

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 3 (REVENUE AND FINANCE), CHAPTER 3.46 (WAGE THEFT) IN ORDER TO AMEND SECTION 3.46.020(B) DUTIES OF THE WAGE THEFT COORDINATOR TO INCLUDE ADDITIONAL DUTIES, AMEND SECTION 3.46.030 (A) INCLUSION IN DATABASE TO INCLUDE ADDITIONAL EVIDENCE CONSIDERATIONS TO NOT INCLUDE AN EMPLOYER IN THE WAGE THEFT ADJUDICATION DATABASE, AMEND SECTION 3.46.030(C) REMOVAL FROM DATABASE TO ADD A CAUSE FOR REMOVAL FROM THE WAGE THEFT ADJUDICATION DATABASE, ADD SECTION 3.46.070 CITY PERMITS, LICENSES, AND REGISTRATIONS TO ESTABLISH THE PROCEDURE FOR DENIAL OF ISSUANCE AND RENEWAL OF CERTAIN PERMITS, LICENSES, AND REGISTRATIONS FOR APPLICANTS WITH A WAGE THEFT ADJUDICATION RECORD, AND ADD SECTION 3.46.080 PERMITS, LICENSES, AND REGISTRATIONS -APPEAL PROCESS; THE PENALTY AS PROVIDED IN SECTION 3.46.070 OF THE EL PASO CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Section 3.46.020 (Wage Theft Coordinator) B (Duties) of the El Paso City Code, is amended to add duties to the existing list of duties to read as follows:

Section 3.46.020 B. Duties

6. The Wage Theft Coordinator shall not have the duty to receive, review, and process wage theft complaints pursuant to Section 3.46.40 related to Employers who apply for the issuance or renewal of a City permit, license, and registration.
7. Review and issue final decision of Appeals received by Applicants through the process established in Section 3.46.080.

Section 2. That Section 3.46.030 (Wage Theft Adjudication Database) A (Inclusion in Database) (3) of the El Paso City Code, is amended to read as follows:

Section 3.46.030 A. Inclusion in Database

3. Allowed the employer thirty (30) days from the date of the notice to protest the employer's inclusion in such database and provide the Wage Theft Coordinator evidence that the employer should not be included in the Wage Theft Adjudication Database. In the case of a wage theft adjudication, the Wage Theft Coordinator shall not include the employer in the Database upon proof of full payment of outstanding wage theft adjudication or satisfactory proof that the adjudication is not applicable to the employer.

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Section 3. That Section 3.46.030 (Wage Theft Adjudication Database) C (Removal from Database) of the El Paso City Code, is amended to add a cause for removal to the existing list to read as follows:

Section 3.46.030 C. Removal from Database

4. Sufficient proof is provided by Employer that the wage theft adjudication is not applicable to the Employer.

Section 4. That Section 3.46.070 (Sanctions and Penalties- City Permits, Licenses, and Registrations) is added to the El Paso City Code to read as follows:

Section 3.46.070. SANCTIONS AND PENALTIES- CITY PERMITS, LICENSES, AND REGISTRATIONS

A. 1. In the event the City becomes aware that an Applicant for the issuance or renewal of the City permits, licenses or registration identified in Section 3.46.070 (B) has been adjudicated for wage theft and the permit, license, or registration is related to the Applicant’s business activity, the City may deny the application for a period of five (5) years from the wage theft adjudication judgment date.

2. A license, permit, and registration may be denied by the Permit or License Official after substantiating that an Applicant for the identified permits or licenses has a Wage Theft Adjudication record or is included in of the Wage Theft Adjudication Database.

B. Permits, Licenses, and Registrations

Food and Food Handling Establishments	License	§9.12.060
Laundries	License	§5.08.020
Dealers in Secondhand Goods	License	§5.12.080
Vendors and Solicitors	License	§5.15.020
Flea Market Operator	Permit	§5.04.010
Contractor and Licensing	Registration	§18.02.104

C. Prior to the denial of the issuance or renewal of a license, permit, and registration, the City will provide Employer with thirty (30) days’ notice and opportunity to provide full proof of payment of outstanding wage theft adjudication.

- D. Permit Officials, License Officials, or Wage Theft Coordinator shall be under no obligation to revoke permits, licenses, or registration approved prior to the knowledge of an Applicant's Wage Theft Adjudication record or inclusion of the Wage Theft Adjudication Database.

Section 5. That Section 3.46.070 (Licenses, Permits, and Registrations- Appeals Process) is added to the El Paso City Code to read as follows:

Section 3.46.080. LICENSES, PERMITS, AND REGISTRATIONS- APPEALS PROCESS

- A. An Applicant who has been denied a permit, license, or registration by a Permit or License Official due to the wage theft adjudication record of an Applicant or inclusion of Applicants name in the Wage Theft Database may appeal to the Wage Theft Coordinator by submitting an appeal in writing within fifteen (15) working days of the denial.
- B. The Wage Theft Coordinator shall review the Applicant's written appeal. The Wage Theft Coordinator may grant the Appeal if the Applicant shows evidence of the following:
 - 1. A Wage Theft Adjudication has been annulled, withdrawn, overturned, rescinded or abrogated, and such fact has been confirmed by the Wage Theft Coordinator; or
 - 2. Employer provided proof of full payment of outstanding Wage Theft Adjudication judgment;
 - 3. Five (5) years or more has elapsed since the date of the employer's most recent Wage Theft Adjudication judgment.
 - 4. The wage theft adjudication is not applicable to the Employer.
- C. The Wage Theft Coordinator shall make ruling on the appeal writing fifteen (15) working days. The decision of the Wage Theft Coordinator is final.

Section 6. Except as amended herein, Title 3 (Revenue and Finance), Chapter 3.46 (Wage Theft) shall remain in full force and effect.

Section 7. This ordinance shall take effect _____, 2016.

(Signatures on the following page)

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ADOPTED this ____ day of _____ 2016.

CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT

Sol M. Cortez
Assistant City Attorney

Bruce D. Collins, Director
Purchasing and Strategic Sourcing

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