

ORDINANCE

**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 cost of living in Minneapolis is among the highest in the state. 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) According to the 2011-2015 American Community Survey (U.S. Census Bureau), Minneapolis has by far the most residents in the state with incomes below the federal poverty level. There are over eighty-four thousand (84,000) people in Minneapolis with incomes below the federal poverty level, which is more than twenty thousand (20,000) higher than the next closest city in the state.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) 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.

(o) 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.

(d) Providers with certificates issued by the United States Department of Labor or the Minnesota Department of Labor and Industry for purposes of subminimum wage payments pursuant to Minnesota Statutes, Section 177.28 and Minnesota Rules part 5200.0030, but only to the extent of the workers specifically covered by the subminimum wage certificate.

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 one hundred (100) employees, calculated pursuant to section 40.380.

Micro business means all employers that employ twenty (20) or fewer employees, calculated pursuant to section 40.380.

Small business means all employers that employ one hundred (100) or fewer employees, calculated pursuant to section 40.380.

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.

~~(d) Employers that operate at more than two (2) locations in the city and Any establishment operated pursuant to a franchise as defined in Minnesota Statutes 80C.01, where the franchisor and franchisees of such franchisor own or operate an aggregate of more than ten (10) in the state locations nationally shall be considered a large business, otherwise the above language applies for each business storefront.~~

~~(e) Non-hospital residential health care facilities, including, but not limited to nursing care facilities, home health care facilities, assisted living facilities, and residential disability facilities, that rely on Medicare or Medicaid reimbursement rates shall be considered small businesses.~~

~~(f) Ex-offender transition or employment programs shall be considered a small business.~~

~~(e) Except as in (d), each full service restaurant location within the geographic boundaries of the city and with fewer than ten (10) locations nationally, shall be treated as a unique employer solely for the purposes of determining business size.~~

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 business shall pay a wage of no less than the hourly rates set forth herein:

(1) On January 1, 2018, the hourly wage shall be ten dollars (\$10.00).

(2) On July 1, 2018, the hourly wage shall be eleven dollars and twenty-five cents (\$11.25).

(3) On July 1, 2019, the hourly wage shall be twelve dollars and twenty-five cents (\$12.25).

(4) On July 1, 2020, the hourly wage shall be thirteen dollars and twenty-five cents (\$13.25).

(5) On July 1, 2021, the hourly wage shall be fourteen dollars and twenty-five cents (\$14.25).

(6) On July 1, 2022, the hourly wage shall be fifteen dollars (\$15.00).

(c) Small business 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 twenty-five cents (\$10.25).
- (2) On July 1, 2019, the hourly wage shall be eleven dollars ~~and twenty-five cents~~ (~~\$11.25~~ \$11.00).
- (3) On July 1, 2020, the hourly wage shall be ~~twelve~~ eleven dollars and ~~twenty-five~~ seventy-five cents (~~\$12.25~~ \$11.75).
- (4) On July 1, 2021, the hourly wage shall be ~~thirteen~~ twelve dollars and ~~twenty-five~~ fifty cents (~~\$13.25~~ \$12.50).
- (5) On July 1, 2022, the hourly wage shall be ~~fifteen~~ thirteen dollars and fifty cents (~~\$15.00~~ \$13.50).
- (6) On July 1, 2023, the hourly wage shall be fourteen dollars and fifty cents (\$14.50).
- (7) On July 1, 2024, the hourly wage shall be fifteen dollars (\$15.00) plus the inflationary figure as referenced in section 40.390(e).

(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 who is employed in a city-approved training or apprenticeship program not less than eighty-five (85) percent of the minimum wage rate required by this section and rounded up to the nearest nickel. Criteria for approved youth training programs shall be developed by the department of community planning and economic development and approved by the city's Workforce Investment Board with input from current service providers. 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) No later than ~~February~~ September 1 of each year, beginning in ~~2023~~ 2022 for large businesses, the director shall determine the ~~percentage increase in the rate of inflation, as measured by the implicit price deflator, national data for personal consumption expenditures as determined by the United States Department of Commerce, Bureau of Economic Analysis during the preceding calendar year.~~ The minimum wage rates in subsections (b), (c), and (d) based on the percentage increase calculated by the Commissioner of Industry and Labor in Minnesota Statutes 177.24, Subdivision 1(f) divided by two (2) in 2022 and based on the full percentage increase in each subsequent year are ~~increased by the lesser of: (1) two and one-half (2.5) percent, rounded to the nearest cent; or (2) the percentage calculated by the director, rounded to the nearest cent.~~ A minimum wage rate shall not be reduced under this subsection. The director shall announce the adjusted minimum wage rates on ~~February~~ September 1 of each year and the new minimum wage rates for large businesses determined under this subsection take effect on ~~July~~ January 1 of each subsequent year, beginning in 2023. Beginning July 1, 2024, the adjusted minimum wage rate for large businesses shall apply to all businesses.

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.

(c) *Private cause of action.* An employee or employees may bring a civil action seeking redress for a violation or violations of this article directly to district court. An employer who pays an employee less than the wages to which the employee is entitled under this article is liable to the employee for the full amount of the wages, less any amount the employer is able to establish was actually paid to the employee and for an additional equal amount as liquidated damages. In addition, the employee may seek damages and other appropriate relief provided by this section and otherwise provided by law. In any action brought pursuant to this subsection, the court shall order an employer who is found to have committed a violation or violations of this article to pay to the employee or employees reasonable costs, disbursements, witness fees, and attorney fees. An agreement between the employee and employer to work for less than the applicable wage is not a defense to the action.

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.

(a) 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. The report may also include recommendations for possible improvements to this article.

(b) Beginning in 2019, and each year thereafter, the city coordinator, in collaboration with the department of community planning and economic development and the finance department, shall provide by March 31st a written report to the appropriate committee of the city council regarding the economic and market impacts of this article on the local economy. The report shall include economic data regarding jobs, earnings, and rates of business openings and closings.