



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Adoption of Hotel Worker Protection Ordinance

1. Motion Receiving Report Under Elections Code Section 9212
2. Adoption of Ordinance Entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GLENDALE AMENDING THE GLENDALE MUNICIPAL CODE TO ADD CHAPTER 5.120, HOTEL WORKER PROTECTION ORDINANCE"
3. Motion Providing Further Direction

COUNCIL ACTION

Item Type: Ordinance

Approved for June 28, 2022 **calendar**

EXECUTIVE SUMMARY

An initiative measure providing for hotel worker safety protections, requirements for fair compensation and a minimum wage for hotel workers, which received sufficient signatures to qualify for the ballot, was presented to the City Council on June 14, 2022. The proposed Ordinance is presented to Council for adoption, along with this report under California Elections Code section 9212 outlining impacts of the proposed ordinance, including its legal effect.

COUNCIL PRIORITIES

N/A

RECOMMENDATION

Staff recommends that the Council receive and file this report and consider the proposed Ordinance for adoption.

BACKGROUND

An initiative measure adding a chapter to the Glendale Municipal Code providing for hotel worker safety protections, requirements for fair compensation and a minimum wage for hotel workers, which received sufficient signatures to qualify for the ballot, was presented to the City Council on June 14, 2022. At that meeting, the Council requested a report under Elections Code section 9212 on the impacts of the proposed Ordinance. The Council also introduced the Ordinance and the Council may adopt it at this meeting.

ANALYSIS

Elections Code Section 9212

This section of this Report will focus mainly on the applicability of the Ordinance to hotels and hotel workers in Glendale. A summary of the Ordinance as presented on June 14, 2022 is provided below.

Substance of Ordinance (From June 14, 2022 Report to Council)

The Ordinance has three primary components related to hotel workers. First, the Ordinance requires measures to protect hotel workers from violent or threatening conduct by requiring hotel employers to provide hotel workers with personal security devices (e.g. panic buttons) at no cost. Among other things, the Initiative does following:

- Allows hotel workers to cease work and leave the immediate danger area to await assistance;
- Prohibits an adverse employment action against hotel workers for activating a personal security device, or for ceasing work to await assistance absent clear and convincing evidence of a knowingly and intentionally false claim of emergency;
- Requires hotel employers to designate and assign a security guard, manager or supervisory staff to receive personal security alerts, and requires at least three hours of annual training of designated/assigned/supervisory staff on personal security device requirements, functioning, maintenance and protocols;
- Provides certain rights to hotel workers who notify hotel employers of violent or threatening hotel guest behavior, including allowing hotel workers sufficient paid time to report such behavior to law enforcement and to consult with a counselor or advisor of the hotel workers' choice;
- Prohibits hotel employers from preventing hotel workers from reporting violent or threatening conduct to law enforcement;
- Prohibits hotel employers from taking adverse employment action against hotel workers based on a report of violent or threatening conduct to law enforcement, and requires hotel employers to provide reasonable accommodation to hotel workers subjected to such behavior; and
- Within 30 days of the Initiative effective date or one month of a new hire, requires hotel employers to train hotel workers on the use, protocols and rights pertaining to personal security devices.

The second component of the Ordinance imposes measures to provide fair compensation for workload, including workload limitations, proration, voluntary overtime payment and records preservation. The Ordinance prohibits hotel employers from requiring room attendants to clean more than a specified amount of floor space (4000 square feet for hotels with fewer than 40 rooms and 3,500 square feet for hotels with 40 or more rooms) in any eight-hour workday unless room attendants are paid twice the pay rate for each

hour worked during the workday. Hotel employers are also required to maintain three-years of specified records of room attendant work.

Third, the Ordinance establishes a minimum wage for hotel workers, exclusive of gratuities, service charge disbursements and bonuses, in the amount of \$17.64 per hour or the rate set for hotel workers established in the City of Los Angeles Municipal Code, whichever is more. Commencing on July 1, 2023, the minimum hourly wage for hotel workers shall be set at the rate established pursuant to administrative regulation by the City of Los Angeles' Office of Wage Standards of the Bureau of Contract Administration.

