

**CITY OF SEATTLE**

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

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

..title

AN ORDINANCE relating to housing regulations; adding a new Chapter 14.09 (Fair Chance Housing) to the Seattle Municipal Code to regulate the use of criminal history in rental housing; authorizing the Seattle Office for Civil Rights to enforce the regulations set out in this new chapter; and amending Section 3.14.931 of the Seattle Municipal Code to expand the Seattle Human Rights Commission’s duties.

..body

WHEREAS, the U.S. Department of Justice has estimated one in every three adults in the United States has either an arrest or conviction record<sup>1</sup>; and

WHEREAS, the Center for American Progress reports that nearly half of all children in the U.S. have one parent with a criminal record<sup>2</sup>; and

WHEREAS, over the past two decades, there has been a rise in the use of criminal background checks to screen prospective tenants for housing; and

WHEREAS, a study by the Vera Institute of Justice has shown that people with stable housing are more likely to successfully reintegrate into society and are less likely to reoffend;<sup>3</sup> and

WHEREAS, individuals and parents who have served their time must be able to secure housing if they are to re-enter into society to successfully rebuild their lives and care for their families; and

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<sup>1</sup> Bureau of Justice Statistics, U.S. Department of Justice, “Survey of State Criminal History Information Systems,” 2012, available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/249799.pdf>

<sup>2</sup> Vallas, Boteacg, West, Odum. “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children: A Two Generation Approach,” Center for American Progress. December 2015.

<sup>3</sup> Vera Institute of Justice, “Piloting a Tool for Reentry: A Promising Approach to Engaging Family Members,” 2011, available at <http://archive.vera.org/sites/default/files/resources/downloads/Piloting-a-Tool-for-Reentry-Updated.pdf>

1 WHEREAS, African Americans are 3.4 percent of Washington’s population but account for  
2 nearly 18.4 percent of Washington’s prison population;<sup>4</sup> Latinos are 11.2 percent of  
3 Washington’s population but account for 13.2 percent of Washington’s prison  
4 population;<sup>5</sup> and Native Americans are 1.3 percent of the state population but account for  
5 4.7 percent of Washington’s prison population;<sup>6</sup> and

6 WHEREAS, racial inequities in the criminal justice system are compounded by racial bias in the  
7 rental applicant selection process, as demonstrated by fair housing testing conducted by  
8 the Seattle Office for Civil Rights in 2013 that found evidence of different treatment  
9 based on race in 64 percent of tests, including some cases where African American  
10 applicants were told more often than their white counterparts that they would have to  
11 undergo a criminal background check as part of the screening process; and

12 WHEREAS, there is no sociological research establishing a relationship between a criminal  
13 record and an unsuccessful tenancy;<sup>7</sup> and

14 WHEREAS, an Urban Institute study stated, “men who found [stable] housing within the first  
15 month after release were less likely to return to prison during the first year out”;<sup>8</sup> and

16 WHEREAS, a study performed in Cleveland found that “obtaining stable housing within the first  
17 month after release inhibited re-incarceration”;<sup>9</sup> and

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<sup>4</sup> <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

<sup>5</sup> <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

<sup>6</sup> <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>; <http://www.doc.wa.gov/docs/publications/reports/100-QA001.pdf>

<sup>7</sup> Ehman and Reosti, “Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball”, *N.Y.U. Journal of Legislation and Public Policy Quorum*, March 2015.

<sup>8</sup> *The Importance of Stable Housing for Formerly Incarcerated Individuals*, Housing Law Bulletin, Volume 40, [http://nhlp.org/files/Importance%20of%20Stable%20Housing%20for%20Formerly%20Incarcerated\\_0.pdf](http://nhlp.org/files/Importance%20of%20Stable%20Housing%20for%20Formerly%20Incarcerated_0.pdf)

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

1 WHEREAS, studies show that, after four to seven years where no re-offense has occurred, a  
2 person with a prior conviction is no more likely to commit a crime than someone who has  
3 never had a conviction;<sup>10</sup> and

4 WHEREAS, research shows higher recidivism occurs within the first two years of release and is  
5 mitigated when individuals have access to safe and affordable housing and  
6 employment;<sup>11</sup> and

7 WHEREAS, a 2015 study reported that juveniles on the sex offender registry had considerable  
8 difficulty in accessing stable housing because of their registration status, which  
9 contributed to negative mental health outcomes;<sup>12</sup> and

10 WHEREAS, more than 90 percent of arrests of juveniles for sex offenses represent a one-time  
11 event that does not recur,<sup>13</sup> and studies have repeatedly shown low recidivism rates  
12 ranging from three percent to four percent;<sup>14</sup> and

13 WHEREAS, The City of Seattle has developed a Race and Social Justice Initiative (RSJI) to  
14 eliminate institutional racism and create a community where equity in opportunity exists  
15 for everyone; and

16 WHEREAS, the City's Office for Civil Rights (OCR) works to advance civil rights and end  
17 barriers to equity; and

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<sup>10</sup> Kurlychek, et al. "Scarlet Letters & Recidivism: Does an Old Criminal Record Predict Future Criminal Behavior?" (2006), [http://www.albany.edu/bushway\\_research/publications/Kurlychek\\_et\\_al\\_2006.pdf](http://www.albany.edu/bushway_research/publications/Kurlychek_et_al_2006.pdf). and "'Redemption' in an Era of Widespread Criminal Background Checks," *NIJ Journal*, Issue 263 (June 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York - the findings depend on the nature of the 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York- the findings depend on the nature of the prior offense and the age of the individual.

<sup>11</sup> Ehman and Reosti, "Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball", *N.Y.U. Journal of Legislation and Public Policy Quorum*, March 2015.

