

**CITY OF SEATTLE**

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

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

..title

AN ORDINANCE relating to independent contractors in Seattle; establishing labor standards requirements for independent contractors working in Seattle; amending Sections 3.02.125, 3.15.000, and 6.208.020 of the Seattle Municipal Code; and adding a new Chapter 14.34 to the Seattle Municipal Code.

..body

WHEREAS, independent contract work is a growing source of income for workers across the country; and

WHEREAS, in 2018, the BLS reported that 6.9 percent of workers, 10.6 million individuals, gain their primary source of income as an independent contractor; and

WHEREAS, in 2018 and 2019, Gallup and the Freelancers Union surveys reported higher rates of independent contractors, up to 36 percent of workers, 57 million individuals, by including broader categories of alternative work arrangements and including those who use independent contract work as a primary or supplemental source of income; and

WHEREAS, a 2012 Economic Modeling Specialists International, Inc. (EMSI) analysis of BLS data listed Washington State as tied for fifteenth place for states with the highest proportion of self-employment and estimated 126,623 self-employed jobs in the Seattle Metropolitan Statistical Area, noting that the number of jobs may differ from the number of workers, as one worker may fill more than one job; and

WHEREAS, a 2019 Washington State Department of Commerce study found that independent contracting is on the rise in Washington state, increasing by 15 percent from 2008 to 2016; and

WHEREAS, independent contractors have the opportunity for increased flexibility and control over their work, but they also face challenges, such as working without employee

1           protections, lack of information about the terms and conditions of their work, and  
2           misclassification; and

3 WHEREAS, in Washington, all employers must provide employees with itemized pay  
4           statements each time wages are paid under chapter 49.12 RCW and WAC 296-126-040;  
5           and

6 WHEREAS, in Seattle, all employers must provide employees with basic information about the  
7           terms and conditions of their job at time of hire and itemized pay statements each time  
8           wages are paid under the Wage Theft Ordinance (Seattle Municipal Code (SMC) Chapter  
9           14.20); and

10 WHEREAS, in Seattle, Transportation Network Companies (TNCs) and food delivery network  
11           companies must provide gig workers with certain information about their jobs and pay,  
12           but there are not comprehensive transparency requirements for all independent  
13           contractors working in Seattle; and

14 WHEREAS, a lack of transparency about job information and pay can lead to confusion or  
15           disagreement about the terms and conditions of work and mask deceptive payment  
16           practices; and

17 WHEREAS, large delivery businesses that make extensive use of workers hired as independent  
18           contractors have come under scrutiny for improperly paying delivery drivers, including  
19           failure to pay drivers all tips earned from customers or using tips to subsidize promised  
20           wages, and proving wage theft is difficult when hiring entities are not required to provide  
21           an itemized accounting of earnings; and

22 WHEREAS, in 2017, Instacart agreed to pay \$4.6 million and make changes to how it explains  
23           its fees to customers to settle a class-action lawsuit filed by shoppers and drivers over

1           allegations of improper tip pooling, failure to reimburse workers for business expenses,  
2           and imposing a service fee reported to look like a tip; and

3 WHEREAS, in 2020, Door Dash agreed to pay \$2.5 million dollars in a settlement, including  
4           \$1.5 million dollars paid directly to eligible delivery drivers, with the Office of Attorney  
5           General of the District of Columbia over allegations that the company had misrepresented  
6           what tip amounts meant for worker pay and took tips from workers to lower the  
7           company's labor costs; and

8 WHEREAS, in 2019, the Los Angeles Times reported that Amazon delivery drivers suspected  
9           that Amazon was using their tips to subsidize promised wages but did not have  
10          breakdowns of their compensation as proof of this practice, and two drivers tested their  
11          suspicions by delivering items to their homes through Amazon and by tipping themselves  
12          amounts that Amazon ultimately did not include in their compensation for the deliveries;  
13          and

14 WHEREAS, in February 2021, Amazon agreed to pay \$61.7 million in a settlement with the  
15          Federal Trade Commission (FTC) over allegations of withholding the full amount of  
16          customer tips from AmazonFlex drivers, and the FTC alleged that Amazon withheld this  
17          amount from workers by using the worker's tips to subsidize the company's guaranteed  
18          minimum base pay to drivers for each order. As part of the settlement agreement,  
19          Amazon was prohibited from misrepresenting any driver's income or rate of pay, the  
20          amount of tips paid to workers, the amount of tips paid by customers, and making  
21          changes to how tips are used as compensation without first obtaining the worker's  
22          express informed consent; and

1 WHEREAS, misclassification is the practice of improperly classifying employees as independent  
2 contractors; and

3 WHEREAS, in 2015, the Economic Policy Institute reported that across the country about 10 to  
4 20 percent of employers misclassify workers as independent contractors and that the  
5 numbers were likely increasing, thereby depriving substantial numbers of workers of  
6 workplace protections that are afforded to employees, undermining worker bargaining  
7 power and leaving workers more vulnerable to wage theft, disadvantaging employers  
8 who comply with employment rules and therefore have higher labor and administrative  
9 costs, and resulting in losses of billions of dollars in tax revenue for local, state, and  
10 federal governments alongside added costs of providing social services to uninsured  
11 workers; and

12 WHEREAS, in 2019 the Harvard Law School Labor and Worklife Program reported that 19  
13 percent of employers in the Seattle-Bellevue-Tukwila area engage in misclassification –  
14 higher than the statewide misclassification average of 13 percent – and that the  
15 prevalence of misclassification in Washington increased from 5 percent in 2008 to 14  
16 percent in 2017, and averaged 16 percent over the past five years; and

17 WHEREAS, misclassification occurs in many growth industries such as home care, janitorial,  
18 trucking, delivery, construction, personal services, hospitality and restaurants, and work  
19 facilitated through online-enabled applications or platforms; and

20 WHEREAS, in 2021, the National Equity Atlas, a research partnership between PolicyLink and  
21 the University of Southern California Equity Research Institute, reported that Black,  
22 Latinx, and immigrant workers are overrepresented in these industries, compared to their  
23 overall share of the labor force; and

1 WHEREAS, in 2020, the National Employment Law Project reported that it is increasingly clear  
2 that misclassification is an issue of racial justice as many poor workers of color and  
3 immigrant workers, deprived of the core rights and protections of employees, are stuck in  
4 a separate and unequal economy where they are underpaid, put in harm's way on the job,  
5 and left to fend for themselves; and

