

A RESOLUTION ADOPTING A LIVING WAGE ORDINANCE FOR WASHTENAW COUNTY

WASHTENAW COUNTY BOARD OF COMMISSIONERS

OCTOBER 4, 2001

WHEREAS, Washtenaw County annually awards dollars in service and vendor contracts to non-governmental agencies, private contractors or vendors, to provide services on behalf of Washtenaw County; and

WHEREAS, the Michigan League for Human Services found in its October 1998 report, "Economic Self-Sufficiency: A Michigan Benchmark," that a family of three required at that time, on average, \$2,742 a month to pay for basic living essentials which is \$15.83 per hour for a single worker household; and

WHEREAS, federal and state minimum wages, currently set at \$5.15 per hour, mean that a full-time, full-year minimum wage employee earns only \$10,712 a year, while the 2000 United States Department of Health and Human Services federal poverty guideline was \$14,150 per year for a three-person family; and

WHEREAS, two studies of the effect of the living wage ordinance in Baltimore present evidence that indicates increased employee moral and productivity, and a decrease in employee turnover as a result of the living wage requirements; and

WHEREAS, as an employer, the County can serve as a positive example by adopting living wage policies for its own workforce, resulting in lower turnover, better morale, and higher productivity for county employees that are providing their services to the County and general public; and

WHEREAS, this matter has been reviewed by Corporation Counsel, Human Resources, the County Administrator's Office and the Ways & Means Committee

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby adopts a Living Wage Ordinance for Washtenaw County, as attached hereto and made a part hereof

BE IT FURTHER RESOLVED that the Board of Commissioners hereby directs the County Clerk to publish the adopted Living Wage Ordinance in a newspaper of general circulation in the County.

Living Wage Ordinance

Adopted: October 17, 2001

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Washtenaw County Living Wage Ordinance Time Line

July 19, 2001	Power Point Presentation to Washtenaw County Board of Commissioners on the major points of the Living Wage
August 2001	Survey sent out to all professional and service contract vendors requesting they fill out the survey on how a Living Wage would impact their contract with Washtenaw County
September 2001	Focus group held to get more information from vendors
September 19, 2001	Set a Public Hearing for October 3, 2001
September 20, 2001	Draft of Living Wage Ordinance under the report of the Administrator
October 3, 2001	Public Hearing on the Washtenaw County Living Wage Ordinance
October 4, 2001	Living Wage Ordinance before the Ways and Means Committee
October 17, 2001	Living Wage Ordinance adopted by the Washtenaw County Board of Commissioners

LIVING WAGE ORDINANCE

AN ORDINANCE providing standards and procedures for certain Washtenaw County service contractors as well as the County to pay nonexempt employees a living wage as defined by the Ordinance.

The Board of County Commissioners of the County of Washtenaw ordains:

Section 1. Purposes.

The purposes of this resolution are (1) to increase the quality and reliability of services procured for Washtenaw County ("County") or provided to County inhabitants by the County and its contractors by promoting higher productivity and retention of employees working for the County or on County contracts; (2) to make the County a living wage employer and to use County spending to encourage the development of jobs paying wages above the poverty level; (3) to use County spending and procurement of services to require covered employers that provide services to the County to pay their employees a "Living Wage," that is, a wage sufficient to meet their employees' basic subsistence needs; (4) to raise the income of low-income working people and their families employed by covered employers on County contracts; (5) to permit hardship exemptions for certain non-profit employers from the provisions of this Ordinance; (6) to provide incentives for covered employers to provide health insurance to their employees; and (7) to monitor and enforce the requirements of this Ordinance.

Section 2. Authority

This Ordinance is adopted pursuant to the authority granted to the Washtenaw County Board of Commissioners under Michigan Compiled Laws Annotated 46.11(j) and 46.10b.

Section 3. Findings.

The Washtenaw County Board of Commissioners finds as follows:

- (1) According to economic research summarized in the Economic Policy Institute's August 2000 issue guide, "Higher Wages Lead to More Efficient Service Provision," payment of higher wages is associated with greater business investment in employee training, higher productivity, and lower employee turnover, and this Ordinance is intended to promote better quality and reliability of services procured for the County or provided to County inhabitants by contractor/contractors by promoting higher productivity and retention of employees working on County contracts;
- (2) This Ordinance is adopted pursuant to the County's spending and procurement powers and provides for payment of living wages only to nonexempt employees of the County and its covered employers; further,

this Ordinance does not establish any generally applicable County minimum wage, or affect the wages paid by any business or individual that chooses not to provide services covered by this Ordinance to the County.

