

**TUCSON, ARIZONA – INITIATIVE PETITION**

**To the Clerk of the City of Tucson:**

**We, the undersigned, residents of the City of Tucson, Arizona, and duly qualified electors therein, do hereby submit and propose to you, for adoption, the following ordinance, and request that action be taken by you relative to the adoption or rejection of such proposed ordinance, at the earliest possible moment, and that the same be forthwith submitted to a vote of the people, to-wit:**

OFFICIAL TITLE  
**THE TUCSON MINIMUM WAGE ACT**  
AN INITIATIVE MEASURE

AMENDING TUCSON CITY CODE CHAPTER 9, ARTICLE 1, SECTIONS 8-1 AND 8-8; AMENDING TUCSON CITY CODE CHAPTER 17, BY ADDING ARTICLE X; RELATING TO MINIMUM WAGE FOR WORKERS AND ENFORCEMENT.

**TEXT OF PROPOSED INITIATIVE**

Be it enacted by the people of the City of Tucson:

**Section 1. Chapter 8, article I, section 8-1 of the Tucson City Code is amended to read:**

**Sec. 8-1. Jurisdiction, powers, duties.**

(a) There shall be a city court which shall be the municipal court for the city, to be known and designated as “The City Court of the City of Tucson, Pima County, State of Arizona”. It shall have and exercise the jurisdiction conferred upon it by the Charter and the Code of the city. It shall exercise exclusive original jurisdiction of all proceedings of a criminal nature for the violation of the Charter or of any ordinance of the city, and of every action of any nature for the enforcement of a penalty, or the recovery of a penalty or forfeiture imposed by any ordinance of the city for the violation thereof or for neglect to perform any duty by any ordinance imposed or for a violation of a civil traffic ordinance and of every action for the collection of any license fee, fine or penalty due from any person to the city and required to be paid or which is due and collectible under the ordinances of the city.

(b) The city court shall further have jurisdiction over all actions alleging civil violations or civil infractions of this Code.

(c) The city court shall further have concurrent jurisdiction with justices of the peace over all violations of the laws of the state committed within the limits of the city. The court shall also have jurisdiction of violations of the Charter and ordinances of the city committed on land owned or leased by the city, whether contiguous or noncontiguous, lying without the corporate limits thereof, to the same extent and with like effect as if the violation occurred within the corporate limits of the city, provided that the land is signed as provided in subsection B of A.R.S. section 9-401.

(D) THE CITY COURT SHALL FURTHER HAVE JURISDICTION OVER ALL CIVIL ACTIONS FILED BY ANY INTERESTED PARTY OR INDIVIDUAL AGGRIEVED BY AN EMPLOYER’S OR HIRING ENTITY’S VIOLATION OF CHAPTER 17, ARTICLE X, AND THE CITY COURT SHALL HAVE AUTHORITY TO AWARD TO A PREVAILING PLAINTIFF LEGAL OR EQUITABLE RELIEF, AS WELL AS ATTORNEYS’ FEES AND COSTS.

**Sec. 2. Chapter 8, article I, section 8-8 of the Tucson City Code is amended to read:**

Sec. 8-8. City court procedures.

(A) The rules of criminal procedure of the state shall apply to all criminal proceedings in city court. The rules of procedure in civil traffic violation cases shall apply to all proceedings in city court for civil traffic violations. The Local Rules of Practice and Procedure in City Court Civil Proceedings shall apply to all proceedings for civil parking infractions and to all other actions for civil violations or civil infractions of this Code.

(B) THE CIVIL RULES OF THE JUSTICE COURTS OF THE STATE SHALL APPLY TO CIVIL ACTIONS FILED BY AN INTERESTED PARTY OR INDIVIDUAL AGGRIEVED BY AN EMPLOYER’S OR HIRING ENTITY’S VIOLATION OF CHAPTER 17, ARTICLE X UNTIL SUCH TIME THAT THE CITY COURT ADOPTS RULES FOR THE ADJUDICATION OF CIVIL ACTIONS INITIATED BY A PRIVATE LITIGANT.

**Sec. 3. Chapter 17 of the Tucson City Code is amended by Adding Article X to read:**

**SEC. 17-80. TITLE AND PURPOSE.**

THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS “THE TUCSON MINIMUM WAGE ACT”.

THE CITY, BY THIS ARTICLE, REGULATES THE MINIMUM WAGES AND BENEFITS WITHIN ITS GEOGRAPHIC BOUNDARIES, AS AUTHORIZED BY THE RAISE THE ARIZONA MINIMUM WAGE FOR WORKING ARIZONANS ACT.

