

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 16.59 RELATING TO WORKER RETENTION AT THE LONG BEACH AIRPORT AND THE LONG BEACH CONVENTION CENTER

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 16.59 is hereby added to the Long Beach Municipal Code to read as follows:

Chapter 16.59  
WORKER RETENTION AT THE AIRPORT AND THE LONG BEACH CONVENTION CENTER

16.59.010 Findings and purpose.

A. The City Council finds that the prospect of massive displacement of the large existing workforces at food and beverage concessions at the Long Beach Airport and Long Beach Convention Center would likely cause severe injury to the City's economy and impose significant burdens upon society such as welfare and public health expenses and security risks at such facilities. The City Council finds this policy is the only realistic means of preventing such displacement.

B. The City Council finds that the regulation of worker retention at food and beverage concessions should proceed initially only at the Airport and Convention Center due to factors unique to the businesses at

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1 such facilities, including their superior location and ability to pay thanks to  
2 large City investments and City policies limiting access to such facilities for  
3 competitors, the competency of their existing workforces (including their  
4 security clearances and demonstrated record in preserving Airport security),  
5 the greater likelihood of mass displacement at these workplaces compared  
6 to most others within the City (especially given the large number of persons  
7 capable of taking these jobs), and the negative impact on City revenues  
8 should new employers refuse to rehire existing workers and thereby spur  
9 boycott activities by displaced workers and their organizations.

10 C. The City Council wishes to fully assess economic and social  
11 impacts of regulating these businesses initially before including any other  
12 businesses, and thus to proceed in a fully-informed incremental manner.

13 D. The purpose of establishing worker retention requirements at  
14 the Airport and Convention Center is to decrease worker turnover and  
15 instability in the workplace. The consequential benefits of such measures  
16 are the improvement of the quality of service to the City, the traveling  
17 public, and other users of the Airport and Convention Center.

18 E. This Chapter is not intended to conflict with federal or State  
19 law. It is the intention of the City Council that this Chapter be interpreted to  
20 be compatible with federal and State enactments and in furtherance of the  
21 public purposes which those enactments encompass.

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23 16.59.020 Definitions.

24 A. "City" means the City of Long Beach.

25 B. "City Council" means the City Council of the City of Long  
26 Beach.

27 C. "Concession Contract" means any contract from the City  
28 covering Concession Operations at the Long Beach Airport or the Long

1 Beach Convention Center.

2 D. "Concession Operations" means the general business  
3 operations of food and beverage concessions at the Long Beach Airport  
4 and the Long Beach Convention Center, but do not include the provision by  
5 an airline of food or beverage to passengers while on board an airplane.

6 E. "Concessionaire" means all food and beverage concessions  
7 contractors together with all tenants, lessees, subtenants, sublessees,  
8 subcontractors, successors and assigns of such contractors that provide  
9 such concession services at the Long Beach Airport or the Long Beach  
10 Convention Center.

11 F. "Predecessor Employer" means the Concessionaire at the  
12 Long Beach Airport or Long Beach Convention Center that employed  
13 Retention Workers to provide substantially similar services for a  
14 Concession Operation immediately prior to the Successor Employer.

15 G. "Retention Workers" means all full-time and part-time  
16 employees in a Concession Operation, except supervisors and managers.

17 H. "Successor Employer" means the new Concessionaire at the  
18 Long Beach Airport or Long Beach Convention Center business that  
19 succeeds the Predecessor Employer in the provision of substantially similar  
20 Concession Operations.

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22 16.59.030 Worker retention.

23 A. A Successor Employer shall fill its Concession Operations  
24 positions at the Long Beach Airport and the Long Beach Convention Center  
25 by first hiring from the workforce which has been or is being displaced by  
26 the departure or reduction in force of a Predecessor Employer at such  
27 location, and shall retain and not discharge a Retention Worker without  
28 cause during the initial ninety (90) day period of his or her employment.

1 Just cause for discharge shall not include the reason being a Retention  
2 Worker receiving superior wages or benefits in their prior positions.

3 B. In the event that the Successor Employer does not have  
4 enough positions available for all Retention Workers, the Successor  
5 Employer shall hire the Retention Workers who are eligible for retention by  
6 seniority within each employment classification. For any positions that  
7 become available during the initial ninety (90) day period of the new  
8 Concession Contract, the Successor Employer will hire Retention Workers  
9 by seniority within each employment classification.

10 C. A Successor Employer shall offer continued employment to  
11 each Retention Worker who receives a satisfactory performance evaluation  
12 at the end of the initial ninety (90) day period of employment under terms  
13 and conditions established by the Successor Employer for all its  
14 employees.

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16 16.59.040 Posting and recordkeeping requirement.

17 A. Each Concessionaire shall cause the Worker Retention  
18 requirements under this Chapter to be posted at its place of business in the  
19 Airport or Long Beach Convention Center, so as to be conspicuous to the  
20 general public, to patrons entering or using such facilities, and to the  
21 Retention Workers employed at such facilities.

22 B. Each Successor Employer shall maintain records for three (3)  
23 years showing the reasons for not hiring or for discharging Retention  
24 Workers during the initial ninety (90) day period. The City Manager and  
25 each Retention Worker and their designees are authorized to review these  
26 records upon reasonable request to ascertain compliance with this Chapter.

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1           16.59.050   Waiver.

2                   The provisions of this Chapter may not be waived by agreement  
3                   between an individual Retention Worker and Predecessor or Successor  
4                   Employer. All of the provisions of this Chapter, or any part hereof, may be  
5                   waived in a bona fide collective bargaining agreement, but only if the waiver  
6                   is explicitly set forth in such agreement in clear and unambiguous terms.  
7                   Unilateral implementation of terms and conditions of employment by either  
8                   party to a collective bargaining relationship shall not constitute, or be  
9                   permitted, as a waiver of all or any part of the provisions of this Chapter.

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11           16.59.060   Retaliation.

12                   No person shall discharge, reduce any part of the compensation of,  
13                   nor discriminate against any Retention Worker due to the enactment of this  
14                   Chapter or due to his or her assertion of any rights under this Chapter.

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16           16.59.070   Enforcement.

17                   A.    The City Manager or his/her designee is invested with the  
18                   discretionary authority to issue additional rules and regulations interpreting  
19                   this Chapter and/or establishing complaint procedures related to  
20                   enforcement of this Chapter. Notwithstanding the foregoing, the City shall  
21                   be under no duty to monitor compliance with this Chapter; however, the City  
22                   may consider compliance with this Chapter in making contracting decisions.

23                   B.    Any violation of this Chapter may be subject to injunctive relief  
24                   and any other relief or remedy available at law or equity.

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26           16.59.080   Severability.

27                   If any provision of this Chapter, or the application thereof to any  
28                   person or circumstance, is held invalid, that invalidity shall not affect any

1 other provision or application of this Chapter that can be given effect without  
2 the invalid provision or application; and to this end, the provisions or  
3 applications of this Chapter are severable.  
4

5 Section 2. The City Clerk shall certify to the passage of this ordinance by  
6 the City Council and cause it to be posted in three (3) conspicuous places in the City of  
7 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the  
8 Mayor.

9 I hereby certify that the foregoing ordinance was adopted by the City  
10 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_\_\_,  
11 by the following vote:

12  
13 Ayes: Councilmembers: \_\_\_\_\_  
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17 Noes: Councilmembers: \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_

20 Absent: Councilmembers: \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_

23 \_\_\_\_\_  
City Clerk

24  
25  
26 Approved: \_\_\_\_\_  
27 (Date)

28 \_\_\_\_\_  
Mayor

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