

Seattle Hotel Employee Health and Safety Ordinance (SMC 14.25)

Frequently Asked Questions

The answers below are provided by Seattle Protects Women and UNITE HERE! Local 8, the proponents of the ordinance. They do not substitute for legal advice. The City of Seattle's Office of Labor Standards will be developing rules that will govern the legal requirements of the ordinance through a stakeholder process starting in May of 2017. If you would like to be included in the stakeholder process for rule development, please contact Karina Bull at karina.bull@seattle.gov.

A. General Information

1. When did the Seattle Hotel Employee Health and Safety Ordinance take effect?

The ordinance took effect on November 30th, 2016 after receiving approval as a citizen initiative in the November 8, 2016 election. Rulemaking is expected to take place on the ordinance in mid-2017.

2. What City department is implementing the ordinance?

The Seattle Office of Labor Standards is implementing the ordinance along with Seattle's other labor standards:

- Minimum Wage
- Wage Theft
- Paid Sick and Safe Time
- Fair Chance Employment
- Secure Scheduling

3. Who is covered by the ordinance?

The ordinance applies to all hotel employers in the City of Seattle. For the purpose of the ordinance, a hotel employer is an employer at a hotel or motel as defined in SMC 23.84A.024 containing 60 or more guest rooms or suites of rooms. This includes any employers at contracted, leased or sublet premises connected to or operated in conjunction with the building's purpose or providing services at the building.

A hotel employer means any person, including a corporate officer or executive, who 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 any employee and who owns, controls, and/or operates a hotel in Seattle; or a person who employs or exercises control over the wages, hours, or working conditions of any person employed in

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conjunction with a hotel employer in furtherance of the hotel's provision of lodging and other related services for the public.

Covered hotel employees include any non-managerial, non-supervisory individual employed by a hotel employer who performs at least two hours of work within the geographic boundaries of the City of Seattle for a hotel employer and qualifies as an employee entitled to payment of a minimum wage from any employer under the City of Seattle and/or State of Washington minimum wage laws. It includes any individual whose place of employment is at one or more hotels and who is employed directly by the hotel employer or by a person who has contracted with the hotel employer to provide services at the hotel. Supervisory and confidential employees as defined under the National Labor Relations Act are not considered employees under the ordinance.

Sections 14.25.100 (hotel employers must protect hotel housekeepers from injuries) and 14.25.120 (large hotel employers must provide additional compensation reflective of the cost of medical coverage to low-income hotel employees) apply only to hotel employers operating in conjunction with a hotel of 100 rooms or more.

Additionally, a hotel employee must work at least 80 hours per month for a hotel employer and earn total compensation from the hotel employer that is 400% or less of the federal poverty line for the size of the employee's household to qualify for additional compensation under Section 14.25.120.

Provisions of the ordinance, except Sections 14.25.020 through 14.25.060 (protecting hotel employees from violent assault and sexual harassment) and Section 14.25.150 providing for enforcement of those sections, may be waived through a bona fide written collective bargaining agreement.

4. Does the ordinance cover employees of subcontractors of contractors within the hotel?

Yes, if those employees are employed at a hotel building and/or in furtherance of the hotel's provision of lodging or other related services for the public.

5. What qualifies an employer as a "large hotel"?

The determination of whether or not an employer is covered by the provisions of the law pertaining to large hotels is based the size of the hotel in conjunction with which the employer operates, not the number of employees at that hotel. An employer at a hotel with 100 or more guest rooms or suites of rooms suitable for providing lodging to members of the public for a fee (regardless of how many of those rooms or suites are occupied or in commercial use at any given time) is considered a large hotel employer. Additionally, any employers at contracted, leased or sublet premises connected to or operated in conjunction with the large hotel's purpose or providing services at the large hotel are considered large hotel employers. Sections 14.25.100 and 14.25.120 of the ordinance apply exclusively to large hotel employers.

B. Protecting hotel employees from violent assault and sexual harassment

1. What is a panic button?

A panic button is an emergency contact device carried by an employee by which the employee may summon immediate on-scene assistance from another employee, security guard, or representative of the hotel employer.

Personal alarm systems that produce a generalized noise rather than a direct signal to designated hotel personnel do not fulfill the requirement of summoning immediate on-scene assistance.