6 WHEREAS, in February 2019, the City Council passed Resolution 31863 to address the problem  
7 of misclassifying workers as independent contractors; and

8 WHEREAS, Resolution 31863 requested the Office of Labor Standards (OLS) and the Labor  
9 Standards Advisory Commission (LSAC) to work on policy, outreach and enforcement  
10 proposals to address the problem of misclassification; and

11 WHEREAS, in May 2020, the LSAC issued policy recommendations that would create more  
12 transparency and access to information for workers hired as independent contractors,  
13 including recommendations for (1) pre-contract disclosures that would provide  
14 independent contractors with basic job information and (2) payment disclosures that  
15 would provide a description of the work performed and pay information; and

16 WHEREAS, the LSAC's recommendations for pre-contract disclosures and payment disclosures  
17 align with provisions in the Wage Theft Ordinance requiring employers to provide  
18 employees with (1) notice of employment information at time of hire and (2) itemized  
19 pay information each time that wages are paid;

20 WHEREAS, requiring hiring entities to provide pre-contract disclosures and payment disclosures  
21 would address information barriers faced by workers hired as independent contractors,  
22 especially those who are misclassified and deprived of the right to receive this  
23 information as employees; and

1 WHEREAS, The City of Seattle (City) is a leader on wage, labor, and workforce practices that  
2 improve workers' lives, support economic security, and contribute to a fair, healthy, and  
3 vibrant economy; and

4 WHEREAS, the City has passed seven ordinances that extend employee protections to  
5 independent contractors; and

6 WHEREAS, the Domestic Workers Ordinance (SMC Chapter 14.23), Paid Sick and Safe Time  
7 (PSST) for Gig Workers Ordinance (Ordinance 126091), Premium Pay for Gig Workers  
8 Ordinance (Ordinance 126094), the TNC Driver Deactivation Rights Ordinance (SMC  
9 Chapter 14.32), and the TNC Driver Minimum Compensation Ordinance (SMC Chapter  
10 14.33) require hiring entities to provide labor standards such as minimum compensation,  
11 paid leave, protection from unwarranted deactivation, and premium pay for independent  
12 contractors who perform certain types of work; and

13 WHEREAS, the Seattle Fair Employment Practices Ordinance (SMC Chapter 14.04) prohibits  
14 employers from discriminating against domestic workers regardless of their employment  
15 status, and the Fair Contracting Practices ordinance (SMC Chapter 14.10) prohibits  
16 business enterprises from engaging in discriminatory contracting practices; and

17 WHEREAS, establishing new labor standards for independent contractors, such as requirements  
18 for pre-contract disclosures and payment disclosures, requires appropriate action by the  
19 City Council; NOW, THEREFORE,

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

21 Section 1. A new Chapter 14.34 is added to the Seattle Municipal Code as follows:

22 **Chapter 14.34 INDEPENDENT CONTRACTOR PROTECTIONS**

23 **14.34.010 Short title**

1 This Chapter 14.34 shall constitute the “Independent Contractor Protections Ordinance” and may  
2 be cited as such.

3 **14.34.020 Definitions**

4 For purposes of this Chapter 14.34:

5 “Adverse action” means reducing compensation, garnishing tips or gratuities, temporarily  
6 or permanently denying or limiting access to work, incentives, or bonuses, offering less desirable  
7 work, terminating, deactivating, threatening, penalizing, retaliating, engaging in unfair  
8 immigration-related practices, filing a false report with a government agency, or otherwise  
9 discriminating against any person for any reason prohibited by Section 14.34.120. “Adverse  
10 action” for an independent contractor may involve any aspect of the contractor’s work, including  
11 compensation, work hours, responsibilities, or other material change in the terms and conditions  
12 in the ability of the independent contractor to perform services for or through the hiring entity.  
13 “Adverse action” also includes any action by the hiring entity or a person acting on the hiring  
14 entity’s behalf that would dissuade a reasonable person from exercising any right afforded by  
15 this Chapter 14.34.

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

17 “Aggrieved party” means an independent contractor or other person who suffers tangible  
18 or intangible harm due to a hiring entity or other person's violation of this Chapter 14.34.

19 “Application dispatch” means technology that allows customers to directly request  
20 dispatch of independent contractors for provision of services and/or allows independent  
21 contractors or hiring entities to accept requests for services and payments for services via the  
22 internet using mobile interfaces such as, but not limited to, smartphone and tablet applications.

23 “City” means The City of Seattle.

1           “Compensation” means the payment owed to an independent contractor by reason of  
2 working for the hiring entity, including but not limited to hiring entity payments for providing  
3 services, bonuses, and commissions, as well as tips and service charge distributions.

4           “Director” means the Director of the Office of Labor Standards or the Director's  
5 designee.

6           “Director rules” means: (1) rules the Director or Agency may promulgate pursuant to  
7 subsection 14.34.130.B or 14.34.130.C; or (2) other rules that the Director identifies, by means  
8 of an Agency Q&A, previously promulgated pursuant to authority in this Title 14. Rules the  
9 Director identifies by means of an Agency Q&A shall have the force and effect of law and may  
10 be relied on by hiring entities, independent contractors, and other parties to determine their rights  
11 and responsibilities under this Chapter 14.34.

12           “Employ” means to suffer or permit to work.

13           “Employee” means any individual employed by an employer, including but not limited to  
14 full-time employees, part-time employees, and temporary workers. An employer bears the  
15 burden of proof that the individual is, as a matter of economic reality, in business for oneself  
16 rather than dependent upon the alleged employer.

17           “Employer” means any individual, partnership, association, corporation, business trust, or  
18 any entity, person or group of persons, or a successor thereof, that employs another person and  
19 includes any such entity or person acting directly or indirectly in the interest of an employer in  
20 relation to an employee. More than one entity may be the “employer” if employment by one  
21 employer is not completely disassociated from employment by the other employer.

22           “Hiring entity” means any individual, partnership, association, corporation, business  
23 trust, or any entity, person or group of persons, or a successor thereof, that hires an independent

1 contractor to provide any service to the hiring entity or a third party. “Hiring entity” includes  
2 entities offering prearranged services for compensation using an online-enabled application or  
3 platform to connect third parties (e.g., customers) with independent contractors, but does not  
4 include third parties purchasing such services.

