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PIERCE COUNTY CLERK
NO: 25-2-10781-2

Hon. Judge Philip E. Thornton

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

UNITED FOOD AND COMMERCIAL
WORKERS LOCAL 367, TACOMA
FOR ALL and THE TACOMA-PIERCE
COUNTY DEMOCRATIC
SOCIALISTS OF AMERICA,

Plaintiffs,

vs.

PIERCE COUNTY; LINDA FARMER,
in her official capacity; and CITY OF
TACOMA,

Defendants.

No. 25-2-10781-2

CITY OF TACOMA'S RESPONSE
TO PLAINTIFFS' MOTION FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND MOTION FOR RELIEF
PURSUANT TO RCW CHAPTER
29A.68

ORAL ARGUMENT: 8/26/2025

COMES NOW the City of Tacoma (hereinafter "City") by and through
Christopher D. Bacha, City Attorney, Steve Victor, Chief Deputy City Attorney, and
Debra Casparian, Deputy City Attorney, and submits this memorandum in response to
Plaintiffs' Motion for Declaratory and Injunctive Relief and request for equitable relief
pursuant to RCW Ch. 29A.68, and respectfully requests this Court to deny plaintiffs'
request for declaratory judgment and injunctive relief and for relief pursuant to RCW
Ch. 29A.68 and for an order dismissing plaintiffs' declaratory judgment action.

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I. SUMMARY OF ARGUMENT

The Tacoma City Council (“Council”) and Pierce County Auditor (“Auditor”) acted properly and reasonably and in conformance with their duties under the Tacoma City Charter (“Charter”) and applicable state law. There is no basis in law or in fact to find a violation of a duty owed and no basis for the Court to exercise its equitable powers. Further, issuing an order to place Initiative No. 2 on the ballot would violate state law and the Charter and result in the measure being illegal, void and unenforceable if passed by the voters.

Unlike statewide initiative power, local initiative power is not a constitutional right, but instead must be authorized by local governments by ordinance or city charter. Local initiative power is derived solely from such ordinances and charter provisions. Because the power of local initiative has no constitutional origins and may be exercised only in the manner authorized under a local ordinance or charter, local initiative power is more limited than statewide initiative power. For this reason, the body of law interpreting statewide initiative power has no application to local initiatives or this action. Any decision of this Court with respect to any duty of the Council must be based upon the provisions of the Charter and plaintiffs have not identified any such duty that has been violated.

In Tacoma, the local power of initiative is set forth in Section 2.19 of the Charter. This section of the Charter establishes the only process for filing and validating a voter initiative petition and includes limitations upon that power. In particular, the power of the voters to submit an initiative is subject to an unqualified

1 Tacoma City Clerk). On January 14, 2025, and January 15, 2025, the City Clerk
2 forwarded the two proposed ordinances to the City Attorney for review pursuant to
3 Section 2.19 of the Tacoma City Charter. (See Exhibit A).

4 On January 24, 2025, the City Attorney notified the Petitioner the proposed
5 ordinances were being rejected because they did not conform to the form and style
6 requirements set forth in state law and the Charter. (See Exhibit B, Declaration of
7 Chris Bacha, City Attorney). On January 28th, 2025, Petitioner submitted four
8 initiative petitions to the City Clerk who forwarded them to the City Attorney on
9 January 29th for review as to form and style. (See Exhibit A). On January 29th the
10 City Attorney met with Petitioner and Colton Rose (Co-Petitioner). (See Exhibit B).
11 On January 31, 2025, the City Attorney notified Petitioner that the four proposed
12 initiative petitions did not conform to the form and style requirements set forth in state
13 law and the Charter. (See Exhibit B).

14 On February 4, 2025, Petitioner filed two initiative petitions with proposed
15 ordinances which were forwarded by the City Clerk on February 5, 2025, to the City
16 Attorney for review. (See Exhibit A). On February 18, 2025, the City Attorney notified
17 the City Clerk that the two initiative petitions were proper as to form and style and filed
18 with the City Clerk the approval ballot titles for each of the initiative petitions. (See
19 Exhibit B). On February 19, 2025, the City Clerk notified the Petitioner and Co-
20 Petitioner that the ballot titles had been filed and posted, that the initiatives had been
21 assigned Initiative No. 2 and Initiative No. 3, and that the Petitioner and Co-Petitioner
22 could begin gathering signatures in ten working days if there was no judicial review.
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1 (See Exhibit A). On February 28, 2025, the City Clerk advised Petitioner that the ten
2 working day period for judicial review would end on March 5, 2025, at which time
3 Petitioner could begin collecting signatures. (See Exhibit A).

4 On June 17, 2025, Petitioner notified the City Clerk by electronic mail that
5 Petitioner was ready to turn in signatures on Monday, June 23rd. (See Attachment
6 A-3 to Exhibit A). This was the first communication by Petitioner with the City Clerk
7 regarding the Petitions since March 5, 2025. (See Exhibit A). On June 24, 2025,
8 the Petitioner filed only "Initiative No. 2" with the City Clerk together with
9 approximately 10,000 signatures for verification and validation. (See Exhibit A). On
10 June 26, 2025, the City Clerk forwarded Initiative Petition No. 2 together with the
11 filed signatures to the Pierce County Auditor's Office, as *ex officio* supervisor of
12 elections, for verification of signatures. (See Exhibit A).

13 On June 30, 2025, Pierce County Elections Supervisor, Corbin Ensminger,
14 notified the City Clerk and Petitioner that the Pierce County Elections Office would be
15 verifying signatures on the Petition beginning Monday, July 7th at 8:00 a.m. and that
16 he anticipated working on verification of signatures until Thursday, July 10th. On
17 Wednesday July 9, 2025, the Pierce County Elections Office notified the City Clerk
18 that sufficient signatures had been verified to place the Initiative Petition on the ballot.
19 (See Exhibit A). On July 10th, the City Clerk validated the Petition signatures and
20 provided notice of validation to the Council. (See Exhibit A).

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22 B. City Council Action. On July 15, 2025, the Council held a study session at
23 which it heard a presentation from the Interim City Manager and City Attorney
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1 regarding the initiative process, the timing of filing and review of Initiative Petition
2 No. 2 and Initiative Petition No. 3, and a summary of the provisions of each of the two
3 initiative petitions that had been initially filed by Petitioner. (See Exhibit B). On
4 July 29, 2025, the Council held a second study session regarding Initiative No. 2 to
5 hear a presentation in response to questions Council Members asked during the July
6 15th study session. (See Exhibit B). The Council asked more questions, and at the
7 conclusion of the study session presentation, requested that the Interim City Manager
8 and City Attorney return at the August 5th Council study session to provide more
9 information and answer additional questions. (See Exhibit B). During this time, the
10 Council also received written comments from the public and heard public testimony
11 regarding Initiative No. 2. (See Exhibit A).

12
13 On August 5, 2025, the Council held its third study session to hear a
14 presentation regarding Initiative No. 2 to answer questions raised by Council
15 Members at the July 29th study session and to answer any further questions asked
16 during the study session. (See Exhibit B). At the conclusion of the study session
17 presentation, Tacoma Mayor Victoria Woodards requested a special meeting of the
18 Council to be held on August 8, 2025. On August 8, 2025, the Council held a special
19 meeting and passed Resolution No. 41733 calling for a special election concurrent
20 with the November 4, 2025, General Election, and to submit Initiative No. 2 to the
21 Auditor for the November 4, 2025, General Election. (See Exhibit A). On that same
22 afternoon, the City Clerk emailed Resolution No. 41733 to the Auditor together with
23 the ballot title and explanatory statement. (See Exhibit A).

IV. BURDEN OF PROOF

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2 A. Burden of Proof on Summary Judgment. Summary judgment is
3 appropriate only if “the pleadings, depositions, answers to interrogatories, and
4 admissions on file, together with the affidavits, if any, show that there is no genuine
5 issue as to any material fact and that the moving party is entitled to a judgment as a
6 matter of law.” See, CR 56(C); Bainbridge v. DNR, 147 Wn App. 365, 371 (2008). All
7 facts and reasonable inferences therefrom are construed in the light most favorable to
8 the nonmoving party. Id. Further, if a court finds that a motion for summary judgment
9 is without merit and that there are no genuine issues of material fact in dispute, the
10 superior court may grant summary judgment to the nonmoving party even if the party
11 has not brought a cross motion for summary judgment. Hood Canal Sand & Gravel,
12 LLC v. Goldmark, 195 Wn. App 284, 297 (2016).

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14 B. Burden of Proof on Motion for Injunctive Relief. The law is well settled
15 that to obtain injunctive relief, a plaintiff must establish that, (1) plaintiff has a clear
16 legal or equitable right; (2) plaintiff has a well-grounded fear of immediate invasion of
17 that right by the entity against which plaintiff seeks the injunction; and (3) the acts
18 about which plaintiff complains are either resulting or will result in actual and
19 substantial injury to him. Tyler Pipe Indus. v. Dep't of Revenue, 96 Wash.2d 785, 792,
20 638 P.2d 1213 (1982). The plaintiff must satisfy these three basic requirements
21 regardless of whether the injunction plaintiff seeks is temporary or permanent. Federal
22 Way Family Physicians v. Tacoma Stands Up for Life, 106 Wash.2d 261, 265, 721
23 P.2d 946 (1986). Northwest Gas Association v. Washington Utilities and

1 Transportation Commission, 141 Wash. App. 98, 115, 168 P.3d 443 (2007). The failure
2 to establish any of these criteria requires the denial of injunctive relief. Kucera v. Dep't
3 of Transp., 140 Wash.2d 200, 210, 995 P.2d 63 (2000).¹

4 V. ARGUMENT

5 A. The Court has no jurisdiction to hear this Declaratory 6 judgment action because RCW Chapter 29A.68 sets forth the 7 exclusive procedures for an election contest.

8 The election contest statute under RCW Chapter 29A.68 provides that,

9 . . . [a]ll election contests must proceed under RCW 29A.68.011 or
10 RCW 29A.68.013.

11 RCW 29A.68.020; see also, In re Special Election on Moses Lake Sch. Dist. No. 161
12 Proposition 1, 2 Wn. App. 2d 689, 695 (2018). The Washington Supreme Court,
13 when interpreting the same substantive provisions of the predecessor statute, found
14 that the election contest statute establishes special procedures for a remedy that is
15 exclusive and mandatory and that this statute will be strictly construed. Hatfield v.
16 Greco, 87 Wn. 2d 780, 781 (1976); see also, Jewel Helping Hands v. Hansen, 4 Wn.
17 3d 665, 685 (2025) (This statute provides a means for challenging problems relating
18 to ballot printing errors). The plain language of the statute makes it the exclusive
19 remedy when contesting an election.

20 Plaintiffs in their declaratory judgment action assert that there is election error
21 and that they are contesting whether Initiative No. 2 should be placed on the election
22 ballot for November 4, 2025. (See, Plaintiffs' Complaint, Para. 1.3 and Par 1.6). As

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24 ¹ Plaintiffs have not posted security as required by CR 65; RCW 7.40.080; United States Fid. & Guar. Co. v.
25 Barrow, 3 Wn.2d 89, 99, 99 P.2d 949 (1940). Posting of a bond is mandatory and if a bond is not fixed by
the court, any order issued will be invalid. Evar, Inc. v. Kurbitz, 77 Wn. 2d 948, 951 (1970).

1 such, the exclusive action for contesting whether Initiative No. 2 should be on the ballot
2 is an action pursuant to RCW Ch. 29A.68. A declaratory Judgment Action is not only
3 prohibited by the election contest statute but is also precluded because an adequate
4 statutory remedy is available. See, Shen-Yen Lu v. King County, 110 Wn. App 92, 99
5 (2002). Accordingly, the Court is without jurisdiction to hear this declaratory judgment
6 action and should enter an order of dismissal for want of jurisdiction.

7 **B. The Court should not consider plaintiffs' motion for relief**
8 **pursuant to RCW Chapter 29A.68 because plaintiffs have not**
9 **moved to join the charging party in this declaratory judgment**
10 **action and have not moved to consolidate these two separate**
11 **causes of action before this Court.**

12 An action pursuant to the election contest statute is initiated by affidavit of an
13 elector. See, RCW 29A.68 .011 and 013; Hatfield v. Greco, 87 Wn. 2d at 782
14 (interpreting the predecessor statute to Chapter 29A.68). Filed with the plaintiffs'
15 complaint is the affidavit of elector Joseph Kennedy dated August 12, 2025, asserting
16 an election contest pursuant to RCW 29A.68.011 and 013. Affiant, and plaintiffs, is
17 the party bringing a statutory claim under both RCW 29A.68.011 and 013. Plaintiffs
18 have not moved pursuant to CR 19 to join affiant in this declaratory judgment action
19 and have not moved to consolidate these two separate proceedings pursuant to
20 CR 42. Further, counsel has not appeared on behalf of affiant and it does not appear
21 that the Superior Court Clerk has assigned the election contest proceeding to this
22 court.
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1 Because the proceeding under RCW 29A.68.011 and 013 is not properly before
2 this Court and Plaintiffs' motion is raised on behalf of a party that is not before this
3 Court, the Court should decline to hear this motion.

4 **C. The Council acted in conformance with the Charter and their**
5 **responsibilities as a duly elected legislative body and had no**
6 **duty to act before August 5th.**

7 i. The Charter is Not Rooted in the State Constitution. While Washington
8 guarantees the right of the people to legislate directly by initiative or referendum on
9 statewide issues, the right to file a local initiative is not granted in the constitution and
10 is instead secured by state statutes and city charters. Jewels Helping Hands v.
11 Hansen, 4 Wn.3d 665, 686, 567 P.3d 19 (2025); see also, City of Longview v. Wallin,
12 174 Wn. App 763, 790 (2013); citing, City of Port Angeles v. Our Water-Our choice, 1
13 Wn. 2d 1, 8 (2010) (holding that the constitutional power of initiative under
14 Amendment 7 to the Washington Constitution does not apply to municipal
15 governments). Accordingly, local initiative power is “more limited than the statewide
16 initiative power” and the two “are not equivalent.” Jewels, 4 Wn.3d at 686. In
17 particular, the local initiative power can be circumscribed by its own charter and can
18 accomplish only what falls within the scope of their authorized power. Jewels, 4
19 Wn.3d at 686. For these reasons, the cases cited by Plaintiffs interpreting the power
20 of statewide initiative have no bearing on the power of local initiatives.

21 Plaintiffs' arguments largely brush aside these differences and wrongly overlay
22 the constitutional underpinnings of statewide initiative authority upon local initiative
23 power. More importantly, these arguments fail to recognize the Charter as the source
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1 of authority for initiative power in Tacoma, and that the Charter also operates as a
2 limitation on local initiative power.

3 For example, Plaintiffs cite to In re Recall of West, 155 Wn. 2d 659, 671 (2005)
4 for the proposition that rights to initiative should not be frustrated because “the right of
5 initiative derives from the plain language of the Washington Constitution.” But the
6 power of statewide initiative is constitutionally based and local initiative power is not.
7 Statewide initiative power and local initiative power are not the same. Jewels, 4 Wn.3d
8 at 686.

9 Yet, Plaintiffs double down citing to Eyman v. Wyman, 191 Wn. 2d 581 (2018)
10 to argue that constitutional principles apply to a local initiative process that has no
11 origin in the constitution. The Court’s determination and its analysis in Wyman, supra,
12 were all based upon application of provisions in the state constitution which are
13 entirely separate and distinct from the Charter.
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15 The cases cited by Plaintiffs are not instructive here and direct the Court’s
16 focus away from the underlying issues raised by Plaintiffs, to-wit: did the Council
17 comply with the initiative process set forth in the Charter. The answer is emphatically
18 yes. And to get to that answer, all the Court has to do is look at the Charter.

19 ii. Section 2.19 of Charter is the sole authority for submittal of a local initiative
20 to the voters. Tacoma is a first-class city, and is authorized pursuant to RCW
21 35.22.200 to enact initiative and referendum provisions through its Charter. Tacoma
22 voters exercised this statutory authority through enactment of Sections 2.18 – 2.24,
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1 5.1, 8.1 and 8.7 of the Charter. These provisions of the Charter govern the initiative
2 and referendum process. Washam v. Sonntag, 74 Wn. App 504, 509 (1994).

3 Section 2.19 of the Charter governs the power of initiative, setting forth the
4 procedural requirements for submitting a proposal to the voters for approval or
5 rejection. At issue here is Subsection 2.19(j) of the Charter which provides as
6 follows:

- 7 (j) The City Clerk shall forward the signatures to the County
8 Auditor to be verified. Based on the Auditor's review, the City
9 Clerk shall determine the validity of the petition. If the petition is
10 validated, the City Council may enact or reject the Initiative, but
11 shall not modify it. If it rejects the Initiative or within thirty (30)
12 calendar days fails to take final action on it, the City Council
shall submit the proposal to the people at the next Municipal or
General Election that is not less than ninety (90) days after the
date on which the signatures on the petition are validated.

13 Tacoma City Charter, 2.19 (j).

14 The Charter requires the City Clerk to forward signatures to the Auditor to be
15 verified. Once the County has completed its review, the City Clerk is required to
16 determine the validity of the petition. Determining validity is a function of whether the
17 signatures that are determined by the Auditor to be valid, meet the validation
18 percentage set forth in Section 2.19(i) of the Charter.²

19 Once the City Clerk validates the petition, the Charter provides that the
20 Council will then have 30 days to enact or reject the initiative. The consequence of
21 rejecting the initiative is that the Council is directed to submit the proposal to the
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24 ² (i) The number of valid signatures shall be equal to ten percent (10%) of the votes cast in the last election for the
office of Mayor. Tacoma City Charter, Section 2.19 (i).

1 people at the next municipal or general election. If the Council fails to take action
2 within 30 days following validation by the City Clerk, meaning it fails to either enact
3 or reject the initiative, then the Council is also directed to submit the proposal to the
4 people at the next municipal or general election.

5 Nowhere in the Charter is there a requirement that the Council take action in
6 less than 30 days nor is there a requirement that the Council take action to send the
7 proposition to the ballot before the statutory deadline. Moreover, the Charter makes
8 all validated initiatives subject to the Council review period of 30 days and required
9 subsequent action of the Council. This review period preserves the legislative role of
10 the elected governing body (Council) and is part of the checks and balances built into
11 the Charter. Anyone submitting an initiative does so subject to these limitations.
12 Moreover, as discussed below, the timing for the beginning and end of the Council's
13 30-day review period is entirely in control of the petitioners.
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15 iii. Petitioners' delay does not create a duty for the Council.

16 Petitioners' wanting to ensure that the review period does not extend beyond
17 the submittal deadline are free to submit their signatures early enough to ensure that
18 the statutory deadline does not expire before completion of this review period. The
19 review period commences with validation of the petition by the City Clerk. See,
20 Section 2.19 (j), Tacoma City Charter. The act that triggers the validation obligation
21 of the City Clerk is certification of the signatures, and the act that triggers certification
22 is submittal of signatures to the City Clerk. Thus, commencement of the process of
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1 certification, validation and the 30-day review period is entirely within the control of
2 the petitioners and no-one else.

3 Nonetheless, the Plaintiffs complain that the Council's process is the cause for
4 missing the petition deadline. The plain and simple fact is that Petitioners could have
5 avoided this problem simply by submitting the collected signatures once they were
6 available. This did not happen.