**SEC. 17-81. DEFINITIONS.**

AS USED IN THIS ARTICLE:

- (1) “ADVERSE ACTION” INCLUDES, BUT IS NOT LIMITED TO, DEMOTING, TERMINATING, FAILING TO REHIRE AFTER A SEASONAL INTERRUPTION OF WORK, ENGAGING IN UNFAIR IMMIGRATION-RELATED PRACTICES, FILING A FALSE REPORT WITH A GOVERNMENT AGENCY, CHANGING AN EMPLOYEE’S  
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STATUS TO THAT OF AN INDEPENDENT CONTRACTOR, OR THREATENING TO DO ANY OF THE AFOREMENTIONED THINGS DURING OR AFTER AN EMPLOYEE'S EMPLOYMENT RELATIONSHIP WITH AN EMPLOYER.

- (2) "AGGRIEVED PARTY" MEANS AN EMPLOYEE, FORMER EMPLOYEE, WORKER FOR HIRE, OR FORMER WORKER FOR HIRE WHO ALLEGES VIOLATIONS OF THIS ARTICLE.
- (3) "DEPARTMENT" MEANS THE CITY DEPARTMENT OF LABOR STANDARDS CREATED BY THIS ARTICLE.
- (4) "DIRECTOR" MEANS THE DIRECTOR OF THE CITY DEPARTMENT OF LABOR STANDARDS.
- (5) "EMPLOY" INCLUDES TO SUFFER OR PERMIT TO WORK, EXCEPT THAT:
  - a. A FRANCHISOR IS NOT AN EMPLOYER OF AN EMPLOYEE OF A FRANCHISEE EXCEPT UNDER CIRCUMSTANCES ALLOWED BY STATE LAW;
  - b. AN OWNER OF A MARK IS NOT AN EMPLOYER OF AN EMPLOYEE OF THE LICENSEE EXCEPT UNDER CIRCUMSTANCES ALLOWED BY STATE LAW; AND
  - c. A QUALIFIED MARKETPLACE PLATFORM IS NOT AN EMPLOYER OF A QUALIFIED MARKETPLACE CONTRACTOR.
- (6) "EMPLOYEE" MEANS ANY INDIVIDUAL EMPLOYED BY AN EMPLOYER AND WHO, IN A WORKWEEK, PERFORMS AT LEAST FIVE (5) HOURS OF WORK FOR THE EMPLOYER WITHIN THE GEOGRAPHIC BOUNDARIES OF THE CITY. THE TERM INCLUDES INDIVIDUALS EMPLOYED ON A FULL-TIME, PART-TIME, OR TEMPORARY BASIS, AND INDIVIDUALS ENGAGED THROUGH AN EMPLOYMENT OR STAFFING AGENCY, EXCEPT THAT AN INDIVIDUAL WHO PERFORMS ONLY BABYSITTING SERVICES AT AN EMPLOYER'S HOME ON A CASUAL BASIS IS NOT AN EMPLOYEE.
- (7) "EMPLOYER" MEANS ANY INDIVIDUAL, PARTNERSHIP, ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, JOINT VENTURE, NONPROFIT ORGANIZATION, OR OTHER ENTITY ACTING DIRECTLY OR INDIRECTLY IN THE INTEREST OF ANY EMPLOYER IN RELATION TO AN EMPLOYEE AND INCLUDES THE CITY, THE COUNTY, AND ANY TAXING DISTRICT ORGANIZED UNDER STATE LAW, BUT DOES NOT INCLUDE THE STATE, THE UNITED STATES, OR A TRIBAL ENTITY.
