



ORDINANCE NO. 28646

1 AN ORDINANCE relating to minimum employment standards; amending Title 18
2 of the Municipal Code, relating to Minimum Employment Standards, by
3 repealing in its entirety Chapter 18.20, entitled “Minimum Wage,” and
4 relying on Washington State minimum wage law and the Department of
5 Labor and Industries enforcement.

6 WHEREAS, in 2015, prior to Washington State’s employment standards
7 laws going into effect, the City Council enacted Chapter 18.20 of the Tacoma
8 Municipal Code, entitled “Minimum Wage,” and

9 WHEREAS the law went into effect on February 1, 2016, and has been
10 implemented by the Employment Standards Office within the Finance
11 Department’s Tax & License Division, and

12 WHEREAS, in November 2016, voters approved Washington State Initiative
13 1433, changing statewide employment standards by increasing the state minimum
14 wage that went into effect on January 1, 2018, and

15 WHEREAS the Washington State Department of Labor & Industries (“L&I”)
16 investigates complaints and enforces the state’s Minimum Wage laws, and

17 WHEREAS the state’s minimum wage will be higher than the City’s
18 minimum wage, effective January 1, 2020, and

19 WHEREAS staff is recommending that TMC Chapter 18.20, Minimum
20 Wage, be repealed and that the City rely on state law and L&I enforcement going
21 forward; Now, Therefore,
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BE IT ORDAINED BY THE CITY OF TACOMA:

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That Title 18 of the Municipal Code, relating to Minimum Employment Standards, is hereby amended by repealing in its entirety Chapter 18.20, "Minimum Wage," as set forth in the attached Exhibit "A."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

TITLE 18

MINIMUM EMPLOYMENT STANDARDS

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Chapters:

18.10 Paid Sick Leave

~~18.20 Minimum Wage~~

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~~Chapter 18.20
Minimum Wage~~

~~Sections:~~

~~18.20.010 Findings.~~

~~18.20.020 Authority.~~

~~18.20.030 Relationship to other requirements.~~

~~18.20.040 Definitions.~~

~~18.20.050 Application.~~

~~18.20.060 Minimum wage required.~~

~~18.20.070 Waivers; exemptions.~~

~~18.20.080 Repealed.~~

~~18.20.090 Exercise of rights protected; retaliation prohibited.~~

~~18.20.100 Notice and posting.~~

~~18.20.110 Employer responsibilities.~~

~~18.20.120 Enforcement.~~

~~18.20.130 Severability.~~

~~**18.20.010 Findings.**~~

~~A. Many persons employed in the City are paid wages which are insufficient to sustain minimum standards of living in the City.~~

~~B. Minimum standards of living in the City are higher than the minimum standards of living in many other areas of the state.~~

~~C. Minimum wage standards promote the general welfare, health, and prosperity of residents and businesses in Tacoma by ensuring that workers can better support and care for their families.~~

~~D. Minimum wage standards promote greater income equality.~~

~~E. Minimum wage standards in the City are necessary to:~~

~~1. promote the health and welfare of City residents;~~

~~2. safeguard employers and employees against unfair competition;~~

~~3. increase the stability of industry in the City;~~

~~4. increase the buying power of employees in the City; and~~

~~5. decrease the need for the City to spend public money for the relief of employees who also live in the City.~~

~~**18.20.020 Authority.**~~

~~This chapter is adopted pursuant to the powers vested in the City of Tacoma under the laws and Constitution of the State of Washington, including, but not limited to, the police powers vested in the City pursuant to Article XI, Section 11, of the Washington Constitution.~~

~~18.20.030 Relationship to other requirements.~~



1 This chapter provides for payment of a local minimum hourly wage and shall not be construed to preempt
2 or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard
3 that provides for payment of higher or supplemental wages or benefits, or that extends other protections;
4 and nothing in this chapter shall be interpreted or applied so as to create any power or duty in conflict
5 with federal or state law. This chapter shall not be construed to preclude any person aggrieved from
6 seeking judicial review of any final administrative decision or order made under this chapter affecting
7 such person.

8 **18.20.040 — Definitions.**

9 In construing the provisions of this chapter, the following definitions shall be applied. Words in the
10 singular number shall include the plural, and the plural shall include the singular. If specific provisions of
11 law, code, regulation, or rule referred to herein be renumbered or amended, then the reference shall be
12 read to refer to the renumbered and/or amended provision.

13 “Adverse action” means to discharge, suspend, discipline, transfer, demote, or deny promotion, or
14 threaten to do any of the prior listed actions, by an employer of an employee for any reason prohibited by
15 Section 18.20.090 of this chapter.

16 “Charging party” means the person aggrieved by an alleged violation of this chapter or the person making
17 a charge on another person’s behalf, or the Director, when the Director files a charge.

18 “City” means the City of Tacoma.

19 “Director” means the Finance Director, or designee.

20 “Employ” shall have the same meaning as that term is given pursuant to the Washington Minimum Wage
21 Act.