Panic button apps on tablets, cell phones or other devices may fulfill the requirements of a panic button only if the employee is able to carry the device on his or her person and to immediately access the app in case of emergency.

Panic buttons must be provided to each hotel employee assigned to work in a guest room without other employees present, at no cost to the employee.

2. What should the in-room posting look like?

Notification required under Section 14.25.040 must appear on the back of each guest room door and be written in a font size of no less than 18 points. It must include the heading "The Law Protects Hotel Housekeepers and Other Employees from Violent Assault and Sexual Harassment", a citation to SMC Chapter 14.25, and notice of the fact that the hotel is providing panic buttons to its housekeepers, room servers, and other employees assigned to work in guest rooms without other employees present.

Hotel employers may elect to include additional information in the notification, including about the recordkeeping required under SMC 14.25.040 and that accusations of violent assault or sexual harassment may result in a guest being asked to leave the hotel.

3. Are employers obligated to call the police in response to an accusation?

Hotel employers must allow an employee sufficient paid time to contact the police and provide a police statement and to consult with a counselor or advisor of his or her choosing.

With the consent of the employee, a hotel employer must report an incident involving alleged criminal conduct by a guest to the law enforcement agency with jurisdiction and must cooperate with any investigation into the incident undertaken by the agency and any attorney for the complaining employee.

It is a violation of the ordinance for the hotel employer to report or threaten to report suspected citizenship or immigration status of an employee or a family member of the employee to a federal, state, or local agency because the employee has exercised a right under the ordinance.

C. Protecting hotel employees from injury

1. What constitutes “reasonably adequate” when it comes to safety devices and safeguards and safe work practices, methods, processes and means?

Section 14.25.080 of the ordinance restates requirements from the Washington Industrial Safety and Health Act (WISHA). For more information on the construction and application of these requirements, see the following resources:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-800-100>

2. What information needs to be provided to workers about chemical hazards?

Section 14.25.090 of the ordinance restates requirements from the Washington Industrial Safety and Health Act (WISHA). For more information on the construction and application of these requirements, see the following resources:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-800-170>

3. How is the square footage of rooms determined?

Each hotel employer with employees who provide housekeeping services should establish an inventory of the square footage of each guest room or suite in the hotel, identifying each guest room by room number and floor. This inventory should be supported with floorplans or other architectural or engineering records.

Once established, this inventory can be used to calculate the square footage cleaned by each employee providing housekeeping services.

4. Do all rooms cleaned count towards the square footage limit?

Yes. All guest rooms cleaned count towards the total square footage limit on floor space regardless of whether the room is a stayover room or constitutes a strenuous room cleaning.

When an employee performs ten or more strenuous room cleanings in an eight-hour workday, the maximum floor space must be reduced by 500 square feet for the tenth strenuous room cleaning and for each strenuous room cleaning thereafter.

5. What is a strenuous room cleaning?

A strenuous room cleaning means the cleaning of either (1) a checkout room (a guest room assigned to be cleaned due to the departure of the guest assigned to that room) or (2) a stayover room (a guest room where a guest’s stay has not yet ended) that includes a cot, rollout bed, pet bed or crib.

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If a stayover room contains a rollout bed that is not in use by the current guest and does not require housekeeping services, that room is not considered a strenuous room cleaning solely on the basis of the rollout bed.

When an employee performs ten or more strenuous room cleanings in an eight-hour workday, the maximum floor space must be reduced by 500 square feet for the tenth strenuous room cleaning and for each such strenuous room cleaning thereafter.

6. How is the maximum square footage prorated?

See the below table for proration based on hours worked and number of strenuous room cleanings.

# of Strenuous Rooms	6 hr shift	6.5 hr shift	7 hr shift	7.5 hr shift	8 + hr shift
Fewer than 10	3,750 SF	4,062 SF	4,375 SF	4,687 SF	5,000 SF
10	3,250 SF	3,562 SF	3,875 SF	4,187 SF	4,500 SF
11	2,750 SF	3,062 SF	3,375 SF	3,687 SF	4,000 SF
12	2,250 SF	2,562 SF	2,875 SF	3,187 SF	3,500 SF
13	1,750 SF	2,062 SF	2,375 SF	2,687 SF	3,000 SF
14			1,875 SF	2,187 SF	2,500 SF
15					2,000 SF

Note that the applicable shift length is determined by the actual number of hours worked *cleaning guest rooms* by a given employee. If an employee is assigned to alternative duties other than cleaning guest rooms (such as public areas cleaning, laundry, minibar service, or other tasks) for a period of his or her shift, any hours worked doing these alternative duties do not count towards total shift time for the purposes of determining whether or not the employee has exceeded the maximum.