- (8) "HIRING ENTITY" MEANS ANY PERSON, PARTNERSHIP, ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, JOINT VENTURE, NONPROFIT ORGANIZATION, OR OTHER ENTITY, THAT DOES NOT SATISFY THE DEFINITION OF EMPLOYER IN RELATION TO A PARTICULAR INDIVIDUAL AND WHO ENTERS INTO A WRITTEN OR VERBAL CONTRACT WITH SUCH INDIVIDUAL TO PERFORM LABOR OR SERVICES WITHIN THE GEOGRAPHIC BOUNDARIES OF THE CITY IN CONSIDERATION FOR REMUNERATION UNDER CIRCUMSTANCES IN WHICH THE INDIVIDUAL IS PROPERLY TREATED AS A WORKER FOR HIRE. THE TERM DOES NOT INCLUDE THE STATE, THE UNITED STATES, A TRIBAL ENTITY, A QUALIFIED MARKETPLACE PLATFORM, OR A PERSON WHO HIRES AN INDIVIDUAL ONLY FOR BABYSITTING SERVICES AT THE PERSON'S HOME ON A CASUAL BASIS. A FRANCHISOR IS NOT THE HIRING ENTITY IN RELATION TO AN INDIVIDUAL WHOSE LABOR OR SERVICES WERE RETAINED BY A FRANCHISEE.
- (9) "INDIVIDUAL" MEANS NATURAL PERSON.
- (10) "INTERESTED PARTY" MEANS ANY NONPROFIT ORGANIZATION ORGANIZED IN PART TO PROTECT THE RIGHTS OF WORKERS, OR ANY SUBSET OF WORKERS, AND HAS AT LEAST ONE MEMBER WITHIN THE CITY.
- (11) "LARGE EMPLOYER" MEANS AN EMPLOYER THAT EMPLOYED, ON AVERAGE, TWENTY-SIX (26) OR MORE EMPLOYEES DURING THE FINAL QUARTER OF THE PREVIOUS CALENDAR YEAR, INCLUDING PART-TIME EMPLOYEES, TEMPORARY EMPLOYEES, AND THOSE EMPLOYEES LOCATED OUTSIDE THE CITY. FOR THE PURPOSES OF THIS DEFINITION, MULTIPLE ENTITIES SHALL BE CONSIDERED A SINGLE EMPLOYER IF DEEMED TO BE A SINGLE INTEGRATED ENTERPRISE UNDER THE FAIR LABOR STANDARDS ACT.
- (12) "MINIMUM WAGE" IS MEASURED ON THE BASIS OF A WORKWEEK AND IS THE MINIMUM WAGE RATE SET BY SECTION 17-82 OF THIS ARTICLE.
- (13) "QUALIFIED MARKETPLACE CONTRACTOR" AND "QUALIFIED MARKETPLACE PLATFORM" HAVE THE SAME MEANINGS AS PROVIDED IN STATE LAW.
- (14) "RATE OF INFLATION" MEANS THE INCREASE IN THE CONSUMER PRICE INDEX (ALL ITEMS CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE U.S. CITY AVERAGE), OR ITS SUCCESSOR INDEX, AS PUBLISHED BY THE U.S. DEPARTMENT OF LABOR, FOR THE TWELVE-MONTH PERIOD ENDING IN AUGUST OF EACH YEAR.
- (15) "TIP" MEANS A VERIFIABLE SUM PRESENTED BY A CUSTOMER AS A GIFT OR VOLUNTARY GRATUITY IN RECOGNITION OF SOME SERVICE PERFORMED FOR OR ON BEHALF OF THE CUSTOMER.
- (16) "TIPPED EMPLOYEE" MEANS AN EMPLOYEE WHO CUSTOMARILY AND REGULARLY RECEIVES MORE THAN THIRTY (\$30.00) DOLLARS PER WEEK IN TIPS, HAS BEEN INFORMED BY THE EMPLOYER IN WRITING ABOUT THE TIP REQUIREMENTS OF THIS ARTICLE, RETAINS ALL TIPS RECEIVED, AND WHOSE TOTAL COMPENSATION (THE SUM OF WAGES AND TIPS) IS NOT LESS THAN THE MINIMUM WAGE.

