Chapter 25.11
AIRPORT LIVING WAGE AND LABOR STANDARDS

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Part 1
PURPOSE AND SCOPE

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25.11.100 Purpose and scope.

A. The establishment of living wage and worker retention requirements at the airport serves to protect the public health, safety and welfare by requiring the payment of wages sufficient to allow workers to leave or avoid poverty and to decrease worker turnover and instability in the workplace. The consequential benefits of such measures are the improvement of the quality of service to the city, the traveling public and other airport users, and reduction in dependence on taxpayer funded social services. Retaining experienced and well-trained employees is essential for maintaining airport safety and security, which is critical for the airport's successful operation. The city has also expended and continues to invest significant resources in operating, maintaining, and more recently, rebuilding and modernizing the airport, which benefits the businesses operating at the airport. The benefits received by airport businesses from the city's investment should reasonably be shared with their employees through payment of a living wage.

B. The work environment review and labor peace assurances promote the city's interests in maintaining

continuous operation of the airport. The city as proprietor of the airport depends upon the revenue it receives from business operations located at the airport and any interruption in service at the airport would result in adverse effects on services available to the public and substantial lost revenue for the airport. The airport is particularly vulnerable to significant adverse impacts and revenue loss due to the presence of many different employers whose operations are interrelated and interdependent, increasing the likelihood that a service disruption directly involving one (1) employer could impact other operations at the airport. It is essential for the financial viability of the airport that services be provided and business operations conducted without interruption.

(Ord. 28432.)

25.11.110 Exemptions.

The requirements of this chapter shall not apply where and to the extent that state or federal law or regulations preclude or limit their applicability.

(Ord. 28432.)

Part 3
DEFINITIONS

Sections:

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25.11.300 Definitions.

The definitions set forth in this part shall govern the application and interpretation of this chapter. The definitions set forth in Part 3 of Chapter 25.01 of this title shall govern the application and interpretation of the following terms as used in this chapter: "advertising concessions," "airport," "car rental agencies," "certificated air carriers," "commercial activity," "fixed based operators," "food and beverage concessions," "ground transportation management services," "ground transportation provider," "janitorial, custodial and facility maintenance services," "parking lot management," "retail concessions," and "shuttle transportation."

(Ord. 28432.)

25.11.310 Airport business.

"Airport business" shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity conducting commercial activity at the airport pursuant to an airport contract or a permit issued by the city under Title 25, and their subcontractors conducting commercial activity at the airport. "airport business" shall not include ground transportation providers, construction contractors, the United States federal Aviation Administration (FAA), the United States Transportation Security Administration (TSA), or any other federal, state or local public agency.

(Ord. 28432.)

25.11.320 Airport contract.

"Airport contract" shall mean a lease, license, operating agreement, concession agreement or other contract with the city for the conduct of commercial activity at the airport.

(Ord. 28432.)

25.11.330 City manager.

"City manager" shall mean the city manager or the city manager's designee.

(Ord. 28432.)

25.11.335 Compensation.

"Compensation" shall mean the sum of the hourly wage, an employer's direct hourly contribution for a covered employee's health and medical care insurance, if any, and an employer's direct hourly contribution for a covered employee's retirement benefits, if any. In the event that a covered employee is offered and voluntarily declines a direct hourly contribution for health and medical care insurance and/or retirement benefits, "compensation" shall also include the value of any such direct hourly contribution offered to and declined by the covered employee.

(Ord. 28862.)

25.11.340 Construction contractor.

"Construction contractor" shall mean a construction contractor licensed by the California Contractors State License Board.

(Ord. 28432.)

25.11.350 Contractor.

"Contractor" shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity conducting commercial activity at the airport pursuant to an airport contract. "contractor" shall include but not be limited to certificated air carriers, and car rental agencies. "contractor" shall not include ground transportation providers, construction contractors, the United States Federal Aviation Administration (FAA), the United States Transportation Security Administration (TSA), or any other federal, state or local public agency.

