

ORDINANCE SETTING MINIMUM EMPLOYMENT STANDARDS FOR HOSPITALITY
AND TRANSPORTATION INDUSTRY EMPLOYERS

Section 1. Findings. The following measures are necessary in order to ensure that, to the extent reasonably practicable, all people employed in the hospitality and transportation industries in SeaTac have good wages, job security and paid sick and safe time.

Section 2. That a new Chapter, 7.45, be added to the SeaTac Municipal Code to read as follows:

**7.45 MINIMUM EMPLOYMENT STANDARDS FOR HOSPITALITY AND
TRANSPORTATION INDUSTRY EMPLOYERS**

7.45.010 Definitions

As used in this Chapter, the following terms shall have the following meaning:

- A. “*City*” means the City of SeaTac.
- B. “*Compensation*” includes any wages, tips, bonuses, and other payments reported as taxable income from the employment by or for a Covered Worker.
- C. “*Covered Worker*” means any individual who is either a Hospitality Worker or a Transportation Worker.
- D. “*Hospitality Employer*” means a person who operates within the City any Hotel that has one hundred (100) or more guest rooms and thirty (30) or more workers or who operates any institutional foodservice or retail operation employing ten (10) or more nonmanagerial, nonsupervisory employees. This shall include any person who employs others providing services for customers on the aforementioned premises, such as a temporary agency or subcontractor.
- E. “*Hospitality Worker*” means any nonmanagerial, nonsupervisory individual employed by a Hospitality Employer.
- F. “*Hotel*” means a building that is used for temporary lodging and other related services for the public, and also includes any contracted, leased, or sublet premises connected to or operated in conjunction with such building's purpose (such as a restaurant, bar or spa) or providing services at such building.
- G. “*Institutional foodservice or retail*” is defined as foodservice or retail provided in public facilities, corporate cafeterias, conference centers and meeting facilities, but does not include preparation of food or beverage to be served in-flight by an airline. Restaurants or retail

operations that are not located within a hotel, public facility, corporate cafeteria, conference facility or meeting facility are not considered a hospitality employer for the purpose of this Chapter.

H. “*Person*” means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, or any other legal or commercial entity, whether domestic or foreign, other than a government agency.

I. “*Predecessor Employer*” means the Hospitality or Transportation Employer that provided substantially similar services within the City prior to the Successor Employer.

J. “*Retention Employee*” means any Covered Worker who:

1) was employed by a Predecessor Employer for at least 30 workdays; and

2) was either:

a) laid off or discharged for lack of work due to the closure or reduction of a Hospitality or Transportation Employer’s operation during the preceding two years; or

b) is reasonably identifiable as a worker who is going to lose his/her job due to the closure or reduction of the Hospitality or Transportation Employer’s operation within the next 6 months.

K. “*Service charge*” is defined as set forth in RCW 49.46.160(2)(c).

L. “*Successor Employer*” means the new Hospitality or Transportation Employer that succeeds the Predecessor Employer in the provision of substantially similar services within the City.

M. “*Transportation Employer*” means:

1) A person, excluding a certificated air carrier performing services for itself, who:

a) operates or provides within the City any of the following: any curbside passenger check-in services; baggage check services; wheelchair escort services; baggage handling; cargo handling; rental luggage cart services; aircraft interior cleaning; aircraft carpet cleaning; aircraft washing and cleaning; aviation ground support equipment washing and cleaning; aircraft water or lavatory services; aircraft fueling; ground transportation management; or any janitorial and custodial services, facility maintenance services, security services, or customer service

performed in any facility where any of the services listed in this paragraph are also performed; and

b) employs twenty-five (25) or more nonmanagerial, nonsupervisory employees in the performance of that service.

2) A transportation employer also includes any person who:

a) operates or provides rental car services utilizing or operating a fleet of more than one hundred (100) cars; shuttle transportation utilizing or operating a fleet of more than ten (10) vans or buses; or parking lot management controlling more than one hundred (100) parking spaces; and

b) employs twenty-five (25) or more nonmanagerial, nonsupervisory employees in the performance of that operation.

