

1 ADOPTED: 6/23/2021
2 EFFECTIVE: 7/04/2021

3
4 SNOHOMISH COUNTY COUNCIL
5 SNOHOMISH COUNTY, WASHINGTON

6
7 AMENDED ORDINANCE NO. 21-034
8

9 AN ORDINANCE OF THE SNOHOMISH COUNTY COUNCIL RELATING TO
10 EMPLOYMENT IN UNINCORPORATED SNOHOMISH COUNTY; ESTABLISHING LABOR
11 STANDARDS REQUIREMENTS FOR ADDITIONAL COMPENSATION FOR GROCERY
12 EMPLOYEES WORKING IN UNINCORPORATED SNOHOMISH COUNTY; AND
13 ESTABLISHING AN EFFECTIVE DATE
14

15 WHEREAS, SARS-CoV-2 (COVID-19) disease is caused by a virus that spreads
16 easily from person to person and may result in serious illness or death, and is classified
17 by the World Health Organization as a worldwide pandemic; and
18

19 WHEREAS, COVID-19 has broadly spread throughout Washington State and
20 remains a significant health risk to the community, especially members of our most
21 vulnerable populations; and
22

23 WHEREAS, the Brookings Metropolitan Policy Program has reported that the
24 United States' top retail companies, including grocery businesses, have earned record-
25 breaking profits during the pandemic; and
26

27 WHEREAS, grocery employees have been supporting grocery businesses'
28 operations and facilitating community access to food during the pandemic, despite
29 facing a clear and present danger of workplace exposure to COVID-19 and receiving
30 limited or inconsistent additional pay in recognition of this hazard; and
31

32 WHEREAS, countless grocery employees have been assaulted, spit on, pepper
33 sprayed, harassed, and threatened from customers frustrated with COVID-19 safety
34 measures; and
35

36 WHEREAS, the dangers of working during the pandemic are especially
37 significant for Black, Indigenous, and People of Color (BIPOC) employees who are
38 overrepresented among the retail frontline workforce and who are disproportionately
39 impacted by COVID-19; and
40

41 WHEREAS, establishing a requirement for grocery employees to receive hazard
42 pay for work performed in unincorporated Snohomish County during the COVID-19
43 emergency will promote job retention, compensate them for the risks of working on the
44 frontlines of a global pandemic, improve their financial ability to access resources for
45 protecting themselves and their families from catching or spreading the virus or coping
46 with illness caused by the virus, and support the welfare of the greater community that
47 depends on grocery employees for safe and reliable access to food; and

1
2 WHEREAS, the County Council encourages employers of essential frontline
3 workers to help facilitate the distribution of COVID-19 vaccines to their employees; and
4

5 WHEREAS, recognizing the ongoing threat to frontline grocery employees, King
6 County, the City of Seattle, the City of Edmonds, the City of Burien, and several
7 California cities, including the City of Berkeley, the City of Long Beach, the City of Los
8 Angeles, and the City of San Francisco, as well as Los Angeles County, have
9 announced legislative efforts to require hazard pay of \$4 to \$5 per hour for grocery
10 employees during the COVID-19 emergency, and more cities are expected to announce
11 similar legislation in 2021; and
12

13 WHEREAS, Snohomish County seeks to promote wage, labor, and workforce
14 practices that improve workers' lives, support economic security, and contribute to a
15 fair, healthy, and vibrant economy; and
16

17 WHEREAS, establishing a labor standard that requires hazard pay for grocery
18 employees is a subject of vital and imminent concern to the community and requires
19 appropriate action by the County Council;
20

21 NOW, THEREFORE, BE IT ORDAINED:
22

23 Section 1. The County Council adopts the following findings in support of this
24 ordinance:
25

26 A. The foregoing recitals are incorporated as if fully set forth herein.
27

28 B. In the exercise of Snohomish County's police powers, the County is granted
29 authority to pass regulations designed to protect and promote public health, safety, and
30 welfare.
31

