

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

**By Glidden, Bender, Cano, Frey, Goodman,
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**Amending Title 2, Chapter 40 of the Minneapolis Code of Ordinances relating to Administration:
Workplace Regulations.**

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 40 of the Minneapolis Code of Ordinances be amended by adding thereto a new Article IV, including new Sections 40.320-40.450, to read as follows:

ARTICLE IV. – MUNICIPAL MINIMUM WAGE

40.320. – Findings and Purpose.

(a) As a home rule charter city, Minneapolis has broad authority through its police powers to enact regulation to further the public health, safety, and general welfare.

(b) Increasing the minimum wage directly promotes the health, safety, and welfare of those who work within the city's borders.

(c) Enacting a minimum wage for workers in Minneapolis that exceeds the floor established in the state minimum wage law advances the stated purpose therein to "maintain workers' health, efficiency, and general well-being" and to "sustain purchasing power."

(d) Rising inflation and a changing economy have vastly eroded the value of the minimum wage at the federal and state level and have pushed more Minneapolis families to the brink of economic collapse. A full-time worker earning the state-mandated minimum wage of nine dollars and fifty cents (\$9.50) per hour for large employers would make an annual salary that is approximately five thousand dollars (\$5,000.00) below the poverty level for a family of four (4). A minimum wage of twelve dollars (\$12.00) per hour in Minneapolis today would be comparable to the federal minimum wage paid in the late 1960s. The inaction by the federal and state governments on the minimum wage has contributed to the plight of tens of thousands of low wage workers in the city who struggle to meet their most basic needs.

(e) A living wage is the minimum income necessary for workers to meet their basic needs. According to the Minnesota Department of Employment and Economic Development, the living wage in Hennepin County for a single person is fifteen dollars and twenty-five cents (\$15.25) per hour. The living wage for a typical size household in Hennepin County of two (2) adults and one (1) child is nineteen dollars and eighty cents (\$19.80) per hour.

(f) At present, forty-eight (48) percent of workers in Minneapolis, or approximately one hundred fifty thousand (150,000) people, earn less than a living wage. When coupled with the precipitous rise in

housing costs as a percentage of income, life in the city has become increasingly unaffordable for many people.

(g) Without action to raise the wage floor, the problems caused by incomes that are inadequate to sustain working families will become more acute and the gap between low wages and the cost of a basic standard of living in Minneapolis will continue to widen.

(h) An increase in the minimum wage to fifteen dollars (\$15.00) per hour would benefit twenty-three (23) percent of workers in Minneapolis or approximately seventy-one thousand (71,000) people.

(i) Through its adopted goal of “One Minneapolis,” the city has recognized that income inequality, particularly between white and non-white workers, is one of the most pressing economic and social issues facing the city. Increasing the minimum wage is one of the primary ways the city can act to reduce economic and racial disparities.

(j) An increase in the minimum wage to fifteen dollars (\$15.00) per hour would impact many of the low wage workers in the city, particularly low wage workers of color who would disproportionately benefit. Fifty-four (54) percent of Latino workers and forty-one (41) percent of black workers in the city would benefit from an increase to fifteen dollars (\$15.00) per hour.

(k) Research and economic data show that poverty is concentrated among people of color, children, people with lower educational attainment, and female-headed households. Higher wages for these families would mean parents could work fewer jobs or hours. The benefits to children would accrue through more parenting time, including time for involvement in their children’s education and family recreation. Better economic conditions for Minneapolis families would mean longer and healthier lives, and ultimately more stable communities.

(l) Numerous studies document a strong relationship between income and health. Income is consistently shown to be one of the strongest predictors of health status. Poverty and low income have been linked with premature mortality and low life expectancy. A rise in household income stemming from an increase in the minimum wage would result in significant public health benefits for workers in the city.

(m) Numerous studies indicate minimum wages benefit employers and the economy as a whole by improving employee performance, reducing employee turnover, lowering absenteeism, and thereby improving productivity and the quality of the services furnished by employees.

(n) The public welfare, health, and prosperity of Minneapolis require wages sufficient to ensure a decent and healthy life for all Minneapolis workers and their families.

40.330. – Definitions.

