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City of Anaheim, Initiative Ordinance to Increase Minimum Wage Payable by Certain Hospitality Industry Employers

Shall the initiative ordinance to increase the minimum wage payable by hospitality industry employers located in the Anaheim or Disneyland Resort Specific Plan Zones that have tax rebate agreements with the City, and to require that service charges imposed by such employers be paid entirely to employees, be adopted?

What your vote means

YES	NO
A “yes” vote would require specified hospitality employers in the Disneyland or Anaheim Resort Specific Plan Zones to pay a minimum wage of \$15/hour beginning on January 1, 2019, increasing yearly thereafter, and to approve the service charge requirement described above.	A “no” vote would not impose a higher minimum wage on those employers, who would instead continue to be required to pay the higher of the federal or state minimum wage, which will be \$12/hour beginning on January 1, 2019, increasing yearly thereafter.

For and against

FOR	AGAINST
<p>Al Jabbar President, Anaheim Union High School District</p> <p>Steve White Planning Commissioner</p> <p>Pedro Rabadan Small Business Owner</p> <p>Karen Romero Estrada Orange County Communities Organized for Responsible Development</p> <p>Rabbi Joel Berman Temple Beth Emet, Anaheim</p>	<p>Kris Murray Anaheim City Council Member</p> <p>Jimmie Kennedy Anaheim Police Chief, Retired</p> <p>Tony Serna Anaheim Small Business Owner and Board of Directors, Anaheim Chamber of Commerce</p> <p>Shirley McCracken Former Anaheim City Council Member and Retired School Teacher</p> <p>Jim Cain Chairman, Anaheim Hills Community Council</p>



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Full Text of Measure L City of Anaheim

The People of the City of Anaheim do ordain as follows:

Section 1: A new Chapter 6.99 is added to Title 6 of the Anaheim Municipal Code, as follows:

Title 6 – PUBLIC HEALTH AND SAFETY

Chapter 6.99 – LIVING WAGES PAID BY BENEFICIARIES OF CITY SUBSIDIES

6.99.010. PAYMENT OF MINIMUM WAGE TO EMPLOYEES.

.010 An Employer shall pay an Employee a wage of no less than the hourly rates set under the authority of this article.

.020 On and after January 1, 2019, an Employer shall pay a wage of no less than Fifteen Dollars per hour, which shall increase by One Dollar per hour on each January 1 thereafter through January 1, 2022.

.030 On January 1, 2023, and annually thereafter, the minimum wage will increase annually to reflect increases in the cost of living. The cost of living increase shall be the greater of (1) two percent (2%) or (2) the percentage increase as of September 30, 2022, and as of September 30 in any subsequent year for further annual adjustments, over the level as of September 30 of the preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles Metropolitan Area (Los Angeles-Riverside-Orange County, CA), which is published by the Bureau of Labor Statistics, U.S. Department of Labor or the successor index or federal agency. The City Manager shall publish a bulletin by November 1 of each year announcing the adjusted rates, which shall take effect the following January 1. Such bulletin will be made available to all Employers and to any other person who has filed with the City Manager a request to receive such notice, but lack of notice shall not excuse noncompliance with this section. The City Manager shall prescribe a poster advising Employees of their rights under this article and distribute it to all Employers. An Employer shall post the notice in a prominent place where it will be seen by Employees. An Employer shall provide written notification of the rate adjustments to each of its Employees and make the necessary payroll adjustments by January 1 following the publication of the bulletin.

.040 Tips or gratuities received by Employees, service charges or commissions and extra pay as lead workers or for special assignments or night work shall not be credited as being any part of or offset against the wage rates required by this section.

6.99.020. SERVICE CHARGES PAID TO EMPLOYEES RENDERING SERVICE.

Service charges shall not be retained by an Employer but shall be paid in the entirety by the Employer to the 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 Employee(s) equitably and according to the services that are or appear to be related to the description of the amounts given by the Employer to the customers. The amounts shall be paid to the Employee(s) in the next payroll following collection of an amount from the customer. 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 an Employee 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.