<sup>12</sup> Harris, Andrew J. et al. (2015). "Collateral Consequences of Juvenile Sex Offender Registration and Notification," <http://journals.sagepub.com/doi/abs/10.1177/1079063215574004>

<sup>13</sup> Zimring, F.E. (2004). *An American travesty: Legal responses to adolescent sexual offending*, p. 66. University of Chicago.

<sup>14</sup> *Ibid*, Appendix C.

1 WHEREAS, in 2010, residents of Sojourner Place Transitional Housing, Village of Hope, and  
2 other community groups called on the City to address barriers to housing faced by people  
3 with prior records; and

4 WHEREAS, in response, OCR and the Seattle Human Rights Commission held two public  
5 forums in 2010 and 2011, bringing together over 300 people including community  
6 members with arrest and conviction records, landlords, and employers to share their  
7 concerns; and

8 WHEREAS, in 2013, the City Council passed the Seattle Jobs Assistance Ordinance, now titled  
9 the Fair Chance Employment Ordinance, to address barriers in employment; and

10 WHEREAS, since 2013, the Office of Housing has worked with nonprofit housing providers to  
11 share best practices in tenant screening to address racial inequities; and

12 WHEREAS, in September 2014 the Council adopted Resolution 31546, in which the Mayor and  
13 Council jointly convened the Seattle Housing Affordability and Livability Agenda  
14 (HALA) Advisory Committee to evaluate potential strategies to make Seattle more  
15 affordable, equitable, and inclusive; and in particular, to promote the development and  
16 preservation of affordable housing for residents of the City; and

17 WHEREAS, in July 2015, HALA published its Final Advisory Committee Recommendations  
18 and the Mayor published *Housing Seattle: A Roadmap to an Affordable and Livable City*,  
19 which outlines a multi-pronged approach of bold and innovative solutions to address  
20 Seattle's housing affordability crisis; and

21 WHEREAS, in October 2015, the Mayor proposed and Council adopted Resolution 31622,  
22 declaring the City's intent to expeditiously consider strategies recommended by the  
23 Housing Affordability Livability Agenda (HALA) Advisory Committee; and

1 WHEREAS, the Mayor’s Housing and Affordability and Livability Agenda recommended that  
2 the City address barriers to housing faced by people with criminal records, and the Mayor  
3 responded by creating a Fair Chance Housing Committee; and

4 WHEREAS, the Fair Chance Housing Committee provided input to OCR on a legislative  
5 proposal to address these barriers; and

6 WHEREAS, in 2016, the Department of Housing and Urban Development (HUD) issued  
7 guidance on the application of the Fair Housing Act to the use of arrest and conviction  
8 records in rental housing, stating that a housing provider may be in violation of fair  
9 housing laws if their policy or practice does not serve a substantial, legitimate,  
10 nondiscriminatory interest, due to the potential for criminal record screening to have a  
11 disparate impact on African American and other communities of color; and

12 WHEREAS, in 2016, the Seattle City Council passed Resolution 31669, affirming HUD’s  
13 guidance and the work of the Mayor’s Fair Chance Housing Committee; NOW,

14 THEREFORE,

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

16 Section 1. The Council expresses the following concerning implementation of Seattle  
17 Municipal Code Chapter 14.09:

18 A. The implementation of Seattle Municipal Code Chapter 14.09 will consist of:

19 1. Seattle Office for Civil Rights will conduct regular fair housing testing to  
20 ensure compliance, decrease racial bias, and evaluate the impacts of Chapter 14.09; and

21 2. Seattle Office for Civil Rights will launch a Fair Housing Home Program  
22 for landlords. The program’s goal will be to reduce racial bias and biases against other protected  
23 classes in tenant selection. Completion of the training program will result in a certification of a

1 Fair Housing Home program. For pre-finding settlement and conciliation agreements under  
2 Chapter 14.09, landlords will be required to participate in the Fair Housing Home program; and

3           3.       The City of Seattle will work at the state level to reduce the impact of  
4 criminal convictions; and

5           4.       The City of Seattle will explore additional mechanisms to reduce the  
6 greatest barriers to housing for individuals with criminal conviction records through the Re-Entry  
7 Taskforce, convened by the Seattle Office for Civil Rights.

8           Section 2. A new Chapter 14.09 is added to the Seattle Municipal Code as follows:

9 **Chapter 14.09 USE OF CRIMINAL RECORDS IN HOUSING**

10 **14.09.005 Short title**

11 This Chapter 14.09 shall constitute the “Fair Chance Housing Ordinance” and may be cited  
12 as such.

13 **14.09.010 Definitions**

14           “Accessory dwelling unit” has the meaning defined in Section 23.84A.032’s definition of  
15 “Residential use.”

16           “Adverse action” means:

17           A.       Refusing to engage in or negotiate a rental real estate transaction;

18           B.       Denying tenancy;

19           C.       Representing that such real property is not available for inspection, rental, or lease  
20 when in fact it is so available;

21           D.       Failing or refusing to add a household member to an existing lease;

22           E.       Expelling or evicting an occupant from real property or otherwise making  
23 unavailable or denying a dwelling;

1           F.     Applying different terms, conditions, or privileges to a rental real estate  
2 transaction, including but not limited to the setting of rates for rental or lease, establishment of  
3 damage deposits, or other financial conditions for rental or lease, or in the furnishing of facilities  
4 or services in connection with such transaction;

5           G.     Refusing or intentionally failing to list real property for rent or lease;

6           H.     Refusing or intentionally failing to show real property listed for rent or lease;

7           I.     Refusing or intentionally failing to accept and/or transmit any reasonable offer to  
8 lease, or rent real property;

9           J.     Terminating a lease; or

10          K.     Threatening, penalizing, retaliating, or otherwise discriminating against any  
11 person for any reason prohibited by Section 14.09.025.

