



STOKES WAGNER

ATTORNEYS AT LAW

ATLANTA • ITHACA • LOS ANGELES • PITTSBURGH • SAN DIEGO • SAN FRANCISCO

## West Hollywood's Hotel Worker Protection Ordinance

On August 2, 2021, the City Council of West Hollywood approved a Hotel Worker Ordinance, which establishes additional protections for hotel workers in the City of West Hollywood. The ordinance includes provisions on the use of personal security devices, workload limitations based on square footage, right to recall, and hotel worker retention. The ordinance also includes novel provisions such as the creation of a "Public Housekeeping Training Organization" and financial hardship waivers.

### "HOTEL," "HOTEL EMPLOYER," AND "HOTEL WORKER" DEFINED

Under the Ordinance, "hotel" is defined as a commercial facility with guest rooms or suites, provided with or without meals or kitchen facilities, rented to the general public for overnight or other lodgings that may include accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses and meeting facilities. The definition includes private clubs with guest rooms available for overnight lodging.

A "hotel Employer" includes any person who owns, controls, or operates a hotel in the City of West Hollywood 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.

A "hotel Worker" is any person who is employed by a hotel Employer, but the definition does not include managerial, supervisory, or confidential employees.

### MEASURES TO PROTECT HOTEL WORKERS FROM VIOLENT OR THREATENING CONDUCT

Hotel employers are required to provide a personal security device to hotel workers assigned to work in a guestroom or restroom facility where other hotel workers are not present. Hotel workers must be able to activate the personal security device when in the presence of violent or threatening conduct or in case of emergency. A security guard, manager, or supervisory hotel staff member must provide immediate on-scene assistance in the event the personal security device is activated. The ordinance prohibits hotel employers from retaliating against a hotel worker for activating the personal security device, absent clear and convincing evidence that the hotel worker knowingly and intentionally made a false claim of emergency. The hotel must retain records of incidents when the personal security devices were activated for a period of three years from the date of the incident.

Hotel workers who bring violent or threatening conduct by a hotel guest to the attention of the hotel employer have the following rights:

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1. The right to paid time to report the conduct to law enforcement and to consult a counselor or advisor of their choice.
2. The right to report the conduct to law enforcement without the hotel employer's interference.
3. The right **not** to report the conduct without retaliation by the hotel employer.
4. The right to reasonable accommodations.

Hotel's required to train hotel workers on the use of the personal security device and their rights.

**This provision takes effect on January 1, 2022.**

#### MEASURES TO PROVIDE FAIR COMPENSATION FOR WORKLOAD

The ordinance provides workload limitations based on square footage. The maximum amount of floor space a room attendant may clean in an 8-hour workday depends on the number of guest rooms at the hotel.

Number of Guest Rooms at hotel	8-hour Workload Limit
< 40 Guest Rooms	4,000 sq. ft.
≥ 40 Guest Rooms	3,500 sq. ft.

The hotel employer may require room attendants to clean more than the limit but must pay the room attendant **twice** the room attendant's regular rate of pay **for each and every hour worked** during the workday. If a room attendant is assigned to clean seven or more check-out rooms or additional bed rooms during an eight-hour workday, each check-out room counts as 500 square feet, regardless of the actual square footage of each room. The workload limits may be reduced or increased on a prorated basis when the hotel worker works less or more than 8 hours in a workday.

Hotel employers are prohibited from requiring a hotel worker to work more than 10 hours in a workday, unless (1) the hotel worker consents in writing and (2) the hotel employer provides 7 days written notice prior to obtaining the hotel worker's consent. The employee's consent must inform them that they may decline to work more than 10 hours in a workday without fear of retaliation.

Hotel employers are required to maintain records of the room attendant's name, rate of pay, pay received, rooms cleaned or total square footage cleaned each workday, overtime hours worked, and any written consent for a period of **three years**.

**This provision takes effect on January 1, 2022.**

#### RIGHT OF HOTEL WORKER RECALL

A hotel employer must offer to laid-off hotel workers, by order of seniority, all job positions that become available for which the hotel worker is qualified. The hotel employer must first offer the position to hotel workers who held the same or similar position at the time they were laid off, then to hotel workers who are or can be qualified for the position with the same training that would be provided to a new hire. The hotel worker has **10 days** to accept

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or decline the offer. The hotel employer is required to provide a notice of non-selection to employees who were not selected on the grounds of lack of qualification within 30 days of hiring.

Hotel employers must provide a notice of rights to laid-off hotel workers. Those who were laid off prior to the Ordinance's effective date must be provided notice by September 30, 2021. For future layoffs, the notice must be provided at the time of layoff.

Hotel employers must retain records regarding each laid-off worker for a period of 3 years.

**This provision takes effect on September 1, 2021.**

#### **HOTEL WORKER RETENTION**

Hotel employers must post written notice of change in control at the location of the affected hotel within five days of the change in control. The notice must remain posted during any closure and for six months following the day the hotel reopens under the successor.

Within 15 days of the change in control, the prior employer must provide a list of eligible hotel workers to the successor employer. The successor employer is to hire from this list for 90 days from the date of the change in control. The offer must remain open for 10 business days. The employment offered must be for no less than 90 days.

There are two exceptions. One, the successor employer is not required to hire hotel workers if the successor employer has reasonable and substantiated cause based on the hotel worker's individual performance while employed with the prior employer. Two, the successor employer requires fewer hotel workers.

#### **PUBLIC HOUSEKEEPING TRAINING ORGANIZATION**

The ordinance requires the city manager to establish a process where the City will certify and designate at least one "Public Housekeeping Training Organization" ("Training Organization"). Hotel employers will be required to contract with a Training Organization to conduct a training program, administer a Public Housekeeping Examination, and issue Public Housekeeping Certificates to persons who successfully complete the program and examination. Hotel employers are prohibited from employing a hotel worker for more than 120 days unless the hotel worker presents a valid Public Housekeeping Certificate.

**This provision takes effect on July 1, 2022.**

#### **FINANCIAL HARDSHIP WAIVER**

Hotel employers, who demonstrate that compliance with the ordinance would require the hotel employer to reduce its workforce by more than 20 percent or curtail its hotel workers' total hours by more than 30 percent in order to avoid bankruptcy or shutdown, may receive a waiver valid for one year. Hotel employers must provide written notice to all hotel workers prior to submitting a waiver application.

#### **EFFECTS OF A COLLECTIVE BARGAINING AGREEMENT**

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A collective bargaining agreement may waive the provisions regarding measures to provide fair compensation for workload, right of hotel worker recall, and hotel worker retention.

#### OTHER REQUIREMENTS AND REMEDIES

Hotel employers must provide notice of the hotel workers' rights under the ordinance at the time of hire or September 1, 2021, whichever is later. Hotel employers are prohibited from retaliating against hotel workers for exercising their rights under the ordinance.

Civil remedies available to an aggrieved person include an injunction, damages, penalties, and attorneys' fees and costs.

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