

AGENDA # _____

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

amending Sections 3.45(5)(b) and (22), creating new Section 3.45(23) and renumbering current Sections 3.45(23) and (24) to (24) and (25), respectively through (16) of the Madison General Ordinances to modify portions of the minimum wage ordinance and to establish remedies for violations of the ordinance.

PRESENTED _____
REFERRED EOC

REREFERRED _____

REPORTED BACK _____

ADOPTED _____ POF _____
RULES SUSPENDED _____
PUBLIC HEARING _____

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Drafted by: Roger A. Allen
Assistant City Attorney

MAYOR SIGNED _____
PUBLISHED _____

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Date: December 2, 2004

Fiscal Note: No expenditure required.

APPROVAL OF FISCAL NOTE IS NEEDED
BY THE COMPTROLLER'S OFFICE
Approved By

Comptroller's Office

SPONSORS: Ald. King

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ORDINANCE NUMBER _____
ID NUMBER _____

The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (b) of Subsection (5) entitled "Adjustment of Minimum Wage Rate and Authority to Administer Minimum Wage Provisions" of Section 3.45 entitled "Minimum Wage Ordinance" of the Madison General Ordinances is amended to read as follows:

"(b) The Commission shall have the authority to investigate, adjudicate and dispose of any complaint filed alleging a violation of this ordinance. If the Commission finds that the Respondent has violated this ordinance, it shall make written findings and order such action by the Respondent as will redress the injury done to the Complainant, bring the Respondent into compliance with the ordinance and generally effectuate the purpose of this ordinance. Such investigations, adjudications and dispositions shall be made as provided under the procedures set forth in Sec. 3.23(10)(c), M.G.O., for the investigation and disposition of complaints filed under the Ordinances, Sec. 3.23, M.G.O. Any person may file with the Commission a complaint that the wages paid to employees for whom a minimum wage has been established are less than that rate, and the Commission shall investigate the matter and take all ~~proceedings~~ steps necessary to enforce the payment of a wage not less than the minimum wage.

However, the Commission shall not accept any complaint filed more than two years after the date of the alleged violation of this ordinance. Where it is determined that an employer has violated the provisions of this Minimum Wage Ordinance, ~~in addition to the penalty provisions provided herein any employee whom the Commission determines was not paid the applicable minimum wage~~

Approved as to form:

Michael P. May, City Attorney

~~established by this ordinance is entitled to liquidated damages in an amount of twice the difference between the rate of pay that the employee was paid and the applicable minimum wage rate established in this ordinance. The the Commission shall have the authority to enter such an order for all employees who, in the Commission's determination, were not appropriately compensated under this ordinance, irrespective of whether said employees were the complainants before the Commission."~~

2. Subsection (22) entitled "Definition of Violation" of Section 3.45 entitled "Minimum Wage Ordinance" of the Madison General Ordinances is amended to read as follows:

"(22) Definition Of Violation. Each day during which any employer shall employ a person for whom a minimum wage has been fixed at a wage less than the minimum wage ~~fixed~~ shall constitute a separate and distinct violation of this ordinance. The penalty for each violation shall be a forfeiture of not less than \$25.00 and not more than \$200 for a first offense within one year, not less than \$200 nor more than \$1,000 for a second violation within one year and not less than \$1,000 nor more than \$2,500 for a third or subsequent violation within one year. These penalty provisions are in addition to any remedies or damages the Commission may award to an aggrieved employee. ~~under Sec. 3.23(10)(c)2.b., M.G.O.~~ The Madison Equal Opportunities Commission may, upon determining that a violation of this ordinance has occurred, refer such violation to the City Attorney. The City Attorney, at his/her discretion, may thereafter pursue an action in the Madison Municipal Court to recover a forfeiture for such violation."

3. New Subsection (23) entitled "Remedies for Violations" of Section 3.45 entitled "Minimum Wage Ordinance" of the Madison General Ordinances is created to read as follows:

"(23) Remedies for Violations.

- (a) Any employee whom the Commission determines was not paid the applicable minimum wage established by this ordinance is entitled to liquidated damages in an amount of twice the difference between the rate of pay that the employee was paid and the applicable minimum wage rate established in this ordinance.
- (b) Where the Commission finds that the Respondent has violated any other provisions of this ordinance, the Commission shall redress the injury or injuries done to the Complainant. Remedies may include out-of-pocket expenses, economic damages, and both front and back pay. The Complainant shall also be entitled to his or her costs, including reasonable attorney's fees. Back pay liability may not accrue from a date more than 2 years prior to the filing of a complaint with the Commission.
- (c) In addition to the remedies in paragraph (b), where the Commission finds that the Respondent violated sections (15) and/or (21) of this ordinance by displacing, discharging or discriminating against an employee, the Commission shall award either reinstatement or compensation in the amount of 500 times the hourly wage of such person when the violation occurred."

4. Current Subsections (23) and (24) of Section 3.45 entitled "Minimum Wage Ordinance" of the Madison General Ordinances are renumbered to Subsections (24) and (25), respectively.