

The People of the City of Anaheim do ordain as follows:

RECEIVED

Section 1: A new Chapter 6.99 is added to Title 6 of the Anaheim Municipal Code, as follows:

2016 MAR 21 PM 4:22

Title 6—PUBLIC HEALTH AND SAFETY

CITY OF ANAHEIM

Chapter 6.99 – LIVING WAGES PAID BY BENEFICIARIES OF CITY SUBSIDIES

6.99.010. PAYMENT OF MINIMUM WAGE TO EMPLOYEES.

.010 An Employer shall pay an Employee a wage of no less than the hourly rates set under the authority of this article.

.020 On and after January 1, 2019, an Employer shall pay a wage of no less than Fifteen Dollars per hour, which shall increase by One Dollar per hour on each January 1 thereafter through January 1, 2022.

.030 On January 1, 2023, and annually thereafter, the minimum wage will increase annually to reflect increases in the cost of living. The cost of living increase shall be the greater of (1) two percent (2%) or (2) the percentage increase as of September 30, 2022, and as of September 30 in any subsequent year for further annual adjustments, over the level as of September 30 of the preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles Metropolitan Area (Los Angeles-Riverside-Orange County, CA), which is published by the Bureau of Labor Statistics, U.S. Department of Labor or the successor index or federal agency. The City Manager shall publish a bulletin by November 1 of each year announcing the adjusted rates, which shall take effect the following January 1. Such bulletin will be made available to all Employers and to any other person who has filed with the City Manager a request to receive such notice, but lack of notice shall not excuse noncompliance with this section. The City Manager shall prescribe a poster advising Employees of their rights under this article and distribute it to all Employers. An Employer shall post the notice in a prominent place where it will be seen by Employees. An Employer shall provide written notification of the rate adjustments to each of its Employees and make the necessary payroll adjustments by January 1 following the publication of the bulletin.

.040 Tips or gratuities received by Employees, service charges or commissions and extra pay as lead workers or for special assignments or night work shall not be credited as being any part of or offset against the wage rates required by this section.

6.99.020. SERVICE CHARGES PAID TO EMPLOYEES RENDERING SERVICE.

Service charges shall not be retained by an Employer but shall be paid in the entirety by the Employer to the Employee(s) performing services for the customers from whom the service charges are collected. No part of these amounts may be paid to supervisory or

managerial Employees. The amounts shall be paid to the Employee(s) equitably and according to the services that are or appear to be related to the description of the amounts given by the Employer to the customers. The amounts shall be paid to the Employee(s) in the next payroll following collection of an amount from the customer. This subsection does not apply to any tip, gratuity, money, or part of any tip, gratuity, or money that has been paid or given to or left for an Employee by customers over and above the actual amount due for services rendered or for goods, food, drink, or articles sold or served to the customer.

6.99.030. RETENTION OF RECORDS.

Each Employer shall preserve the employment records of each Employee for the three years preceding the effective date of this section, or if the Employee has been employed for less than three years, for the entire length of the Employee's employment prior to the effective date, and with respect to periods of employment after the effective date, each Employer shall preserve the employment records of each Employee for three years from the date of the creation of a record or any longer period of time required by other laws.

6.99.040. RETALIATION PROHIBITED.

No Employer shall discharge, reduce in compensation or otherwise discriminate against any Employee for opposing any practice proscribed by this article, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article. No employer may reduce any form of an Employee's compensation to offset the wage rates required by this Chapter.

6.99.050. ENFORCEMENT.

.010 An Employee claiming violation of this article may report such claimed violation to the City Manager which shall investigate such complaint. Whether based upon such a complaint or otherwise, where the City Manager has determined that an Employer has violated this article, the City Manager shall issue a written notice to the Employer that the violation is to be corrected within ten (10) days. In the event that the Employer has not demonstrated to the City Manager within such period that it has cured such violation, the City Manager may then request the City Council to debar the Employer from any future City Subsidy for three (3) years. Such debarment shall be to the extent permitted by, and under whatever procedures may be required by, law.

.020 An Employee claiming violation of this section may bring an individual or class action against his or her Employer in Superior Court to enforce the provisions of this section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this section, including but not limited to lost compensation, damages, reinstatement or injunctive relief. An Employee who prevails in

any action to enforce this section shall be awarded his or her reasonable attorney's fees and costs.