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(17) "WORKING TIME" IS THE COMPENSABLE TIME THAT AN EMPLOYER IS REQUIRED BY THIS ARTICLE TO PAY AN EMPLOYEE NOT LESS THAN THE MINIMUM WAGE AND INCLUDES TIME THAT AN EMPLOYER REQUIRES THE EMPLOYEE TO UNDERGO A SECURITY SCREENING IMMEDIATELY PRIOR TO OR FOLLOWING A WORK SHIFT; TO BE ON THE EMPLOYER'S PREMISES; TO BE AT A PRESCRIBED WORK SITE; OR TO BE LOGGED IN AND ACTIVELY ATTENTIVE TO AN EMPLOYER-PROVIDED COMPUTER PROGRAM, PHONE APPLICATION, OR SIMILAR DEVICE.

(18) "WORKER FOR HIRE" MEANS ANY INDIVIDUAL WHO, IN A WORKWEEK:

- a. PROVIDES TO OR ON BEHALF OF A HIRING ENTITY AT LEAST FIVE (5) HOURS OF LABOR OR SERVICES WITHIN THE GEOGRAPHIC BOUNDARIES OF THE CITY IN CONSIDERATION FOR REMUNERATION;
- b. DOES NOT SATISFY THE DEFINITION OF EMPLOYEE AS RELATED TO THAT HIRING ENTITY;
- c. IS NOT A QUALIFIED MARKETPLACE CONTRACTOR; AND
- d. WHOSE HIRING ENTITY IS UNABLE TO DEMONSTRATE THAT THE FOLLOWING FACTORS APPLY TO THE INDIVIDUAL: 1) THE INDIVIDUAL IS FREE FROM THE CONTROL AND DIRECTION OF THE HIRING ENTITY IN CONNECTION WITH THE PERFORMANCE OF THE WORK; 2) THE INDIVIDUAL PERFORMS WORK THAT IS OUTSIDE THE USUAL COURSE OF THE HIRING ENTITY'S BUSINESS; AND 3) THE INDIVIDUAL IS CUSTOMARILY ENGAGED IN AN INDEPENDENTLY ESTABLISHED TRADE, OCCUPATION, OR BUSINESS OF THE SAME NATURE AS THAT INVOLVED IN THE WORK PERFORMED FOR THE HIRING ENTITY.

(19) "WORKWEEK" MEANS SEVEN CONSECUTIVE 24-HOUR PERIODS THAT EQUAL 168 TOTAL HOURS. THE START TIME OF A WORKWEEK MAY BE CHOSEN BY THE EMPLOYER.

#### **SEC. 17-82. MINIMUM WAGE RATE.**

- a. THE MINIMUM WAGE FOR ALL EMPLOYEES AND WORKERS FOR HIRE SHALL BE:
  - (1) THIRTEEN DOLLARS (\$13.00) AN HOUR ON AND AFTER APRIL 1, 2022;
  - (2) THIRTEEN DOLLARS FIFTY CENTS (\$13.50) AN HOUR ON AND AFTER JANUARY 1, 2023;
  - (3) FOURTEEN DOLLARS TWENTY-FIVE CENTS (\$14.25) AN HOUR ON AND AFTER JANUARY 1, 2024;
  - (4) FIFTEEN DOLLARS (\$15.00) AN HOUR ON AND AFTER JANUARY 1, 2025;
  - (5) ON JANUARY 1, 2026 AND ON EACH JANUARY 1 THEREAFTER, AN HOURLY AMOUNT THAT IS INCREASED BY THE RATE OF INFLATION MULTIPLIED BY THE MINIMUM WAGE ON DECEMBER 31 OF THE PREVIOUS YEAR ROUNDED TO THE NEAREST MULTIPLE OF FIVE CENTS (\$0.05).
- b. IF THE FEDERAL MINIMUM WAGE OR STATE MINIMUM WAGE IS INCREASED ABOVE THE MINIMUM WAGE PROVIDED FOR IN THIS SECTION, THE MINIMUM WAGE UNDER THIS SECTION WILL BE INCREASED TO MATCH THE HIGHER WAGE AND WILL BECOME THE NEW MINIMUM WAGE UNDER THIS SECTION ON THE SAME DATE THAT SUCH HIGHER FEDERAL OR STATE MINIMUM WAGE BECOMES EFFECTIVE. THE ADJUSTMENT DESCRIBED IN SUBSECTION (A)(5) WILL CONTINUE ON THE FOLLOWING YEAR.
- c. TIPS REGULARLY AND ACTUALLY RECEIVED BY A TIPPED EMPLOYEE MAY BE APPLIED BY AN EMPLOYER TO OFFSET THE EMPLOYER'S MINIMUM WAGE OBLIGATION TO A TIPPED EMPLOYEE, EXCEPT THAT NO MORE THAN THREE DOLLARS (\$3.00) PER HOUR MAY BE SO APPLIED. THIS SECTION SHALL NOT BE CONSTRUED TO PREVENT A TIP POOL ARRANGEMENT, BUT AN EMPLOYER, OWNER, SUPERVISOR, OR MANAGER SHALL NOT PARTICIPATE IN A TIP POOL ARRANGEMENT.