12           “Aggrieved party” means a prospective occupant, tenant, or other person who suffers  
13 tangible or intangible harm due to a person’s violation of this Chapter 14.09.

14           “Arrest record” means information indicating that a person has been apprehended,  
15 detained, taken into custody, held for investigation, or restrained by a law enforcement  
16 department or military authority due to an accusation or suspicion that the person committed a  
17 crime. Arrest records include pending criminal charges, where the accusation has not yet resulted  
18 in a final judgment, acquittal, conviction, plea, dismissal, or withdrawal.

19           “Charging party” means any person who files a charge alleging a violation under this  
20 Chapter 14.09, including the Director.

21           “City” means The City of Seattle.

22           “Commission” means the Seattle Human Rights Commission.

1           “Consumer report” has the meaning defined in RCW 19.182.010 and means a written,  
2 oral, or other communication of information by a consumer reporting agency bearing on a  
3 consumer’s creditworthiness, credit standing, credit capacity, character, general reputation,  
4 personal characteristics, or mode of living that is used or expected to be used or collected in  
5 whole or in part for purposes authorized under RCW 19.182.020.

6           “Conviction record” means information regarding a final adjudication or other criminal  
7 disposition adverse to the subject. It includes but is not limited to dispositions for which the  
8 defendant received a deferred or suspended sentence, unless the adverse disposition has been  
9 vacated or expunged.

10           “Criminal background check” means requesting or attempting to obtain, directly or  
11 through an agent, an individual’s conviction record or criminal history record information from  
12 the Washington State Patrol or any other source that compiles, maintains, or reflects such records  
13 or information.

14           “Criminal history” means records or other information received from a criminal  
15 background check or contained in records collected by criminal justice agencies, including  
16 courts, consisting of identifiable descriptions and notations of arrests, arrest records, detentions,  
17 indictments, informations, or other formal criminal charges, any disposition arising therefrom,  
18 including conviction records, waiving trial rights, deferred sentences, stipulated order of  
19 continuance, dispositional continuance, or any other initial resolution which may or may not later  
20 result in dismissal or reduction of charges depending on subsequent events. The term includes  
21 acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional  
22 supervision, and release, any issued certificates of restoration of opportunities and any  
23 information contained in records maintained by or obtained from criminal justice agencies,



1 including courts, which provide individual’s record of involvement in the criminal justice system  
2 as an alleged or convicted individual. The term does not include status obtained from a county,  
3 statewide, or national sex offender registry.

4 “Date of disposition” means the date of conviction, judgment, and sentence, and/or date  
5 on which any criminal charge is initially resolved or adjudicated, whichever is latest, specifically  
6 including the imposition of a deferred sentence, stipulated order of continuance, dispositional  
7 continuance, or any other initial resolution which may or may not later result in dismissal or  
8 reduction of charges depending on subsequent events. “Date of disposition” does not refer to  
9 ultimate resolution of the findings in the case or to any adjustment to findings that may occur as  
10 a result of appeal, post-conviction litigation, post-disposition motions, or agreement to continue  
11 for dismissal or reduction of charges.

12 “Date of rental application” means the date and time when a landlord receives a complete  
13 rental application, whether submitted through the mail, electronically, or in person.

14 “Department” means the Seattle Office for Civil Rights and any division therein.

15 “Detached accessory dwelling unit” has the meaning defined in Section 23.84A.032’s  
16 definition of “Residential use.”

17 “Director” means the Director of the Seattle Office for Civil Rights or the Director’s  
18 designee.

19 “Fair chance housing” means practices to reduce barriers to housing for persons with  
20 criminal records.

21 “Juvenile” means a person under 18 years old.

22 A “legitimate business reason” shall exist when the policy or practice is necessary to  
23 achieve a substantial, legitimate, nondiscriminatory interest. To determine such an interest, a

1 landlord must demonstrate, through reliable evidence, a nexus between the policy or practice and  
2 resident safety and/or protecting property, in light of the following factors:

- 3 A. The nature and severity of the conviction;
- 4 B. The number and types of convictions;
- 5 C. The time that has elapsed since the date of conviction;
- 6 D. Age of the individual at the time of conviction;
- 7 E. Evidence of good tenant history before and/or after the conviction occurred; and
- 8 F. Any supplemental information related to the individual’s rehabilitation, good  
9 conduct, and facts or circumstances surrounding the conviction provided by the individual, if the  
10 individual chooses to do so.

11 “Person” means one or more individuals, partnerships, organizations, trade or  
12 professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, or  
13 receivers. It includes any owner, lessee, proprietor, manager, agent, or employee, whether one or  
14 more natural persons, and any political or civil subdivision or agency or instrumentality of the  
15 City.

16 “Prospective occupant” means any person who seeks to lease, sublease, or rent real  
17 property.

18 “Respondent” means any person who is alleged or found to have committed a violation of  
19 this Chapter 14.09.

