

# Summary of Saint Paul Living Wage Ordinance

## February 1, 2013

The Saint Paul City Council has adopted a new Living Wage Ordinance (File 06-1071). This Ordinance replaces the Living Wage Resolution passed by the Council in 1997 for contracts executed and subsidies given after February 14, 2007.

### Application

- The Ordinance applies to the "City" which includes both the City of Saint Paul and the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota.
- The Ordinance applies to a (a) City Contract which means a contract and any amendments for services not covered by Administrative Code Section 82.07 valued in the aggregate at \$100,000 or more. A City Contract does not include certain contracts of the Parks Department and Office of Financial Services or contract health care benefits.
- (b) City Business Subsidy which means financial assistance with a value of \$100,000 or more in any of the following forms: grant; contribution of personal or real property; reduction in interest rates on a loan which is the present value of the difference in the interest rate given by the City and that rate commercially available to the recipient; reduction or deferral of any tax, assessment or fee; guaranty of any loan, lease or other obligation; tax increment financing; revenue bonds; tax credits; or other City participation. Conduit bonds and infrastructure are not a City Business Subsidy.
- (c) City Subcontract which means a contract for services valued at \$100,000 or more to perform a portion of the services described in a City Contract.
- (d) Tenant which means the initial for-profit or not-for-profit entity or person that leases from a City Business Subsidy recipient space in the specific location for which the subsidy was given, and if there is more than one such initial entity or person, it means the entity or person that leases the greatest amount of space and any entity or person that leases space of 15,000 or more square feet.

### Requirements-Payment of Living Wage

- Any City Contract or City Subcontract must require payment of a living wage for the duration of a contract to each employee who is working pursuant to the contract or subcontract or who is employed in the specific location for which the contract or subcontract is intended to benefit.
- Any recipient of a City Business Subsidy and Tenant must pay a living wage to each employee (and in the case of a Tenant to an independent contractor as well) who is employed in the location for which the subsidy was provided for the longer of the duration of a City Business Subsidy or 3 years.
- A living wage is 130 percent of the federal poverty level for a family of four (**\$14.72 for 2013**) or 110 percent (**\$12.45 for 2013**) if the employer provides basic health insurance as that term is defined in the Ordinance.

### Exemptions:

- Entities- The following entities are exempt from paying a living wage: for-profit entity that qualifies as a small business under Minn Stat 645.445; 501(c) entity that qualifies under Minn Stat 645.445, subd. 2; a recipient of a job readiness and training services contract; a recipient bound by a collective bargaining agreement; an intermediary such as a community development corporation, community investment group or community bank, who serve as a pass-through agency for the assistance; and 501(c) entities that are sole source providers of product or service.
- Housing is not exempt.

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- Employees- A recipient of a City Contract, City Subcontract or City Business Subsidy and a Tenant may request and obtain from the City Council exemptions from paying a living wage to the following types of employees: (a) temporary internships intended to provide career exposure to new entrants to the workforce lasting no more than 12 consecutive months; (b) individuals placed as a result of a job readiness or job training program or those persons with serious mental and physical barriers to employment; and (c) seasonal, part-time or temporary employees whose employment does not reduce or offset the work of permanent employees provided that no more than 10 percent of such employees can be exempted and use of such employees is not intended to avoid the requirements of the Ordinance.

### Waiver

- The requirements of the Ordinance may be waived by the City Council or HRA Board prior to the execution of a City Contract or City Business Subsidy after a public hearing and a finding of a compelling public purpose.
- After the execution of a City Business Subsidy a recipient who can demonstrate it will suffer an economic hardship due to the occurrence of significant unforeseen circumstances beyond its control may request a waiver.

### Reporting

- A yearly report on compliance will be required by all recipients for the duration of its obligation to pay living wages.

### Enforcement/Penalties

- PED will enforce the Ordinance with respect to a City Business Subsidy and will propose regulations to the City Council to administer compliance.
- Office of Financial Services will enforce the Ordinance with respect to a City Contract and will propose regulations to the City Council to administer compliance.
- Any recipient of a City Contract, City Business Subsidy, City Subcontract or Tenant must provide written notice to its employees of the Ordinance and a copy of the Ordinance.
- Any recipient that fails to meet the living wage requirements of the Ordinance is not eligible for a City Contract or City Business Subsidy in the next contract cycle or calendar year; and must repay a portion of the contract or subsidy depending on the level of non compliance.

