. A respondent may appeal any such order in accordance with Section  
13 14.33.180.

14 **14.33.160 Findings of fact and determination**

15 A. Except when there is an agreed upon settlement, the Director shall issue a written  
16 determination with findings of fact resulting from the investigation and statement of whether a  
17 violation of this Chapter 14.33 has or has not occurred based on a preponderance of the evidence  
18 before the Director.

19 B. If the Director determines that there is no violation of this Chapter 14.33, the Director  
20 shall issue a "Determination of No Violation" with notice of a TNC driver's or other person's  
21 right to appeal the decision, subject to the rules of the Director.

1 C. If the Director determines that a violation of this Chapter 14.33 has occurred, the  
2 Director shall issue a "Director's Order" that shall include a notice of violation identifying the  
3 violation or violations.

4 1. The Director's Order shall state with specificity the amounts due under this  
5 Chapter 14.33 for each violation, including payment of unpaid compensation, liquidated  
6 damages, civil penalties, penalties payable to aggrieved parties, and interest pursuant to Section  
7 14.33.170.

8 2. The Director's Order may specify that civil penalties due to the Agency can be  
9 mitigated for respondent's timely payment of remedy due to an aggrieved party under subsection  
10 14.33.170.A.4.

11 3. The Director's Order may specify that civil penalties and fines are due to the  
12 aggrieved party rather than due to the Agency.

13 4. The Director's Order may direct the respondent to take such corrective action as  
14 is necessary to comply with the requirements of this Chapter 14.33, including, but not limited to,  
15 monitored compliance for a reasonable time period.

16 5. The Director's Order shall include notice of the respondent's right to appeal the  
17 decision, pursuant to Section 14.33.180.

### 18 **14.33.170 Remedies**

19 A. The payment of unpaid compensation, liquidated damages, civil penalties, penalties  
20 payable to aggrieved parties, and interest provided under this Chapter 14.33 are cumulative and  
21 are not intended to be exclusive of any other available remedies, penalties, and procedures.

22 1. The amounts of all civil penalties and penalties payable to aggrieved parties  
23 contained in this Section 14.33.170 shall be increased annually to reflect the rate of inflation and

1 calculated to the nearest cent on January 1 of each year. The Agency shall determine the amounts  
2 and file a schedule of such amounts with the City Clerk.

3           2. If a violation is ongoing when the Agency receives a complaint or opens an  
4 investigation, the Director may order payment of unpaid compensation plus interest that accrues  
5 after receipt of the complaint or after the investigation opens and before the date of the Director's  
6 Order.

7           3. Interest shall accrue from the date the unpaid compensation was first due at 12  
8 percent annum, or the maximum rate permitted under RCW 19.52.020.

9           4. If there is a remedy due to an aggrieved party, the Director may waive the total  
10 amount of civil penalties due to the Agency if the Director determines that the respondent paid  
11 the full remedy due to the aggrieved party within ten days of service of the Director's Order. The  
12 Director may waive half the amount of civil penalties due to the Agency if the Director  
13 determines that the respondent paid the full remedy due to the aggrieved party within 15 days of  
14 service of the Director's Order. The Director shall not waive any amount of civil penalties due to  
15 the Agency if the Director determines that the respondent has not paid the full remedy due to the  
16 aggrieved party after 15 days of service of the Director's Order.

17           5. When determining the amount of liquidated damages, civil penalties, and  
18 penalties payable to aggrieved parties due under this Section 14.33.170, for a settlement  
19 agreement or Director's Order, including but not limited to the mitigation of civil penalties due to  
20 the Agency for timely payment of remedy due to an aggrieved party under subsection  
21 14.33.170.A.4, the Director shall consider:

22           a. The total amount of unpaid compensation, liquidated damages,  
23 penalties, and interest due;

- b. The nature and persistence of the violations;
- c. The extent of the respondent's culpability;
- d. The substantive or technical nature of the violations;
- e. The size, revenue, and human resources capacity of the respondent;
- f. The circumstances of each situation;
- g. The amounts of penalties in similar situations; and
- h. Other factors pursuant to rules issued by the Director.

B. A respondent found to be in violation of this Chapter 14.33 shall be liable for full payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of this Chapter 14.33, and other equitable relief. Where the precise amount of unpaid compensation cannot be determined due to a respondent's failure to produce records, or where a respondent produces records in a manner or form which makes timely determination of the amount of unpaid compensation impracticable, the Director may designate an amount for unpaid compensation in a minimum amount of \$200 for the Director may assess unpaid compensation in an amount to be determined by rules issued by the Director in favor of the aggrieved party for each week that each violation occurred or continued. For a first violation of this Chapter 14.33, the Director may assess liquidated damages in an additional amount of up to twice the unpaid compensation.

1. For subsequent violations of this Chapter 14.33, the Director shall assess an amount of liquidated damages in an additional amount of twice the unpaid compensation.

2. For purposes of establishing a first and subsequent violation for this Section 14.33.170, the violation must have occurred within ten years of the settlement agreement or Director's Order.

1 C. A respondent found to be in violation of this Chapter 14.33 for retaliation under  
2 Section 14.33.120 shall be subject to any appropriate relief at law or equity including, but not  
3 limited to reinstatement of the aggrieved party, front pay in lieu of reinstatement with full  
4 payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of  
5 this Chapter 14.33, and liquidated damages in an additional amount of up to twice the unpaid  
6 compensation. The Director also shall order the imposition of a penalty payable to the aggrieved  
7 party of up to \$5,565.10.

8 D. A respondent who willfully violates the notice and posting requirements of subsection  
9 14.33.100.B shall be subject to a civil penalty of \$834.97 for the first violation and \$1,112.60 for  
10 subsequent violations.

11 E. A respondent who willfully hinders, prevents, impedes, or interferes with the Director  
12 or Hearing Examiner in the performance of their duties under this Chapter 14.33 shall be subject  
13 to a civil penalty of not less than \$1,112.60 and not more than \$5,565.10.

14 F. A respondent found to be in violation of this Chapter 14.33 shall be subject to civil  
15 penalties. Pursuant to subsection 14.33.160.C.3, the Director may specify that civil penalties are  
16 due to the aggrieved party rather than due to the Agency.

17 1. For a first violation of this Chapter 14.33, the Director may assess a civil  
18 penalty of up to \$556.30 per aggrieved party.