6.99.030. RETENTION OF RECORDS.

Each Employer shall preserve the employment records of each Employee for the three years preceding the effective date of this section, or if the Employee has been employed for less than three years, for the entire length of the Employee's employment prior to the effective date, and with respect to periods of employment after the effective date, each Employer shall preserve the employment records of each Employee for three years from the date of the creation of a record or any longer period of time required by other laws.

6.99.040. RETALIATION PROHIBITED.

No Employer shall discharge, reduce in compensation or otherwise discriminate against any Employee 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. No employer may reduce any form of an Employee's compensation to offset the wage rates required by this Chapter.

6.99.050. ENFORCEMENT.

.010 An Employee claiming violation of this article may report such claimed violation to the City Manager which shall investigate such complaint. Whether based upon such a complaint or otherwise, where the City Manager has determined that an Employer has violated this article, the City Manager shall issue a written notice to the Employer that the violation is to be corrected within ten (10) days. In the event that the Employer has not demonstrated to the City Manager within such period that it has cured such violation, the City Manager may then request the City Council to debar the Employer from any future City Subsidy for three (3) years. Such debarment shall be to the extent permitted by, and under whatever procedures may be required by, law.

.020 An Employee claiming violation of this section may bring an individual or class action against his or her Employer in Superior Court to enforce the provisions of this section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this section, including but not limited to lost compensation, damages, reinstatement or injunctive relief. An Employee who prevails in any action to enforce this section shall be awarded his or her reasonable attorney's fees and costs.

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

6.99.060. EXEMPTION FOR SMALL BUSINESSES.

A Small Business which claims that compliance with this Chapter would cause it to reduce its workforce by more than 20 percent, to curtail its



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Employees' total work hours by more than 30 percent, to close its business or to seek protection from its creditors under federal or state law may apply in writing to the City Manager for an exemption from the provisions of this Chapter. The City Manager may grant such an exemption, valid for no more than one year, upon a proper showing by the Small Business that it meets one or more of the criteria of this section. A Small Business may appeal the City Manager's denial of its exemption application to the City Council within 14 days after the date of the City Manager's action.

6.99.070. DEFINITIONS.

As used in this Chapter, the following words, terms and phrases shall have the following ascribed meanings:

.010 "Business" means any for-profit enterprise operated by one or more persons.

.020 "City" means the City of Anaheim, California.

.030 A "City Subsidy" is any agreement with the city pursuant to which a person other than the city has a right to receive a rebate of transient occupancy tax, sales tax, entertainment tax, property tax or other taxes, presently or in the future, matured or unmatured.

.040 A business "benefits from a City Subsidy" if the person or an affiliate of the person receives a City Subsidy directly or is an Employer which is a contractor or subcontractor, lessee or sublessee, or tenant or subtenant, with respect to a person or an affiliate of a person who receives a City Subsidy.

.050 "Compensation" includes any wages, tips, bonuses, and other payments reported as taxable income paid by the Employer to the Employee.

.060 "Employer" means any business in the hospitality industry which benefits from a City Subsidy and 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, employs or exercises control over the wages, hours or working conditions of 25 or more employees.

.070 "Employee" means any individual who is an employee of an Employer under the common law.

.080 "Employment records" means all employment records stating, applying, or reflecting terms and conditions of employment, including but not limited to payroll records, schedules, attendance records, handbooks, memoranda and other documents about terms and conditions of employment, and personnel action forms showing such things as hiring, promotion, demotion, compensation changes, leaves of absence, or termination.

.090 A "full-time Employee" is an Employee who works an average of at least 30 hours per week for an Employer.

