

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 RESOLUTION NO. RES-12-0049

2  
3 A RESOLUTION OF THE CITY COUNCIL OF THE  
4 CITY OF LONG BEACH ORDERING, CALLING AND  
5 PROVIDING FOR AND GIVING NOTICE OF A SPECIAL  
6 MUNICIPAL ELECTION TO BE HELD IN THE CITY OF  
7 LONG BEACH ON TUESDAY, THE 6<sup>th</sup> DAY OF  
8 NOVEMBER, 2012, FOR THE PURPOSE OF SUBMITTING  
9 A BALLOT PROPOSITION TO A VOTE OF THE  
10 QUALIFIED ELECTORS OF THE CITY

11  
12 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
13 follows:

14 Section 1. Under the provisions of the Constitution and laws of the State  
15 of California and the Charter of the City of Long Beach, a Special Municipal Election is  
16 ordered, proclaimed and called to be held in the City of Long Beach between the hours of  
17 7:00 a.m. and 8:00 p.m. on Tuesday, the 6<sup>th</sup> day of November, 2012, for the purpose of  
18 submitting to a vote of the qualified electors of the City of Long Beach the following  
19 proposition which, for identification purposes only, is marked as Proposition A.

20 Proposition A

21 Shall the ordinance which establishes minimum wages and  
22 minimum sick leave payable to hotel workers, be adopted?

23  
24 Section 2. Notice is hereby given of the time and place of the election.  
25 The City Clerk is directed and authorized to print and publish the proposition as required  
26 by law. All particulars not provided in this resolution shall be held under the provisions of  
27 law governing the conduct of such elections in the City of Long Beach.

28 Section 3. The proposition shall be stated as provided in Section 13119

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1 of the Elections Code of the State of California. The ballot used in voting upon the  
2 proposition shall contain the words "yes" and "no". The text of Proposition A is set forth in  
3 full in Exhibit "A".

4 Section 4. That only qualified voters of the City of Long Beach shall be  
5 permitted to vote in the election called by this resolution.

6 Section 5. This resolution shall take effect immediately upon its adoption  
7 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

8 I hereby certify that the foregoing resolution was adopted by the City  
9 Council of the City of Long Beach at its meeting of June 12, 2012, by the  
10 following vote:

11  
12 Ayes: Councilmembers: Garcia, Lowenthal, O'Donnell, Schipske,  
13 Andrews, Johnson, Gabelich, Neal.

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15  
16 Noes: Councilmembers: None.

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18 Absent: Councilmembers: DeLong.

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23 City Clerk

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY ADDING SECTION 5.48.020  
RELATING TO MINIMUM WAGES AND SICK LEAVE  
PAYABLE TO HOTEL WORKERS

The People of the City of Long Beach do ordain as follows:

Section 1. Section 5.48.020 of the Long Beach Municipal Code is added  
to read as follows:

A. Each hotel employer shall pay hotel workers a wage of not  
less than the hourly rates set forth in this section. The rate upon enactment  
shall be thirteen dollars (\$13.00) per hour worked. This rate shall be  
adjusted by the amount of increases in the federal minimum wage over the  
amount in effect on December 31, 2011, or, if greater, by the cumulative  
increase in the cost of living. The cost of living increase shall be measured  
by the percentage increase as of December 31 in any year over the level as  
of December 31, 2011 of the Consumer Price Index (All Urban Consumers,  
Los Angeles-Riverside-Orange County) as published by the Bureau of  
Labor Statistics, U.S. Department of Labor or the successor index or federal  
agency. If in any calendar year there is no increase in the federal minimum  
wage and the increase in the Consumer Price Index is less than two  
percent (2%), then the rate shall be adjusted by an increase of two percent  
(2%). The mayor or the city agency designated by the mayor shall publish  
a bulletin by April 1 of each year announcing the adjusted rates, which shall  
take effect the following July 1. Such bulletin will be made available to all

1 hotel employers and to any other person who has filed with the mayor or  
2 the designated agency a request to receive such notice but lack of notice  
3 shall not excuse noncompliance with this section. A hotel employer shall  
4 provide written notification of the rate adjustments to each of its hotel  
5 workers and make the necessary payroll adjustments by July 1 following  
6 the publication of the bulletin. Tips or gratuities received by hotel workers  
7 and service charges or commissions shall not be credited as being any part  
8 of or offset against the wage rates required by this section.

9 B. Service charges shall not be retained by a hotel employer but  
10 shall be paid in the entirety by the hotel employer to the hotel worker(s)  
11 performing services for the customers from whom the service charges are  
12 collected. No part of these amounts may be paid to supervisory or  
13 managerial employees. The amounts shall be paid to the hotel worker(s)  
14 equitably and according to the services that are or appear to be related to  
15 the description of the amounts given by the hotel employer to the  
16 customers. The amounts shall be paid to the hotel worker(s) in the next  
17 payroll following collection of an amount from the customer. Without  
18 limitation of the foregoing:

19 1. Amounts collected for banquets or catered meetings  
20 shall be paid equally to the hotel worker(s) who actually work the banquet  
21 or catered meeting; and

22 2. Amounts collected for room service shall be paid to the  
23 hotel worker(s) who actually deliver food and beverage associated with the  
24 charge.