If an employee works more than eight hours cleaning guest rooms, the 5,000 square foot maximum applies.

7. Can employees decline to clean additional guest rooms above the maximum?

Yes. According to SMC 14.25.100.B, “An employee providing housekeeping services at a large hotel shall not be required to clean guest rooms totaling more than 5,000 square feet of floor space in an eight-hour workday. When an employee performs ten or more strenuous room cleanings in an eight-hour

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workday, the maximum floor space shall be reduced by 500 square feet for the tenth strenuous room cleaning and for each such strenuous room cleaning thereafter.”

Therefore, a hotel employer cannot require an employee to clean guest rooms totaling more than 5,000 square feet (or the appropriate prorated maximum).

Employees may voluntarily elect to clean more than 5,000 square feet (or the prorated maximum); under such a scenario, SMC 14.25.100.D requires at minimum time-and-a-half payment for all time worked cleaning guest rooms during that day.

Time-and-a-half payment is required for all time worked cleaning guest rooms during that day, not simply those guest rooms above the applicable maximum. However, time-and-a-half payment is not required for any time worked performing alternative tasks other than providing housekeeping services to guest rooms.

D. Improving access to medical care for low income hotel employees

1. How do employers determine whether or not they are required to provide additional wages?

Large hotel employers (100 guest rooms or more) are required to provide additional wages or salary to any full-time low-wage employee for whom the hotel does not provide health and hospitalization coverage of at least equal to a gold-level policy on the Washington Health Benefit Exchange at a premium or contribution cost to the employee of no more than five percent of the employee’s gross taxable earnings paid to the employee by the hotel employer or its contractors or subcontractors.

A hotel employee is considered low wage if the employee’s total compensation from the employer is 400 percent or less of the federal poverty line for the size of the employee’s household. Total compensation means wages, salary, sick pay, vacation pay, holiday pay, bonuses, commissions, allowances, and in-kind compensation for work performed.

A hotel employee is considered full time if the employee has worked at least 80 hours in a calendar month.

2. How do employers determine how much they are required to provide in additional wages?

A hotel employer who is required to provide additional wages must pay no later than the 15th day of each calendar month, an amount equal to the greater of \$200, adjusted annually for inflation, or the difference between (1) the monthly premium for the lowest cost, gold-level policy available on the Washington Health Benefit Exchange and (2) 7.5% of the amount by which the employee’s compensation for the previous calendar month exceeds 100 percent of the federal poverty line.

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Compensation is compensation paid to the employee by the hotel employer or its contractors or subcontractors, meaning wages, salary, sick pay, vacation pay, holiday pay, bonuses, commissions, allowances, and in-kind compensation for work performed. This does not include the additional wage or salary required by the section.

3. How do employers determine the monthly premium for the lowest-cost, gold-level policy on the Washington Health Benefit Exchange?

Premium rates for plans offered on the Washington Health Benefit Exchange are published annually. The lowest-cost plan can be determined by monthly premium rates for Area 1 – King County. For 2017, that plan is the Coordinated Care Corporation Ambetter Secure Care 1 (2017) + 3 Free PCP Visits.

View premium rates for this plan here: <https://www.insurance.wa.gov/your-insurance/health-insurance/individuals-families/health-plans-rates/documents/coordinated-care-individual-rates.pdf>

In order to determine premium costs for a given hotel employee, a hotel employer must determine the employee’s age as well as the current ages of any spouse or dependents.

Note that federal law prohibits discriminatory employment actions based on protected categories including age and disability. Information gathered for the purpose of determining payment under SMC 14.25.120 may not be used to take discriminatory employment action against any employee.

4. How do employers determine the applicable federal poverty line?

Federal poverty guidelines are updated annually and are determined based on family size. The latest poverty guidelines were released in January 2017 for FFY 2017 and appear below.

