File #: O-470-14, **Version:** 2

ORDINANCE NO. _____, SERIES 2014

AN ORDINANCE RELATING TO MINIMUM WAGE TO BE PAID TO EMPLOYEES BY EMPLOYERS IN LOUISVILLE METRO. (AS AMENDED)

Sponsored By: Council Members Attica Scott, Barbara Shanklin, Cheri Bryant Hamilton, David James, Tom Owen, Tina Ward-Pugh, Mary C. Woolridge, Dan Johnson, Cindi Fowler

WHEREAS, Louisville has been recognized as a Compassionate City it is incumbent upon us to take legislative steps to help lift working families out of poverty, decrease income inequality, and boost our economy; and

WHEREAS, at least 10 cities across the United States have increased their local minimum wage and another 10 cities have proposed increases; and

WHEREAS, Kentucky Revised Statute ("KRS") 337.395 provides that any standards relating to minimum wage, maximum hours, overtime compensation, or other working conditions that are in effect under any other law in the state of Kentucky, and which are more favorable to employees than standards found in Chapter 337, shall not be deemed to be amended, rescinded or otherwise affected by KRS 337.275, 337.325, 337.345, and 337.385 to 337.405, and shall continue in full force and effect until specifically superseded by standards more favorable to such employees by operation of or in accordance with those KRS sections or regulations issued thereunder; and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; wherefore

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: New sections of LMCO Chapter 112 are hereby created as follows:

§ 112.10 Ordinance Establishing Minimum Wage for Employers to Pay Employees in Louisville Metro

SECTION II: LMCO § 112.10(A) is created as follows:

A) *Definitions*. For purposes of this section, the following definitions shall apply:

1) "Employee"- Shall be the same definition as found in KRS 337.010(2)(a) *et. seq*.

2) "Employer"- Shall be the same definition as found in KRS 337.010(1)(d).

3) "Gratuity"- Shall be the same definition as found in KRS 337.010(2)(c).

4) "Tipped Employee"- Shall be the same definition as found in KRS 337.010(2)(d).

5) "Wage"- Shall be the same definition as found in KRS 337.010(1)(c)(1).

SECTION III: LMCO § 112.10(B) is created as follows:

B) Every Employer within the jurisdictional boundaries of Louisville Metro shall pay to each of its Employees wages at a rate of not less than $8.10 $7.75 per hour beginning on July 1, 2015, $9.15 $8.25 per hour beginning on July 1, 2016, and $10.10 $9.00 per hour beginning on July 1, 2017.

(1) Beginning on July 1, 2018, and each year thereafter, the minimum wage shall be increased by an amount corresponding to the previous calendar year's increase (i.e. January 1, 2017 through December 31, 2017), if any, in the Consumer Price Index for the south urban region as published by the Bureau of Labor Statistics, U.S. Department of Labor or its successor index, with the amount of the minimum wage increase rounded up to the nearest multiple of five cents. The adjusted minimum wage shall be determined by the Metro Revenue Commission and announced by April 1 of each year and shall become effective as the new minimum wage by the corresponding July 1. However, in calculating any increase to adjust the minimum wage, the Consumer Price Index, as set forth above, shall be limited to an annual increase of no more than 3%.

(2) If the Federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1) is increased in excess of the minimum hourly wage in effect under this ordinance, the minimum hourly wage in effect under this ordinance shall be increased to the same amount, effective on the same date as the Federal minimum hourly wage rate.

SECTION IV: LMCO § 112.10(C) is created as follows:

C) Exceptions:

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1) The requirements under Section (B), above, are not applicable to any Tipped Employee engaged in an occupation in which they customarily and regularly receive a gratuity for services rendered in that occupation. Tipped Employees shall be paid, however, at a rate that is Forty-Five Percent (45%) of the minimum wage, with non-tipped hours (i.e., work with no customer contact) worked to be paid at minimum wage.

(C) Notwithstanding the provisions of subsection (B) of this section, for any Tipped Employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars ($30) per month in tips from patrons or others, the Employer may pay as a minimum not less than the hourly wage rate set forth in subsection (B) with the method prescribed by 29 U.S.C. sec. 203(m). 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 subsection (B) 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 section (B). Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

SECTION V: LMCO § 112.98 is amended to read as follows:

~~If any provision of this chapter as now or later amended, or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.~~

Each section and provision of this chapter is hereby declared to be independent sections and provisions and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said 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. Additionally, should any license procedure in this chapter be deemed invalid, the substantive regulations and restrictions contained herein shall not be affected thereby.

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SECTION VI: LMCO § 112.99 is amended to read as follows:

(D) (1) Any Employee who is paid less than the minimum wage established under the provisions of §112.04, may bring a civil cause of action, authorized in KRS 337.020, against his/her Employer for the full amount of wages due from the Employer.

(2) In addition to the civil remedy provided in subsection (D)(1) directly above, any Employer found to have violated any of the provisions of §112.04 shall be subject to a civil penalty not to exceed $100 per day, per Employee who fails to receive the minimum wage as set forth in this chapter. If a civil penalty is imposed pursuant to this section, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, Louisville Metro Government shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

SECTION VII: This Ordinance shall take effect upon its passage and approval.

_____ H. Stephen Ott Metro Council Clerk

_____ Jim King President of the Council

_____ Greg Fischer Mayor

_____ Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

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