7 The Petitioners notified the City Clerk on June 17 that sufficient signatures had
8 been collected and were available to be filed. (See Exhibit A and Attachment A-3).
9 Instead of filing on that date, Petitioners chose to wait until June 24 to file the
10 signatures. (See Exhibit A). Had Petitioners filed the signatures on the earlier date,
11 the City Clerk could have submitted the signatures seven days earlier to the County
12 for verification. Instead of the 30-day review period ending on August 9, it would
13 have ended on August 2nd, and submittal of the resolution to the County would have
14 occurred before the August 5th primary. Plaintiffs should not be heard to complain of
15 a result that was the consequence of the Petitioners' own actions. Further, as will be
16 discussed below, the Council's deliberative process was not without reason.
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18 iv. The Council's actions were reasonable and prudent and in conformance
19 with the express provisions of the Charter. The City Clerk validated the Petition on
20 July 10th, one day after receiving notification of verification of signatures from the
21 Auditor. (See Exhibit A). Validation by the City Clerk is a requirement under the
22 Charter. See, Section 2.19 (j), Tacoma City Charter. The Council took action on
23 August 8th to approve Resolution No. 41733 rejecting the initiative and calling for a
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1 special election. This action was taken 29 days after validation of the Petition and
2 within the initial 30 days in which the Council under the Charter may either enact or
3 reject the initiative. See, Section 2.19 (j), Tacoma City Charter.

4 In the course of its deliberation the Council considered the potential impacts of
5 the proposed initiative over the course of three separate study sessions. (See
6 Attachment A-5 to Exhibit A). The Council wanted to know how the provisions affecting
7 scheduling and overtime would impact employers and employees in Tacoma, including
8 emergency responders (police and fire), hospitals, small businesses, non-profits, the
9 Port of Tacoma, governmental employers, and all other employers in the City. (See
10 Exhibit B). The Council heard a presentation regarding the provisions of the initiative
11 that would, if enacted by the Council, prohibit nearly all employers in the City from
12 deviating from established work schedules with less than 14 days' notice, regardless of
13 the circumstances, including threats to public health and public safety. (See Exhibit B).
14 This provision would also have precluded employers from scheduling overtime for
15 employees without their prior consent. These provisions alone would, if adopted,
16 almost overnight change how public and private employers in Tacoma schedule
17 employees for work and how critical emergency services and health care services are
18 provided to the public.
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20 Resolution No. 41733 explains the Council's deliberative process and decision
21 to reject the initiative. (See Attachment A-4 to Exhibit A). The actions of the Council
22 reflect a reasonable effort to ensure that it did not imprudently take legislative action.
23 Ultimately, the Council determined that,
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1 “Initiative Measure No. 2 would have broad and far-reaching
2 impacts on employers and employees in the City of Tacoma and
3 that it does not have sufficient information to make a reasoned
4 decision regarding whether it should enact Initiative Measure No. 2
5 or consider placing an alternative measure on the ballot . . .”

6 (See Attachment A-1 to Exhibit A).

7 The essence of Plaintiffs’ argument is that the Council’s role is merely
8 ministerial and that it must act with haste to ensure that the initiative makes it to the
9 ballot. But the Council is an elected legislative body with a responsibility to ensure its
10 actions are in the best interest of all City residents and businesses. Each elected City
11 official takes an oath of office enforceable under state law to faithfully perform the
12 duties of the office that they enter. (Tacoma City Charter, Section 6.4; RCW
13 42.20.100). The Council members cannot abdicate their individual and collective
14 responsibilities. Plaintiffs may be cavalier about the Council’s duties, but the Council
15 cannot be.

16 The Council’s actions were wholly in conformance with the Charter and were
17 reasonable and proper. While the Plaintiffs may prefer that their judgment be
18 substituted for that of the Council, it is not the role of this Court to do so.

19 **D. The City of Tacoma is not estopped from arguing that the local
20 initiative power is not subject to the same constitutional
21 principles as statewide initiative power.**

22 Plaintiffs at page 14 of their memorandum assert that the City is “estopped from
23 denying that its “interference” is not subject to Eyman’s standards.” Plaintiffs provided
24 no support for this argument. Plaintiffs’ assertion is that the City is estopped from
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1 arguing the meaning of a Supreme Court decision. This is a preposterous assertion for
2 which Plaintiffs cite no authority.

3 Collateral estoppel is intended to prevent retrial of one or more of the crucial
4 issues or determinative facts determined in previous litigation. Christensen v. Grant
5 County Hospital, 152 Wn. 2d 299, 306 (2004). Id. At 306. It may only be applied to
6 preclude those issues that have actually been litigated and necessarily and finally
7 determined. Id., at 307. For collateral estoppel to apply the party seeking application
8 of the doctrine must, among other things, establish that the issue decided in the earlier
9 proceeding was identical to the issue presented in the later proceeding. Id., at 307.

10 The issue to be decided by Judge Ashcraft was whether the City exercised its
11 authority to submit an alternative ordinance to the voters in a valid manner under the
12 State Constitution. (See Exhibit B to Declaration of Katelyn Kinn). Judge Ashcraft's
13 order was specific to the facts and circumstances in that prior case which is unrelated
14 to Initiative No. 2. Collateral Estoppel is merely being used by Plaintiffs as a pretext
15 to bring before the court a completely unrelated proceeding in furtherance of their
16 specious attack upon the Council.

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18 **E. Plaintiffs' motion should be denied because the deadline**
19 **in RCW 29A.04.330 (3) for submittal of a ballot**
20 **proposition is mandatory and failure to meet this**
21 **deadline makes it unlawful to place this proposition on**
22 **the ballot.**

23 In the interest of efficiency, the City incorporates by reference as though fully set
24 forth herein the responsive pleadings of Pierce County filed in opposition to Plaintiffs'
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1 motion for declaratory judgment and injunctive relief and affidavit/petition pursuant to
2 RCW Ch 29A.68.

3 **F. Plaintiffs have not established a basis under RCW Chapter**
4 **29A.68 to challenge the November 4 General Election ballot.**

5 The procedure for contesting an election is statutory in character and the
6 methods of procedure provided in the statute are exclusive and mandatory and are
7 to be strictly constructed. Hatfield v. Greco, 87 Wn. 2d 780, 782 (1976) (interpreting
8 the predecessor statute to Chapter 29A.68).

9 RCW 29A.68.011 creates a process to commence an action by affidavit to
10 contest an election for any one of three reasons identified in the statute. RCW
11 29A.68.011 (1-3). But this statute provides a means for challenging problems relating
12 to ballot printing errors. Jewel Helping Hands v. Hansen, 4 Wn. 3d 665, 685 (2025).
13 The scope of challenges pursuant to this statute are narrowly drawn because appeals
14 of decisions under RCW 29A.68.011 are final and not subject to appeal. Jewel, 4 Wn
15 3d at 684. For example, in Jewel, *supra*, the court would not allow a challenge to a
16 measure on the ballot to proceed under RCW 29A.68.011 because this statute only
17 applies to challenges to ballot printing errors. Instead, the court considered the
18 challenge under RCW 29A.68.013 which allows challenges based upon allegations of
19 negligence and certification of a measure on the ballot. Jewel, 4 Wn. 3d at 685.

21 Assuming arguendo that plaintiffs are allowed to make their motion pursuant to
22 RCW 29A.68.013, the provisions of RCW 29A.68.030 will apply. This statute
23 requires that the affidavit set forth the causes of the contest with “sufficient certainty.”
24 The statute requires the assertion of a wrongful act by an election officer, neglect of
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1 duty on the part of an election officer, or an error or omission has occurred or is about
2 to occur in the official certification of any primary or election, including a challenge to
3 the “certification” of any measure.

4 Plaintiffs have not charged the violation of a duty or alleged fraud, wrongdoing
5 or error, nor have they presented any facts supporting such allegations. Instead,
6 Plaintiffs complain that the Auditor should not have followed state law and that the
7 Council should not have followed the Charter. These charges do not invoke the
8 jurisdiction of this Court under the election statute, accordingly the Court should
9 dismiss the election contest challenge.

10 **G. Equitable relief is not available because the proposed remedy**
11 **would contravene express processes and requirements in**
12 **state law and the Charter.**

13 Plaintiffs’ proposed remedy is to issue an injunction that would compel the
14 Auditor to place Initiative No. 2 on the ballot. Such an order would directly contravene
15 RCW 29A.04.330 and Section 2.19 of the Charter.

16 RCW 29A.04.330 prohibits placing a measure on the ballot that does not meet
17 the statutory deadline. Equitable relief is not available in contravention of a statutory
18 requirement. Longview Fibre Co. v. Cowlitz County, 114 Wn. 2d 691, 699 (1990) (we
19 will not give relief on equitable grounds in contravention of a statutory requirement);
20 and Department of Labor & Industries v. Dillon, 28 Wn. App. 853, 855 (1981)
21 (equitable principles cannot be asserted to establish equitable relief in derogation of
22 statutory mandates). Accordingly, this Court cannot compel the Auditor to place
23 Initiative No. 2 on the ballot.
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1 Likewise, the Court cannot compel Initiative No. 2 to be placed on a different
2 election ballot because this would contravene the provisions of the Charter. Local
3 initiative power is circumscribed by the Charter. Jewels, 4 Wn.3d at 686. The
4 Charter establishes the process for placing initiatives on the ballot providing in
5 pertinent part that,

6 . . . If it rejects the Initiative or within thirty (30) calendar days fails
7 to take final action on it, the City Council shall submit the proposal
8 to the people at the next Municipal or General Election that is not
9 less than ninety (90) days after the date on which the signatures on
10 the petition are validated.

11 Tacoma City Charter, 2.19 (j). The Charter only authorizes voter initiatives to be
12 placed on the ballot during the “next Municipal or General Election” that is no less than
13 90 days following validation of the initiative. Tacoma City Charter, Section 2.19. The
14 term “next” is a preposition that modifies the term general election. It means nearest or
15 adjacent. (See, Merriam-Webster on-line dictionary). The Court is required to construe
16 the Charter so that no clause, sentence or word will be superfluous, void or insignificant
17 and thus must give meaning to the term next. Hoggatt v. Flores, 185 Wn. App. 764,
18 773 (2015).

19 Validation occurred on July 10th and the “next” municipal or general election
20 would occur on November 4, 2025. This election is the only election that Initiative
21 No. 2 can qualify for under the Charter.

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1 **H. A declaratory judgment action is not available to review the**
2 **actions of the Council or Office of County Auditor particularly**
3 **when Plaintiffs have not sought construction of an ambiguous**
4 **statute or ambiguous provision of the Charter.**

5 Declaratory judgment is used to determine questions of construction or validity
6 of a statute or ordinance. RCW 7.24.020, Fed. Way v. King County, 62 Wn. App. 530,
7 534 (1991). It is not proper to review the application or administration of a statute or
8 charter provision in a declaratory judgement action. Federal Way, 62 Wn. App at 535;
9 see also, Seattle-King County Council Of Camp Fire v. Dept. of Rev., 105 Wn. 2d 55,
10 57-58 (1985).

11 Plaintiffs have not in their declaratory judgment action, identified an ambiguity in
12 Section 2.19 of the City Charter, RCW 29A.04.330 or in RCW 35.21.005. Instead,
13 Plaintiffs ask this Court to examine the actions of the Council and County and
14 determine if the applicable provisions of state law and the Charter should be
15 interpreted to create duties that don't exist in any of these provisions.

16 Plaintiffs ask this Court first to find that the filing deadline in state law creates a
17 duty of the Council to take less than the review period to make a decision. (Plaintiffs'
18 memorandum). Plaintiffs provide no supporting authorities for such an interpretation
19 and fail to identify a legal theory supporting the argument that a ballot filing deadline
20 controls the initiative process under the Charter and when the Council must take
21 action.

22 Plaintiffs also argue that the Council's failure to take action by the filing deadline
23 was a constructive rejection of the Initiative. (Plaintiffs' memorandum). Plaintiffs do
24 not even attempt to argue that this requirement is contained in the language of the
25

1 Charter or explain constructive rejection would achieve compliance with the state law
2 filing deadline under RCW 29A.04.330.

3 Finally, Plaintiffs argue that the Charter conflicts with state law. While, plaintiffs
4 cite to Weden v. San Juan County, 135 Wn. 2d 678 (1998), it does not help them. First,
5 there is a presumption of constitutionality with local laws and plaintiffs bear the burden
6 of showing a conflict exists. Weden, 135 Wn. 2d at 690, 693. Whether a conflict exists
7 is purely a question of law. Weden. 135 Wn. 2d at 693. Plaintiffs do not argue
8 preemption, thus they must establish that a conflict exists, i.e., that the Charter permits
9 what the statute forbids or forbids what the statute prohibits. Weden, 135 Wn. 2d at
10 693.

11 There is no conflict here because the state statute addresses mandatory filing
12 deadlines and the Charter addresses the local initiative process. That the Council
13 may not conclude its 30-day review before the expiration of the submittal deadline
14 does not conflict with any provisions of state law. Plaintiffs have not met their
15 burden to shown how a constitutional conflict exists. Moreover, state law does not
16 prohibit the Council from conducting its review and the Charter does not change the
17 submittal deadline in state law.

18
19 When a declaratory judgment action does not raise a question of construction
20 or validity of a law, particularly when it does not contend that the law is ambiguous, the
21 trial court lacks jurisdiction to issue a declaratory judgment. Bainbridge Citizens
22 United v. Dep't of Natural Res., 147 Wn. App. 365, 375 (2008). Because Plaintiffs
23 challenge only the application or administration of state law and the Charter, the Court
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1 lacks jurisdiction to issue a declaratory judgment and lacks jurisdiction to issue
2 injunctive relief. Instead, the Plaintiffs should have brought a writ of mandamus. See
3 generally, Federal Way, 62 Wn. App at 534 and RCW 7.16.040.

4 **D. CONCLUSION**

5 WHEREFORE defendant City of Tacoma prays that the Court deny Plaintiffs'
6 motion for declaratory and injunctive relief and for relief pursuant to RCW Ch. 29A.68
7 and dismiss Plaintiffs' declaratory judgment action.

8 DATED this 22nd day of August, 2025.

9 TACOMA CITY ATTORNEY'S OFFICE

10 

11 By: _____

12 CHRISTOPHER D. BACHA, WSB #16714
13 DEBRA E. CASPARIAN, WSB #26354
14 STEVE I. VICTOR, WSB #20598
15 Attorneys for Defendant City of Tacoma
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EXHIBIT A

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

THE UNITED FOOD AND
COMMERCIAL WORKERS LOCAL 367,
et al.,

Plaintiffs,

v.

PIERCE COUNTY; LINDA FARMER, in
her official capacity; and CITY OF
TACOMA,

Defendants.

No. 25-2-10781-2

DECLARATION OF NICOLE EMERY IN
SUPPORT OF CITY OF TACOMA'S
RESPONSE TO PLAINTIFFS' MOTION
FOR DECLARATORY AND INJUNCTIVE
RELIEF

I, NICOLE EMERY, make the following declaration:

1. I am over the age of eighteen years and am competent to testify in this matter.
2. I am the City Clerk for the City of Tacoma. My duties and responsibilities include managing and maintaining City legislative records, including resolutions, ordinances, council action memorandums, and initiative petitions.
3. On Monday, January 13, 2025, Petitioner Michael Whalen, from United Food And Commercial Workers Local 367, filed with my office *two* proposed ordinances, each of which would amend the Tacoma Municipal Code by the addition of a new chapter 18.20 entitled "Labor Standards for Certain Employees."

1 4. Attachments A-1 and A-2 to my declaration are true and correct copies
2 of the *two* proposed ordinances Petitioner Whalen submitted. Attachment A-1
3 is Proposed Ordinance No. 1, and Attachment A-2 is Proposed Ordinance
4 No. 2.

5 5. On January 14, 2025, I forwarded one initiative petition to the City
6 Attorney for review pursuant to Section 2.19 of the Tacoma City Charter. At that
7 time, I believed the second initiative petition was a duplicate. Upon further
8 review and discussion with Petitioner Whalen, I realized the second petition was
9 different, and so on January 15, 2025, I forwarded it to the City Attorney for
10 review.

11 6. On January 28, 2025, Petitioner Whalen submitted *four* initiative
12 petitions to my office. I forwarded them to the City Attorney on January 29th.

13 7. On February 4, 2025, Co-Petitioner Rose (Colton Rose, with the
14 United Food And Commercial Workers Local 367) filed with my office *two*
15 initiative petitions which I forwarded on February 5, 2025, to the City Attorney for
16 review.

17 8. After the City Attorney filed the official ballot titles with me, on
18 February 19, 2025, I posted public notice on the City's website and the main
19 display located on the first floor of the Tacoma Municipal Building that two
20 initiative petitions had been filed with my office which included the ballot titles for
21 each of the proposed initiatives.

22 9. On that same date, I notified Petitioner Whalen and Co-Petitioner
23 Rose that the ballot titles had been filed and posted, and that Petitioner Whalen
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1 and Co-Petitioner Rose could begin gathering signatures in ten working days if
2 there was no judicial review.

3 10. In response to Petitioner Whalen's inquiry, on February 28, 2025, I
4 advised Petitioner Whalen that the City believed that the ten-day period for
5 judicial review would end on March 5, 2025, at which time Petitioner Whalen
6 could begin collecting signatures. On March 5, 2025, Petitioner Whalen emailed
7 me and the City Attorney to inquire if anyone challenged the ballot title. The City
8 Attorney emailed them back, and copied me, advising them that the City was not
9 aware that any request for judicial review had been filed.

10 11. On June 17, 2025, I was notified by electronic mail by Co-Petitioner
11 Rose that they were ready to turn in signatures on Monday, June 23, 2025.
12 Attachment A-3 is a true and correct copy of the email Co-Petitioner Rose sent
13 me about being ready to submit signatures on June 17, 2025. This was the
14 Petitioners' first communication to me, regarding their petitions, since March 5,
15 2025.

16 12. On June 24, 2025, Petitioner Whalen filed one of the petitions
17 identified as "Initiative Petition No. 2" with me, together with signatures for
18 verification and validation. This was the first time Petitioner Whalen submitted
19 signatures to me for verification and validation.

20 13. At the time of filing on June 24, 2025, at approximately 11:30 a.m.,
21 Petitioner Whalen came to the City with fellow supporters. One of those
22 supporters told me that they had gathered 10,000 signatures.
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1 14. Petitioner Whalen did not file the second petition identified as
2 Initiative Petition No. 3.

3 15. In the past 10 years, there have been four times when petitioners
4 have submitted signatures for validation under Charter Section 2.19(j). Some
5 petitioners have submitted signatures to the City Clerk in batches as early as
6 late May. As they submit them, the City Clerk's Office will scan them and then
7 forward to the Pierce County Auditor's Office for verification. Other times, I have
8 seen petitioners submit their signatures for validation in early June, with a total
9 number of signature pages submitted ranging from approximately 300 to 1,200.
10

11 16. On June 25, 2025, my office scanned the approximate 2,000
12 petition signature pages for the City files. Because we can only scan 15 pages
13 at a time, such scanning took up most of the day. On June 26, 2025, at
14 approximately 9:00 a.m., I forwarded Initiative Petition No. 2 together with the
15 filed signatures to the Pierce County Auditor's Office, as *ex officio* supervisor of
16 elections, for verification of signatures.

17 17. On June 30, 2025, Pierce County Elections Supervisor, Corbin
18 Ensminger, notified me and Petitioner Whalen by electronic mail that the Pierce
19 County Elections Office would begin verifying signatures on the petition
20 beginning Monday, July 7, 2025, at 8:00 a.m. and that he anticipated working on
21 verification of signatures until Thursday, July 10th.
22

23 18. On Wednesday July 9, 2025, the Pierce County Elections Office
24 notified me that the sufficient signatures had been verified to place the initiative
25 petition on the ballot.
26

1 19. On July 10, 2025, I validated the petition signatures by confirming
2 the number of signatures verified by the Pierce County Elections Office is equal
3 to ten percent of the votes cast in the last mayoral election (approximately
4 4,200) in conformance with Section 2.19 (j) of the Tacoma City Charter, and
5 provided notice of validation to the Tacoma City Council.

