



Proposed Hospitality Worker Workplace Protection Ordinance

City Council
April 14, 2020

Background

- In mid-March UNITE HERE Local 11 requested local cities to enact emergency legislation to protect hospitality workers, and for other considerations including suspension of rent increases and evictions for tourism workers, in response to the COVID-19 crisis.
- Staff has evaluated the proposal and recommends the City Council note and file the information, and provide direction



Summary of Proposal

- Provide at least an additional paid 30 minutes per 8-hour shift for hand washing.
- Reduce workload for room attendants in hotels to provide extra time for sanitation.
- Mandate regular public health training by a non-profit authority not controlled by employers for room attendants, dishwashers, and cooks.



Summary of Proposal, continued

- Protect workers with layoff and recall procedures to guarantee that if they are displaced, they will get their jobs back after the crisis, or at any time there is a workforce reduction or lay-offs.
- Protect workers against opportunistic permanent terminations.
- Expand worker retention legislation to the entire city in case of hotel closures and subcontracting.
- Enforce the city's short term rental law, starting with illegal and unregulated multi-unit buildings and rent controlled apartments to stop the spread of the virus.



Ordinance – Other Jurisdictions

- Proposed Ordinance mirrors provisions already in:
 - Santa Monica Municipal Code (“SMMC”);
 - Los Angeles Municipal Code (“LAMC”); and
 - the City of Philadelphia Municipal Code.



Ordinance Provisions

Chapter 1.00 “Definitions”

- With small exceptions, duplicates SMMC Chapter 4.67, entitled “Hotel Worker Protection” adopted September 10, 2019.
- “Hospitality facility” is broader than SMMC - includes “event centers” or “private university cafeterias”.
- “Short-term rental cleaning contractor” references the LAMC



Ordinance Provisions, continued

Chapter 1.01(a) “Fair Discharge and Recall of Workers”

- Mirrors City of Philadelphia 2019 Muni Code (“PMC”) “Wrongful Discharge from Parking Employment 1166”
- Uses PMC 9-4702 “Prohibition of Wrongful Discharge” and PMC section 9-4704 “Determination of Bona Fide Economic Reasons” provisions as model for protection of hospitality workers from discharge except for just cause or bona fide economic reasons.
- Does not include PMC’s definition of “just cause”.



Ordinance Provisions, continued

Chapter 1.01(b) “Preference for Qualified Discharged Employees”

- Establishes a preferential rehire of “qualified” employees discharged for reasons other than just cause; applies retroactively.
- Defines a discharged employee as “qualified” if held the same/similar position at the same work site at the time of prior discharge, or could be qualified with the same training a new hire would receive.
- Requires the rehire offer be based on similarity of the new position and prior position, and seniority.
- Qualified workers have 10 days to accept or reject a rehire offer.



Ordinance Provisions, continued

Chapter 1.02 “Hospitality Worker Retention”

- Protects workers from discharge due to a “change in control”, i.e., sale, assignment, transfer, contribution or other disposition of all or substantially all of the hospitality facility assets, a similar disposition of a controlling interest, or event with a similar effect.
- Requires posting a written notice within 5 days of “change of control” and for 6 months after new facility begins operation. Notice must include name & contact info of existing and new hospitality employers.



Ordinance Provisions, continued

Chapter 1.02 (b):

- Establishes procedures to retain employees after a “change in control”.
- Requires existing employer to provide new employer list of eligible workers names, hire date, job class.
- Requires new employer, within fifteen (15) days of a change of control, to maintain and hire from that list for a 90 day “hospitality worker retention period” except if worker discharged for just cause.



Ordinance Provisions, continued

Chapter 1.03 “Public Hygiene Training Requirement”

- Requires consistent hygiene training provided by a qualified third-party provider based on criteria established by the city.
- Requires city to establish training and certification process.
- Specifies that Training Organization be experienced at providing training to hospitality workers, and immigrant low-wage workers using “interactive training strategies that engage across multiple literacy levels” and provided by trainers and educators that are “culturally competent and fluent” in the languages of the workers.