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#### 645.445 Small business; definitions

Subd. 2. Small business. "Small business" means a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:

- (a) Is not an affiliate or subsidiary of a business dominant in its field of operation; and
- (b) Has 20 or fewer full-time employees; or
- (c) In the preceding fiscal year has not had more than the equivalent of \$ 1,000,000 in annual gross revenues; or
- (d) If the business is a technical or professional service, shall not have had more than the equivalent of \$ 2,500,000 in annual gross revenues in the preceding fiscal year.

Subd. 3. Dominant in field of operation. "Dominant in its field of operation" means having more than 20 full-time employees and more than \$ 1,000,000 in annual gross revenues or \$ 2,500,000 in annual gross revenues if a technical or professional service.

Subd. 4. Affiliate or subsidiary of business dominant in field of operation. "Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a

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business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

### **Wage History for the Living Wage Ordinance**

Year	Rate W/O Insurance	Rate w/ Health Ins
	<b>130%</b>	<b>110%</b>
2012	\$14.41	\$12.19
2011	\$13.98	\$11.82
2010	\$13.78	\$11.66
2009	\$13.78	\$11.66
2008	\$13.25	\$11.22
2007	\$12.91	\$10.92

### **Wage History for the Living Wage Policy**

	<b>110%</b>	<b>100%</b>
2006	\$10.58	\$9.62
2005	\$10.24	\$9.31
2004	\$9.97	\$9.07
2003	\$9.73	\$8.85
2002	\$9.59	\$8.71
2001	\$9.34	\$8.49
2000	\$9.02	\$8.20
1999	\$8.83	\$8.02
1998	\$8.70	\$7.91
1997	\$8.49	\$7.72

## ANNUAL CERTIFICATE OF NOTIFICATION TO EMPLOYEES

### AND PAYMENT OF LIVING WAGE

This Certificate is made pursuant to that certain [*loan/development agreement*] [dated \_\_\_\_\_, 200\_] by and between the [*City of Saint Paul/Housing and Redevelopment Authority of the City of Saint Paul, Minnesota*] and [*name*] ("Agreement").

This Certificate is for the reporting period beginning \_\_\_\_\_, 200\_ and ending December 31, 200\_ [or \_\_\_\_\_, the end of the contract term] ("Reporting Period").

The undersigned, a [*City Contractor, City Subcontractor, City Business Subsidy recipient, or Tenant*] ("Company") certifies as follows:

1. This Certificate is intended to evidence compliance with the Saint Paul Living Wage Ordinance codified as Chapter 98 of the Saint Paul Administrative Code ("Ordinance") and the Agreement. All terms used herein are defined in this Certificate, Agreement and/or Ordinance.
2. Each employee who worked for the Company during the Reporting Period was given written notice that they may be covered by the terms of the Ordinance and a written copy of the Ordinance.
3. A living wage has been paid to each employee, and in the case of a Tenant to each independent contractor as well of the Company, entitled to receive payment of this living wage as required in the Agreement and Ordinance for the Reporting Period.
4. As of the end of this Reporting Period there are \_\_\_\_ employees and \_\_\_\_ independent contractors of a Tenant receiving living wages.
5. Upon request by the City/HRA the Company will promptly produce documents evidencing the written notification to employees of the Ordinance and supporting payment of a living wage to each person including without limitation quarterly wage detail reports submitted to the State of Minnesota.

I certify under penalty of perjury that the information contained in this Certificate is true and correct as of the date this Certificate is executed.

[*Company name*]

By \_\_\_\_\_  
Its \_\_\_\_\_

Dated: \_\_\_\_\_, 200\_.

St. Paul, Minnesota, Code of Ordinances >> PART III - ADMINISTRATIVE CODE >> Title IV - POLICIES AND PROCEDURES >> Chapter 98. - Living Wage >>

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Chapter 98. - Living Wage

**Sec. 98.01. - Short title.**

This chapter shall be called the "Saint Paul Living Wage and Responsible Public Spending Ordinance."