32 C. This ordinance protects and promotes public health, safety, and welfare during
33 the COVID-19 emergency by requiring grocery businesses to provide hazard pay for
34 grocery employees performing work in unincorporated Snohomish County, thereby
35 increasing retention of employees who provide essential services on the frontlines of a
36 global pandemic and paying additional compensation to those employees for the
37 hazards of working with significant exposure to an infectious disease.
38

39 D. On January 30, 2020, the World Health Organization (WHO) declared that
40 COVID-19 constituted a public health emergency of international concern, WHO's
41 highest level of alarm.
42

43 E. On February 29, 2020, Washington Governor Jay Inslee issued proclamation
44 20-05, proclaiming a state of emergency for all counties throughout the state of
45 Washington in response to new cases of COVID-19, and directing state agencies to use
46 all resources necessary to prepare for and respond to the outbreak.

1
2 F. On March 4, 2020, Snohomish County Executive Dave Somers issued a
3 “Local Proclamation of Emergency Snohomish County” for COVID-19.
4

5 G. On March 23, 2020, Washington Governor Jay Inslee issued Proclamation 20-
6 25, a “Stay Home – Stay Healthy” order closing all non-essential workplaces, requiring
7 people to stay home except to participate in essential activities or to provide essential
8 business services, and banning all gatherings for social, spiritual, and recreational
9 purposes. This order was extended multiple times. The “Stay Home – Stay Healthy”
10 proclamation identified grocery employees as “Essential Critical Infrastructure Workers”
11 performing work to protect communities and ensure continuity of functions critical to
12 public health and safety, as well as economic and national security.
13

14 H. On May 4, 2020, Washington Governor Jay Inslee announced a “Safe Start”
15 plan to start on June 1, 2020 to reopen Washington’s economy in phases with adequate
16 social distancing measures and health standards in place.
17

18 I. In October 2020, The British Medical Journal, Occupational & Environmental
19 Medicine, reported that grocery employees face a serious risk of COVID-19 infection
20 and associated psychological distress. A study of 104 grocery employees at a grocery
21 store in Boston, Massachusetts found that 20 percent of grocery employees tested
22 positive for COVID-19 despite 91 percent of employees reporting wearing a face mask
23 at work and 77 percent of employees reporting wearing masks outside of work. The
24 positive rate of infection among grocery employees was five times as likely for those
25 who interacted with customers than for those who did not. Additionally, the study found
26 that 76 percent of employees had no symptoms, suggesting that these employees could
27 be an important reservoir of asymptomatic infection. Further, 24 of the 99 employees
28 who filled out a related medical health questionnaire also reported experiencing anxiety,
29 and eight employees were deemed depressed from their questionnaire answers.
30

31 J. In November 2020, the Brookings Metropolitan Policy Program reported that
32 the profits of top retail companies, including grocery businesses, soared during the
33 pandemic while their employees earned low wages and, with few exceptions, failed to
34 receive consistent or meaningful additional compensation for performing life threatening
35 work. The report found that the top retail companies in their analysis earned on average
36 an extra \$16.7 billion in profit compared to the previous year – a 40 percent increase.
37 Frontline retail employees experienced little of this windfall, averaging a 10 percent pay
38 increase on top of wages that were often too low to meet a family’s basic needs.
39

40 K. On January 28, 2021, the Center for Disease Control (CDC) reported that
41 multiple COVID-19 variants are circulating globally. Scientists are working to learn more
42 about these variants to better understand how easily they might be transmitted and the
43 effectiveness of currently authorized vaccines against them.
44

45 L. In the United Kingdom (UK), a new variant of SARS-CoV-2 (known B.1.1.7)
46 emerged with a large number of mutations. This variant has since been detected in

1 numerous countries around the world, including the United States (US). In January
2 2021, scientists from the UK reported evidence that suggests the B.1.1.7 variant may be
3 associated with an increased risk of death compared with other variants. More studies
4 are needed to confirm this finding. This variant was reported in the US at the end of
5 December 2020.

6
7 M. In South Africa, another variant of SARS-CoV-2 (known as B.1.351) emerged
8 independently of B.1.1.7. This variant shares some mutations with B.1.1.7. Cases
9 attributed to this variant have been detected in multiple countries outside of South
10 Africa. This variant was reported in the US at the end of January 2021.

