

ORDINANCE No.

117615

Law Department

COUNCIL BILL No.

110673

The City of

AN ORDINANCE relating to Fair Employment Practices and to Open Housing and Public Accommodations, raising the limit on damages for humiliation and mental suffering

Ordinance) and SMC Chapter 14.08 (Open Housing and Public Accommodations Ordinance) by amending SMC sections 14.04.140, 14.04.150, 14.04.160, 14.04.180, 14.08.160, and 14.08.180.

from One Thousand Dollars (\$1,000) to Ten Thousand Dollars (\$10,000) in conformance with the Washington State Law Against Discrimination; and amending Seattle Municipal Code (SMC) Chapter 14.04 (Seattle Fair Employment Practices

Honorable President:

Your Committee on

to which was referred the within report that we have considered the

OK

On pass by a vote

Full Council

COMPTROLLER FILE No.

| | |
|------------------------------------|---|
| Introduced: APR 21 1995 | By: HARRIS |
| Referred: APR 21 1995 | To: HOUSING, COMMUNITY DEVELOPMENT AND AFFORDABLE HOUSING |
| Referred: | To: |
| Referred: | To: |
| Reported: MAY 1 1995 | Second Reading: MAY 1 1995 |
| Third Reading: MAY 1 1995 | Signed: MAY 1 1995 |
| Presented to Mayor: MAY 2 1995 | Approved: MAY 9 1995 |
| Returned to City Clerk: MAY 9 1995 | Published: Full |
| Vetoed by Mayor: | Veto Published: |
| Passed over Veto: | Veto Sustained: |

The City of Seattle--Legislative Department

and SMC Chapter 14.08
g and Public
(Ordinance) by
sections 14.04.140,
14.04.160, 14.04.180,
and 14.08.180.

Date Reported
and Adopted

REPORT OF COMMITTEE

Chair President:

Committee on _____

was referred the within Council Bill No. _____

that we have considered the same and respectfully recommend that the same:

pass by a vote of 3-0 (SH, JO, JS) on 4/25/95

Full Council vote 6-0

Sherry D. Hams

Committee Chair

ORDINANCE 117615

AN ORDINANCE relating to Fair Employment Practices and to Open Housing and Public Accommodations, raising the limit on damages for humiliation and mental suffering from One Thousand Dollars (\$1,000.00) to Ten Thousand Dollars (\$10,000.00) in conformance with the Washington State Law Against Discrimination; and amending Seattle Municipal Code (SMC) Chapter 14.04 (Seattle Fair Employment Practices Ordinance) and SMC Chapter 14.08 (Open Housing and Public Accommodations Ordinance) by amending SMC sections 14.04.140, 14.04.150, 14.04.160, 14.04.180, 14.08.160, and 14.08.180.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code ("SMC") 14.04.140 (as last amended by §7 of Ordinance 112903) is hereby further amended as follows:

14.04.140 Determination of Reasonable Cause — Conciliation and settlement of cases involving all respondents except City departments.

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

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

1 hearing under this chapter pursuant to Section 14.04.170.

2
3 Section 2. SMC 14.04.150 (as last amended by §7 of Ordinance 112903) is hereby further
4 amended as follows:

5 **14.04.150 Determinations of reasonable cause — Conciliation, settlement and conclusion of**
6 **cases involving City departments as respondents.**

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

8 A. A determination of reasonable cause by the Director shall be deemed a finding that an
9 unfair employment practice has been committed by respondent and is dispositive of this issue for all
10 future proceedings under this chapter, unless appealed, reversed and remanded as provided in this
11 chapter.

12 B. Within sixty (60) days of a determination of reasonable cause, the Director shall confer
13 with the parties and determine an appropriate remedy, which remedy may include (but is not limited
14 to) hiring, reinstatement or upgrading with or without back pay, lost benefits, attorney's fees,
15 admittance to participation in a guidance, apprentice training or retraining program, or such other
16 action as will effectuate the purposes of this chapter, including action which could be ordered by a
17 court, except that damages for humiliation and mental suffering shall not exceed ~~((One Thousand~~
18 ~~Dollars (\$1,000.00)))~~ Ten Thousand Dollars (\$10,000.00). Such remedy shall be reduced to
19 writing in an order of the Director.

