

Living Wages at Large Retail Establishments

1
2 **WHEREAS**, the state of Washington has the authority to promulgate rules and
3 regulations that protect the health, safety and welfare of its citizens; and
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5 **WHEREAS**, the state of Washington has policies that maintain and improve the wage
6 and health care standards of our community; and
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8 **WHEREAS**, large unregulated retail establishments may reduce the economic
9 standards and civic life in Washington; and
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11 **WHEREAS**, large retail establishments often pay very low wages, offer few if any
12 benefits, and create competition that forces other businesses to either lower wages and
13 benefits or be driven out of business; and
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15 **WHEREAS**, taxpayers costs often increase when businesses that provide health care to
16 their employees are replaced by those that do not provide health care and instead rely
17 on city and state health clinics, public hospitals, and publicly funded programs such as
18 Kid Care, Family Care, and Medicaid to provide health care to their employees; and
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20 **WHEREAS**, to counter these tendencies and to provide for the economic and civic well-
21 being of its citizens, the State of Washington must establish new standards of economic
22 and civic conduct for large retail establishments; and
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24 **WHEREAS**, in order to safeguard the public welfare, health, safety and prosperity of all
25 residents of Washington, it is essential that large retail establishments provide a living
26 wage, along with the health and other benefits required for employees to take care of
27 their families; and
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29 **WHEREAS**, smaller local stores are often driven out of business when large retail
30 establishments enter a community, it is imperative that the state of Washington ensure
31 that unemployed local residents get priority in hiring and, to this end, declares that a
32 First Source Hiring Policy is established to assist those local residents and benefit
33 employers by providing a pool of qualified job applicants whose job training has been
34 specifically tailored to their needs;
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36 **THEREFORE BE IT RESOLVED**, that the Washington State Democratic Central
37 Committee support the passing of state laws and city ordinances to assure that workers
38 at large retail stores receive a living wage and adequate benefits.
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43 **Sample Resolution By Whitman County Democrats Requiring A Pullman, Washington**
44 **Ordinance On Responsible Living Wages By Large Retail Establishments**
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46 **WHEREAS**, the city of Pullman, WA has the authority to adopt ordinances and to
47 promulgate rules and regulations pertaining to its government and affairs in order to
48 protect the health, safety and welfare of its citizens; and
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50 **WHEREAS**, the city of Pullman, WA declares that it is the policy of the city to maintain and
51 improve the wage and health care standards of our community; and
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53 **WHEREAS**, large unregulated retail establishments may reduce the economic standards
54 and civic life of the city of Pullman, WA; and
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56 **WHEREAS**, large retail establishments often pay very low wages, offer few if any benefits,
57 and create competition that forces other businesses to either lower wages and benefits or be
58 driven out of business; and
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60 **WHEREAS**, taxpayers costs often increase when businesses that provide health care to their
61 employees are replaced by those that do not provide health care and instead rely on city
62 health clinics, public hospitals, and publicly funded programs such as Kid Care, Family
63 Care, and Medicaid to provide health care to their employees; and
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65 **WHEREAS**, to counter these tendencies and to provide for the economic and civic well-
66 being of its citizens, the city of Pullman, WA must establish new standards of economic and
67 civic conduct for large retail establishments; and
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69 **WHEREAS**, in order to safeguard the public welfare, health, safety and prosperity of all
70 residents the city of Pullman, WA, it is essential that large retail establishments provide a
71 living wage, along with the health and other benefits required for employees to take care of
72 their families; and
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74 **WHEREAS**, smaller local stores are often driven out of business when large retail
75 establishments enter a community, it is imperative that the city of Pullman, WA ensure that
76 unemployed local residents get priority in hiring and, to this end, declares that a First
77 Source Hiring Policy is established to assist those local residents and benefit employers by
78 providing a pool of qualified job applicants whose job training has been specifically tailored
79 to their needs;
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81 **THEREFORE BE IT RESOLVED**, that the City Council of the City of Pullman, Whitman
82 County, Washington, pass an ordinance to assure that workers at large retail stores receive
83 a living wage and adequate benefits and it be ordained that the Municipal Code of the city
84 of Pullman, WA be amended by adding thereto and inserting therein a new Chapter 17-190
85 (or 17.80 and amending any and all affected sections therein, entitled "Large Retail
86 Establishments."
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89 SECTION 1. The foregoing recitals are incorporated herein as the findings of the City
90 Council.