6 20. In and around late July and early August 2025, the Tacoma City
7 Council received written comments from the public and heard public testimony
8 regarding Initiative Petition No. 2.

9 21. At the Tacoma City Council Study Session on August 5, 2025,
10 Mayor Victoria Woodards requested a special meeting to be held on August 8,
11 2025. Following that request, I scheduled and provided public notice of the
12 special meeting. In addition, I then filed a Tacoma City Council Action
13 Memorandum for the Tacoma City Council to consider a resolution to transmit to
14 the Pierce County Auditor's Office a request calling for a special election, and for
15 Initiative No. 2 to appear on the special election ballot concurrent with the
16 November 4, 2025, General Election.

17 22. Attachment A-4 to my declaration is a true and correct copy of the
18 Tacoma City Council Action Memorandum referenced above.

19 23. On August 8, 2025, the Tacoma City Council passed Resolution
20 No. 41733 to submit Initiative No. 2 to the Pierce County Auditor for the
21 November 4, 2025 election. Attached hereto as Exhibit A-5 is a true and correct
22 copy of Resolution No. 41733.
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AN ORDINANCE concerning labor standards for certain employees.

**CHAPTER 18.20
LABOR STANDARDS FOR CERTAIN EMPLOYEES**

Section 1. A new chapter 18.20 is added to the Tacoma Municipal Code to read as follows:

18.20.010. Findings.

A. The people of the City of Tacoma hereby adopt the Workers Bill of Rights to establish labor standards and enforcement mechanisms for employees in the City. These labor standards work together and serve a unified goal of protecting workers from existing and emerging threats in today's economy. The Workers Bill of Rights also ensures that workers know their rights and gives them tools to enforce these rights.

B. In passing this Workers Bill of Rights, the voters express the following intent:

1. Workers deserve fair and secure scheduling, with sufficient advanced notice of their work schedules, so they can plan their lives and family budgets.

2. Workers deserve a fair opportunity to move into full time work when those hours become available, and those additional hours should be distributed in a reasonable, transparent, and non-discriminatory manner.

3. Workers deserve a fair wage for their work. The Initiative raises the minimum wage so that Tacoma workers get paid fairly, like employees in other major Puget Sound cities, and allows the minimum wage to increase with the cost of living.

4. Workers deserve a safe workplace environment. The Workers Bill of Rights protects workers through basic safety planning and precautions.

5. Workers deserve to know their rights and have tools to enforce them.

18.20.020. Giving workers the right to fair scheduling so they can plan their lives and family budgets.

A. This section is designed to provide workers with sufficient advance notice of their work schedules so they can plan their lives and family budgets.

B. At time of hire or during employment, an employee may identify any limitations or changes in work schedule availability. The employee has the right to request not to be scheduled for work shifts during certain times or at certain locations and the right to identify preferences for the hours or locations of work. All employers are encouraged to accommodate employee requests to the greatest extent possible.

C. Sections C through H of this section apply only to large employers, except that contractors as defined under RCW Chapter 18.27 are exempt.

D. Large employers shall provide their employees with a written work schedule at least 14 calendar days before the first day of the work scheduling period. The employer shall post the written work schedule in a conspicuous and accessible location at the workplace, in English and in the primary language(s) of the employee(s) at the workplace.

E. Large employer shall notify the employee of any employer-requested change to the work schedule as soon as possible.

F. An employee of a large employer may decline a work shift for which they received less than 14 days advanced notice. If the employee consents to work such a shift, the employee shall be entitled to an unfair scheduling payment equal to one hour of pay at the employee's regular rate of pay for each shift worked with less than 14 days advanced notice.

Example: An employer asks an employee earning \$22 per hour to work a shift with only 4 days' notice. The employee may decline the shift. If the employee accepts and works the shift, the employee would be entitled to an additional unfair scheduling payment equal to \$22 (one hour of the employee's regular rate of pay).

G. An employee of a large employer may decline a shift that begins less than ten hours after the end of a previous work shift. If the employee consents to work such a shift, the employee shall be entitled to an unfair scheduling payment equal to one half of the employee's regular rate of pay for each hour the employee works which is less than ten hours after the end of the previous shift.

Example: An employer asks an employee earning \$22 per hour to work an opening shift that begins only 6-hours after the employee completed a closing shift. The employee may decline the opening shift. If the employee accepts and works the opening shift, the employee would be entitled to an additional unfair scheduling payment of \$44 (\$11 for each of the four hours worked that were less than ten hours from the previous shift).

H. If an employee is entitled to an unfair scheduling payment under this section, it shall be in addition to the employee's regular rate of pay.

18.20.030. Part-Time Employees Shall Have Fair Access to Additional Hours.

A. Before hiring additional employees or subcontractors, including hiring through the use of temporary services or staffing agencies, large and medium employers must (1) offer additional hours of work to existing employees who, in the employer's good faith and

reasonable judgment, have the skills and experience to perform the work, (2) notify all such employees when additional hours are available, and (3) use a reasonable, transparent, and non-discriminatory process to distribute the hours of work among those existing employees. This requirement applies even if the number of additional hours is more than any one existing employee can work and hours must be distributed among multiple existing employees.

B. This section shall not be construed to require any employer to offer an employee work hours if the employer would be required to compensate the employee at time-and-a-half, an unfair scheduling payment or other penalty under this chapter, or other premium rate under any law or collective bargaining agreement, nor to prohibit any employer from offering such work hours.

C. This section takes effect 90 days after the effective date.

D. This section shall apply only to medium and large employers, except that contractors as defined under RCW Chapter 18.27 are exempt.

18.20.040. Large Employers Shall Pay Minimum Wages Comparable to Other Puget Sound Cities.

A. Upon the effective date, the minimum wage for every employee in the City of Tacoma is increased from that set by the state minimum wage to the higher City of Tacoma minimum wage established in this ordinance.

B. Upon the effective date, every large employer must pay to each employee an hourly wage of at least twenty dollars (\$20.00) per hour.

C. The minimum wage established under 18.20.040(B) shall stay in effect until the end of the calendar year in which it becomes effective. On January 1 of the next calendar year, and each January 1 thereafter, the hourly minimum wage must increase by the annual rate of inflation to maintain employee purchasing power.

18.20.050. Medium and Small Employers Shall Have a Multiyear Phase-In Period.

A. Starting upon the effective date, and through the end of that calendar year, medium employers must pay their employees an hourly minimum wage rate as established in section 18.20.040 minus two dollars per hour. The two-dollar reduction must decrease annually by one dollar on January 1 of each year thereafter until the reduction is zero.

B. Starting upon the effective date, and through the end of that calendar year, small employers must pay their employees an hourly minimum wage rate as established in section 18.20.040 minus three dollars. The three-dollar reduction must decrease annually by fifty cents on January 1 of each year thereafter until the reduction is zero.

18.20.060. Coverage and Employer Classifications.

A. Employers must pay employees at least the minimum wage established by this chapter for each hour worked within the City. In addition to the minimum wage set forth herein, an employer must pay to its employees (1) all tips and gratuities; (2) all service charges as defined under RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized as not being payable to the employee or employees servicing the customer; and (3) any unfair scheduling payment or hazardous workplace premium required under this chapter.

B. Employer classification for a calendar year will be calculated based upon the average number of employees during all weeks in the previous calendar year in which the employer had at least one employee. For employers that did not have any employees during the previous calendar year, classification will be based upon the average number of employees during the most recent three months of the current year. In this determination, all employees will be counted, regardless of their location, and including employees who worked in full-time employment, part-time employment, joint employment, temporary employment, or through the services of a temporary services or staffing agency or similar entity.

C. For the purposes of employer classification, separate entities will be considered a single employer if they form an integrated enterprise or are under joint control by one of those entities or a separate entity. The factors to consider in making this assessment include but are not limited to: (1) degree of interrelation between the operations of multiple entities; (2) degree to which the entities share common management; (3) centralized control of labor relations; and (4) degree of common ownership or financial control over the entities.

18.20.070. Protecting workers through safety planning and precautions.

A. Every large employer must create a workplace safety plan to protect workers and consumers in the event of violence or natural disaster, pursuant to this section.

B. Every large employer must consult with workers in developing the workplace safety plan or to update the existing plan to comply with the requirements of this section. The employer shall have discretion about the content of the plan, provided the plan must meet and the large employer must comply with the following minimum safety standards:

1. Large employers must protect workers in isolated or dangerous areas by providing them access to panic buttons installed in such areas or that are worn by the worker.

2. Large employers must establish and document at least an annual training or drill of an evacuation plan to be used in the event of violence or natural disaster.

3. Large employers must protect employees from injury by establishing and maintaining a safe staffing level for workplaces containing over 15,000 square feet of retail space.

C. Large employers covered by a collective bargaining agreement must seek input from the employees' union on the workplace safety plan, notify the union of training or drill schedules and allow a union representative to participate.

D. If a large employer fails to meet the requirements of this section, it shall be a violation of this chapter, and the large employer must pay each of its employees a hazardous workplace premium in an amount set by rulemaking until such violation is corrected.

18.20.080. Retaliation Prohibited.

A. No employer or any other person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this chapter.

B. No employer or any other person shall take any adverse action against any person because the person has exercised in good faith the rights under this chapter, including but not limited to claiming the minimum wage, unfair scheduling payment, or unsafe conditions premiums to which they are entitled under this chapter, or participating in the workplace safety planning under this chapter.

C. For the purposes of this section, an adverse action means any action taken by a person that would dissuade a reasonable person from exercising any right protected by this chapter.

D. No employer or any other person shall communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness to inform a government employee that the person is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness to report, suspected citizenship or immigration status of the person or a family member of the person to a federal, state, or local agency because the person has exercised a right under this chapter.

E. It shall be a rebuttable presumption of retaliation if an employer or any other person takes an adverse action against a person within 90 days of the person's exercise of any right protected in this chapter. However, in the case of seasonal work that ended before the close of the 90-day period, the presumption also applies if the employer fails to rehire a former employee at the next opportunity to work in the same position. The employer may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

F. The protections afforded under this section shall apply to any person who mistakenly but in good faith alleges violations of this chapter.

18.20.090. Notice and Posting.

A. Employers shall give notice of the rights afforded by this chapter.

B. The Director shall create and make available to employers a model notice, hereinafter referred to as the "Notice," for their use in complying with this subsection. The Notice shall be printed in English and Spanish and any other languages that the Director determines are needed to notify employees of their rights under this chapter.

C. Employers may comply with this section by posting the Notice in a conspicuous and accessible place in each establishment where employees are employed.

D. Employers may also comply with this section by including the Notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, or by distributing a copy of the Notice to each new employee upon hiring. In either case, distribution may be accomplished electronically.

18.20.100. Enforcement.

A. The City is authorized to implement and enforce this chapter, including promulgating regulations. Any regulations the City promulgates shall have the force and effect of law and may be relied on to determine rights and responsibilities under this chapter.

B. Any person or class of persons that suffers financial injury as a result of a violation of this chapter or is the subject of prohibited retaliation under this chapter, or any other individual or entity acting on their behalf, may bring a civil action in a court of competent jurisdiction against the employer or other person violating this chapter and, upon prevailing, shall be awarded reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any unpaid wages plus interest due to the person and liquidated damages in an additional amount of up to twice the unpaid wages; compensatory damages; and a penalty payable to any aggrieved party of between \$1,000 and \$5,000 if the aggrieved party was subject to prohibited retaliation. For the purposes of this section, an aggrieved party means an employee or other person who suffers tangible or intangible harm due to an employer or other person's violation of this chapter. Wages as used herein includes unfair scheduling payments and hazardous workplace premiums. Interest shall accrue from the date the unpaid wages were first due at the higher of twelve percent per annum or the maximum rate permitted under RCW 19.52.020.

C. If the employer is found to have committed violations of this chapter, the City, or court of competent jurisdiction on behalf of the City, shall assess a fine in the amounts set forth below adjusted for inflation from the effective date:

Failure to pay an employee an unfair scheduling payment.	\$500 per failure.
Failure to offer additional hours of work to existing employees	\$500 per failure
Failure to provide employees with written notice of rights	\$500
Retaliation	\$1,000 to \$5,000 per aggrieved party

D. For purposes of determining membership within a class of persons entitled to bring an action under this section, two or more employees are similarly situated if they: 1. Are or were employed by the same employer or employers, whether concurrently or otherwise, at some point during the applicable statute of limitations period; 2. Allege one or more violations that raise similar questions as to liability; and 3. Seek similar forms of relief. Employees shall not be considered dissimilar solely because their claims seek damages that differ in amount, or their job titles or other means of classifying employees differ in ways that are unrelated to their claims.

E. Each employer must retain records as required by RCW 49.46.070, as well as such information as the City may require to confirm compliance with this chapter. If an employer fails to retain such records, there shall be a presumption, rebuttable by clear and convincing evidence, that the employer violated this chapter for the periods and for each employee for whom records were not retained.

F. Employers must permit authorized City representatives access to work sites and relevant records for the purpose of monitoring compliance with the chapter and investigating complaints of noncompliance, including production for inspection and copying of employment records. The City may designate representatives, including city contractors and representatives of unions or worker advocacy organizations, to access the worksite and relevant records.

G. Complaints that any provision of this chapter has been violated may also be presented to the City Attorney, who is hereby authorized to investigate and, if they deem appropriate, initiate legal or other action to remedy any violation of this chapter.

H. The City has the authority to issue administrative citations and to order injunctive relief including reinstatement, restitution, payment of back wages, or other forms of relief.

I. The City may, in the exercise of its authority and performance of its functions and services, agree to participate jointly or in cooperation with Washington State, or any county,

city, town, or other incorporated place, or subdivision thereof, or engage outside counsel, to enforce this chapter.

J. The remedies and penalties provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies or penalties, including existing remedies for enforcement of Tacoma Municipal Code chapters.

K. The statute of limitations for any enforcement action shall be three (3) years.

18.20.110. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

“Annual rate of inflation” means 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the percentage increase shall not be less than zero.

“City” means the City of Tacoma.

“Effective date” is the effective date of this ordinance.

“Employee” is defined as set forth in RCW 49.46.010. An employer bears the burden of proof that the individual is, as a matter of economic reality, in business for oneself rather than dependent upon the alleged employer.

“Employer” is defined as set forth in RCW 49.46.010.

“Employer classification” includes the determination of whether an employer is a large employer, a medium employer, or a small employer.

"Franchise" means an agreement, express or implied, oral or written by which:

- A. A person is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed or suggested in substantial part by the grantor or its affiliate;
- B. The operation of the business is substantially associated with a trademark, service mark, trade name, advertising, or other commercial symbol; designating, owned by, or licensed by the grantor or its affiliate; and
- C. The person pays, agrees to pay, or is required to pay, directly or indirectly, a franchise fee. The term, "franchise fee" is meant to be construed broadly to include any instance in which the grantor or its affiliate derives income or profit from a person who enters into a franchise agreement with the grantor.

“Hour worked within the City” is to be interpreted according to its ordinary meaning, including all hours worked within the geographic boundaries of the City, excluding time spent in the City solely for the purpose of travelling through the City from a point of origin outside the City to a destination outside the City, with no employment-related or commercial stops in the City except for refueling or the employee’s personal meals or errands.

“Large Employer” means an employer that employs more than 500 employees, regardless of where those employees are employed, including all franchisees associated with a franchisor or a network of franchises with franchisees that employ more than 500 employees in aggregate.

“Medium employer” means an employer that employs more than 15 employees but not more than 500 employees, regardless of where those employees are employed, including all franchisees associated with a franchisor or a network of franchises with franchisees that employ more than 15 but not more than 500 employees in aggregate.

"Panic button" means a physical button that when pressed immediately contacts the local 9-1-1 public safety answering point ("PSAP"), provides that PSAP with employee location information, and dispatches local law enforcement to the workplace. A panic button may be a button that is installed in an easily accessible location in the workplace, or a wearable or mobile phone-based button.

"Regular rate of pay" means the hourly rate that is used to determine the employee's overtime premium under the Fair Labor Standards Act (i.e., one and one-half times the regular rate of pay) for all hours worked more than forty per work week.

“Small employer” means an employer that employs 15 or fewer employees, regardless of where those employees are employed.

“Tips” means a verifiable sum to be presented by a customer as a gift or gratuity in recognition of some service performed for the customer by the employee receiving the tip.

“Wage” is defined as set forth in RCW 49.46.010.

18.20.120. Miscellaneous

A. Nothing in this chapter shall be construed to discourage or prohibit the employer from the adoption or retention of policies more generous than the ones required herein.

B. Nothing in this chapter shall be construed as diminishing the obligation of the employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous policies to an employee than required herein.

C. Nothing in this chapter shall be construed as diminishing the rights of public employees regarding policies as provided under federal or Washington state law or the Tacoma Municipal Code.

D. This chapter shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides greater protection for workers; and nothing in this chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor shall this chapter be construed to preclude any person aggrieved from seeking judicial review of any final administrative decision or order made under this chapter affecting such person.

E. Except as to the minimum wage, the requirements of this chapter shall not apply to any employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement, or in an addendum to an existing agreement including an agreement that is open for negotiation, in clear and unambiguous terms and the employees have ratified an alternative structure to meet the public policy goals of this chapter.

F. Any waiver by an individual employee of any provisions of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

18.20.130. Other Legal Requirements.

This chapter shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater wages or compensation; and nothing in this ordinance shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

Section 2: Enforcement by licensing action.

A new section is added to Tacoma Municipal Code Chapter 6B.10 as follows:

A. The city manager or designee may deny, suspend, or revoke any license under this chapter for repeated or intentional violations of Chapter 18.20.

B. The city manager or designee must deny, suspend, or revoke any license under this chapter for repeated intentional violations of Chapter 18.20.

C. Any action by the city manager or designee under this section shall be subject to the procedures and requirements of Chapter 6B.10, including appeals, as well as other due process rights that a court may require.

Section 3: Rulemaking.

Within 120 days after the effective date, the City must adopt rules and procedures to implement and ensure compliance with this chapter, which shall require employers to maintain adequate records and to annually certify compliance with this chapter. The City must seek feedback from worker organizations and employers before finalizing the rules and procedures.

Section 4: Constitutional Subject.

For constitutional purposes, this measure’s subject “concerns labor standards for certain employers.” See *Filo Foods, LLC v. City of SeaTac*, 183 Wash. 2d 770, 783, 357 P.3d 1040, 1047 (2015).

Section 5. Codification.

All sections of this ordinance except section 2 (enforcement by licensing action) shall be codified in a new chapter of the Tacoma Municipal Code Title 18.

Section 6. Effective Date.

If this ordinance is enacted during a November general election, it shall take effect on January 1 of the immediately following year. If this ordinance is enacted at a different time, it shall take effect pursuant to the City Charter.

Section 7. Construction. This ordinance shall be construed to support workers’ rights to fair scheduling, fair access to hours, fair wages, and fair notice and tools to enforce their rights.

Section 8. Severability.

The provisions of this ordinance are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the application thereof to any employer, employee, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.



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We are a diverse member driven Union fighting for economic and social justice. We empower through respect, integrity and dignity. Our strength comes from standing in solidarity with our communities to build a better life.

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AN ORDINANCE concerning labor standards for certain employees.

**CHAPTER 18.20
LABOR STANDARDS FOR CERTAIN EMPLOYEES**

Section 1. A new chapter 18.20 is added to the Tacoma Municipal Code to read as follows:

18.20.010. Findings.

A. The people of the City of Tacoma hereby adopt the Workers Bill of Rights to establish labor standards and enforcement mechanisms for employees in the City. These labor standards work together and serve a unified goal of protecting workers from existing and emerging threats in today's economy. The Workers Bill of Rights also ensures that workers know their rights and gives them tools to enforce these rights.