5 “Hiring entity payment” means the amount owed to an independent contractor by  
6 reason of working for the hiring entity, including but not limited to payment for providing  
7 services, bonuses, and commissions.

8 “Independent contractor” means a person or entity composed of no more than one person,  
9 regardless of corporate form or method of organizing the person’s business, that is hired by a  
10 hiring entity as a self-employed person or entity to provide services in exchange for  
11 compensation. “Independent contractor” includes a person or entity that is affiliated with and  
12 accepts an offer of prearranged services for compensation from an online-enabled application or  
13 platform.

14 “Online order” means an order placed through an online-enabled application or  
15 platform, including but not limited to an application dispatch system, provided by a hiring  
16 entity for services in Seattle.

17 “Primary language” means the language in which the independent contractor feels  
18 most comfortable communicating.

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

1           “Respondent” means a hiring entity or any person who is alleged or found to have  
2 committed a violation of this ordinance.

3           “Successor” means any person to whom a hiring entity quitting, selling out, exchanging,  
4 or disposing of a business sells or otherwise conveys in bulk and not in the ordinary course of the  
5 hiring entity’s business, a major part of the property, whether real or personal, tangible or  
6 intangible, of the hiring entity’s business. For purposes of this definition, “person” means an  
7 individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm,  
8 corporation, business trust, partnership, limited liability partnership, company, joint stock  
9 company, limited liability company, association, joint venture, or any other legal or commercial  
10 entity.

11           “Tips” means a verifiable sum to be presented by a customer as a gift or gratuity in  
12 recognition of some service performed for the customer by the independent contractor receiving  
13 the tip.

14           “Written” or “writing” means a printed or printable communication in physical or  
15 electronic format, including but not limited to a communication that is transmitted through email,  
16 text message, or a computer or mobile system, or that is otherwise sent and maintained  
17 electronically.

18 **14.34.030 Independent contractor coverage**

19           A. For the purposes of this Chapter 14.34, covered independent contractors are limited to  
20 those who perform work for a covered hiring entity, where (1) the work is performed in whole or  
21 part in Seattle, and (2) the hiring entity knows or has reason to know that the work is performed  
22 in whole or part in Seattle.

1           B. The determination of whether a hiring entity knows or has reason to know that work is  
2 performed in whole or part in Seattle, may be demonstrated by any number of factors, including  
3 but not limited to:

4                   1. The hiring entity specifies the location of the work to be performed, including a  
5 service area that is wholly or partially within Seattle;

6                   2. The hiring entity provides a location within Seattle at which the independent  
7 contractor is permitted or required to perform the work;

8                   3. The independent contractor maintains a regular place of business at an address  
9 in Seattle and the hiring entity is aware of this regular place of business as indicated by inclusion  
10 of the independent contractor's address in Seattle in a pre-contract disclosure, written contract,  
11 payment, or other means;

12                   4. The independent contractor provides information to the hiring entity indicating  
13 that work will be performed in whole or part in Seattle; or

14                   5. The independent contractor provides services that in fact include a work-related  
15 or commercial stop in Seattle.

16           C. If a pre-contract disclosure, payment disclosure, or a written contract references  
17 Seattle as a location for services or the independent contractor's regular place of business, there  
18 shall be a presumption rebuttable by clear and convincing evidence that the hiring entity knows  
19 or has reason to know that the independent contractor's work is performed in whole or part in  
20 Seattle. The lack of a reference to Seattle in the disclosures or contract does not conclusively  
21 establish that a hiring entity did not know, or did not have reason to know, that work was to be  
22 performed in Seattle.

1 D. Time spent by an employee in Seattle solely for the purpose of travelling through  
2 Seattle from a point of origin outside Seattle to a destination outside Seattle, with no work-  
3 related or commercial stops in Seattle except for refueling or the independent contractor's  
4 personal meals or errands, is not covered by this Chapter 14.34.

5 C. Independent contractors who are employees under Chapter 14.20 (Wage Theft  
6 Ordinance) for covered hiring entities are not covered independent contractors under this Chapter  
7 14.34. Hiring entities must pay all compensation owed to such workers in accordance with their  
8 obligations under Chapter 14.20.

9 **14.34.040 Hiring entity coverage**

10 A. For the purposes of this Chapter 14.34, covered hiring entities are limited to those that  
11 (1) retain one or more employees and one or more independent contractors, or (2) retain five or  
12 more independent contractors on a consistent basis, but do not retain any employees.

13 B. To determine whether a hiring entity retains five or more independent contractors on a  
14 consistent basis, the calculation shall be based upon:

15 1. The average number per calendar week of independent contractors who worked  
16 for compensation during each calendar week of the preceding calendar year for any and all  
17 weeks during which at least one independent contractor worked for compensation. For hiring  
18 entities that did not hire any independent contractors during the previous calendar year, the  
19 number of independent contractor(s) shall be calculated based upon the average number per  
20 calendar week of independent contractors who worked for compensation during the first 90  
21 calendar days of the current year; and

22 2. All independent contractors who worked for compensation shall be counted,  
23 including but not limited to:

- 1 a. Independent contractors who are not covered by this Chapter 14.34;
- 2 b. Independent contractors who worked inside Seattle;
- 3 c. Independent contractors who worked outside Seattle; and
- 4 d. Independent contractors who worked for the hiring entity through the
- 5 services of a temporary services or staffing agency, or similar entity.

6 C. Separate entities that form an integrated enterprise shall be considered a single hiring  
7 entity under this ordinance. Separate entities will be considered an integrated enterprise and a  
8 single hiring entity under this ordinance where a separate entity controls the operation of another  
9 entity. The factors to consider in making this assessment include, but are not limited to:

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

15 **14.34.050 Pre-contract disclosure**

16 A. Prior to an independent contractor beginning work for the hiring entity, the hiring  
17 entity shall provide the independent contractor with a written pre-contract disclosure that  
18 provides itemized information on the proposed terms and conditions of work, including but not  
19 limited to:

- 20 1. Date;
- 21 2. Name of the independent contractor;
- 22 3. Name of the hiring entity;

1                   4. Contact information for the hiring entity, including but not limited to physical  
2 address, mailing address, telephone number, and/or email address as applicable;

3                   5. Description of work;

4                   6. Location(s) of work and/or regular place of business of independent  
5 contractor or hiring entity;

6                   7. Rate or rates of pay;

7                   8. Estimated tips and/or service charge distributions, if part of the offered  
8 compensation;

9                   9. Pay basis (e.g., hour, day, week, monthly, fee per project, commission);

10                  10. Tips and/or service charge distribution policy;

11                  11. Typical expenses incurred in the course of work and which expenses will be  
12 paid or reimbursed by the hiring entity; and

13                  12. Deductions, fees, or other charges that the hiring entity may subtract from  
14 payment and accompanying policies for each type of charge; and

15                  13. Payment schedule.