N. “*Transportation Worker*” means any nonmanagerial, nonsupervisory individual employed by a Transportation Employer.

O. “*Tips*” mean any tip, gratuity, money, or part of any tip, gratuity, or money that has been paid or given to or left for a Covered Worker 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.

7.45.020 Paid Leave For Sick and Safe Time

Each Hospitality or Transportation Employer shall pay every Covered Worker paid leave for sick and safe time out of the employer's general assets as follows:

A. A Covered Worker shall accrue at least one hour of paid sick and safe time for every 40 hours worked as an employee of a Hospitality Employer or Transportation Employer. The Covered Worker is entitled to use any accrued hours of compensated time as soon as those hours have accrued.

B. The Covered Worker need not present certification of illness to claim compensated sick and safe time, provided that such Covered Worker has accrued the requested hours of compensated time at the time of the request. A Covered Worker shall be paid his or her normal hourly compensation for each compensated hour off.

C. The Covered Worker shall not be disciplined or retaliated against for use of accrued paid sick and safe time. This includes a prohibition on any absence control policy that counts earned sick and safe time as an absence that may lead to or result in discipline against the Covered Worker.

D. If any Covered Worker has not utilized all of his or her accrued compensated time by the end of any calendar year, the Hospitality Employer or Transportation Employer shall pay this worker a lump sum payment at the end of the calendar year equivalent to the compensation due for any unused compensated time.

E. Accrued paid sick time shall be provided to a Covered Worker by a Hospitality Employer or Transportation Employer for the following reasons:

1) An absence resulting from a Covered Worker's mental or physical illness, injury or health condition; to accommodate the Covered Worker's need for medical diagnosis care, or treatment of a mental or physical illness, injury or health condition; or a Covered Worker's need for preventive medical care;

2) To allow the Covered Worker to provide care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or care of a family member who needs preventive medical care.

F. Accrued paid safe time shall be provided to a Covered Worker by a Hospitality Employer or Transportation Employer for the following reasons:

1) When the Covered Worker's place of business has been closed by order of a public official to limit exposure to an infectious agent, biological toxin or hazardous material;

2) To accommodate the Covered Worker's need to care for a child whose school or place of care has been closed by order of a public official for such a reason;

3) For any of the following reasons related to domestic violence, sexual assault, or stalking, as set forth in RCW 49.76.030:

a) To enable the Covered Worker to seek legal or law enforcement assistance or remedies to ensure the health and safety of the Covered Worker or the Covered Worker's family members including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;

b) To enable the Covered Worker to seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the Covered Worker's family member;

- c) To enable the Covered Worker to obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;
- d) To enable the Covered Worker to obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the Covered Worker or the Covered Worker's family member was a victim of domestic violence, sexual assault, or stalking; or
- e) To enable the Covered Worker to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the Covered Worker or Covered Worker's family members from future domestic violence, sexual assault, or stalking.

7.45.030 Promoting Full-Time Employment

If a Hospitality or Transportation Employer has additional hours of work to provide in job positions held by Covered Workers, then it shall offer those hours of work first to existing qualified part-time employees before hiring additional part-time employees or subcontractors.

7.45.040 Require That Service Charges and Tips Go To Those Performing The Service

A. Any service charge imposed on customers of, or tips received by employees of, a Hospitality Employer shall be retained by or paid to the nonmanagerial, nonsupervisory Hospitality or Transportation Workers who perform services for the customers from whom the tips are received or the service charges are collected.

B. The amounts received from tips or service charges shall be allocated among the workers who performed these services equitably; and specifically:

- 1) Amounts collected for banquets or catered meetings shall be paid to the worker(s) who actually work with the guests at the banquet or catered meeting; and
- 2) Amounts collected for room service shall be paid to the worker(s) who actually deliver food and beverage associated with the charge; and
- 3) Amounts collected for portage service shall be paid to the worker(s) who actually carry the baggage associated with the charge.