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92 SECTION 2. A new chapter of the Municipal Code of the City of Pullman is hereby
93 created as follows:

94 **17-190-010 Definitions.**

- 95 a) "City" means the City of Pullman.
- 96 b) "Agency" means the City department or agency designated by the
97 City to administer this Ordinance.
- 98 c) "Business" means any natural or artificial person, corporation,
99 partnership, limited partnership, limited liability company, joint
100 venture, sole proprietorship, association, trust or any other entity.
- 101 d) "Large Retail Establishment" means any Business that operates a retail
102 store located within the geographic boundaries of the City of Pullman
103 where the premises of the retail store comprise 75,000 square feet or
104 more.
- 105 e) "Non-Business Areas" mean those parts of a Large Retail
106 Establishment where business is not conducted, including parking lots,
107 sidewalks, pedestrian areas, outdoor Employee smoking areas, and
108 other outdoor areas where business is not conducted.
- 109 f) "Subcontractor" means any Business that performs services on-site for
110 a Large Retail Establishment or for another Subcontractor or that holds
111 a sublease authorizing that party to occupy, use, control, or do
112 business on the property of the Large Retail Establishment.
- 113 g) "Employer" means any Large Retail Establishment or Subcontractor.
- 114 h) "Employee" means any person who in a particular week performs at
115 least two (2) hours of work on the premises of a Large Retail
116 Establishment for either a Large Retail Establishment or for a
117 Subcontractor. This definition includes persons performing work on a
118 full-time, part-time, temporary, or seasonal basis, including
119 independent contractors, contracted workers, contingent workers, and
120 persons made available to work through the services of a temporary
121 services, staffing or employment agency or similar entity.
- 122 i) "Living Wage" has the meaning set forth in Section 17-190-020.
- 123 j) "Benefits" means payments for medical or hospital care, pensions on
124 retirement or death, or insurance to provide any of the forgoing, life
125 insurance, disability and sickness insurance, or accident insurance,
126 payments for defraying the costs of apprenticeship or other similar
127 programs, or payments for other bona fide fringe benefits. Excluded
128 from this definition are payments made pursuant to the Workers'
129 Compensation Act [RCW 51 et seq.].
- 130 k) "First Source Employment Position" means all Employee categories,
131 excepting construction employment involving laborers, workers or
132 mechanics.

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- l) "Ex-offender" means any applicant for employment who has a criminal record, but who supplies proof of community ready socialization, which may include but is not limited to, sworn testimony, reference letters, self-improvement courses, educational or vocational attainment, and counseling.

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17-190-020 Living Wage.

- a) Employers shall pay Employees no less than the Living Wage for each hour worked on the premises of a Large Retail Establishment.
- b) Beginning on the effective date of this Ordinance, the Living Wage shall be an hourly rate of \$11.00 per hour with health benefits or \$12.50 without health benefits. These rates will be adjusted annually each, January 1st beginning in 2006, and each year thereafter. Such adjustments shall enable a full-time worker to earn an income that will lift a family up to 115% of the Federal Poverty Guidelines for a family of four.

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17-190-030 Notice, Posting and Payroll Records.