(Ord. 28432.)

25.11.360 Covered employee.

"Covered employee" shall mean any person employed by an airport business who:

A. Is not a person who provides volunteer services that are uncompensated except for reimbursement of expenses such as meals, parking or transportation;

B. Expends at least half of his or her time working for the airport business on work at the airport;

C. Is at least eighteen years of age; and

D. Is not a student intern or a participant in a job training and education program that has as its express purpose the provision of basic skills and education with the goal of enabling advancement to permanent employment.

(Ord. 28432.)

25.11.370 CPI.

"CPI" shall mean the Consumer Price Index, All Urban Consumers, published by the U.S. Department of Labor, Bureau of Labor Statistics for the San Francisco-Oakland-San José area, with all items included. In the event the CPI is no longer published, the director shall use another index published by either the State of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City of San José.

(Ord. 28432.)

25.11.380 Director.

"Director" shall mean the director of the city's office of equality assurance or such other director designated by the city manager to administer this chapter.

(Ord. 28432.)

25.11.390 Effective date.

"Effective date" shall mean the effective date of this chapter.

(Ord. 28432.)

25.11.400 Minimum health insurance benefits.

"Minimum health insurance benefits" shall mean either: (a) an employer-sponsored health insurance plan offered to employees for which the employer pays at least fifty percent of the cost; or (b) payment by an employer of at least fifty percent of the cost of an employee's health insurance plan.

(Ord. 28432.)

25.11.410 Living wage policy.

"Living wage policy" shall mean Resolution No. 68900, adopted by the city council on June 8, 1999, including any subsequent amendments.

(Ord. 28432.)

25.11.420 Predecessor employer.

"Predecessor employer" shall mean the airport business that provided substantially similar services at the airport immediately prior to the successor employer.

(Ord. 28432.)

25.11.430 Prevailing wage policy.

"Prevailing wage policy" shall mean Resolution No. 61144, adopted by the city council on February 7, 1989, including any subsequent amendments.

(Ord. 28432.)

25.11.440 Retention employee.

"Retention employee" shall mean any person employed by a contractor or subcontractor subject to Part 7 of this chapter who:

A. Performs work on the airport contract;

B. Is not an exempt employee under the Fair Labor Standards Act;

C. Has been employed by the predecessor employer for at least the six month period prior to the date of the new contract with the successor employer;

D. Has not been convicted of a crime that is related to his or her employment at the airport or to his or her job performance at the airport; and

E. Has not been demonstrated to the city to present a significant danger to airport users or employees, co-workers, or city staff.

(Ord. 28432.)

25.11.450 Subcontractor.

"Subcontractor" shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity that provides goods or services at the airport under a contract with a contractor. "subcontractor" shall not include construction contractors.

(Ord. 28432.)

25.11.460 Successor employer.

"Successor employer" shall mean the new airport business that succeeds the predecessor employer in the provision of substantially similar services at the airport.

(Ord. 28432.)

Part 5
MINIMUM COMPENSATION

Sections:

25.11.500 Payment of minimum compensation.

25.11.510 Exemptions.

25.11.520 Reserved.

25.11.500 Payment of minimum compensation.

A. Except as otherwise provided in this part, all airport businesses shall provide to their covered employees the following minimum compensation:

1. If minimum health insurance benefits are provided, compensation of no less than twelve dollars and ninety-four cents per hour.

2. If minimum health insurance benefits are not provided, compensation of no less than fourteen dollars and nineteen cents per hour.

B. Minimum compensation will be reviewed annually to determine if any adjustment should be made based on any change as of December 31 of the previous year in the CPI. If the CPI has not increased or if the CPI has declined, the minimum compensation shall remain unchanged.

C. The minimum compensation applicable if minimum health insurance benefits are not provided shall be adjusted to remain one dollar and twenty-five cents greater than the minimum compensation applicable if minimum health insurance benefits are provided.