#### **SEC. 17-83. PAYMENT OF WAGES.**

- a. BEGINNING APRIL 1, 2022, AN EMPLOYER SHALL PAY EACH EMPLOYEE NOT LESS THAN THE MINIMUM WAGE SET FORTH IN THIS ARTICLE, FOR ALL WORKING TIME WITHIN THE GEOGRAPHIC BOUNDARIES OF THE CITY. BEGINNING APRIL 1, 2022, A HIRING ENTITY SHALL PAY EACH WORKER FOR HIRE NOT LESS THAN THE MINIMUM WAGE SET FORTH IN THIS ARTICLE, FOR ALL WORKING TIME WITHIN THE GEOGRAPHIC BOUNDARIES OF THE CITY.
- b. AN EMPLOYER SHALL NOT OBLIGATE AN EMPLOYEE TO RECEIVE MINIMUM WAGE PAYMENTS USING A PAY CARD, RELOADABLE DEBIT CARD, OR SIMILAR METHOD THAT REQUIRES THE EMPLOYEE TO POSSESS A VALID SOCIAL SECURITY NUMBER.
- c. A LARGE EMPLOYER SHALL PAY TO AN EMPLOYEE AT LEAST THREE HOURS OF COMPENSATION AT NO LESS THAN THE MINIMUM WAGE RATE WHEN:
  - (1) AN EMPLOYEE IS SCHEDULED TO WORK AT LEAST THREE HOURS; THE EMPLOYEE TIMELY REPORTS FOR DUTY; THE EMPLOYEE IS ABLE TO WORK THE ENTIRE SHIFT; AND THE EMPLOYER ENGAGES THE EMPLOYEE FOR FEWER THAN THREE HOURS; OR

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(2) AN EMPLOYEE IS SCHEDULED TO WORK AT LEAST THREE HOURS AND THE EMPLOYER CANCELS THE EMPLOYEE'S SHIFT WITH LESS THAN TWENTY-FOUR (24) HOURS NOTICE.

- d. EXCEPT AS REQUIRED BY LAW OR COURT ORDER, AN EMPLOYER SHALL NOT DEDUCT FROM AN EMPLOYEE'S WAGES IF DOING SO WILL RESULT IN THE EMPLOYEE RECEIVING LESS THAN THE MINIMUM WAGE, INCLUDING BUT NOT LIMITED TO AMOUNTS DEDUCTED FOR EMPLOYER-PROVIDED MEALS AND DAMAGED, LOST, OR SPOILED GOODS.
- e. AN INDIVIDUAL WHO SATISFIES THE DEFINITIONS OF EMPLOYEE OR WORKER FOR HIRE BECOMES AN EMPLOYEE OR A WORKER FOR HIRE NINETY (90) DAYS AFTER ANNEXATION BY THE CITY RESULTS IN THE PLACE OF WORK BEING BROUGHT INTO THE CORPORATE LIMITS OF THE CITY. IF AN EMPLOYEE AND EMPLOYER HAVE A MUTUAL AGREEMENT THAT THE EMPLOYEE IS TO PERFORM WORK FROM THE EMPLOYEE'S RESIDENCE, THE EMPLOYEE'S RESIDENCE IS SUBSEQUENTLY BROUGHT WITHIN THE CORPORATE LIMITS THROUGH ANNEXATION, AND THE EMPLOYER SUBSEQUENTLY DISCHARGES THE EMPLOYEE DURING THE NINETY (90) DAY PERIOD, THERE ARISES A REBUTTABLE PRESUMPTION THAT SUCH ACTION WAS RETALIATION IN VIOLATION OF THIS ARTICLE.

**SEC. 17-84. RETALIATION PROHIBITED.**

- a. NO EMPLOYER SHALL TAKE ANY ADVERSE ACTION AGAINST ANY EMPLOYEE OR WORKER FOR HIRE IN RETALIATION FOR FILING A COMPLAINT UNDER THE PROVISIONS OF THIS ARTICLE, ASSERTING ANY CLAIM OR RIGHT UNDER THIS ARTICLE, ASSISTING ANOTHER EMPLOYEE IN DOING SO, COMMUNICATING A COMPLAINT TO AN INTERESTED PARTY, OR FOR INFORMING ANOTHER EMPLOYEE ABOUT THEIR RIGHTS.
- b. TAKING AN ADVERSE ACTION AGAINST AN INDIVIDUAL WITHIN NINETY (90) DAYS OF AN INDIVIDUAL'S ENGAGING IN THE RIGHTS COVERED BY STATE MINIMUM WAGE AND BENEFITS LAW, OR NOTIFYING THE EMPLOYER OR EMPLOYER'S REPRESENTATIVE OF A VIOLATION OF THIS ARTICLE, SHALL RAISE A REBUTTABLE PRESUMPTION THAT SUCH ACTION WAS RETALIATION.