.100 "Hospitality industry" means a hotel, motel, amusement or theme park, or a restaurant, snack bar, bar, tavern, lounge, club or other venue offering food or beverages which is within or adjacent to a hotel, motel or amusement or theme park, or a retail store which is within or adjacent to a hotel, motel or amusement or theme park, located in whole or in part within The Anaheim Resort as established under Chapter 18.116 or the Disneyland Resort as established under Chapter 18.114.

.110 "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.

.120 "Service Charge" means all separately-designated amounts collected by an Employer from a customer for service by Employees, or are described in such a way that customers might reasonably believe that the amounts are for the service including, but not limited to, those charges designated on receipts under the term "service charge," "delivery charge" or "portage charge."

.130 A "Small Business" is an Employer which employs fewer than 100 full-time employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.

6.99.080. NON-EXCLUSIVITY.

The rights and remedies created by this Chapter are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of Employees, and are not intended to alter or affect such rights and remedies.

6.99.090. COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR SPECIFIC DEPRIVATIONS OF PROTECTED RIGHTS.

The provisions of this article shall not be construed as limiting any Employee's right to obtain relief to which he or she may be entitled at law or in equity.

6.99.100. CONFLICTS.

Nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with any federal or State law.

6.99.110. 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 Chapter. The electors hereby declare that they 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.

Section 2. Conflicting Measures.

Consistent with California Elections Code § 9221, should another ordinance containing provisions that conflict with this ordinance be adopted by voters at the same election as this ordinance is adopted, the terms of the ordinance that receives the higher number of affirmative votes shall control.

Section 3. Effective Date.

The proposed ordinance that is the subject of this initiative, once approved by the voters at the November 6, 2018 election, or such other election as authorized by law, shall be deemed adopted upon the date that the vote is declared by the City Council, and shall go into effect 10 days after that date.



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Impartial Analysis City of Anaheim Measure L

Overview: Measure L was placed on the ballot by a petition signed by the requisite number of voters. If passed, the measure would require specified hospitality employers who have 25 or more employees to pay their employees no less than \$15/hour beginning January 1, 2019, increasing yearly by one dollar per hour through 2022, when the minimum wage under the measure would be \$18/hour. Beginning in 2023, the minimum wage would increase annually by the greater of 2%, or the percentage increase in the Consumer Price Index ("CPI").

Comparatively, should the measure fail, then such employers would continue to be required to pay no less than the higher of the federal or state minimum wage, which is scheduled to be \$12/hour in 2019, increasing yearly by one dollar per hour through 2022, when the California minimum wage will be \$15/hour. Beginning in 2023, the California minimum wage will increase annually based on the CPI.

Service Charges: Covered employers would also be required to pay the entirety of all service charges to the employee(s) performing services for the customer who pays the service charge. No part of a service charge could be paid to managerial or supervisory employees.

Employers Covered: The measure would apply to any for-profit business that is a hotel, motel, amusement or theme park, or any retail store, restaurant, or other venue offering food or beverages, that is within or adjacent to a hotel, motel, or amusement or theme park and that: (1) is located in whole or in part within the Disneyland or Anaheim Resort Specific Plan Zones, (2) has an agreement to receive a tax rebate from the City, or is a hospitality industry contractor or tenant of an entity that has such an agreement, and (3) has 25 or more employees.

Exemptions: Employers with fewer than 100 full-time employees could seek an annual exemption from the City by showing that paying the higher minimum wage would cause them to either reduce their workforce by more than 20%, cut their employees' total work hours by more than 30%, close their business, or seek bankruptcy protection.

Enforcement: The measure delegates enforcement to the Anaheim City Manager. An employee may also bring an individual or class action lawsuit against an employer, and would be entitled to attorneys' fees if the employee prevails. Employers would be prohibited from retaliating against employees asserting their rights under the measure.

Effective Date: The measure would become effective 10 days after the vote is declared.

Summary:

A "yes" vote would require specified hospitality employers in the Disneyland or Anaheim Resort Specific Plan Zones to pay a minimum wage of \$15/hour beginning on January 1, 2019, increasing yearly thereafter, and to approve the service charge requirement described above.