19 2. For a second violation of this Chapter 14.33, the Director shall assess a civil  
20 penalty of up to \$1,112.60 per aggrieved party, or an amount equal to ten percent of the total  
21 amount of unpaid compensation, whichever is greater.

22 3. For a third or any subsequent violation of this Chapter 14.33, the Director shall  
23 assess a civil penalty of up to \$5,565.10 per aggrieved party, or an amount equal to ten percent of

1 the total amount of unpaid compensation, whichever is greater. The maximum civil penalty for a  
2 violation of this Chapter 14.33 shall be \$22,259.36 per aggrieved party, or an amount equal to  
3 ten percent of the total amount of unpaid compensation, whichever is greater.

4 4. For purposes of this Section 14.33.170, a violation is a second, third, or  
5 subsequent violation if the respondent has been a party to one, two, or more than two settlement  
6 agreements, respectively, stipulating that a violation has occurred; and/or one, two, or more than  
7 two Director's Orders, respectively, have issued against the respondent in the ten years preceding  
8 the date of the violation; otherwise, it is a first violation.

9 G. The Director is authorized to assess fines and, pursuant to subsection 14.33.160.C.3,  
10 may specify that the fines are due to the aggrieved party rather than due to the Agency. The  
11 Director is authorized to assess fines as follows:

<b>Violation</b>	<b>Fine</b>
Failure to provide reasonable supplies under subsection 14.33.070.	\$556.30 per aggrieved party
Failure to provide TNC drivers with written notice of rights under subsection 14.33.100.B	\$556.30 per aggrieved party
Failure to provide TNC drivers with per-trip receipts or weekly statements under subsection 14.33.100.C	\$556.30 per aggrieved party
Failure to maintain compensation or trip records for three years under subsection 14.33.110.A and 14.33.110.B	\$556.30 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under Section 14.33.120	\$1,112.60 per aggrieved party
Failure to provide notice of investigation to TNC drivers under subsection 14.33.150.B.2	\$556.30 per aggrieved party
Failure to provide notice of failure to comply with final order to the public under subsection 14.33.210.A.1	\$556.30 per aggrieved party

12

1 The fine amounts shall be increased cumulatively by 50 percent of the fine for each preceding  
2 violation for each subsequent violation of the same provision by the same TNC or person within  
3 a ten-year period. The maximum amount that may be imposed in fines in any one-year period for  
4 each type of violation listed above is \$5,565.10 unless a fine for retaliation is issued, in which  
5 case the maximum amount is \$22,259.36.

6 H. In addition to the unpaid compensation, penalties, fines, liquidated damages, and  
7 interest, the Agency may assess against the respondent in favor of the City reasonable costs  
8 incurred in enforcing this Chapter 14.33, including but not limited to reasonable attorneys' fees.

9 I. The TNC that is the subject of a settlement agreement stipulating that a violation shall  
10 count for debarment, or final order for which all appeal rights have been exhausted shall not be  
11 permitted to bid, or have a bid considered, on any City contract until such amounts due under the  
12 final order have been paid in full to the Director. If the TNC is the subject of a final order two  
13 times or more within a five-year period, the contractor or subcontractor shall not be allowed to  
14 bid on any City contract for two years. This subsection 14.33.170.I shall be construed to provide  
15 grounds for debarment separate from, and in addition to, those contained in Chapter 20.70 and  
16 shall not be governed by that chapter, provided that nothing in this subsection 14.33.170.I shall  
17 be construed to limit the application of Chapter 20.70. The Director shall notify the Director of  
18 Finance and Administrative Services of all TNCs subject to debarment under this subsection  
19 14.33.170.I.

20 **14.33.180 Appeal period and failure to respond**

21 A. A TNC driver or other person who claims an injury as a result of an alleged violation  
22 of this Chapter 14.33 may appeal the Determination of No Violation Shown, pursuant to the  
23 rules of the Director.

1           B. A respondent may appeal the Director's Order, including all remedies issued pursuant  
2 to Section 14.33.170, by requesting a contested hearing before the Hearing Examiner in writing  
3 within 15 days of service of the Director's Order. If a respondent fails to appeal the Director's  
4 Order within 15 days of service, the Director's Order shall be final. If the last day of the appeal  
5 period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run  
6 until 5 p.m. on the next business day.

7 **14.33.190 Appeal procedure and failure to appear**

8           A. Contested hearings shall be conducted pursuant to the procedures for hearing  
9 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for  
10 hearing contested cases. The review shall be conducted de novo and the Director shall have the  
11 burden of proof by a preponderance of the evidence before the Hearing Examiner. Upon  
12 establishing such proof, the remedies and penalties imposed by the Director shall be upheld  
13 unless it is shown that the Director abused discretion. Failure to appear for a contested hearing  
14 will result in an order being entered finding that the TNC committed the violation stated in the  
15 Director's Order. For good cause shown and upon terms the Hearing Examiner deems just, the  
16 Hearing Examiner may set aside an order entered upon failure to appear.

17           B. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying,  
18 or reversing the Director's Order.

19 **14.33.200 Appeal from Hearing Examiner order**

20           A. The respondent may obtain judicial review of the decision of the Hearing Examiner by  
21 applying for a Writ of Review in the King County Superior Court within 30 days from the date  
22 of the decision in accordance with the procedure set forth in chapter 7.16 RCW, other applicable  
23 law, and court rules.

1           B. The decision of the Hearing Examiner shall be final and conclusive unless review is  
2 sought in compliance with this Section 14.33.200.

3 **14.33.210 Failure to comply with final order**

4           A. If a respondent fails to comply within 30 days of service of any settlement agreement  
5 with the Agency, or with any final order issued by the Director or the Hearing Examiner for  
6 which all appeal rights have been exhausted, the Agency may pursue, but is not limited to, the  
7 following measures to secure compliance:

8                   1. The Director may require the respondent to post public notice of the  
9 respondent's failure to comply in a form and manner determined by the Agency.

10                   2. The Director may refer the matter to a collection agency. The cost to the City  
11 for the collection services will be assessed as costs, at the rate agreed to between the City and the  
12 collection agency, and added to the amounts due.

13                   3. The Director may refer the matter to the City Attorney for the filing of a civil  
14 action in a court of competent jurisdiction to enforce such order or to collect amounts due. In the  
15 alternative, the Director may seek to enforce a settlement agreement, Director's Order, or a final  
16 order of the Hearing Examiner under Section 14.33.190.