2017 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA	
PERSONS IN FAMILY/HOUSEHOLD	POVERTY GUIDELINE
For families/households with more than 8 persons, add \$4,180 for each additional person.	
1	\$12,060
2	\$16,240
3	\$20,420
4	\$24,600
5	\$28,780
6	\$32,960
7	\$37,140
8	\$41,320

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In order to determine the applicable poverty guideline, a hotel employer must determine the size of an employee's household (spouse + dependents).

Note that federal law prohibits discriminatory employment actions based on protected categories, including age and disability. Information gathered for the purpose of determining payment under SMC 14.25.120 may not be used to take discriminatory employment action against any employee.

5. Are employers required to pay additional compensation in the following situations:

a. Employee declines coverage

Hotel employers are considered to have provided coverage if they offer coverage meeting the requirements of SMC 14.25.120.B. An employer is exempt from the requirement for additional wages or salary provided the employee either enrolls in or voluntarily waives qualified coverage.

b. Employee accepts coverage but is not yet eligible due to waiting period

If during the waiting period the employer is contributing towards coverage of a policy that meets the requirements of Section 14.25.120.B, the employer is not required to also pay additional wages or salary; however, if during the waiting period the employer is not contributing towards coverage or the employee's own contributions exceed the 5% of gross taxable earnings threshold, then the employer is required to pay additional wages or salary per Section 14.25.120.A.

c. Employer pays towards multi-employer health care trust-fund for each hour worked regardless of whether the employee is enrolled in a health care plan (Taft Hartley Plans)

Hotel employers are considered to have provided coverage if they offer coverage meeting the requirements of Section 14.25.120.B.

d. Employee receives coverage through another employer

Hotel employers are required to provide qualified coverage or additional wages or salary regardless of whether an employee receives coverage through another employer or spouse's employer. However, if a hotel employee is employed by multiple hotel employers covered by this ordinance, and/or an employee's spouse or dependents are also employed by covered hotel employers, hotel employers may coordinate payments so that their combined payments do not exceed the total cost of coverage for the household under the least-expensive gold policy on the Washington Health Benefit Exchange. In the absence of an agreement among hotel employers so as to coordinate their payments, the amount of additional wages payable to each hotel employer is the amount due to each employee under subsection 14.25.120.A.

6. Are employers required to provide additional wages to employees who are offered or receive employee-only coverage?

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Yes, unless the employee was also offered gold-level family coverage at no more than 5% of gross earnings and voluntarily opted to enroll in employee-only coverage.

7. When is additional compensation required?

Additional compensation is required as of the effective date of the ordinance, November 30, 2016.

E. Preventing disruptions in the hotel industry

1. What constitutes a change in control?

Change in control means any sale, assignment, transfer, contribution, or other disposition of all or substantially all of the assets used in the operation of a hotel or a discrete portion of the hotel that continues in operation as a hotel, or a controlling interest (including by consolidation, merger, or reorganization) of the outgoing hotel employer or any person who controls the outgoing hotel employer.

A hotel is defined as a hotel or motel containing 60 or more guest rooms or suites of rooms and also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the building's purpose, or providing services at the building.

2. Which employees are required to be retained?

The requirement under 14.25.140 to retain existing employees applies to any employee (1) whose primary place of employment is at a hotel subject to a change in control, (2) who is employed directly by the outgoing hotel employer, or by a person who has contracted with the outgoing hotel employer to provide services at the hotel subject to a change in control, and (3) who has worked for the outgoing hotel employer for at least one month prior to the execution of the transfer document.

3. What notice need to be provided to the City in the event of a change in control?

While no notice or records are explicitly required to be proactively provided to the Office of Labor Standards, all records required pursuant to 14.25.140 should be retained by both the incoming hotel employer and the outgoing hotel employer (where applicable) for a period of no less than three years. These records should be made available for inspection or copying upon request from OLS.

This includes:

- Name, address, date of hire and employment occupation classification of each retention hotel worker.
- Written verification of employment offers to retention hotel workers.
- Written performance evaluation for each hotel worker retained pursuant to 14.25.140.
- Copy of posted notice of change in control, including location and dates of posting.

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4. What notification needs to be provided to employees in the event of a change in control?