A "no" vote would not impose a higher minimum wage on those employers, who would instead continue to be required to pay the higher of the federal or state minimum wage, which will be \$12/hour beginning on January 1, 2019, increasing yearly thereafter.

s/ Robert Fabela
Anaheim City Attorney



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Argument in Favor of Measure L

Measure L is simple: It says that IF corporations are entitled to receive tax subsidies from the City of Anaheim, THEN they must pay workers at least \$15 per hour.

It ONLY applies to large hospitality industry employers in The Anaheim Resort that are entitled to receive tax subsidies from the city.

FACT: the City of Anaheim will give more than \$600 million in tax subsidies over the next 20 years to large employers in The Anaheim Resort.

FACT: a February 2018 study conducted by Occidental College and the Economic Roundtable found that **Disneyland Resort employees struggle to make ends meet:**

- 73% do not earn enough money to pay for basic expenses
- Two-thirds don't have enough food to eat three meals a day
- One in 10, including 13% with young children, has recently been homeless-or did not have a place of their own to sleep

FACT: Measure L will generate an estimated \$140 million for the economy over the next four years.

Measure L requires:

- Large hospitality industry employers in The Anaheim Resort to pay workers a **\$15 minimum wage** per hour in 2019, increasing until 2022 in the same amounts as the state minimum wage and then by inflation.
- Small businesses with fewer than 25 employees are not covered by this measure

Over 300 SMALL BUSINESS OWNERS SUPPORT this measure.

ANAHEIM RESORT WORKERS SUPPORT this measure because higher wages for housekeepers, janitors, security guards, cooks, and other workers will help them afford basic living expenses.

THE COMMUNITY SUPPORTS this measure because if workers get paid more, they spend more, lifting the economy for everyone.

Our community's tax dollars support these corporations. They should support our community by providing better paying jobs.

Vote YES on Measure L. It's good for business. It's good for workers. It's good for Anaheim.

s/ Al Jabbar
President, Anaheim Union High School District

s/ Steve White
Planning Commissioner

s/ Pedro Rabadan
Small Business Owner

s/ Karen Romero Estrada
Orange County Communities Organized for Responsible Development

s/ Rabbi Joel Berman
Temple Beth Emet, Anaheim

Rebuttal to Argument in Favor of Measure L

Measure L puts voters in the unfair position of refereeing a dispute between a few Anaheim Resort businesses and union leaders who've been unsuccessful in negotiating.

At best – if it works as promised – Measure L helps very few Anaheim residents.

At worst – and we think most likely – it comes at the price of harming every Anaheim neighborhood.

We don't know for sure, because from day one, backers of Measure L waged a campaign to hide the truth about its impact:

1. They lobbied the City Council not to conduct an economic analysis.
2. They lobbied the City Council not to place the wage they are seeking - \$18 per hour, the highest rate in the nation – in the ballot question presented to voters.
3. Worst, they didn't even want you to be able to vote on Measure L at all! They lobbied the City Council to cancel the election completely and just make it law.

You have to ask, if the backers of Measure L fought that hard to keep information from voters, what are they hiding?

Here's what we do know.

- Measure L only gives a raise to about 3% of Anaheim residents.
- Measure L harms us all by driving jobs and investment out of our City. That means less revenue for essential services like public safety, parks, and addressing homelessness. Anaheim's quality of life will deteriorate.

Hard-working folks in Anaheim deserve a decent wage, but we won't get there by hurting everyone.