The Ordinance provides a waiver to the fair compensation and minimum wage provisions pursuant to a bona fide collective bargaining agreement. The Ordinance would require hotel employers to provide written notice of the Ordinance's provisions to hotel workers upon the time of hire or on the effective date of the Ordinance. The written notice must be in English, Spanish and any other language known by the employer to be spoken by five percent or more of the hotel's workers. The Ordinance also prohibits retaliatory action against any hotel worker that exercises their rights under the Ordinance.

Applicability of Proposed Ordinance

The Ordinance would apply to hotels, hotel employers and hotel workers, which the Ordinance defines as:

- "Hotel" means an establishment that provides temporary lodging for payment in the form of overnight accommodations in guest rooms to transient patrons for periods of thirty consecutive calendar days or less, and may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. "Hotel" includes hotels, motor lodges, motels, apartment hotels, private residential clubs, tourist courts, and hostels that contain both dormitory-style accommodations and private guest rooms that may be reserved, meeting the definition set forth above. "Hotel" also includes any contracted, leased or sublet premises operated in conjunction with a hotel or that is used for the primary purpose of providing services at a hotel. Except as provided above, the term "Hotel" also does not include corporate housing, rooming houses, boarding houses, single-room occupancy housing, or licensed bed and breakfast establishments within a single-unit residence.
- "Hotel employer" means any person who owns, controls, or operates a hotel in the City, and includes any person or contractor who, in a managerial, supervisory, or confidential capacity, employs hotel workers to provide services at a hotel in conjunction with the hotel's purpose.
- "Hotel worker" means any person who is employed by a hotel employer to provide services at a hotel. "Hotel worker" does not include a managerial, supervisory or confidential employee.

According to data from the Economic Development Division of the Community Development Department, there are 27 hotels in Glendale with four others in the entitlement or plan check phase. Of those 27 existing hotels, 14 have fewer than 40 rooms and 13 have 40 or more rooms.

Legal Authority

The City – whether acting through its legislative body, the City Council, or by way of initiative, has broad authority to enact legislation intended to protect or enhance the public health, safety or welfare. “The power to regulate wages and employment conditions lies clearly within a state’s or a municipality’s police power.” RUI One Corp. v. City of Berkeley (2004) 371 F.3d 1137, 1150. Although legality of a measure can never be guaranteed, it appears the Ordinance is sufficiently justified with reference to the advancement of public health safety and welfare. The provisions of the Ordinance protect hotel workers from threatening and violent conduct, require personal security devices, and regulate workload. These measures fall within the City’s traditional police powers.

One unique provision in the Ordinance is the provisions of the minimum wage component that is tied to the Los Angeles Municipal Code or administrative regulations of the City of Los Angeles. After additional review, it appears that these provisions do not unlawfully delegate wage setting authority. The courts have held that a legislative body does not unlawfully delegate its legislative authority, including the setting of minimum or prevailing wages, if it decides the fundamental issue, e.g. whether to establish the law, and provides a sufficient standard to guide its implementation. Kugler v. Yocum (1968) 69 Cal.2d 371, 376-79. The proposed Ordinance will have established the fundamental issue of having a minimum wage for hotel workers that exceeds the state minimum wage. Further, the Ordinance provides a sufficient standard to guide its establishing its implementation by tying it to the Los Angeles Municipal Code and Los Angeles administrative regulation. Even though changes to those provisions are not expressly within Glendale’s control, implementation of the minimum wage policy by reference to Los Angeles’ wage rules is not a delegation of authority. Kugler, supra.

STAKEHOLDERS/OUTREACH

N/A

FISCAL IMPACT

There is no fiscal impact associated with this report.

ENVIRONMENTAL REVIEW (CEQA/NEPA)

This matter is exempt from CEQA. Adoption of a voter-sponsored ballot measure is exempt from CEQA.

CAMPAIGN DISCLOSURE

This item is exempt from campaign disclosure requirements.

ALTERNATIVES

Alternative 1: Receive and file this Report and adopt the Ordinance.

Alternative 2: Do not receive and file this Report or adopt the Ordinance, and provide other direction to staff as it deems appropriate. If the Council does not adopt the Ordinance, it will have to place the matter on the ballot for the next general municipal election or at a special election to be held within 88 to 103 days of the calling of said election.

Alternative 3: The City Council may consider any other alternative not proposed by staff.

ADMINISTRATIVE ACTION

Prepared by:

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Approved by:

Roubik R. Golanian, P.E., City Manager

EXHIBITS/ATTACHMENTS

N/A