(C.F. No. 06-1071, § 1, 1-3-07)

**Sec. 98.02. - Purpose.**

Recognizing that the city awards business subsidies and is a major contractor for services, the city enacts this chapter to promote the creation and retention of living wages and full time positions, and to increase the wages of service employees and employees whose employers are subsidized by the city or whose employer enters into a contract with the city in order to improve public health and welfare, promote the economic strength of the city, and reduce the pressure on governmental services and programs. Nothing in this chapter shall abrogate or modify any rights or obligations specified in chapter 85 of the Saint Paul Administrative Code.

(C.F. No. 06-1071, § 1, 1-3-07)

**Sec. 98.03. - Definitions.**

A. *Basic health insurance* means:

- (1) An insurance or self-insured group health plan including any federally approved self-funded plan established under the Employee Retirement Income Security Act of 1974 (ERISA) as amended where an employer pays at least seventy-five (75) percent of the premium for individual coverage plus fifty (50) percent of the premium for family coverage; deductibles and out-of-pocket maximums cannot be greater than those allowed by the Internal Revenue Service for health reimbursement arrangements and plan design must meet the minimum required by health reimbursement arrangements and state law;
- (2) A deductible insurance plan offered by an employer where in-network deductibles do not exceed twenty-five (25) percent for office visits, inpatient care, outpatient care and/or urgent/emergency care, there is a one thousand five hundred dollars (\$1,500.00) out of pocket maximum for individual and three thousand dollars (\$3,000.00) out of pocket maximum for family, and any out-of-network deductible plan's out-of-pocket maximum does not exceed two thousand dollars (\$2,000.00) for individual and four thousand dollars (\$4,000.00) for family; or
- (3) An employer offers a health plan not less in value than that provided to first level supervisory employees provided that the benefit costs employers a minimum of seventy-five (75) percent of the difference between one hundred ten (110) percent and one hundred thirty (130) percent of the federal poverty level for a family of four (4).

- B. *City* means the City of Saint Paul and the housing and redevelopment authority of the City of Saint Paul, Minnesota.
- C. *City contractor* means a for-profit or not-for-profit entity or person that is a party to a city contract.
- D. *City contract* means a contract for services and any amendments thereto between the city and city contractor not covered by section 82.07 of the Administrative Code with the city valued in the aggregate at one hundred thousand dollars (\$100,000.00) or more. A city contract does not include:
  - (a) A contract whereby the city contractor manages city owned land and/or improvements on behalf of the city's parks department and the city contractor pays a portion of the revenues to the city; or
  - (b) A contract whereby the city contractor provides depository and/or financial services to the city; or
  - (c) A contract whereby the city contractor provides contract health care benefits to city employees.

Nothing in this chapter shall abrogate or modify any rights or obligations specified in chapter 85 of the city's Administrative Code.

- E. *City business subsidy* means any of the following extended by the city to a recipient with a value of one hundred thousand dollars (\$100,000.00) or more:
  - (a) A grant;
  - (b) A contribution of personal property;
  - (c) A contribution of real property;
  - (d) With respect to a loan given by the city, the present value of the difference in the interest rate given by the city and that rate commercially available to the recipient;
  - (e) Any reduction or deferral of any tax, assessment or fee;
  - (f) Any guarantee of any payment under any loan, lease, or other obligation;
  - (g) Tax increment financing;
  - (h) The issuance of revenue bonds;
  - (i) Tax credits; or
  - (j) Other city participation.

Conduit bonds and infrastructure are not a city business subsidy.