B. In passing this Workers Bill of Rights, the voters express the following intent:

1. Workers deserve fair and secure scheduling, with sufficient advanced notice of their work schedules, so they can plan their lives and family budgets.

2. Workers deserve a fair opportunity to move into full time work when those hours become available, and those additional hours should be distributed in a reasonable, transparent, and non-discriminatory manner.

3. Workers deserve a fair wage for their work. The Initiative raises the minimum wage so that Tacoma workers get paid fairly, like employees in other major Puget Sound cities, and allows the minimum wage to increase with the cost of living.

4. Workers deserve a safe workplace environment. The Workers Bill of Rights protects workers through basic safety planning and precautions.

5. Workers deserve to know their rights and have tools to enforce them.

18.20.020. Giving workers the right to fair scheduling so they can plan their lives and family budgets.

Sections 18.20.020 and 18.20.030 shall apply to all employers, except that contractors as defined under RCW Chapter 18.27 are exempt from both Sections.

A. For new employees, the employer shall provide the employee with a written good faith estimate of the employee's work schedule at time of hire. The good faith estimate shall include the median number of hours the employee can expect to work each work week, and whether the employee can expect to work on-call shifts. Prior to the start of

employment, an Employer shall provide a new Employee with a good faith estimate in writing of the Employee's expected minimum number of scheduled shifts per month, and the days and hour of those shifts.

1. For existing employees, the employer shall revise the good faith estimate:
 - a. once every year calculated from the point of the last good faith estimate;
 - b. when there is a significant change to the employee's work schedule due to changes in the employee's availability;
 - c. when there is a significant change to the employee's work schedule required for bona fide business reasons.
 2. The employer shall initiate an interactive process with the employee to discuss any significant change from the good faith estimate, and if applicable establish a bona fide business reason for the change consistent with paragraph 1.
- B. At time of hire and during employment, the employee may identify any limitations or changes in work schedule availability. The employee has the right to request not to be scheduled for work shifts during certain times or at certain locations and the right to identify preferences for the hours or locations of work.
1. If the employee's request is due to a major life event, the employer shall engage in an interactive process with the employee to discuss the request and may require verifying information from the employee with adequate notice and reasonable time to respond. The employer shall grant the request unless the employer has a bona fide business reason for denial and shall provide a written response. In the event of a denial, the employer's written response shall provide an explanation of the complete or partial denial of the request, and the bona fide business reason for the decision.
 2. If the employee's request is not due to a major life event, the employer shall engage in an interactive process with the employee to discuss the request. The employer may grant or deny the request for any reason that is not unlawful.
- C. Unless the employee requests or consents to work such hours, the employer shall not schedule or require the employee to work less than ten hours after the end of a previous work shift.
- D. The employer shall compensate the employee who works hours under subsection C at one and one-half times the employee's scheduled rate of pay for the hours worked that are less than ten hours apart.

- E. Subject to the provisions of subsection F, the employer shall provide employees with a written work schedule at least 14 calendar days before the first day of the work schedule.
- F. For new employees at time of hire, and for existing employees returning to work after a leave of absence, the employer may provide the employee with a written work schedule that runs through the last date of the currently posted schedule. Thereafter, the employer shall include these employee(s) in the schedule for existing employees.
- G. The employer shall post the written work schedule in a conspicuous and accessible location, in English and in the primary language(s) of the employee(s) at the particular workplace.
- H. For employer-requested changes to the written work schedule that occur after the advance notice required in Sections E-G:
 - 1. The employer shall provide the employee with timely notice of the change by in-person conversation, telephone call, email, text message, or other accessible electronic or written format; and
 - 2. The employee may decline to work any hours not included in the employee's work schedule.
- I. For employee-requested changes to the written work schedule that occur after the advance notice required in Section E-G:
 - 1. The employee shall provide notice of the request per the employer's usual and customary notice and procedural requirements for foreseeable changes, or as soon as practicable for unforeseeable circumstances; and
 - 2. The employee shall comply with the employer's reasonable normal notification requirements and/or call-in procedures, provided that such requirements do not interfere with the purposes for which the work schedule change is needed if it is due to a reason covered by another local, state, or federal law or is due to a major life event.
- J. Subject to the provisions of this subsection, the employer shall compensate employees for each employer-requested change to the employee's written work schedule that occurs after the advance notice required in Sections E-G.
 - 1. The employer shall compensate the employee with one hour of pay at the employee's scheduled rate of pay, in addition to wages earned, for the following reasons:
 - a. Adding hours of work; or
 - b. Changing the date or start or end time of a work shift with no loss of hours.

2. The employer shall compensate the employee with no less than one-half times the employee's scheduled rate of pay per hour for any scheduled hours the employee does not work for the following reasons:
 - a. Subtracting hours from a regular work shift before or after the employee reports for duty;
 - b. Changing the date or start or end time of a work shift resulting in a loss of hours;
 - c. Cancelling a work shift; or
 - d. Scheduling the employee for an on-call shift for which the employee does not need to report to work.

- K. The requirements for additional compensation in subsection J shall not apply under the following circumstances:
 1. Mutually agreed upon work shift swaps or coverage among employees.
 2. Employee-requested changes including additional or subtracted hours that the employee voluntarily makes to the employee's work schedule and documents in writing.

- L. The employer shall not engage in a systemic pattern or practice of significant underscheduling where the hours that employees actually work are significantly above the hours in the written work schedule required by Section IV.

18.20.030. Part-Time Employees Shall Have Fair Access to Additional Hours.

- A. Before hiring new employees from an external applicant pool or subcontractors, including hiring through the use of temporary services or staffing agencies, an employer must offer additional hours of work to existing employees when those hours become available at their place of work as defined by the employer's usual and customary business practice. Additional hours must be offered to existing employees when they become available in their existing position or job title and when additional hours become available in a different job title or position.

- B. Except as provided in this subsection, the employer must post written notice of available hours of work for at least five consecutive calendar days.
 1. The notice must contain the following information:
 - a. Description and title of the position;
 - b. Required qualifications for the position;
 - c. Total hours of work being offered;
 - d. Schedule of available work shifts;
 - e. Whether the available work shifts will occur at the same time each week; and
 - f. Length of time the employer anticipates requiring coverage of the additional hours.

2. The employer must post the notice in a conspicuous and accessible location where employee notices are customarily posted. If the employer posts the notice in electronic format, all employees in the workplace must have access to it on-site.
- C. The employer shall offer additional hours of work to an existing employee who has responded to the offer of work, and who, to a reasonable employer acting in good faith is qualified with the skills and experience to perform the work.
1. The employer shall give the employee at least four consecutive calendar days, running from the date of the employer's offer, to accept the additional hours of work.
 2. If more than one qualified employee responds to the offer of additional hours of work, the employer may distribute the hours among interested employees or may offer all the available hours to one qualified employee. The employer may limit distribution of hours to full work shifts rather than parceling hours among employees. The employer may choose among qualified internal candidates following the employer's usual and customary hiring procedures.
 3. If the employee accepts additional hours of work for seasonal employment, the employer may reasonably delay scheduling such hours and permit new employees to start working for training purposes, provided that the employer follows the employer's usual and customary practices for training new employees and the employer provides the existing employee with a prospective start date for the additional hours.
 4. The employer shall make reasonable efforts to offer employees training opportunities to gain the skills and experience to perform work for which the employer typically has additional needs.
- D. If no employee responds to the written notice of additional hours of work following the five consecutive calendar day posting requirement or accepts an offer of additional hours during the four consecutive calendar day acceptance period, the employer may immediately proceed with hiring new employees from an external applicant pool or subcontractors to work the additional hours.
- E. This Section shall not apply, in whole or in part, as follows:
1. If the employer provides notice of additional hours to all employees and receives written confirmation from all such employees that they are not interested in accepting additional hours of work, the employer may immediately proceed with hiring new employees from an external applicant pool or subcontractors to work the additional hours.
 2. Section [schedule change compensation] does not apply when an employee consents to work additional hours, on less than 14 days' notice, when the employee is accepting a long-term schedule change based on an access to hours posting.

3. This Section shall not be construed to require the employer to offer employees work hours paid at the overtime premium (i.e., one and one-half times the regular rate of pay) nor to prohibit any employer from offering such work hours.

18.20.040. Large Employers Shall Pay Minimum Wages Comparable to Other Puget Sound Cities.

- A. Upon the effective date, the minimum wage for every employee in the City of Tacoma is increased from that set by the state minimum wage to the higher City of Tacoma minimum wage established in this ordinance.
- B. Upon the effective date, every large employer must pay to each employee an hourly wage of at least twenty dollars (\$20.00) per hour.
- C. The minimum wage established under 18.20.040(B) shall stay in effect until the end of the calendar year in which it becomes effective. On January 1 of the next calendar year, and each January 1 thereafter, the hourly minimum wage must increase by the annual rate of inflation to maintain employee purchasing power.

18.20.050. Medium and Small Employers Shall Have a Multiyear Phase-In Period.

- A. Starting upon the effective date, and through the end of that calendar year, medium employers must pay their employees an hourly minimum wage rate as established in section 18.20.040 minus two dollars per hour. The two-dollar reduction must decrease annually by one dollar on January 1 of each year thereafter until the reduction is zero.
- B. Starting upon the effective date, and through the end of that calendar year, small employers must pay their employees an hourly minimum wage rate as established in section 18.20.040 minus three dollars. The three-dollar reduction must decrease annually by fifty cents on January 1 of each year thereafter until the reduction is zero.

18.20.060. Coverage and Employer Classifications.

- A. Employers must pay employees at least the minimum wage established by this chapter for each hour worked within the City. In addition to the minimum wage set forth herein, an employer must pay to its employees (1) all tips and gratuities; (2) all service charges as defined under RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized as not being payable to the employee or employees servicing the customer; and (3) any payment required under this chapter.
- B. Employer classification for a calendar year will be calculated based upon the average number of employees during all weeks in the previous calendar year in which the

employer had at least one employee. For employers that did not have any employees during the previous calendar year, classification will be based upon the average number of employees during the most recent three months of the current year. In this determination, all employees will be counted, regardless of their location, and including employees who worked in full-time employment, part-time employment, joint employment, temporary employment, or through the services of a temporary services or staffing agency or similar entity.

C. For the purposes of employer classification, separate entities will be considered a single employer if they form an integrated enterprise or are under joint control by one of those entities or a separate entity. The factors to consider in making this assessment include but are not limited to: (1) degree of interrelation between the operations of multiple entities; (2) degree to which the entities share common management; (3) centralized control of labor relations; and (4) degree of common ownership or financial control over the entities.

18.20.070. Protecting workers through safety planning and precautions.

A. Every large employer must create a workplace safety plan to protect workers and consumers in the event of violence or natural disaster, pursuant to this section.

B. Every large employer must consult with workers in developing the workplace safety plan or to update the existing plan to comply with the requirements of this section. The employer shall have discretion about the content of the plan, provided the plan must meet and the large employer must comply with the following minimum safety standards:

1. Large employers must protect workers in isolated or dangerous areas by providing them access to panic buttons installed in such areas or that are worn by the worker.

2. Large employers must establish and document at least an annual training or drill of an evacuation plan to be used in the event of violence or natural disaster.

3. Large employers must protect employees from injury by establishing and maintaining a safe staffing level for workplaces containing over 15,000 square feet of retail space.

C. Large employers covered by a collective bargaining agreement must seek input from the employees' union on the workplace safety plan, notify the union of training or drill schedules and allow a union representative to participate.

D. If a large employer fails to meet the requirements of this section, it shall be a violation of this chapter, and the large employer must pay each of its employees a hazardous workplace premium in an amount set by rulemaking until such violation is corrected.

18.20.080. Retaliation Prohibited.

- A. No employer or any other person shall interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this chapter.
- B. No employer or any other person shall take any adverse action against any person because the person has exercised in good faith the rights under this chapter, including but not limited to claiming the minimum wage, unfair scheduling payment, or unsafe conditions premiums to which they are entitled under this chapter, or participating in the workplace safety planning under this chapter.
- C. For the purposes of this section, an adverse action means any action taken by a person that would dissuade a reasonable person from exercising any right protected by this chapter.
- D. No employer or any other person shall communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness to inform a government employee that the person is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness to report, suspected citizenship or immigration status of the person or a family member of the person to a federal, state, or local agency because the person has exercised a right under this chapter.
- E. It shall be a rebuttable presumption of retaliation if an employer or any other person takes an adverse action against a person within 90 days of the person's exercise of any right protected in this chapter. However, in the case of seasonal work that ended before the close of the 90-day period, the presumption also applies if the employer fails to rehire a former employee at the next opportunity to work in the same position. The employer may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.
- F. The protections afforded under this section shall apply to any person who mistakenly but in good faith alleges violations of this chapter.

18.20.090. Notice and Posting.

- A. Employers shall give notice of the rights afforded by this chapter.
- B. The Director shall create and make available to employers a model notice, hereinafter referred to as the "Notice," for their use in complying with this subsection. The Notice shall be printed in English and Spanish and any other languages that the Director determines are needed to notify employees of their rights under this chapter.

C. Employers may comply with this section by posting the Notice in a conspicuous and accessible place in each establishment where employees are employed.

D. Employers may also comply with this section by including the Notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, or by distributing a copy of the Notice to each new employee upon hiring. In either case, distribution may be accomplished electronically.

18.20.100. Enforcement.

A. The City is authorized to implement and enforce this chapter, including promulgating regulations. Any regulations the City promulgates shall have the force and effect of law and may be relied on to determine rights and responsibilities under this chapter.

B. Any person or class of persons that suffers financial injury as a result of a violation of this chapter or is the subject of prohibited retaliation under this chapter, or any other individual or entity acting on their behalf, may bring a civil action in a court of competent jurisdiction against the employer or other person violating this chapter and, upon prevailing, shall be awarded reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any unpaid wages plus interest due to the person and liquidated damages in an additional amount of up to twice the unpaid wages; compensatory damages; and a penalty payable to any aggrieved party of between \$1,000 and \$5,000 if the aggrieved party was subject to prohibited retaliation. For the purposes of this section, an aggrieved party means an employee or other person who suffers tangible or intangible harm due to an employer or other person's violation of this chapter. Wages as used herein includes unfair scheduling payments. Interest shall accrue from the date the unpaid wages were first due at the higher of twelve percent per annum or the maximum rate permitted under RCW 19.52.020.

C. If the employer is found to have committed violations of this chapter, the City, or court of competent jurisdiction on behalf of the City, shall assess a fine in the amounts set forth below adjusted for inflation from the effective date:

Failure to provide a good faith estimate of work schedule	\$500
Failure to provide a written response for denial of the employee's request for a limitation or change in work schedule due to a major life event	\$500
Failure to compensate employee at one and one-half times pay for working hours that are separated by less than ten hours from the previous shift	\$500

Failure to provide at least 14 calendar days of advance notice of work schedule under Section	\$500
Failure to provide notice of work schedule changes under Section	\$500
Failure to compensate employee with additional compensation for work schedule changes	\$500
Failure to comply with prohibition against systemic pattern or practice of significant underscheduling	\$500
Failure to offer additional hours of work to existing employees	\$500
Failure to provide employees with written notice of rights	\$500
Failure to comply with prohibitions against retaliation for exercising protected rights	\$1,000-\$5000 per aggrieved party

D. For purposes of determining membership within a class of persons entitled to bring an action under this section, two or more employees are similarly situated if they: a. Are or were employed by the same employer or employers, whether concurrently or otherwise, at some point during the applicable statute of limitations period; b. Allege one or more violations that raise similar questions as to liability; and c. Seek similar forms of relief. Employees shall not be considered dissimilar solely because their claims seek damages that differ in amount, or their job titles or other means of classifying employees differ in ways that are unrelated to their claims.

E. Each employer must retain records as required by RCW 49.46.070, as well as such information as the City may require to confirm compliance with this chapter. If an employer fails to retain such records, there shall be a presumption, rebuttable by clear and convincing evidence, that the employer violated this chapter for the periods and for each employee for whom records were not retained.

F. Employers must permit authorized City representatives access to work sites and relevant records for the purpose of monitoring compliance with the chapter and investigating complaints of noncompliance, including production for inspection and copying of employment records. The City may designate representatives, including city contractors and representatives of unions or worker advocacy organizations, to access the worksite and relevant records.

G. Complaints that any provision of this chapter has been violated may also be presented to the City Attorney, who is hereby authorized to investigate and, if they deem appropriate, initiate legal or other action to remedy any violation of this chapter.

H. The City has the authority to issue administrative citations and to order injunctive relief including reinstatement, restitution, payment of back wages, or other forms of relief.

I. The City may, in the exercise of its authority and performance of its functions and services, agree to participate jointly or in cooperation with Washington State, or any county,

city, town, or other incorporated place, or subdivision thereof, or engage outside counsel, to enforce this chapter.

J. The remedies and penalties provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies or penalties, including existing remedies for enforcement of Tacoma Municipal Code chapters.

K. The statute of limitations for any enforcement action shall be three (3) years.

18.20.110. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

“Annual rate of inflation” means 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W, for the 12-month period ending in August, provided that the percentage increase shall not be less than zero.

"At time of hire" means the period after offer and acceptance of employment, and on or before the commencement of employment.

"Bona fide business reason" means:

- A. An action that would cause the employer to violate a law, statute, ordinance, code and/or governmental executive order; or
- B. A substantial and identifiable burden of additional costs to the employer; or
- C. A substantial and identifiable detrimental effect on the employer's ability to meet organizational demands.

“City” means the City of Tacoma.

“Effective date” is the effective date of this ordinance.

“Employee” is defined as set forth in RCW 49.46.010. An employer bears the burden of proof that the individual is, as a matter of economic reality, in business for oneself rather than dependent upon the alleged employer.

“Employer” is defined as set forth in RCW 49.46.010.

“Employer classification" includes the determination of whether an employer is a large employer, a medium employer, or a small employer.

"Franchise" means an agreement, express or implied, oral or written by which:

- A. A person is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed or suggested in substantial part by the grantor or its affiliate;
- B. The operation of the business is substantially associated with a trademark, service mark, trade name, advertising, or other commercial symbol; designating, owned by, or licensed by the grantor or its affiliate; and
- C. The person pays, agrees to pay, or is required to pay, directly or indirectly, a franchise fee. The term, "franchise fee" is meant to be construed broadly to include any instance in which the grantor or its affiliate derives income or profit from a person who enters into a franchise agreement with the grantor.

"Hour worked within the City" is to be interpreted according to its ordinary meaning, including all hours worked within the geographic boundaries of the City, excluding time spent in the City solely for the purpose of travelling through the City from a point of origin outside the City to a destination outside the City, with no employment-related or commercial stops in the City except for refueling or the employee's personal meals or errands.

"Interactive process" means a timely, good faith process that includes a discussion between the employer and the employee for the purpose of arriving at a mutually beneficial arrangement for a work schedule that meets the needs of the employee and the employer. The discussion may include the proposal of alternatives by the employee and the employer.

"Large Employer" means an employer that employs more than 500 employees, regardless of where those employees are employed, including all franchisees associated with a franchisor or a network of franchises with franchisees that employ more than 500 employees in aggregate.

"Major life event" means a major event related to the employee's access to the workplace due to changes in the employee's transportation or housing; the employee's own serious health condition; the employee's responsibilities as a caregiver; the employee's enrollment in a career-related educational or training program; or the employee's other job or jobs.

"Medium employer" means an employer that employs more than 15 employees but not more than 500 employees, regardless of where those employees are employed, including all franchisees associated with a franchisor or a network of franchises with franchisees that employ more than 15 but not more than 500 employees in aggregate.