**SEC. 17-85. PRIVATE CAUSE OF ACTION.**

- a. THE RIGHTS AFFORDED EMPLOYEES AND WORKERS FOR HIRE UNDER THE TUCSON MINIMUM WAGE ACT ARE AUTHORIZED BY THE RAISING ARIZONA MINIMUM WAGE FOR WORKING ARIZONANS ACT, AND NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING AN AGGRIEVED PARTY TO EXHAUST THE MUNICIPAL REMEDIES STATED HEREIN OR OTHERWISE DEPRIVE ANYONE THE RIGHT TO TAKE ACTION UNDER STATE LAW.
- b. TO THE EXTENT ALLOWABLE BY LAW AND WITHIN THREE YEARS AFTER THE CAUSE OF ACTION ACCRUED, ANY INDIVIDUAL AGGRIEVED BY A VIOLATION OF THIS ARTICLE OR ANY INTERESTED PARTY MAY COMMENCE A CIVIL ACTION AGAINST AN EMPLOYER OR AGAINST A HIRING ENTITY IN THE CITY COURT OR IN ANY COURT OF COMPETENT JURISDICTION. UPON PREVAILING, THE AGGRIEVED PARTY OR INTERESTED PARTY SHALL BE ENTITLED TO REASONABLE ATTORNEYS' FEES, COSTS, AS WELL AS LEGAL OR EQUITABLE RELIEF AS MAY BE APPROPRIATE, INCLUDING PAYMENT OF BACK WAGES PAYABLE TO THE AGGRIEVED PARTY, AND AN ADDITIONAL EQUAL AMOUNT IN LIQUIDATED DAMAGES PAYABLE TO THE AGGRIEVED PARTY.
- c. ANY EMPLOYMENT CONTRACT, WRITTEN OR VERBAL, FORMED BETWEEN AN EMPLOYER AND EMPLOYEE ON OR AFTER THE IMPLEMENTATION DATE OF THIS ARTICLE SHALL INCLUDE, AS TERMS IMPLIED-IN-LAW, THE PROVISIONS OF SECTIONS 17-82 AND 17-83 OF THIS ARTICLE.
- d. THE INITIATION OF AN INVESTIGATION BY THE DEPARTMENT SHALL NOT PREVENT AN AGGRIEVED PARTY OR INTERESTED PARTY FROM INITIATING A CIVIL ACTION AGAINST THE SAME EMPLOYER OR HIRING ENTITY, AND AN AGGRIEVED PARTY NEED NOT EXHAUST ADMINISTRATIVE REMEDIES PRIOR TO INITIATING A CIVIL ACTION.
- e. NOT LESS THAN SIXTY (60) DAYS AFTER AN AGGRIEVED PARTY OR INTERESTED PARTY SUBMITS A COMPLAINT TO THE CITY USING THE FORM PRESCRIBED IN SECTION 17-86(D) OF THIS ARTICLE, SUCH AGGRIEVED PARTY OR INTERESTED PARTY MAY INITIATE STEPS TO FILE A SPECIAL ACTION AGAINST THE CITY IN A COURT OF COMPETENT JURISDICTION SEEKING TO COMPEL THE CITY TO PROMPTLY INVESTIGATE SUCH COMPLAINT. PRIOR TO FILING A SPECIAL ACTION, THE AGGRIEVED PARTY OR INTERESTED PARTY SHALL PROVIDE NOTICE TO THE CITY ATTORNEY OF THEIR INTENTION TO TAKE SUCH ACTION. THE NOTIFICATION TO THE CITY ATTORNEY SHALL ALLOW THE CITY THIRTY (30) DAYS TO: 1) RESOLVE THE COMPLAINT; 2) ALLOW THE AGGRIEVED PARTY'S OR INTERESTED PARTY'S SPECIAL ACTION TO PROCEED; OR 3) AUTHORIZE THE AGGRIEVED PARTY OR INTERESTED PARTY TO PROCEED WITH AN ACTION AGAINST THE ALLEGED VIOLATOR IN A QUI TAM ACTION ON BEHALF OF THE CITY. PARTIES PROCEEDING ON BEHALF OF THE CITY SHALL BRING ACTIONS FOR A CIVIL INFRACTION AS DESCRIBED IN SECTION 17-87. SHOULD THE AGGRIEVED PARTY OR INTERESTED PARTY PREVAIL, THE AGGRIEVED PARTY OR PARTIES WILL BE ENTITLED TO THIRTY (30) PERCENT OF ANY PENALTIES OR FINES IMPOSED AGAINST THE EMPLOYER OR HIRING ENTITY, WITH THE BALANCE BEING REMITTED TO THE CITY.