11
12 N. In Brazil, a variant of SARS-CoV-2 (known as P.1) emerged that was first was
13 identified in four travelers from Brazil, who were tested during routine screening at
14 Haneda airport outside Tokyo, Japan. This variant has 17 unique mutations, including
15 three in the receptor binding domain of the spike protein. This variant was detected in
16 the US at the end of January 2021.

17
18 O. On March 8, 2021, the CDC stated that preliminary evidence suggests that
19 the currently authorized COVID-19 vaccines may provide some protection against a
20 variety of strains, including B.1.1.7 (originally identified in the United Kingdom).
21 However, reduced antibody neutralization and efficacy have been observed for the
22 B.1.351 strain (originally identified in South Africa). The CDC further stated that the risks
23 of SARS-CoV-2 infection in fully vaccinated people cannot be completely eliminated as
24 long as there is continued community transmission of the virus. Vaccinated people
25 could potentially still get COVID-19 and spread it to others.

26
27 P. As of February 27, 2021, three vaccines are authorized for emergency use by
28 the United States Food & Drug Administration.

29
30 Q. The Washington State Department of Health's COVID-19 vaccine timeline
31 made all grocery employees in Washington State eligible for vaccination on March 17,
32 2021. While some grocery workers may now be vaccinated, as noted above, the risks of
33 SARS-CoV-2 infection in fully vaccinated people cannot be completely eliminated as
34 long as there is continued community transmission.

35
36 R. As of June 1, 2021, the Snohomish Health District reported a total of 36,385
37 confirmed positive cases in Snohomish County since the beginning of the pandemic,
38 plus an additional 3,281 probable positive cases and 591 deaths in Snohomish County
39 as a result of COVID-19.

40
41 S. Throughout the entirety of the COVID-19 emergency, grocery businesses
42 have been operating in unincorporated Snohomish County and relying upon the work of
43 grocery employees who are highly vulnerable to health and safety risks.

44
45 T. Grocery employees are essential workers performing services that are
46 fundamental to the economy and health of the community during the COVID-19 crisis.

1 They face clear and present dangers at their jobs and continue to risk their lives and the
2 health of their families to keep the community's food supply chain operating.

3
4 U. Grocery employees cannot choose to work from home and must come to work
5 to perform their jobs, which can involve substantial interaction with customers and/or
6 ventilation systems that could potentially spread the virus. They are wearing masks,
7 trying as much as possible to social distance, performing safety protocols, and learning
8 new skills to decrease transmission of the virus to protect themselves and the public.

9
10 V. On May 13, 2021, Governor Jay Inslee updated Proclamation 20-25.13 to
11 relax masking requirements for fully vaccinated individuals, including the elimination of
12 the masking requirement for fully vaccinated individuals in grocery stores. Grocery
13 employees have no way to practically verify the vaccination status of their unmasked
14 customers. As a result, grocery workers continue to be at risk from those unvaccinated
15 shoppers that do not wear face coverings.

16
17 W. The risks of working during the pandemic are especially significant for BIPOC
18 grocery employees because they are overrepresented among the retail frontline
19 workforce and are disproportionately impacted by COVID-19. Data shows that people of
20 color are disproportionately experiencing hospitalization and dying of COVID-19.

21
22 X. The CDC reports that Black and Indigenous people, followed by Pacific
23 Islanders and Latinx people, are disproportionately affected by COVID-19 due to long-
24 standing inequities in social determinants of health, including overrepresentation in jobs
25 that require customer contact such as grocery stores; lower incomes and barriers to
26 wealth accumulation; lack of access to quality healthcare and fair treatment in the
27 healthcare system; difficulties in finding affordable and quality housing; and inequities in
28 access to high-quality education. The CDC reports that these determinants may
29 increase risk of COVID-19 exposure, illness, hospitalization, long-term health and social
30 consequences, and death. To stop the spread of COVID-19, the CDC states that
31 resources must be equitably available for everyone to maintain physical and mental
32 health.