"On-call shift" means any time that the employer requires the employee to be available to work, contact the employer or the employer's designee, or wait to be contacted by the employer or the employer's designee, for the purpose of determining whether the employee must report to work. During such time, on-call status applies regardless of whether the employee is located on or off the employer's premises.

"Panic button" means a physical button that when pressed immediately contacts the local 9-1-1 public safety answering point ("PSAP"), provides that PSAP with employee location information, and dispatches local law enforcement to the workplace. A panic button may be a button that is installed in an easily accessible location in the workplace, or a wearable or mobile phone-based button.

"Regular rate of pay" means the hourly rate that is used to determine the employee's overtime premium under the Fair Labor Standards Act (i.e., one and one-half times the regular rate of pay) for all hours worked more than forty per work week.

"Scheduled rate of pay" means the hourly rate that the employee is entitled to earn for an hour worked in a particular work shift.

"Seasonal employment" means a period of employment that is cyclical in nature, occurs at approximately the same time each year, often to accommodate a seasonal increase in business, and lasts for a duration of less than twelve months during any year.

"Small employer" means an employer that employs 15 or fewer employees, regardless of where those employees are employed.

"Tips" means a verifiable sum to be presented by a customer as a gift or gratuity in recognition of some service performed for the customer by the employee receiving the tip.

"Wage" is defined as set forth in RCW 49.46.010.

"Work week" means a fixed and regularly recurring period of 168 hours or seven consecutive 24-hour periods; it may begin on any day of the week and any hour of the day and need not coincide with a calendar week.

"Work schedule" means the hours, days and times, including regular and on-call shifts, when the employee is required by the employer to perform duties of employment for which the employee will receive compensation for a given period of time.

"Work schedule change" means any employer-requested modification to the employee's work schedule that occurs after the advance notice required in Section 18.20.020 E-G, including but not limited to: the addition or reduction of hours; cancellation of a work shift or portion of a work shift; a change in the date or time of a work shift by the employer; or scheduling the employee for an on-call shift for which the employee does not need to report to work.

"Work shift" means the specific and consecutive hours the employer requires the employee to work or to be on call to work.

18.20.120. Miscellaneous

A. Nothing in this chapter shall be construed to discourage or prohibit the employer from the adoption or retention of policies more generous than the ones required herein.

B. Nothing in this chapter shall be construed as diminishing the obligation of the employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous policies to an employee than required herein.

C. Nothing in this chapter shall be construed as diminishing the rights of public employees regarding policies as provided under federal or Washington state law or the Tacoma Municipal Code.

D. This chapter shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides greater protection for workers; and nothing in this chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor shall this chapter be construed to preclude any person aggrieved from seeking judicial review of any final administrative decision or order made under this chapter affecting such person.

E. Except as to the minimum wage, the requirements of this chapter shall not apply to any employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement, or in an addendum to an existing agreement including an agreement that is open for negotiation, in clear and unambiguous terms and the employees have ratified an alternative structure to meet the public policy goals of this chapter.

F. Any waiver by an individual employee of any provisions of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

18.20.130. Other Legal Requirements.

This chapter shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater wages or compensation; and nothing in this ordinance shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

Section 2: Enforcement by licensing action.

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A. The city manager or designee may deny, suspend, or revoke any license under this chapter for repeated or intentional violations of Chapter 18.20.

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ATTACHMENT A-3

From: [Colton Rose](#)
To: [Emery, Nicole \(Legal\)](#)
Cc: [Michael Whalen](#); [Laura Christensen](#)
Subject: Citizens Initiative 2
Date: Tuesday, June 17, 2025 1:17:56 PM
Attachments: [Outlook-wqie0hbz.png](#)

Hello Ms. Emery,

We have been gathering signatures for initiative 2 for the last several months and I'm happy to say that we are ready to turn in our petitions. We are planning on doing so on Monday. Is there any issue with that? Is there anything we should know about the process, or anything we can do to make it smoother?

Thank you for your time.

In Solidarity,

Colton Rose

222 East 26th St. | Tacoma, WA 98421

Cell: 253-906-9046 | Toll Free: 800-562-3645



ATTACHMENT A-4



City of Tacoma

City Council Action Memorandum

TO: Hyun Kim, City Manager
FROM: Nicole Emery, City Clerk; Chris Bacha, City Attorney
COPY: City Council
SUBJECT: Resolution - Transmitting Initiative Measure No. 2 to the Pierce County Auditor - August 8, 2025 Special Meeting
DATE: August 5, 2025

SUMMARY AND PURPOSE:

A resolution calling for a special election on November 4, 2025, providing for transmittal to the Pierce County Auditor as *ex officio* supervisor of elections of Initiative Measure No. 2 for placement on the November 4, 2025, special election ballot, and directing the City Clerk to transmit to the Pierce County Auditor a certified copy of this resolution.

BACKGROUND:

Initiative Measures Nos. 2 and 3, relating to protections for certain employees, were filed by the petitioners with the City Clerk on February 4, 2025. After submittal, the petitions were approved by the City Attorney as to form and style, and the City Attorney prepared and approved ballot titles and transmitted notice to the petitioners that the ten-day appeal period commenced.

On June 24, 2025, the petitioners filed with the City Clerk their petition for Initiative Measure No. 2 with signatures for verification by the Pierce County Auditor, as *ex officio* supervisor of elections. The City Clerk forwarded the signatures to the Pierce County Auditor on June 26, 2025, and on July 9, 2025, the Auditor provided notice to the City Clerk that sufficient signatures had been verified. On July 10, 2025, in accordance with Section 2.19 (i) and (j) of the City Charter, the City Clerk validated that the signatures met the requirements under the City Charter.

Once the City Clerk has validated an initiative petition, the City Council may enact or reject the initiative, and that if the City Council rejects the initiative or fails to take action within 30 days following validation, the City Council shall submit the proposal without any amendments to the people at the next municipal or general election that is not less than ninety days after the date of validation of the petition. The City Charter also provides that the City Council may by its own motion submit any proposed ordinance to the voters for approval or rejection, which ordinance may, when dealing with the same subject matter as a voter initiative, be proposed as an alternative to the initiative petition.

In the exercise of its power and authority and in adherence to its duties as a legislative body, the City Council heard presentations regarding the initiative process and the scope, content and impacts of Initiative Measure No. 2, during its July 15, July 29, and August 5, 2025, City Council study sessions and also heard unsolicited comments from members of the public regarding the benefits and impacts of Initiative Measure No. 2 during community forum at the July 22, 2025, City Council meeting and in written comments filed with the City Clerk.

The 30-day period granted to the City Council under the City Charter to consider whether to enact or reject the proposed measure, or place an alternative on the ballot, commenced on July 10, 2025, and will end on August 9, 2025.

The City Council finds that if adopted, Initiative Measure No. 2 would have broad and far-reaching impacts on employers and employees in the City of Tacoma and that it does not have sufficient information to make a



City of Tacoma

City Council Action Memorandum

reasoned decision regarding whether it should enact Initiative Measure No. 2, or consider placing an alternative measure on the ballot.

For the above-stated reasons, the City Council has determined that it will not enact, and therefore rejects, Initiative No. 2, and pursuant to Section 2.19(j) of the City Charter, the City council must call for a special election on November 4, 2025, concurrent with the general election, and submit the proposed measure to the voters for their approval or rejection.

FISCAL IMPACT:

There is no fiscal impact associated with this legislation.

ATTACHMENTS:

None.



RESOLUTION NO. 41733

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A RESOLUTION calling for a special election on November 4, 2025, providing for transmittal to the Pierce County Auditor as *ex officio* supervisor of elections of Initiative Measure No. 2 for placement on the November 4, 2025, special election ballot, and directing the City Clerk to transmit to the Pierce County Auditor a certified copy of this resolution.

WHEREAS the power of initiative and referendum for local ballot measures derives from state law (RCW 35.22.200) which authorizes first class cities to provide for direct legislation by the people in the City Charter, and

WHEREAS Section 2.19 of the Tacoma City Charter establishes the process for submittal of initiative petitions and provides that residents of Tacoma may “by initiative petition ask the voters to approve or reject ordinances or amendments to existing ordinances”, and

WHEREAS petitions for Initiative Measures No. 2 and No. 3¹ relating to protections for certain employees, together with the proposed measures, were filed by the petitioners with the City Clerk on February 4, 2025, and

WHEREAS the City Attorney approved the petitions for Initiative Measures No. 2 and No. 3 as to form and style², prepared and approved ballot titles and transmitted notice to the petitioners that the ten-day appeal period commenced, and

WHEREAS on June 24, 2025, the petitioners filed with the City Clerk, their petition for Initiative Measure No. 2 with signatures for verification by the

¹ At the time of filing, a separate and unrelated petition for initiative related to urban forestry had been filed by different petitioners and was assigned Voter Initiative Measure No. 1. This initiative was later withdrawn and never submitted to the City Council to be placed on the ballot.
² See RCW 35.21.005 (Sufficiency of petitions).



Pierce County Auditor, as *ex officio* supervisor of elections, and validation by
1 the City Clerk, and

2 WHEREAS on June 26, 2025, the City Clerk forwarded Initiative
3 Measure No. 2 with signatures to the County Auditor's Office for verification of
4 signatures, and on July 9, 2025, the County Auditor provided notice to the City
5 Clerk that sufficient signatures had been verified to meet the requirements
6 under the City Charter to place Initiative No. 2 on the ballot, and
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8 WHEREAS on July 10, 2025, in accordance with Section 2.19 (i) & (j) of
9 the City Charter, the City Clerk validated that the signatures for the initiative
10 petition met the requirements under the City Charter and provided notice of
11 validation to the City Council, and
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13 WHEREAS Section 2.19 of the City Charter provides that once the City
14 Clerk has validated an initiative petition, the City Council may enact or reject
15 the initiative, and that if the City Council rejects the initiative or fails to take
16 action within 30 days following validation, the City Council shall submit the
17 proposal without any amendments to the people at the next municipal or
18 general election that is not less than ninety days after the date of validation of
19 the petition, and
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21 WHEREAS Section 2.22 of the City Charter also provides that the City
22 Council may by its own motion submit any proposed ordinance to the voters for
23 approval or rejection, which ordinance may, when dealing with the same
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subject matter as a voter initiative, be proposed as an alternative to the initiative
1 petition³, and

2 WHEREAS the role and authority of the City Council under Sections
3 2.19 and 2.22 of the City Charter is not merely ministerial, but instead operates
4 to preserve a legislative and policy role for the City Council with respect to
5 initiative petitions, and purposely embodies within the City Charter a 30-day
6 window in which the City Council, before taking action, may consider how it will
7 responsibly exercise the discretion and authority granted under the City Charter
8 and perform its duties as an elected legislative body, and

9 WHEREAS the importance of preserving the discretionary legislative and
10 policy role of the elected City Council in the initiative process is clear from the
11 language in Section 2.19 of the City Charter that directs the City Council to take
12 action only after the 30-day window has expired, thus preserving the role and
13 the duty of the City Council to adequately consider and study what legislative
14 action it will take in response to validation of a voter initiative petition, and

15 WHEREAS the importance of these City Council roles is also clear from
16 the language in Sections 2.2 and 2.3 of the City Charter which allow the City
17 Council to propose an alternative measure on the same subject concurrently
18 with the initiative and provides that if both measures pass, the measure with the
19 most votes will prevail, and

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³ See, RCW 29A.36.071.



1 WHEREAS in the exercise of its power and authority and in adherence
2 to its duties as a legislative body, the City Council heard presentations
3 regarding the initiative process and the scope, content and impacts of Initiative
4 Measure No. 2, during its July 15, July 29, and August 5 City Council study
5 sessions and also heard unsolicited comments from members of the public
6 regarding the benefits and impacts of Initiative Measure No. 2 during
7 community forum at the July 22, 2025 City Council meeting and in written
8 comments filed with the City Clerk, and

9
10 WHEREAS the 30-day period granted to the City Council under the City
11 Charter to consider whether to enact or reject the proposed measure, or place
12 an alternative on the ballot, commenced on July 10, 2025 and will end on
13 August 9, 2025, and

14 WHEREAS the City Council finds that if adopted, Initiative Measure
15 No. 2 would have broad and far-reaching impacts on employers and employees
16 in the City of Tacoma and that it does not have sufficient information to make a
17 reasoned decision regarding whether it should enact Initiative Measure No. 2,
18 or consider placing an alternative measure on the ballot, and

19
20 WHEREAS for the above-stated reasons, the City Council has
21 determined that it will not enact, and therefore rejects, Initiative No. 2, and
22 pursuant to Section 2.19(j) of the City Charter, the City council must call for a
23 special election on November 4, 2025, concurrent with the general election,
24 and submit the proposed measure to the voters for their approval or rejection;

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26 Now, Therefore,



BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

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Section 1. That the Pierce County Auditor, as *ex officio* supervisor of elections in Pierce County, Washington is hereby requested to call for a special election to be held concurrent with the general election on November 4, 2025, for the electorate of the City of Tacoma to consider whether to approve or reject Initiative Measure No. 2.

Section 2. That the City hereby transmits to the Pierce County Auditor, as *ex officio* supervisor of elections in Pierce County, Washington, Initiative Measure No. 2 relating to labor standards for certain employees and adding a new chapter to the Tacoma Municipal Code (“TMC”), Chapter 18.20, “Labor Standards for Certain Employees,” for placement on the special election ballot to be held concurrent with the general election on November 4, 2025.

Section 3. The City shall submit to the electorate of the City of Tacoma Initiative Measure No. 2 in the form substantially as follows:

BALLOT TITLE
CITY OF TACOMA
INITIATIVE MEASURE NO. 2

Initiative Measure No. 2 concerns protections for certain employees.

If enacted, this measure would add new provisions to the Tacoma Municipal Code adopting labor standards, workplace safety requirements, employer compliance certification requirements and enforcement mechanisms that, implement a \$20.00 hourly minimum wage and other compensation obligations, prohibit retaliatory actions by employers, require employers to provide notice of work schedules and changes in work schedules, protect employee’s right to reject work schedule changes, and authorize revocation, suspension and denial of business licenses, penalties for violations, and private enforcement actions.



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Should this measure be enacted into law?

Yes

No

Section 4. That, the City Clerk shall send to the Pierce County Auditor, as *ex officio* supervisor of elections, a certified copy of this resolution, together with an initiative substantially in the form set forth above, for the November 4, 2025, Special Election. The proper City officials are authorized to perform such duties as are necessary or required by law to submit the question of whether the City’s Municipal Code should be amended to add proposed chapter 18.20 (Labor Standards for Certain Employees), as provided in this resolution, to the electors at the November 4, 2025, Special Election.

Section 5. That the City has chosen to participate jointly with Pierce County in its voters' pamphlet. Pursuant to RCW 29A.32.220, the text for the ballot measure, accompanied by an explanatory statement, shall be submitted to the Auditor's Office for inclusion in the Official Voters' Pamphlet. The explanatory statement shall not exceed 200 words and shall be submitted to the Auditor, as *ex officio* supervisor of elections.



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Section 6. That if a section, subsection, paragraph, sentence, clause, or phrase of this resolution is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this resolution.

Adopted August 8, 2025

M Woodards
Mayor

Attest:

[Signature]
City Clerk

Approved as to form:

[Signature]
City Attorney



City of Tacoma

City Council Action Memorandum

TO: Hyun Kim, City Manager
FROM: Nicole Emery, City Clerk; Chris Bacha, City Attorney
COPY: City Council
SUBJECT: Resolution - Transmitting Initiative Measure No. 2 to the Pierce County Auditor - August 8, 2025 Special Meeting
DATE: August 5, 2025

SUMMARY AND PURPOSE:

A resolution calling for a special election on November 4, 2025, providing for transmittal to the Pierce County Auditor as *ex officio* supervisor of elections of Initiative Measure No. 2 for placement on the November 4, 2025, special election ballot, and directing the City Clerk to transmit to the Pierce County Auditor a certified copy of this resolution.

BACKGROUND:

Initiative Measures Nos. 2 and 3, relating to protections for certain employees, were filed by the petitioners with the City Clerk on February 4, 2025. After submittal, the petitions were approved by the City Attorney as to form and style, and the City Attorney prepared and approved ballot titles and transmitted notice to the petitioners that the ten-day appeal period commenced.

On June 24, 2025, the petitioners filed with the City Clerk their petition for Initiative Measure No. 2 with signatures for verification by the Pierce County Auditor, as *ex officio* supervisor of elections. The City Clerk forwarded the signatures to the Pierce County Auditor on June 26, 2025, and on July 9, 2025, the Auditor provided notice to the City Clerk that sufficient signatures had been verified. On July 10, 2025, in accordance with Section 2.19 (i) and (j) of the City Charter, the City Clerk validated that the signatures met the requirements under the City Charter.

Once the City Clerk has validated an initiative petition, the City Council may enact or reject the initiative, and that if the City Council rejects the initiative or fails to take action within 30 days following validation, the City Council shall submit the proposal without any amendments to the people at the next municipal or general election that is not less than ninety days after the date of validation of the petition. The City Charter also provides that the City Council may by its own motion submit any proposed ordinance to the voters for approval or rejection, which ordinance may, when dealing with the same subject matter as a voter initiative, be proposed as an alternative to the initiative petition.

In the exercise of its power and authority and in adherence to its duties as a legislative body, the City Council heard presentations regarding the initiative process and the scope, content and impacts of Initiative Measure No. 2, during its July 15, July 29, and August 5, 2025, City Council study sessions and also heard unsolicited comments from members of the public regarding the benefits and impacts of Initiative Measure No. 2 during community forum at the July 22, 2025, City Council meeting and in written comments filed with the City Clerk.

The 30-day period granted to the City Council under the City Charter to consider whether to enact or reject the proposed measure, or place an alternative on the ballot, commenced on July 10, 2025, and will end on August 9, 2025.

The City Council finds that if adopted, Initiative Measure No. 2 would have broad and far-reaching impacts on employers and employees in the City of Tacoma and that it does not have sufficient information to make a



City of Tacoma

City Council Action Memorandum

reasoned decision regarding whether it should enact Initiative Measure No. 2, or consider placing an alternative measure on the ballot.

For the above-stated reasons, the City Council has determined that it will not enact, and therefore rejects, Initiative No. 2, and pursuant to Section 2.19(j) of the City Charter, the City council must call for a special election on November 4, 2025, concurrent with the general election, and submit the proposed measure to the voters for their approval or rejection.

FISCAL IMPACT:

There is no fiscal impact associated with this legislation.

ATTACHMENTS:

None.

Resolution No. 41733

Adopted: AUG 08 2025

Maker of Motion: Daniels

Seconded: Hines

Voice Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
CM Bushnell	✓			
DM Daniels	✓			
CM Diaz	✓			
CM Hines	✓			
CM Rumbaugh	✓			
CM Scott	✓			
CM Sadalge	✓			
CM Walker	✓			
Mayor Woodards	✓			

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
CM Bushnell				
DM Daniels				
CM Diaz				
CM Hines				
CM Rumbaugh				
CM Scott				
CM Sadalge				
CM Walker				
Mayor Woodards				



RESOLUTION NO. 41735

1 BY REQUEST OF MAYOR WOODARDS

2 A RESOLUTION creating a 15-member task force to be named the Tacoma Labor
3 Standards Task Force, and authorizing the use of Council Contingency
4 Funds, in the amount of \$50,000, for staffing and facilitation.

