

ORDINANCE NO. 2015-0036

Adopted by the Sacramento City Council

October 27, 2015

**AN ORDINANCE ADDING CHAPTER 5.158 TO THE SACRAMENTO CITY CODE
RELATING TO THE CITY MINIMUM WAGE**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 5.158 is added to the Sacramento City Code to read as follows:

Chapter 5.158 CITY MINIMUM WAGE

5.158.010 Definitions.

When used in this chapter, the following words and phrases have the following meanings:

“Employee” means a person who, in a particular week, performs at least two hours of work within the geographic boundaries of the city for an employer.

“Employer” means any person who directly or indirectly (including through the services of a temporary services agency, staffing agency, or similar entity) employs or exercises control over the wages or hours of any employee.

“Nonprofit corporation” means an entity that is duly incorporated, 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; and is exempt from taxation pursuant to section 501(c)(3) of the United States Internal Revenue Code.

5.158.020 City minimum wage required.

No employer shall pay their employee less than the city minimum wage for each hour worked within the geographic boundaries of the city. The city minimum wage shall be determined in accordance with the provisions of this chapter.

5.158.030 City minimum wage

- A. If an employer has more than 100 employees, the city minimum wage is as follows:
 - 1. Beginning on January 1, 2017, the city minimum wage is \$10.50 per hour.
 - 2. Beginning on January 1, 2018, the city minimum wage is \$11.00 per hour.
 - 3. Beginning on January 1, 2019, the city minimum wage is \$11.75 per hour.
 - 4. Beginning on January 1, 2020, the city minimum wage is \$12.50 per hour.
- B. If an employer has 100 or fewer employees, the city minimum wage is as follows:
 - 1. Beginning on January 1, 2018, the city minimum wage is \$10.50 per hour.
 - 2. Beginning on January 1, 2019, the city minimum wage is \$11.00 per hour.
 - 3. Beginning on January 1, 2020, the city minimum wage is \$11.75 per hour.
 - 4. Beginning on January 1, 2021, the city minimum wage is \$12.50 per hour.
- C. Beginning on January 1, 2022, and annually thereafter, the city minimum wage shall be determined by the City Manager by adjusting the latest city minimum wage rate in direct proportion to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers in Western Cities of Size Class B/C for all items (base period: Dec. 1996=100) (as published by the United States Bureau of Labor Statistics), between the annual values of the latest two years for which the statistics are available. The City Manager shall determine the city minimum wage based on the statistics available on October 1st of the preceding year.
- D. For purposes of this section, the number of employees of an employer shall be determined by the average number of people employed each pay period of the previous calendar year, except for people that are employed for 90 consecutive days or less. If an employer did not employ anyone during the previous calendar year, the city minimum wage set forth in subdivision B of this section applies.

5.158.040 Notice and posting.

By December 1st of each year, the city shall publish and make available to employers a notice announcing the minimum wage rates for the upcoming year. Employers shall post the notice in a conspicuous place in each workplace that is visible to all of their employees.

15.158.050 Exemption for job training program participants.

Notwithstanding section 5.158.020, an employer is not required to pay the city minimum wage to an employee who is either:

- A. A participant, up to 25 years of age, in a youth job training program operated by a nonprofit corporation or a government agency; or
- B. A learner who, pursuant to Order No. 14-2001 of the Industrial Welfare Commission of the State of California, may be paid not less than 85 percent of the state minimum wage rounded to the nearest nickel, during their first 160 hours of employment.

5.158.060 Healthcare credit.

An employer that pays an employee the city minimum wage as determined in this chapter, and pays at least \$2.00 per hour per employee towards the premium cost of an employee medical benefits plan (e.g., health, dental, or vision care) that allows the employee or the employee's dependents to receive employer-compensated care from a licensed physician, may apply a healthcare credit to reduce the payment of the city minimum wage. To be eligible for this credit, the employee medical benefits plan must, at a minimum, provide a level of coverage equivalent to a bronze level plan under the federal Patient Protection and Affordable Care Act (Public Law 111-148). The healthcare credit will be applied in the amounts as follows:

- A. When the city minimum wage for that employer is \$10.50, the healthcare credit is \$0.50 per hour.
- B. When the city minimum wage for that employer is \$11.00, the healthcare credit is \$1.00 per hour.
- C. When the city minimum wage for that employer is \$11.75, the healthcare credit is \$1.50 per hour.
- D. When the city minimum wage for that employer is \$12.50, the healthcare credit is \$2.00 per hour.

- E. On January 1, 2022, and annually thereafter, the healthcare credit shall be determined by the City Manager by adjusting the latest healthcare credit rate in direct proportion to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers in Western Cities of Size Class B/C for all items (base period: Dec. 1996=100) (as published by the United States Bureau of Labor Statistics), between the annual values of the latest two years for which the statistics are available. The City Manager shall determine the healthcare credit based on the statistics available on October 1st of the preceding year.

5.158.070 Waiver prohibited.

No person shall request an employee to waive his or her rights under this chapter. Any waiver by an individual employee of any provision of this chapter is contrary to public policy and is void and unenforceable.

5.158.080 Payroll records – Inspection.

Employers shall retain payroll records pertaining to all employees for a period of three years from the date of the payments reflected in the record. Upon reasonable notice, the employer shall allow the city access to the records at a mutually agreeable time, to monitor compliance with this chapter.

5.158.090 Reporting violations.

Any person may report to the city a suspected violation of this chapter. The city shall keep confidential the name and other identifying information of any person that reports of violation of this chapter, to the maximum extent permitted by law. The city may disclose the identity of the person reporting the violation as necessary to enforce this chapter.

5.158.100 Investigation.

The city may investigate reports of violations of this chapter. The city has the authority to inspect workplaces, interview persons, and inspect payroll records. If the employer does not maintain or retain records adequate to document wages paid or does not allow the city access to such records, an employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise.

5.158.110 Retaliation prohibited.

No employer or other person shall discharge, penalize, take adverse action, or discriminate in any manner against any person in retaliation for reporting a violation of this chapter to the city in good faith, participating in any of its proceedings, or using any civil remedies to enforce or otherwise assert his or her rights under this chapter. Taking adverse action against a person within 90 days of the person's exercise of rights protected under this chapter raises a rebuttable presumption that the action was taken in retaliation for the exercise of such rights.

5.158.120 Violations.

- A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to the following:
1. Criminal sanctions. Any person who violates a provision of this chapter is guilty of a misdemeanor.
 2. Civil actions.
 - a. Violations of this chapter are hereby declared to be a public nuisance.
 - b. Any person aggrieved by a violation of this chapter may bring a private civil action in a court of competent jurisdiction against the employer or other person violating this chapter. The court shall award reasonable attorney's fees, witness fees, and expenses to any plaintiff who prevails in an action to enforce this chapter.
 - c. The remedies in a civil action for a violation of this chapter include, but are not limited to, the following: injunctive relief; reinstatement in employment; payment of back wages unlawfully withheld; interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of section 3289 of the California Civil Code, which shall accrue from the date the wages were due and payable as provided in Part 1 (commencing with section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full; and civil penalties of not less than \$250 or more than \$25,000 for each day the violation continues.
 3. Administrative penalties, pursuant to chapter 1.28.

- B. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

5.158.130 Relationship to other laws.

This chapter requires the payment of a local minimum wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy, or standard that provides for the payment of a higher or supplemental wage or benefit.

SECTION 2.

If any provision of this Ordinance or its application to any person or circumstance is held invalid or ineffective by any court of competent jurisdiction, or by reason of any preemptive legislation, that invalidity shall not affect the validity of the remaining provisions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, subdivision, sentence, clause, and phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or words be declared invalid.

Adopted by the City of Sacramento City Council on October 27, 2015, by the following vote:

Ayes: Members Carr, Harris, Jennings, Schenirer, Warren and Mayor Johnson

Noes: Members Ashby, Hansen and Guerra

Abstain: None

Absent: None

Attest:

Shirley Concolino Digitally signed by Shirley Concolino
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City
Clerk, email=sconcolino@cityofsacramento.org, c=US
Date: 2015.11.03 16:03:38 -08'00'

Shirley Concolino, City Clerk

Passed for Publication: October 13, 2015

Published: October 16, 2015

Effective: November 26, 2015