33
34 Y. Science in the News (SITN), a graduate student group at the Harvard
35 Graduate School of the Arts and Sciences, reports that it is more difficult for BIPOC
36 communities to stay safe during the pandemic and notes the importance of keeping
37 these vulnerable populations in mind as the country slowly reopens the economy. SITN
38 states that social distancing is a privilege that many people of color cannot afford
39 because they work and reside in situations with higher risk of exposure to the virus:
40 people of color are more likely to live in densely populated areas; reside in
41 multigenerational and multifamily households; and use public transportation.
42 Furthermore, SITN reports that many inequalities that pre-dated the pandemic have
43 worsened, including limited access for Black and Latinx communities to primary care
44 physicians, medical facilities, and COVID testing.

1 Z. Grocery businesses are profiting during the pandemic from the labor of
2 employees who are working under dangerous conditions.

3
4 AA. Hazard pay, paid in addition to regular wages, is an established type of
5 additional compensation for employees performing hazardous duties or work involving
6 physical hardship that can cause extreme physical discomfort and distress.

7
8 BB. Grocery employees working during the COVID-19 emergency merit hazard
9 pay because they are performing hazardous duty or work involving physical hardship
10 that can cause extreme physical discomfort and distress due to the significant risk of
11 exposure to the COVID-19 virus.

12
13 CC. Grocery employees have been working under hazardous conditions month
14 after month. They are working in these hazardous conditions now and will continue to
15 face safety risks as the virus presents an ongoing threat, including the threat of more
16 contagious variants, for an uncertain period.

17
18 DD. Ensuring that grocery employees are compensated for the substantial risks
19 of working during the COVID-19 emergency promotes retention of these vital workers.
20 Retention of grocery employees is fundamental to protecting the health of the
21 community as these employees directly support public purchase of groceries and
22 facilitate community access to food.

23
24 EE. This ordinance is immediately necessary in response to the COVID-19
25 emergency because the health threats that grocery employees face remain significant,
26 COVID-19 variants may further increase transmission of the virus and reduce
27 therapeutic treatments, and vaccinations may not be readily available, even for those
28 who are eligible. This is a rapidly evolving situation, with disproportionate risks and
29 adverse impacts for BIPOC communities, that must be addressed without delay.

30
31 FF. Grocery employees are necessary to protect the public health because their
32 work sustains access to groceries. Hazard pay is one step to recognize the dangers
33 facing these employees as they support our community, encourage them to continue
34 their vital work, and provide them with additional financial resources.

35
36 GG. An immediate requirement to provide grocery employees with hazard pay
37 promotes retention of essential workers, improves the financial ability of grocery
38 employees to access resources they need to stay safe and healthy, and ultimately
39 supports the greater community that depends on grocery employees for consistent, safe
40 and reliable access to food.

41
42 Section 2. As the substantive effects of this ordinance are not permanent, this
43 ordinance is not intended to be codified. Section numbers are for ease of reference
44 within this ordinance, and section and subsection references refer to numbers in this
45 ordinance unless stated otherwise.

1 **100.10.005 Short title.**

2
3 This ordinance shall constitute the “Hazard Pay for Grocery Employees
4 Ordinance” and may be cited as such.

5
6 **100.10.010 Definitions.**

7
8 In this ordinance, unless the context clearly requires otherwise:

9
10 (1) “Adverse action” means reducing compensation, garnishing gratuities, denying a job
11 or promotion, demoting, terminating, failing to rehire after a seasonal interruption of
12 work, threatening, penalizing, retaliating, engaging in unfair immigration-related
13 practices, filing a false report with a government agency, or otherwise discriminating
14 against any person for any reason prohibited by SCC 100.10.050. “Adverse action” for
15 an employee may involve any aspect of employment, including compensation, work
16 hours, responsibilities, or other material change in the terms and conditions of
17 employment. “Adverse action” also encompasses any action by the employer or a
18 person acting on the employer’s behalf that would dissuade a reasonable person from
19 exercising any right afforded by this ordinance.