5 WHEREAS on July 9, 2025, the Tacoma City Clerk received and notified the
6 City Council of an initiative petition certified by the Pierce County Auditor titled
7 Initiative No. 2 (“Initiative”), Labor Standards for Certain Employees, and

8 WHEREAS per the City Charter, Section 2.20, the City Council had 30 days
9 to review the Initiative to enact it or reject it; and if the City Council rejects it, or fails
10 to take final action on it within 30 days, the City Council shall submit the proposal to
11 the people at the next Municipal or General Election, and
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13 WHEREAS at the City Council’s next regular meeting on July 15, 2025, staff
14 presented on the Initiative, reviewing the language of the Initiative and taking
15 questions from the City Council, and
16

17 WHEREAS at the City Council’s direction, staff returned two weeks later to
18 provide responses to those questions and provide additional collected information
19 to give the City Council a better understanding of the Initiative, and
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21 WHEREAS with many questions still outstanding and new concerns
22 coming to light at that time, the City Council asked staff to return once more on
23 August 5, 2025, and

24 WHEREAS in order to meet the City Charter deadline of 30 days to act, the
25 City Council scheduled a Special Meeting for Friday, August 8, 2025, where they
26 would take final action, and



1 WHEREAS even with the City Charter allowing for 30 days to act, there are
2 far too many outstanding questions to be able to reasonably understand the full
3 impact of the Initiative, and

4 WHEREAS the concerns and questions raised about labor standards
5 warrant further discussion and consideration , and

6 WHEREAS, Mayor Woodards proposes the creation of a 15-member task
7 force named the Tacoma Labor Standards Task Force (“Task Force”) that would
8 focus on the various labor standards identified in the Initiative and bring back
9 recommendations to the City Council for adoption, and

10 WHEREAS the Task Force will be expected to bring a recommendation on
11 minimum wage and for all other labor standards to the City Council, and

12 WHEREAS the Task Force shall review the following topics as brought
13 forward in the Initiative to bring back recommendations to the City Council:

- 14 (1) Minimum wage;
15 (2) Access to hours;
16 (3) Predictable schedules; and
17 (4) Workplace safety, and

18 WHEREAS for the 15-member Task Force, each City Council Member will
19 nominate one person, preferably from their district, to ensure geographic and
20 cultural diversity that represents the City’s community, and the remaining members
21 and two alternates shall be nominated by the Mayor with input from the City
22 Council, to represent business interests and community organizations and will



1 strive to represent the following views that are not already included in the City
2 Council nominations: (1) large, medium, and small businesses in various fields,
3 (2) local Chambers of Commerce, (3) workforce development agencies,
4 (4) apprenticeship programs, (5) human resource and legal experts, (6) union
5 advocates, (7) current minimum wage workers (unionized and non-unionized),
6 (8) human resources experts, (9) educational leaders (university, community,
7 technical college), (10) youth voices, (11) equity focused viewpoints (for example:
8 disability, gender and orientation, racial), and (12) cultural organizations, and
9

10 WHEREAS the Task Force will hold public meetings supported by relevant
11 staff, with regular reports being given to the City Council and formal
12 recommendations will be transmitted to the City Council; there will be opportunities
13 for additional engagement with the Task Force to provide feedback and discussion
14 items for consideration, and
15

16 WHEREAS the City Council heard directly from a broad range of businesses,
17 industry groups, and nonprofit organizations about the practical realities they may
18 face in implementing labor standards identified in the Initiative, and many shared
19 thoughtful concerns about how new requirements could impact their operations,
20 particularly around compliance timelines, administrative capacity, as well as
21 potential costs, and this feedback influenced the decision to slow down and bring
22 forward a more thoughtful approach to labor standards for the City, and
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WHEREAS this Task Force will bring together diverse viewpoints to thoughtfully explore future legislation that advances a thriving economy by raising wages and expanding work hours for those most impacted by low-wage jobs, and

WHEREAS by reviewing options for prioritizing fair pay and fair scheduling, future policy can support income stability, reduce reliance on public assistance, and promote greater access to housing, healthcare, and opportunity, aligns with the City’s commitment to equity and inclusion, and helps build a more inclusive local economy, and

WHEREAS the Task Force will be disbanded once its last recommendation to the City Council is complete, and

WHEREAS, at the August 5, 2025, Study Session, Mayor Woodards shared a Council Consideration Request to authorize the one-time use of \$50,000 from the Council Contingency Fund to create and administer the Task Force, and

WHEREAS RCW 35.34.250 and 35.34.260 authorize a withdrawal from the Council Contingency fund for any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the budget, and

WHEREAS Ordinance No. 22569 requires an affirmative vote of not less than six members of the Council in order to withdraw moneys from this fund; Now, Therefore,



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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That the foregoing Recitals are hereby adopted as the City Council’s legislative findings.

Section 2. That the City Manager is authorized to direct and coordinate the creation of the Tacoma Labor Standards Task Force, with the following purpose, membership and duties:

1. The Task Force shall be 15-members. Each City Council Member will nominate one person, preferably from their district, to ensure geographic and cultural diversity that represents the City’s community, and the remaining members and two alternates shall be nominated by the Mayor with input from the City Council.
2. The Task Force will focus on the various labor standards identified in the Initiative and bring back recommendations to the City Council for adoption. Specifically, they will focus on:
 - a. Minimum wage;
 - b. Access to hours;
 - c. Predictable schedules; and
 - d. Workplace safety, and
3. The Task Force will hold public meetings supported by relevant staff, with regular reports being given to the City Council before formal recommendations, described below, will be transmitted to the City Council.



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4. The Task Force will be expected to bring a recommendation on minimum wage for the City Council to consider, along with recommendations on all other labor standards.

5. The Task Force will be disbanded once it provides its last recommendation to the City Council.


Section 3. That one-time funding in the amount of \$50,000, budgeted from the Council Contingency Fund, is hereby approved for the purpose of creating the Tacoma Labor Standards Task Force.

Adopted August 12, 2025



Mayor

Attest:



City Clerk

Approved as to form:



Deputy City Attorney



City of Tacoma

City Council Action Memorandum

TO: Hyun Kim, City Manager
FROM: Mayor Victoria Woodards and Chief Policy Analyst Bucoda Warren
COPY: City Council and City Clerk
SUBJECT: A resolution creating a 15-member task force with 2-alternates to be named the Tacoma Labor Standards Task Force for the purpose of reviewing various labor standards in Tacoma and authorizing a Council Contingency Fund expenditure in the amount of \$50,000 for staffing and facilitation of the task force. The Task Force will consist of one member nominated by each Council Member and seven members, and two alternates nominated from various business or community groups selected by the Mayor. The Task Force shall sunset when it submits its final recommendations to the City Council.
DATE: August 6, 2025

SUMMARY AND PURPOSE:

A resolution creating a 15-member task force with 2-alternates to be named the Tacoma Labor Standards Task Force for the purpose of reviewing various labor standards in Tacoma and authorizing a Council Contingency Fund expenditure in the amount of \$50,000 for staffing and facilitation of the task force. The Task Force will consist of one member nominated by each Council Member and seven members, and two alternates nominated from various business or community groups selected by the Mayor. The Task Force shall sunset when it submits its final recommendations to the City Council.

COUNCIL SPONSORS:

Mayor Victoria Woodards

BACKGROUND:

On July 9, 2025, the Tacoma City Clerk received an initiative petition certified by the County Auditor titled Initiative No. 2, Labor Standards for Certain Employees and notified the City Council. Per the City Charter, the City Council had 30 days to review the initiative and either reject it and send it to the November ballot for consideration by the voters or adopt it as written.

At the Council's next regular meeting on July 15th, 2025, staff presented on Initiative 2, reviewing the language of the initiative and taking questions from the City Council. At Council's direction, staff returned two weeks later to provide responses to those questions and additional information collected to give Council a better understanding of Initiative 2. With many questions still outstanding and new concerns coming to light at that time, the Council asked staff to return once more on August 5th, 2025. Following that to meet the Charter deadline of 30 days to act, the City Council scheduled a special meeting for Friday August 8th, 2025, where they would take final action.

This legislation recognizes that, within the Charter prescribed 30 days to review, there are still many unanswered that make it difficult to fully understand the full impacts of Initiative 2. Regardless of the outcome of the initiative, the concerns and questions raised about labor standards warrant further discussion and consideration. To support this work, Mayor Woodards is proposing the creation of a task force to examine labor standards, both identified in the Initiative and brought up by community feedback, and bring forward recommendations for future policy improvements to the City Council for consideration.



The task force shall review the following topic areas as brought forward in initiative 2 and highlights by community feedback to bring back recommendations to the City Council. These areas are intended to be areas of focus to scope in the Task Force's efforts, but is not limited to just the specific items brought up in Initiative 2:

1. Minimum Wage
2. Access to Hours
3. Predictable Schedules
4. Workplace safety

For the 15-member task force, each Council Member will nominate one person, preferably from their district, to ensure geographic and cultural diversity that represents the Tacoma community. The remaining seven members and two alternates shall be nominated by the Mayor with input from the Council, to represent business interests and community organizations and will strive to represent the following views that are not already included in Council nominations:

- Large, medium, and small businesses in various fields
- Local Chambers of Commerce
- Workforce Development Agencies
- Apprenticeship Programs
- Human Resource and Legal experts
- Union advocates
- Current minimum wage workers (unionized and non-unionized)
- Human resources experts
- Educational leaders (University, community, and technical college)
- Youth Voice
- Equity focused viewpoints (for example, disability, gender and orientation, racial)
- Cultural organizations

COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:

We heard directly from a broad range of businesses, industry groups, and nonprofit organizations about the practical realities they may face in implementing labor standards identified in initiative 2. Many shared thoughtful concerns about how new requirements could impact their operations, particularly around compliance timelines, administrative capacity, and potential costs. This feedback influenced the decision to slow down and bring forward a more thoughtful approach to labor standards for Tacoma.

2025 STRATEGIC PRIORITIES:

Equity and Accessibility:

This legislation brings together diverse viewpoints to thoughtfully explore future legislation that advances a thriving economy by raising wages and expanding work hours for those most impacted by low-wage jobs. By reviewing options for prioritizing fair pay and fair scheduling, future policy can support income stability, reduces reliance on public assistance, and promotes greater access to housing, healthcare, and opportunity. It aligns with the City's commitment to equity and inclusion and helps build a more inclusive local economy.

Economy/Workforce: *Equity Index Score:* Moderate Opportunity

Increase the number of diverse livable wage jobs.

Increase the number of Tacoma households that have livable wage jobs within proximity to the city.



Civic Engagement: Equity Index Score: Moderate Opportunity

Increase the number of residents who participate civically through volunteering and voting. Elected officials, boards, commissions, and volunteer leadership will reflect the diversity of the Tacoma community.

Increase the percentage of residents who believe they are able to have a positive impact on the community and express trust in the public institutions in Tacoma.

Explain how your legislation will affect the selected indicator(s).

This task force strengthens civic engagement by bringing together workers, employers, advocates, and community members to shape policies that directly affect their lives and livelihoods. It creates space for dialogue, builds trust in public processes, and ensures diverse voices are reflected in decision-making. By focusing on fair labor standards, the task force also helps create a stronger economy.

ALTERNATIVES:

Alternative(s)	Positive Impact(s)	Negative Impact(s)
1. Do not pass	Additional funds are available for future unbudgeted needs.	A diverse body for additional research and deliberation would not be established to better review various labor standards.
2. Amend to change task force focus or membership	Ensure various viewpoints are included and the focus of the task force meets the needs of the City Council.	Increasing or decreasing membership or scope could create a harder to manage task force process.

EVALUATION AND FOLLOW UP:

The Task Force will hold public meetings and will be supported by relevant staff. Regular reports can be given to the City Council ahead of their final recommendations. There will be opportunities for additional engagement with the Task Force to provide feedback and discussion items for consideration.

STAFF/SPONSOR RECOMMENDATION:

We recommend adoption of this resolution to establish a task force to explore new labor standards for Tacoma.

FISCAL IMPACT:

Fund Number & Name	COST OBJECT (CC/WBS/ORDER)	Cost Element	Total Amount
1. Council Contingency Fund	660000	Various	\$50,000
TOTAL			\$50,000



What Funding is being used to support the expense?

Council Contingency Fund

Are the expenditures and revenues planned and budgeted in this biennium's current budget?

NO, PLEASE EXPLAIN BELOW

The Council Contingency Fund provides an established amount of funding each year for unbudgeted Council sponsored initiatives.

Are there financial costs or other impacts of not implementing the legislation?

No

Will the legislation have an ongoing/recurring fiscal impact?

No

While the task force does not directly create ongoing fiscal obligations, future recommendations from the task force might.

Will the legislation change the City's FTE/personnel counts?

No

While the task force does not directly create ongoing fiscal obligations, future recommendations from the task force might.

ATTACHMENTS:

- 2025-2026 Council Contingency Commitments

Contingency Commitments

	Funding Amount
2025	\$ 321,709.00
Resolution 41610	
Council Requested - Golden Gloves Sponsorship	\$ 10,000.00
Council Contingency fund expenditure of \$10,000 to support the 76 th Annual Golden Gloves Boxing Tournament in Tacoma.	
Substitute Ordinance 29002	
Grand Cinema Capital Campaign	\$ 50,000.00
Dedicate \$50,000 of the 2025-2026 Budget for Council Contingency to the Grand Cinema Capital Campaign for improvements to the Merlino Building.	
Substitute Ordinance 29002	
Rebuilding Hope Capital Campaign	\$ 25,000.00
Dedicate \$25,000 of the 2025-2026 Budget for Council Contingency for the Rebuilding Hope Capital Campaign.	
Resolution 41681	
Tacoma Porchfest	\$ 10,000.00
Council Contingency fund expenditure of \$10,000 to sponsor Tacoma Porchfest.	
Resolution 41968	
South Tacoma Green Blocks Program	\$ 15,000.00
Council Contingency Fund expenditure of \$15,000 to Supplement the \$30,000 South Tacoma Neighborhood Planning Booster funding to conduct a full green blocks-scale program in the South Tacoma Neighborhood.	
Resolution 41724	
Historical Society 2025 Destiny Dinner Sponsorship	\$ 10,000.00
Council Contingency Fund expenditure in the amount of \$10,000 to support the Tacoma Historical Society's 2025 Destiny Dinner.	
Resolution 41723	
BIPOC Health & Wellness Fair	\$ 5,000.00
A Council Contingency Fund expenditure in the amount of \$5,000 to support the 2025 BIPOC Health & Wellness Fair.	
To Council August 19, 2025	
Grit of Destiny Sponsorship	\$ 15,000.00
A Council Contingency Fund expenditure of \$15,000 for a "Grit of Destiny: City of Tacoma" Documentary	
To Council August 12, 2025	
	\$ 50,000.00
A Council Contingency Fund expenditure of \$50,000 for staffing and facilitation of the Tacoma Labor Standards Task Force.	
Starting Balance	
	\$ 321,709.00
Total Amount Allotted	
	\$ 190,000.00
Current Balance	
	\$ 131,709.00

Resolution No. 41735

Adopted: AUG 13 2025

Maker of Motion: Hines

Seconded: Waller

Voice Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
CM Bushnell	✓			
DM Daniels	✓			
CM Diaz		✓		
CM Hines	✓			
CM Rumbaugh	✓			
CM Scott	✓			
CM Sadalge				✓
CM Walker	✓			
Mayor Woodards	✓			

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
CM Bushnell				
DM Daniels				
CM Diaz				
CM Hines				
CM Rumbaugh				
CM Scott				
CM Sadalge				
CM Walker				
Mayor Woodards				

EXHIBIT B

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

THE UNITED FOOD AND
COMMERCIAL WORKERS LOCAL
367, et al.,

Plaintiffs,

v.

PIERCE COUNTY; LINDA FARMER, in
her official capacity; and CITY OF
TACOMA,

Defendants.

No. 25-2-10781-2

DECLARATION OF CHRISTOPHER D.
BACHA IN SUPPORT OF CITY OF
TACOMA'S RESPONSE
TO PLAINTIFFS' MOTION FOR
DECLARATORY AND INJUNCTIVE
RELIEF

I, CHRISTOPHER D. BACHA, make the following declaration:

1. I am over the age of eighteen years and am competent to testify in this matter.
2. I am the City Attorney for the City of Tacoma and in that capacity have responsibility under the City Charter to review initiative petitions as to form and style, prepare ballot titles and explanatory statements and to be present during City Council meetings.
3. The Office of the City Clerk is a division of the Tacoma City Attorney's Office and the City Attorney has supervisory authority over the City Clerk.
4. I have personal knowledge of the facts and circumstances of submittal to the City of Tacoma of the initiative that is the subject matter of this declaratory judgment action

1 and the proceedings before the Tacoma City Council related to the initiative
2 petition.

3 5. On January 24, 2025, I delivered a letter to Petitioner Michael Whalen of the
4 United Food and Commercial Workers Local 367 via electronic mail advising
5 that I had reviewed two proposed ordinances they had submitted to the City
6 Clerk on January 13, 2025, as required pursuant to Section 2.19(c) of the
7 Tacoma City Charter, and determined that the proposed ordinances did not
8 conform to the form and style requirements set forth in state law and the Tacoma
9 City Charter.

10
11 6. Attachment B-1 to this declaration is a true and correct copy of the letter I
12 emailed to Petitioner Whalen on January 24, 2025.

13 7. In the letter, I notified Petitioner Whalen that the proposed ordinances were being
14 rejected and that Petitioner Whalen should prepare an initiative petition that
15 conformed to the requirements of the Tacoma City Charter and state law. My
16 letter also explained how the ordinances as submitted failed to conform to state
17 law and the Tacoma City Charter.

18
19 8. On January 29, 2025, after Petitioner Whalen delivered another four initiative
20 petitions to the City Clerk on January 28, 2025, I met with Petitioner Whalen and
21 Co-Petitioner Colton Rose (also with United Food and Commercial Workers
22 Local 367) to discuss the initiative process and the newly submitted initiatives. I
23 advised Petitioner Whalen and Co-Petitioner Rose that a preliminary review of
24 the four initiative petitions revealed non-conforming provisions, and that I would
25 continue to review the initiative petitions and provide a letter with a determination
26

1 regarding conformance of the petition to state law and the Tacoma City Charter
2 form and style requirements.

3 9. On January 31, 2025, I delivered a letter to Petitioner Whalen via
4 electronic mail advising him that I had reviewed the four proposed initiative
5 petitions as required pursuant to Section 2.19(c) of the Tacoma City Charter, and
6 determined that the proposed initiative petitions did not conform to the form and
7 style requirements set forth in state law and the Tacoma City Charter. The letter
8 also explained how the initiative petitions as submitted failed to conform to state
9 law and the City Charter.

10
11 10. Attached as Attachment B-2 is a true and correct copy of the letter
12 I emailed to Petitioner Whalen on January 31, 2025.

13 11. On February 5, 2025, I received two initiative petitions from the
14 City Clerk filed by the Petitioners with the City Clerk on February 4, 2025. I then
15 reviewed the two initiative petitions and determined that each conformed to form
16 and style requirements under state law and the Tacoma City Charter and began
17 drafting a ballot title for each of the two initiative petitions. On February 14, 2025,
18 I forwarded draft ballot titles by electronic mail to Petitioner Whalen and Co-
19 Petitioner Rose for their preliminary review.

20
21 12. On February 18, 2025, I notified Petitioner Whalen and Co-
22 Petitioner Rose by electronic mail that the ballot titles had been revised and
23 would be forwarded to the City Clerk on that same day. I then notified the City
24 Clerk that the two initiative petitions were proper as to form and style and filed
25 with the City Clerk the approved ballot titles for each of the initiative petitions.

1 13. The approved initiative petitions were assigned titles of Initiative
2 No. 2 and Initiative No. 3 because a different and unrelated initiative had
3 previously been approved and assigned the title Initiative No. 1. That initiative
4 was subsequently withdrawn and did not move forward to the ballot.