7.45.050 Establishing A Living Wage For Hospitality Workers and Transportation Workers

A. Each Hospitality Employer and Transportation Employer shall pay Covered Workers a living wage of not less than the hourly rates set forth in this section. The rate upon enactment shall be fifteen dollars (\$15.00) per hour worked.

B. On January 1, 2015, and on each following January 1, this living wage shall be adjusted to maintain employee purchasing power by increasing the current year's wage rate by the rate of inflation. The increase in the living wage rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the twelve months prior to each September 1st as calculated by the United States department of labor. The declaration of the Washington State Department of Labor and Industries each September 30 regarding the rate by which Washington State's minimum wage rate is to be increased effective the following January 1, pursuant to RCW 49.46.020(4)(b), shall be the authoritative determination of the rate of increase to be applied for purposes of this provision.

C. The City Manager shall publish a bulletin by October 15 of each year announcing the adjusted rates. Such bulletin will be made available to all Hospitality Employers and Transportation 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.

D. Each Hospitality Employer and Transportation Employer shall provide written notification of the rate adjustments to each of its workers and make the necessary payroll adjustments by January 1 following the publication of the bulletin. Tips, gratuities, service charges and commissions shall not be credited as being any part of or be offset against the wage rates required by this Chapter.

7.45.060 Setting Additional Labor Standards for City Hospitality Workers and Transportation Workers

A. Notice to Employees. No less than 60 days prior to the termination of a Predecessor Employer's contract, the Predecessor Employer shall notify all Retention Employees in writing that they have been placed on a qualified displaced worker list and that the Successor Employer may be required to offer him/her continued employment. The notice shall include, if known, the name, address, and contact information of the Successor Employer. A copy of this notice, along with a copy of the qualified displaced worker list, shall also be sent to the City Manager.

B. Retention Offer. Except as otherwise provided herein, the Successor Employer shall offer employment to all qualified Retention Employees. A Successor Employer who is a Hospitality Employer shall, before hiring off the street or transferring workers from elsewhere, offer employment to all qualified retention employees of any predecessor employer that has

provided similar services at the same facility. If the Successor Employer does not have enough positions available for all qualified Retention Employees, the Successor Employer shall hire the Retention Employees by seniority within each job classification. For any additional positions which become available during the initial ninety-day period of the new contract, the Successor Employer will hire qualified Retention Employees by seniority within each job classification.

C. Retention Period. A Successor Employer shall not discharge a Retention Employee without just cause during the initial ninety-day period of his/her employment.

D. An employee is “qualified” within the meaning of this Section if he/she has performed similar work in the past (and was not discharged for incompetence) or can reasonably be trained for the duties of a position through an amount of training not in excess of the training that has been provided by the employer to workers hired off the street.

E. The requirements of this Chapter shall not be construed to require any Hospitality Employer or Transportation Employer to offer overtime work paid at a premium rate nor to constrain any Hospitality Employer or Transportation Employer from offering such work.

7.45.070 Employee Work Environment Reporting Requirement

A. Hospitality Employers and Transportation Employers shall retain records documenting hours worked, paid sick and safe time taken by Covered Workers, and wages and benefits provided to each such employee, for a period of two years, and shall allow the City Manager or designee access to such records, with appropriate notice and at a mutually agreeable time, to investigate potential violations and to monitor compliance with the requirements of this Chapter.

B. Hospitality Employers and Transportation Employers shall not be required to modify their recordkeeping policies to comply with this Chapter, as long as records reasonably indicate the hours worked by Covered Workers, accrued paid sick and safe time, paid sick and safe time taken, and the wages and benefits provided to each such Covered Worker. When an issue arises as to the amount of accrued paid sick time and/or paid safe time available to a Covered Worker under this chapter, if the Hospitality Employers and Transportation Employers does not maintain or retain adequate records documenting hours worked by the Covered Worker and paid sick and safe time taken by the Covered Worker, it shall be presumed that the Hospitality Employers and Transportation Employers has violated this chapter.

