

# CITY OF OAKLAND



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Councilmember Sheng Thao  
DISTRICT 4  
Councilmember Dan Kalb  
DISTRICT 1  
Councilmember Noel Gallo  
DISTRICT 5

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**Date:** 4/29/2020  
**To:** Members of the City Council  
**From:** Councilmember Sheng Thao, District 4  
President Pro Tempore Dan Kalb, District 1  
Councilmember Noel Gallo, District 5  
**Re:** Hospitality Worker Right to Recall Ordinance

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## **RECOMMENDATION**

We Respectfully Request That The City Council: Adopt An Ordinance (1) Establishing A Travel And Hospitality Right To Recall and (2) Amend Chapter 2.44 Of The Oakland Municipal Code To Include Enforcement Of Right To Recall As Part Of The Duties Of The Department Of Workplace And Employment Standards.

## **EXECUTIVE SUMMARY**

The COVID-19 (Coronavirus) Pandemic is an unprecedented crisis. The toll it has taken, and continues to take, on our health is massive. The toll it is taking on our economy is enormous and still unfolding. Thousands of Oakland's hospitality and travel workers are already laid off, with no indication that those still employed will remain so. For these workers, even if the COVID-19 Pandemic subsides the long-term economic consequences and potential long-term unemployment could be disastrous for them and their families. The Oakland City Council cannot control the timeline for creating a vaccine to COVID-19, or the timing of a global economic recovery, but it can offer Oakland's workers hope. This commonsense legislation simply requires employers, as they reopen or begin to restore operations to previous levels, bring back the same employees they employed before the COVID-19 crisis. Employers would not have to bring back more employees than they need, they would simply have to bring back workers in each job classification in order of length of service. Many employers will already be doing this, precisely because it makes so much sense. But some unscrupulous employers will use the COVID-19 crisis as a pretext to remove older workers in favor of cheaper, new workers, or to remove workers who have spoken up for their rights in the past.

This ordinance protects older workers, and workers who have stood up for their own and their colleagues' rights. It codifies a commonsense business practice to protect workers from *de facto* retaliation while creating a structure for businesses to rehire their laid off workers when they are ready.

## **BACKGROUND**

On March 1, 2020, Alameda County Interim Health Officer Erica Pan declared a Local Health Emergency due to COVID-19, otherwise known as the Coronavirus. On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in California as a result of COVID-19 in Executive Order N-25-20, and issued Executive Order N-60-20, which directed individuals living in the state of California to continue staying at their home or place of residence until further notice. On March 16, 2020, Erica Pan issued a Shelter-in-Place Order which requires all Alameda County Residents to stay in their homes and leave only for specified purposes. In March 10, 2020 Governor Newsom issued a similar Executive Order, effectively applying a Shelter-in-Place order across the state of California. These Shelter-in-Place Orders, while crucial to slowing the spread of COVID-19 and saving countless lives, have also caused thousands of hospitality, restaurant, stadium, and travel-related workers to be separated from their jobs through discharge, furlough, and layoffs. Many of these workers worked in their positions or with their companies for years. As the COVID-19 crisis continues and the economy continues to fall into recession, thousands more workers like these will be similarly unemployed.

## **ANALYSIS**

The Travel and Hospitality Right to Recall Ordinance requires airport hospitality businesses, hotels, restaurants, and hospitality services at event centers to rehire their laid off workers before offering workers' positions to new hires. The ordinance only requires certain businesses to do this when they are ready for positions in which they previously laid off employees and does not mandate that employers hire for any positions that they do not need. The ordinance requires these businesses to offer laid off workers' their old jobs based on seniority. Many businesses will already be rehiring for laid off positions in the way this ordinance mandates, as it is common business sense. This ordinance is necessary to protect older workers, and workers who have stood up for their rights and the rights of their coworkers. Some employers will use the COVID-19 crisis as a pretext to discriminate against older workers in favor of newer, lower-wage workers, and retaliate against workers who have stood up for their rights and/or filed complaints.

This ordinance requires employers in the sectors listed above to, when rehiring for laid off positions, send offer letters to laid off employees in writing, and by email and text message when possible. The laid off workers will then have 10 days to decline the offer. Where multiple laid off employees are eligible for the same position, the business shall rehire the laid off worker with the most seniority.

**ACTION REQUESTED BY THE CITY COUNCIL**

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Sincerely,



Councilmember Sheng Thao  
District 4



President Pro Tempore Dan Kalb  
District 1



Councilmember Noel Gallo  
District 5