To Ordinance No. 20376 - M.C.S.

PROPOSED AMENDMENT TO THE HOME RULE CHARTER OF THE CITY OF NEW ORLEANS TO ADD A NEW CHAPTER 5 TO ARTICLE IX THEREOF:

CHAPTER 5
MINIMUM WAGE

Section 9-501. Purpose

This Chapter is intended to provide for a minimum wage to be paid to employees who work in the City of New Orleans that will make it reasonably possible for them to earn a sufficient income to afford the basic necessities of food and shelter. This Chapter is intended to follow the scheme for calculating wages paid for the different types of employees as set forth in the Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq. (the "Act"). The minimum wage provided Section 9-503 herein exceeds the minimum wage provided in the current Act because the minimum wage provided in the current Act is insufficient to provide a living wage under conditions existing in the City of New Orleans.

Section 9-502. Definitions

(1) "Employer" includes a person, partnership, joint venture, association, corporation, company, trust or any organized group of persons acting directly or indirectly in the interest of an employer in relation to an employee performing work in the City of New Orleans, Louisiana.

(2) "Employee" includes an individual employed and performing work in the City of "New Orleans for or on behalf of an employer, and neither: (a) excluded from the definition of "employee" as provided in subsections (c)(1), (2), and (4) of Section 3 of the Act; (b) exempted from the minimum wage Under subsections (a), (d), and (g) of Section 13 of the Act; (c) employed at a reduced wage in compliance with the provisions of Section 14 of the Act and/or pursuant to a valid permit or certificate issued under authority of Section 14 of the Act; (d) a state or city civil service employee whose wages are regulated by a civil service commission; nor (e) employed on any public works contract governed by the Louisiana Public Bid Law.

(3) "Wage" paid to any employee shall include compensation paid to such employee in the form of legal tender of the United States, checks on banks convertible into cash on demand and shall include the reasonable cost to the employer of furnishing such employees with board, lodging or other facilities, if such board, lodging or other facilities are customarily furnished by such employer to his/her employees, provided that the cost of board, lodging or other facilities shall not be included as part of the wage paid to any employee (a) if it is primarily for the benefit or convenience of the employer or (b) to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee. In determining the wage of a tipped employee, the amount paid such employee by his/her employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of fifty (50) percent of the minimum wage provided in Section 9-503, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (a) such employee has been informed by the employer of the provisions of this subsection, and (b) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.
(4) "Tipped Employee" means any employee engaged in an occupation in which s/he customarily and regularly receives more than $100 per month in tips.

**Section 9-503. Minimum Wage**

An employer shall pay to each employee a wage at an hourly rate not less than six dollars fifteen cents ($6.15) or one dollar ($1.00) greater than the prevailing federal minimum wage, whichever is greater.

**Section 9-504. Increase Not Precluded**

(1) Nothing in this Chapter shall preclude the City Council of the City of New Orleans from increasing the minimum wage provided in Section 9-503 by ordinance.

(2) This Chapter shall not be construed to diminish any right of employees to bargain collectively with their employer through representatives chosen by the employees to establish wages that exceed the minimum wage provided herein.

(3) Nothing in this Chapter shall be construed to prohibit the City of New Orleans from requiring that prevailing wages be paid on public works contracts.

**Section 9-505. Enforcement**

An employer who pays to an employee less than the minimum wage provided in Section 9-503 commits a misdemeanor punishable by a fine of up to $200 for each day and each employee that wages are paid in violation thereof. Every employer employing any employees subject to this Chapter shall post and keep posted a notice stating the Chapter’s minimum wage in conspicuous places in every establishment where such employees are employed.

**Section 9-506. Severability**

If any part of this Chapter or application of the same to any person or set circumstances is for any reason held to be unconstitutional, invalid or unenforceable, such invalidity shall not affect any other provision or application of this Chapter which can be given effect without the invalid provision or application.

**Section 5-507. Effective Date**

This amendment to the Charter shall be effective ninety (90) days after approval by a majority of the electors of the City voting on the same.