

An Ordinance to Amend Sections 1:813, 1:814, 1:817, 1:818, and 1:820 of Chapter 23, Living Wage Requirements in City Contracts and Grants.

The City of Ann Arbor Ordains:

Section 1: That Section 1:813 of Chapter 23, Living Wage Requirements in City Contracts and Grants, of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:813. Definitions.

For purposes of this Chapter, the following definitions shall apply:

- (1) *Contractor/vendor* is a person or entity that has a contract with the City primarily for the furnishing of services where the total amount of the contract or contracts with the City exceeds ~~\$10,000~~25,000.00 for in any ~~12 month period~~one fiscal year. "Contractor/vendor" does not include:
 - (a) A person or entity that has a contract with the City primarily for the purchase of goods or property, or for the lease of goods or property to or from the City; or
 - (b) A person or entity that has a contract with the city funded by the community events budget.
 - (c) A non-profit entity which provides human services to City residents pursuant to a contract or grant with the City.
- (2) *Covered employee* means a person employed by a covered employer to perform services which are covered or funded by the contract with or grant from the City; provided, however, that persons who are employed pursuant to federal, state or local laws relating to prevailing wages shall be exempt from this chapter.
- (3) *Covered employer* means a contractor/vendor or grantee that has not been granted an exemption from this chapter pursuant to Section 1:817.
- (4) *Employee* means an individual who provides personal services performed for wages under any contract calling for the performance of personal services, whether written or oral, express or implied. The term "employee" does not include any individual who volunteers to perform services for an employer if:
 - (a) The individual receives no compensation or is paid expenses,

reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and

(b) Such services are not the same type of services which the individual is employed to perform for such employer.

(5) *Employee health benefits* or *health benefits* means providing health care benefits for employees (or employees and their dependents) at employer cost or making an employer contribution toward the purchase of such health care benefits for employees (or employees and their dependents), provided that the employer cost or contribution equals no less than \$1.00 an hour for the average work week of such employee, and provided further that any employee payment or contribution toward health care shall not exceed 50 cents an hour for the average work week for such employee.

(6) *Grant* means any form of financial assistance to a "Grantee" as set forth and defined in Section 1:813(7). "Grant" does not include financial assistance used for the purchase or lease of property or other non-personnel costs.

(7) *Grantee* is a person or entity that is a recipient of any financial assistance from the City in the form of any federal, state or local grant program administered by the City, revenue bond financing, tax increment financing, tax abatement, tax credit, direct grant, or any other form of financial assistance that exceeds \$~~10,000~~25,000.00 ~~for any one fiscal year~~12 month period, including any contractors, subcontractors, or leaseholders of the grantee whose contract, subcontract or lease with the grantee exceeds \$~~10,000~~25,000.00 ~~for in any one fiscal year~~12 month period.

(8) *Living wage* means a wage equal to the levels established in Section 1:815.

(9) *Person* means any individual, copartnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

~~(10) \$10,00.00 for any 12 month period is computed by taking the total amount of the contract, grant or loan and dividing it by the number of months the contract, grant or loan covers.~~

Section 2: That Section 1:814 of Chapter 23, Living Wage Requirements in City Contracts and Grants, of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:814. Applicability.

- (1) This Chapter shall apply to any person that is a contractor/vendor or grantee as defined in Section 1:813 that employs or contracts with five (5) or more individuals; provided, however, that this Chapter shall not apply to a non-profit contractor/vendor or non-profit grantee unless it employs or contracts with ten (10) or more individuals, and it shall not apply to non-profit contractor/vendors or non-profit grantees which provide human services to residents of the City pursuant to a contract or grant with the City.
- (2) This Chapter shall apply to any grant, contract, or subcontract or other form of financial assistance awarded to or entered into with a contractor/vendor or grantee after the effective date of this Chapter and to the extension or renewal after the effective date of this Chapter of any grant, contract, or subcontract or other form of financial assistance with a contractor/vendor or grantee.

Section 3: That Section 1:817 of Chapter 23, Living Wage Requirements in City Contracts and Grants, of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:817. Exemptions.