- (3) The Michigan League for Human Services found in its October 1998 report, "Economic Self-Sufficiency: A Michigan Benchmark," that a family of three required at that time, on average, \$2,724 a month to pay for housing, food, child care, health care, transportation, clothing, household supplies, a telephone, and taxes, and this was at the time equivalent to an hourly wage of \$15.83 for households with a single worker and \$7.92 for households with two workers;
- (4) The Michigan County Social Services Association found in its 2000 "market basket survey" that a "minimal needs" budget for a family of three (3) in Michigan required \$15,222 per year (not including anything for health care benefit costs and assuming rent of only \$465 a month). According to the U.S. Department of Housing and Urban Development, the fair market rent for a two bedroom apartment in Ann Arbor Metropolitan Statistical Area for 2000 was \$717 a month, and the fair market rent for a three-bedroom apartment was \$940 a month. This means that a family of three requires at least \$18,246 a year to meet a minimal needs budget in the greater Ann Arbor area, not including health care. This converts to an hourly wage of \$8.77 for a full-time, full-year employee;
- (5) Federal and state minimum wages, currently set at only \$5.15 an hour, means that a full-time, full-year minimum wage employee earns only \$206 a week, or \$10,712 a year, while the 2000 United States Department of Health and Human Services federal poverty guideline was \$8350 for a single person, 11,250 for a two-person family, \$14,150 a year for a three-person family, and \$17,050 a year for a four-person family; and income near the poverty level is not a desirable standard of living sufficient to meet the subsistence needs of a family in Ann Arbor and its surrounding communities;
- (6) Two studies of the effect of the living wage ordinance in Baltimore present evidence that indicates increased employee moral and productivity, and a decrease in employee turnover as a result of the living wage requirements ("Baltimore's Living Wage Law: An Analysis of the Fiscal and Economic Costs of Baltimore County Ordinance 442", Mark Weisbrot and Michelle Sforza-Roderick and "The Effects of the Living Wage in Baltimore", Christopher Niedt, Greg Rutiers, Dana Wise, and Erica Schoenberger); and
- (7) As an employer, the County can serve as a positive example by adopting living wage policies for its own workforce, resulting in lower turnover, better morale, and higher productivity for county employees that are providing their services to the County and the general public.

Section 4. Definitions.

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

- (1) "Contractor" is a person or entity that has a contract with the County primarily for the furnishing of personal services where the total amount of the contract or contracts with the County exceeds \$10,000 during any 12-month period, including any contractors or subcontractors of the original contractor whose contract or subcontract for services with the original contractor exceeds \$10,000 for any 12-month period. "Contractor" does not include a person or entity that has a contract with the County primarily for the purchase of goods or property, or for the lease of goods or property to or from the County.
- (2) "Covered Employee" means a non-exempted person employed by the County as well as non-exempted persons employed by a County contractor to perform personal services which are covered or funded by a contract with the County; provided, however, that persons who are employed pursuant to federal, state or local laws relating to prevailing wages shall be exempt from this Ordinance.
- (3) "Covered Employer" means a contractor that has not been granted an exemption from this Ordinance pursuant to Section 8.
- (4) "Employee" means an individual who provides personal services performed for wages under any contract calling for the performance of personal services, whether written or oral, express or implied.
- (5) "Employee Health Benefits" or "Health Benefits" means providing health care benefits for employees (or employees and their dependents) at employer cost or making an employer contribution toward the purchase of such health care benefits for employees (or employees and their dependents), provided that the employer cost or contribution equals no less than \$1 an hour for the average work week of such employee, and provided further that any employee payment or contribution toward health care shall not exceed 50 cents an hour for the average work week for each such employee.
- (6) "Living Wage" means a wage equal no less than the levels established in Section 6.
- (7) "Person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, entity and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (8) "\$10,000 for any 12 month period" is computed by taking the total amount of any and all contracts and dividing that amount by the number of months the contracts covers. If a contract by itself does not exceed \$10,000, but the person or entity has other contracts with the County, which added

together total more than \$10,000, then the most recent contract (and all subsequent contracts) will be covered for a period of at least 12 months. The calculation of "\$10,000 for any 12 month period" will be done starting with the date of the earliest awarded contract which is no more than 12 months prior to the current contract being considered and will aggregate any and all subsequent contracts to the person or entity.