D. Any minimum compensation adjustments shall be effective July 1 of each year.

E. At least thirty days prior to the adjustment of minimum compensation, the director shall publish the new minimum compensation on the City of San José website.

(Ords. 28432, 28862.)

25.11.510 Exemptions.

A. The minimum compensation requirements of this part shall not apply to any airport business during the term of any collective bargaining agreement that expressly provides that the terms of the collective bargaining agreement shall supersede either the living wage policy or the minimum compensation requirements of this part.

B. Contractors currently operating at the airport pursuant to the terms of an airport contract that is subject to and includes the terms and conditions of the living wage policy and/or prevailing wage policy shall not be subject to the

requirements of this part for the remaining term of the airport contract. Notwithstanding the foregoing, the city manager shall be authorized to enter into an amendment with a contractor to delete the terms and conditions of the living wage policy and/or prevailing wage policy for the remaining term of the airport contract. The requirements of this part shall apply to a contractor that is party to any such airport contract from the effective date of any such amendment.

(Ords. 28432, 28862.)

25.11.520 Reserved.

Editor's note: Ord. 28862, passed December 7, 2010, repealed § 25.11.520, which pertained to temporary exemption for passenger airlines.

Part 7
EMPLOYEE RETENTION

Sections:

25.11.700 Application.

25.11.710 Exemptions.

25.11.720 Notice to employees.

25.11.730 Retention offer.

25.11.740 Retention period.

25.11.700 Application.

Except as otherwise provided in this part, the employee retention requirements under this part shall apply to any airport business that provides services at the airport to either the city or to an airport businesses, including but not limited to:

A. Food and beverage concessions;

B. Retail concessions;

C. Janitorial, custodial and facility maintenance services;

D. Shuttle transportation;

E. Parking lot management;

F. Ground transportation management services;

G. Security services;

H. Curbside passenger check-in and baggage check services (sky caps);

I. Wheelchair escorts;

J. General aircraft maintenance;

K. Baggage and cargo handling;

L. Aircraft interior cleaning and carpet cleaning services;

M. Washing and cleaning of aircraft or ground support equipment;

N. Aircraft tow-in and push back;

O. Engine oil servicing;

P. Water and lavatory servicing;

Q. Electrical and air power boost servicing;

R. Ground support equipment repair and maintenance;

S. Ground support vehicle fueling;

T. Aircraft into-plane fueling and defueling.

(Ord. 28432.)

25.11.710 Exemptions.

The employee retention requirements of this part shall not apply to employees of the following airport businesses:

A. Certificated air carriers;

B. Car rental agencies;

C. Fixed base operators; and

D. Advertising concessionaires.

(Ord. 28432.)

25.11.720 Notice to employees.

A. No less than sixty days prior to the termination of a predecessor employer's contract, the predecessor employer shall provide to the office of equality assurance a qualified displaced worker list with the names and contact information for all retention employees.

B. No less than thirty days prior to the termination of a predecessor employer's contract, all retention employees shall be notified in writing that they have been placed on a qualified displaced worker list and that the successor employer will be required to offer him or her continued employment at the airport. The notification letter shall detail the worker retention process and timeline and include the phone number of and the name of a contact person at the office of equality assurance.

(Ord. 28432.)

25.11.730 Retention offer.

A. Except as otherwise provided in this part, successor employers subject to this part shall offer employment to all retention employees.

B. The successor employer may treat any of its current employees as retention employees for purposes of this part who, based on payroll records or other reliable evidence, can be shown to the satisfaction of the director:

1. To have been employed for at least the six- month period prior to the date of the new contract by the successor employer; and

2. To not be eligible for continued employment by the successor employer other than the airport.

C. In the event that the successor employer does not have enough positions available for all retention employees and its current employees eligible for retention under Subsection B., the successor employer shall hire the retention employees and retain its current employees who are eligible for retention by seniority within each employment classification. For any positions that become available during the initial ninety- day period of the new contract, the successor employer will hire retention employees and rehire its employees who are eligible for retention by seniority within each employment classification.

