

Attachment D

West Hollywood Municipal Code

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Chapter 3.20 Living Wage Requirements for Service Contracts

Note

* **Editor's Note:** Prior ordinance history – Parts of Ordinance No. 85-21 were previously codified in this chapter, and were not specifically repealed by the adoption of Ordinance No. 97-505.

3.20.010 Short Title.

This chapter shall be known as the “Living Wage Ordinance” of the city.
(Ord. 97-505 § 2, 1997; prior code § 2715)

3.20.020 Purpose.

This chapter is enacted for the purpose of improving the quantity and quality of services received by the city from its service contractors. It is also the purpose of this chapter to promote an economic environment that protects public resources devoted to social support services.

(Ord. 97-505 § 2, 1997; prior code § 2716)

3.20.030 Definitions.

Wherever they appear in this chapter, the following defined terms shall have the meanings provided in this section, unless it is apparent from their context that a different meaning is intended:

1. “City Manager” means the City Manager of the City of West Hollywood or the designee thereof.
2. “Contractor” means any person that enters into a service contract with the city.
3. “Employee” means any person that both: (A) is employed by an employer or a temporary employment agency; and (B) expends any of his or her time in the performance of work related to a service contract. “Employee” shall not include managerial, supervisory, and confidential personnel. “Employee” also shall not include persons required to possess an occupational license.
4. “Employer” means any contractor or subcontractor of a service provider. “Employer” shall not include exempt non-profit organizations.
5. “Exempt non-profit organization” means a corporation that both: (A) is organized under 26 United States Code Section 501(c)(3); and (B) has a chief executive officer who earns a salary that, when calculated on an hourly basis, is less than eight times the lowest wage paid by the corporation.
6. “Grant” means any discrete financial assistance awarded by the city in connection with a program funded by the federal or state government.
7. “Person” means any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

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8. “Recipient” means any person that is awarded a grant by the city.

9. “Service contract” means a contract that: (A) is let to a contractor by the city primarily for the furnishing of services to, or for, the city; (B) involves an expenditure in excess of twenty-five thousand dollars (\$25,000.00); and (C) has a term of at least three months.

10. “Subcontractor” means any person that enters into a contract with a contractor to assist the contractor in the performance of a service contract. “Subcontractor” shall not include any person that is an employee of a contractor.

11. “Temporary employment agency” means a contractor that, on a temporary basis, provides the city with one or more employees that work under the city’s direction.

(Ord. 04-693 § 1, 2004; Ord. 97-505 § 2, 1997; prior code § 2717)

3.20.040 Payment of Living Wage and Benefits.

a. *Wages.* Employers shall pay employees a wage of no less than the living wage established pursuant to subsection (d) of this section.

b. *Compensated Days Off.* Employers shall provide at least twelve compensated days off per year for sick leave, vacation, or personal necessity at the employee’s request.

c. *Uncompensated Days Off.* Employers shall provide employees at least ten uncompensated days off per year for sick leave for the illness of the employee or his or her immediate family where the employee has exhausted his or her compensated days off for that year.

d. *Establishment of and Adjustment to Living Wage Rates.* The living wage rate paid to an employee shall be set and adjusted by resolution of the City Council. The rates shall be adjusted annually each July 1st to reflect increases during the preceding year in the Consumer Price Index (CPI) for all urban consumers in the Los Angeles-Riverside-Orange County area, as published in January each year by the U.S. Department of Labor, Bureau of Labor Statistics.

e. *Health Benefits.* Health benefits required by this chapter shall consist of the payment of at least one dollar and twenty-five cents (\$1.25) per hour towards the provision of health care benefits for employees and their dependents. Proof of the provision of such benefits must be submitted to the City Manager or designee to qualify for the wage rate for employees with health benefits set forth in the City Council resolution pursuant to subsection (d) of this section.

(Ord. 11-868 § 1, 2011; Ord. 04-693 § 2, 2004; Ord. 97-505 § 2, 1997; prior code § 2718)

3.20.050 Federal Earned Income Credit Notification.

Employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the Federal Earned Income Credit (“EIC”) provided for in 26 United States Code Section 32. Employers shall make available to employees forms describing the EIC, as well as forms required to secure advance EIC payments from the employer.

(Ord. 97-505 § 2, 1997; prior code § 2719)

3.20.060 Grounds for Contract Termination.

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All service contracts shall provide that violation of this chapter shall entitle the city to terminate the contract and otherwise pursue legal remedies that may be available.

(Ord. 97-505 § 2, 1997; prior code § 2720)

3.20.070 Compliance by Recipients.

Recipients shall comply with the requirements for employers that are set forth in this chapter.

(Ord. 97-505 § 2, 1997; prior code § 2721)

3.20.080 Applicability.

a. *General.* Except as provided in this section, the provisions of this chapter shall apply to: (1) employers and temporary employment agencies with whom the city consummates a service contract after the effective date of the ordinance codified in this chapter; (2) employers and temporary employment agencies with whom the city consummates an amendment to a service contract existing on the effective date of the ordinance codified in this chapter; and (3) recipients to whom the city awards a grant after the effective date of the ordinance codified in this chapter.

b. *Inapplicable to Employers When Waiver Issued.* This chapter shall not apply to any person that has been issued a waiver pursuant to subsection (c) of this section.

c. *Waiver Authorization.* The City Manager may issue a waiver of the requirements of this chapter to any person submitting a bid for a service contract if the City Manager determines that such waiver is necessary to allow the person to compete fairly in the bidding process.

d. *Inapplicable to Recipients of Restricted Grants.* This chapter shall not apply to recipients of grants unless the City Attorney either: (1) determines that the funding government's terms for the grant do not preclude application of this chapter; or (2) receives a judgment from a court of law, or other tribunal, that indicates the application of this chapter is consonant with the laws authorizing the city to expend such funds.

(Ord. 97-505 § 2, 1997; prior code § 2722)

3.20.090 Administration.

The City Manager or designee shall be responsible for implementing the provisions of this chapter, monitoring compliance, investigating claimed violations and evaluating as necessary this chapter's operation and effectiveness.

(Ord. 04-693 § 3, 2004; Ord. 97-505 § 2, 1997; prior code § 2723)

3.20.091 Supersession by Collective Bargaining Agreement.

The terms of a collective bargaining agreement to which any employer subject to this chapter is or may become a party shall supersede any requirements of this chapter which are inconsistent with the terms of such agreement.

(Ord. 04-693 § 4, 2004)

3.20.100 Enforcement.

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a. Any aggrieved person may enforce the provisions of this chapter by means of a civil action.

b. Any person who violates the provisions of this chapter or who aids in the violation of any provisions of this chapter shall be liable for, and the court shall award to the individual whose rights are violated, the following: actual damages; costs; attorney's fees; and not less than two hundred fifty dollars (\$250.00) but not more than ten thousand dollars (\$10,000) in addition thereto. In addition, the court may award punitive damages in a proper case.

c. Actions to enforce the provisions of this chapter must be filed within one year of the alleged violation.

d. Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

e. Nothing in this chapter shall be construed to limit any aggrieved person's right to bring legal action for violation of other minimum compensation laws.

(Ord. 97-505 § 2, 1997; prior code § 2724)

3.20.110 No Criminal Penalty.

Notwithstanding any provision of this code or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this chapter.

(Ord. 97-505 § 2, 1997; prior code § 2725)

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