

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PETITION TO THE CITY COUNCIL

TO THE HONORABLE CITY COUNCIL OF THE CITY OF PROVIDENCE:

We, the undersigned qualified electors registered to vote in the City of Providence, acting pursuant to the initiative power created by the Providence Home Rule Charter, Art. II, Section 209, hereby petition the Providence City Council to enact an Ordinance Entitled:

"HOTEL WORKER MINIMUM WAGE; AN
ORDINANCE TO INCREASE SPENDING IN OUR
COMMUNITIES"

Providing as follows:

Be it Ordained by the City of Providence:

WHEREAS, the City of Providence finds that tourism, one of its largest private sector employers, is a vital element of the city's economy; and

WHEREAS, the City of Providence finds that the impact of increasing the hotel worker minimum wage will lead to more spending in other City businesses, thus creating additional revenue for City businesses, multiplying the amount of money in the City's economy and improving the City's climate to attract and sustain local business.

WHEREAS, this hotel worker minimum wage will amount on average to approximately \$1.85 more per room cleaned for hotel housekeepers in our City.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF PROVIDENCE that:

Section 1. The Code of Ordinances of the City of Providence, Chapter 2, entitled, "Administration," Article I, is hereby amended to add the following Section _____, titled "Hotel Worker Minimum Wage; An Ordinance To Increase Spending In Our Communities."

(a) Purpose.

The purpose of this ordinance is to increase the minimum wage for Providence hotel employees.

(b) Definitions.

Hotel includes any hotel, motel, resort, boarding house, or bed and breakfast which is kept, used or advertised as, or held out to the public as, a place where sleeping or housekeeping accommodations are supplied for pay to guests for leisure, business or group occupancy, which is operating within the City of Providence with at least 25 rooms, and any in-house component thereof, including housekeeping services, front desk, laundry, room service, valet, bell desk, restaurant, food and/or beverage service or other operation facilitating guest service located within a hotel, motel, resort, boarding house, or bed and breakfast containing at least 25 rooms.

Hotel Employer means a person, whether owner or a manager, who acts as the employer of employees defined below working in a hotel. This includes, but is not limited to, the owner,

management company, contractor, subcontractor, lessee, sublessee, or other person, that will employ employees to work in any part of the facility where a hotel has been located, but does not include guests or patrons of hotel who employ persons to perform work for the guest or patron during their stay.

Hotel Employee means any person employed to perform any services by a hotel employer, including part-time and on-call employees and employees on vacations or leaves of absence, but excluding any supervisors or and managerial employees as defined in 29 U.S.C. §152(11), and further excluding employees of guests or patrons of hotel who perform work for the guest or patron attendant to their stay. If a person or entity is an independent contractor for a hotel, said person or entity will not be considered an employee for the purposes of this ordinance.

Person means an individual, corporation, partnership, limited liability 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.

Service charge means all separately-designated amounts, regardless of name or label, that are added to the base charge for food or beverages, banquets, portage, valet, parking or other services and collected by a hotel employer from customers except taxes and fees levied by federal, state or local government. Service charges are in addition to hourly wages paid or payable to the employee or employees serving the customer.

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.

(c) Minimum Wage

(1) Each Hotel employer shall pay Hotel Employees an hourly wage of at least fifteen dollars (\$15.00) per hour worked.

(2) Tips, gratuities, service charges, commissions and employee fringe benefits covered by 29 U.S.C. §§ 1001 *et seq.* shall not be credited as being any part of, nor be offset against, the wage rates required by this Ordinance.

(3) Any standards relating to minimum wages, maximum hours, overtime compensation, or other working conditions in effect under any other federal, state or local law, or provided by any contract, custom or practice, which are more favorable to employees than those applicable to those employees under this Ordinance, shall not be deemed to be amended, rescinded, or otherwise affected by this chapter but shall continue in full force and effect.

(d) Service charges

Service charges shall not be retained by a hotel employer but shall be paid in the entirety by the hotel employer to the hotel employee(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 the hotel employee(s) equitably and according to the services that are or appear to be related to the description of the amounts given by the hotel employer to the customers. The amounts shall be paid to the hotel employee(s) 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 employee(s) who actually work the banquet or catered meeting; and

(2) Amounts collected for room service shall be paid to the hotel employee(s) who actually deliver food and beverage associated with the charge.

(3) Amounts collected for portage service shall be paid to the hotel employee(s) who actually carry the baggage associated with the charge. This subsection 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 employee(s) 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.

(e) **Effective Dates**

Except as provided herein, this Ordinance shall take effect as follows:

(1) For all hotels with two hundred (200) rooms or more, this Ordinance shall take effect twelve (12) months after passage.

(2) For all hotels with one hundred (100) rooms or more, this Ordinance shall take effect twenty-four (24) months after passage.

(3) For all hotels with twenty five (25) rooms or more, this Ordinance shall take effect thirty-six (36) months after passage.

(e) **Non-retaliation**

No hotel Employer may interfere with, restrain, or deny the exercise of, the prospective exercise of, or the attempt to exercise, any right protected under this Ordinance. No hotel Employer may discharge, layoff, discriminate against, or take adverse employment action against a hotel Employee for exercising the rights protected under this Ordinance (including making a charge, testifying, assisting, or participating in any manner in a claim under this Ordinance), or for the purpose of interfering with the attainment of any right to which the employee may become entitled under the Ordinance. Notwithstanding any other provision of this Ordinance, this section (e) shall be effective immediately upon passage.

(f) **Preservation of rights.**

1) No provision of this Ordinance shall be construed to impair, prohibit, or provide for any right of recovery for, that lawful exercise of employees' or employers' right to engage in strike or lockout.

2) Nothing in this Ordinance shall impose any obligation, direct or indirect, on any instrumentality of the State of Rhode Island.

(g) **Waivers**

The provisions of this Ordinance may not be waived, except that any provisions of this Ordinance may be waived by a bilateral collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms and is limited to the term of that agreement.

(h) **Enforcement.**

(1) An employee aggrieved by any violation of this Ordinance may bring an action at law in any court of competent jurisdiction of the State of Rhode Island within three years of the violation. The relief for a violation shall include:

(i) Damages for each day during which the violation continues,

(ii) Liquidated damages in an additional equal amount, doubling the damages in subsection (i), unless if the employer shows that the act or omission giving rise to such action was in good faith and that it had reasonable grounds for believing that its act or omission was not a violation.

(2) If the employee is the prevailing party in any such legal action, the court shall award the employee's reasonable attorney's fees in addition to the costs recoverable.