20
21 (2) “Aggrieved party” means an employee or other person who suffers tangible or
22 intangible harm due to an employer or other person's violation of this ordinance.

23
24 (3) “County” means the geographic jurisdiction of unincorporated Snohomish County.

25
26 (4) “Compensation” means the payment owed to an employee by reason of
27 employment, including but not limited to, salaries, wages, tips, service charge
28 distributions, overtime, commissions, piece rate, bonuses, rest breaks, promised or
29 legislatively required pay or paid leave, and reimbursement for employer expenses.

30
31 (5) “Employ” means to suffer or permit to work;

32
33 (6) “Employee” means any individual employed by an employer, including but not limited
34 to full-time employees, part-time employees, and temporary workers. An alleged
35 employer who disputes that an individual is an employee bears the burden of proving
36 that the individual is not, as a matter of economic reality, economically dependent upon
37 the employer, but instead is in business for him, her, or their self (i.e., an independent
38 contractor).

39
40 (7) “Employer” includes any individual, partnership, association, corporation, business
41 trust, or any person or group of persons acting directly or indirectly in the interest of an
42 employer in relation to an employee. More than one entity may be the “employer” if
43 employment by one employer is not completely separate from employment by any other
44 employer.

45
46 (8) “Franchise” means an agreement by which:

1 (a) A person is granted the right to engage in the business of offering,
2 selling, or distributing goods or services under a marketing plan prescribed or
3 suggested in substantial part by the grantor or its affiliate;

4 (b) The operation of the business is substantially associated with a
5 trademark, service mark, trade name, advertising, or other commercial symbol;
6 designated, owned by, or licensed by the grantor or its affiliate; and

7 (c) The person pays, agrees to pay, or is required to pay, directly or
8 indirectly, a franchise fee.
9

10 (9) "Franchisor" means a person who grants a franchise to another person.

11
12 (10) "Grocery business" means a retail store operating in unincorporated Snohomish
13 County that is either:

14 (a) Over 10,000 square feet in size and that is primarily engaged in
15 retailing groceries for offsite consumption, including but not limited to the sale of
16 fresh produce, meats, poultry, fish, deli products, dairy products, canned and
17 frozen foods, dry foods, beverages, baked foods, and/or prepared foods. Other
18 household supplies or other products shall be secondary to the primary purpose
19 of groceries sales; or

20 (b) Over 85,000 square feet and with thirty percent or more of its sales
21 floor area dedicated to sale of groceries, including but not limited to the sale of
22 fresh produce, meats, poultry, fish, deli products, dairy products, canned and
23 frozen foods, dry foods, beverages, baked foods, and/or prepared foods.
24

25 "Grocery business" does not include convenience stores or food marts primarily
26 engaged in retailing a limited line of goods that generally includes milk, bread, soda,
27 and snacks. "Grocery business" also does not include farmers' markets.
28

29 (11) "Grocery employee" means an employee employed by a grocery business.
30

31 (12) "Hazard pay" means additional compensation owed to an employee on top of the
32 employee's other compensation, including but not limited to salaries, wages, tips,
33 service charge distributions, overtime, commissions, piece rate, bonuses, rest breaks,
34 promised or legislatively required pay or paid leave, and reimbursement for employer
35 expenses, that has been specifically designated as additional compensation being paid
36 due to the increased risk of contracting COVID-19 that is inherent in being a grocery
37 employee.
38

39 (13) "Primary language" means the language in which the employee feels most
40 comfortable communicating.
41

42 (14) "Written" or "writing" means a printed or printable communication in physical or
43 electronic format, including but not limited to a communication that is transmitted
44 through email, text message, or a computer or mobile system, or that is otherwise sent
45 and maintained electronically.
46

1 **100.10.015 Employee coverage.**

2
3 For the purposes of this ordinance:

4
5 (1) Covered employees are limited to those who perform work for a covered employer at
6 a retail location in the County.

7
8 (2) Time spent by an employee in the County solely for the purpose of travelling through
9 the County from a point of origin outside the County to a destination outside the County,
10 with no employment-related or commercial stops within the County except for refueling
11 or the employee's personal meals or errands, is not covered by this ordinance.

