

ORDINANCE NO. _____

An ordinance adding Article 2 to Chapter XVIII of the Los Angeles Municipal Code requiring the recall of employees laid off during the COVID-19 pandemic and retention of employees in a transition between employers.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 2 is added to Chapter XVIII of the Los Angeles Municipal Code to read as follows:

ARTICLE 2

COVID-19 RECALL ORDINANCE

SEC. 182.01. PURPOSE.

The COVID-19 pandemic has caused hospitality and property service employers in the City to discharge, layoff and furlough workers at a massive scale. Many thousands of hotel, stadium, janitorial and airport concession passenger service and ground serviceworkers have been separated from their jobs already during the pandemic, and many thousands more are expected to face separation in the coming months. While federal, state, and local programs, and efforts by non-profits, have provided some support to hospitality and property service workers in the short-term, what these workers need most is the promise of a return to their previous jobs as the pandemic recedes and business returns. Ensuring that hospitality and property service employers honor their former employees' right to return will speed the transition back to a functioning labor market and will lessen the damage to the City's economy.

SEC. 182.02. DEFINITIONS.

The definitions set forth in this section shall govern the construction and meaning of the terms used in this article:

- (a) "Airport" means the Department of Airports and each of the airports which it operates.
- (b) "Airport hospitality operation" means a business enterprise that prepares, delivers, inspects, or provides any other service in connection with the preparation of, food or beverage for aircraft crew or passengers at the Airport, or that provides food and beverage, retail, or other consumer goods or services to the public at the Airport. The term airport hospitality operation does not include an air carrier certificated by the Federal Aviation Administration.
- (c) "Property service" means janitorial, building maintenance security services, as well as airport passenger or ground services.
- (d) "Employee" means any individual who in a particular week performs at least two hours of work within the geographic boundaries of the City for an Employer.

(e) “Employer” means any person, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, owns or operates an enterprise within the City of Los Angeles and employs or exercises control over the wages, hours or working conditions of any employee.

(f) “Enterprise” means a hotel, event center, airport hospitality operation, or the provision of property services to office, retail, event center, government, airport or other commercial buildings.

(g) “Event center” means a publicly or privately owned structure of more than 50,000 square feet or 1000 seats that is used for the purposes of public performances, sporting events, business meetings, or similar events, and includes concert halls, stadiums, sports arenas, racetracks, coliseums, and convention centers. The term “event center” also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the event center’s purpose, including food preparation facilities, concessions, retail stores, restaurants, bars, and structured parking facilities.

(h) “Hotel” has the same meaning as in section 186.01, subsection D.

(i) “Laid-off employee” means any employee who was employed by the employer for six months or more in the 12 months preceding January 31, 2020, and whose most recent separation from active service occurred after January 31, 2020, and was due to a government shutdown order, lack of business, a reduction in force or other, economic, non-disciplinary reason.

(j) “Length of Service” means the total of all periods of time during which an employee has been in active service, including periods of time when the employee was on leave or on vacation.

SEC. 182.03. RIGHT OF RECALL.

(a) An employer shall offer its laid-off employees in writing, by return-receipt mail to their last known physical address, and by email and text message to the extent the employer possesses such information, all job positions which become available after this article’s effective date for which the laid-off employees are qualified. A laid-off employee is qualified for a position if the employee:

(1) held the same or similar position at the enterprise at the time of the employee’s most recent separation from active service with the employer; or

(2) is or can be qualified for the position with the same training that would be provided to a new employee hired into that position.

The employer shall offer positions to laid-off employees in an order of preference corresponding to categories (1) and (2) in the preceding sentence. Where more than one employee is entitled to preference for a position, the employer shall offer the position to the laid-off employee with the greatest length of service for the enterprise.

(b) A laid-off employee who is offered a position pursuant to this Article shall be given no less than 10 business days in which to accept or decline the offer. A “business day” is any day except Saturday, Sunday or official state holidays.

(c) An employer that declines to recall a laid-off employee on the grounds of lack of qualifications and instead hires someone other than a laid-off employee shall provide the laid-off employee a written notice within 30 days identifying those hired in lieu of such recall, along with all reasons for such decision.

(d) The requirements of this Article also apply in the following circumstances:

(1) The ownership of the employer changed after the separation from employment of a laid-off employee but the enterprise is conducting the same or similar operations as before January 31, 2020;

(2) The form of organization of the employer changed after January 31, 2020;

(3) Substantially all of the assets of the employer were acquired by another entity which conducts the same or similar operations using substantially the same assets;

(4) The employer relocates the operations at which a laid-off employee was employed before January 31, 2020 to a different location within the City; and

(5) Any combination of the circumstances described in paragraphs (1) through (4).

SEC. 182.04. RETALIATORY ACTION PROHIBITED.

No employer shall refuse to employ, terminate, reduce in compensation, or otherwise take any adverse action against any person for seeking to enforce his or her rights under this Article by any lawful means, for participating in proceedings related to this Article, for opposing any practice proscribed by this Article, or for otherwise asserting rights under this article. This Section shall also apply to any employee who mistakenly, but in good faith, alleges noncompliance with this Article.

SEC. 182.05. WORKER RETENTION.

Article 3 of this chapter shall apply to all employers subject to this article. The term “Hotel Employer” in article 3 shall be deemed to mean “employer” as defined in this article.

SEC. 182.06. ENFORCEMENT.

This Article may be enforced in accordance with the procedures set forth in article 8 of this chapter and the remedies set forth in that article shall apply to violations of this article.

SEC. 182.07. REGULATIONS.

The Office of Wage Standards may promulgate and enforce rules and regulations, and issue determinations and interpretations, consistent with and necessary for the implementation of this article. Such rules and regulations, determinations and interpretations shall have the force of

law and may be relied upon by employers, employees, and other persons to determine their rights and responsibilities under this Article.

SEC. 182.08. NO PREEMPTION OF HIGHER STANDARDS.

The purpose of this Article is to ensure minimum labor standards. This Article does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City. This Article shall not be construed to limit a discharged employee's right to bring a common law cause of action for wrongful termination.

SEC. 182.09. EXEMPTION FOR COLLECTIVE BARGAINING AGREEMENT.

All of the provisions of this article, or any part of the article, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in that 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 article.

SEC. 182.10. SEVERABILITY.

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.