(Ord. 28432.)

25.11.740 Retention period.

A. A successor employer shall not discharge a retention employee without cause during the initial ninety-day period of his or her employment.

B. A successor employer shall offer continued employment to each retention employee who receives a satisfactory performance evaluation at the end of the initial ninety- day period of employment under terms and conditions established by the successor employer for all its employees.

(Ord. 28432.)

Part 9
EMPLOYEE WORK ENVIRONMENT

Section:

25.11.900 Employee work environment reporting requirement.

25.11.900 Employee work environment reporting requirement.

A. Prior to the effective date of any airport contract or amendment to an airport contract entered into on or after the effective date, the contractor shall provide to the city work environment information for contractor and its subcontractors, including a description of the following:

1. Compensated days off per year, including holidays, sick leave, vacation, and personal leave, offered to employees;

2. Employee health benefits;

3. Compliance with state and federal workplace standards; and

4. Employee complaint procedures.

B. For subcontractors hired after the effective date of the airport contract, the contractor shall provide the city with the work environment information in Subsection A. prior to the effective date of the contract between the contractor and subcontractor.

(Ord. 28432.)

Part 11
LABOR PEACE ASSURANCE

Section:

25.11.1100 Labor peace assurance.

25.11.1100 Labor peace assurance.

A. Prior to the effective date of any airport contract or amendment to an airport contract entered into on or after the effective date, the contractor shall provide to the city assurances on how the contractor will prevent service disruptions at the airport due to labor disputes. These assurances shall be included in the airport contract.

B. Any airport contract or amendment to an airport contract entered into on or after the effective date shall provide that each contractor shall require that its subcontractors provide it with assurances on how the subcontractor will prevent service disruptions at the airport due to labor disputes.

(Ord. 28432.)

Part 12
AIRPORT TRAINING STANDARDS PROGRAM

Sections:

25.11.1200 Application.

25.11.1210 Development of airport training standards program.

25.11.1200 Application.

The airport training standards program required under this part shall apply to all airport businesses.

(Ord. 28594.)

25.11.1210 Development of airport training standards program.

A. The director of aviation shall develop an airport training standards program for covered employees of all airport businesses and shall promulgate regulations to implement the airport training standards program.

B. The director of aviation shall hold a public hearing and allow public comment on any proposed airport training standards program regulations prior to adoption thereof. The director of aviation shall provide not less than ten days' notice of such public hearing. A copy of such airport training standards program regulations shall be on file in the airport department and the office of equality assurance.

C. It shall be unlawful to disobey or fail to comply with any regulations adopted pursuant to this part.

(Ord. 28594.)

Part 13
RETALIATION AND DISCRIMINATION PROHIBITED

Section:

25.11.1300 Prohibition.

25.11.1300 Prohibition.

An airport business shall not discharge, reduce the compensation of, or discriminate against any employee for making a complaint to the city, participating in any of the city's proceedings related to the enforcement of this chapter, using any civil remedies to enforce his or her rights under this chapter, or otherwise asserting his or her rights under this chapter.

(Ord. 28432.)

Part 15
ADMINISTRATION

Sections:

25.11.1500 Compliance monitoring.

25.11.1510 Regulations.

25.11.1520 Record keeping, reporting and audit.

25.11.1530 Reord keeping, reporting and audit.

25.11.1540 Access to work site.

25.11.1500 Compliance monitoring.

The city's office of equality assurance shall monitor compliance with this chapter, including the investigation of claimed violations.

(Ord. 28432.)

25.11.1510 Regulations.

A. Except as otherwise provided in Part 12 of this chapter, the director may promulgate regulations consistent with this chapter.