12
13 **100.10.020 Employer coverage.**

14
15 (1) For the purposes of this ordinance, covered employers are limited to grocery
16 businesses that employ 500 or more employees statewide regardless of where those
17 employees are employed, including but not limited to chains, integrated enterprises, or
18 franchises associated with a franchisor or network of franchises that employ 500 or
19 more employees in aggregate.

20
21 (2) To determine the number of employees for the current calendar year:

22 (a) The calculation is based upon the average number per calendar week
23 of employees who worked for compensation during the preceding calendar year
24 for any and all weeks during which at least one employee worked for
25 compensation. For employers that did not have any employees during the
26 preceding calendar year, the number of employees(s) for the current calendar
27 year is calculated based upon the average number per calendar week of
28 employees who worked for compensation during the first ninety calendar days of
29 the current year in which the employer engaged in business.

30 (b) All employees who worked for compensation shall be counted,
31 including but not limited to:

32 (i) Employees who are not covered by this ordinance;

33 (ii) Employees who worked in the County;

34 (iii) Employees who worked outside the County; and

35 (iv) Employees who worked in full-time employment, part-time
36 employment, joint employment, temporary employment, or through the
37 services of a temporary services or staffing agency or similar entity.

38
39 (3) Separate entities that form an integrated enterprise shall be considered a single
40 employer under this ordinance. Separate entities will be considered an integrated
41 enterprise and a single employer under this ordinance where a separate entity controls
42 the operation of another entity. The factors to consider in making this assessment may
43 include, but are not limited to:

44 (a) Degree of interrelation between the operations of multiple entities;

45 (b) Degree to which the entities share common management;

46 (c) Centralized control of labor relations;

- (d) Degree of common ownership or financial control over the entities; and
- (e) Use of a common brand, trade, business, or operating name.

(4) An alleged employer bears the burden of proof to show that the employer is not a “grocery business” as defined in SCC 100.10.010.

(5) When determining whether an employer is “primarily engaged in retailing groceries” according to the definition of “grocery business” under SCC 100.10.010, all relevant factors may be taken into account, including but not limited to the following: grocery sales as a percentage of the retail store’s overall sales; sales floor area dedicated to grocery sales; marketing or promotional materials from the employer; or other public statements from representatives of the employer.

100.10.025 Hazard pay requirements.

(1) Employers shall provide each employee with hazard pay at a rate of four dollars per hour for each hour worked in the County. Hazard pay shall be capped at the pre-tax amount of One Thousand Two-Hundred Fifty Dollars (\$1,250.00) per employee.

(a) No employer shall, as a result of this ordinance going into effect, take steps to reduce employee compensation so as to prevent, in whole or in part, employees from receiving hazard pay at a rate of four dollars per hour for each hour worked in the County in addition to those employees’ other compensation. Employers shall maintain records to establish the reason(s) for any reduction in employee compensation, pursuant to SCC 100.10.040.

(b) Employers providing hazard pay, as defined under SCC 100.10.010, on the effective date of this ordinance may use the hourly rate of that hazard pay to offset the amount due under this subsection SCC 100.10.025(1).

(i) Employers shall comply with requirements for providing compensation in SCC 100.10.025(2) for the entire amount due under Section 100.10.025(1).

(ii) Employers bear the burden of proof to show that the additional compensation is hazard pay as defined in this ordinance.

(2) With respect to payment of hazard pay as set forth in this ordinance, employers shall comply with all requirements related to the payment of wages otherwise set forth by law.

(3) Employers shall comply with the hazard pay requirements in this SCC 100.10.025 until the Governor of the State of Washington has declared this State of Emergency in our state has been lifted or by December 31, 2021, whichever comes first. Notwithstanding this ordinance will stay in effect for at least 60 days from its effective date.