5 14. The ordinance or measures of Initiative No. 2 and Initiative No. 3
6 appear to be substantially the same as Ordinance No. 1 and Ordinance No. 2,
7 respectively, as submitted by Petitioner Whalen on January 13, 2025.

8 15. On July 15, 2025, the Tacoma City Council held a study session at
9 which I, and the Interim City Manager, presented information regarding the
10 initiative process under the Tacoma City Charter, the timing of filing and review of
11 Initiative Petition No. 2 and Initiative Petition No. 3, and a summary of the
12 provisions of each of the two initiative petitions that had been initially filed by
13 Petitioner Whalen.

14 16. Attached as Attachment B-3 is a copy of the notes used to make
15 the oral presentation to the City Council at the July 15, 2025, study session and
16 is reflective of the information I provided to the City Council during the study
17 session.

18 17. At the conclusion of the study session presentation and after
19 answering questions from individual Council Members, the Interim City Manager
20 and I were asked to provide additional information to the Tacoma City Council,
21 and in particular to provide more information regarding the impacts of Initiative
22 No. 2 upon employers and employees if Initiative No. 2 were to become law. The
23 following is a list of some of the questions asked by the City Council:
24 following is a list of some of the questions asked by the City Council:
25 following is a list of some of the questions asked by the City Council:
26

- a. How does Initiative No. 2 classify different types of workers (in terms of part-time, full-time and salary)?
- b. Would Initiative No. 2 apply to federal and state employees in the City of Tacoma?
- c. Can employers ask employees what their primary language is (other than English)?
- d. Can another entity enforce Initiative No. 2 if it became law?
- e. Are there other cities or localities (in WA State) that have passed similar laws?
- f. Do the scheduling provisions found within Initiative No. 2 apply to all employers?
- g. What is the distinction between “Large Employers,” Medium-sized employers,” and “Small Employers?”
- h. What constitutes a franchise owner?

18. The Interim City Manager advised the Tacoma City Council that it would take at least two weeks to gather information to answer some of the questions posed by the Council Members, and it would take much longer to answer other questions posed.

19. On July 29, 2025, the Tacoma City Council held a second study session regarding Initiative No. 2 to hear a presentation from the Interim City Manager and myself in response to questions Council Members asked during the July 15th study session.

1 20. Attached as Attachment B-4 is a copy of the notes used to make
2 the oral presentation to the City Council at the July 29, 2025, study session and
3 is reflective of the information I provided to the City Council during the study
4 session.

5 21. The Tacoma City Council asked more questions and at the
6 conclusion of the study session presentation, requested that the Interim City
7 Manager and I return on the August 5, 2025, Tacoma City Council study session
8 to provide more information and answer additional questions.

9 22. On August 5, 2025, the Tacoma City Council held its third study
10 session to hear a presentation from the Interim City Manager and myself
11 regarding Initiative No. 2, and to answer Council Member questions raised at the
12 July 29th study session, as well as additional questions asked during the study
13 session. At the conclusion of the study session presentation, Tacoma Mayor
14 Victoria Woodards asked to schedule a special meeting of the City Council on
15 Friday August 9, 2025, at which the City Council would consider taking action.

16 23. On August 8, 2025, during the special meeting of the Tacoma
17 City Council, Resolution No. 41733 was adopted. Resolution No. 41733 is
18 included as an attachment to Exhibit A, the Emery Declaration.

19 24. On August 12, 2025, the Tacoma City Council approved
20 Resolution No. 41735, authorizing the creation of the “Tacoma Labor Standards
21 Task Force.” Resolution No. 41735 is included as an attachment Exhibit A, the
22 Emery Declaration.
23
24
25
26

1 25. In the course of the study sessions described above, the City
2 Council wanted to know how the provisions affecting scheduling and overtime
3 would impact employers and employees in Tacoma including emergency
4 responders (police and fire), hospitals, small businesses, non-profits, the Port of
5 Tacoma, governmental employers, and all other employers in the City. I advised
6 the City Council that it was my opinion that the provisions of the initiative would, if
7 enacted by the City Council, prohibit nearly all employers in the City from
8 deviating from established work schedules with less than 14 days' notice to
9 employees, regardless of the circumstances, including threats to public health
10 and public safety. I further advised the City Council that these provisions would
11 also, if enacted, have precluded employers from scheduling overtime for
12 employees without their prior consent, and that these provisions alone would, if
13 adopted, almost overnight change how public and private employers in Tacoma
14 schedule employees for work and how critical emergency services and health
15 care services are provided to the public.
16

17 I declare under penalty of perjury under the laws of the State of Washington that
18 the foregoing is true and correct.

19 SIGNED AND DATED at Tacoma, Washington this 22nd day of August, 2025.

20
21 

22 _____
23 CHRISTOPHER D. BACHA



City of Tacoma
Office of the City Attorney

ATTACHMENT B-1

January 24, 2025

Michael Whalen
UFCW Local 367
643 Lakewood Drive West
Tacoma, WA 98467
(e-mail: mwhalen@ufcw367.org)

Subject: Initiative to the People (1) – Labor Standards for Certain Employees

Mr. Whalen,

On January 14, 2025 I received the attached labor standards ordinances from the Tacoma City Clerk. It is my understanding that ordinances were submitted to the City Clerk's Office on January 13, 2025 pursuant to the initiative provisions of Section 2.19 of the Tacoma City Charter.

I have, as required by Section 2.19(c) of the Tacoma City Charter, reviewed what was submitted as an initiative petition. As a result of that review, I have determined that as submitted the two ordinances do not meet the form and style requirements of the City Charter and state law applicable to initiative petitions and must therefore be rejected. The reasons for this rejection are set forth below.

1. Background. Local power of initiative and referendum does not derive from the state constitution. City of Port Angeles v. Our Water-Our choice, 1 Wn. 2d 1, 8 (2010). However, Tacoma is authorized pursuant to state law to provide for direct legislation by the people through initiative and referendum. See, RCW 35.22.200. This power is set forth at Sections 2.18 – 2.24, 5.1, 8.1 and 8.7 of the Tacoma City Charter which provisions govern the initiative process. Washam v. Sonntag, 74 Wn. App 504, 509 (1994).

Section 2.19 of the Tacoma City Charter provides that Citizens of Tacoma may “by initiative petition ask the voters to approve or reject ordinances or amendments to existing ordinances”. It further provides at Section 2.19(c) that “[w]ithin ten (10) working days of receipt, the City Attorney shall review the petition and make contact with the petitioner as necessary, and if the petition is proper in terms of form and style, the City Attorney will write a concise, true, and impartial statement of the purpose of the measure . . .” Accordingly, it is the responsibility of the City Attorney to determine if an

initiative petition meets the form and style requirements established under state law and City Charter.

Requirements for the form of an initiative petition are set forth at RCW 35.21.005. As discussed above, the City Charter requires that an initiative petition ask voters to approve or reject an ordinance or amendment to an existing ordinance. RCW 35.21.005(b) requires that the initiative petition include a true copy of the proposed ordinance or amendment. The submittal does include a proposed ordinance or amendment and thus does meet this requirement.

The statutory requirements that have not been met are discussed below and also serve as a basis for rejection of the submittal as an initiative petition.

a. Concise State of Relief Sought. RCW 35.21.005(1)(a) requires that the initiative petition include text or a prayer which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable city ordinance, if any. The initiative petition filed does not meet this requirement.

b. Numbered Lines. RCW 35.21.005(1)(d) requires that the initiative petition include numbered lines for signatures with space beside each signature for the names and address of the signer and the date of signing. The initiative petition filed does not meet these requirements.

c. Warning Statement. RCW 35.21.005(1)(e) requires that a warning statement as set forth at RCW 35.21.005(2) be included on the petition. The initiative petition filed does not meet this requirement.

d. Signature Space On Each Page. RCW 35.21.005(2) requires that each sheet of the petition have a space thereon for signatures and contain the text or prayer of the petition and the warning statement as required in this statute. The initiative petition filed does not meet this requirement.

e. Ballot title and Initiative Number. Section 2.19(g) of the Tacoma City Charter requires, among other things, that the initiative petition include the final, approved ballot title and initiative number. The initiative petition does not include a space for the ballot title or initiative number and thus does not meet this requirement of the City Charter.

You will need to prepare an initiative petition to conform to the requirements of the City Charter and state law and then submit the initiative petition with the proposed ordinance to the City Clerk for review by the City Attorney as to form and style.

Michael Whalen
Initiative Petition
January 24, 2025

3

Please let me know if you have questions regarding the reasons for rejection of your submittal as an initiative petition.

Sincerely,

Chris Bacha

Chris Bacha,
Tacoma City Attorney

encl: Labor Standards Ordinances



City of Tacoma
Office of the City Attorney

ATTACHMENT B-2

January 31, 2025

Michael Whalen
UFCW Local 367
643 Lakewood Drive West
Tacoma, WA 98467
(e-mail: mwhalen@ufcw367.org)

Subject: Initiative to the People (1) – Labor Standards for Certain Employees

Mr. Whalen,

On January 29, 2025 I received four labor standards initiative petitions from the Tacoma City Clerk. The ordinances were submitted to the City Clerk's Office on January 28, 2025 pursuant to the initiative provisions of Section 2.19 of the Tacoma City Charter. In addition, we met on January 29th to discuss the four initiative petitions.

I have, as required by Section 2.19(c) of the Tacoma City Charter, reviewed the initiative petitions. As a result of that review, I have determined that as submitted the four petitions do not meet the form and style requirements of the City Charter and state law applicable to initiative petitions and must therefore be rejected. The reason for this rejection is set forth below.

Ballot title and Initiative Number. Section 2.19(g) of the Tacoma City Charter requires, among other things, that the initiative petition include the final, approved ballot title and initiative number. The initiative petition does not include a space for the ballot title or initiative number and thus does not meet this requirement of the City Charter.

You will need to prepare the initiative petitions to conform to the requirements of the City Charter and state law and then submit the initiative petition with the proposed ordinance to the City Clerk for review by the City Attorney as to form and style.

Michael Whalen
Initiative Petition
January 24, 2025

2

Please let me know if you have questions regarding the reasons for rejection of your submittal as an initiative petition.

Sincerely,

Chris Bacha

Chris Bacha,
Tacoma City Attorney

ATTACHMENT B-3

STUDY SESSION PRESENTATION

INITIATIVE NO. 2 – WORKER PROTECTIONS

CITY CHARTER REVIEWⁱ

- **INITIATIVE OF THE PEOPLE**. Section 2.19 of the Tacoma City Charter provides that Citizens of Tacoma may “by initiative petition ask the voters to approve or reject ordinances or amendments to existing ordinances”.
- **CITY ATTORNEY REVIEW**. Section 2.19 (b) & (c) require the City Clerk to forward the initiative petition to the City Attorney for review within 1 day of receipt and that the City Attorney review as to form and style within 10 working days, and if it meets these requirements (RCW 35.21.005) to prepare a ballot title and file it with the City Clerk.
- **NOTICE TO PETITIONERS**. When the ballot title is filed with the City Clerk, then the Clerk must assign an initiative number and notify that petition that the ballot title becomes final and signature gathering may begin within 10 working days if there is no judicial review (appeal).
- **SIGNATURE GATHERING**. Once the appeal period is completed, petitioners must submit signatures from registered voters within 180 days equal to 10% of the votes cast in the last mayoral election.
- **VERIFICATION OF SIGNATURES**. When signatures are filed, the City Clerk shall forward the signatures to the County Auditor to be verified.
- **VALIDATION BY CITY CLERK**. If the County verifies enough signatures, the City Clerk must validate the petition.
- **ENACT OR REJECT**. If the petition is validated by the City Clerk the City Council may enact or reject the initiative (but may not modify it).

- **30 DAY CLOCK.** If the Council rejects the initiative, or within 30 calendar days following validation, fails to take final action, then the Charter requires the City Council to submit the proposal to the people.
- **DUTY.** The effect of this provision is to create a duty for the City Council to take action, if it rejects the initiative or fails to take action within 30 days, to submit the ballot to the voters in the manner provided in state law.
- **WHICH ELECTION?** The Charter explicitly requires that the proposal shall be submitted at the “**next**” **municipal or general election** that is NOT LESS than 90 days after the date of validation.
- **STATE LAW SUBMITTAL OF PROPOSITION.** Section 5.1 of the City Charter contemplates that the submittal of questions or propositions to voters shall be in the manner provided in state law. The process for submittal of local ballot measures to the County Auditor, as ex officio of public elections, for a public vote is governed by state law. See chapter 29A.36 RCW. State law requires the City Council to submit a ballot title to the County Auditor to place an initiative on the ballot.
- **CONFLICTING INITIATIVES.** Section 2.23 of the City Charter provides that if two or more ordinances are approved at the same election and they are inconsistent, the provisions of the ordinance receiving the highest vote shall prevail.

TIMING OF WORKER PROTECTIONS SUBMITTAL

- **Monday January 13, 2025:** Labor standards ordinances filed with City Clerk – Ordinances for Initiative No. 2 and No. 3. Petitions were not filed with the initiatives.
- **Friday January 24:** Notice to Petitioners (Michael Whalen and Colton Rose – Union Representatives UFCW (United Food and Commercial Workers) Local 367) that the initiative petitions did not meet requirements as to form pursuant to Section 2.19 of the City Charter.¹ⁱⁱ (Did not include the petition – 9 working days following submittal).

¹

- **Tuesday January 28th:** Four revised initiative Petitions filed with the City Clerk's Office and transmitted to the City Attorney's Office on January 29th.
- **Wednesday January 29th:** Meeting with Petitioners. They were advised that the new submittals were also defective and that I would be sending them a letter explaining why.
- **Friday January 31:** Notice to petitioners that the new initiatives were defective as to form. (3 working days following submittal)
- **Tuesday February 4th:** Two new initiative petitions were filed with the City Clerk and transmitted to the City Attorney's Office on February 5th.
- **Friday February 14th:** Draft ballot titles forwarded to Petitioners for review.
- **Tuesday February 18th:** Notice to the City Clerk of the two initiatives with ballot titles prepared by the City Attorney's Office. (10 working days following submittal)
- **Wednesday February 19th:** Notice to petitioners that ballot titles have been prepared and filed with the City Clerk's Office and that the 10-working day appeal period has commenced and will end on March 5 which is when signature gathering can begin.
- **Wednesday March 5th:** Day that signature gathering can begin if no appeal is filed. (51 days following first submittal)
- **Tuesday June 17th:** Petitioners notified City Clerk that they were ready to turn in signatures for Initiative No. 2 on Monday.
- **Tuesday June 24th:** Petitioners filed Initiative No. 2 with the City Clerk with signatures for validation. (**110 days** from March 5th)
- **Thursday June 26th:** Petition forwarded by City Clerk to County Auditor's Office for validation of signatures.
- **Wednesday July 9th:** County Auditor provided notice to City Clerk of verification of signatures.
- **Thursday July 10th:** City Clerk validates petition and gives notice to City Council.
- **Saturday August 9th:** 30 calendar days following validation of petition.

INITIATIVE NO. 2 PROVISIONS SUMMARY

Below is a summary of the common key provisions of each ordinance together with a summary of the material provisions of each that are separate and distinct.

A. COMMON PROVISIONS.

1. Findings (18.20.010). Each proposed ordinance contains findings that workers deserve, fair and secure scheduling, fair opportunity for full time work, a fair wage commensurate with other Puget Sound Cities, a safe workplace, to know their rights and to have tools to enforce them.
2. Minimum Wage (18.20.040). Upon the effective date of the ordinance every person employed within the City of Tacoma will be entitled to a minimum hourly rate of pay of **\$20.00** per hour. The effective date will be January 1 if the initiative is approved at a general election, and for any other time, upon certification by the County.
3. Increases in hourly rates (18.20.040(C)). The minimum hourly rate of pay will increase annually on January 1 by the annual rate of inflation as measured by the Seattle-Tacoma-Bellevue area Consumer Price Index for Urban Wage Earners.
4. Discounted Minimum Wage (18.20.050). Medium employers may, on the effective date, pay \$2.00/hr. less than the minimum wage but this reduction must be decreased by \$1.00 per hour for the next two years so that the reduction goes away. Small employers may, on the effective date, pay \$3.00/hr. less than the minimum wage with \$1.00 decreases in this reduction for the next three years so that the reduction goes away.
5. Large/Medium/Small Employer Classifications (18.20.060). This provision establishes the criteria for determining the employer classification. The size of the Employer will be calculated based upon how many employees are employed regardless of where they are employed and integrates multiple entities as one employer if certain criteria are met, e.g., sharing common management, centralized control of labor relations, etc. (*Large = 500 more employees; Medium = More than 15 – 500; Small = 15 or fewer*)
6. Large Employer Workplace Safety (18.20.070). This section requires large employers to: install panic buttons, establish and document training for evacuations, and maintain safe staffing levels for workplaces with over 15,000 square feet of retail space. Large employers with a collective bargaining agreement in place must seek union input on the workplace safety plan.
7. Penalty for Violation of Workplace Safety Requirements (18.20.070(D)). An employer that fails to meet the above requirements (18.20.070 A-C) must pay each employee a hazardous workplace premium established by rule.

8. Retaliation and Rebuttable Presumption (18.20.080). This section prohibits retaliation and any adverse action against an employee for the exercise in good faith of rights under this ordinance. A **rebuttable presumption** of retaliation is created if any adverse action is taken within 90 days of the exercise of rights under this ordinance.
9. Prohibition on Speech (18.20.080(D)). This provision prohibits any person from communicating to anyone exercising rights under this ordinance their willingness to inform a government employee that the person is not lawfully in the United States.
10. Notice of Protected Rights (18.20.090). This provision requires the City to prepare a model notice of rights afforded under this ordinance and requires employees to post the notice in a conspicuous place or employee handbook.
11. City Enforcement (18.20.100 (A), (C) and (I) and TMC Ch. 6B.10). These provisions grant authority to the City to take enforcement action, including issuance of administrative citations, ordering injunctive relief (including reinstatement of employment), and requiring payment of restitution and back wages and other relief. This includes the mandate to impose fines of up to \$5,000 for violations and to allow City employees and others on the City’s behalf to access private property to determine compliance with this initiative. Subsection (G) of this provision also authorizes the City Attorney to investigate complaints and bring a legal action to remedy violation of this ordinance.
12. Private Enforcement (18.20.100(B)). This provision authorizes anyone who has been injured by a violation of this ordinance, or anyone acting on their behalf, to bring a civil action to remedy the violation.
13. Private Action Remedies; Attorney Fees (18.20.100(B)). This provision allows a person who prevails in such an action to recover attorney fees and to obtain equitable relief including, payment of unpaid wages, liquidated damages in an amount up to twice the unpaid wages, compensatory damages, and a penalty of up to \$5,000 if there is a finding of retaliation. The court may also under subsection (C) impose fines.
14. Bargaining Agreement (18.20.120(E)). This provision exempts application of its provisions, except the minimum wage requirement, to employees subject to a collective bargaining agreement in which the provisions of this initiative are expressly waived.

COMPARISON SECTIONS 020 AND 030

The two proposed ordinances have different provisions found at sections 18.20.020 and 030.