20 “Supplemental information” means any information produced by the prospective  
21 occupant or the tenant, or produced on their behalf, with respect to their rehabilitation or good  
22 conduct, including but not limited to:

- 23 A. Written or oral statement from the prospective occupant or the tenant;

- 1           B.     Written or oral statement from a current or previous employer;
- 2           C.     Written or oral statement from a current or previous landlord;
- 3           D.     Written or oral statement from a member of the judiciary or law enforcement,
- 4 parole or probation officer, or person who provides similar services;
- 5           E.     Written or oral statement from a member of the clergy, counselor, therapist, social
- 6 worker, community or volunteer organization, or person or institution who provides similar
- 7 services;
- 8           F.     Certificate of rehabilitation;
- 9           G.     Certificate of completion or enrollment in an educational or vocational training
- 10 program, including apprenticeship programs; or
- 11          H.     Certificate of completion or enrollment in a drug or alcohol treatment program; or
- 12 certificate of completion or enrollment in a rehabilitation program.

13           “Tenant” means a person occupying or holding possession of a building or premises

14 pursuant to a rental agreement.

15 **14.09.015 Applicability**

16 A person is covered by this Chapter 14.09 when the physical location of the housing is within the

17 geographic boundaries of the City.

18 **14.09.020 Notice to prospective occupants and tenants**

19 If a landlord screens prospective occupants for conviction records, the landlord shall provide

20 written notice of screening criteria on all applications for rental properties. The written notice

21 shall also include that the landlord will consider for tenancy qualified applicants with criminal

22 histories and applicants may provide any supplemental information related to an individual’s

23 rehabilitation, good conduct, and facts or circumstances surrounding any conviction record

1 within two years from the date of the rental application. The Department shall adopt a rule or  
2 rules to enforce this Section 14.09.020.

3 **14.09.025 Prohibited use of criminal history**

4 A. It is an unfair practice for any person to:

5 1. Advertise, publicize, or implement any policy or practice that  
6 automatically or categorically excludes all individuals with any arrest record, conviction record,  
7 or criminal history from any rental housing that is located within the City.

8 2. Require disclosure, inquire about, or carry out an adverse action in  
9 housing, based on an arrest record of a prospective occupant, a tenant, or a member of their  
10 household. An arrest record is not proof that a person has engaged in unlawful conduct.

11 3. Require disclosure, inquire about, or take an adverse action in housing  
12 against a prospective occupant, a tenant or a member of their household, based on (a) criminal  
13 history, except for conviction records pursuant to subsection 14.09.025.A.4; (b) juvenile records;  
14 (c) convictions that have been expunged, sealed, or vacated; and/or (d) conviction records that,  
15 from the date of disposition, precede the date of the rental application by more than two years,

16 4. Carry out an adverse action based on a conviction record with a  
17 disposition date within two years from the date of the rental application of a prospective  
18 occupant, a tenant or a member of their household, unless the landlord has a legitimate business  
19 reason for taking such action.

20 5. Carry out an adverse action based on status obtained from a county, state,  
21 or national sex offender registry, of a prospective adult occupant, an adult tenant, or an adult  
22 member of their household, unless the landlord has a legitimate business reason for taking such  
23 action.

1                   6.       Carry out an adverse action based on information obtained from any  
2 county, statewide, or national sex offender registry regarding any juvenile prospective occupant,  
3 a juvenile tenant, or juvenile member of their household.

4                   B.       If a landlord takes an adverse action based on a legitimate business reason, the  
5 landlord shall provide written notice by email, mail, or in person of the adverse action to the  
6 prospective occupant or the tenant and state the specific record or records that were the basis for  
7 the adverse action.

8                   C.       If a consumer report is used by a landlord as part of the screening process, the  
9 landlord must provide the name and address of the consumer reporting agency and the  
10 prospective occupant's or tenant's rights to obtain a free copy of the consumer report in the event  
11 of a denial or other adverse action, and to dispute the accuracy of information appearing in the  
12 consumer report.

13 **14.09.030 Retaliation prohibited**

14                   A.       No person shall interfere with, restrain, or deny the exercise of, or the attempt to  
15 exercise, any right protected under this Chapter 14.09.

16                   B.       No person shall take any adverse action against any person because the person has  
17 exercised in good faith the rights protected under this Chapter 14.09. Such rights include but are  
18 not limited to the right to fair chance housing and regulation of the use of criminal history in  
19 housing by this Chapter 14.09; the right to make inquiries about the rights protected under this  
20 Chapter 14.09; the right to inform others about their rights under this Chapter 14.09; the right to  
21 inform the person's legal counsel or any other person about an alleged violation of this Chapter  
22 14.09; the right to file an oral or written complaint with the Department for an alleged violation  
23 of this Chapter 14.09; the right to cooperate with the Department in its investigations of this

1 Chapter 14.09; the right to testify in a proceeding under or related to this Chapter 14.09; the right  
2 to refuse to participate in an activity that would result in a violation of City, state, or federal law;  
3 and the right to oppose any policy, practice, or act that is unlawful under this Chapter 14.09.

4 C. It shall be a rebuttable presumption of retaliation if a landlord or any other person  
5 takes an adverse action against a person within 90 days of the person's exercise of rights  
6 protected in this Section 14.09.030. The landlord may rebut the presumption with clear and  
7 convincing evidence that the adverse action was taken for a permissible purpose.

8 D. Proof of retaliation under this Section 14.09.030 shall be sufficient upon a  
9 showing that a landlord or any other person has taken an adverse action against a person and the  
10 person's exercise of rights protected in this Section 14.09.030 was a motivating factor in the  
11 adverse action, unless the landlord can prove that the action would have been taken in the  
12 absence of such protected activity.

13 E. The protections afforded under this Section 14.09.030 shall apply to any person  
14 who mistakenly but in good faith alleges violations of this Chapter 14.09.

15 F. A complaint or other communication by any person triggers the protections of this  
16 Section 14.09.030 regardless of whether the complaint or communication is in writing or makes  
17 explicit reference to this Chapter 14.09.

