

ORDINANCE NO. 130-2015

AN ORDINANCE CREATING CHAPTER 13A OF THE LEXINGTON-FAYETTE URBAN COUNTY CODE OF ORDINANCES ESTABLISHING A MINIMUM WAGE IN LEXINGTON-FAYETTE COUNTY OF \$8.20 PER HOUR BEGINNING JULY 1, 2016, \$9.15 PER HOUR BEGINNING JULY 1, 2017, AND \$10.10 PER HOUR BEGINNING JULY 1, 2018; PROVIDING AN EXEMPTION FOR AGRICULTURAL WORKERS; PROVIDING REMEDIES FOR EMPLOYEES PAID LESS THAN THE MINIMUM WAGE; AND PROVIDING FOR A FORMAL REVIEW OF THE MINIMUM WAGE ON OR BEFORE JULY 1, 2018.

WHEREAS, at least twenty cities across the United States have increased their local minimum wage, including Louisville, Kentucky; and

WHEREAS, a minimum wage increase would reduce labor turnover, improve organizational efficiency, increase worker purchasing power in our local economy, and reduce reliance on social services;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Chapter 13A of the Code of Ordinances be and hereby is created as follows:

Chapter 13A, Minimum Wage

Sec. 13A-1. Definitions.

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

- (1) *Employee*: has the same meaning as found in KRS 337.010(2)(a) and, as provided in KRS 337.010(2)(a), does not include any individual employed in agriculture, as defined in KRS 337.010(2)(b).
- (2) *Employer*: has the same meaning as found in KRS 337.010(1)(d).
- (3) *Gratuity*: has the same meaning as found in KRS 337.010(2)(c).
- (4) *Tipped Employee*: has the same meaning as found in KRS 337.010(2)(d).
- (5) *Wage*: has the same meaning as found in KRS 337.010(1)(c)(1).

Sec. 13A-2. Amount of Minimum Wage.

- (a) Every employer within the jurisdictional boundaries of Lexington-Fayette County shall pay to each of its employees wages at a rate of not less than \$8.20 per hour beginning on July 1, 2016; \$9.15 per hour beginning on July 1, 2017; and \$10.10 per hour beginning on July 1, 2018.

(b) If the federal minimum hourly wage as prescribed by 29 U.S.C. § 206(a)(1) or state minimum hourly wage as prescribed by KRS § 337.275(1) is increased in excess of the minimum hourly wage in effect under this Chapter, the minimum hourly wage in effect under this Chapter shall be increased to the same amount, effective on the same date as the federal or state minimum hourly wage rate.

Sec. 13A-3. Tipped Employees.

(a) Notwithstanding the provisions of Sec. 13A-2 of this Chapter, for any tipped employee engaged in an occupation in which he or she is customarily and regularly receiving more than thirty dollars (\$30.00) per month in tips from patrons or others, the employer shall pay an amount equal to—

- (1) the cash wage required under 29 U.S.C. § 203(m)(1); and
- (2) an additional amount on account of the tips received by such employee which amount is equal to the difference between the cash wage required under 29 U.S.C. § 203(m)(1) and the wage in effect under Sec. 13A-2 of this Chapter.

(b) The employer shall establish by his or her records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate set forth in Sec. 13A-2 was received by the employee. No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum hourly wage as required by Sec. 13A-2. Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

Sec. 13A-4. Remedies.

(a) Any employee who is paid less than the minimum wage established under the provisions of Sec. 13A-2 and Sec. 13A-3 may bring a civil cause of action, authorized in KRS 337.020, against his or her employer for the full amount of wages due from the employer.

(b) In addition to the civil remedy provided in subsection (a) directly above, any employee who is paid less than the minimum wage established under the provisions of this Chapter may submit written notice of such to the Lexington-Fayette Urban County Government Citizens' Advocate.

Sec. 13A-5. Review.

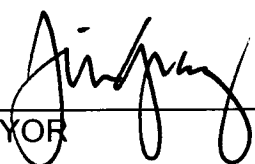
A formal review of the minimum wage established in this Chapter shall be performed on or before July 1, 2018, and shall be reviewed by the Lexington-Fayette Urban County Council unless the minimum wage established under Sec. 13A-2(a) is superseded by a higher state or federal minimum wage under Sec. 13A-2(b). The Lexington-Fayette Urban County Council shall hold at least one (1) public meeting related to the minimum wage established in this Chapter at or around the time the Council performs the review required by this section.

Sec. 13A-6. Severability.


Each section and provision of this Chapter is hereby declared to be independent and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Chapter, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or provisions and the application of such sections or provisions to any person or circumstances other than those to which it is held invalid shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

Section 2 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: November 19, 2015


MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL
Published: December 3, 2015
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