INITIATIVE 2	INITIATIVE 3

<p><u>Right to express a Scheduling Preference (18.20.020)</u>. Provides that an employee may at any time identify any limitations or change in availability for work and to request not to be scheduled for work at certain hours or locations. The employer is encouraged, but not required, to accommodate the employee’s request.</p>	<p><u>Employee Right to Request Preferred Schedule (18.20.020(B))</u>. Employee has the right to request not be scheduled for shifts at certain times and locations and identify preferences for hours and locations. The Employer is obligated to discuss the request into to achieve mutually agreeable hours and locations but is not obligated to grant the request unless the denial is unlawful.</p>
	<p><u>Employer’s Obligation to Grant Request for Preferred Schedule – Major Life Event (18.20.020(B))</u>. Employers are obligated to grant a request for a preferred schedule when based upon a “major life event” unless the employer has a bona fide business reason to deny the request and provides the reasons in writing to the employee. A major life event is a change to employee’s housing or transportation, a serious health condition, responsibilities as a caregiver, enrollment in a career related education/training program, or the employee’s other job or jobs.</p>
	<p><u>Good Faith Estimate of Work Schedule – New Employees (18.20.020(A))</u>. Requires that all employers provide a written good faith estimate of an employee’s work schedule at the time of hire, including, the median number of hours the employee can expect to work, whether work will be on-call, the number of shifts per month and the days and hours of those shifts.</p>
<p><u>Large Employers – Written Notice of Work Schedule (18.20.020(D))</u>. All large employers are required to provide employees with a written work schedule at least 14 calendar days in advance of</p>	<p><u>Written Notice of Work Schedule (18.20.020(E), (F) & (G))</u>. All employers are required to provide employees with a written work schedule at least 14 calendar days in advance of the first day</p>

<p>the first day of the work schedule by posting the schedule in a conspicuous place in English and the primary language of the employees at the workplace.</p>	<p>of the work schedule and shall post the schedule in a conspicuous place in English and the primary languages of employees.</p>
	<p><u>Compensation for Employer Adjustments to Schedule (18.20.020(J)(2) & (K)).</u> Unless the employee requests a change or changes shifts with another employer, the employer shall pay employee no less than one-half times the employees regular rate of pay for any hours the employer subtracts from an employee's regular work shift, change the start of end date resulting in a loss of hours, cancelling a work shift, or scheduling an on-call shift for which the employee does not need to report to work.</p>
	<p><u>Prohibited Practice of Under-scheduling (18.20.020(L)).</u> Employers shall not engage in a practice of under-scheduling hours compared to those actually worked.</p>
	<p><u>Offer of Additional hours of Work (18.20.020(C)).</u> Employers must offer the additional hours to any employee who responds and has the skills and experience to perform the work and must provide a four-day waiting period for acceptance. The requirement does not apply to hours of work that would require compensation at time and a half or when an unfair scheduling payment or other penalty would be required under this ordinance.</p>
	<p><u>Additional Hours to Existing Employees (18.20.030(A)).</u> All employers must, before hiring new employees, offer additional hours of work to existing</p>

	employees regardless of job title or position. Such additional hours must be posted for five consecutive days.
<u>Large Employers – Notice of Change (18.20.020(E))</u> . Large employers must notify an employee of an employer requested change in schedule as soon as possible.	<u>Good Faith Estimate of Work Schedule – Existing Employees (18.20.020(A))</u> . All employers are required to revise the good faith estimate once every year, or more frequently if there is a significant change in the employee’s work schedule. In the event of a significant change, the employer must meet with the employee to discuss a mutually beneficial change in schedule.
<u>Right to Reject Change in Schedule (18.20.020(F))</u> . Employees of a large employer may decline any shift for which they did not receive 14 days advanced notice.	<u>Employer Requested Changes to Noticed Schedule (18.20.020(H))</u> . Employee may decline any work hours in which notice is provided after the required period.
<u>Compensation for Change in Schedule (18.20.020(F))</u> . Any employee of a large employer who consents to work a shift with less than 14 days advanced notice will be entitled to a payment equal to one hour of pay at the employee’s regular rate of pay.	<u>Compensation for Employer Requested Changes (18.20.020(J))</u> . Employer shall compensate employee with one hour of pay at the scheduled rate of pay for adding hours of work after the notice period or changing the date or start or end time of a work shift after the notice period.
<u>Shifts Less Than Ten Hours Apart (18.20.020(G))</u> . Any employee of a large employer may decline a shift that begins less than ten hours following another shift.	<u>Shifts Less Than Ten Hours Apart (18.20.020(C))</u> . Employers shall not, without the consent of the employee, schedule or require an employee to work a shift that begins less than ten hours following another shift.
<u>Compensation for Consent to a Shift Within Ten Hours (18.20.020(G))</u> . An employee of a large company who accepts a shift within ten hours following another shift, is entitled to a payment equal to ½ the employee’s regular rate of	<u>Compensation for Consent to a Shift Within Ten Hours (18.20.020(D))</u> . An employee who accepts a shift within ten hours following another shift, is entitled to a payment equal to one and one-half times the employee’s regular rate of pay,

pay, for each hour worked within the ten-hour window.	for each hour worked within the ten-hour window.
<u>Additional Hours to Existing Employees (18.20.030(A) & (B))</u> . All large and medium employers must offer to employees who have the skills and experience to perform the same work, the opportunity to work additional hours before hiring or contracting for additional staffing to perform this work. The requirement does not apply to hours of work that would require compensation at time and a half or when an unfair scheduling payment or other penalty would be required under this ordinance.	

ⁱ Powers of the People

Section 2.18 – Amendments to this charter may be submitted to the voters by the City Council or by initiative petition of the voters in the manner provided by the state constitution and laws.

(Amendment approved by vote of the people November 2, 2004)

Section 2.19 – Citizens of Tacoma may by initiative petition ask the voters to approve or reject ordinances or amendments to existing ordinances, subject to any limitation on topics in state law, by the following process:

- (a) The petitioners shall file an Initiative Petition with the City Clerk.
- (b) The City Clerk shall forward the petition to the City Attorney within one (1) working day of receipt.
- (c) Within ten (10) working days of receipt, the City Attorney shall review the petition and make contact with the petitioner as necessary, and if the petition is proper in terms of form and style, the City Attorney will write a concise, true, and impartial statement of the purpose of the measure, not to exceed the number of words as allowed under state law for local initiatives. The statement will be phrased in the form of a positive question.
- (d) The City Attorney shall file this concise statement with the City Clerk as the official ballot title.

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- (e) The City Clerk shall assign an initiative number to the ballot title and notify the petitioner that the ballot title becomes final and signature gathering may begin in ten (10) working days if there is no judicial review. Notification of the ballot title shall be posted at City Hall and on the City's web page.
 - (f) Persons dissatisfied with the ballot title prepared by the City Attorney may seek judicial review by petitioning the Pierce County Superior Court within ten (10) working days of the notification of the ballot title having been posted as required under (e). The Court shall endeavor to promptly review the statements and render a decision as expeditiously as possible. The decision of the Court is final.
 - (g) Petitions must include the final, approved ballot title, initiative number, the full text of the ordinance, or amendment to existing ordinance, that the petitioners seek to refer to the voters, and all other text and warnings required by state law.
 - (h) Petitioners have one hundred and eighty (180) calendar days to collect signatures from registered voters.
 - (i) The number of valid signatures shall be equal to ten percent (10%) of the votes cast in the last election for the office of Mayor.
 - (j) The City Clerk shall forward the signatures to the County Auditor to be verified. Based on the Auditor's review, the City Clerk shall determine the validity of the petition. If the petition is validated, the City Council may enact or reject the Initiative, but shall not modify it. If it rejects the Initiative or within thirty (30) calendar days fails to take final action on it, the City Council shall submit the proposal to the people at the next Municipal or General Election that is not less than ninety (90) days after the date on which the signatures on the petition are validated.

(Amendments approved by vote of the people November 2, 2004 and November 4, 2014)

Section 2.20 – Citizens of Tacoma may ask that ordinances passed by the City Council, except for ordinances which take effect immediately as allowed in Section 2.13 of the Charter, or as otherwise prohibited by state law, be referred to the voters for approval or rejection by the following process:

- (a) The petitioners shall file a Referendum Petition with the City Clerk not later than ten (10) calendar days after the City Council approved the ordinance.
- (b) The filing of a Referendum Petition, and progression by the petitioners through the steps outlined as follows, causes the suspension of the effective date of the ordinance.
- (c) The City Clerk shall forward the petition to the City Attorney within one (1) working day of receipt.
- (d) Within ten (10) working days of receipt, the City Attorney shall review the petition and make contact with the petitioner as necessary, and if the petition is proper in terms of form and style, the City Attorney will write a concise, true, and impartial statement of the purpose of the measure, not to exceed the number of words as allowed under state law for local referendums. The statement will be phrased in the form of a positive question.
- (e) The City Attorney shall file this concise statement with the City Clerk as the official ballot title.
- (f) The City Clerk shall assign a referendum number to the ballot title and notify the petitioner that the ballot title becomes final and signature gathering may begin in ten (10) working days if there is no judicial review. Notification of the ballot title shall be posted at City Hall and on the City's web page.
- (g) Persons dissatisfied with the ballot title prepared by the City Attorney may seek judicial review by petitioning Pierce County Superior Court within ten (10) working days of the notification of the ballot title having been posted as required under (f). The Court shall endeavor to promptly review the statements and render a decision as expeditiously as possible. The decision of the Court is final.
- (h) Petitions must include the final, approved ballot title, referendum number, the full text of the ordinance that the petitioners seek to refer to the voters, and all other text and warnings required by state law.
- (i) Petitioners have thirty (30) calendar days to collect signatures from registered voters.

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- (j) The number of valid signatures shall be equal to ten percent (10%) of the votes cast in the last election for the office of Mayor.
- (k) The City Clerk shall forward the signatures to the County auditor to be verified. Based on the Auditor's review, the City Clerk shall determine the validity of the petition. If the petition is validated, the City Council shall immediately reconsider the ordinance, and if it does not repeal the ordinance, submit the proposal to the people at the next Municipal or General Election that is not less than ninety (90) days after the date on which the signatures on the petition are validated.

(Amendments approved by vote of the people November 2, 2004 and November 4, 2014)

Section 2.21 – Any ordinance initiated or referred may be submitted to the qualified electors for their approval or rejection at a special municipal election to be called in the manner provided by law for the submission of questions or propositions to the qualified electors.

Section 2.22 – The Council by its own motion may submit any proposed ordinance to the qualified electors for their approval or rejection in the same manner as provided for its submission upon petition.

Section 2.23 – If a majority of the qualified electors voting upon any ordinance initiated or referred shall vote in favor thereof, the same shall take effect ten days after the certification of the result of the election thereof or at the time fixed therein; provided, that if the provisions of two or more proposed ordinances approved at the same election are inconsistent, the provisions of the ordinance receiving the highest vote shall prevail. Any ordinance initiated or referred failing of such majority shall be rejected. All initiative and referendum elections shall be conducted and publication of the proposed ordinance shall be had in the same manner as elections submitting questions or propositions to the qualified electors.

Section 2.24 – No ordinance heretofore or hereafter enacted by vote of the people shall be amended or repealed by the Council within two years after enactment, unless such amendatory or repealing ordinance shall be submitted to the qualified electors for their approval or rejection in the same manner as is required by this charter in respect to the submission of an ordinance initiated or referred.

Section 2.25 – The City Council shall commence a review of this charter no less frequently than once every ten years, by appointing citizens to a charter review committee, or by the election of a board of freeholders in the manner provided in state law. Any freeholders shall be nominated and elected by position and by district. The charter review committee, which shall be provided with sufficient staff and budget to perform a comprehensive review, shall report any recommended amendments to the City Council. The City Council may accept, reject or modify the recommended amendments and may submit any recommended charter amendments to the voters in the manner provided in state law. The recommendations of a board of freeholders shall be placed before the voters in the manner provided in state law. Nothing in this section shall limit the right of citizens to initiate amendments to this charter in any other manner allowed by state law.

(Amendment approved by vote of the people November 2, 2004)

ⁱⁱ Requirements for the form of an initiative petition are set forth at RCW 35.21.005. As discussed above, the City Charter requires that an initiative petition ask voters to approve or reject an ordinance or amendment to an existing ordinance. RCW 35.21.005(b) requires that the initiative petition include a true copy of the proposed ordinance or amendment. The submittal does include a proposed ordinance or amendment and thus does meet this requirement.

The statutory requirements that have not been met are discussed below and also serve as a basis for rejection of the submittal as an initiative petition.

a. Concise State of Relief Sought. RCW 35.21.005(1)(a) requires that the initiative petition include text or a prayer which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable city ordinance, if any. The initiative petition filed does not meet this requirement.

b. Numbered Lines. RCW 35.21.005(1)(d) requires that the initiative petition include numbered lines for signatures with space beside each signature for the names and address of the signer and the date of signing. The initiative petition filed does not meet these requirements.

c. Warning Statement. RCW 35.21.005(1)(e) requires that a warning statement as set forth at RCW 35.21.005(2) be included on the petition. The initiative petition filed does not meet this requirement.

d. Signature Space On Each Page. RCW 35.21.005(2) requires that each sheet of the petition have a space thereon for signatures and contain the text or prayer of the petition and the warning statement as required in this statute. The initiative petition filed does not meet this requirement.

e. Ballot title and Initiative Number. Section 2.19(g) of the Tacoma City Charter requires, among other things, that the initiative petition include the final, approved ballot title and initiative number. The initiative petition does not include a space for the ballot title or initiative number and thus does not meet this requirement of the City Charter.

ATTACHMENT B-4

COUNCIL QUESTIONS – INITIATIVE 2

1. How does Initiative 2 classify different types of workers (in terms of part-time, full-time and salary)?

Answer:

- Initiative No. 2 classifies workers based upon the definition of employee under the state Minimum Wage Act (Chapter 49.46 RCW). The Minimum Wage Act contains a complex multi-part definition of “employee” with 17 exemptions, but generally, most employees would be covered under Initiative 2 with the exception of persons employed in an executive, administrative or professional capacity who have salaries that exceed the minimum thresholds.
- Some sections of Initiative 2 apply to all employees while other sections apply based upon the employer classification: large (over 500 employees) medium (16-500 employees) and small (15 or fewer employees). The breakdown is as follows:
 - 18.20.020 (Fair Scheduling): Applies to all employers and employees except contractors
 - 18.20.030 (Fair Access to Hours): Applies to all employers and employees
 - 18.20.040 and 050 (Minimum Wage): Applies minimum wage rate based upon employer classification
 - 18.20.070 (Worker Safety): Applies only to large employers
 - 18.20.080 (Retaliation Prohibited): Applies to all employers and employees
 - 18.20.090 (Notice and Posting): Applies to all employers and employees
- Initiative 2 does not distinguish between part and full-time employees; however, the fair access to hours provisions of 18.20.03(E)(3) do not require that additional hours of work be offered to employees in circumstances in which it would require payment of overtime. Accordingly, it appears these provisions are intended to benefit only part-time employees.

3. Would Initiative 2 apply to federal and state employees in the City of Tacoma?

Answer: Initiative 2 applies to all employers that meet the definition of employer under the state Minimum Wage Act. This definition does not exclude or exempt public employers from the definition of employer. Accordingly, it would apply to federal and state employees. However, Initiative 2 contains a savings clause at

18.20.120(D) that precludes interpretation or application of the provisions of the initiative that would be in conflict with federal or state law. This savings clause is intended to protect Initiative 2 from legal challenge in the event it conflicts with federal or state law. For example, under the supremacy clause of the U.S. Constitution, state and local minimum wage laws are not binding on the federal government whose employees are covered under the Fair Labor Standards Act (29 U.S.C 201, et seq.) With respect to other government employees, the state minimum wage and labor standards law (Chapter 49.465 RCW) provides that local minimum wage and labor laws that are more favorable than the minimum standards applicable under this statute shall apply and may be enforced. Thus, it would appear that the legislature intended that local governments may enact and enforce regulations that are more favorable than those regulations found in this statute. However, beyond the minimum wage requirements, the extent to which Initiative 2 would apply to government employees working in Tacoma requires further examination.

4. Can employers ask employees what their primary language is (other than English)?

Answer: The City Attorney's Office will provide an answer to this question in a separate confidential memorandum.

8. Can another entity enforce Initiative 2 if it became law?

Answer: Laws enacted by the City of Tacoma are enforceable only within the City Limits. Generally, local laws may only be enforced by the local government that enacted those laws unless there has been a lawful delegation of enforcement authority to another jurisdiction. For example, under the Interlocal Cooperation Act, the City could contract with another jurisdiction to enforce Initiative 2 within the City Limits of Tacoma.

9. Are there other cities or localities (in WA State) that have passed similar laws?

Answer:

- Olympia: A similar initiative has been presented to the Olympia City Council and it will be considered for placement on the ballot at the July 22 Olympia City Council meeting.
- Seattle: In 2016 the City of Seattle adopted an ordinance (codified at chapter 14.22 SMC) that implements worker protection requirements relating to scheduling and fair access to hours; however, the provisions of this ordinance are not as favorable to employees as Initiative 2. Additionally, the

protections of this ordinance apply only to retail and food service establishments that employ 500 or more employees worldwide. Seattle also adopted minimum wage requirements in 2015 (codified at chapter 14.20 SMC). It should be noted that the City of Seattle has a stand-alone Office of Labor Standards.

- SeaTac: A voter initiative was adopted in 2013 (codified at chapter 7.45 SMC) that implements hospitality and transportation worker protection requirements that include requirements for payment of minimum wage and fair access to hours but does not include scheduling requirements.
- Tukwilla: A voter initiative was adopted in 2022 (codified at chapter 5.63 TMC) that implements worker protection requirements that include requirements for payment of minimum wage and fair access to hours but does not include scheduling requirements.
- Renton: A voter initiative was adopted in 2024 (codified at chapter 5.28 RMC) that implements worker protection requirements (employers with 15 or more employees and over \$2 mill in annual gross revenue) that includes requirements for payment of minimum wage and fair access to hours but does not include scheduling requirements.
- Burien: The Burien City Council in 2024 adopted a worker protection ordinance (codified at chapter 5.15 BMC) that imposes minimum wage requirement but does not address other labor standards such a fair access to hours and scheduling.
- Everett: A voter initiative was adopted in 2024 (codified at chapter 5.08 EMC) that implements worker protection requirements (employers with 15 or more employees and over \$2 mill in annual gross revenue) that includes requirements for payment of minimum wage and fair access to hours but does not include scheduling requirements.
- Bellingham: A voter initiative was adopted in 2023 (codified at chapter 6.07 BMC) that implements worker protection requirements that includes requirements for payment of minimum wage but does not include fair access to hours or scheduling requirements.

- King County (Unincorporated): In 2023 the King County Council adopted an ordinance (codified at chapter 2.94 KCC) implementing minimum wage requirements in unincorporated King County, but does not include fair access to hours or scheduling requirements.

13. Do the scheduling provisions found within Initiative 2 apply to all employers?

- Answer: The fair scheduling provisions of Initiative 2 are found at section 18.20.020 (Fair Scheduling). These provisions apply to all employers and employees except contractors.

14. What is the distinction between “Large Employers,” Medium-sized employers,” and “Small Employers?”

Answer:

- Large employers have over 500 employees; medium employers have 16-500 employees, and small employers have 15 or fewer employees.
- For purposes of determining the classification of an employer, all employees will be counted regardless of where they work.
- The minimum wage requirements apply to all employers that meet these classifications for all employee hours worked in Tacoma. Accordingly, the minimum wage laws apply to employers regardless of where those employers are located, but only with respect to the hours worked by an employee in Tacoma. It is unclear whether the hours worked within the City requires a physical presence in the City of Tacoma to be subject to the minimum wage requirements. It is also unclear if the scheduling and fair access to hours provisions apply to employers located outside of the City with respect to employees who may perform work in the City of Tacoma and how it may apply to employers within the City of Tacoma to employees that work beyond the City limits.

15. What constitutes a franchise owner?

If a small employer is a franchise for a national or regional chain, how would they be categorized?

Answer: This will depend upon how many employees are employed by the franchisor and by the network of franchises. For example, a franchisor and network of franchises with a combined total of more than 500 employees will be considered a large employer regardless of how many persons are employed by the franchisee in Tacoma.

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