**SEC. 17-86. IMPLEMENTATION BY THE CITY.**

- a. EFFECTIVE APRIL 1, 2022, THERE IS ESTABLISHED A DEPARTMENT OF LABOR STANDARDS, WHOSE HEAD SHALL BE THE DIRECTOR OF LABOR STANDARDS. THE DIRECTOR'S APPOINTMENT AND REMOVAL SHALL BE IN ACCORDANCE WITH SECTIONS 2, 6, AND 11 OF CHAPTER V OF THE CHARTER. THE DIRECTOR MAY PROMULGATE ADMINISTRATIVE DIRECTIVES FOR THE IMPLEMENTATION OF THIS ARTICLE.
- b. THE PURPOSES AND FUNCTIONS OF THE DEPARTMENT OF LABOR STANDARDS SHALL INCLUDE, BUT NOT BE LIMITED TO: RECEIVING COMPLAINTS FILED BY AGGRIEVED INDIVIDUALS AND INTERESTED PARTIES, INITIATING INVESTIGATIONS OF EMPLOYERS AND HIRING ENTITIES NO LATER THAN FORTY-FIVE (45) CALENDAR DAYS AFTER RECEIPT OF SUCH COMPLAINT FROM AN AGGRIEVED PARTY OR INTERESTED PARTY, INITIATING ENFORCEMENT ACTIONS, PERIODICALLY CONDUCTING STUDIES OF LOW-WAGE WORKERS IN THE CITY FOR THE PURPOSE OF GUIDING THE DEPARTMENT'S TARGETED ENFORCEMENT EFFORTS, EDUCATING EMPLOYERS OF THEIR OBLIGATIONS UNDER THIS ARTICLE, AND EDUCATING EMPLOYEES OF THEIR RIGHTS UNDER THIS ARTICLE.
- c. THERE SHALL BE APPOINTED WAGE INVESTIGATORS UNDER THE CITY'S CIVIL SERVICE RULES. IT SHALL BE THE DUTY OF THE WAGE INVESTIGATORS TO INVESTIGATE SUSPECTED VIOLATIONS OF THIS ARTICLE, COMMUNICATE WITH COMPLAINANTS, REPORT AND MAKE RECOMMENDATIONS OF ALL SUSPECTED VIOLATIONS TO THE DIRECTOR, AND INITIATE ENFORCEMENT ACTIONS UNDER THE DIRECTOR'S GUIDANCE.
- d. NOT LATER THAN JUNE 1, 2022, THERE SHALL BE CREATED AN ONLINE METHOD AND A PAPER METHOD FOR INDIVIDUALS TO FILE COMPLAINTS WITH THE DEPARTMENT.
- e. ON OR BEFORE NOVEMBER 1, 2022 AND EVERY SUBSEQUENT NOVEMBER 1, THE DIRECTOR SHALL ANNOUNCE THE MINIMUM WAGE THAT WILL TAKE EFFECT ON THE FOLLOWING JANUARY 1, SHALL PUBLISH THE SAME ON THE CITY WEBSITE, AND SHALL MAKE OTHER REASONABLE EFFORTS TO INFORM EMPLOYERS OF THE SAME.
- f. AN EMPLOYEE, FORMER EMPLOYEE, WORKER FOR HIRE, FORMER WORKER FOR HIRE, OR ANY OTHER INDIVIDUAL MAY REPORT TO THE DEPARTMENT ANY SUSPECTED VIOLATION OF THIS ARTICLE. THE DEPARTMENT SHALL ENCOURAGE REPORTING BY KEEPING CONFIDENTIAL, TO THE MAXIMUM EXTENT PERMISSIBLE BY STATE LAW, THE IDENTIFYING INFORMATION OF THE EMPLOYEE OR WORKER FOR HIRE. NOTWITHSTANDING THIS SUBSECTION, THE DEPARTMENT MAY DISCLOSE THE IDENTIFYING INFORMATION OF A COMPLAINANT WITH THE AUTHORIZATION OF SUCH INDIVIDUAL, BY COURT ORDER, OR IN COMPLIANCE WITH ANY APPLICABLE LAW.
- g. TO AID IN THE ENFORCEMENT OF THIS ARTICLE, THE CITY MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY OR OTHER MUNICIPALITIES LOCATED WITHIN THE COUNTY.
- h. NOTHING HEREIN PRECLUDES THE CITY FROM IMPOSING A FEE ON BUSINESSES, A SUBSET OF BUSINESSES, OR FROM INCREASING EXISTING LICENSE TAXES, LICENSE FEES, OR OTHER LEVIES ESTABLISHED IN CHAPTER 19 OF THIS CODE FOR THE PURPOSE OF FUNDING THE OPERATIONS OF THE DEPARTMENT.