18 **14.09.035 Enforcement power and duties**

19 A. The Department shall have the power to investigate violations of this Chapter  
20 14.09, as defined herein, and shall have such powers and duties in the performance of these  
21 functions as are defined in this Chapter 14.09 and otherwise necessary and proper in the  
22 performance of the same and provided for by law.

1           B.       The Department shall be authorized to coordinate implementation and  
2 enforcement of this Chapter 14.09 and shall promulgate appropriate guidelines or rules for such  
3 purposes.

4           C.       The Director is authorized and directed to promulgate appropriate guidelines and  
5 rules consistent with this Chapter 14.09 and the Administrative Code. Any guidelines or rules  
6 promulgated by the Director shall have the force and effect of law and may be relied on by  
7 landlords, prospective occupants, tenants, and other parties to determine their rights and  
8 responsibilities under this Chapter 14.09.

9           D.       The Director shall maintain data on the number of complaints filed pursuant to  
10 this Chapter 14.09, demographic information on the complainants, the number of investigations  
11 it conducts and the disposition of every complaint and investigation. The Director shall submit  
12 this data to the Mayor and City Council every six months for the two years following the  
13 effective date of the ordinance introduced as Council Bill           .

14 **14.09.040 Violation**

15 The failure of any person to comply with any requirement imposed on the person under this  
16 Chapter 14.09 is a violation.

17 **14.09.045 Charge—Filing**

18           A.       An aggrieved person may file a charge with the Director alleging a violation. The  
19 charge shall be in writing and signed under oath or affirmation before the Director, one of the  
20 Department’s employees, or any other person authorized to administer oaths. The charge shall  
21 describe the alleged violation and should include a statement of the dates, places, and  
22 circumstances, and the persons responsible for such acts and practices. Upon the filing of a  
23 charge alleging a violation, the Director shall cause to be served upon the charging party a

1 written notice acknowledging the filing, and notifying the charging party of the time limits and  
2 choice of forums provided in this Chapter 14.09.

3 B. A charge shall not be rejected as insufficient because of failure to include all  
4 required information if the Department determines that the charge substantially satisfies the  
5 informational requirements necessary for processing.

6 C. A charge alleging a violation or pattern of violations under this Chapter 14.09  
7 may also be filed by the Director whenever the Director has reason to believe that any person has  
8 been engaged or is engaging in a violation under this Chapter 14.09.

9 **14.09.050 Time for filing charges**

10 Charges filed under this Chapter 14.09 must be filed with the Department within one year after  
11 the alleged violation has occurred or terminated.

12 **14.09.055 Charge—Amendments**

13 A. The charging party or the Department may amend a charge:

- 14 1. To cure technical defects or omissions;
- 15 2. To clarify allegations made in the charge;
- 16 3. To add allegations related to or arising out of the subject matter set forth  
17 or attempted to be set forth in the charge;
- 18 4. To add as a charging party a person who is, during the course of the  
19 investigation, identified as an aggrieved person; or
- 20 5. To add or substitute as a respondent a person who was not originally  
21 named as a respondent, but who is, during the course of the investigation, identified as a  
22 respondent. For jurisdictional purposes, such amendments shall relate back to the date the  
23 original charge was first filed.



1           B.     The charging party may amend a charge to include allegations of retaliation which  
2 arose after the filing of the original charge. Such amendment must be filed within one year after  
3 the occurrence of the retaliation, and prior to the Department’s issuance of findings of fact and  
4 determination with respect to the original charge. Such amendments may be made at any time  
5 during the investigation of the original charge so long as the Department will have adequate time  
6 to investigate the additional allegations and the parties will have adequate time to present the  
7 Department with evidence concerning the additional allegations before the issuance of findings  
8 of fact and a determination.

9           C.     When a charge is amended to add or substitute a respondent, the Director shall  
10 serve upon the new respondent within 20 days:

- 11                   1.     The amended charge;
- 12                   2.     The notice required under subsection 14.09.060.A; and
- 13                   3.     A statement of the basis for the Director’s belief that the new respondent  
14 is properly named as a respondent. For jurisdictional purposes, amendment of a charge to add or  
15 substitute a respondent shall relate back to the date the original charge was first filed.

16 **14.09.060 Notice of charge and investigation**

17           A.     The Director shall promptly, and in any event within 20 days of filing of the  
18 charge, cause to be served on or mailed, by certified mail, return receipt requested, to the  
19 respondent, a copy of the charge along with a notice advising the respondent of respondent’s  
20 procedural rights and obligations under this Chapter 14.09. The Director shall promptly make an  
21 investigation of the charge.

22           B.     The investigation shall be directed to ascertain the facts concerning the violation  
23 alleged in the charge, and shall be conducted in an objective and impartial manner.

1           C.       During the period beginning with the filing of the charge and ending with the  
2 issuance of the findings of fact, the Department shall, to the extent feasible, engage in settlement  
3 discussions with respect to the charge. A pre-finding settlement agreement arising out of the  
4 settlement discussions shall be an agreement between the charging party and the respondent and  
5 shall be subject to approval by the Director. Each pre-finding settlement agreement is a public  
6 record. Failure to comply with the pre-finding settlement agreement may be enforced under  
7 Section 14.09.100.

8           D.       During the investigation, the Director shall consider any statement of position or  
9 evidence with respect to the allegations of the charge which the charging party or the respondent  
10 wishes to submit, including the respondent's answer to the charge. The Director shall have  
11 authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, the  
12 production of evidence including but not limited to books, records, correspondence, or  
13 documents in the possession or under the control of the person subpoenaed, and access to  
14 evidence for the purpose of examination and copying, and conduct discovery procedures which  
15 may include the taking of interrogatories and oral depositions.

