

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 150217, AS AMENDED

Enacting a new Article IV, Chapter 38, Code of Ordinances, entitled "Minimum Wage" to establish a municipal minimum wage of \$8.50 per hour on August 24, 2015, to increase that municipal minimum wage to \$13.00 per hour by January 1, 2020, to be increased or decreased by the cost of living January 1, 2021 and each year thereafter.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. ENACTMENT OF THE MUNICIPAL MINIMUM WAGE. That a new Article IV, Chapter 38, Code of Ordinances, entitled "Minimum Wage," is enacted to read as follows:

ARTICLE IV. CITY MINIMUM WAGE

Sec. 38-201. Definitions.

(a) "Apprentice" means a person bound to serve another for a specified time in order to learn some art, trade, profession, or business;

(b) "Director" means the Director of Human Relations;

(c) "Employ" means to suffer or permit to work;

(d) "Employee" means any individual employed by an Employer who performs at least 20 hours of work within a calendar year for an Employer whether on a part-time, full-time or temporary basis, and shall include contingent and contracted workers and individuals working through a temporary service, staffing or employment agency or similar entity. However, the term "Employee" shall not include:

- (1) An individual employed by the United States, the State of Missouri or any political subdivision of the State other than by the City of Kansas City, Missouri;
- (2) An individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis;
- (3) Apprentices in a registered apprentice program recognized by the State of Missouri or the Federal Bureau of Apprenticeship and Training, as well as any apprentice participating in an apprenticeship program providing significant instructional and practical experience and offered by the City of Kansas City, Missouri;

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- (4) Temporary employees of an educational, charitable or religious youth camp or retreat where room and board are provided to the employee, or if a day camp, where board only is provided. To qualify under this exemption the employer must hold a valid certificate issued annually by the Director of the Missouri Department of Labor pertaining to exemption of seasonal employees;
- (5) Any employee that is the parent, spouse, child or other member of the employer's immediate family. For purposes of this subsection, the employer shall include the principal stockholder of a family corporation;
- (6) Interns working for a business for academic credit in connection with a course of study at an accredited school, college or university;
- (7) Persons working for a business in connection with a court-ordered community service program; or
- (8) Persons 17 years of age or younger.

(e) "Employer" means any individual, partnership, association, corporation, business trust, or any business organization, person or group of persons engaged in providing, selling, purchasing or investing in goods or services within the corporate limits of Kansas City, Missouri, which has a total of more than 15 employees regardless of age and regardless of location, and shall include the City of Kansas City and its departments. Employer does not include any other governmental entity which includes, for purposes of this Ordinance, any other unit of local government, the state government, and the government of the United States;

(f) "Minimum Wage" means the minimum hourly rate of compensation that an employee shall be paid;

(g) "Tips" means a verifiable sum presented by a customer as a gift or gratuity in recognition of some service performed for the customer by the employee receiving the tip; and

(h) "Tipped Employee" means an employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips.

Sec. 38-202. Minimum Wage Payment Requirements.

(a) *Minimum Wage established.* The Minimum Wage rate for employees shall be:

Effective Date	Amount/Hour
August 24, 2015	\$8.50
January 1, 2017	\$9.82
January 1, 2018	\$10.96

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January 1, 2019	\$11.98
January 1, 2020	\$13.00

(b) *Annual adjustments.* Beginning January 1, 2021 and on January 1 of successive years the Minimum Wage shall be adjusted based upon the increase or decrease in the cost of living. On September 30, 2020 and on each September 30 of each successive year the City of Kansas City Human Relations Department shall measure the increase or decrease in the cost of living by the percentage increase or decrease as of the preceding July over the level as of July of the immediately preceding year of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or a successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the Minimum Wage increase or decrease rounded to the nearest five cents. The City of Kansas City, Missouri shall post on its website a bulletin announcing the adjusted Minimum Wage rate for the upcoming calendar year no later than ninety (90) days prior to each adjustment.

(c) *Tipped Employee Minimum Wage.* A Tipped Employee shall be paid a minimum cash wage directly by an Employer of no less than fifty percent (50%) of the Minimum Wage established by the State of Missouri. An Employer may consider Tips as part of wages of a Tipped Employee, but the Tips combined with the minimum cash wage paid directly by the Employer shall not equal less than the Minimum Wage as provided by subsection (a) of this Section. In the event a Tipped Employee earns insufficient Tips combined with this minimum cash wage to receive a wage at least equal to the Minimum Wage established by this Article, the Employer shall pay the Employee the difference to ensure the Employee receives a wage equal to the Minimum Wage established by this Article. All Tips received by Tipped Employees are the sole property of the Tipped Employee and shall be retained by the Tipped Employee, except that nothing in this Section shall prohibit a valid tip pool under which Tips are pooled and distributed among all Tipped Employees, provided that only the amount actually retained by each Employee shall be considered part of that Employee's wages.

(d) *Information posted.* The City of Kansas City, Missouri shall post the Minimum Wage rates established by this Ordinance on its website after this Ordinance becomes effective and at least ninety (90) days prior to each adjustment.

(e) *Adoption of Missouri or federal rates.* The minimum wage established by this Article shall not apply if it is equal to or less than the minimum wage established by Missouri or federal law.

Sec. 38-203. Prohibitions.

(a) *Retaliation.* It shall be unlawful for any Employer or Employer's agent or representative to discharge, demote, deny promotion to or in any way discriminate against an Employee in the terms or conditions of employment in retaliation for the person asserting a claim or right pursuant to this Article or assisting another person to do so.

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(b) *Failure to pay.* It shall be unlawful for any Employer or Employer's agent or representative to pay an Employee less than the minimum wage required by this Article.

Sec. 38-204. Remedies and Penalties.

(a) The Human Relations Department may promulgate rules and regulations regarding the interpretation, application and enforcement of this Ordinance. The Human Relations Department is authorized to receive any complaint regarding a possible or suspected violation of this Ordinance and further authorized to take appropriate steps to enforce this Ordinance, including, regardless of whether there is a complaint, investigating any possible or suspected violation of this Ordinance.

(b) Before submitting to the City Prosecutor complaints of violations, the Director shall provide for a hearing conducted by a hearing officer uninvolved with the investigation of the matter for a determination of whether or not this Article's requirements have been met by an Employer. Failure of the Employer to participate in the hearing waives the requirement that a hearing be conducted before complaints are forwarded to the City Prosecutor.

(c) An Employer violating this Article shall be subject to a fine of up to \$1,000.00 per violation. Any Employer violating any of the requirements of this Article shall be guilty of a separate offense for each week or portion thereof and for each worker or person as to which any such violation has occurred.

(d) The remedies provided in this Article are not exclusive, and nothing in this Article shall preclude any person from seeking any other remedies, penalties, or relief provided by law.

Sec. 38-205. Severability.

The requirements and provisions of this article are severable. In the event that any requirement, provision, part, subpart or clause of this article, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the Council that the remainder of the article be enforced to the maximum extent possible consistent with the objective of ensuring a Minimum Wage.

Sec. 38-206. Notice Posting.

As of April 1, 2016, an Employer shall post and display in a prominent location a notice that the business is in compliance with the provisions of this article and shall include the text of sections 38-202, 38-203 and 38-204 of this article.

Sec. 38-207. Procedure.

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A complaint form for use in reporting violations of this Ordinance shall be available on the City webpage for use in reporting violations.

Approved as to form and legality:

William Geary
City Attorney