Let's vote No on Measure L and find a better way to help all of Anaheim.

s/ Kris Murray
Anaheim City Council Member

s/ Jimmie Kennedy
Anaheim Police Chief, Retired

s/ Tony Serna
Anaheim Small Business Owner and Board of Directors, Anaheim Chamber of Commerce

s/ Shirley McCracken
Former Anaheim City Council Member and Retired School Teacher

s/ Jim Cain
Chairman, Anaheim Hills Community Council



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Argument Against Measure L

It's hard these days for working families to make ends meet, but Measure L is not the answer. It helps very few workers while creating severe consequences that harm EVERY Anaheim neighborhood and resident.

We urge you to vote NO on Measure L.

If you want to help your hard-working neighbors, know that Measure L only raises wages for about 3% of residents. If you work for one of just a few hotels in Anaheim, you might get a raise. But if you work for any other business in Anaheim, you get nothing. Workers like Lorena Arteaga say, "I've worked at the Desert Palms Hotel for 4 years. I won't see a raise from Measure L. What about me and my family?"

Instead, Measure L will hurt everyone because the mandated wage increase is so extreme that it will drive funding out of Anaheim.

What does this measure mean to the 97% of us who don't get a raise?

- **Reduced City funds** to pay for vital services such as police, fire, parks, and homeless support.
- **Higher taxes** if the City needs to find new revenue when hotels are built elsewhere.

Moreover, Measure L will:

- **Devastate small businesses** who happen to be near targeted hotels.
- **Cause hospitality workers to lose their jobs** because of the costs to comply.
- **Cancel development of new projects** which the City counted on to balance future budgets.
- **Cost thousands of construction jobs**, including those for locals and veterans.

Anaheim residents are compassionate. We want people to earn a fair wage. Measure L sounds like a good idea, but it's not the answer.

Listen to Michelle Lieberman of the Anaheim Neighborhood Association who says: "I care about hard working people in Anaheim, but I took the time to get the facts about Measure L. It helps only 3% Anaheim residents, but hurts us all."

Join us in voting NO on Measure L.

s/ Kris Murray
Anaheim City Council Member

s/ Jimmie Kennedy
Anaheim Police Chief, Retired

s/ Tony Serna
Anaheim Small Business Owner and Board of Directors, Anaheim Chamber of Commerce

s/ Shirley McCracken
Former Anaheim City Council Member and Retired School Teacher

s/ Jim Cain
Chairman, Anaheim Hills Community Council

Rebuttal to Argument Against Measure L

Measure L is about FAIRNESS.

If a corporation is eligible for tax subsidies from the City of Anaheim, they should pay their workers a minimum wage of \$15 per hour.

It is hard these days for working families to make ends meet, especially workers who work in the Anaheim Resort.

A recent study conducted by Occidental College and the Economic Roundtable found that **Disneyland Resort employees struggle to make ends meet:**

- 73% do not earn enough money to pay for basic expenses
- 68% are food insecure
- 11% reported being homeless or did not have a place of their own to sleep in the past two years

Measure L will:

- **Raise wages to \$15 per hour for an estimated 10,000** hardworking housekeepers, janitors, cooks, and other workers in the Anaheim Resort
- Generate an estimated \$140 million for our economy over the next four years

When workers earn more, EVERYONE wins.

With more money in their pockets, working families spend more, generating more tax revenue and money for our economy.

This is why over 300 Anaheim small business owners support this measure because it's good for Anaheim.

Measure L only applies to large hospitality industry employers that are entitled to receive tax subsidies and:

- Small businesses with fewer than 25 employees are excluded from this measure
- A business with less than 100 employees may apply for an exemption

WHO IS AGAINST THIS MEASURE?

Large hospitality employers who are getting subsidies from the City of Anaheim worth \$600 million over the next 20 years!

Don't fall for their scare tactics.

Vote YES on Measure L.

s/ Jose Moreno
Mayor Pro Tem, City of Anaheim

s/ Steve White
Planning Commissioner and Small Business Owner

s/ Pedro Rabadan
Small Business Owner

s/ Karen Romero Estrada
Orange County Communities Organized for Responsible Development

s/ Rabbi Joel Berman
Temple Beth Emet Anaheim