B. The director shall hold a public hearing and allow public comment on any proposed rule or regulation prior to adoption thereof. The director shall provide not less than ten days' notice of such public hearing. A copy of such administrative rules and regulations shall be on file in the office of equality assurance.

C. It shall be unlawful to disobey or fail to comply with any regulation adopted pursuant to this chapter.

(Ords. 28432, 28594.)

25.11.1520 Report.

The director shall provide a report on compliance with this chapter to the city council annually.

(Ord. 28432.)

25.11.1530 Record keeping, reporting and audit.

A. Each airport business that is subject to the minimum compensation requirements of this chapter shall maintain for each employee performing work at the airport a true and accurate record of the employee's name, address, job classification, hours worked, pay rate and health benefits received, and shall preserve such records for at least three years.

B. Each airport business shall submit a copy of the records or documents required to be kept pursuant to this section to the city for the previous calendar year by January 31 of each year. Failure to provide a copy of such records or documents by February 5 of each year will result in a late fine of one hundred dollars per day.

C. Each airport business shall make all records or documents required to be kept pursuant to this section or regulations promulgated by the director to verify compliance with this chapter, available for audit at no cost to city, at any time during regular business hours, upon written request by the city attorney, city auditor, city manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to city for audit at city hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at the airport business's address indicated for receipt of notices in the airport contract or permit.

D. The records or documents required to be kept pursuant to this section or regulations promulgated by the director to verify compliance with this chapter shall be complete and accurate. The provision of false information to the city shall be a violation of this chapter.

(Ords. 28432, 28594, 28862.)

25.11.1540 Access to work site.

Each airport business shall permit access to work sites for authorized city representatives for the purpose of monitoring compliance with this chapter, investigating complaints of noncompliance, and evaluating the operation and effects of this chapter.

(Ord. 28432.)

Part 17
ADMINISTRATIVE ENFORCEMENT

Sections:

25.11.1700 Applicability.

25.11.1710 Complaint to city.

25.11.1712 Audits.

25.11.1715 Notice of violation of minimum compensation requirements and opportunity to correct.

25.11.1720 Administrative citation.

25.11.1730 Fine and restitution amount.

25.11.1740 Payment of the fine and restitution.

25.11.1750 Hearing request.

25.11.1760 Advance deposit hardship waiver.

25.11.1770 Hearing procedure.

25.11.1780 Decision of the city manager.

25.11.1790 Late payment charges.

25.11.1800 Recovery of administrative citation fines and costs.

25.11.1810 No exhaustion of remedies requirement.

25.11.1700 Applicability.

A. This part provides for administrative citations that are in addition to all other legal remedies that may be pursued by the city to address any violations of the minimum compensation requirements of this chapter.

B. Use of this part shall be at the sole discretion of the city.

(Ord. 28432.)

25.11.1710 Complaint to city.

Any person claiming a violation of this chapter may file a complaint with the city. The city may, in its sole discretion, investigate and address any alleged violation of this chapter's requirements. However, the city's failure to investigate an alleged violation or to otherwise enforce any of the provisions of this chapter shall not create any right of action or right to recover damages from the city by any person, including but not limited to an aggrieved employee.

(Ord. 28432.)

25.11.1712 Audits.

The director shall audit the records of each airport business to verify compliance with this chapter no less frequently than once in any two-year period.

(Ord. 28862.)

25.11.1715 Notice of violation of minimum compensation requirements and opportunity to correct.

Where based upon a complaint or otherwise, if the director determines that an airport business has violated the minimum compensation requirements of this chapter, and only if the airport business has not violated the minimum compensation requirements of this chapter at any time within the immediately preceding three-year period, the director shall issue a written notice to the airport business that the violation is to be corrected within thirty days.

(Ord. 28862.)

25.11.1720 Administrative citation.

A. For violations of the minimum compensation requirements of this chapter that are subject to a notice of violation from the director under Section 25.11.1715 above, in the event that an airport business has not demonstrated to the director within thirty days from a notice of violation that it has corrected the violation of this chapter, the director

shall have the authority to issue an administrative citation to any person responsible for the violation.