100.10.030 Notice and posting.

(1) Within thirty days of the effective date of this ordinance, employers shall display a written notice of rights established by this ordinance in a conspicuous and accessible

1 place at any workplace or job site where any of their employees' work. Employers shall
2 display the notice of rights in English and in the primary language(s) of the employee(s)
3 at the workplace or job site. Employers shall make a good faith effort to determine the
4 primary languages of the employees at the workplace or job site. If display of the notice
5 of rights is not feasible, including situations when the employee does not have a regular
6 workplace or job site, employers may solely provide the notice of rights on an individual
7 basis in the employee's primary language in a physical or electronic format that is
8 reasonably conspicuous and accessible.
9

10 (2) The notice of rights shall provide information on:

11 (a) The right to hazard pay guaranteed by this ordinance;

12 (b) The right to be protected from retaliation for exercising in good faith the
13 rights protected by this ordinance; and

14 (c) The right to bring a civil action for a violation of the requirements of this
15 ordinance, including an employer's denial of hazard pay as required by this
16 ordinance and an employer or other person's retaliation against an employee or
17 other person for asserting the right to hazard pay or otherwise engaging in an
18 activity protected by this ordinance.
19

20 (3) Employers are responsible for providing employees with the notice of rights required
21 by SCC 100.10.030(1) and 100.10.030(2) in a form and manner sufficient to inform
22 employees of their rights under this ordinance.
23

24 **100.10.040 Employer records.**

25
26 (1) Employers shall retain records that document compliance with this ordinance for
27 each employee.
28

29 (2) Employers shall retain the records required by SCC 100.10.040(1) for a period of
30 three years.
31

32 (3) If an employer fails to retain adequate records required under SCC 100.10.040(1),
33 there shall be a presumption, rebuttable by clear and convincing evidence, that the
34 employer violated this ordinance for the periods and for each employee for whom
35 records were not retained.
36

37 **100.10.050 Retaliation prohibited.**

38
39 (1) No employer or any other person shall interfere with, restrain, or deny the exercise
40 of, or the attempt to exercise, any right protected under this ordinance.
41

42 (2) No employer or any other person shall take any adverse action against any person
43 because the person has exercised in good faith the rights protected under this
44 ordinance. Such rights include, but are not limited to, the right to make inquiries about
45 the rights protected under this ordinance; the right to inform others about their rights
46 under this ordinance; the right to inform the person's employer, the person's legal

1 counsel, a union or similar organization, or any other person about an alleged violation
2 of this ordinance; the right to bring a civil action for an alleged violation of this
3 ordinance; the right to testify in a proceeding related to this ordinance; the right to refuse
4 to participate in an activity that would result in a violation of county, state or federal law;
5 and the right to oppose any policy, practice, or act that is unlawful under this ordinance.
6

7 (3) No employer or any other person shall communicate to a person exercising rights
8 protected in this SCC 100.10.050, directly or indirectly, the willingness to inform a
9 government worker that the person is not lawfully present or employed in the United
10 States, or to report, or to make, an implied or express assertion of a willingness to
11 report, suspected citizenship or immigration status of an employee or family member of
12 an employee to a federal, state, or local agency because the employee has exercised a
13 right under this ordinance.
14

15 (4) It shall be a rebuttable presumption of retaliation if an employer or any other person
16 takes an adverse action against a person within ninety days of the person's exercise of
17 rights protected in this SCC 100.10.050. However, in the case of seasonal work that
18 ended before the close of the ninety day period, the presumption also applies if the
19 employer fails to rehire a former employee at the next opportunity for work in the same
20 position. The employer may rebut the presumption with clear and convincing evidence
21 that the adverse action was taken for a permissible purpose.
22

23 (5) Proof of retaliation under this SCC 100.10.050 shall be sufficient upon a showing
24 that an employer or any other person has taken an adverse action against a person and
25 the person's exercise of rights protected in this SCC 100.10.050 was a motivating factor
26 in the adverse action, unless the employer can prove that the action would have been
27 taken in the absence of such protected activity.
28

29 (6) The protections afforded under this SCC 100.10.050 shall apply to any person who
30 mistakenly but in good faith alleges violations of this ordinance.
31

32 (7) A complaint or other communication by any person triggers the protections of this
33 SCC 100.10.050 regardless of whether the complaint or communication is in writing or
34 makes explicit reference to this ordinance.
35