25 3. Amounts collected for portering service shall be paid  
26 to the hotel worker(s) who actually carry the baggage associated with the  
27 charge.

28 This subsection does not apply to any tip, gratuity, money, or

1 part of any tip, gratuity, or money that has been paid or given to or left for a  
2 hotel worker by customers over and above the actual amount due for  
3 services rendered or for goods, food, drink, or articles sold or served to the  
4 customer.

5 C. An hotel employer shall pay every hotel worker sick pay out of  
6 the employer's general assets as follows:

7 1. At least five compensated days off per calendar year  
8 for sick leave at the hotel worker's request. The hotel worker need not  
9 present certification of illness to claim compensated time off, provided that  
10 such hotel worker has accrued the requested days of compensated time at  
11 the time of the request. A hotel worker shall be paid his or her normal daily  
12 compensation for each compensated day off;

13 2. A hotel worker shall accrue 5/12 of a day of  
14 compensated time for each full month in a calendar year that the hotel  
15 worker has been employed by the hotel employer. A hotel worker is entitled  
16 to use any accrued days of compensated time as soon as those days have  
17 accrued;

18 3. If any hotel worker has not utilized all of his or her  
19 accrued compensated time by the end of any calendar year, the hotel  
20 employer shall pay that hotel worker a lump sum payment at the end of the  
21 calendar year equivalent to the compensation due for any unused  
22 compensated time.

23 D. The provisions of this section may not be waived by  
24 agreement between an individual hotel worker and a hotel employer. All of  
25 the provisions of this section, or any part hereof, may be waived in a bona  
26 fide collective bargaining agreement, but only if the waiver is explicitly set  
27 forth in such agreement in clear and unambiguous terms. Unilateral  
28 implementation of terms and conditions of employment by either party to a

1 collective bargaining relationship shall not constitute, or be permitted, as a  
2 waiver of all or any part of the provisions of this section. A hotel employer  
3 shall not discharge, reduce the compensation of or otherwise discriminate  
4 against any hotel worker for using any civil remedies to enforce this section  
5 or otherwise asserting his or her rights under this section.

6 E. A hotel worker claiming violation of this section may bring an  
7 individual or class action against his or her employer in Superior Court to  
8 enforce the provisions of this section and shall be entitled to all remedies  
9 available under the law or in equity appropriate to remedy any violation of  
10 this section, including but not limited to lost compensation, damages,  
11 reinstatement or injunctive relief. A hotel worker who prevails in any action  
12 to enforce this section shall be awarded his or her reasonable attorney's  
13 fees and costs.

14 F. If any provision of this section is declared illegal, invalid or  
15 inoperative, in whole or in part, by the final decision of any court of  
16 competent jurisdiction, the remaining provisions and all portions not  
17 declared illegal, invalid or inoperative shall remain in full force or effect, and  
18 no such determination shall invalidate the remaining provisions or portions  
19 of the provisions of this section.

20 G. Definitions:

21 1. "*Compensation*" includes any wages, tips, bonuses,  
22 and other payments reported as taxable income paid by the hotel employer  
23 to the hotel worker.

24 2. "*Hotel*" means a residential building that is designated  
25 or used for lodging and other related services for the public, and containing  
26 100 or more guest rooms, or suites of rooms.

27 3. "*Hotel*" also includes any contracted, leased, or sublet  
28 premises connected to or operated in conjunction with the building's

1 purpose, or providing services at the building.

2 4. "Hotel employer" means a person who owns, controls,  
3 and/or operates a hotel in the City of Long Beach, or a person who owns,  
4 controls, and/or operates any contracted, leased, or sublet premises  
5 connected to or operated in conjunction with the hotel's purpose, or a  
6 person, other than a hotel worker, who provides services at the hotel.

7 5. "Hotel worker" means any individual (1) whose primary  
8 place of employment is at a one or more hotels and (2) who is employed  
9 directly by the hotel employer or by a person who has contracted with the  
10 hotel employer to provide services at the hotel.

11 6. "Person" means an individual, corporation, partnership,  
12 limited partnership, limited liability partnership, limited liability company,  
13 business trust, estate, trust, association, joint venture, agency,  
14 instrumentality, or any other legal or commercial entity, whether domestic or  
15 foreign.

16 7. "Service charge" means all separately-designated  
17 amounts, regardless of name or label, that are added to the base charge for  
18 food or beverages, banquets, portorage or parking services and collected  
19 by a hotel employer from customers, except taxes and fees levied by  
20 federal, state or local government.

21  
22 Section 2. If a majority of the voters voting on the proposed ordinance  
23 vote in its favor, the ordinance shall become a valid and binding ordinance of the City.  
24 The ordinance shall be adopted upon a declaration of the result of such ballot by the City  
25 Council, and it shall take effect ten (10) days after that date.

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