16           E.       The Director may require a fact-finding conference or participation in another  
17 process with the respondent and any of respondent's agents and witnesses and the charging party  
18 during the investigation in order to define the issues, determine which elements are undisputed,  
19 resolve those issues which can be resolved, and afford an opportunity to discuss or negotiate  
20 settlement. Parties may have their legal counsel present if desired.

21 **14.09.065 Procedure for investigations**

22           A.       A respondent may file with the Department an answer to the charge no later than  
23 ten days after receiving notice of the charge.

1           B.       The Director shall commence investigation of the charge within 30 days after the  
2 filing of the charge. The investigation shall be completed within 100 days after the filing of the  
3 charge, unless it is impracticable to do so. If the Director is unable to complete the investigation  
4 within 100 days after the filing of the charge, the Director shall notify the charging party and the  
5 respondent of the reasons therefor. The Director shall make final administrative disposition of a  
6 charge within one year of the date of filing of the charge, unless it is impracticable to do so. If  
7 the Director is unable to make a final administrative disposition within one year of the filing of  
8 the charge, the Director shall notify the charging party and the respondent of the reasons  
9 therefor.

10           C.       If the Director determines that it is necessary to carry out the purposes of this  
11 Chapter 14.09, the Director may, in writing, request the City Attorney to seek prompt judicial  
12 action for temporary or preliminary relief to enjoin any violation pending final disposition of a  
13 charge.

14 **14.09.070 Findings of fact and determination of reasonable cause or no reasonable cause**

15           A.       The results of the investigation shall be reduced to written findings of fact and a  
16 determination shall be made by the Director that there is or is not reasonable cause for believing  
17 that a violation has been, is being or is about to be committed, which determination shall also be  
18 in writing and issued with the written findings of fact. The findings and determination are  
19 “issued” when signed by the Director and mailed to the parties.

20           B.       Once issued to the parties, the Director’s findings of fact, determination, and  
21 order may not be amended or withdrawn except upon the agreement of the parties or in response  
22 to an order by the Commission after an appeal taken pursuant to Section 14.09.075; provided,

1 that the Director may correct clerical mistakes or errors arising from oversight or omission upon  
2 a motion from a party or upon the Director's own motion.

3 **14.09.075 Determination of no reasonable cause—Appeal from and dismissal**

4 If a determination is made that there is no reasonable cause for believing a violation under this  
5 Chapter 14.09 has been, is being, or is about to be committed, the charging party may appeal  
6 such determination to the Commission within 30 days of the date the determination is signed by  
7 the Director by filing a written statement of appeal with the Commission. The Commission shall  
8 promptly deliver a copy of the statement to the Department and respondent and shall promptly  
9 consider and act upon such appeal by either affirming the Director's determination or, if the  
10 Commission believes the Director should investigate further, remanding it to the Director with a  
11 request for specific further investigation. In the event no appeal is taken, or such appeal results in  
12 affirmance, or if the Commission has not decided the appeal within 90 days from the date the  
13 appeal statement is filed, the determination of the Director shall be final and the charge deemed  
14 dismissed and the same shall be entered on the records of the Department.

15 **14.09.080 Determination of reasonable cause—Conciliation**

16 A. If the Director determines that reasonable cause exists to believe that a violation  
17 has occurred, is occurring, or is about to occur, the Director shall endeavor to eliminate the  
18 violation through efforts to reach conciliation. Conditions of conciliation may include, but are  
19 not limited to, the elimination of the violation, rent refunds or credits, reinstatement to tenancy,  
20 affirmative recruiting or advertising measures, payment of actual damages, and reasonable  
21 attorney's fees and costs, or such other remedies that will carry out the purposes of this Chapter  
22 14.09. The Director may also require payment of a civil penalty as set forth in Section 14.09.100.

1           B.     Any post-finding conciliation agreement shall be an agreement between the  
2 charging party and the respondent and shall be subject to the approval of the Director. The  
3 Director shall enter an order setting forth the terms of the agreement, which may include a  
4 requirement that the parties report to the Director on the matter of compliance. Copies of such  
5 order shall be delivered to all affected parties and shall be subject to public disclosure.

6           C.     If conciliation fails and no agreement can be reached, the Director shall issue a  
7 written finding to that effect and furnish a copy of the finding to the charging party and to the  
8 respondent. Upon issuance of the finding, except a case in which a City department is a  
9 respondent, the Director shall promptly cause to be delivered the entire investigatory file,  
10 including the charge and any and all findings made, to the City Attorney for further proceedings  
11 and hearing under this Chapter 14.09, pursuant to Section 14.09.085.

12 **14.09.085 Complaint and hearing**

13           A.     Following submission of the investigatory file from the Director, the City  
14 Attorney shall, except as set forth in subsection 14.09.085.B, prepare a complaint against such  
15 respondent relating to the charge and facts discovered during the Department's investigation.  
16 The City Attorney shall file the complaint with the Hearing Examiner in the name of the  
17 Department and represent the interests of the Department at all subsequent proceedings.

18           B.     If the City Attorney determines that there is no legal basis for a complaint to be  
19 filed or proceedings to continue, a statement of the reasons therefor shall be filed with the  
20 Department. The Director shall then dismiss the charge. Any party aggrieved by the dismissal  
21 may appeal to the Commission.

22           C.     The City Attorney shall serve a copy of the complaint on respondent and furnish a  
23 copy of the complaint to the charging party and to the Department.

1           D.       Within 20 days of the service of such complaint upon it, the respondent shall file  
2 its answer with the Hearing Examiner and serve a copy of the same on the City Attorney.