36 **100.10.060 Private right of action.** 37

38 (1) Any person or class of persons that suffers financial injury as a result of a violation of
39 this ordinance, or is the subject of prohibited retaliation under SCC 100.10.050, may
40 bring a civil suit in any court of competent jurisdiction against the employer or other
41 person violating this ordinance and, upon prevailing, shall be awarded such legal or
42 equitable relief as may be appropriate to remedy the violation including, without
43 limitation: the payment of any unpaid compensation plus interest due to the person and
44 liquidated damages in an additional amount of up to twice the unpaid compensation;
45 and a penalty payable to any aggrieved party of up to \$5000 if the aggrieved party was
46 subject to prohibited retaliation, as well as reasonable attorney fees and costs. Interest

1 shall accrue from the date the unpaid compensation was first due at twelve percent per
2 annum, or the maximum rate permitted under RCW 19.52.020.

3
4 (2) For purposes of this SCC 100.10.060, a “person that suffers financial injury as a
5 result of a violation of the ordinance” includes any entity a member of which has
6 suffered financial injury or retaliation, or any other individual or entity acting on behalf of
7 an aggrieved party that has suffered financial injury or retaliation.

8
9 **100.10.065 Waiver.**

10
11 Any waiver by an individual of any provisions of this ordinance shall be deemed contrary
12 to public policy and shall be void and unenforceable.

13
14 **100.10.070 Encouragement of more generous policies.**

15
16 (1) Nothing in this ordinance shall be construed to discourage or prohibit an employer
17 from the adoption or retention of hazard pay policies more generous than the one
18 required herein.

19
20 (2) Nothing in this ordinance shall be construed as diminishing the obligation of the
21 employer to comply with any contract, collective bargaining agreement, employment
22 benefit plan, or other agreement providing more generous hazard pay policies to an
23 employee than required herein.

24
25 **100.10.080 Other legal requirements.**

26
27 This ordinance provides minimum requirements for hazard pay for covered employees
28 during the COVID-19 emergency and shall not be construed to preempt, limit, or
29 otherwise affect the applicability of any other law, regulation, requirement, policy, or
30 standard that provides for hazard pay, or that extends other protections to employees;
31 and nothing in this ordinance shall be interpreted or applied so as to create any power
32 or duty in conflict with federal or state law. Nothing in this ordinance shall be construed
33 as restricting an employee’s right to pursue any other remedies at law or equity for
34 violation of their rights.

35
36 **100.10.090 Severability.**

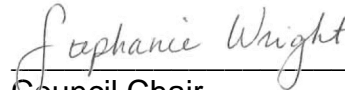
37
38 The provisions of this ordinance are declared to be separate and severable. If any
39 clause, sentence, paragraph, subdivision, section, subsection, or portion of this
40 ordinance, or the application thereof to any employer, employee, person, or
41 circumstance, is held to be invalid, it shall not affect the validity of the remainder of this
42 ordinance, or the validity of its application to other persons or circumstances.

43
44 **100.10.100 Repeal.**


1 Snohomish County Code Title 100, adopted by this ordinance or as amended after the
2 effective date of this ordinance, is repealed without subsequent Council action on the
3 date the Governor of the State of Washington has lifted the COVID-19 State of
4 Emergency in our state or December 31, 2021, whichever comes first. Notwithstanding
5 this ordinance will stay in effect for at least 60 days from its effective date.

6
7 PASSED this 23rd day of June, 2021.

8
9 SNOHOMISH COUNTY COUNCIL
10 Snohomish County, Washington

11
12 
13 _____
14 Council Chair

15
16 ATTEST:

17
18 
19 _____
20 Asst. Clerk of the Council

21
22 (X) APPROVED
23 () EMERGENCY
24 () VETOED

25 DATE: 6/24/2021

26
27 
28 _____

29 Dave Somers
30 County Executive

31
32 ATTEST:

33
34
35 
36 _____

37
38 Approved as to form only:

39
40
41 _____
42 Deputy Prosecuting Attorney Date
43