Ordinance Provisions, continued

Chapter 1.03 “Public Hygiene Training Requirement”

- Specifies if fewer workers required, retention based on collective bargaining agreement, seniority, or comparable job experience.
- Requires retained employees to be employed under the terms and conditions of the new employer and discharged only for just cause.
- Requires offers to be written and contain specified job information.
- After the 90 day period, new employer must do a performance evaluation, and offer continuing employment if evaluation is satisfactory.



Ordinance Provisions, continued

Chapter 1.03 Public Hygiene Training Requirement

- Requires training to be at least 6 hrs, live and interactive, and contain elements not already sufficiently required by state or local law
- Must cover “best practices” and techniques to:
 - prevent the spread of disease (including COVID-19);
 - detect/avoid insect or vermin infestations;
 - identify human trafficking, domestic violence, violent or threatening conduct;
 - identify criminal activity; and
 - advise workers of rights and employer responsibilities.



Ordinance Provisions, continued

Chapter 1.03 Public Hygiene Training Requirement

- Requires Training Organization (“TO”) to:
 - coordinate with hospitality employers to align training with employer policies and procedures.
 - coordinate with each employer to develop individualized training protocols
 - administer basic proficiency tests and “promptly” issue a certificate to trainees who pass the test.
 - Give unsuccessful trainees a right of review.



Ordinance Provisions, continued

Chapter 1.03 Public Hygiene Training Requirement

- Requires hospitality employers to:
 - Contract with the Training Org. to conduct at least one annual training;
 - Administer the examination and issue certificates to trainees who pass the test; and
 - Document compliance through a city provided certification form, and report to the city within 5 days of completing a training.



Ordinance Provisions, continued

Chapter 1.03 Public Hygiene Training Requirement

- Prohibits hospitality employers from employing any worker for more than 120 days unless that employee presents a valid training certificate.
- Prohibits “Hosts” from contracting with short-term rental cleaning contractors unless those contractors present required certification.
- The Training requirement becomes effective in 90 days from the effective date of the Ordinance.



Ordinance Provisions, continued

Chapter 1.04 “Measures to Facilitate Handwashing”

- Ensures workers get additional time for proper sanitation procedures in addition to rest periods for which workers are compensated
- Ensures workers are not penalized for failing to meet room quotas and that they receive proper room credits



Ordinance Provisions, continued

Chapter 1.05 “Notice”

- Requires hospitality workers receive written notice in multiple languages of rights at the time of hire or Ordinance effective date.

Chapter 1.06 “Supersession by Bone Fide Collective Bargaining Agreements”

- Permits waiver of the Fair Discharge and Recall of Workers provisions (Chap 1.01 & 1.02) pursuant to a bone fide collective bargaining agreement so long as such waiver is not unilaterally imposed.



Ordinance Provisions, continued

Chapter 1.07 “Retaliatory Action Prohibited”

- Prohibits any retaliatory employment action against a hospitality worker for exercising rights protected by the Ordinance
- Establishes a rebuttable presumption that such employment action is adverse if taken within 90 days of worker the exercise of rights

Chapter 1.08 “Administrative Regulations”

- Requires City Manager, or designee, to adopted administrative regulations to implement the Ordinance



Ordinance Provisions, continued

Chapter 1.09 “Civil Remedies”

- Mirrors SMMC sec. 4.67.120, with the exception of subsection (d) pertaining to the award of attorneys’ fees and costs, including expert witness fees, which is broader than the Santa Monica provision, which excepts payment of fees and costs where the case is groundless.
- Establishes civil remedies (injunctive relief, damages) to enforce the proposed Ordinance.



Next Steps

Staff recommends further research and outreach including:

1. Contacting other cities to determine the efficacy of their ordinances and to determine what, if anything, these cities would have handled differently
2. Researching Glendale's hotel/motel market and reaching out to stakeholders.



Next Steps

3. Determining the legal, fiscal and policy impacts of the Hospitality Worker Retention Provisions, as well as the Fair Discharge and Recall of Workers provisions
4. Determining whether other cities have considered or need to adopt separate measures to facilitate handwashing since this is currently a universal preventative directive.



Questions & Answers

- Staff is available for questions