Section 5. Applicability.

- (1) This Ordinance shall apply to any person that is a service contractor as defined in Section 4 that employs or contracts with five (5) or more individuals; provided, however, that this Ordinance shall not apply to a non-profit contractor or non-profit grantee unless it employs or contracts with ten (10) or more individuals.
- (2) This Ordinance shall apply to any contract or subcontract awarded to or entered into with a contractor after the effective date of this Ordinance and to the extension or renewal after the effective date of this Ordinance of any contract or subcontract with a contractor.

Section 6. Living Wages Required.

- (1) Every contractor, as defined in Section 4, shall pay its covered employees no less than a living wage as established in this Section.
 - (a) For a covered employer that provides employee health care to its employees, the living wage shall be \$8.70 an hour, or the adjusted amount hereafter established under Section 6(3).
 - (b) For a covered employer that does not provide health care to its employees, the living wage shall be \$10.20 an hour, or the adjusted amount hereafter established under Section 6(3).
- (2) In order to qualify to pay the living wage rate for covered employers providing employee health care under Section 6(1)(a), a covered employer shall furnish proof of said health care coverage and payment to the County Administrator or his/her designee.
- (3) The amount of the living wage established in this Section shall be adjusted upward no later than April 30, 2002, and every year thereafter by a percentage equal to the percentage increase, if any, in the federal poverty guidelines as published by the United States Department of Health and Human Services for the years 2001 and 2002. Subsequent annual adjustments shall be based upon the percentage increase, if any, in the United States Department of Health and Human Services poverty guidelines when comparing the prior calendar year's poverty guidelines to the present calendar year's guidelines. The applicable percentage amount will be converted to an amount in cents by multiplying the existing wage under Section 6(1)(b) by said percentage, rounding upward to the next cent, and adding this amount of cents to the existing living wage

levels established under Sections 6(1)(a) and 6(1)(b). Prior to April 1 of each calendar year, the County will notify any covered employer of this adjustment by posting a written notice in a prominent place in County offices, and, in the case of a covered employer that has provided an address of record to the County, by a written letter to each such covered employer.

Section 7. Employees Covered.

A covered employer shall pay each of its employees performing work on any covered contract with the County no less than a living wage as defined in Section 6. The County shall pay any of its non-exempt employees a living wage as defined in Section 6.

Section 8. Exemptions.

Notwithstanding any other provisions in this Ordinance, the following exemptions shall apply:

- (1) Housing construction or rehabilitation contracts are exempt from the provisions of this Resolution, even when the County participates in the selection of the contractor.
- (2) For any contract, the Board of County Commissioners may grant a partial or complete exemption from the requirements of this Ordinance if it determines one of the following:
 - (a) To avoid any application of this Ordinance that would violate federal, state or local laws(s); or
 - (b) The application of this Ordinance would cause demonstrated economic harm to an otherwise covered employer that is a non-profit organization, and the Board of County Commissioners finds that said harm outweighs the benefits of this Ordinance; provided further that the otherwise covered non-profit employer shall provide a written plan to fully comply with this Ordinance within a reasonable period of time, not to exceed three years, and the Board of County Commissioners then agrees that granting a partial or complete exemption is necessary to ameliorate the harm and permit the non-profit organization sufficient time to reach full compliance with this Ordinance.
- (3) Contracts with service contractors who employ less than five (5) employees.
- (4) Contracts with non-profit **501(c)(3)** corporations who employ less than ten (10) employees.
- (5) Employees who works seven (7) hours or less per week for a contractor.

- (6) Any individual who volunteers to perform services for the County or one of its contractors if
 - (a) The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
 - (b) Such services are not the same type of services, which the individual is employed to perform for such employer.
- (7) No employee covered by a federal, state or local law requiring the payment of prevailing wages shall be covered by this Ordinance.
- (8) This Ordinance shall not be applicable to the establishment and/or continuation of the following if developed specifically for high school and/or college students by the County or one of its contractors:
 - (a) A bona fide training program;
 - (b) A summer or youth employment program;
 - (c) A work study, volunteer/public service, or internship program.
- (9) Temporary or Seasonal employees hired by the County. For purposes of this Ordinance, temporary and/or seasonal employees are defined as employees hired to augment the regular workforce as provided by applicable collective bargaining agreements.
- (10) Temporary or Seasonal employees hired by a County contractor. For purposes of this Ordinance, temporary and/or seasonal employees are defined as employees hired to augment the regular workforce and are hired for three (3) months or less in the case of a temporary employee or six (6) months or less in the case of a seasonal employee.