- F. *City business subsidy recipient* means a for-profit or not-for-profit entity that receives a city business subsidy.
- G. *City subcontract* means a contract for services between a city contractor and city subcontractor valued at one hundred thousand dollars (\$100,000.00) or more to perform a portion of the services described in a city contract.
- H. *City subcontractor* means a for-profit or not-for-profit entity or person that is a party to a city subcontract.
- I. *Full-time employee* means, for purposes of determining whether an entity qualifies as a small business under Minn. Stat. 645.445, one job, or a combination of jobs that will produce annualized cumulative expected hours of work, not including overtime, equal to 2,080 hours. To qualify as a full-time employee, the job must pay social security and worker's compensation.
- J. *Job readiness and training services* means services whose purpose and intent is to help individuals establish a stable work history by addressing the social and economic barriers to employability, including training, apprenticeship, and adequate day care.

- K. *Sole source* means a source of products or services that is the only viable market option for the city.
- L. *Tenant* means the initial for-profit or not-for-profit entity or person that leases from a city business subsidy recipient space in the specific location for which the city business subsidy was provided, or if there is more than one (1) such initial entity or person then it means the entity or person that leases the greatest amount of space and any entity or person that leases space of fifteen thousand (15,000) or more square feet.
- M. *Tenant subcontractor* means a person, other than an employee of a tenant, who performs services at the specific location for which the city business subsidy was provided under a contract between that person or that person's employer and a tenant.

(C.F. No. 06-1071, § 1, 1-3-07; C.F. No. 09-1135, § 1, 11-12-09)

#### Sec. 98.04. - Living wage/job creation and retention.

- A. *Payment of living wage.*
  - 1. *City contract; city subcontract.* Any city contract, or city subcontract must require city contractors and city subcontractors to pay an hourly wage that is at least the living wage for the duration of the contract to each employee who is working pursuant to the city contract or city subcontract or who is employed in the specific location for which the city contract or city subcontract is intended to benefit.
  - 2. *City business subsidy.* Any city business subsidy recipient and tenant must agree to pay an hourly rate that is at least the living wage to each employee who is employed in the location for which the city business subsidy was provided and a tenant must pay at least a living wage to each tenant subcontractor for the longer of the following:
    - (a) The duration of the city business subsidy agreement; or
    - (b) Three (3) years.
- B. *Calculation of living wage.* The living wage shall be a wage level equivalent to at least one hundred thirty (130) percent of the federal poverty level for a family of four (4). For employers that provide employees basic health insurance, the living wage shall be a wage level equivalent to at least one hundred ten (110) percent of the federal poverty level for a family of four (4). The living wage shall be based on the then current federal poverty level and shall be adjusted within one (1) week after the federal government adjusts the rate.
- C. *Job creation and retention.* A city business subsidy recipient must enter into a city business subsidy agreement with the city that includes:
  - (1) A description of the subsidy;
  - (2) A statement of the public purpose for the subsidy;
  - (3) Goals for the number of jobs created and/or retained; and
  - (4) Wage goals for any jobs created and/or retained.
- D. *Approval of city contract and city business subsidy.* All city contracts and city business subsidies must be approved by the city council and/or the board of commissioners of the housing and redevelopment authority of the city by a resolution approving a budget or the city contract or city business subsidy.
- E. *Exemptions.*
  - 1. *Entities.* The following entities are exempt from the living wage requirement:
    - a. Any incorporated entity, organized for profit, that falls within the definition of a small business under Minnesota Statute 645.445;
    - b.



Any 501 (c) entity which falls under the criteria laid out in Minnesota Statute 645.445, subdivision 2;

- c. Any recipient of a city contract, city business subsidy or city subcontract or tenant that contains an express provision that the purpose of the contract or subsidy is job readiness and training services and that the recipient or tenant is exempt from the living wage requirement;
  - d. Any recipient of a city contract, city business subsidy or city subcontract for whom the city council determines that application of the living wage requirement would conflict with a state or federal law or program requirement;
  - e. Any recipient of a city contract, city business subsidy or city subcontract or tenant which is bound by a collective bargaining agreement for the period of the contract or the subsidy, provided that the entity is only exempt for those employees who are covered by a collective bargaining agreement and employees not covered by a collective bargaining agreement shall receive a living wage;
  - f. Any recipient that is an intermediary, such as a community development corporation, community investment group, or community bank, which serves as a pass-through agency for the granting of assistance;
  - g. 501(c) entities that are sole source providers of product or service.
2. *Employees.*
- a. A recipient of a city contract, city subcontract, or city business subsidy and a tenant may request and obtain exemptions from the living wage requirements for the following types of employees:
    - 1. Temporary internships or similar positions that are intended to provide career exposure to new entrants to the workforce, lasting no more than 12 consecutive months;
    - 2. Individuals who are placed with the employer as the result of a job readiness or job training program or who are participants in an employment program that provides work opportunities for those with serious mental and physical barriers to employment or similar employer sponsored work opportunity program for individuals with serious mental and physical barriers to employment;
    - 3. Seasonal, part-time or temporary employees whose employment does not reduce or offset the work of permanent employees, on the conditions that (a) no more than ten (10) percent of such seasonal, part-time or temporary employees can be exempted, and (b) that the city contractor, city subcontractor or city business subsidy recipient or tenant is not intending to utilize such labor to avoid the requirements of this subsection.

