

Introduced by Council member \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF PASADENA ADDING CHAPTER 5.02 TO TITLE 5, ARTICLE I OF THE PASADENA MUNICIPAL CODE TO REQUIRE THE PAYMENT OF A CITY-WIDE MINIMUM WAGE**

**SECTION 1.** Ordinance No. \_\_\_\_\_, due to its length and corresponding cost of publication, will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this Ordinance is as follows:

**"Summary**

"Ordinance No. \_\_\_\_\_ will amend Title 5, Article I of the Pasadena Municipal Code by adding a new Chapter 5.02 to require the payment of a City-wide minimum wage of \$10.50 beginning July 1, 2016, \$12.00 beginning July 1, 2017, and \$13.25 on July 1, 2018.

Ordinance No. \_\_\_\_\_ shall take effect 30 days after publication."

**SECTION 2.** A new Chapter 5.02 is added to Title 5, Article I of the Pasadena Municipal Code to read as follows:

"Chapter 5.02. Payment of a City-Wide Minimum Wage

**5.02.010. Definitions.**

For purposes of this chapter, the following definitions shall apply:

- A. "City" means the City of Pasadena.
- B. "Director" means the director of the department of finance.
- C. "Employee" means any individual who:
  - 1. In a particular week performs at least two hours of work within the geographic boundaries of the City for an employer; and
  - 2. Qualifies as an employee entitled to payment of a minimum wage from any Employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission.

- D. "Employer" means any person, as defined in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any employee.
- E. "Non-Profit Corporation" means a non-profit corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and, if a foreign corporation, in good standing under the laws of the State of California, which corporation has established and maintains valid non-profit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated thereunder.
- F. "Person" means any person, association, organization, partnership, business trust, limited liability company or corporation.
- G. "Transitional Employer" means an organization that provides transitional jobs for the long-term unemployed, and that has been certified by the City Manager as a transitional employer under this Chapter.

**5.02.015. Payment of Minimum Wage to Employees.**

- A. Employers shall pay Employees no less than the minimum wage set forth in this section for each hour worked within the geographic boundaries of the City.
- B. Employers with 26 or more Employees shall pay a wage of no less than the hourly rates set forth below:
  - 1. On July 1, 2016, the hourly wage shall be \$10.50.
  - 2. On July 1, 2017, the hourly wage shall be \$12.00.
  - 3. On July 1, 2018, the hourly wage shall be \$13.25.
- C. Employers with 25 or fewer Employees shall pay a wage of no less than the hourly rates set forth:
  - 1. On July 1, 2017, the hourly wage shall be \$10.50.
  - 2. On July 1, 2018, the hourly wage shall be \$12.00.
- D. Employees, who are "Learners" as defined in Labor Code Section 1192 and consistent with wage orders published by the California Industrial Welfare Commission and are 14-17 years of age, shall be paid not less than 85% of the minimum wage set forth in this section, rounded to the nearest nickel, during their first 160 hours of employment. After more than 160 hours of employment, Learners shall be paid the applicable minimum wage pursuant to this section.

- E. For purposes of this chapter, the size of an Employer's business or Non-Profit Corporation shall be determined by the average number of Employees employed during the previous calendar year.

**5.02.020. Notice and Posting.**

- A. By April 1 of each year following the effective date of this ordinance, the City shall publish and make available to Employers a bulletin announcing the adjusted minimum wage rate, which shall take effect on July 1 of that year. In conjunction with this bulletin, the City shall, by May 1 of each year, publish and make available to Employers, in English and other languages as provided in any implementing regulations, a notice suitable for posting by Employers in the workplace informing Employees of the current minimum wage rate and of their rights under this chapter.
- B. Each Employer shall give written notification to each current Employee and to each new Employee at time of hire, of Employee's rights under this chapter and of the Employee's possible right to the federal Earned Income Credit (EIC) under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. Section 32. The notification shall be in English and other languages as provided in any implementing regulations, and shall also be posted prominently in areas at the work site where it will be seen by all Employees. Every Employer shall also provide each Employee at the time of hire with the Employer's name, address, and telephone number in writing. Failure to post such notice shall render the Employer subject to administrative citation, pursuant to the provisions of this chapter. The City is authorized to prepare sample notices and Employer use of such notices shall constitute compliance with this subsection.

**5.02.025. Deferral Application for Certain Non-Profit Employers.**

The City Manager shall establish a procedure to allow an Employer that is a Non-Profit Corporation with 26 or more Employees to qualify for the deferral rate schedule specified in Section 5.02.010 C. A Non-Profit Employer seeking the deferral must establish by compelling evidence that:

- A. The chief executive officer earns a salary which, when calculated on an hourly basis, is less than five times the lowest wage paid by the corporation; or
- B. It is a Transitional Employer; or
- C. It serves as a child care provider; or
- D. It is funded primarily by City, County, State or Federal grants or reimbursements.

**5.02.030. Retaliatory Action Prohibited.**

No Employer shall discharge, reduce in compensation or otherwise discriminate against any Employee for opposing any practice proscribed by this chapter, for participating in proceedings related to this chapter, for seeking to enforce his or her rights under this chapter by any lawful means, or for otherwise asserting rights under this chapter.

