

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM,
CALIFORNIA, ADDING CHAPTER 6.101 (HOTEL WORKER PROTECTIONS)
TO TITLE 6 OF THE ANAHEIM MUNICIPAL CODE TO PROVIDE SAFETY AND
SECURITY MEASURES FOR HOTEL WORKERS IN ANAHEIM

WHEREAS, the City of Anaheim is a charter city organized pursuant to Article XI of the California Constitution and pursuant to the authority so granted, the City has the power to make and enforce within its limits all ordinances and regulations with respect to municipal affairs not in conflict with its own charter. Such powers include, without limitation, the ability to adopt regulations pertaining generally to the protection and promotion of the public health, safety, and welfare; and

WHEREAS, hotel workers are vital contributors to the Anaheim community and the hospitality industry is an essential component of the City's economy; and

WHEREAS, hotel workers who work by themselves in guest rooms are vulnerable to crimes and other threatening behavior, including sexual assault; and

WHEREAS, ensuring that hotel workers are equipped with personal security devices and supported in their ability to report criminal and threatening behavior to the proper authorities will promote their personal safety from criminal threat and improve public safety overall; and

WHEREAS, given that tourism is a large industry in the City and in the entire region, establishing the foregoing safety and security measures for hotel workers will improve worker safety and working conditions, and thereby promote the public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANAHEIM DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The findings and determinations reflected in the above recitals are true and correct and incorporated herein by this reference.

SECTION 2. Chapter 6.101 of Title 6 of the Anaheim Municipal Code is hereby added to read in its entirety as follows:

Chapter 6.101 – Hotel Worker Protections

6.101.010. Definitions.

As used in this chapter, the following words, terms and phrases shall have the meanings set forth below, unless the context requires otherwise:

.010 “Adverse employment action” means an action that detrimentally and materially affects the terms, conditions, or privileges of employment, including but not limited to, any act to discharge, reduce in compensation, reduce work hours, alter established work schedules, increase workload, impose fees or charges, or change duties of a hotel worker.

.020 “City” means the City of Anaheim, California.

.030 “Emergency” means an immediate threat to public safety or of substantial risk of property loss or destruction.

.040 “Guest” means a registered guest of a hotel, a person occupying a guest room with a registered guest, or a visitor invited to a guest room by a registered guest or other person occupying a guest room.

.050 “Guest room” means any room, suite of rooms, dwelling unit, cottage, or bungalow intended to be used by a guest of a hotel for transient sleeping purposes.

.060 “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, transient occupancy residential structures, and extended-stay hotels that rent units (including units with kitchens) for thirty days or less, 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” 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” does not include a Short-Term Rental, as defined in Chapter 4.05 of the Anaheim Municipal Code.

.070 “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.

.080 “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.

.090 “Personal security device” means a portable emergency contact device, including but not limited to a panic button, that signals the hotel worker’s location and that provides direct contact between a hotel worker and a hotel security guard or responsible manager or supervisor designated by a hotel employer to respond to violent or threatening conduct. A personal security device does not include a whistle, noise-maker, alarm bell, or similar device that does not provide direct contact between the hotel worker and the designated security officer.

.100 “Response personnel” means the designated safety and security personnel assigned to monitor and immediately and properly respond to personal security device activations, which must include at least one person who is on duty 24 hours a day.

.110 “Violent or threatening conduct” means: (1) any conduct that involves the use of physical violence or that would reasonably be interpreted as conveying a threat of the use of physical violence, and includes but is not limited to rape, assault (including sexual assault), and battery (including sexual battery), as defined by the California Penal Code, as well as any threat or attempt to commit such an act; or (2) any sexual conduct, or solicitation to engage in sexual conduct, directed at a hotel worker without

the consent of the hotel worker and includes, but is not limited to, indecent exposure as defined by the California Penal Code.

6.101.020. Measures to protect hotel workers from violent or threatening conduct.

.010 Personal Security Devices.

.0101 A hotel employer shall provide a personal security device to each hotel worker assigned to work in a guest room or restroom facility where other hotel workers are not assigned to be present. The personal security device shall be provided at no cost to the hotel worker and shall be maintained in good working order by the hotel employer.

.0102 A hotel worker may activate a personal security device whenever a hotel worker reasonably believes that violent or threatening conduct or an emergency is occurring on hotel property and/or in the workplace and in the hotel worker's presence. Immediately prior to or upon activating the device, the hotel worker may cease work and leave the immediate area of danger to await assistance. No hotel worker shall be subject to an adverse employment action for activating a personal security device or for ceasing work to await assistance absent clear and convincing evidence that the hotel worker knowingly and intentionally made a false claim of emergency.

.0103 A hotel employer shall at all times have designated and assigned response personnel who can receive alerts from personal security devices and provide immediate on-scene assistance in the event that a personal security device is activated. Hotels must keep accurate and contemporaneous records of the individuals/positions assigned as response personnel.

.0104 Nothing in this Ordinance shall be construed to obligate a hotel worker to utilize the personal security device as opposed to dialing 911 or otherwise directly contacting law enforcement personnel to report violent or threatening conduct or an emergency. To the extent the hotel worker chooses to utilize 911 or direct law enforcement reporting instead of, or in addition to, the personal security device, all rights and obligations of the hotel worker and the hotel employer shall remain the same under this Ordinance.

.020 Hotel Workers' Rights. A hotel worker who brings to the attention of a hotel employer violent or threatening conduct occurring on hotel property and/or in the workplace shall be afforded the following rights:

.0201 A hotel employer shall allow a hotel worker sufficient paid time of up to 3 hours on the date of the incident to report violent or threatening conduct to a law enforcement agency and to consult with a counselor or advisor of the hotel worker's choice.