F. *Enforcement.*

- 1. Any recipient of a city contract or city subcontract that fails to meet the living wage requirements of this chapter at any time during the duration of the contract, and any city business subsidy recipient that fails to meet the living wage or wage goals and other requirements of this chapter at any time during the duration of the subsidy, shall:
  - (a) Not be eligible for a city business subsidy or city contract in the next contract cycle or the next calendar year; and
  - (b)

Shall repay to the city an amount determined as follows: the entire value of the contract or subsidy if compliance is less than fifty (50) percent of the requirement, one-half of the value of the contract or subsidy if compliance is fifty (50) percent or more but less than eighty (80) percent of the requirement, and proportionate to the value of the contract or subsidy if compliance is eighty (80) percent or more but less than one hundred (100) percent of the requirement.

2. No city contractor, city subcontractor city business subsidy recipient or tenant shall discharge, demote, harass, or otherwise take adverse action against any individual because such individual seeks enforcement of the living wage requirement or testifies, assists, or participates in any manner in an investigation, hearing, or other proceeding to enforce this chapter.
3. No city contractor, city subcontractor city business subsidy recipient or tenant shall split or subdivide a contract or subsidy, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor to avoid payment of a living wage.
4. This chapter shall be enforced by the department of planning and economic development, or its successor agency, with respect to a city business subsidy, which shall propose regulations for council approval as are necessary to implement and administer compliance with the city business subsidy. This chapter shall be enforced by the office of financial services or its successor agency, with respect to a city contract, which shall propose regulations for council approval as are necessary to implement and administer compliance with the city contract. Enforcement shall include but not be limited to receiving, investigating and attempting to resolve complaints by employees and tenant subcontractors.
5. Any recipient of a city contract or city business subsidy or city subcontract or tenant shall provide written notice to its employees that they may be covered by the terms of this chapter as specified in section 98.04(A) and shall also provide its employees a written copy of this chapter.

(C.F. No. 06-1071, § 1, 1-3-07; C.F. No. 07-294, § 1, 4-25-07)

#### **Sec. 98.05. - Application.**

This chapter shall apply to any city contract, city subcontract or city business subsidy executed after the effective date of this chapter.

(C.F. No. 06-1071, § 1, 1-3-07)

#### **Sec. 98.06. - Severability.**

If any provision or application of this chapter is declared illegal, invalid, or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid, or inoperative shall remain in force or effect.

(C.F. No. 06-1071, § 1, 1-3-07)

#### **Sec. 98.07. - Waiver for city business subsidy.**

- (a) *Prior to execution of city business subsidy agreement.* The requirements of this chapter may be waived in whole or in part by the city council or HRA board of commissioners prior to the

execution of a city contract or city business subsidy agreement after a public hearing, consideration of both advantages and disadvantages of a waiver, and upon a finding of a compelling public purpose.

- (b) After execution of city business subsidy agreement. Any city business subsidy recipient who can demonstrate that it will suffer an economic hardship due to the occurrence of significant unforeseen circumstances beyond the control of the city business subsidy recipient that have occurred subsequent to the city business subsidy agreement may request a waiver from the requirements of this chapter and such waiver may be given by the city council or HRA board of commissioners.

*(C.F. No. 06-1071, § 1, 1-3-07)*