16                  B. Hiring entities shall satisfy the pre-contract disclosure requirements by providing the  
17 required information in a single document, which may be in the form of a pre-contract  
18 disclosure, contract offer, counteroffer, application, or other single document meeting the  
19 disclosure requirements.

20                  C. Hiring entities offering independent contractors prearranged services for  
21 compensation using an online-enabled application or platform shall provide a pre-contract  
22 disclosure at the initial time of hire and for each online order for work covered by this Chapter  
23 14.34. However, pre-contract disclosures for each online order may abbreviate or omit

1 information required by subsections 14.34.050.A.4 and 14.34.050.A.10-13 if the hiring entity  
2 fully provided such information in the pre-contract disclosure provided at the initial time of  
3 hire and there have been no changes to such information.

4 D. Hiring entities shall provide an independent contractor with written notice of any  
5 change to the information required by subsection 14.34.050.A.1-12 before the change takes  
6 place, or as soon as practicable for retroactive changes to such information. Hiring entities may  
7 provide piece-meal notice of such changes (i.e., notice separate from the single document  
8 required in subsection 14.34.050.B). However, for changes to more than five of the items  
9 required by subsection 14.34.050.A.1-12, hiring entities shall issue a revised single document.

10 E. Hiring entities shall provide the pre-contract disclosure in a format that is readily  
11 accessible to the independent contractor. For independent contractors providing services for a  
12 hiring entity through an online-enabled application or platform, hiring entities may provide the  
13 pre-contract disclosure in an electronic format via smartphone application or online web portal.

14 F. Hiring entities shall provide the pre-contract disclosure in English and any language  
15 that the hiring entity knows or has reason to know is the primary language of the independent  
16 contractor. The Agency shall make model notices of the pre-contract disclosure in English,  
17 Spanish, and other languages.

18 G. Hiring entities shall satisfy pre-contract disclosure requirements for independent  
19 contractors working for the hiring entity as of [EFFECTIVE DATE OF CHAPTER 14.34] by  
20 providing the required information by [30 DAYS AFTER EFFECTIVE DATE OF CHAPTER  
21 14.34] or by the time of compensation, whichever date is sooner.

22 **14.34.060 Payment disclosure**

1           A. Each time the hiring entity compensates the independent contractor, the hiring entity  
2 shall provide a written payment disclosure that provides itemized pay information, including but  
3 not limited to:

- 4                   1. Date;
- 5                   2. Name of independent contractor;
- 6                   3. Name of hiring entity;
- 7                   4. Description of services covered by payment (e.g., description of project, tasks  
8 completed, or hours worked);
- 9                   5. Location of services covered by payment;
- 10                  6. Rate or rates of pay;
- 11                  7. Tips, or service charge distributions;
- 12                  8. Pay basis with accounting of method(s) for determining payment earned during  
13 the pay period;
- 14                  9. Expenses reimbursed;
- 15                  10. Gross payment;
- 16                  11. Deductions, fees, or other charges; and
- 17                  12. Net payment after deductions, fees, or other charges;

18           B. Hiring entities shall satisfy the pay disclosure requirements in subsection  
19 14.34.060.A by providing the required information in a single document, including but not  
20 limited to a payment disclosure notice, paycheck stub, or an independent contractor's invoice  
21 accompanied by a single document with supplemental information as necessary.

22           C. In addition to providing a payment disclosure at the time of compensation, hiring  
23 entities offering independent contractors prearranged services for compensation using an

1 online-enabled application or platform shall also provide a payment disclosure within 24 hours  
2 of the independent contractor completing each online order for work covered by this Chapter  
3 14.34.

4 D. Hiring entities compensating independent contractors covered by Chapter 14.33  
5 (Transportation Network Company Driver Minimum Compensation Ordinance) may satisfy  
6 the pay disclosure requirements in subsection 14.34.060.A by providing the required notices in  
7 subsections 14.33.100.C and 14.33.100.D.

8 **14.34.100 Notice of rights**

9 A. Hiring entities shall provide each independent contractor with a written notice of  
10 rights established by this Chapter 14.34.

11 1. For independent contractors working for the hiring entity as of [EFFECTIVE  
12 DATE OF CHAPTER 14.34], hiring entities shall provide the notice of rights by [30 DAYS  
13 AFTER EFFECTIVE DATE OF CHAPTER 14.34] or by the time of compensation, whichever  
14 date is sooner.

15 2. For independent contractors hired by the hiring entity after EFFECTIVE  
16 DATE OF CHAPTER 14.34, hiring entities shall provide the notice of rights prior to the  
17 independent contractor beginning work for the hiring entity.

18 3. Hiring entities shall provide the notice of rights in a format that is readily  
19 accessible to the independent contractor. For independent contractors providing services for a  
20 hiring entity through an online-enabled application or platform, hiring entities may provide the  
21 notice of rights in an electronic format via smartphone application or online web portal.

1                   4. Hiring entities shall provide the notice of rights in English and any language  
2 that the hiring entity knows or has reason to know is the primary language of the independent  
3 contractor.

4                   B. The notice of rights shall provide information on:

5                   1. The right to pre-contract disclosures and payment disclosures guaranteed by  
6 this Chapter 14.34;

7                   2. The right to be protected from retaliation for exercising in good faith the rights  
8 protected by this Chapter 14.34; and

9                   3. The right to file a complaint with the Agency or bring a civil action for a  
10 violation of the requirements of this Chapter 14.34, including a hiring entity's failure to provide  
11 pre-contract disclosure and payment disclosures, and a hiring entity or other person's retaliation  
12 against an independent contractor or other person for asserting the right to these disclosures or  
13 otherwise engaging in an activity protected by this Chapter 14.34.

14                  C. The Agency shall create and distribute a model notice of rights in English and other  
15 languages.