**SEC. 17-87. ENFORCEMENT BY THE CITY.**

- a. A VIOLATION OF THIS CHAPTER BY AN EMPLOYER OR HIRING ENTITY SHALL BE A CIVIL INFRACTION. NO CRIMINAL LIABILITY SHALL ATTACH TO ANY VIOLATION OF THIS ARTICLE.
- b. EMPLOYERS AND HIRING ENTITIES SHALL ALLOW THE CITY ACCESS TO PAY AND TIME RECORDS OF AN EMPLOYEE AND WORKER FOR HIRE, WITH APPROPRIATE NOTICE AND IN A REASONABLE MANNER. WHERE AN EMPLOYER OR HIRING ENTITY DOES NOT MAINTAIN SUCH RECORDS, DOES NOT ALLOW THE CITY REASONABLE ACCESS TO SUCH RECORDS, OR SUCH RECORDS WERE NOT CREATED CONTEMPORANEOUSLY, THE ACCOUNT OF THE EMPLOYEE OR WORKER FOR HIRE IS PRESUMED ACCURATE.
- c. IF A VIOLATION OF THIS ARTICLE HAS BEEN FINALLY DETERMINED, THE DIRECTOR SHALL ORDER THE EMPLOYER TO CEASE AND DESIST FROM ENGAGING IN THE VIOLATIVE PRACTICE AND MAY ORDER ANY OF THE FOLLOWING ADDITIONAL RELIEF: A CIVIL PENALTY OF UP TO ONE HUNDRED DOLLARS (\$100.00) TO BE PAID TO THE CITY FOR EACH EMPLOYEE WHOSE RIGHTS UNDER THIS ARTICLE WERE VIOLATED FOR EACH DAY THAT THE VIOLATION OCCURRED, BACK PAY, AND AN ADDITIONAL EQUAL AMOUNT AS LIQUIDATED DAMAGES. THE CITY MAY ESTABLISH PROCEDURES FOR APPEAL BY EMPLOYERS.
- d. IF A REPEAT VIOLATION OF THIS ARTICLE HAS BEEN FINALLY DETERMINED, EXCEPT WHERE PROHIBITED BY LAW, THE CITY MAY REVOKE, SUSPEND, OR DECLINE TO RENEW ANY LICENSE PROVIDED FOR IN CHAPTER 19 OF CITY CODE.
- e. TO THE EXTENT ALLOWABLE BY LAW AND WITHIN THREE YEARS AFTER THE CAUSE OF ACTION ACCRUED, THE CITY MAY INITIATE A CIVIL ACTION IN CITY COURT OR A COURT OF COMPETENT JURISDICTION AGAINST AN EMPLOYER OR A HIRING ENTITY.
- f. NOT LATER THAN DECEMBER 1, 2022, THE DEPARTMENT SHALL UNDERTAKE A SURVEY OF LOW-WAGE WORKERS IN THE CITY. THE SURVEY SHALL IDENTIFY THOSE INDUSTRIES IN THE CITY WHERE

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MINIMUM WAGE VIOLATIONS ARE MOST LIKELY TO OCCUR. NO LATER THAN JULY 1, 2023, AND IN FOLLOWING YEARS, THE DEPARTMENT SHALL DEVOTE A PORTION OF ITS RESOURCES TO THE INVESTIGATION OF EMPLOYERS AND HIRING ENTITIES BELONGING TO THE INDUSTRIES IDENTIFIED BY THE SURVEY.

**SEC. 17-88. SEVERABILITY AND CONSTRUCTION.**

- a. IF ANY PHRASE, CLAUSE, SENTENCE, PARAGRAPH OR SECTION OF THIS ARTICLE IS DECLARED PREEMPTED, UNCONSTITUTIONAL, OR OTHERWISE ILLEGAL BY STATE LAW BY THE JUDGMENT OF ANY COURT OF COMPETENT JURISDICTION, SUCH INVALIDITY SHALL NOT AFFECT ANY OF THE REMAINING PORTIONS OF THIS ARTICLE.
- b. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DISCOURAGE OR PROHIBIT THE ADOPTION OR RETENTION OF A WAGE POLICY MORE GENEROUS THAN THAT WHICH IS REQUIRED HEREIN.