

CITY OF EDGEWATER
ORDINANCE NO. 2023 - 07
SERIES OF 2023

AN ORDINANCE ENACTING A NEW ARTICLE 18 OF CHAPTER 6 OF THE EDGEWATER MUNICIPAL CODE TO ESTABLISH A LOCAL MINIMUM WAGE REQUIREMENT AND PENALTIES, REMEDIES AND ENFORCEMENT RELATED THERETO

WHEREAS, the City of Edgewater, Colorado (the “City” or “Edgewater”), is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution;

WHEREAS, despite a state-wide minimum wage rate, many working Edgewater residents struggle to afford the basic necessities of life;

WHEREAS, the health and welfare of all Edgewater residents are benefited and advanced when workers are paid a wage which enables them to earn a livable wage and establish self-sufficiency;

WHEREAS, the Edgewater City Council (“Council”) seeks to confront the issue of wage inequity and cost of living affordability in the community;

WHEREAS, previously, by Resolution Nos. 2020-14 and 2022-10, the Council imposed minimum living wage requirements with respect to City employees and City contractors;

WHEREAS, during the 2019 legislative session the Colorado legislature empowered local governments to establish a jurisdiction-wide minimum wage for the first time, in accordance with certain requirements and restrictions mandated by state law;

WHEREAS, ensuring that workers in Edgewater can support themselves and their families benefits the overall economic, mental and social health of the City, its businesses, residents and workers;

WHEREAS, addressing the minimum wage needs of workers is a matter of significant local concern;

WHEREAS, the City has consulted with surrounding local governments and actively sought the input and participation of community stakeholders, including chambers of commerce, small and large businesses, businesses that employ tipped workers, workers, labor unions and numerous community groups;

WHEREAS, as a result of this outreach and its own study, consideration and debate of the issues, the Council finds that a new Article 18 of Chapter 6 should be

added to Edgewater Municipal Code to require employers throughout the City to compensate workers no less than the Edgewater minimum wage established herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO, THAT:

Section 1. Chapter 6 of the Edgewater Municipal Code ("Code") is hereby amended by the addition of a new Article 18, to read in its entirety as follows:

Sec. 6-18-10. Purpose.

The purpose of this Article is to proactively address the issues of wage inequity and cost of living affordability in the City by ensuring that all workers within Edgewater are paid a wage which enables them to earn a livable wage and establish self-sufficiency; to do so in a manner that is mindful of the larger market in which the City is situated; and to administer a local minimum wage requirement in a manner that respects, serves and protects the interests of both employers and employees within the City.

Sec. 6-18-20. Scope.

This Article applies to all employers who employ individuals performing work within the geographic boundaries of the City of Edgewater.

Sec. 6-18-30. Definitions.

City means the City of Edgewater, Colorado.

Code means the Edgewater Municipal Code.

Employee means an individual performing, or expected to perform, four (4) or more hours of work for an employer in any given week within the geographic boundaries of the City.

Employer means an individual, partnership, firm, corporation or any other person, group, collective or entity that employs one or more employees, as defined by this Article.

Sec. 6-18-40. Minimum wage required; calculation.

(a) Required. Subject to the terms of this Article, every employer shall ensure its employees are paid not less than the Edgewater Minimum Wage calculated pursuant to subsection (b) hereof.

(b) Calculation.

(1) The Edgewater Minimum Wage, exclusive of fringe benefits and any other deductions or credits, except as described in this Article, shall be calculated as follows:

- a. Beginning January 1, 2024: \$15.02 (Fifteen Dollars and Two Cents) per hour;
- b. Beginning January 1, 2025: \$16.52 (Sixteen Dollars and Fifty-Two Cents) per hour;
- c. Beginning January 1, 2026: \$18.17 (Eighteen Dollars and Seventeen Cents) per hour;
- d. Beginning January 1, 2027: \$19.99 (Nineteen Dollars and Ninety-Nine Cents) per hour;
- e. Beginning January 1, 2028: \$21.99 (Twenty-One Dollars and Ninety-Nine Cents) per hour; and
- f. In each subsequent calendar year, at such amended wage rate, adopted by ordinance of the City Council, necessary to keep pace with the year-over-year increase in the Consumer Price Index, for all items, published annually each August for the Denver-Aurora-Lakewood Area, or to match the then-current Denver Minimum Wage rate, whichever wage rate is greater.