3           E.       Upon the filing of the complaint, the Hearing Examiner shall promptly establish a  
4 hearing date and give notice thereof to the Commission, City Attorney, and respondent, and shall  
5 thereafter hold a public hearing on the complaint which shall commence no earlier than 90 days  
6 nor later than 120 days from the filing of the complaint, unless otherwise ordered by the Hearing  
7 Examiner.

8           F.       After the complaint is filed with the Hearing Examiner, it may be amended only  
9 with the permission of the Hearing Examiner, which permission shall be granted when justice  
10 will be served and all parties are allowed time to prepare their case with respect to additional or  
11 expanded charges.

12           G.       The hearing shall be conducted by the Hearing Examiner, a deputy hearing  
13 examiner, or a hearing examiner pro tempore appointed by the Hearing Examiner from a list  
14 approved by the Commission, sitting alone or with representatives of the Commission if any are  
15 designated. Such hearings shall be conducted in accordance with written rules and procedures  
16 consistent with this Chapter 14.09 and the Administrative Code, Chapter 3.02.

17           H.       The Commission, within 30 days after receiving notice of the date of hearing from  
18 the Hearing Examiner, at its discretion, may appoint two Commissioners, who have not  
19 otherwise been involved in the charge, investigation, fact finding, or other resolution and  
20 proceeding on the merits of the case, who have not formed an opinion on the merits of the case,  
21 and who otherwise have no pecuniary, private, or personal interest or bias in the matter, to hear  
22 the case with the Hearing Examiner. Each Commissioner shall have an equal vote with the  
23 Hearing Examiner. The Hearing Examiner shall be the chairperson of the panel and make all

1 evidentiary rulings. The Hearing Examiner shall resolve any question of previous involvement,  
2 interest, or bias of an appointed Commissioner in conformance with the law on the subject. Any  
3 reference in this Chapter 14.09 to a decision, order, or other action of the Hearing Examiner shall  
4 include, when applicable, the decision, order, or other action of a panel constituted under this  
5 subsection.

6 **14.09.090 Decision and order**

7       A.       Within 30 days after conclusion of the hearing, the Hearing Examiner shall  
8 prepare a written decision and order, file it as a public record with the City Clerk, and provide a  
9 copy to each party of record and to the Department.

10       B.       Such decision shall contain a brief summary of the evidence considered and shall  
11 contain findings of fact, conclusions of law upon which the decision is based, and an order  
12 detailing the relief deemed appropriate, together with a brief statement of the reasons supporting  
13 the decision.

14       C.       In the event the Hearing Examiner or a majority of the panel composed of the  
15 Hearing Examiner and Commissioners determines that a respondent has committed a violation  
16 under this Chapter 14.09, the Hearing Examiner may order the respondent to take such  
17 affirmative action or provide for such relief as is deemed necessary to correct the violation,  
18 effectuate the purpose of this Chapter 14.09, and secure compliance therewith, including but not  
19 limited to rent refund or credit, reinstatement to tenancy, affirmative recruiting and advertising  
20 measures, or payment of reasonable attorney's fees and costs, or to take such other action as in  
21 the judgment of the Hearing Examiner will carry out the purposes of this Chapter 14.09. An  
22 order may include the requirement for a report on the matter of compliance.

1           D.     The Department in the performance of its functions may enlist the aid of all  
2 departments of City government, and all said departments are directed to fully cooperate with the  
3 Department.

4 **14.09.095 Appeal from Hearing Examiner order**

5           A.     The respondent may obtain judicial review of the decision of the Hearing  
6 Examiner by applying for a Writ of Review in King County Superior Court within 14 days from  
7 the date of the decision in accordance with the procedure set for in chapter 7.16 RCW, other  
8 applicable law, and court rules.

9           B.     The decision of the Hearing Examiner shall be final and conclusive unless review  
10 is sought in compliance with this Section 14.09.095.

11 **14.09.100 Civil penalties in cases alleging violations of this Chapter 14.09**

12           A.     In cases either decided by the Director or brought by the City Attorney alleging a  
13 violation filed under this Chapter 14.09, in addition to any other award of damages or grant of  
14 injunctive relief, a civil penalty may be assessed against the respondent to vindicate the public  
15 interest, which penalty shall be payable to The City of Seattle and the Department. Payment of  
16 the civil penalty may be required as a term of a conciliation agreement entered into under  
17 subsection 14.09.080.A or may be ordered by the Hearing Examiner in a decision rendered under  
18 Section 14.09.090.

19           B.     The civil penalty assessed against a respondent shall not exceed the following  
20 amount:

21                 1.     \$11,000 if the respondent has not been determined to have committed any  
22 prior violation;



1                   2.       \$27,500 if the respondent has been determined to have committed one  
2 other violation during the five-year period ending on the date of the filing of this charge; or

3                   3.       \$55,000 if the respondent has been determined to have committed two or  
4 more violations during the seven-year period ending on the date of the filing of this charge;  
5 except that if acts constituting the violation that is the subject of the charge are committed by the  
6 same person who has been previously determined to have committed acts constituting a  
7 violation, then the civil penalties set forth in subsections 14.09.100.B.2 and 14.09.100.B.3 may  
8 be imposed without regard to the period of time within which those prior acts occurred.

9 **14.09.105 Enforcement of Department and Hearing Examiner orders and agreements**

10           A.       In the event a City respondent fails to comply with any final order of the Director  
11 or of the Hearing Examiner, a copy of the order shall be transmitted to the Mayor, who shall take  
12 appropriate action to secure compliance with the final order.

13           B.       In the event a respondent fails to comply with any final order issued by the  
14 Hearing Examiner not directed to the City or to any City department, the Director shall refer the  
15 matter to the City Attorney, for the filing of a civil action to enforce such order.