22 “Employee” shall have the same meaning as that term is given pursuant to the Washington Minimum
23 Wage Act.

24 “Employer” shall have the same meaning as that term is given pursuant to the Washington Minimum
25 Wage Act.

26 “Minimum Wage” or “Minimum Wage Rate” shall mean the minimum hourly rates of monetary
compensation for work as specified in this chapter.

“Nonprofit Corporation” means any organization recognized as a nonprofit corporation under the
provisions of Chapter 24.03 of the Revised Code of Washington (“RCW”), and exempt from the
Washington State business and occupation tax pursuant to RCW 82.04.3651.

“Party” includes the person charging or upon whose behalf a charge is made alleging a violation of this
chapter, the person alleged or found to have committed a violation of this chapter, and the Director.

“Person” means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust,
estate, firm, co partnership, joint venture, club, company, joint stock company, business trust, municipal
corporation, political subdivision of the state of Washington, corporation, limited liability company,
association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal,
nonprofit, or otherwise, and the United States or any instrumentality thereof.

“Tip” means a verifiable sum to be presented by a customer as a gift or gratuity in recognition of some
service performed for the customer by the employee receiving the tip.

“Wage” shall have the same meaning as that term is given pursuant to the Washington Minimum Wage
Act. Tips and employer payments toward a medical benefits plan do not constitute wages for purposes of
this Chapter.

“Washington Minimum Wage Act” shall mean Chapter 49.46 of the Revised Code of Washington
 (“RCW”).

18.20.050 — Application.

Employees are covered by this chapter for each hour worked within the geographic boundaries of
Tacoma, provided that an employee who performs work in Tacoma on an occasional basis is covered by
this chapter only if the employee performs more than 80 hours of work in Tacoma within a calendar year.
Time spent in Tacoma solely for the purpose of traveling through Tacoma from a point of origin outside



Tacoma to a destination outside Tacoma, with no employment related or commercial stops in Tacoma except for refueling or the employee's personal meals or errands, is not covered by this chapter. An employee who is not covered by this chapter is still included in any determination of the size of the employer.

18.20.060 — Minimum wage required.

A. Beginning February 1, 2016, and until January 1, 2017, every employer shall pay to each employee who has reached the age of 16 years wages at a rate of not less than \$10.35 per hour.

B. Beginning January 1, 2017, and until January 1, 2018, every employer shall pay to each employee who has reached the age of 16 years wages at a rate of not less than \$11.15 per hour.

C. Beginning January 1, 2018, and until January 1, 2019, every employer shall pay to each employee who has reached the age of 16 years wages at a rate of not less than \$12.00 per hour.

D. Beginning January 1, 2019, and each following January 1st as set forth under subsection E, every employer shall pay to each employee who has reached the age of 16 years wages at a rate of not less than the applicable amount established under subsection E.

E. On September 30, 2018, and on each following September 30th, the Director shall calculate an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. The adjusted minimum wage rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the 12 months prior to each September 1st as calculated by the United States Department of Labor and as used by the state of Washington at that time. Each adjusted minimum wage rate calculated under this Subsection E takes effect on the following January 1st.

18.20.070 — Waivers; exemptions.

Employers issued special certificates pursuant to RCW 49.46.060 are exempt from the requirements of Section 18.20.060 of this chapter to pay minimum wage to those employees who are subject to the certificate(s); provided that, the employer is in compliance with the terms and conditions of the certificate(s) issued.

18.20.080 — Review. *Repealed by Ord. 28541.*

18.20.090 — Exercise of rights protected; retaliation prohibited.

A. It shall be a violation 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 chapter.

B. It shall be a violation for an employer to take adverse action against an employee because the employee has exercised in good faith the rights protected under this chapter.

C. The protections afforded under this subsection shall apply to any person who mistakenly, but in good faith, alleges violations of this chapter.

18.20.100 — Notice and posting.

A. Employers shall give notice that employees are entitled to payment of minimum wage; the current minimum wage rate and their rights under this chapter; that adverse action against employees who exercise any right under this chapter is prohibited; and that each employee has the right to file a charge if payment of minimum wage, as required by this chapter, is denied by the employer or the employer takes an adverse action against an employee for exercising rights granted under this chapter.

B. The Director shall create and make available to employers a model notice, hereinafter referred to as the "Notice," which contains the information required under paragraph A of this subsection for their use in complying with this subsection. The Notice shall be printed in English and Spanish and any other languages that the Director determines are needed to notify employees of their rights under this chapter.

C. Employers may comply with this section by posting the Notice in a conspicuous and accessible place in each establishment where employees are employed.

D. Employers may also comply with this section by including the Notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, or by distributing a copy of



the Notice to each new employee upon hiring. In either case, distribution may be accomplished electronically.

1 **18.20.110 — Employer responsibilities.**

2 A. Employers shall certify compliance with this chapter upon application for and renewal of their City of Tacoma business license.