16 **14.34.110 Hiring entity records**

17                  A. Hiring entities shall retain records that document compliance with this Chapter 14.34  
18 for each independent contractor.

19                  B. Hiring entities shall retain the records required by subsection 14.34.110.A for a period  
20 of three years.

21                  C. If a hiring entity fails to retain adequate records required under subsection  
22 14.34.110.A, there shall be a presumption, rebuttable by clear and convincing evidence, that the

1 hiring entity violated this Chapter 14.34 for the periods and for each independent contractor for  
2 whom records were not retained.

3 **14.34.120 Retaliation prohibited**

4 A. No hiring entity or any other person shall interfere with, restrain, or deny the exercise  
5 of, or the attempt to exercise, any right protected under this Chapter 14.34.

6 B. No hiring entity or any other person shall take any adverse action against any person  
7 because the person has exercised in good faith the rights protected under this Chapter 14.34.

8 Such rights include, but are not limited to, the right to make inquiries about the rights protected  
9 under this Chapter 14.34; the right to inform others about their rights under this Chapter 14.34;  
10 the right to inform the person's hiring entity, the person's legal counsel, a union or similar  
11 organization, or any other person about an alleged violation of this Chapter 14.34; the right to  
12 file an oral or written complaint with the Agency or bring a civil action for an alleged violation  
13 of this Chapter 14.34; the right to cooperate with the Agency in its investigations of this Chapter  
14 14.34; the right to testify in a proceeding under or related to this Chapter 14.34; the right to  
15 refuse to participate in an activity that would result in a violation of city, state or federal law; and  
16 the right to oppose any policy, practice, or act that is unlawful under this Chapter 14.34.

17 C. No hiring entity or any other person shall communicate to a person exercising rights  
18 protected in this Section 14.34.120, directly or indirectly, the willingness to inform a government  
19 worker that the person is not lawfully in the United States, or to report, or to make an implied or  
20 express assertion of a willingness to report, suspected citizenship or immigration status of an  
21 independent contractor or family member of an independent contractor to a federal, state, or local  
22 agency because the independent contractor has exercised a right under this Chapter 14.34.

1 D. It shall be a rebuttable presumption of retaliation if a hiring entity or any other person  
2 takes an adverse action against a person within 90 days of the person's exercise of rights  
3 protected in this Section 14.34.120. The hiring entity may rebut the presumption with clear and  
4 convincing evidence that the adverse action was taken for a permissible purpose.

5 E. Proof of retaliation under this Section 14.34.120 shall be sufficient upon a showing  
6 that a hiring entity or any other person has taken an adverse action against a person and the  
7 person's exercise of rights protected in this Section 14.34.120 was a motivating factor in the  
8 adverse action, unless the hiring entity can prove that the action would have been taken in the  
9 absence of such protected activity.

10 F. The protections afforded under this Section 14.34.120 shall apply to any person who  
11 mistakenly but in good faith alleges violations of this Chapter 14.34.

12 G. A complaint or other communication by any person triggers the protections of this  
13 Section 14.34.120 regardless of whether the complaint or communication is in writing or makes  
14 explicit reference to this Chapter 14.34.

15 **14.34.130 Enforcement power and duties**

16 A. The Agency shall have the power to investigate violations of this Chapter 14.34 and  
17 shall have such powers and duties in the performance of these functions as are defined in this  
18 Chapter 14.34 and otherwise necessary and proper in the performance of the same and provided  
19 for by law.

20 B. The Agency is authorized to coordinate implementation and enforcement of this  
21 Chapter 14.34 and may promulgate appropriate guidelines or rules for such purposes.

22 C. The Director is authorized to promulgate rules consistent with this Chapter 14.34 and  
23 Chapter 3.02. Any guidelines or rules promulgated by the Director shall have the force and effect

1 of law and may be relied on by hiring entities, independent contractors, and other parties to  
2 determine their rights and responsibilities under this Chapter 14.34.

3 **14.34.140 Violation**

4 The failure of any respondent to comply with any requirement imposed on the respondent under  
5 this Chapter 14.34 is a violation.

6 **14.34.150 Investigation**

7 A. The Agency shall have the power to investigate any violations of this Chapter 14.34  
8 by any respondent. The Agency may initiate an investigation pursuant to Director rules,  
9 including but not limited to situations when the Director has reason to believe that a violation has  
10 occurred or will occur, or when circumstances show that violations are likely to occur within a  
11 class of hiring entities or businesses because the workforce contains significant numbers of  
12 independent contractors who are vulnerable to violations of this Chapter 14.34 or the workforce  
13 is unlikely to volunteer information regarding such violations. An investigation may also be  
14 initiated through the receipt by the Agency of a report or complaint filed by an independent  
15 contractor or other person.

16 B. An independent contractor or other person may report to the Agency any suspected  
17 violation of this Chapter 14.34. The Agency shall encourage reporting pursuant to this Section  
18 14.34.150 by taking the following measures:

19 1. The Agency shall keep confidential, to the maximum extent permitted by  
20 applicable laws, the name and other identifying information of the independent contractor or  
21 person reporting the violation. However, with the authorization of such person, the Agency may  
22 disclose the independent contractor's or person's name and identifying information as necessary  
23 to enforce this Chapter 14.34 or for other appropriate purposes.

1                   2. The Agency may require the hiring entity to post or otherwise notify other  
2 independent contractors working for the hiring entity that the Agency is conducting an  
3 investigation. The hiring entity shall provide the notice of investigation in a form, place, and  
4 manner designated by the Agency. The Agency shall create the notice of investigation in English  
5 and other languages.

6                   3. The Agency may certify the eligibility of eligible persons for “U” Visas under  
7 the provisions of 8 U.S.C. § 1184.p and 8 U.S.C. § 1101.a.15.U. This certification is subject to  
8 applicable federal law and regulations, and Director rules.

9                   C. The Agency's investigation shall commence within three years of the alleged violation.  
10 To the extent permitted by law, the applicable statute of limitations for civil actions is tolled  
11 during any investigation under this Chapter 14.34 and any administrative enforcement  
12 proceeding under this Chapter 14.34 based upon the same facts. For purposes of this Chapter  
13 14.34:

14                   1. The Agency's investigation begins on the earlier date of when the Agency  
15 receives a complaint from a person under this Chapter 14.34, or when the Agency provides  
16 notice to the respondent that an investigation has commenced under this Chapter 14.34.