17                   4. The Director may request that the City's Department of Finance and  
18 Administrative Services deny, suspend, refuse to renew, or revoke any business license held or  
19 requested by the TNC or person until such time as the TNC complies with the remedy as defined  
20 in the settlement agreement or final order. The City's Department of Finance and Administrative  
21 Services shall have the authority to deny, refuse to renew, or revoke any business license in  
22 accordance with this subsection 14.33.210.A.4.

1           B. No respondent that is the subject of a settlement agreement or final order issued under  
2 this Chapter 14.33 shall quit business, sell out, exchange, convey, or otherwise dispose of the  
3 respondent's business or stock of goods without first notifying the Agency and without first  
4 notifying the respondent's successor of the amounts owed under the settlement agreement or final  
5 order at least three business days prior to such transaction. At the time the respondent quits  
6 business, or sells out, exchanges, or otherwise disposes of the respondent's business or stock of  
7 goods, the full amount of the remedy, as defined in the settlement agreement or the final order  
8 issued by the Director or the Hearing Examiner, shall become immediately due and payable. If  
9 the amount due under the settlement agreement or final order is not paid by respondent within  
10 ten days from the date of such sale, exchange, conveyance, or disposal, the successor shall  
11 become liable for the payment of the amount due, provided that the successor has actual  
12 knowledge of the order and the amounts due or has prompt, reasonable, and effective means of  
13 accessing and verifying the fact and amount of the order and the amounts due. The successor  
14 shall withhold from the purchase price a sum sufficient to pay the amount of the full remedy.  
15 When the successor makes such payment, that payment shall be deemed a payment upon the  
16 purchase price in the amount paid, and if such payment is greater in amount than the purchase  
17 price the amount of the difference shall become a debt due such successor from the TNC.

18 **14.33.220 Debt owed The City of Seattle**

19           A. All monetary amounts due under a settlement agreement or Director's Order shall be a  
20 debt owed to the City and may be collected in the same manner as any other debt in like amount,  
21 which remedy shall be in addition to all other existing remedies, provided that amounts collected  
22 by the City for unpaid compensation, liquidated damages, penalties payable to aggrieved parties,

1 or front pay shall be held in trust by the City for the aggrieved party and, once collected by the  
2 City, shall be paid by the City to the aggrieved party.

3 B. If a respondent fails to appeal a Director's Order to the Hearing Examiner within the  
4 time period set forth in subsection 14.33.180.B the Director's Order shall be final, and the  
5 Director may petition the Seattle Municipal Court to enforce the Director's Order by entering  
6 judgment in favor of the City finding that the respondent has failed to exhaust its administrative  
7 remedies and that all amounts and relief contained in the order are due. The Director's Order  
8 shall constitute prima facie evidence that a violation occurred and shall be admissible without  
9 further evidentiary foundation. Any certifications or declarations authorized under RCW  
10 9A.72.085 containing evidence that the respondent has failed to comply with the order or any  
11 parts thereof, and is therefore in default, or that the respondent has failed to appeal the Director's  
12 Order to the Hearing Examiner within the time period set forth in subsection 14.33.180.B and  
13 therefore has failed to exhaust the respondent's administrative remedies, shall also be admissible  
14 without further evidentiary foundation.

15 C. If a respondent fails to obtain judicial review of an order of the Hearing Examiner  
16 within the time period set forth in subsection 14.33.200.A, the order of the Hearing Examiner  
17 shall be final, and the Director may petition the Seattle Municipal Court to enforce the Director's  
18 Order by entering judgment in favor of the City for all amounts and relief due under the order of  
19 the Hearing Examiner. The order of the Hearing Examiner shall constitute conclusive evidence  
20 that the violations contained therein occurred and shall be admissible without further evidentiary  
21 foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing  
22 evidence that the respondent has failed to comply with the order or any parts thereof, and is  
23 therefore in default, or that the respondent has failed to avail itself of judicial review in

1 accordance with subsection 14.33.200.A, shall also be admissible without further evidentiary  
2 foundation.

3 D. In considering matters brought under subsections 14.33.220.B and 14.33.220.C, the  
4 Municipal Court may include within its judgment all terms, conditions, and remedies contained  
5 in the Director's Order or the order of the Hearing Examiner, whichever is applicable, that are  
6 consistent with the provisions of this Chapter 14.33.

7 **14.33.230 Private right of action**

8 A. Any person or class of persons that suffers financial injury as a result of a violation of  
9 this Chapter 14.33 or is the subject of prohibited retaliation under Section 14.33.120, may bring a  
10 civil action in a court of competent jurisdiction against the TNC or other person violating this  
11 Chapter 14.33 and, upon prevailing, may be awarded reasonable attorney fees and costs and such  
12 legal or equitable relief as may be appropriate to remedy the violation including, without  
13 limitation, the payment of any unpaid compensation plus interest due to the person and  
14 liquidated damages in an additional amount of up to twice the unpaid compensation; a penalty  
15 payable to any aggrieved party of up to \$5,565.10 if the aggrieved party was subject to  
16 prohibited retaliation. Interest shall accrue from the date the unpaid compensation was first due  
17 at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.

18 B. For purposes of this Section 14.33.230, "person" includes any entity a member of  
19 which has suffered financial injury or retaliation, or any other individual or entity acting on  
20 behalf of an aggrieved party that has suffered financial injury or retaliation.

21 C. For purposes of determining membership within a class of persons entitled to bring an  
22 action under this Section 14.33.230, two or more TNC drivers are similarly situated if they:

1                   1. Are or were contracted to perform TNC services by the same TNC or TNCs,  
2 whether concurrently or otherwise, at some point during the applicable statute of limitations  
3 period,

4                   2. Allege one or more violations that raise similar questions as to liability, and

5                   3. Seek similar forms of relief.

6                   D. For purposes of subsection 14.33.230.C, TNC drivers shall not be considered  
7 dissimilar solely because their:

8                   1. Claims seek damages that differ in amount, or

9                   2. Job titles or other means of classifying TNC drivers differ in ways that are  
10 unrelated to their claims.

11                  E. Nothing contained in this Chapter 14.33 is intended to be nor shall be construed to  
12 create or form the basis for any liability on the part of the City, or its officers, employees or  
13 agents, for any injury or damage resulting from or by reason of any act or omission in connection  
14 with the implementation or enforcement of this chapter on the part of the City by its officers,  
15 employees or agents.