20 C. ~~((Where the Director's order includes a monetary payment of a sum not more than Two~~
21 ~~Thousand Five Hundred Dollars (\$2,500.00), such payment shall be made from the Discrimination~~
22 ~~Claim Fund without further legislation under the authority and in the form and manner otherwise~~
23 ~~provided by law for payment of such claims if no appeal has been taken from the determination or~~
24 ~~order as provided in this chapter, or, if taken, such appeal has resulted in affirmance of the~~
25 ~~determination and order by action of the Commission or passage of time, provided that charging~~
26 ~~party has signed the release required in subsection D of this section.))~~

27 ~~((D.))~~ The charging party must sign a release in the form and manner requested by the
28 Department, releasing the City from further liability for acts giving rise to the charge in order to
29 obtain the benefits of the remedy provided under this section and before payment can be made.
30 Without such release, the Director's order with respect to the charging party's individual relief shall
31 have no force and effect. In such event the Director shall notify the parties involved in writing.

32 ~~((E.))~~ D. In all cases where the remedy determined by the Director before or after any
33 appeal includes a monetary payment which exceeds the sum of ~~((Two Thousand Five Hundred~~
34 ~~Dollars (\$2,500.00)))~~ Five Thousand Dollars (\$5,000), the charge or claim, the Director's

1 determination, order, the charging party's signed release and such further documentation as may be
2 required shall be presented to the City Council for passage by separate ordinance. If the City
3 Council fails or refuses to appropriate the amount ordered by the Director within ninety (90) days,
4 the Director shall certify the case to the Hearing Examiner for a hearing to determine the
5 appropriate monetary relief in the case which determination shall be final and binding upon the City.

6 E. Where the Director's order includes a monetary payment of Five Thousand Dollars
7 (\$5,000) or less, such payment shall be made under the authority and in the form and manner
8 otherwise provided for by law for payment of such claims.

9
10 Section 3. SMC 14.04.160 (adopted in §13 of Ordinance 109116) is hereby amended as
11 follows:

12 **14.04.160 Appeals to the Commission from determinations of reasonable cause and orders of**
13 **excess involving City departments as respondents.**

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

15 A. The charging party or respondent may appeal the Director's order and determination of
16 reasonable cause to the Commission within thirty (30) days of the Director's order by filing a
17 written statement of appeal with the Commission. Such statement shall state specifically the
18 grounds on which it is based and the reasons the determination or order or both is in error.

19 B. The Commission shall promptly mail a copy of the statement to the Department and to
20 the other party and shall promptly consider and act upon such appeal by either affirming the
21 Director's determination or order or remanding it to the Director with appropriate instructions.

22 C. The filing of an appeal shall stay the enforcement of any remedy provided for in the
23 Director's determination or order during the pendency of the appeal.

24 D. In such appeal, the Commission shall consider only the record submitted to it by the
25 Department and written statements of positions by the parties involved and, in its discretion, oral
26 presentation. The Commission shall reverse the Director's determination or order only upon a
27 finding that it is clearly erroneous.

28
29 Section 4. SMC 14.04.180 (as last amended by §8 of Ordinance 112903) is hereby further
30 amended as follows:

31 **14.04.180 Decision and order.**

32 A. Within thirty (30) days after conclusion of the hearing, the Hearing Examiner presiding
33 at the hearing (or the Examiner and Commissioners as the case may be) shall prepare a written
34 decision and order. The final decision shall be filed as a public record with the City Clerk, and

1 copies thereof mailed to each party of record and to the Department.

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

5 C. In the event the Hearing Examiner (or a majority of the panel composed of the Examiner
6 and Commissioners), determines that a respondent has committed an unfair employment practice
7 under this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such
8 affirmative action or provide for such relief as is deemed necessary to correct the practice,
9 effectuate the purpose of this chapter, and secure compliance therewith, including but not limited to
10 hiring, reinstatement, or upgrading with or without back pay, lost benefits, attorney's fees,
11 admittance or restoration to membership in a labor organization, admittance to participation in a
12 guidance, apprentice training or retraining program, or such other action which will effectuate the
13 purposes of this chapter, including action which could be ordered by a court, except that damages
14 for humiliation and mental suffering shall not exceed (~~One Thousand Dollars (\$1,000.00))~~) Ten
15 Thousand Dollars (\$10,000.00). Back pay liability shall not accrue from a date more than two (2)
16 years prior to the initial filing of the charge.