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

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

22                   E. The Director may apply by affidavit or declaration in the form allowed under RCW  
23 9A.72.085 to the Hearing Examiner for the issuance of subpoenas requiring a hiring entity to

1 produce the records required by Section 14.34.110, or for the attendance and testimony of  
2 witnesses, or for the production of documents required to be retained under Section 14.34.110, or  
3 any other document relevant to the issue of whether any independent contractor or group of  
4 independent contractors received the information or other benefits required by this Chapter  
5 14.34, and/or to whether a hiring entity has violated any provision of this Chapter 14.34. The  
6 Hearing Examiner shall conduct the review without hearing as soon as practicable and shall issue  
7 subpoenas upon a showing that there is reason to believe that: a violation has occurred, a  
8 complaint has been filed with the Agency, that circumstances show that violations are likely to  
9 occur within a class of businesses because the workforce contains significant numbers of  
10 independent contractors who are vulnerable to violations of this Chapter 14.34, the workforce is  
11 unlikely to volunteer information regarding such violations, or the Agency has gathered  
12 preliminary information indicating that a violation may have occurred.

13 F. A hiring entity that fails to comply with the terms of any subpoena issued under  
14 subsection 14.34.150.E in an investigation by the Agency under this Chapter 14.34 before the  
15 issuance of a Director's Order issued pursuant to subsection 14.34.160.C may not use such  
16 records in any appeal to challenge the correctness of any determination by the Agency of  
17 liability, damages owed, or penalties assessed.

18 G. In addition to other remedies, the Director may refer any subpoena issued under  
19 subsection 14.34.150.E to the City Attorney to seek a court order to enforce any subpoena.

20 H. Where the Director has reason to believe that a violation has occurred, the Director  
21 may order any appropriate temporary or interim relief to mitigate the violation or maintain the  
22 status quo pending completion of a full investigation or hearing, including but not limited to a  
23 deposit of funds or bond sufficient to satisfy a good-faith estimate of compensation, interest,

1 damages, and penalties due. A respondent may appeal any such order in accordance with Section  
2 14.34.180.

3 **14.34.160 Findings of fact and determination**

4 A. Except when there is an agreed upon settlement, the Director shall issue a written  
5 determination with findings of fact resulting from the investigation and statement of whether a  
6 violation of this Chapter 14.34 has or has not occurred based on a preponderance of the evidence  
7 before the Director.

8 B. If the Director determines that there is no violation of this Chapter 14.34, the Director  
9 shall issue a “Determination of No Violation” with notice of an independent contractors or other  
10 person’s right to appeal the decision, pursuant to Director rules.

11 C. If the Director determines that a violation of this Chapter 14.34 has occurred, the  
12 Director shall issue a “Director's Order” that shall include a notice of violation identifying the  
13 violation or violations.

14 1. The Director’s Order shall state with specificity the amounts due under this  
15 Chapter 14.34 for each violation, including payment of unpaid compensation, liquidated  
16 damages, civil penalties, penalties payable to aggrieved parties, fines, and interest pursuant to  
17 Section 14.34.170.

18 2. The Director's Order may specify that civil penalties and fines due to the  
19 Agency can be mitigated for respondent's timely payment of remedy due to an aggrieved party  
20 pursuant to subsection 14.34.170.A.4.

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

1                   4. The Director's Order may direct the respondent to take such corrective action as  
2 is necessary to comply with the requirements of this Chapter 14.34, including but not limited to  
3 monitored compliance for a reasonable time period.

4                   5. The Director's Order shall include notice of the respondent's right to appeal the  
5 decision pursuant to Section 14.34.180.

6 **14.34.170 Remedies**

7                   A. The payment of unpaid compensation, liquidated damages, civil penalties, penalties  
8 payable to aggrieved parties, fines, and interest provided under this Chapter 14.34 is cumulative  
9 and is not intended to be exclusive of any other available remedies, penalties, fines, and  
10 procedures.

11                   1. The amounts of all civil penalties, penalties payable to aggrieved parties, and  
12 fines contained in this Section 14.34.170 shall be increased annually to reflect the rate of  
13 inflation and calculated to the nearest cent on January 1 of each year thereafter. The Agency  
14 shall determine the amounts and file a schedule of such amounts with the City Clerk.

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

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

21                   4. If there is a remedy due to an aggrieved party, the Director may waive part or  
22 all civil penalties and fines due to the Agency based on timely payment of the full remedy due to  
23 the aggrieved party.

1 a. The Director may waive the total amount of civil penalties and fines due  
2 to the Agency if the Director determines that the respondent paid the full remedy due to the  
3 aggrieved party within ten days of service of the Director's Order.

4 b. The Director may waive half the amount of civil penalties and fines due  
5 to the Agency if the Director determines that the respondent paid the full remedy due to the  
6 aggrieved party within 15 days of service of the Director's Order.

7 c. The Director shall not waive any amount of civil penalties and fines due  
8 to the Agency if the Director determines that the respondent has not paid the full remedy due to  
9 the aggrieved party after 15 days of service of the Director's Order.

10 5. When determining the amount of liquidated damages, civil penalties, penalties  
11 payable to aggrieved parties, and fines due under this Section 14.34.170 for a settlement  
12 agreement or Director's Order, including but not limited to the mitigation of civil penalties and  
13 fines due to the Agency for timely payment of remedy due to an aggrieved party under  
14 subsection 14.34.170.A.4, the Director may consider:

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

17 b. The nature and persistence of the violations;

18 c. The extent of the respondent's culpability;

19 d. The substantive or technical nature of the violations;

20 e. The size, revenue, and human resources capacity of the respondent;

21 f. The circumstances of each situation;

22 g. The amount of penalties in similar situations; and

23 h. Other factors pursuant to Director rules.