Taking adverse action against a person within ninety (90) days of the person's exercise of rights protected under this chapter, in a civil or administrative proceeding, shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

**5.02.035. Retention of Records.**

- A. Each Employer shall maintain, for at least three (3) years for each Employee, a record of the Employee's name, hours worked, and pay rate. Each Employer shall provide each Employee a copy of the records relating to such Employee upon the Employee's reasonable request.
- B. Each Employer shall permit access to work sites and relevant records for authorized City representatives for the purpose of monitoring compliance with this chapter and investigating Employee complaints of noncompliance, including production for inspection and copying of its employment records, but without allowing social security numbers to become a matter of public record.

**5.02.040. Power and duties of director.**

- A. The director shall have the power and duty, and is directed, to enforce each and all of the provisions of this chapter.
- B. The director may adopt guidelines, rules, and regulations, approved by the city attorney as to form and legality, not inconsistent with the provisions of this chapter for the purpose of carrying out and enforcing the requirements herein imposed, clarifying any of the administrative requirements of this chapter, and establishing frequency and protocol of city regulatory inspections. A copy of all adopted administrative rules and regulations shall be on file in the director's office. Any guidelines or rules shall have the force and effect of law, and may be relied upon by Employers, Employees and other parties to determine their rights and responsibilities under this chapter.

- C. The director shall act as the enforcement official who is designated to issue a compliance order or an administrative citation to enforce this chapter pursuant to chapter 1.25 or 1.26, respectively, of this code.

**5.02.045. No Waiver of Rights.**

Any waiver by an Employee of any or all of the provisions of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

**5.02.050. Implementation, Enforcement, and Remedies.**

It is unlawful for any person to violate any provision of this chapter or to fail to comply with any of the requirements of this chapter.

- A. **Misdemeanors.** Any person who violates any provision of this chapter and is convicted of a misdemeanor shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a period of not more than 6 months or by both such fine and imprisonment. Each person convicted may be deemed guilty of a separate offense for every day during any portion of which any violation is committed or permitted and for each and every employee or person as to whom the violation occurred or continued.
- B. **Infractions.** Any person who violates any provision of this chapter and is convicted of an infraction shall be punished by a fine. Each person convicted may be deemed guilty of a separate offense for every day during any portion of which any violation is committed or permitted and for each and every employee or person as to whom the violation occurred or continued.
- C. **Administrative Proceeding.** In addition to the penalty provisions of subsections A and B of this section, violations of any administrative or regulatory provision of this chapter may be subject to the administrative proceedings set forth in Chapters 1.24, 1.25, and 1.26 of the Pasadena Municipal Code, including, but without limitation, civil penalties, late payment penalties, administrative fees, general fee schedule penalties and other related charges.
- D. **Judicial Action.** The city or any person claiming harm from a violation of this chapter may bring an action against the Employer in court to enforce the provisions of this chapter. Any person claiming harm from a violation of this chapter and/or the city is/are entitled to all legal and equitable relief to remedy any violation of this chapter, including, but not limited to, the payment of back wages withheld in violation of this chapter; an additional amount equal to triple back wages withheld as liquidated damages; reinstatement of employment or other injunctive relief; and reasonable attorney's fees and costs to any plaintiff, who prevails in an action to

enforce this chapter. Violations of this chapter are declared to irreparably harm the public and covered Employees generally.

- E. Revocation of Certificates, Permits, or Licenses. Except where prohibited by state or federal law, the city may revoke or suspend any registration, certificates, permits, or licenses held or requested by the Employer until such time as the violation is remedied.
- F. Remedies Not Exclusive. The remedies, penalties and procedures provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this chapter. Actions taken pursuant to this chapter shall not prejudice or adversely affect any other action, administrative or judicial, that may be brought to abate a violation or to seek compensation for damages suffered.

**5.02.055. Coexistence with other Available Relief for Specific Deprivations of Protected Rights.**

The provisions of this chapter shall not be construed as limiting any Employee's right to obtain relief to which he or she may be entitled at law or in equity.

**5.02.060. Conflicts.**

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

**5.02.065. Report and Increase in Future Years.**

- A. On or before February 18, 2019, the City Manager shall present a report to the City Council summarizing the impact of the city-wide minimum wage on reducing poverty, unemployment, job creation, and the overall local business climate.
- B. As soon thereafter as practical, the City Manager shall request direction from the City Council regarding an amendment to this chapter to increase the city-wide minimum wage according to the following schedule:
  - 1. July 1, 2019, the hourly wage shall be \$14.25.
  - 2. July 1, 2020, the hourly wage shall be \$15.00.
  - 3. Beginning July 1, 2022, and each July 1 thereafter the hourly wage shall be adjusted by an amount equal to the change in the Los Angeles-Riverside-Orange County consumer price index for Urban Wage Earners and Clerical Workers.

**5.02.070. Severability.**

If any subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 3.** The City Clerk shall certify the adoption of this Ordinance and shall cause this Ordinance to be published in its entirety.

**SECTION 4.** This Ordinance shall take effect 30 days after publication.

Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Terry Tornek  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held on \_\_\_\_\_ day of \_\_\_\_\_ 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Published:

\_\_\_\_\_  
Mark Jomsky, CMC  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Brad L. Fuller  
Assistant City Attorney