B. For violations of the minimum compensation requirements of this chapter that are not subject to a notice of violation from the director under Section 25.11.1715 above and for any other violations of this chapter, the director shall have the authority to issue an administrative citation to any person responsible for the violation.

C. Each administrative citation shall contain the following information:

1. The date of the violation;

2. The section of this chapter violated and a description of the violation;

3. The amount of the fine and restitution for the code violation;

4. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;

5. An order prohibiting the repeated occurrence of the code violation described in the administrative citation;

6. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and

7. The name and signature of the director.

(Ords. 28432, 28862.)

25.11.1730 Fine and restitution amount.

A. For violations of the minimum compensation requirements imposed pursuant to this chapter, the fine amount shall be equal to the difference between the actual amount of wages paid and the amount of wages that should have been paid for each covered employee paid less than the required minimum compensation wage rate. The restitution amount shall be equal to the difference between the actual amount of wages paid and the amount of wages that should have been paid.

B. For violations of the employee retention requirements imposed pursuant to this chapter, the fine amount shall be equal to three times the amount of wages unpaid for the period that the retention employee should have been but was not employed, but not to exceed one hundred dollars for each calendar day, or portion thereof, for each retention employee not employed. The restitution amount shall be equal to the amount of wages unpaid for the period that the employee should have been but was not employed.

C. The fine amounts collected under Subsections A. and B., above, shall be used to defray the cost of administration of the requirements of this chapter.

D. For other violations of this chapter, the fine amount shall be one hundred dollars per violation, except as otherwise specified in this chapter.

(Ords. 28432, 28862.)

25.11.1740 Payment of the fine and restitution.

A. Within thirty (30) days from the date of the issuance of the administrative citation, the fine shall be paid to the city and restitution shall be paid to the underpaid employee or employees.

B. Any administrative citation fine paid pursuant to subsection A shall be refunded in accordance with Section

25.03.470.D if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

C. Payment of a fine or restitution under this chapter shall not excuse or discharge any repeated occurrence of the code violation that is the subject of the administrative citation.

(Ord. 28432.)

25.11.1750 Hearing request.

A. Any recipient of an administrative citation may contest the violation set forth in the administrative citation or that he or she is the responsible party by completing a request for hearing form and returning it to the director within thirty (30) days from the date of the issuance of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section 25.11.1760.

B. A request for hearing form may be obtained from the director.

C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.

D. If city staff submits an additional written report concerning the administrative citation for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five (5) days prior to the date of the hearing.

(Ord. 28432.)

25.11.1760 Advance deposit hardship waiver.

A. Any person who intends to request a hearing to contest an administrative citation under this chapter or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 25.11.1750.A may file a request for an advance deposit hardship waiver.

B. The request shall be filed with the director on an advance deposit hardship waiver application form, available from the director, within fifteen (15) days of the date of the administrative citation.

C. The requirement to deposit the full amount of the fine as described in Section 25.11.1750.A shall be stayed unless and until the director makes a determination not to issue the advance deposit hardship waiver.

D. The director may waive the requirement of an advance deposit set forth in Section 25.11.1750.A and issue the advance deposit hardship waiver only if the cited party submits to the director a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the director the person's actual financial inability to deposit with the city the full amount of the fine in advance of the hearing.

E. If the director determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the city within ten (10) days of the date of that decision or thirty (30) days from the date of the administrative citation, whichever is later.

F. The director shall issue a written determination listing the reasons for the director's determination to issue or not issue the advance deposit hardship waiver. The written determination of the director shall be final.

G. The written determination of the director shall be served upon the person who applied for the advance deposit hardship waiver.

(Ord. 28432.)

25.11.1770 Hearing procedure.

A. The city manager shall conduct the administrative citation hearing for violations of this chapter pursuant to this section and any rules and procedures for the conduct of hearings as adopted by the city manager.