1 B. A respondent found to be in violation of this Chapter 14.34 for retaliation under  
2 Section 14.34.120 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 14.34, 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 C. The Director is authorized to assess fines and may specify that fines are due to the  
9 aggrieved party rather than due to the Agency. The Director is authorized to assess fines as  
10 follows:

<b>Violation</b>	<b>Fine</b>
Failure to provide written pre-contract disclosure under Section 14.34.050	Up to \$556.30 per aggrieved party
Failure to provide written payment disclosure under Section 14.34.060	Up to \$556.30 per aggrieved party
Failure to provide written notice of rights under Section 14.34.100	Up to \$556.30 per aggrieved party
Failure to retain hiring entity records for three years under subsections 14.34.110.A and 14.34.110.B	Up to \$556.30 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under Section 14.34.120	Up to \$1,112.60 per aggrieved party
Failure to provide notice of investigation to independent contractors under subsection 14.34.150.B.2	Up to \$556.30 per aggrieved party
Failure to post or distribute public notice of failure to comply with final order under subsection 14.34.210.A.1	Up to \$556.30

11  
12 For each independent contractor hired by the hiring entity, the maximum amount that may be  
13 imposed in fines in a one-year period for each type of violation listed above is \$5,565.10. For

1 each hiring entity, if a fine for retaliation is issued, the maximum amount that may be imposed in  
2 a one-year period is \$22,259.36.

3 D. A respondent who willfully hinders, prevents, impedes, or interferes with the Director  
4 or Hearing Examiner in the performance of their duties under this Chapter 14.34 shall be subject  
5 to a civil penalty of not less than \$1,112.60 and not more than \$5,565.10.

6 E. 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 the reasonable costs  
8 incurred in enforcing this Chapter 14.34, including but not limited to reasonable attorneys' fees.

9 F. A respondent that is the subject of a settlement agreement stipulating that a violation  
10 has occurred shall count for debarment, or a final order for which all appeal rights have been  
11 exhausted, shall not be permitted to bid, or have a bid considered, on any City contract until such  
12 amounts due under the final order have been paid in full to the Director. If the respondent is the  
13 subject of a final order two times or more within a five-year period, the hiring entity shall not be  
14 allowed to bid on any City contract for two years. This subsection 14.34.170.F shall be construed  
15 to provide grounds for debarment separate from, and in addition to, those contained in Chapter  
16 20.70 and shall not be governed by that chapter provided that nothing in this subsection  
17 14.34.170.F shall be construed to limit the application of Seattle Municipal Code Chapter 20.70.  
18 The Director shall notify the Director of Finance and Administrative Services of all respondents  
19 subject to debarment under this subsection 14.34.170.F.

20 **14.34.180 Appeal period and failure to respond**

21 A. An independent contractor or other person who claims an injury as a result of an  
22 alleged violation of this Chapter 14.34 may appeal the Determination of No Violation, pursuant  
23 to Director rules.

1           B. A respondent may appeal the Director's Order, including all remedies issued pursuant  
2 to Section 14.34.170, 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 **14.34.190 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 hearing shall be conducted de novo and the Director shall have the  
11 burden of proving by a preponderance of the evidence that the violation or violations occurred.  
12 Upon establishing such proof, the remedies and penalties imposed by the Director shall be  
13 upheld unless it is shown that the Director abused discretion. Failure to appear for a contested  
14 hearing shall result in an order being entered finding that the respondent committed the violation  
15 stated in the Director's Order. For good cause shown and upon terms the Hearing Examiner  
16 deems just, the Hearing Examiner may set aside an order entered upon a 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, consistent with Ordinance 126068.

19 **14.34.200 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 14.34.200.

3 **14.34.210 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 which  
6 all appeal rights have been exhausted, the Agency may pursue, but is not limited to, the following  
7 measures to secure compliance:

8                   1. The Director may require the respondent to post or distribute public notice of  
9 the 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 King County Superior Court, the Seattle Municipal Court, or any other court of  
15 competent jurisdiction to enforce such order or to collect amounts due. In the alternative, the  
16 Director may seek to enforce a Director's Order or a final order of the Hearing Examiner under  
17 Section 14.34.190.

18                   4. The Director may request that the City's Department of Finance and  
19 Administrative Services deny, suspend, refuse to renew, or revoke any business license held or  
20 requested by the hiring entity or person until such time as the hiring entity complies with the  
21 remedy as defined in the settlement agreement or final order. The City's Department of Finance  
22 and Administrative Services shall have the authority to deny, refuse to renew, or revoke any  
23 business license in accordance with this subsection 14.34.210.A.4.

1           B. No respondent that is the subject of a final order issued under this Chapter 14.34 shall  
2 quit business, sell out, exchange, convey, or otherwise dispose of the respondent's business or  
3 stock of goods without first notifying the Agency and without first notifying the respondent's  
4 successor of the amounts owed under the final order at least three business days before such  
5 transaction. At the time the respondent quits business, or sells out, exchanges, or otherwise  
6 disposes of the respondent's business or stock of goods, the full amount of the remedy, as defined  
7 in a final order issued by the Director or the Hearing Examiner, shall become immediately due  
8 and payable. If the amount due under the final order is not paid by respondent within ten days  
9 from the date of such sale, exchange, conveyance, or disposal, the successor shall become liable  
10 for the payment of the amount due, provided that the successor has actual knowledge of the order  
11 and the amounts due or has prompt, reasonable, and effective means of accessing and verifying  
12 the fact and amount of the order and the amounts due. The successor shall withhold from the  
13 purchase price a sum sufficient to pay the amount of the full remedy. When the successor makes  
14 such payment, that payment shall be deemed a payment upon the purchase price in the amount  
15 paid, and if such payment is greater in amount than the purchase price the amount of the  
16 difference shall become a debt due such successor from the hiring entity.

17 **14.34.220 Debt owed The City of Seattle**

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

1           B. If a respondent fails to appeal a Director's Order to the Hearing Examiner within the  
2 time period set forth in subsection 14.34.180.B, the Director's Order shall be final, and the  
3 Director may petition the Seattle Municipal Court, or any court of competent jurisdiction, to  
4 enforce the Director's Order by entering judgment in favor of the City finding that the respondent  
5 has failed to exhaust its administrative remedies and that all amounts and relief contained in the  
6 order are due. The Director's Order shall constitute prima facie evidence that a violation occurred  
7 and shall be admissible without further evidentiary foundation. Any certifications or declarations  
8 authorized under RCW 9A.72.085 containing evidence that the respondent has failed to comply  
9 with the order or any parts thereof, and is therefore in default, or that the respondent has failed to  
10 appeal the Director's Order to the Hearing Examiner within the time period set forth in  
11 subsection 14.34.180.B, and therefore has failed to exhaust the respondent's administrative  
12 remedies, shall also be admissible without further evidentiary foundation.