16 **14.33.235 Encouragement of more generous policies**

17                  A. Nothing in this Chapter 14.33 shall be construed to discourage or prohibit a TNC from  
18 the adoption or retention of protections more generous than the ones required by this Chapter  
19 14.33.

20                  B. Nothing in this Chapter 14.33 shall be construed as diminishing the obligation of a  
21 TNC to comply with any contract, or other agreement providing more generous protections to  
22 TNC drivers than required by this Chapter 14.33.

23 **14.33.240 Other legal requirements**

1 This Chapter 14.33 defines requirements for TNC driver protections and shall not be construed  
2 to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement,  
3 policy, or standard that provides for greater requirements; and nothing in this Chapter 14.33 shall  
4 be interpreted or applied so as to create any power or duty in conflict with federal or state law.  
5 Nor shall this Chapter 14.33 be construed to preclude any person aggrieved from seeking judicial  
6 review of any final administrative decision or order made under this Chapter 14.33 affecting  
7 such person.

8 **14.33.245 Study of application of TNC driver protections**

9 A. The Council may request the Agency to contract with academic researchers who have  
10 a proven track record of rigorous analysis of the impacts of labor standards regulations to  
11 conduct an evaluation of the impacts of this ordinance for the first two years of implementation.  
12 The Agency should complete the evaluation within three years of the effective date of this  
13 section and may have discretion to determine whether the evaluation shall consist of a single  
14 report for the entire evaluation period or periodic reports focused on shorter time periods. Areas  
15 of evaluation may include, but not be limited to, the impacts of this ordinance on TNCs, TNC  
16 drivers, including TNC driver earnings and work hours, the share of time TNC drivers spend in  
17 or miles they drive during available platform time, dispatch platform time, and passenger  
18 platform time, TNC passengers, including passenger fares and average passenger wait times,  
19 new TNC driver applications, and total active TNC drivers.

20 B. The Council may use the results of the evaluation to identify possible areas for  
21 revision to accomplish the goals of this ordinance.

1 C. The provisions set forth in subsection 14.33.245.A may be conditioned on the City  
2 Council appropriating sufficient monies to fund the evaluation described in subsection  
3 14.33.245.A.

4 D. During the first year following the effective date of this section, the Agency may  
5 conduct an evaluation of the impacts of this ordinance following implementation. Areas of  
6 evaluation may include, but not be limited to, the impacts of this ordinance on TNCs, TNC  
7 drivers, including TNC driver earnings and work hours, the share of time TNC drivers spend in  
8 or miles they drive during available platform time, dispatch platform time, and passenger  
9 platform time, TNC passengers, including passenger fares and average passenger wait times,  
10 new TNC driver applications, and total active TNC drivers. If at any time the Agency determines  
11 that the ordinance is not achieving its stated purposes, the Agency may propose changes either  
12 through a rulemaking process or by proposing amendments to the Ordinance.

### 13 **14.33.250 Severability**

14 The provisions of this Chapter 14.33 are declared to be separate and severable. If any clause,  
15 sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.33, or the  
16 application thereof to any TNC, TNC driver, or circumstance, is held to be invalid, it shall not  
17 affect the validity of the remainder of this Chapter 14.33, or the validity of its application to  
18 other persons or circumstances.

19 Section 3. Section 3.02.125 of the Seattle Municipal Code, last amended by Ordinance  
20 126094, is amended as follows:

### 21 **3.02.125 Hearing Examiner filing fees**

22 A. The filing fee for a case before the City Hearing Examiner is \$85, with the following  
23 exceptions:

Basis for Case	Fee in dollars
* * *	
Third Party Utility Billing (Chapter 7.25)	No fee
<u>Transportation Network Company Driver Minimum Compensation (Chapter 14.33)</u>	<u>No fee</u>
Type III or Type IV Land Use Application (Chapter 23.76)	No fee
* * *	

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Section 4. Section 3.15.000 of the Seattle Municipal Code, last amended by Ordinance 125976, is amended as follows:

**3.15.000 Office of Labor Standards created – Functions**

There is created within the Executive Department an Office of Labor Standards, under the direction of the Mayor. The mission of the Office of Labor Standards is to advance labor standards through thoughtful community and business engagement, strategic enforcement and innovative policy development, with a commitment to race and social justice. The Office of Labor Standards seeks to promote greater economic opportunity and further the health, safety, and welfare of employees; support employers in their implementation of labor standards requirements; and end barriers to workplace equity for women, communities of color, immigrants and refugees, and other vulnerable workers.

The functions of the Office of Labor Standards are as follows:

- A. Promoting labor standards through outreach, education, technical assistance, and training for employees and employers;
- B. Collecting and analyzing data on labor standards enforcement;
- C. Partnering with community, businesses, and workers for stakeholder input and collaboration;
- D. Developing innovative labor standards policy;

1 E. Administering and enforcing City of Seattle ordinances relating to (~~minimum wage~~  
2 ~~and minimum compensation (Chapter 14.19),~~) paid sick and safe time (Chapter 14.16), use of  
3 criminal history in employment decisions (Chapter 14.17), minimum wage and minimum  
4 compensation (Chapter 14.19), wage and tip compensation requirements (Chapter 14.20), secure  
5 scheduling (Chapter 14.22), domestic workers (Chapter 14.23), hotel employees safety  
6 protections (Chapter 14.26), protecting hotel employees from injury (Chapter 14.27), improving  
7 access to medical care for hotel employees (Chapter 14.28), hotel employees job retention  
8 (Chapter 14.29), commuter benefits (Chapter 14.30), transportation network company driver  
9 deactivation protections (Chapter 14.32), transportation network company driver minimum  
10 compensation (Chapter 14.33), and other labor standards ordinances that may be enacted in the  
11 future.

12 Section 5. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last  
13 amended by Ordinance 126108, is amended as follows:

14 **6.208.020 Denial, revocation of, or refusal to renew business license**

15 A. In addition to any other powers and authority provided under this Title 6, the Director,  
16 or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any  
17 business license issued under the provisions of this Chapter 6.208. The Director, or the Director's  
18 designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or  
19 refusal to renew the license and on what grounds such a decision was based. The Director may  
20 deny, revoke, or refuse to renew any license issued under this Chapter 6.208 on one or more of  
21 the following grounds:

- 22 1. The license was procured by fraud or false representation of fact.
- 23 2. The licensee has failed to comply with any provisions of this Chapter 6.208.