Section 9. Monitoring and Enforcement

- (1) Every covered employer shall agree to the payment of a living wage as a condition of entering into or renewing a covered contract with the County. Moreover, the County and every covered contractor shall agree to post a notice regarding the applicability of this Ordinance in every work place or other location in which employees or other persons contracted for employment are working, and shall agree to provide payroll records or other documentation as deemed necessary within ten (10) business days from the receipt of the County's request. All County contracts covered by this Ordinance shall provide that a violation of the living wage requirements of this shall be a material breach of the contract or grant. The County's Human Resources Department, in conjunction with the Office of Corporation Counsel shall monitor the compliance of each contractor under procedures developed by and approved by the County Administrator.

- (2) Each covered employer shall submit to the County's Human Resources Department information regarding number of employees and applicable wage rates of its employees covered by this Ordinance in such manner as requested by that office. At the request of the County's Human Resources Department, any contractor shall provide satisfactory proof of compliance with the living wage provisions of this Ordinance.
- (3) Any person may submit a complaint or report of a violation of this Ordinance to the County's Human Resources Department. Upon receipt of such a complaint or report, the Department shall investigate to determine if there has been a violation.

Section 10. Penalties and Enforcement.

- (1) A violation of this Ordinance is punishable by a fine not to exceed five hundred (\$500.00) dollars or imprisonment for not more than 90 days in jail or both.
- (2) If a covered employer violates any provision of this Ordinance, it shall be considered a breach of the contract between the County and the covered employer and the County shall have the right to modify, terminate, and/or seek specific performance of any contract or grant with that affected covered employer or to cancel, terminate or suspend the contract in whole or in part and/or to refuse any further payments under the contract;
- (3) Nothing contained in this Resolution shall be construed to limit in any way the remedies, legal or equitable, which are available to the County or any other person for the correction of violations of this Resolution.

Section 11 Private Actions for Damages or Injunctive Relief.

- (1) (a) An employee or person contracted for employment by a covered employer who is denied payment of the applicable living wage in violation of this Ordinance may bring a civil action for appropriate injunctive relief or damages or both against the person(s) who acted in violation of this Ordinance. No employee or person shall bring a civil action alleging a violation of this Resolution unless the employee or person has first provided a written allegation of the violation of this Ordinance to the County's Human Resources Department and the covered employer no less than ninety (90) days prior to filing said civil action. After at least ninety (90) days have passed after the written allegation has been provided, the employee or person shall be free to proceed with a civil action.

(b) Any civil action under this Section must be brought within one year of the last date of the violation. The last date of the violation shall be determined by the last paycheck received by the employee or person that did not contain the applicable Living Wage.

- (2) As used in subsection (1), "damages" means restitution of the difference between amounts actually paid and the living wage that should have been paid, interest, and reasonable attorney fees and costs.

(3) Private actions and remedies under this Section shall be in addition to any actions for violations, which the County may take.

Section 12. Severability.

Any provision of this Ordinance which is found by a court of competent jurisdiction to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision contained in the Ordinance and such other provisions shall remain in full force and effect.

Section 13. Amendments.

This Ordinance may only be amended by a majority vote of the County Board of Commissioners elected and serving.

Section 14. Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies or conflicts.

Section 15. Other Provisions.

- (1) No affected covered employer shall reduce the compensation, wages, hours of work, fringe benefits, or leave available to any covered employee or person contracted for employment in order to pay the living wage required by this Ordinance. No employer shall reduce the hours of work, established working conditions, or other terms of employment as previously practiced for any employee in order to avoid coverage under this Ordinance. Any action in violation of this Paragraph shall be deemed a violation of the Ordinance subject to the remedies of Section 10 and Section 11.
- (2) Nothing in this Ordinance shall be construed to require the County to take action, which would conflict with, interfere with, and/or supersede any provision of a collective bargaining agreement with any union representing County employees.

Section 16. This Ordinance shall take effect when notice of adoption is published in a newspaper of general circulation within the County pursuant to MCLA 46.11(j).