

ORDINANCE NO. 178084

An ordinance adding Article 4 to Chapter XVIII of the Los Angeles Municipal Code to require LAX-area hotels to pass along service charges to those hotel service workers who render the services for which the charges are collected.

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

Section 1. A new Article 4 is added to Chapter XVIII of the Los Angeles Municipal Code to read:

**ARTICLE 4**

**HOTEL SERVICE CHARGE REFORM ORDINANCE**

**SEC. 184.00. PURPOSE.**

The Los Angeles International Airport (LAX) is among the world's busiest airports, hosting millions of travelers every year. The City of Los Angeles (City) operates and maintains LAX, and as a result of this support the businesses in the area adjacent to LAX reap significant economic benefits. In particular, the hotels in the LAX area enjoy the highest occupancy rate of all Los Angeles hotels due to their proximity to LAX.

Despite the high occupancy rates of hotels in the LAX area, many of these hotels fail to pay their service workers a living wage which in the City is currently \$10.64 per hour without health benefits or \$9.39 per hour with health benefits. Because of the low hourly wages paid by these hotels, service employees naturally rely on gratuities paid by hotel customers.

In recent years, hotels in the LAX area have instituted the practice of adding a "service charge" of 15% to 20% of the bill for banquets and other large group events. The service charge is typically listed as a line item on the bill. Some hotels pass a portion of the service charge to the workers who actually performed the services, while other hotels retain the entire service charge. Currently, there is nothing illegal about this practice. Since hotels have instituted the practice of adding service charges to bills, many hotel workers have reported a significant reduction in the gratuities they receive from hotel guests. Thus, many hotel customers reduce or eliminate gratuities (tips) they would otherwise pay to service workers because they assume that the workers receive the "service charges," which are added to their bills.

By way of this ordinance, the City seeks to improve the welfare of service workers at the LAX-area hotels by ensuring that they receive decent compensation for the work they perform. Accordingly, to the extent that LAX-area hotels institute or continue the practice of charging their customers "service charges," they will be required

by this ordinance to pass the entire service charge on to the workers who actually performed the services for which the service charges are billed. Whereas the LAX-area hotels derive a distinct benefit from their location near LAX, they have both the ability and responsibility to support the local workforce by engaging in fair employment practices.

#### **SEC. 184.01. DEFINITIONS.**

The following definitions shall apply to this chapter:

A. **“City”** means the City of Los Angeles.

B. **“Hotel”** means a residential building located within the area designated by ordinance as the Gateway to LA (Century Corridor) Property Business Improvement District (Century Corridor PBID) that is designated or used for lodging and other related services for the public, and containing 50 or more guest rooms, or suites of rooms. “Hotel” also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building. If the Century Corridor PBID ceases to exist, the boundaries at the time of dissolution shall remain in effect for purposes of this article.

C. **“Hotel Employer”** means a Person who owns, controls, and/or operates a Hotel, or a Person who owns, controls, and/or operates any contracted, leased, or sublet premises connected to or operated in conjunction with the Hotel’s purpose, or a Person who provides services at the Hotel.

D. **“Hotel Worker”** means any individual (1) whose primary place of employment is at a Hotel, (2) who is employed directly by the Hotel Employer or by a Person who has contracted with the Hotel Employer to provide services at the Hotel, and (3) who performs a service for which the Hotel Employer imposes a Service Charge. “Hotel Worker” does not include a managerial, supervisory, or confidential employee.

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

F. **“Service Charge”** means all separately-designated amounts collected by a Hotel Employer from customers that are for service by Hotel Workers, or are described in such a way that customers might reasonably believe that the amounts are for those services, including but not limited to those charges designated on receipts under the term “service charge,” “delivery charge,” or “portage charge.”

G. **“Willful Violation”** means that the Hotel Employer deliberately failed or refused to comply with its provisions of this article.

**SEC. 184.02. HOTEL EMPLOYERS' RESPONSIBILITIES.**

A. Service Charges shall not be retained by the Hotel Employer but shall be paid in the entirety by the Hotel Employer to the Hotel Worker(s) performing services for the customers from whom the Service Charges are collected. No part of these amounts may be paid to supervisory or managerial employees. The amounts shall be paid to Hotel Worker(s) equitably and according to the services that are or appear to be related to the description of the amounts given by the hotel to the customers. The amounts shall be paid to the Hotel Workers in the next payroll following collection of an amount from the customer. Without limitation of the foregoing:

1. Amounts collected for banquets or catered meetings shall be paid equally to the Hotel Workers who actually work the banquet or catered meeting; and
2. Amounts collected for room service shall be paid to the Hotel Workers who actually deliver food and beverage associated with the charge.
3. Amounts collected for portage service shall be paid to the Hotel Workers who actually carry the baggage associated with the charge.

B. This section does not apply to any tip, gratuity, money, or part of any tip, gratuity, or money that has been paid or given to or left for a Hotel 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.

**Sec. 184.03. RETALIATORY ACTION PROHIBITED.**

A. No Hotel Employer employing Hotel Workers shall discharge, reduce in compensation, or otherwise discriminate against any Hotel Worker for opposing any practice proscribed by this article, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

**Sec. 184.04. ENFORCEMENT.**

A. A Hotel Worker claiming violation of this article may bring an action in the Superior Court of the State of California, as appropriate, against a Hotel Employer and may be awarded:

1. For failure to pay Service Charges required by this article – Service Charge reimbursement for each violation.
2. For retaliatory action -- reinstatement, back pay, Service Charge reimbursement or other equitable relief the court may deem appropriate.

3. For Willful Violations, the amount of monies to be paid under Paragraphs 1 and 2 shall be trebled.

B. If a Hotel Worker is the prevailing party in any legal action taken pursuant to this article, the court shall award reasonable attorney's fees and costs as part of the costs recoverable.

C. Notwithstanding any provision of this Code or any other ordinance to the contrary, no criminal penalties shall attach for violation of this article.

**SEC. 184.05. EXEMPTION FOR COLLECTIVE BARGAINING AGREEMENT.**

All of the provisions of this article, or any part of this article, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in the 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. 184.06. NO WAIVER OF RIGHTS.**

Except for bona fide collective bargaining agreements, any waiver by a Hotel Worker of any or all of the provisions of this article shall be deemed contrary to public policy and shall be void and unenforceable. Any attempt by a Hotel Employer to have a Hotel Worker waive rights given by this article shall constitute a violation of this article.

**SEC. 184.07. COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR SPECIFIC DEPRIVATIONS OF PROTECTED RIGHTS.**

This article shall not be construed to limit a Hotel Worker's right to bring legal action for violation of other minimum compensation laws.


**SEC. 184.08. SEVERABILITY.**

If any provision of this article is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles NOV 15 2006, and was passed at its meeting of NOV 22 2006.

FRANK T. MARTINEZ, City Clerk

By   
Deputy

Approved NOV 22 2006

  
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By Claudia Cullin for  
ADRIENNE KHORASANEE  
Deputy City Attorney

Date 10/17/06

File No. 06-0362