.0202 A hotel employer shall not prevent, or attempt to prevent, a hotel worker from reporting violent or threatening conduct to a law enforcement agency.

.0203 A hotel employer shall not take or threaten to take any adverse employment action against a hotel worker based on the hotel worker's decision to report or not to report violent or threatening conduct to a law enforcement agency.

.0204 Upon request by a hotel worker, a hotel employer shall provide reasonable accommodations to a hotel worker who has been subjected to violent or threatening conduct.

Reasonable accommodations may include, but are not limited to, a modified work schedule, reassignment to a vacant position, or other reasonable adjustment to job structure, workplace facility, or work requirements.

.030 Notice. A hotel employer shall notify all guests of the requirements of this Ordinance by (1) at the time of guest room check in, requiring guests to acknowledge either electronically or in person that “Anaheim law protects hotel workers from threatening behavior, and in compliance with such law, this hotel provides personal security devices to its employees”; and (2) prominently placing in each guest room written notification that “Anaheim law protects hotel workers from threatening behavior,” providing a citation to this chapter of the Anaheim Municipal Code, and notifying guests that the hotel employer provides personal security devices to its employees.

.040 Training. A hotel employer shall provide comprehensive training to its hotel workers regarding how to use and maintain a personal security device, the hotel employer’s protocol for responding to activation of a personal security device, and the rights of hotel workers and obligations of the hotel employer as set forth in this section. Such training shall take place during paid work hours and be provided to hotel workers by the later of thirty (30) days after the effective date of this chapter or within thirty (30) days of the hotel worker’s date of hire, as well as annually thereafter. The training shall be in English and in each language known by the hotel employer to be spoken by ten (10) percent or more of the hotel workers employed by the hotel employer. The hotel employer shall maintain accurate records demonstrating attendance at such trainings.

In addition to the training provided to hotel workers, a hotel employer shall provide comprehensive training, during paid work hours, to hotel response personnel on: (1) the requirements of this chapter; (2) the proper functioning and maintenance of the hotel’s personal security devices; and (3) the protocols for responding to an activated personal security device. Such training shall be conducted at least annually, and the hotel employer shall maintain accurate records demonstrating attendance at such training.

.050 Records. A hotel employer shall retain records of incidents where the personal security devices were activated for a period of three (3) years from the incident.

6.101.030. Retaliatory action prohibited.

No person shall discharge, reduce in compensation, discriminate, or otherwise take an adverse employment action against a hotel worker for opposing any practice proscribed by this chapter, for participating in proceedings related to this chapter, for seeking to enforce their rights under this chapter by any lawful means, or for otherwise exercising rights protected under this chapter. A hotel employer taking any adverse employment action against any hotel worker who is known to have engaged in any of the foregoing activities within one (1) year preceding the adverse employment action shall provide to the hotel worker at or before the time of the adverse employment action a detailed written statement of the reason or reasons for the discharge or other adverse employment action, including all the facts claimed to substantiate the reason or reasons.

6.101.040. Administrative regulations.

The City Manager or designee is authorized to adopt administrative regulations that are consistent with and in furtherance of the provisions of this chapter. Violations of the administrative

regulations adopted pursuant to this section shall constitute violations of this chapter and shall subject the violator to the penalties set forth in this chapter.

6.101.050. Civil Enforcement and Remedies.

.010 Civil action. Any aggrieved person may enforce the provisions of this chapter by means of a civil action.

.020 Injunction. Any person who commits an act, proposes to commit an act, or engages in any pattern or practice that violates this chapter may be enjoined therefrom by a court of competent jurisdiction. An action for injunction under this subsection may be brought by any aggrieved person or by any person or entity who will fairly and adequately represent the interests of an aggrieved person or persons.

.030 Damages and penalties. Any person who violates the provisions of this chapter is liable for any actual damages suffered by any aggrieved person or for statutory damages up to the amount of \$100 per aggrieved person per day of violation, whichever is more, except that statutory damages shall not exceed \$500 per day in total. For willful violations, the amount of monies and penalties to be paid under this subsection shall be trebled.

.040 Attorneys' fees and costs. In a civil action brought under this section, the court shall award the prevailing party reasonable attorneys' fees and costs, including expert witness fees, except that, notwithstanding Section 998 of the Code of Civil Procedure, a prevailing defendant shall not be awarded fees and costs unless the court finds the action was frivolous, unreasonable, or groundless when brought, or the plaintiff continued to litigate after it clearly became so.

.050 Cumulative remedies. The remedies set forth in this chapter are cumulative. Nothing in this chapter shall be interpreted as restricting, precluding, or otherwise limiting a separate or concurrent criminal prosecution under this Municipal Code or State law.

.060 No criminal penalties. Notwithstanding any provision of the Anaheim Municipal Code or any other ordinance to the contrary, no criminal penalties shall attach for violation of this chapter.

.070 Coexistence with other available relief for deprivation of protected rights. This chapter shall not be construed to limit an aggrieved person's right to bring legal action for violation of any other federal, state, or local law.

6.101.060. Effective Date. This chapter shall take effect on January 1, 2024. If a hotel employer is unable, after exercising reasonable diligence, to procure sufficient personal security devices by January 1, 2024 to equip its hotel workers as required by this chapter, it may apply for an extension of time as provided in the Administrative Regulations promulgated pursuant to this chapter.

SECTION 3. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

SECTION 4. The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall be published as required by law and shall take effect as provided by law.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the ____ day of _____, 2023, and thereafter passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2023, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

MAYOR OF THE CITY OF ANAHEIM

ATTEST:

CITY CLERK OF THE CITY OF ANAHEIM