(2) Tips regularly and actually received by a food and beverage worker may be applied to an employer's obligation to pay such food and beverage worker the Edgewater Minimum Wage. However, no more than \$3.02 per hour in tip income ("Tip Credit") may be used to partially offset payment of this wage.

(c) Nothing in this Article shall be deemed to lessen any other obligation applicable to a particular employer to pay a minimum wage pursuant to any other law, rule or regulation, including but not limited to federal and state minimum wage laws, the City living wage requirement, and any other prevailing or living wage requirement imposed by any other jurisdiction with authority. In the event of a conflict between the Edgewater Minimum Wage and any such other applicable wage requirement, the greater wage rate shall be paid.

Sec. 6-18-50. Employer responsibilities.

(a) Each employer shall post notice of the currently effective Edgewater Minimum Wage in a place which is prominent and easily accessible to all employees. Employers shall display the posting in English and Spanish. If

display of a physical notice is not feasible, including situations when an employee does not have a regular workplace or job site, employers may provide the required information on an individual basis, in an employee's primary language, in physical or electronic form that is reasonably conspicuous and accessible.

(b) The posted notice required by subsection (a) above must include the following: "IT IS AGAINST THE LAW TO PAY WAGES BELOW THE EDGEWATER MINIMUM WAGE. COMPLAINTS THAT A VIOLATION OF THIS LAW HAVE OCCURRED MAY BE FILED WITH THE CITY OF EDGEWATER BY CALLING (720) 763-3002; EMAILING CITYCLERK@EDGEWATERCO.COM; OR COMING TO THE EDGEWATER CIVIC CENTER AT 1800 HARLAN STREET TO REQUEST AN APPOINTMENT.

(c) Employers shall make, retain and make available to the City, upon request, pay roll records adequate to determine compliance with this Article for a minimum of three (3) years for each such record.

Sec. 6-18-60. Violations; Enforcement; Penalties.

(a) It shall be unlawful and a violation of this Code to commit, allow, cause, authorize, aid, abet or conceal a violation of this Article, subject to prosecution in the Edgewater Municipal Court and the general penalty provisions of Code Section 1-4-20.

(b) A violation of this Article shall constitute "cause" to suspend or revoke the City business license(s) related to or under which such violation occurred, in accordance with the procedures set forth in Article 1 of Chapter 6 of the Code.

(c) Within three (3) years of an alleged violation of this Article, any aggrieved party may bring a civil action in a court of competent jurisdiction against an employer alleged to have violated this Article, and, upon prevailing, shall be entitled to such legal and equitable relief as may be appropriate to fully remedy the violation including, without limitation: the payment of unpaid wages; interest thereon at the rate of twelve percent (12%) per annum from the date such wages were first due; the payment of an additional sum as a penalty in the amount of \$500 to each worker whose rights under this article were violated for each day that the violation occurred or continued; liquidated damages in an amount equal to three times the amount of unpaid wages; reasonable attorney fees and costs; and such other relief deemed just and appropriate by the court.

(d) Nothing herein shall preclude an individual from filing or pursuing a complaint with the Colorado Department of Labor and Employment in addition to filing, pursuing or participating in any other enforcement action

authorized by this Article, it being the express intent and purpose that each such remedy is cumulative in nature.

Section 2 Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare, and that this ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Effective Date. This ordinance shall become effective in accordance with the Home Rule Charter of the City of Edgewater.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this 18th day of April, 2023.

John Beltrone, Mayor

ATTEST:

Lenore Pedroza, CMC
City Clerk

PASSED AND ADOPTED ON SECOND READING AND ORDERED PUBLISHED this 2nd day of May, 2023.

John Beltrone, Mayor

ATTEST:

Lenore Pedroza, CMC

City Clerk

APPROVED AS TO FORM:

Carmen Beery, City Attorney