1                   3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35,  
2 5.40, 5.45, 5.46, 5.48, 5.50, or 5.52.

3                   4. The licensee is in default in any payment of any license fee or tax under Title 5  
4 or Title 6.

5                   5. The property at which the business is located has been determined by a court to  
6 be a chronic nuisance property as provided in Chapter 10.09.

7                   6. The applicant or licensee has been convicted of theft under subsection  
8 12A.08.060.A.4 within the last ten years.

9                   7. The applicant or licensee is a person subject within the last ten years to a court  
10 order entering final judgment for violations of chapters 49.46, 49.48, or 49.52 RCW, or 29  
11 U.S.C. 206 or 29 U.S.C. 207, and the judgment was not satisfied within 30 days of the later of  
12 either:

13                   a. The expiration of the time for filing an appeal from the final judgment  
14 order under the court rules in effect at the time of the final judgment order; or

15                   b. If a timely appeal is made, the date of the final resolution of that appeal  
16 and any subsequent appeals resulting in final judicial affirmation of the findings of violations of  
17 chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.

18                   8. The applicant or licensee is a person subject within the last ten years to a final  
19 and binding citation and notice of assessment from the Washington Department of Labor and  
20 Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and  
21 penalties assessed therewith were not satisfied within 30 days of the date the citation became  
22 final and binding.

1                   9. Pursuant to subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4,  
2 14.20.080.A.4, 14.22.115.A.4, 14.23.115.A.4, 14.26.210.A.4, 14.27.210.A.4, 14.28.210.A.4,  
3 ~~((and))~~ 14.30.180.A.4, and 14.33.210.A.4, subsection 100.240.A.4 of Ordinance 126091, and  
4 subsection 100.240.A.4 of Ordinance 126094, the applicant or licensee has failed to comply,  
5 within 30 days of service of any settlement agreement, with any final order issued by the  
6 Director of the Office of Labor Standards, or any final order issued by the Hearing Examiner  
7 under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, ~~((and))~~  
8 14.30, and 14.33, Ordinance 126091, and Ordinance 126094 for which all appeal rights have  
9 been exhausted, and the Director of the Office of Labor Standards has requested that the Director  
10 deny, refuse to renew, or revoke any business license held or requested by the applicant or  
11 licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the  
12 violation(s) under Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29,  
13 ~~((and))~~ 14.30, and 14.33, Ordinance 126091, and Ordinance 126094 are remedied.

14                   10. The business is one that requires an additional license under this Title 6 and  
15 the business does not hold that license.

16                   11. The business has been determined under a separate enforcement process to be  
17 operating in violation of law.

18                   Section 6. The title of Chapter 14.31 of the Seattle Municipal Code, enacted by  
19 Ordinance 125977, is amended as follows:

20 **CHAPTER 14.31 TRANSPORTATION NETWORK COMPANY DRIVERS MINIMUM**  
21 **COMPENSATION STUDY**

22                   Section 7. Section 14.31.010 of the Seattle Municipal Code, enacted by Ordinance  
23 125977, is amended as follows:

1 **14.31.010 Short title**

2 This Chapter 14.31 shall constitute the “Transportation Network Company Driver Minimum  
3 Compensation Study Ordinance” and may be cited as such.

4 Section 8. No provision of this ordinance shall be construed as providing any  
5 determination regarding the legal status of TNC drivers as employees or independent contractors.

1 Section 9. Section 2 of this ordinance shall take effect on January 1, 2021.

2 Section 10. This ordinance shall take effect and be in force 30 days after its approval by  
3 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
4 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

5 Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020,  
6 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
7 \_\_\_\_\_, 2020.

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

10 Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

13 Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

16 (Seal)



SEATTLE CITY COUNCIL  
**CENTRAL STAFF**

# TNC Driver Minimum Compensation Ordinance

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COUNCIL BILL 119876

KARINA BULL, ANALYST  
FINANCE AND HOUSING COMMITTEE COUNCIL BRIEFING  
SEPTEMBER 24, 2020

# TNC Driver Minimum Compensation Ordinance

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- Minimum compensation standards and other labor protections for Transportation Network Company (TNC) drivers
- Effective on January 1, 2021
- Implemented by the Office of Labor Standards (OLS)

# Key components

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1. Minimum compensation standard for TNC drivers
2. Tip protection
3. Personal protective equipment and disinfecting supplies
4. Transparency requirements for TNC drivers and passengers
5. TNC study