.030 Notwithstanding any provision of this Code or any other ordinance, to the contrary, no criminal penalties shall attach for violation of this article.

6.99.060. EXEMPTION FOR SMALL BUSINESSES.

A Small Business which claims that compliance with this Chapter would cause it to reduce its workforce by more than 20 percent, to curtail its Employees' total work hours by more than 30 percent, to close its business or to seek protection from its creditors under federal or state law may apply in writing to the City Manager for an exemption from the provisions of this Chapter. The City Manager may grant such an exemption, valid for no more than one year, upon a proper showing by the Small Business that it meets one or more of the criteria of this section. A Small Business may appeal the City Manager's denial of its exemption application to the City Council within 14 days after the date of the City Manager's action.

6.99.070. DEFINITIONS.

As used in this Chapter, the following words, terms and phrases shall have the following ascribed meanings:

.010 "*Business*" means any for-profit enterprise operated by one or more persons.

.020 "*City*" means the City of Anaheim, California.

.030 A "*City Subsidy*" is any agreement with the city pursuant to which a person other than the city has a right to receive a rebate of transient occupancy tax, sales tax, entertainment tax, property tax or other taxes, presently or in the future, matured or unmatured.

.040 A business "*benefits from a City Subsidy*" if the person or an affiliate of the person receives a City Subsidy directly or is an Employer which is a contractor or subcontractor, lessee or sublessee, or tenant or subtenant, with respect to a person or an affiliate of a person who receives a City Subsidy.

.050 "*Compensation*" includes any wages, tips, bonuses, and other payments reported as taxable income paid by the Employer to the Employee.

.060 "*Employer*" means any business in the hospitality industry which benefits from a City Subsidy and directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of 25 or more employees.

0.70 "*Employee*" means any individual who is an employee of an Employer under the common law.

.080 "*Employment records*" means all employment records stating, applying, or reflecting terms and conditions of employment, including but not limited to payroll records, schedules, attendance records, handbooks, memoranda and other documents about terms and conditions of employment, and personnel action forms showing such things as hiring, promotion, demotion, compensation changes, leaves of absence, or termination.

.090 A "*full-time Employee*" is an Employee who works an average of at least 30 hours per week for an Employer.

.100 "*Hospitality industry*" means a hotel, motel, amusement or theme park, or a restaurant, snack bar, bar, tavern, lounge, club or other venue offering food or beverages which is within or adjacent to a hotel, motel or amusement or theme park, or a retail store which is within or adjacent to a hotel, motel or amusement or theme park, located in whole or in part within The Anaheim Resort as established under Chapter 18.116 or the Disneyland Resort as established under Chapter 18.114.

.110 "*Person*" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

.120 "*Service Charge*" means all separately-designated amounts collected by an Employer from a customer for service by Employees, or are described in such a way that customers might reasonably believe that the amounts are for the service including, but not limited to, those charges designated on receipts under the term "service charge," "delivery charge" or "portage charge."

.130 A "*Small Business*" is an Employer which employs fewer than 100 full-time employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.

6.99.080. NON-EXCLUSIVITY.

The rights and remedies created by this Chapter are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of Employees, and are not intended to alter or affect such rights and remedies.

6.99.090. COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR SPECIFIC DEPRIVATIONS OF PROTECTED RIGHTS.

The provisions of this article shall not be construed as limiting any Employee's right to obtain relief to which he or she may be entitled at law or in equity.

RECEIVED

6.99.100. CONFLICTS.

Nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with any federal or State law.

2018 MAR 27 P 10:22

CITY OF LOS ANGELES

6.99.110. SEVERABILITY.

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The electors hereby declare that they would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 2. Conflicting Measures.

Consistent with California Elections Code § 9221, should another ordinance containing provisions that conflict with this ordinance be adopted by voters at the same election as this ordinance is adopted, the terms of the ordinance that receives the higher number of affirmative votes shall control.

Section 3. Effective Date.

The proposed ordinance that is the subject of this initiative, once approved by the voters at the November 6, 2018 election, or such other election as authorized by law, shall be deemed adopted upon the date that the vote is declared by the City Council, and shall go into effect 10 days after that date.