3 B. Employers shall retain records documenting hours worked by employees in the City of Tacoma, and the wages paid to such employees. Employers shall retain such records for a period of three years, and shall allow the Director access to such records, with at least five business days' notice and at a mutually agreeable time, to investigate potential violations and to audit compliance with the requirements of this chapter. Employers shall make copies of these records available to employees upon request and within a reasonable period of time.

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6 C. Records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members created for purposes of this chapter are required to be maintained as confidential medical records in separate files and/or records from the usual personnel files. If the Americans with Disabilities Act ("ADA") applies, then these records must comply with ADA confidentiality requirements.

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8 **18.20.120 — Enforcement.**

9 A. Powers and duties of Director.

10 1. The Director is authorized to enforce this chapter, and may promulgate rules and regulations consistent with this chapter, provided that the Director shall hold one or more public hearings prior to adoption of final rules and regulations.

11 2. The Director shall attempt to conciliate and settle by agreement, any alleged violation or failures to comply with the provisions of this chapter.

12 B. Charge filing.

13 1. A charge alleging a violation of this chapter shall be in writing, on a form or in a format determined by the Director and signed by or on behalf of a charging party, and shall describe the violation complained of and shall include a statement of the dates, places, and circumstances and the persons responsible for the alleged violation.

14 2. A charge alleging a violation of this chapter may also be filed by the Director whenever the Director has reason to believe that any person has been engaged or is engaging in a violation of this chapter.

15 C. Citations and Notices of Assessment, Determinations of Compliance, and Civil Penalties.

16 1. The Director shall issue either (a) a citation and notice of assessment or (b) a determination of compliance no later than 60 calendar days after receipt of the charge, unless the Director extends the response date. Notice of the extended date will be provided by the Director to the parties in writing.

17 2. The citation and notice of assessment or determination of compliance shall be delivered in writing to all parties by personal delivery or first-class mail.

18 3. If the Director determines that a violation has occurred and issues a citation and notice of assessment, the assessment shall include a determination of all unpaid wage amounts that are due, plus interest of 1 percent per month. The assessment may not include any amounts owed more than three years before the date the charge was filed.

19 4. If the Director finds any violation of this chapter, the Director may issue a civil penalty in the amount of \$250, provided the Director may waive or reduce the civil penalty if the employer comes into compliance within ten calendar days of the notice or shows that its failure to comply was due to reasonable cause and not willful neglect. If the Director finds a willful violation of this chapter which results in a citation and notice of assessment, the Director may issue a civil penalty that shall not be less than \$250 or an amount equal to two times the total value of unpaid wages the employer failed to credit or pay the employee, whichever is greater, provided the Director may waive or reduce the civil penalty if the employer has not previously been found by the Director to have willfully violated this chapter, and the employer provides payment to the employee of all amounts of unpaid wages and interest due, all as



determined in the citation and notice of assessment, within ten business days of receipt of the citation and notice of assessment.

1 5. Payment by the employer, and acceptance by the employee of all unpaid wages and interest assessed
2 by the department in a citation and notice of assessment shall constitute full and complete satisfaction by
the employer of all payment requirements in the citation and notice of assessment.

3 6. Nothing in this chapter shall be construed as creating a private cause of action for employees to file suit
against an employer.

4 **D. Administrative Review by Director.**

5 **1. General.**

6 A person to whom a Citation and Notice of Assessment (“Citation”) or a Determination of Compliance
7 (“Determination”) or civil penalty (“Penalty”) is assessed may request an administrative review of the
Citation, Determination, or Penalty.

8 **2. How to request administrative review.**

9 A person may request an administrative review of the Citation, Determination, or Penalty by filing a
10 written request with the Director within ten calendar days from the date of the Citation, Determination, or
Penalty. The request shall state, in writing, the reasons the Director should review the Citation,
Determination, or Penalty. Failure to state the basis for the review in writing shall be cause for dismissal
of the review. Upon receipt of the request for administrative review, the Director shall review the
information provided.

11 **3. Decision of Director.**

12 After considering all of the information provided, the Director shall determine whether a violation has
occurred and shall affirm, vacate, suspend, or modify the Citation, Determination, or Penalty.

13 The Director’s decision shall be delivered, in writing, to all parties by first class mail.

14 **E. Appeals to the Hearing Examiner of Director’s Decision.**

15 Appeal of the Director’s decision shall be made within ten calendar days from the date of the Director’s
16 decision by filing a written notice of appeal, clearly stating the grounds that the appeal is based upon,
with the Hearing Examiner, which appeal shall be governed by TMC 1.23. The Hearing Examiner shall
17 notify all parties, by mail, of the time and place of hearing.

18 **18.20.130 — Severability.**

19 If any provision or section of this chapter shall be held to be void or unconstitutional, all other parts,
20 provisions, and sections of this chapter not expressly so held to be void or unconstitutional shall continue
21 in full force and effect.
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