17 D. Respondent shall comply with the provisions of any order affording relief and shall
18 furnish proof of compliance to the Department as specified in the order. In the event respondent
19 refuses or fails to comply with the order, the Director shall notify the City Attorney of the same and
20 the City Attorney shall invoke the aid of the appropriate court to secure enforcement or compliance
21 with the order.

22
23 Section 5. SMC 14.08. 160 (as last amended by §19 of Ordinance 116818) is hereby further
24 amended as follows:

25 **14.08.160 Determination of reasonable cause — Conciliation and settlement.**

26 A. If a determination is made that reasonable cause exists to believe that an unfair
27 practice has occurred, the Director shall endeavor to eliminate the unfair practice by conference,
28 conciliation and persuasion. Conditions of settlement may include (but are not limited to) the
29 elimination of the unfair practice, rent refunds or credits, reinstatement to tenancy, affirmative
30 recruiting or advertising measures, payment of actual damages, damages for loss of the right to be
31 free from discrimination in real estate transactions, damages for loss of the right to full enjoyment of
32 any place of public accommodation, attorney's fees or such other remedies that will effectuate the
33 purposes of this chapter, including action which could be ordered by a court, except that in charges
34 alleging an unfair practice with respect to public accommodations, damages for humiliation and

1 mental suffering shall not exceed (~~One Thousand Dollars (\$1,000.00))~~ Ten Thousand Dollars
2 (\$10,000.00) (~~and damages for loss of the right to full enjoyment of any place of public~~
3 ~~accommodation shall not exceed One Thousand Dollars (\$1,000.00))~~). In charges alleging an
4 unfair real estate practice, filed under this chapter, the Director may also require payment of a civil
5 penalty, as set forth in SMC 14.08.185.

6 B. Any settlement or conciliation agreement shall be an agreement between the
7 charging party and the respondent and shall be subject to the approval of the Director. An order
8 shall then be entered by the Director setting forth the terms of the agreement. Copies of such order
9 shall be delivered to all affected parties. The conciliation agreement shall be made public unless the
10 complainant and the respondent otherwise agree and the Director determines that disclosure is not
11 required to further the purposes of this chapter.

12 C. If conciliation is not successful and no agreement can be reached, the Director shall
13 issue a written finding to that effect and furnish a copy of the finding to the charging party and to
14 the respondent. Upon issuance of the finding, except a case in which a City department is a
15 respondent, the Director shall promptly cause to be delivered the entire investigatory file, including
16 the charge and any and all findings made, to the City Attorney for further proceedings and hearing
17 under this chapter pursuant to Section 14.08.170.

18
19 Section 6. SMC 14.08.180 (as last amended by §22 of Ordinance 116818) is hereby further
20 amended as follows:

21 **14.08.180 Decision and order.**

22 A. Within thirty (30) days after conclusion of the hearing, the Hearing Examiner
23 presiding at the hearing (or the Examiner and Commissioners as the case may be) shall prepare a
24 written decision and order. The final decision shall be filed as a public record with the City Clerk,
25 and copies thereof mailed to each party of record and to the Department.

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

29 C. In the event the Hearing Examiner (or a majority of the panel composed of the
30 Examiner and Commissioners), determines that a respondent has committed an unfair practice
31 under this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such
32 affirmative action or provide for such relief as is deemed necessary to correct the practice,
33 effectuate the purpose of this chapter, and secure compliance therewith, including but not limited
34 to, rent refund, or credit, reinstatement to tenancy, affirmative recruiting and advertising measures,

1 attorney's fees, or to take such other action as in the judgment of the Hearing Examiner (or panel
2 majority) will effectuate the purposes of this chapter. The Hearing Examiner (or panel majority)
3 may grant any relief that could be ordered by a court, including actual damages, damages for loss of
4 the right to be free from discrimination in real estate transactions, damages for loss of the right to
5 full enjoyment of any place of public accommodation, injunctive or equitable relief, any other
6 appropriate remedy set forth in the Federal Fair Housing Amendments Act (P.L. 100-430), and
7 assessment of civil penalties as set forth in SMC 14.08.185, except that in charges alleging an unfair
8 practice with respect to public accommodations, damages for humiliation and mental suffering shall
9 not exceed ~~((One Thousand Dollars (\$1,000.00)))~~ Ten Thousand Dollars (\$10,000.00) ~~((and~~
10 ~~damages for loss of the right to full enjoyment of any place of public accommodation shall not~~
11 ~~exceed One Thousand Dollars (\$1,000.00)))~~. An order may include the requirement for a report on
12 the matter of compliance.