B. No hearing to contest an administrative citation before the city manager shall be held unless the fine has been deposited in advance in accordance with Section 25.11.1750.A or an advance deposit hardship waiver has been issued in accordance with Section 25.11.1760.

C. A hearing before the city manager shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

D. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

E. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

F. The administrative citation and any additional report submitted by the director shall constitute prima facie evidence of the respective facts contained in those documents.

G. The city manager may continue the hearing and request additional information from the director or the recipient of the administrative citation prior to issuing a written decision.

(Ord. 28432.)

25.11.1780 Decision of the city manager.

A. After considering all of the testimony and evidence submitted at the hearing, the city manager shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the city manager shall be final.

B. If the city manager determines that the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city.

C. If the city manager determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the city manager shall set forth in the decision a payment schedule for the fine.

D. If the city manager determines that the administrative citation should be upheld, the city manager shall order that restitution be paid to the underpaid employee or employees.

E. If the city manager determines that the administrative citation should be canceled and the fine was deposited with the city, then the city shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the city's portfolio for the period of time that the fine amount was held by the city.

F. The recipient of the administrative citation shall be served with a copy of the city manager's written decision.

(Ord. 28432.)

25.11.1790 Late payment charges.

Any person who fails to pay to the city the amount of any fine imposed pursuant to the provisions of this chapter on or before the date that fine amount is due shall be liable for the payment of an additional delinquency penalty. The

delinquency penalty is equal to ten (10) percent of the amount of the fine due to the city, or ten (10) percent of the amount of the fine remaining unpaid to the city if a portion of the fine amount was timely paid. Interest shall accrue on all delinquent fine amounts, exclusive of delinquency penalties, at the rate of one half of (0.5) one percent per month, pro rata, of the total delinquent fine amount, from the date the fine amount becomes delinquent until the date that all delinquent fine amounts are paid to the city.

(Ord. 28432.)

25.11.1800 Recovery of administrative citation fines and costs.

A. The city may collect any past due administrative citation fine or late payment charge by use of all available legal means.

B. Any person who fails to pay any past due administrative citation fine or late payment charge shall be liable in any action brought by the city for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees.

C. Collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the past due administrative citation fine.

D. Collection costs imposed under this section shall be added to and become a part of the underlying administrative citation fine.

(Ord. 28432.)

25.11.1810 No exhaustion of remedies requirement.

Exhaustion of remedies under this part shall not be a prerequisite to the filing of a civil action pursuant to Section 25.11.1700 of Part 17 of this chapter.

(Ord. 28432.)

Part 19
CIVIL ENFORCEMENT AND CONTRACT REMEDIES

Sections:

25.11.1900 Civil enforcement.

25.11.1910 Contract enforcement.

25.11.1900 Civil enforcement.

A. Any employee aggrieved by a violation of the minimum compensation requirements, the employee retention requirements or the prohibition on retaliation and discrimination of this chapter, or organization of which such employee is a member, may bring a civil action in a court of competent jurisdiction against the airport business violating this chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages and benefits unlawfully withheld and interest thereon, reinstatement in employment and/or injunctive relief, and shall be awarded reasonable attorney's fees and costs. For a willful violation of this chapter, a court may award as a penalty up to treble the amount of monies to be paid as damages.

B. This part shall not be construed to limit an employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights.

(Ord. 28432.)

25.11.1910 Contract enforcement.

If a violation of any contract provision required by this chapter occurs and is not corrected after written notice, the city may, at its option, do any or all of the following:

A. Terminate the airport contract for default;

B. Withhold payment or compensation, if applicable.

(Ord. 28432.)

Part 21
EFFECTIVE DATE

Section:

25.11.1921 Effective date.

25.11.1921 Effective date.

This chapter shall become effective on January 1, 2009.

(Ord. 28432.)

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