C. Records and documents relating to medical certifications, re-certifications or medical histories of Covered Worker or Covered Workers’ family members, created for purposes of this chapter, are required to be maintained as confidential medical records in separate files/records from the usual personnel files. If the Americans with Disabilities Act (ADA) and/or the Washington Law Against Discrimination (WLAD) apply, then these records must comply with the ADA and WLAD confidentiality requirements.

7.45.080 Waivers

The provisions of this Chapter may not be waived by agreement between an individual Covered Worker and a Hospitality or Transportation Employer. All of the provisions of this Chapter, or any part hereof, including the employee work environment reporting requirement set forth herein, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this chapter.

7.45.090 Prohibiting Retaliation Against Covered Workers For Exercising Their Lawful Rights

A. It shall be a violation for a Hospitality Employer or Transportation Employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

B. It shall be a violation for a Hospitality Employer or Transportation Employer to take adverse action or to discriminate against a Covered Worker because the Covered Worker has exercised in good faith the rights protected under this Chapter. Such rights include but are not limited to the right to file a complaint with any entity or agency about any Hospitality Employer's or Transportation Employer's alleged violation of this chapter; the right to inform his or her employer, union or other organization and/or legal counsel about a Hospitality Employer's or Transportation Employer's alleged violation of this section; the right to cooperate in any investigation of alleged violations of this chapter; the right to oppose any policy, practice, or act that is unlawful under this section; and the right to inform other Covered Workers of their rights under this section. No Covered Worker's compensation or benefits may be reduced in response to this Chapter or the pendency thereof.

C. The protections afforded under subsection B shall apply to any person who mistakenly but in good faith alleges violations of this Chapter.

7.45.100 Enforcement of Chapter

A. Any person claiming violation of this chapter may bring an action against the employer in King County Superior Court to enforce the provisions of this Chapter and shall be entitled to all remedies available at law or in equity appropriate to remedy any violation of this chapter, including but not limited to lost compensation for all Covered Workers impacted by the violation(s), damages, reinstatement and injunctive relief. A plaintiff who prevails in any action to enforce this Chapter shall be awarded his or her reasonable attorney's fees and expenses.

B. The City shall adopt auditing procedures sufficient to monitor and ensure compliance by Hospitality Employers and Transportation Employers with the requirements of this Chapter. Complaints that any provision of this Chapter has been violated may also be presented to the City Attorney, who is hereby authorized to investigate and, if it deems appropriate, initiate legal or other action to remedy any violation of this chapter; however, the City Attorney is not obligated to expend any funds or resources in the pursuit of such a remedy.

C. Nothing herein shall be construed to preclude existing remedies for enforcement of Municipal Code Chapters.

7.45.110 Exceptions

The requirements of this Chapter shall not apply where and to the extent that state or federal law or regulations preclude their applicability. To the extent that state or federal law or regulations require the consent of another legal entity, such as a municipality, port district, or county, prior to becoming effective, the City Manager is directed to formally and publicly request that such consent be given.

Section 3. That the effective date of this Ordinance shall be January 1, 2014.

Section 4. The Code Reviser is authorized to change the numbering and formatting this Ordinance to conform with the SeaTac Municipal Code codification in a manner that is consistent with the intent and language of this Ordinance.

Section 5. Severability. If any provision of this Ordinance is declared illegal, invalid or inoperative, in whole or in part, or as applied to any particular Hospitality or Transportation Employer and/or in any particular circumstance, by the final decision of any court of competent jurisdiction, then all portions and applications of this Ordinance not declared illegal, invalid or inoperative, shall remain in full force or effect to the maximum extent permissible under law.