- c) By December 1 of each year, the Agency shall publish and make available to Employers a bulletin announcing the adjusted Living Wage and Benefits Supplements Rate for the upcoming year, which shall take effect on January 1. If the Agency fails to do so, Employers shall calculate adjustments to the Living Wage and Benefits Supplement Rate as described in this Ordinance, and shall begin utilizing the adjusted rate by the subsequent January 1.
 - d) By December 1 of each year, the Agency shall publish and make available to Employers, in all languages spoken by more than five percent of the Pullman work force, a notice suitable for posting by Employers in the workplace informing Employees of the current Living Wage and Benefits Supplements Rate and of their rights under this Ordinance.
 - e) Every Employer shall post in a conspicuous place at any workplace or job site where any Employee works the notice published each year by the Agency informing Employees of the current Living Wage and Benefits Supplements Rate and of their rights under this Ordinance. Every Employer shall post such notices in English, Spanish, and any other language spoken by at least five percent of the Employees at the workplace or job site.
 - f) Employers shall retain payroll and benefits records pertaining to Employees for a period of four years, and shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Ordinance. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow the Agency
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177 reasonable access to such records, it shall be presumed that the
178 Employer paid no more than the applicable federal or state minimum
179 wage without benefits, absent clear and convincing evidence
180 otherwise.

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182 **17-190-040 Prohibition Against Retaliation, Reduction of Benefits**

183 It shall be unlawful for an Employer or any other party to discriminate in
184 any manner or take adverse action against any person in retaliation for
185 exercising rights protected under this Ordinance or for informing other
186 Employees of any legal rights under federal, state or local law, to the
187 extent that such protection is permitted by state and federal law. Rights
188 protected under this Ordinance include, but are not limited to: the right to
189 file a complaint or inform any person about any party's alleged
190 noncompliance with this Ordinance or any other federal, state or local
191 law; and the right to inform any person of his or her potential rights under
192 this Ordinance or other law and to assist him or her in asserting such
193 rights. Protections of this Ordinance shall apply to any person who
194 mistakenly, but in good faith, alleges noncompliance with this Ordinance
195 or any other law. Taking adverse action against a person within ninety
196 (90) days of the person's exercise of rights protected under this Ordinance
197 shall raise a rebuttable presumption of having done so in retaliation for
198 the exercise of such rights.

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200 g) No Employer may fund wage or benefits increases required by this
201 Ordinance, or otherwise respond to the requirements of this
202 Ordinance, by reducing the health insurance, pension, vacation, or
203 other non-wage benefits of any of its Employees.

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205 **17-190-050 Implementation and Enforcement.**

- 206 h) *Implementation.* The Agency shall be authorized to coordinate
207 implementation and enforcement of this Ordinance and may
208 promulgate appropriate guidelines or rules for such purposes. Any
209 guidelines or rules promulgated by the Agency shall have the force
210 and effect of law and may be relied on by Employers, Employees and
211 other parties to determine their rights and responsibilities under this
212 Ordinance. Any guidelines or rules may establish procedures for
213 ensuring fair, efficient and cost-effective implementation of this
214 Ordinance, including supplementary procedures for helping to inform
215 Employees of their rights under this Ordinance, for monitoring
216 Employer compliance with this Ordinance, and for providing
217 administrative hearings to determine whether an Employer or other
218 person has violated the requirements of this Ordinance.
- 219 i) *Administrative Enforcement.* The Agency is authorized to take
220 appropriate steps to enforce this Ordinance. The Agency may