The outgoing hotel employer must post written notice of the change in control at the location of the affected hotel within five business days following the execution of the transfer document. Notice must be posted in a conspicuous place at the hotel so as to be readily viewed by retention hotel workers, other employees, and applicants for employment. Notice shall include, but not be limited to, the name of the outgoing hotel employer and its contact information, the name of the incoming hotel employer and its contact information, and the effective date of the change in control. Notice must remain posted during any closure of the hotel and for six months after the hotel is open to the public under the incoming hotel employer.

If the incoming hotel employer extends an offer of employment to a retention hotel worker, the offer must be in writing and remain open for at least 10 business days.

At the end of the 90-day transition employment period, the incoming hotel employer must provide a written performance evaluation for each hotel worker retained pursuant to the ordinance.

5. What if the hotel closes for renovations?

If the renovations follow a change in control triggering the requirements of 14.25.140, an incoming employer must extend offers of employment to retention employees regardless of any closure period. The incoming hotel employer is required to hire from the retention list for a period beginning upon the execution of the transfer document and continuing for six months after the hotel is open to the public.

6. What if a hotel employer chooses to subcontract a portion of the hotel?

Subcontracting constitutes a change in control triggering the requirements of 14.25.140.

7. What if a successor employer requires fewer employees than the predecessor employer?

If within the 90-day transition employment period established under the ordinance the incoming hotel employer determines that it requires fewer hotel employees than was required by the outgoing hotel employer, the incoming hotel employer shall retain hotel workers by seniority within each job classification to the extent that comparable job classifications exist.

F. Enforcement--notice posting and records

1. How should employees be notified of their rights?

Each hotel employer must give written notification to each current employee and to each new employee at time of hire of the employee's rights under the ordinance.

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At minimum, such notice should enumerate the rights and protections granted to employees under Parts 1-4 and state unequivocally the ordinance's prohibition on retaliation.

Additionally, hotel employers must provide employees with effective information on hazardous chemicals in their work area at the time of their initial job assignment. Information must be provided whenever a new physical or health hazard related to chemical exposure is introduced into work areas.

2. What languages do notices need to be made in?

Notice must be made in each language spoken by ten or more employees of the hotel employer.

3. What records must employers keep?

Each hotel employer must maintain for three years, for each employee and former employee, by name, a record showing the following information:

- a. For each workweek of employment, the employee's regular hourly rate of pay;
- b. For each month of full-time employment at a large hotel, the amount of additional wages or salary paid as additional compensation reflective of the cost of medical coverage for low income hotel employees, as required by section 14.25.120; and
- c. For each day of employment as a housekeeping employee at a large hotel, the total square feet of guest room floor space cleaned, the number of strenuous room cleanings performed, the number of hours worked, and the employee's gross pay for that day.

The hotel employer must, upon request, make all such employee and former employee records available in full to any requesting employee and to the Office of Labor Standards for inspection and copying.

Additionally, pursuant to Section 14.25.040, each hotel employer must record the accusations it receives that a guest has committed an act of violence, including assault, sexual assault, or sexual harassment towards an employee. The hotel employer must determine and record the name of the guest; if the name of the guest cannot be determined, the hotel employer must determine and record as much identifying information about the guest as is reasonably possible. The hotel employer must compile and maintain a list of all guests so accused. The employer must retain a guest on the list for at least five years from the date of the most recent accusation against the guest, during which time the employer must retain all written documents relating to such actions.

Hotel employers must cooperate with any investigation into an incident of violent assault or sexual harassment undertaken by a law enforcement agency or an attorney for a complaining employee.

4. Under what circumstances will records be inspected?

Records may be inspected at any time per request of an employee or former employee or the Office of Labor Standards.

G. Enforcement—Investigations

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1. What are penalties for violations?

Each workday during which the hotel employer is in violation of the ordinance constitutes a separate violation for which the hotel employer is liable for a penalty, exclusive of any damages which may be recovered by or awarded to any employee, of at least \$100 per day per employee, and not more than \$1,000 per day per employee, in an amount to be determined by the court.

Civil penalties will be distributed 50% to the Office of Labor Standards, 25% to aggrieved employees and 25% to the person bringing the case.

H. Miscellaneous

1. Can parts of the law be waived?

Any or all of the provisions of the ordinance may be waived except Sections 14.25.020 through 14.25.060 and the applicable enforcement mechanisms under Section 14.25.150. Waiver must be in a bona fide written collective bargaining agreement and be set forth in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship does not constitute and will not be permitted as a waiver of all or any part of the ordinance.