The following words and phrases when used in this article shall have the meanings ascribed to them in this section:

Calendar year shall mean the twelve (12) month period that begins on January 1 and ends on December 31.

City means the City of Minneapolis.

Department means the Minneapolis Department of Civil Rights.

Director means the department of civil rights director.

Employee has the meaning given in Minnesota Statutes, Section 177.23. For purposes of this article, "employee" does not include the following:

(a) Employees classified as extended employment program workers as defined in Minnesota Rules part 3300.2005, subpart 18 and participating in the Minnesota Statutes, Section 268A.15 extended employment program.

(b) Independent contractors.

Employer means any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee. For purposes of this article, "employer" does not include any of the following:

(a) The United States government.

(b) The State of Minnesota, including any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary.

(c) Any county or local government, except the city.

Gratuities means monetary contributions received directly or indirectly by an employee from a guest, patron, or customer for services rendered and includes an obligatory charge assessed to customers, guests, or patrons which might reasonably be construed by the guest, customer, or patron as being a payment for personal services rendered by an employee and for which no clear and conspicuous notice is given by the employer to the customer, guest, or patron that the charge is not the property of the employee.

Large business means all employers that employ more than ____ employees, calculated pursuant to section 40.390.

Small business means all employers that employ ____ or fewer employees, calculated pursuant to section 40.390.

[Drafting comment: City Council could decide to add a 3rd tier of "micro" business here and consider defining as an employer with five (5) or less employees paralleling the distinction drawn in the sick and safe ordinance regarding unpaid use of accrued sick and safe time]

Wage means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value.

40.340. – Preemption.

Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

40.350. – No assumption of liability.

In undertaking the adoption and enforcement of this article, the city is undertaking only to preserve and protect safety, health, and general welfare. The city is not assuming liability, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This article does not create a legally enforceable right against the city.

40.360. – Severability.

If any of the parts or provisions of this article or the application thereof to any person or circumstance is held invalid or unconstitutional by a decision of a court of competent jurisdiction, the remainder of this article, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this article are severable.

40.370. – Employment in Minneapolis.

(a) Subject to subsection 40.370(b), employees are covered by this article for all time worked within the geographic boundaries of the city.

(b) An employee who is typically based outside the city and performs work in the city on an occasional basis is covered by this article if the employee in a particular week performs at least two (2) hours of work for an employer within the geographic boundaries of the city.

(c) 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, is not covered by this article.

40.380. – Determination of business size.

(a) An employer's business size for the current calendar year is based upon the average number of employees who worked for compensation per week during the previous calendar year.

(b) For a new business, the employer's business size for the current calendar year is based upon the average number of employees who worked for compensation per week during the first ninety (90) days after its first employee began work.

(c) In determining the number of employees, all persons performing work for compensation on a full-time, part-time, joint, or temporary basis shall be counted, whether or not the persons work in the city.

40.390. – Minimum wage.

(a) An employer shall pay an employee a wage of no less than the hourly rates set under the authority of this article.

(b) Large employers shall pay a wage of no less than the hourly rates set forth herein:

(1) On July 1, 2018, the hourly wage shall be ten dollars and fifty cents (\$10.50).

(2) On July 1, 2019, the hourly wage shall be twelve dollars (\$12.00).

(3) On July 1, 2020, the hourly wage shall be thirteen dollars and fifty cents (\$13.50).

(4) On July 1, 2021, the hourly wage shall be fifteen dollars (\$15.00).

(c) Small employers shall pay a wage of no less than the hourly rates set forth herein:

[Drafting comment: Phase-in period and rate schedule to be determined by City Council]

[Drafting comment: If City Council adds a 3rd tier for “micro” businesses, would also need to decide on the phase-in period and rate schedule]

(d) Notwithstanding subsections (b) and (c), during the first ninety (90) days of employment in any calendar year, an employer shall pay an employee under the age of twenty (20) years not less than eighty-five (85) percent of the minimum wage rate required by this section and rounded up to the nearest nickel. After the first ninety (90) days of employment in any calendar year, an employee under the age of twenty (20) years shall be paid the applicable minimum wage rate pursuant to this section. No employer may take action to displace an employee, including a partial displacement through a reduction in hours, wages, or employment benefits, in order to hire an employee at the wage authorized in this subsection.