221 investigate any possible violations of this Ordinance by an Employer
222 or other person. Where the Agency has reason to believe that a
223 violation has occurred, it may order any appropriate temporary or
224 interim relief to mitigate the violation or maintain the status quo
225 pending completion of a full investigation or hearing. Where the
226 Agency, after a hearing that affords a suspected violator due process,
227 determines that a violation has occurred, it may order any appropriate
228 relief including, but not limited to, reinstatement, the payment of any
229 back wages or benefits unlawfully withheld, and the payment of an
230 additional sum as an administrative penalty in the amount of \$100 to
231 each Employee or person whose rights under this Ordinance were
232 violated for each day or portion thereof that the violation occurred or
233 continued. Where prompt compliance is not forthcoming, the Agency
234 may take any appropriate enforcement action to secure compliance,
235 including initiating a civil action and/or, except where prohibited by
236 state or federal law, instructing City agencies or departments to revoke
237 or suspend any registration certificates, permits or licenses held or
238 requested by the Employer or person until such time as the violation is
239 remedied. In order to compensate the City for the costs of investigating
240 and remedying the violation, the Agency may also order the violating
241 Employer or person to pay to the City a sum of not more than \$100 for
242 each day or portion thereof for each Employee or person as to whom
243 the violation occurred or continued. Such funds shall be allocated to
244 the Agency and shall be used to offset the costs of implementing and
245 enforcing this Ordinance. The amounts of all sums and payments
246 authorized or required under this Ordinance shall be updated
247 annually for inflation, beginning January 1, 2006, using the inflation
248 rate and procedures set forth in Section 17-190-020. An Employee or
249 other person may report to the Agency in writing any suspected
250 violation of this Ordinance. The Agency shall encourage reporting
251 pursuant to this subsection by keeping confidential, to the maximum
252 extent permitted by applicable laws, the name and other identifying
253 information of the Employee or person reporting the violation.
254 Provided, however, that with the authorization of such person, the
255 Agency may disclose his or her name and identifying information as
256 necessary to enforce this Ordinance or for other appropriate purposes.

257 j) *Civil Enforcement.* The Agency, the City Attorney, any person
258 aggrieved by a violation of this Ordinance, any entity a member of
259 which is aggrieved by a violation of this Ordinance, or any
260 membership organization that represents workers, may bring a civil
261 action in a court of competent jurisdiction against an Employer or
262 other person violating this Ordinance and, upon prevailing, shall be
263 entitled to such legal or equitable relief as may be appropriate to
264 remedy the violation including, without limitation, the payment of any

265 back wages unlawfully withheld, the payment of an additional sum as
266 liquidated damages in the amount of \$100 to each Employee or person
267 whose rights under this Ordinance were violated for each day or
268 portion thereof that the violation occurred or continued, reinstatement
269 in employment, compensatory damages and/or declaratory and
270 injunctive relief, and shall be awarded reasonable attorneys' fees and
271 costs. An Employer shall be jointly liable for violations of this
272 Ordinance by its Subcontractors.

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274 **17-190-060 Waiver Through Collective Bargaining.**

275 All or any portion of the applicable requirements of this Ordinance shall
276 not apply to Employees covered by a bona fide collective bargaining
277 agreement to the extent that such requirements are expressly waived in
278 the collective bargaining agreement in clear and unambiguous terms that
279 expressly make reference to this Ordinance.

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281 **17-190-070 Relationship to Other Requirements.**

282 This Ordinance provides for payment of minimum wage and benefits and
283 the protection of free speech in and around Large Retail Establishments
284 and shall not be construed to preempt or otherwise limit or affect the
285 applicability of any other law, regulation, requirement, policy or standard
286 that provides for payment of higher or supplemental wages or benefits, or
287 that extends other broader speech protections on behalf of the public or
288 Employees.

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290 **17-190-080 Effective Date.**

291 This Ordinance shall become effective ninety (90) days after it is adopted.
292 This Ordinance is intended to have prospective effect only.

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294 **17-190-090 Severability.**

295 If any part or provision of this Ordinance, or the application of this
296 Ordinance to any person or circumstance, is held invalid, the remainder of
297 this Ordinance, including the application of such part or provisions to
298 other persons or circumstances, shall not be affected by such a holding
299 and shall continue in full force and effect. To this end, the provisions of
300 this Ordinance are severable.

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302 **SECTION 3.** All ordinances, resolutions, motions or orders in conflict with this
303 ordinance are hereby repealed to the extent of such conflict.
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306 Submitted to the WSDCC for consideration at its November 12, 2005 meeting in Ocean
307 Shores by the Whitman County Democrats (Date Submitted 11/8/2005)
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309 Referred to the WSDCC with a recommendation of "Pass" by the Resolutions
310 Committee at its November 12, 2005 meeting in Ocean Shores.
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312 Passed by the WSDCC at its November 12, 2005 meeting in Ocean Shores.