13           C. If a respondent fails to obtain judicial review of an order of the Hearing Examiner  
14 within the time period set forth in subsection 14.34.200.A, the order of the Hearing Examiner  
15 shall be final, and the Director may petition the Seattle Municipal Court to enforce the Director's  
16 Order by entering judgment in favor of the City for all amounts and relief due under the order of  
17 the Hearing Examiner. The order of the Hearing Examiner shall constitute conclusive evidence  
18 that the violations contained therein occurred and shall be admissible without further evidentiary  
19 foundation. Any certifications or declarations authorized under RCW 9A.72.085 containing  
20 evidence that the respondent has failed to comply with the order or any parts thereof, and is  
21 therefore in default, or that the respondent has failed to avail itself of judicial review in  
22 accordance with subsection 14.34.200.A, shall also be admissible without further evidentiary  
23 foundation.

1 D. In considering matters brought under subsections 14.34.220.B and 14.34.220.C, the  
2 Seattle Municipal Court may include within its judgment all terms, conditions, and remedies  
3 contained in the Director's Order or the order of the Hearing Examiner, whichever is applicable,  
4 that are consistent with the provisions of this Chapter 14.34.

5 **14.34.230 Private right of action**

6 A. Any person or class of persons that suffers an injury as a result of a violation of this  
7 Chapter 14.34, or is the subject of prohibited retaliation under Section 14.34.120, may bring a  
8 civil action in a court of competent jurisdiction against the hiring entity or other person violating  
9 this Chapter 14.34 and, upon prevailing, may be awarded reasonable attorney fees and costs and  
10 such legal or equitable relief as may be appropriate to remedy the violation including, without  
11 limitation: the payment of any unpaid compensation plus interest due to the person and  
12 liquidated damages in an additional amount of up to twice the unpaid compensation; and a  
13 penalty payable to any aggrieved party of up to \$5,565.10 if the aggrieved party was subject to  
14 prohibited retaliation. Interest shall accrue from the date the unpaid compensation was first due  
15 at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.

16 B. For purposes of this Section 14.34.230, “person” includes any entity a member of  
17 which has suffered an injury or retaliation, or any other individual or entity acting on behalf of an  
18 aggrieved party that has suffered an injury or retaliation.

19 C. For purposes of determining membership within a class of persons entitled to bring an  
20 action under this Section 14.34.230, two or more independent contractors are similarly situated if  
21 they:

22 1. Are or were hired for the same hiring entity or hiring entities, whether  
23 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 14.34.230.C, independent contractors shall not be considered dissimilar solely because the independent contractors’:

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

E. An order issued by the court may include a requirement for a hiring entity to submit a compliance report to the court and to the Agency.

#### **14.34.233 Waiver**

Any waiver by an individual of any provisions of this Chapter 14.34 shall be deemed contrary to public policy and shall be void and unenforceable.

#### **14.34.235 Encouragement of more generous policies**

A. Nothing in this Chapter 14.34 shall be construed to discourage or prohibit a hiring entity from the adoption or retention of disclosure policies more generous than the one required herein.

B. Nothing in this Chapter 14.34 shall be construed as diminishing the obligation of the hiring entity to comply with any contract, or other agreement providing more generous disclosure policies to an independent contractor than required herein.

#### **14.34.240 Other legal requirements; effect on other laws**

A. The provisions of this Chapter 14.34 supplement, and do not diminish or replace any other basis of liability or requirement established by statute or common law. The provisions of this Chapter 14.34 shall not be construed to preempt, limit, or otherwise affect the applicability

1 of any other law, regulation, requirement, policy, or standard for disclosure requirements, or that  
2 extends other protections to independent contractors; and nothing in this Chapter 14.34 shall be  
3 interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor  
4 shall this Chapter 14.34 be construed to preclude any person aggrieved from seeking judicial  
5 review of any final administrative decision or order made under this Chapter 14.34 affecting  
6 such person. Nothing in this Section 14.34.240 shall be construed as restricting an independent  
7 contractor's right to pursue any other remedies at law or equity for violation of the contractor's  
8 rights.

9 B. A hiring entity's failure to comply with the provisions of this Chapter 14.34 shall not  
10 render any contract between the hiring entity and an independent contractor void or voidable.

11 C. No provision of this Chapter 14.34 shall be construed as providing a determination  
12 about the legal classification of any individual as an employee or independent contractor.

### 13 **14.34.250 Severability**

14 The provisions of this Chapter 14.34 are declared to be separate and severable. If any clause,  
15 sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.34, or the  
16 application thereof to any hiring entity, independent contractor, person, or circumstance, is held  
17 to be invalid, it shall not affect the validity of the remainder of this Chapter 14.34, or the validity  
18 of its application to other persons or circumstances.

19 Section 2. Section 3.02.125 of the Seattle Municipal Code, last amended by Ordinance  
20 126283, 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
* * *	
Hazard Pay for Grocery Employees Ordinance (Ordinance 126274)	No fee
<u>Independent Contractor Protections Ordinance (Chapter 14.34)</u>	<u>No fee</u>
Land Use Code Citation (Chapter 23.91)	No fee
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Section 3. Section 3.15.000 of the Seattle Municipal Code, last amended by Ordinance 126189, 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))~~ workers; support employers and other hiring entities 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 paid sick and safe  
2 time (Chapter 14.16), use of criminal history in employment decisions (Chapter 14.17),  
3 minimum wage and minimum compensation (Chapter 14.19), wage and tip compensation  
4 requirements (Chapter 14.20), secure scheduling (Chapter 14.22), domestic workers (Chapter  
5 14.23), hotel employees safety protections (Chapter 14.26), protecting hotel employees from  
6 injury (Chapter 14.27), improving access to medical care for hotel employees (Chapter 14.28),  
7 hotel employees job retention (Chapter 14.29), commuter benefits (Chapter 14.30),  
8 transportation network company driver deactivation protections (Chapter 14.32), transportation  
9 network company driver minimum compensation (Chapter 14.33), independent contractor  
10 protections (Chapter 14.34), and other labor standards ordinances that may be enacted in the  
11 future.

12 Section 4. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last  
13 amended by Ordinance 126274, 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 5.38, 5.39, 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 Section 5. Section 1 of this ordinance shall take effect and be in force on [DATE].

2 Section 6. 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 \_\_\_\_\_, 2021,  
6 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
7 \_\_\_\_\_, 2021.

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

10 Approved / returned unsigned / vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

13 Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

16 (Seal)