(e) On July 1, 20__, and annually thereafter, the minimum wage rate shall increase by an amount corresponding to [Drafting comment: Appropriate tool to index to inflation to be determined]. The director shall announce the adjusted rates on February 1st, which shall take effect on July 1st of each year.

40.400. – Gratuities not applied.

No employer may directly or indirectly credit, apply, or utilize gratuities towards payment of the minimum wage set by this article.

40.410. – Enforcement.

(a) *In general.* The implementation, administration, and enforcement of this article shall be made pursuant to chapter 40, article II, which is incorporated herein by reference, except for subsection 40.120(d). The director shall publish, maintain, and make available to the public any rules adopted hereunder at least ninety (90) days prior to the first scheduled increase in the minimum wage rate. Any

revisions to the published rules shall be published, maintained, and made available to the public at least thirty (30) days prior to their effective date.

(b) *Relief and administrative fines.* If an employer is found to have violated this article, the director shall order the employer to cease and desist from engaging in the violative practice and may order any appropriate relief, including, but not limited to:

(1) Reinstatement, back pay, and compensatory damages, less any amount actually paid to the employee by the employer, and for an additional equal amount as liquidated damages.

(2) Payment of a civil penalty of up to one thousand dollars (\$1,000.00) for each violation for each employee by an employer who is found to have repeatedly or willfully violated this article. In determining the amount of the civil penalty, the size of the employer and the gravity of the violation shall be considered.

(3) Reimbursement of the department for all appropriate costs expended in enforcing this article, unless the payment of costs would impose an extreme financial hardship on the employer, in which case the director may order the payment of a percentage of costs expended which will not cause extreme financial hardship on the employer.

(4) Payment to the department of a fine of up to one thousand dollars (\$1,000.00) for each failure to comply with section 40.430. In determining the amount of the fine, the size of the employer and the gravity of the violation shall be considered.

(5) Payment to the department of a fine of up to two hundred dollars (\$200.00) for each failure to comply with section 40.420. In determining the amount of the fine, the size of the employer and the gravity of the violation shall be considered.

(6) Payment to the department of a fine of not less than seven hundred dollars (\$700.00) nor more than three thousand dollars (\$3,000.00) for each violation of section 40.440.

40.420. – Notice and posting.

(a) On an annual basis and by May 1st each year, the department shall publish and make available to employers, in all languages spoken by more than five (5) percent of the workforce in the city (as calculated by the department), notices suitable for posting by employers in the workplace informing employees of the current minimum wage rate and their rights under this article.

(b) Every employer shall post, in a conspicuous place at any workplace or job site where any employee works, the notices required by subsection (a). Every employer shall post this notice in English, and in any language spoken by at least five (5) percent of the employees at the workplace or job site, if published by the department.

40.430. – Employer records.

(a) An employer shall create and retain records documenting minimum wages paid to each employee. Such records shall be retained for a period of not less than three (3) years from the date such hours were worked.

(b) An employer must allow an employee to inspect records required by this article and relating to that employee at a reasonable time and place.

(c) The department shall have access to the records required by this article, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this article, including but not limited to, inspections of books and records, interviewing employees and former employees, and investigating alleged violations of this article.

(d) If an employer fails to create and retain adequate records or does not allow the department reasonable access to the records and an issue arises as to an alleged violation of an employee's rights under this article, it shall be presumed that the employer has violated this article, absent clear and convincing evidence otherwise.

40.440. – Exercise of rights; retaliation prohibited.

It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article, including, but not limited to, inquiring, disclosing, reporting, or testifying about any violation of this article. An employer shall not take adverse employment action or discriminate against an employee because the employee has exercised rights under this article.

40.450. – Annual report.

Beginning in 2019, and each year thereafter, the director shall provide by March 31st, a written report to the appropriate committee of the city council regarding this article. The report shall include, but not be limited to, a discussion of the implementation and enforcement of this article, including the number and nature of violations, specific violations, industries and occupations with high rates of violations, and the penalties assessed in the prior year. In addition, the director shall collect economic data, including jobs, earnings, and sales tax. The report may also include recommendations for possible improvements to this article.