13 D. Any person aggrieved by a final order of the Hearing Examiner (or panel majority)
14 may appeal the order on the record to an appropriate court.

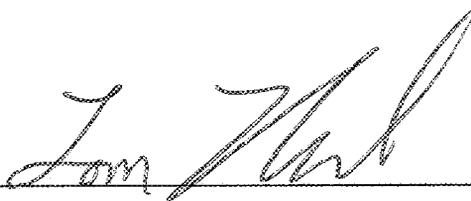
15 E. The Department in the performance of its functions may enlist the aid of all
16 departments of City government, and all said departments are directed to fully cooperate therewith.

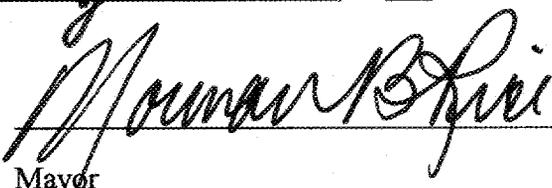
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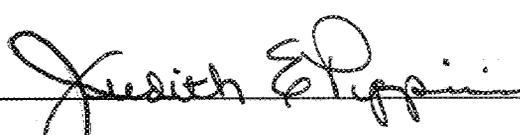
1 Section 7. If any clause, sentence, paragraph, or part of this chapter, or the application
2 thereof to any person or circumstances, shall for any reason be adjudged by a court of competent
3 jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this
4 chapter, or its application to other parties or circumstances.

5
6 Section 8. This ordinance shall take effect and be in force thirty (30) days from and after its
7 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
8 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

9
10 Passed by the City Council the 1st day of May, 1995, and
11 signed by me in open session in authentication of its passage this 1st day of May,
12 1995.

13
14 
15 President _____ of the City Council

16
17 Approved by me this 9 day of May, 1995
18
19 
20 Mayor

21
22 Filed by me this 9 day of May, 1995
23
24 
25 City Clerk

26 (Seal)
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MAR 08 1995

Your
Seattle
Human Rights Department

Germaine W. Covington, Director
Norman B. Rice, Mayor



March 8, 1995

The Honorable Jim Street, President
Seattle City Council
City of Seattle

re: **proposed legislation amending SMC Chs. 14.04 and 14.08**

Dear Councilmember Street:

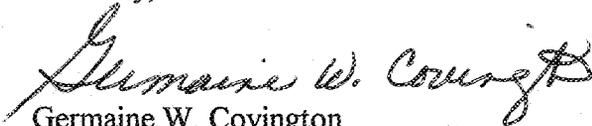
Attached for your review and Council action is a proposed ordinance amending the Seattle Fair Employment Practices Ordinance (SMC Ch. 14.04) and the Open Housing and Public Accommodations Ordinance (SMC Ch. 14.08).

Currently, these ordinances limit the dollar amount that can be awarded for noneconomic damages (humiliation and mental suffering) to a maximum of \$1,000 in all cases other than housing discrimination. At the time these ordinances were originally passed, the \$1,000 cap was determined by state law (RCW Ch. 49.60). In 1993, the state law was amended to allow recovery of actual noneconomic damages in housing cases (in order to be substantially equivalent with the federal fair housing law) and to raise the cap in other cases to \$10,000. Seattle's own "substantial equivalency" amendments to SMC Ch. 14.08 eliminated the cap in housing cases, but did not affect other types of cases within our jurisdiction.

The proposed legislation would eliminate the disparity between SHRD and the Washington State Human Rights Commission, and would allow a charging party to receive the same level of damages regardless of which agency received the charge.

My staff and I will be available to answer any questions that may arise concerning this legislation and to provide any additional information the Council may need.

Sincerely,


Germaine W. Covington

Enclosures

TIME AND DATE STAMP

CB Raising Humiliation Damages Up To \$10,000
SPONSORSHIP In Discrimination Cases.