Notwithstanding any other provisions in this Chapter, the following exemptions shall apply:

- (1) Sweat equity contracts for home construction or rehabilitation grant will not subject the grantee to coverage under this Chapter. Housing construction or rehabilitation grants or contracts that are passed through to a contractor in their entirety are exempt from the provisions of this Chapter, even when the City participates in the selection of the contractor.
- (2) For any contract or grant, the City ~~Council~~ Administrator may grant a partial or complete exemption from the requirements of this Chapter if ~~the/she~~ determines one of the following:
 - (a) To avoid any application of this Chapter that would violate federal, state or local law(s); or
 - (b) The application of this Chapter would cause demonstrated economic harm to an otherwise covered employer that is a non-profit organization, and the City ~~Council~~ Administrator finds that said harm outweighs the benefits of this Chapter; provided further that the otherwise covered non-profit employer shall provide a written

plan to fully comply with this Chapter within a reasonable period of time, not to exceed three years, and the City ~~Council~~Administrator then agrees that granting a partial or complete exemption is necessary to ameliorate the harm and permit the non-profit organization sufficient time to reach full compliance with this Chapter.

- (3) A loan shall be considered a grant under this ordinance only to the extent that a loan is provided at below market interest rates and then only the difference between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan, shall be treated as financial assistance under this ordinance.
- (4) A payment of funds for the purpose of purchasing services, property, or goods on behalf of individuals being assisted by a covered employer or potentially covered employer (sometimes known as a "pass through" grant) that is used for said purchases shall not be considered a grant; such funds shall be considered a grant only to the extent that any such funds are retained by the covered employer or potentially covered employer to provide financial assistance and support to its own operations.

Section 4: That Section 1:818 of Chapter 23, Living Wage Requirements in City Contracts and Grants, of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:818. Monitoring and enforcement.

- (1) Every covered employer shall agree to the payment of a living wage as a condition of entering into or renewing a covered contract or grant with the City, shall agree to post a notice regarding the applicability of this Chapter in every work place or other location in which employees or other persons contracted for employment are working, and shall agree to provide payroll records or other documentation as deemed necessary within ten (10) business days from the receipt of the City's request. All City contracts and grants covered by this Chapter shall provide that a violation of the living wage requirements of this Chapter shall be a material breach of the contract or grant. The ~~Human Rights Oprocurement~~ officer of the City shall monitor the compliance of each contractor/vendor or grantee under procedures ~~developed by the Human Rights Office and~~ approved by the City Administrator.
- (2) Each covered employer shall submit to the ~~Human Rights Oprocurement~~ officer of the City information regarding number of employees and applicable wage rates of its employees covered by this Chapter in such manner as requested by that office. At the request of the ~~Human Rights~~

Procurement officer, any contractor/vendor or grantee shall provide satisfactory proof of compliance with the living wage provisions of this Chapter.

- (3) Any person may submit a complaint or report of a violation of this Chapter to the Human RightCity Attorney's Office. Upon receipt of such a complaint or report, the Human RightCity Attorney's Office shall investigate to determine if there has been a violation.

Section 5: That Section 1:820 of Chapter 23, Living Wage Requirements in City Contracts and Grants, of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:820. Private actions for damages or injunctive relief.

- (1) An employee or person contracted for employment by a covered employer who is denied payment of the applicable living wage in violation of this Chapter may bring a civil action for appropriate injunctive relief or damages or both against the person(s) who acted in violation of this Chapter. No employee or person shall bring a civil action alleging a violation of this Chapter unless the employee or person has first provided a written allegation of the violation of this Chapter to the Human RightCity Attorney's Office and the covered employer no less than ninety (90) days prior to filing said civil action. After at least ninety (90) days have passed after the written allegation has been provided, the employee or person shall be free to proceed with a civil action. Any civil action under this Section must be brought within one year of the last date of the violation. The last date of the violation shall be determined by the last paycheck received by the employee or person that did not contain the Living Wage.
- (2) As used in subsection (1), "damages" means restitution of the difference between amounts actually paid and the living wage that should have been paid, interest, and reasonable attorney fees and costs.
- (3) Private actions and remedies under this Section shall be in addition to any actions for violations which the City may take.

Section 6: In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 7: This Ordinance shall take effect ten days after passage and publication.