# UNDERSTANDING DRIVE TIME

A driver's time can be broken down into three primary phases: P1, P2, and P3

## P1: Available platform time

- A driver is logged in to a driver platform waiting for a trip request

## P2: Dispatch platform time

- A driver has accepted a trip and is driving to pick up the passenger

## P3: Passenger platform time

- Passenger is in vehicle and is being driven to the drop-off location

TOTAL TIME ON APP

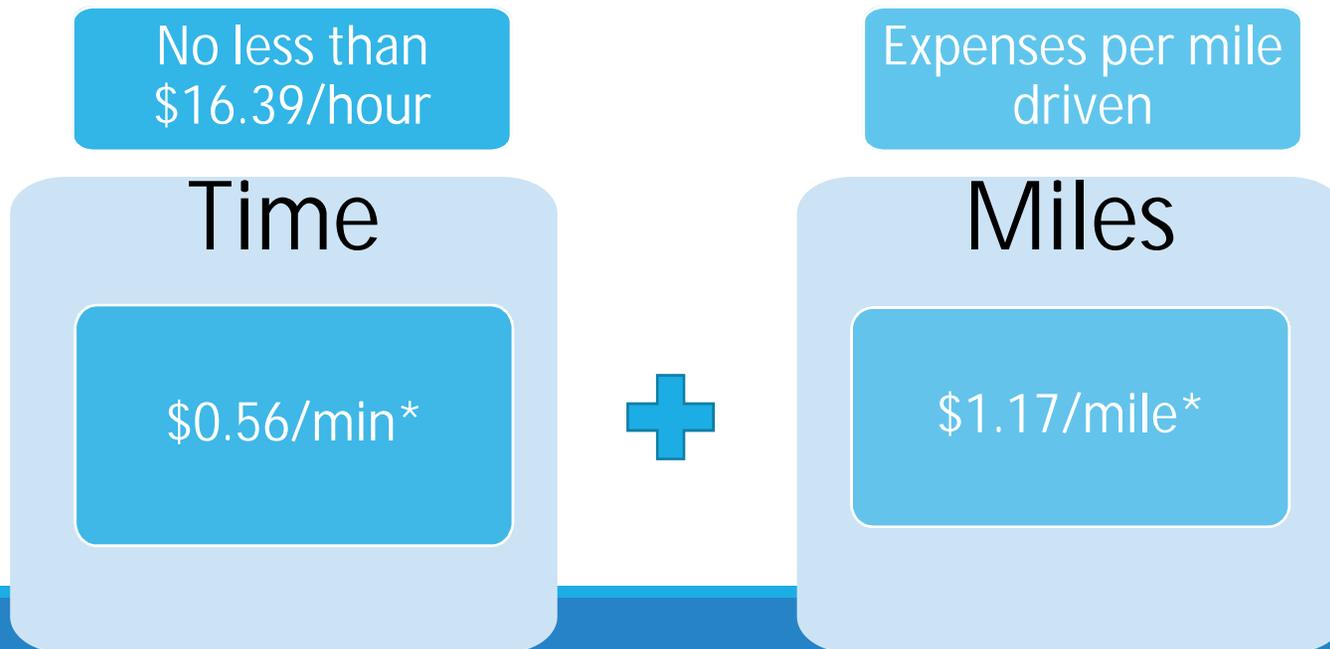
# Minimum Compensation Components

## Time

- Seattle's Minimum Wage for Schedule 1 employers (i.e., employers with more than 500 employees worldwide)

## Mileage

- Vehicle acquisition/financing
- Gas
- Vehicle maintenance
- Insurance
- Cellphone + cell plan
- Vehicle cleaning
- Health insurance
- Payroll taxes
- Public utilities tax
- Licensing/vehicle registration fees/related taxes



\*Scaled-up to account for P1 & P2 time and mileage

# Substitute Bill, sponsored by Councilmember Mosqueda

	Issue	Amendment
1.	Minimum per trip amt	Establish a “minimum per trip amount” that requires TNCs to pay drivers at least \$5 for each TNC dispatched trip.
2.	Reasonable expenses	Include cleaning time and rest breaks in the “per mile rate.”
3.	Utilization rates	<ul style="list-style-type: none"> <li>• Delay the OLS Director’s adjustment of the utilization rates.</li> <li>• Require an assessment period of 12 months for first adjustment.</li> </ul>
4.	Transparency	Add transparency requirements for drivers and passengers.
5.	TNC study	Assign TNC study to OLS rather than the City Auditor.

# Minimum per trip amount

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Establish a “minimum per trip amount” that requires TNCs to pay drivers at least \$5 for each TNC dispatched trip.

- Effective January 1, 2022, the minimum per trip amount would be increased to reflect the rate of inflation.
- Covered trips would include (a) trips to the passenger’s drop-off location; (b) trips cancelled by the passenger or TNC, subject to limitations; and (c) trips where the passenger fails to appear at the pick-up location.
- Covered trips would not include (a) trips cancelled by the passenger or TNC if the TNC refunds the passenger cancellation fee due to driver conduct; or (b) trips cancelled by the driver.

# Reasonable expenses

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Include cleaning time and rest breaks in the “per mile rate.”

- 30 minutes per day for vehicle cleaning.
- Rest breaks (10 minutes of paid rest period per 4 hours worked).
- Per mile rate would be \$0.830.
- Per mile amount would be \$1.33.
- For example, 2020 gross compensation (including expenses) would be \$29.90 per hour.

# Utilization rates (“scale-up factors”)

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Delay the OLS Director’s adjustment of the utilization rates.

- The OLS Director would wait to adjust the passenger platform utilization rate or the passenger mileage utilization rate until three years after the effective date of the ordinance.

Require an assessment period of 12 months for first adjustment.

- The assessment period for the first adjustment would be 12 months in duration. Any subsequent assessment period could be up to 12 months.

# Transparency requirements

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Add transparency requirements for TNC drivers and passengers

- For drivers, TNCs would provide notice of passenger fares for each trip and weekly notice of total passenger fares for the prior week.
- For passengers, TNCs would provide notice of compensation paid to the driver with passenger-paid tips separately itemized.

# TNC Study

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Assign TNC study to OLS rather than City Auditor.

- OLS would coordinate potential studies on the impacts of the legislation on TNCs and drivers
- Council's request for a study would (a) be permissive rather than mandatory, (b) cover the first two years of implementation and (c) be due within three years of implementation.

# Next steps

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- September 24, 2020 – Finance and Housing Committee
- September 29, 2020 – Opportunity for Full Council Vote

# Questions?

September 23, 2020

## MEMORANDUM

**To:** Seattle City Council  
**From:** Karina Bull, Analyst  
**Subject:** Council Bill 119876: TNC Driver Minimum Compensation Ordinance

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On September 24, 2020, the Finance and Housing Committee will discuss and may vote on [Council Bill 119876](#), legislation transmitted by the Office of Labor Standards (OLS). This memo (1) summarizes the legislation and (2) presents potential amendments in a substitute bill sponsored by Councilmember Mosqueda for the Council’s consideration. See the “Amendments” section below for more detail.

### Background

Transportation Network Companies (TNCs) rely on business models that classify TNC drivers as independent contractors who are not subject to local, state and federal workplace protections, including ancillary benefits such as employer-provided health insurance or Seattle’s minimum wage.

In November 2019, the Council passed Ordinance 125977, [Seattle Municipal Code \(SMC\) 14.31](#), asking the Department of Finance and Administrative Service and the Office of Labor Standards (OLS) to (1) conduct an evaluation process to develop a proposed minimum compensation standard for drivers; and (2) transmit future legislation to propose implementation of this standard.

In 2020, the City retained Dr. James Parrott of the New School and Dr. Michael Reich of the University of California at Berkeley to study driver pay and engaged City departments to gather local information. After surveying over 7,000 Seattle drivers and analyzing data from the TNCs and licensing and regulatory data from the City and King County, Parrott and Reich found that 84 percent of drivers earned below the Seattle minimum wage after accounting for reasonable expenses. Specifically, Parrott and Reich determined that drivers incur \$11.80 per hour of reasonable expenses and average gross earnings of \$21.53 per hour – meaning that their average hourly earnings are \$9.73 after accounting for reasonable expenses – substantially below the 2020 Seattle minimum wage of \$16.39 per hour.