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

| | |
|-------|-------|
| _____ | _____ |
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| _____ | _____ |
| _____ | _____ |

Sherry Harris

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

95-092

City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor

March 9, 1995

The Honorable Mark Sidran
City Attorney
City of Seattle



Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Human Rights

SUBJECT: AN ORDINANCE relating to Fair Employment Practices and to Open Housing and Public Accommodations, raising the limit on damages for humiliation and mental suffering from One Thousand Dollars (\$1,000.00) to Ten Thousand Dollars (\$10,000.00) in conformance with the Washington State Law Against Discrimination; and amending Seattle Municipal Code (SMC) Chapter 14.04 (Seattle Fair Employment Practices Ordinance) and SMC Chapter 14.08 (Open Housing and Public Accommodations Ordinance) by amending SMC sections 14.04.140, 14.04.150, 14.04.160, 14.04.180, 14.08.160, and 14.08.180.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Jeanette Martin at 684-8071.

Sincerely,

Norman B. Rice
Mayor

by

Tom Tierney, Director

legis:martin14

Enclosure

cc: Director, Human Rights

STATE OF WASHINGTON - KING COUNTY

55692
City of Seattle, City Clerk

-ss.

No. ORDINANCE IN

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 117615

was published on
05/16/95

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

Subscribed and sworn to before me on
05/16/95

J. X. X

Notary Public for the State of Washington,
residing in Seattle

Such decision shall contain findings of fact, conclusions of law upon which the decision is based, and an order granting the relief deemed appropriate, together with a brief statement of the reasons therefor.

In the event the Hearing Examiner (or a majority of the panel composed of the Examiner and Commissioners), determines that a respondent has committed an unfair practice under this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such remedial action or provide for such relief as is deemed necessary to correct the practice, including the purpose of this chapter, and secure compliance therewith, including but not limited to and Commissioners), determines that a respondent has committed an unfair employment practice under this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, or effectuate the purpose of this chapter, and secure compliance therewith, including but not limited to hiring, reinstatement, or upgrading with or without back pay, lost benefits, attorney's fees, or admittance or restoration to membership in a labor organization, assistance to participation in a guidance, apprentice training or retraining program, or such other action which will effectuate the purposes of this chapter, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed ((One Thousand Dollars-\$1,000.00)) (Ten Thousand Dollars-\$10,000.00). Back pay liability shall not accrue from a date more than two (2) years prior to the initial filing of the charge.

D. Respondent shall comply with the provisions of any order, affording relief and shall furnish proof of compliance to the Department as specified in the order. In the event respondent refuses or fails to comply with the order, the Director shall notify the City Attorney of the same and the City Attorney shall invoke the aid of the appropriate court to secure enforcement or compliance with the order.

Section 5, SMC 14.08.160 (as last amended by §19 of Ordinance 110818) is hereby further amended as follows:

14.08.160 Determination of reasonable cause — Conciliation and settlement.

A. If a determination is made that reasonable cause exists to believe that an unfair practice has occurred, the Director shall endeavor to eliminate the unfair practice by conference,

Olivia B. Kamall, Deceased, in Probate No. 95-4-01946-1. The undersigned have been appointed and have qualified as Co-Personal Representatives (Co-PRs) of the estate of the above-named decedent. Each person having a claim against the deceased must serve the claim on the undersigned Ex-ecutors/Co-PRs or on the attorney of record at the address stated below and must file an executed copy of the claim with the clerk of the court within four (4) months after the date of first publication of this notice or within four (4) months of the date of filing of a copy of this notice with the clerk of the court, whichever is the later, or the claim will be barred, except under those provisions included in RCW 11.40.011.

NOTICE TO CREDITORS
 Estate of
VONNA F. NORMAN
 SUPERIOR COURT OF
 Washington, County of King.
 In Re: the Estate of Vonna F. Norman, Deceased, Probate No. 95-4-01943-6. Notice to Creditors with the Clerk of Court, May 1, 1995.

City of Seattle
 ORDINANCE
 AN ORDINANCE relating to Open and Public Accommodations, raising minimum pay requirements for employees of the City of Seattle, and amending sections 14.04.140, 14.04.160, 14.08.160, and 14.08.180.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code (SMC) 14.04.140 (as last amended by §7 of Ordinance 14511) and SMC 14.08.160 (as last amended by §19 of Ordinance 110818) are hereby amended to read as follows:

Chapter 14.04.140, 14.08.160, and 14.08.180 of the Seattle Municipal Code are hereby amended to read as follows: