

**LOS ANGELES MINIMUM WAGE ORDINANCE NO. 2
(REASONABLE DOCUMENTATION REQUIREMENT)**

ORDINANCE NO. _____

An ordinance amending Article 7 of Chapter XVIII of the Los Angeles Municipal Code to include sick time benefits, an exemption for transitional job employees and other changes addressing the application of the ordinance.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Article 7 of Chapter XVIII of the Los Angeles Municipal Code is amended in its entirety to read as follows:

ARTICLE 7

LOS ANGELES MINIMUM WAGE ORDINANCE

SEC. 187.00. PURPOSE.

According to consultants retained by the City and studies submitted to the City for its consideration, Los Angeles is a low-wage city with a high cost of living. Without action to raise the wage floor, the problems caused by incomes that are inadequate to sustain working families will become more acute. The cost of living is continuing to rise in Los Angeles, and labor market projections by the California Employment Development Department show that the number of low-wage jobs will grow faster than the number of mid- and high-wage jobs. Inaction will mean that the share of the labor force that does not receive sustaining pay will grow and the gap between stagnating low wages and the cost of a basic standard of living in Los Angeles will continue to widen.

Contrary to popular perception, the large majority of affected workers are adults, with a median age of 33 (only three percent are teens). The proposed minimum wage increase will greatly benefit workers of color, who represent over 80 percent of affected workers. Workers of all education levels will benefit from the proposed law, with less educated workers benefitting the most.

Los Angeles also ranks highest in California in child poverty rates. In short, although the City is experiencing strong economic growth which has spurred employment, poverty and inequality remain high and wages continue to stagnate. Affected workers disproportionately live in low-income families; on average, affected workers bring home more than half of their family's income. Affected workers live disproportionately in the lower-income areas of the City. These areas will experience greater earnings gains than the City as a whole due to a higher minimum wage. The research literature suggests that downstream benefits will result from the proposed wage increase, such as improved health outcomes for both workers and their children, and increases in children's academic achievements and cognitive and behavioral outcomes.

Studies show that minimum wage increases reduce worker turnover. Turnover creates financial costs for employers. Reduced worker turnover means that workers will have more tenure with the same employer, which creates incentives for both employers and workers to increase training and worker productivity.

The City has recognized that income inequality is one of the most pressing economic and social issues facing Los Angeles. Workers, who must live paycheck to paycheck, are frequently forced to work two or three jobs to provide food and shelter for their families. The City has also recognized that a worker's ability to have access to sick time is important. Employees should be paid for a certain number of days they are sick or for taking care of ill family members. These workers often rely on the public sector as a provider of social support services and, therefore, the City has an interest in promoting an employment environment that protects government resources. Therefore, by paying a higher than state-mandated minimum wage and providing sick time benefits, the City seeks to promote the health, safety and welfare of thousands of workers by ensuring they receive a decent wage for the work they perform and are able to attend to illnesses.

SEC. 187.01. DEFINITIONS.

The following definitions shall apply to this article:

- A. **"City"** means the City of Los Angeles.
- B. **"Designated Administrative Agency (DAA)"** means the Office of Wage Standards of the Bureau of Contract Administration, which shall bear administrative responsibilities under this article.
- 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. **"Wage"** means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation, as defined in California Labor Code Section 200(a).

SEC. 187.02. PAYMENT OF SICK TIME BENEFITS AND MINIMUM WAGE TO EMPLOYEES.

A. An Employer shall pay an Employee a wage of no less than the hourly rates set under the authority of this article.

B. Employers with 26 or more Employees shall provide Sick Time Benefits pursuant to Section 187.04 and pay a wage of no less than the hourly rates set forth:

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.
4. On July 1, 2019, the hourly wage shall be \$14.25.
5. On July 1, 2020, the hourly wage shall be \$15.00.

C. Employers with 25 or fewer Employees shall provide Sick Time Benefits pursuant to Section 187.04 and 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.
3. On July 1, 2019, the hourly wage shall be \$13.25.
4. On July 1, 2020, the hourly wage shall be \$14.25.
5. On July 1, 2021, the hourly wage shall be \$15.00.

D. On July 1, 2022, and annually thereafter, the minimum wage will increase based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area (Los Angeles-Riverside-Orange County, CA), which is published by the Bureau of Labor Statistics. The DAA shall announce the adjusted rates on February 1st and publish a bulletin announcing the adjusted rates, which shall take effect on July 1st of each year.

E. Employees who are 14-17 years of age shall be paid not less than 85 percent of the minimum wage required by Section 187.02 and rounded to the nearest nickel during their first 160 hours of employment. After more than 160 hours of employment, Employees who are 14-17 years of age shall be paid the applicable minimum wage pursuant to this article.

F. A Non-Profit Corporation Employer, which also qualifies as a Transitional Employer, as defined by Los Angeles Administrative Code (LAAC) Section 10.31.1(h) ("Non-Profit/Transitional Employer"), can apply to the DAA for a limited exemption to this article. This limited exemption shall allow a "Non-Profit/Transitional Employer" to pay an Employee holding a Transitional Job, as defined by LAAC Section 10.31.1(g), wages less than those required under Section 187.02 during the first 18 months of employment in the Transitional Job. The intent of this limited exemption is to create opportunities for the hardest to employ in the City, and shall be construed strictly in its application to an Employer seeking to qualify as a "Non-Profit/Transitional Employer."

G. For purposes of this article, on July 1, 2016, 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. The Employer shall comply solely under either Section 187.02.B or C, until July 1, 2022, when the rate will be the same under both sections.

H. For purposes of this article, the size of an Employer's new business or Non-Profit Corporation in operation after July 1, 2016, shall initially be determined by the number of Employees employed during its first pay period. The Employer shall comply with wages due under the current year of operation under either Section 187.02.B or C, until July 1, 2022, when the rate will be the same under both sections.

SEC. 187.03. DEFERRAL APPLICATION FOR CERTAIN NON-PROFIT EMPLOYERS.

The DAA shall establish a procedure to allow an Employer that is a Non-Profit Corporation on July 1, 2016, with 26 or more Employees to qualify for the deferral rate schedule specified in Section 187.02.C. A Non-Profit Employer seeking the deferral must establish by compelling evidence that:

A. The chief executive officer or highest paid employee 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 as defined in Section 10.31.1(h) of the Los Angeles Administrative Code; or

C. It serves as a child care provider; or

D. It is funded primarily by city, county, state or federal grants or reimbursements.

If a Non-Profit Corporation Employer loses its deferral status at any time after July 1, 2016, it shall pay wages due in the current year under Section 187.02.B.

SEC. 187.04. SICK TIME BENEFITS.

A. Every Employee who, on or after July 1, 2016, works in the City for the same Employer for 30 days or more within a year from the commencement of employment is entitled to paid sick leave.

B. Paid sick leave shall accrue on the first day of employment or July 1, 2016, whichever is later.

C. An Employee may use paid sick leave beginning on the 90th day of employment or July 1, 2016, whichever is later.

D. Employers must provide sick leave either: 1) by providing the entire 48 hours to an Employee at the beginning of each year of employment, calendar year, or 12-month period; or 2) by providing the Employee one hour of sick leave per every 30 hours worked.

E. Employees will be entitled to take up to 48 hours of sick leave in each year of employment, calendar year, or 12-month period. Accrued unused paid sick leave shall carry over to the following year of employment and may be capped at 72 hours. An Employer may set a higher cap or no cap at all.

F. If an Employer has a paid leave or paid time off policy or provides payment for compensated time off, that is equal to or no less than 48 hours, no additional time is required.

G. An Employer shall provide paid sick leave upon the oral or written request of an Employee for themselves or a family member, as defined by California Labor Code Sections 246.5(a) and 245.5(c), or for any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. An Employer may require an Employee to provide reasonable documentation of an absence from work for which paid sick leave is or will be used.

H. An Employer is not required to provide compensation to an Employee for accrued or unused sick days upon termination, resignation, retirement, or other separation from employment.

I. If an Employee separates from an Employer and is rehired by the Employer within one year from the date of separation, previously accrued and unused paid sick time shall be reinstated.

SEC. 187.05. NOTIFYING EMPLOYEES OF THEIR POTENTIAL RIGHT TO THE FEDERAL EARNED INCOME CREDIT.

Employers shall inform Employees of their 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.

SEC. 187.06. RETALIATORY ACTION PROHIBITED.

No Employer shall discharge, reduce in compensation or otherwise discriminate against any Employee for opposing any practice proscribed by this article, for requesting to use paid sick leave or actually using paid sick leave, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

SEC. 187.07. IMPLEMENTATION.

The DAA may promulgate guidelines and rules consistent with this article for the implementation of the provisions of this article. 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 article. The DAA may allow an Employer's established paid leave or paid time off policy or one which provides payment for compensated time off to remain in place and comply with this article even though it does not meet all the requirements in Section 187.04, if the DAA determines that the Employer's established policy is overall more generous.

SEC. 187.08. NO WAIVER OF RIGHTS.

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

SEC. 187.09. COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR SPECIFIC DEPRIVATIONS OF PROTECTED RIGHTS.

The provisions of this article 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.

SEC. 187.10. CONFLICTS.

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

SEC. 187.11. REPORTS.

Every three years after July 1, 2016, the Chief Legislative Analyst (CLA) with the assistance of the City Administrative Officer (CAO) shall commission a study to review the state of the City's economy; minimum wage impacts; textile and apparel manufacturing impacts; temporary workers, guards and janitors impacts; home health care services impacts; residential care and nursing facilities impacts; child day care services impacts; restaurants and bars impacts; personal and repair services impacts; transitional jobs programs impacts; service charges, commissions and guaranteed gratuities impacts; and wage theft enforcement. On an annual basis, the CLA and CAO shall collect economic data, including jobs, earnings and sales tax.

SEC. 187.12. SEVERABILITY.

If any subsection, sentence, clause or phrase of this article 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.

Sec. 2. URGENCY CLAUSE. The City Council finds and declares that this ordinance is required for the immediate protection of public peace, health and safety for the following reason: Many employers do not provide sick time benefits to their employees. Moreover, many employees report to work sick for fear of losing their employment or because they cannot afford the lost wages. In order for the City of Los Angeles to protect the health of its residents and workers, sick time benefits must be provided to those who work in the City and the amendments to the Los Angeles Municipal Code as reflected in this ordinance must become effective as soon as possible. For all these reasons, the ordinance shall become effective upon publication pursuant to Los Angeles Charter Section 253.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By *Basia Jankowski*
BASIA JANKOWSKI
Deputy City Attorney

Date *May 20, 2016*

File No. _____