16           C.       Whenever the Director has reasonable cause to believe that a respondent has  
17 breached a settlement or conciliation agreement, the Director shall refer the matter to the City  
18 Attorney for filing of a civil action to enforce such agreement.

19 **14.09.110 Exclusions and other legal requirements**

20           A.       This Chapter 14.09 shall not be interpreted or applied to diminish or conflict with  
21 any requirements of state or federal law, including but not limited to Title VIII of the Civil  
22 Rights Act of 1968, the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as amended;  
23 the Washington State Fair Credit Reporting Act, chapter 19.182 RCW, as amended; and the

1 Washington State Criminal Records Privacy Act, chapter 10.97 RCW, as amended. In the event  
2 of any conflict, state and federal requirements shall supersede the requirements of this Chapter  
3 14.09.

4 B. This Chapter 14.09 shall not apply to an adverse action taken by landlords of  
5 federally assisted housing subject to federal regulations that require an adverse action, including  
6 but not limited to when any member of the household is subject to a lifetime sex offender  
7 registration requirement under a state sex offender registration program and/or convicted of  
8 manufacture or production of methamphetamine on the premises of federally assisted housing.

9 C. This Chapter 14.09 shall not apply to the renting, subrenting, leasing, or  
10 subleasing of a single-family dwelling; or a residence housing one family or household or one  
11 that is designed for one family only or a unit so designed; wherein the owner or person entitled to  
12 possession thereof maintains a permanent residence, home, or abode.

13 D. This Chapter 14.09 shall not apply to rooms or units in dwellings containing  
14 living quarters occupied or intended to be occupied by no more than four families living  
15 independently of each other, if the owner actually maintains and occupies one of such living  
16 quarters as their residence.

17 E. This Chapter 14.09 shall not apply to an accessory dwelling unit or detached  
18 accessory dwelling unit wherein the owner or person entitled to possession thereof maintains a  
19 permanent residence, home, or abode on the same lot.

20 F. This Chapter 14.09 shall not be construed to discourage or prohibit landlords from  
21 adopting screening policies that are more generous to prospective occupants and tenants than the  
22 requirements of this Chapter 14.09.

23 G. This Chapter 14.09 shall not be construed to create a private civil right of action.

1 **14.09.115 Severability**

2           The provisions of this Chapter 14.09 are declared to be separate and severable. If any  
3 clause, sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 14.09, or  
4 the application thereof to any landlord, prospective occupant, tenant, person, or circumstance, is  
5 held to be invalid, it shall not affect the validity of the remainder of this Chapter 14.09, or the  
6 validity of its application to other persons or circumstances.

7           Section 3. Section 3.14.931 of the Seattle Municipal Code, last amended by Ordinance  
8 125231, is amended as follows:

9 **3.14.931 Seattle Human Rights Commission—Duties**

10 The Seattle Human Rights Commission shall act in an advisory capacity to the Mayor, City  
11 Council, Office for Civil Rights, and other City departments in respect to matters affecting  
12 human rights, and in furtherance thereof shall have the following specific responsibilities:

13           A. To consult with and make recommendations to the Director of the Office for Civil  
14 Rights and other City departments and officials with regard to the development of programs for  
15 the promotion of equality, justice, and understanding among all citizens of the City;

16           B. To consult with and make recommendations to the Director of the Office for Civil  
17 Rights with regard to problems arising in the City which may result in discrimination because of  
18 race, religion, creed, color, national origin, sex, marital status, parental status, sexual orientation,  
19 gender identity, political ideology, age, ancestry, honorably discharged veteran or military status,  
20 genetic information, the presence of any ~~((sensory, mental, or physical))~~ disability, alternative  
21 source of income, ~~((the possession or use of))~~ participation in a Section 8 ((rent certificate)) or  
22 other subsidy program, right of a mother to breastfeed her child, or the use of a ~~((trained guide~~

1 ~~or~~) service ~~((dog))~~ animal by a ~~((handicapped))~~ disabled person, and to make such investigations  
2 and hold such hearings as may be necessary to identify such problems;

3 C. As appropriate, recommend policies to all departments and offices of the City in  
4 matters affecting civil rights and equal opportunity, and recommend legislation for the  
5 implementation of such policies;

6 D. Encourage understanding between all protected classes and the larger Seattle  
7 community, through long range projects;

8 E. Hear appeals and hearings as set forth in Chapters 14.04, 14.06, ~~((and))~~ 14.08, and  
9 14.09 of the Seattle Municipal Code;

10 F. Report on a semi-annual basis to the Mayor and the City Council. The reports  
11 shall include an annual or semi-annual work plan, a briefing of the Commission's public  
12 involvement process for soliciting community and citizen input in framing their annual work  
13 plans, and updates on the work plans; and

14 G. Meet on a quarterly basis through a designated representative with the Seattle  
15 Women's Commission, the Seattle LGBTQ (Lesbian, Gay, Bisexual, Transgender, Queer)  
16 Commission, and the Seattle Commission for People with Disabilities to ensure coordination and  
17 joint project development.

1           Section 4. Sections 1, 2, and 3 of this ordinance shall take effect and be in force 150 days  
2 after the effective date of this ordinance, to ensure there is adequate time for rule-making and  
3 any adjustments in business practices needed.

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

7           Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2017,  
8 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
9 \_\_\_\_\_, 2017.

10 \_\_\_\_\_  
11 President \_\_\_\_\_ of the City Council

12           Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

13 \_\_\_\_\_  
14 Edward B. Murray, Mayor

15           Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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

18 (Seal)