### Summary

This legislation, effective on January 1, 2021, would establish minimum compensation standards for drivers that align with Seattle’s minimum wage requirements and include pay for reasonable expenses. For example, minimum gross compensation for 2020 (including an allowance for reasonable expenses) would be \$28.19 per hour. Key components of the minimum compensation standard would include:

## 1. Minimum Compensation Standard for TNC Drivers

TNCs would pay drivers at a minimum “per minute rate” and “per mile rate” for each minute of time and each mile travelled while transporting a passenger. Both the per minute rate and the per mile rate would be scaled up by “utilization rates” to pay drivers for time they spend without a passenger in the car. Thus, the minimum compensation standard would pay drivers for all the time spent on the TNC app in available platform time, dispatch platform time, and passenger platform time. See Table 1 for the minimum compensation formula.

*Table 1: Minimum Compensation Formula*

$$\left( \frac{\text{Per minute rate} \times \text{Passenger Platform Time Minutes}}{\text{Passenger Platform Time Utilization Rate (.492)}} \right) + \left( \frac{\text{Per mile rate} \times \text{Passenger Platform Time Miles}}{\text{Passenger Mileage Utilization Rate (.622)}} \right) = \text{Minimum Payment Per Trip}$$

### a. Per minute rate

The per minute rate would be based on the per minute equivalent of the Seattle minimum wage for Schedule 1<sup>1</sup> employers (See [SMC 14.19](#)). For example, the 2020 Seattle minimum wage for Schedule 1 employers is \$16.39 and the corresponding per minute rate would be \$0.27.<sup>2</sup>

### b. Per mile rate

The per mile rate would be based on Parrott and Reich’s determination of driver reasonable expenses and could be adjusted by the OLS Director. For a minimum of one year, the per mile rate would be \$.0725. See Attachment A for a chart of reasonable expenses.

### c. Utilization rates

For a minimum of one year, the passenger platform utilization rate would be 0.492; the passenger mileage utilization rate would be 0.622.

### d. Adjustments to utilization rates

After one year of implementation, the OLS Director would have discretion to adjust (by rule) the utilization rates based on the proportion of time drivers spend without a passenger. The Director would be required to base any adjustment on a study of relevant factors during an “assessment period” of up to 12 months prior to the date of adjustment. The Director would also be required to provide advance notice to TNCs and other stakeholders of any assessment period to establish awareness of the study.

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<sup>1</sup> Under [SMC 14.19.010](#), Schedule 1 employers are employers with more than 500 employees worldwide.

<sup>2</sup> Per minute rate = (Seattle hourly minimum wage for Schedule 1 employers) divided by (60 minutes).

## **2. Tip Protection**

TNCs would pay all passenger tips paid to drivers. TNCs would not be allowed to count tips towards minimum pay requirements.

## **3. Provision of Personal Protective Equipment and Disinfecting Supplies**

During the COVID-19 civil emergency, TNCs would supply drivers with, or reimburse drivers for, a reasonable amount of personal protective equipment and disinfecting supplies.

## **4. Transparency Requirements for TNC Drivers and Passengers**

TNCs would provide drivers with a notice of rights, per-trip receipts, and weekly pay statements. TNCs also would provide passengers with per-trip receipts.

## **5. OLS Implementation and Enforcement**

OLS would implement the legislation through rulemaking, outreach and enforcement. Aggrieved parties would have a private right of action.

## **6. TNC Study**

Council would ask the City Auditor to contract with academic researchers to study the impacts of the legislation within two years following initial implementation. OLS would also have discretion to study the impacts of the legislation during the first year of implementation.

## **Financial Impacts**

The legislation would provide OLS with authority to (1) implement the legislation, and (2) study the impacts of the legislation.

OLS indicates the legislation would increase its costs by \$647,850 beginning in 2021.

- \$602,850 in ongoing annual appropriations for four new positions: a policy analyst, two senior investigators, and an enforcement strategist; and
- \$45,000 in one-time implementation costs: translation and interpretation services, rulemaking, external counsel legal fees, outreach, and communication.

There would be an additional cost to study the impacts of the legislation. OLS estimates it would cost up to \$278,000 for a one-year evaluation involving academic research, survey and driver outreach, and project management staff. This estimate does not include any costs for qualitative research such as roundtables, intercept interviews, or focus groups.

While the City Budget Office estimates that these expenses could be supported by revenue generated by collection of the tax set forth in [SMC 5.39](#), the City has not yet collected funds

related to this tax because the TNCs have not reached the threshold number of rides for coverage (i.e., one million rides per quarter). As such, the Council could either:

1. Require OLS to reprioritize their existing portfolios of work; or
2. Add resources to support the newly created roles either during the 2021 budget adoption process or a future supplemental budget process.

### Amendments

As of September 23, Councilmember Mosqueda has sponsored a substitute bill for the Council’s consideration. The substitute bill contains substantive amendments and technical changes. See Table 2 for an overview of the amendments. Any additional amendments, if identified, will be distributed as soon as they are available.

*Table 2: Substitute Bill*

Issue	Description
<p><b>A. Findings</b></p>	<p><b>Add findings to provide context for increasing the “per mile rate” to include on reasonable expenses for vehicle cleaning and rest breaks.</b></p> <ul style="list-style-type: none"> <li>• For vehicle cleaning, the amendments would reference findings by Dr. Marissa Baker of the School of Public Health at the University of Washington. Dr. Baker has found that drivers need to clean and disinfect their vehicles to ensure passenger and driver safety during and after the COVID-19 emergency.</li> <li>• For rest breaks, the amendments would reference findings by Parrott and Reich.</li> </ul>
<p><b>B. Minimum Per Trip Amount</b></p>	<p><b>Establish a “minimum per trip amount” (paid by TNCs) of at least \$5 for each TNC dispatched trip.</b></p> <p>This amendment would require TNCs to pay drivers a “minimum per trip amount” of at least \$5 for each TNC dispatched trip. TNCs would need to pay (a) the minimum “per minute amount” plus the “per mile amount” for passenger platform time, or (b) the minimum per tip amount, whichever amount is greater.</p> <ul style="list-style-type: none"> <li>• For the minimum per trip amount, “each TNC dispatched trip” would include (a) trips to the passenger’s drop-off location; (b) trips cancelled by the passenger or TNC, subject to limitations; and (c) trips where the passenger fails to appear at the pick-up location.</li> <li>• The minimum per trip amount would not include (a) trips cancelled by the passenger or TNC if the TNC refunds the passenger cancellation fee due to driver conduct; or (b) trips cancelled by the driver.</li> <li>• Effective January 1, 2022, the minimum per trip amount would be increased to reflect the rate of inflation.</li> </ul>
<p><b>C. Reasonable expenses</b></p>	<p><b>Include cleaning time and rest breaks in reasonable expenses.</b></p> <p>In the introduced legislation, the “per mile rate” for reasonable expenses would be \$0.725 and the corresponding “per mile amount” would be \$1.17. This amendment</p>

Issue	Description
	<p>would add (a) 30 minutes per day for vehicle cleaning and (b) rest breaks to the compensation for reasonable expenses. With these additions, the per mile rate would increase from \$0.725 to \$0.830. The per mile amount would increase from \$1.17 to \$1.33. For example, 2020 gross compensation (including expenses) would be \$29.90 per hour.</p> <ul style="list-style-type: none"> <li>• <b>Vehicle cleaning</b> – The introduced legislation would include a per mile rate of \$.004 to cover 12 car washes per year. This amendment would increase the per mile rate by \$0.0629 to also include 30 minutes of cleaning per day. The additional pay would compensate drivers to regularly clean and disinfect their vehicles to keep themselves and passengers safe. Dr. Marissa Baker at the School of Health at the University of Washington has found that drivers need at least two to three minutes after each passenger (approximately 30 minutes per day of compensable time) to adequately clean vehicles to discourage the spread of infectious disease in Seattle during and after the COVID-19 emergency.</li> <li>• <b>Rest breaks</b> – The introduced legislation would not include compensation for rest breaks, a state-mandated labor standard for employees that does not apply to workers hired as independent contractors. This amendment would increase the per mile rate by \$0.042 and would pay for paid rest periods of at least ten minutes for every four hours worked.</li> </ul>
<p><b>D. Adjustment of Utilization Rates</b></p>	<p><b>Delay the OLS Director’s adjustment of the utilization rates.</b></p> <p>This amendment would delay the OLS Director’s adjustment to the passenger platform utilization rate or the passenger mileage utilization rate until three years after the effective date of the ordinance.</p> <p><b>Require an assessment period of 12 months for first adjustment.</b></p> <p>This amendment would require an assessment period of 12 months for the first adjustment to the utilization rates. Any subsequent assessment period could be up to 12 months.</p>
<p><b>E. Cancellations</b></p>	<p><b>Remove provision that would require TNCs to pay TNC drivers any cancellation fee charged to the passenger.</b></p> <p>This provision would be replaced by the new requirement to provide drivers with a minimum per trip amount.</p>
<p><b>F. Transparency Requirements</b></p>	<p><b>Add transparency requirements for TNC drivers and passengers.</b></p> <p>This amendment would require TNCs to provide additional information to drivers and passengers.</p> <ul style="list-style-type: none"> <li>• For drivers, this amendment would require notice of passenger fares for each trip and weekly notice of total passenger fares for the prior week.</li> <li>• For passengers, this amendment would require notice of compensation paid to the driver with passenger-paid tips separately itemized.</li> </ul>

Issue	Description
<b>G. TNC Study</b>	<p><b>Assign TNC study to OLS rather than the City Auditor.</b></p> <p>This amendment would (a) task OLS with all responsibility for coordinating potential studies on the impacts of the legislation on TNCs and drivers; (b) make Council’s request for a study permissive rather than mandatory; and (c) clarify that Council’s request for a study would cover the initial two years of implementation and would be due within three years of implementation.</p>
<b>H. Technical Changes</b>	<p><b>Make technical changes as necessary.</b></p> <p>The substitute bill would make a number of technical changes to the introduced legislation, including amending the definition of reasonable expenses to include vehicle cleaning and rest breaks (vehicle cleaning was inadvertently omitted from the introduced legislation); updating the amounts of penalties and fines to reflect forthcoming 2021 adjustments for inflation; and correcting typos.</p>

**Next Steps**

Council action could occur at the Finance and Housing Committee meeting on September 24, 2020.

Please contact me if you have questions.

**Attachments:**

- A. Chart of TNC Driver Reasonable Expenses

cc: Dan Eder, Interim Director

**Attachment A – Chart of TNC Driver Reasonable Expenses**

	<b>Item<sup>1</sup></b>	<b>Annual Amount</b>	<b>Per Mile Rate</b>	<b>Per Mile Amount<sup>2</sup></b>
1	Vehicle acquisition and financing costs, including lease payments	\$8,006	\$0.2288	\$0.3678
2	Maintenance and repairs	\$2,261	\$0.0646	\$0.1039
3	Vehicle cleaning	\$140	\$0.0040	\$0.0064
4	Gasoline	\$3,289	\$0.0940	\$0.1511
5	Vehicle insurance	\$2,466	\$0.0705	\$0.1133
6	License and vehicle registration fees, including business license taxes	\$571	\$0.0163	\$0.0262
7	Cell phone and cell phone service plans	\$1,560	\$0.0446	\$0.0717
8	Medical, dental, and vision insurance	\$3,766	\$0.1076	\$0.1730
9	Employer-side payroll taxes that drivers must pay	\$2,923	\$0.0835	\$0.1342
10	Business taxes that drivers must pay	\$392	\$0.0112	\$0.0180
<b>Total in Introduced Legislation</b>		<b>\$25,374</b>	<b>\$0.7250</b>	<b>\$1.1656</b>
11	Vehicle cleaning time (30 minutes per 8 hours)	\$2,202	\$0.042	\$0.0675
12	Rest breaks	\$1,469	\$0.0629	\$0.1012
<b>Total in Substitute Bill</b>		<b>\$29,045</b>	<b>\$.830</b>	<b>\$1.33</b>

<sup>1</sup> Items one through 10 were determined in a study commissioned by the City. See James Parrott and Michael Reich, *A Minimum Compensation Standard for Seattle TNC Drivers: Report for the City of Seattle* at 1-2; 35 (July 2020), available at [https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5effff2647a3f573481a187c/1593835306875/Parrott\\_Report\\_July22020.pdf](https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5effff2647a3f573481a187c/1593835306875/Parrott_Report_July22020.pdf).

<sup>2</sup> The “per mile amount” is calculated by dividing the “per mile rate” by the passenger mileage utilization rate (0.622).