

AN ORDINANCE REGULATING WORKPLACE STANDARDS

Section 1 Scope and Definitions.

The following definitions shall apply throughout this Chapter:

- A. "City" means the City of Atlantic City and all city agencies, departments and offices.
- B. "Compensated day off" means a day on which an Employee is otherwise scheduled to work, for which the Employee seeks leave from work for illness or personal necessity.
- C. "Compensation" means any wages, tips, bonuses, and any other payments paid by the Employer to the Employee and reported as taxable income.
- D. "Employee" means any person who is employed by an Employer in a nonprofessional or non-managerial capacity except those whose employment duties predominantly involve the maintenance or operation of gaming activity or equipment or those employed as security or surveillance personnel.
- E. "Employer" means (i) any person or entity employing any person in a Facility in the City in which 250 or more employees work (even if working for different employers, unless the Facility is comprised primarily of offices) and (ii) any person which owns, operates or controls the operation of such a business. For the purpose of this Chapter, "Employer" shall not include governmental entities, schools, or non-profit corporations.
- F. "Facility" shall include separate buildings operated in conjunction with each other such as a hotel and any restaurants, casinos or spas connected thereto, or adjacent thereto with related operations.
- G. "Health care provider" means any doctor of medicine or osteopathy who is licensed to practice medicine or surgery by the State of New Jersey.
- H. "Immediate family member" means a biological, adopted or foster child or parent, a stepchild or stepparent, a legal ward, a child of a person standing in loco parentis, a sibling, spouse, domestic partner, or a partner in a civil union.
- I. "Normal daily compensation" means compensation that an Employee requesting a compensated day off would have earned if the Employee had not requested such a compensated day off.
- J. All payments required by this Chapter shall be paid of the Employer's general assets.

Section 2 Exemptions.

- A. An Employer shall be exempted from application of this Chapter if it employs fewer than five Employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year.
- B. The provisions of this Chapter may not be waived by agreement between an individual Employee and an Employer. All of the provisions of this Chapter, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this Chapter.

Section 3 Paid Leave for Jury Duty

- A. An Employer shall pay an Employee required to lose work due to jury service the difference between the amount paid them by the government for jury service and their normal daily compensation for each workday lost during the period of jury service.

Section 4 Sick Leave.

- A. An Employer shall pay every Employee's sick pay as follows:
 - (i) at least 12 compensated days off per calendar year for sick leave or personal necessity at the Employee's request. "Personal necessity" shall be defined as caring for an immediate family member who is ill or attending the funeral of an immediate family member. The Employee need not present third party certification of illness or personal necessity to claim compensated time off, provided that such Employee has accrued the requested days of compensated time at the time of the request. An Employee shall be paid his or her normal daily compensation for each compensated day off.

PETITION TO ADOPT ORDINANCE REGULATING WORKPLACE STANDARDS

(ii) An Employee shall accrue 1 day of compensated time for each full month in a calendar year that the Employee has been employed by the Employer. An Employee is entitled to use any accrued days of compensated time as soon as those days have accrued.

(iii) If any Employee has not utilized all of his or her accrued compensated time by the end of any calendar year, the Employer shall pay that Employee a lump sum payment at the end of the calendar year equivalent to the compensation due for any unused compensated time.

B. An Employer shall also permit Employees to take at least an additional 12 days a year of uncompensated time to be used for sick leave for the illness of the Employee or an immediate family member where the Employee has exhausted his or her compensated days off for that year. For such leave the Employer may require the Employee to present documentation of the Employee's illness or the immediate family member's illness within a reasonable time after the Employee takes such uncompensated time off, provided that the certification supplied by a licensed health care provider shall be sufficient as documentation.

Section 5 Child Care.

An Employer shall make direct payments to a licensed child-care facility or facilities in which one or more of an Employee's children from newborn to 12 years of age are enrolled. The payment shall be the lesser of \$100.00 per week or the total amount charged by facility for the care of all the Employee's children enrolled at the facility. If an Employee has children newborn to age 12 enrolled at multiple licensed child-care facilities, the Employer shall honor a request by the Employee to divide the payment between the facilities and the limit on payments prescribed by this section shall be \$100.00 per week or if lesser, the total amount charged by all facilities in which the Employee's children are enrolled. "Child" means a natural or adopted child or a child for whom the Employee is the legal guardian. An Employer may require reasonable proof that an Employee is the parent or legal guardian of a child, the child's date of birth and the child's enrollment in a licensed child-care facility.

Section 6 Public Transportation and Carpooling.

An Employer shall pay a transportation allowance to each of its Employees who uses mass transit or provides a carpool to commute to or from employment at the Employer. The allowance shall be at least \$2.50 per shift of work for each direction of travel (to or from work) when the Employee uses mass transit for the main part of the trip. "Carpooling" means that two or more Employees are sharing a ride to or from work. The allowance for carpooling shall be at least \$2 per shift of work for each direction of travel paid to the Employee providing the vehicle used for carpooling to the Employer's facility. Using other means of transit to arrive at a mass transit or carpooling embarkation point does not disqualify an Employee from receiving the allowance.

Section 7 Enforcement by the City.

A. An Employer shall maintain a listing of all persons in its employ containing for each their name, address, date of hire, job classification and whether the Employer believes them covered by this Chapter, and if covered, also showing their normal daily compensation rate, any child care or transportation payments requested and granted or denied; any leave requested for illness or jury duty and the Employer's response to such request and amount paid during such leave. The Employer shall submit a copy of this listing to the City by March 31st, June 30th, September 30th, and December 31st of each year. Failure to provide this listing within five days of the due date will result in a penalty of at least one hundred dollars (\$100.00) per day until provided, but not to exceed \$500 per day. An Employer shall maintain all records on the items referenced in such listings for all Employees for a period of three years.

B. An Employer shall give written notification to each current and new Employee, at time of hire, of his or her rights under this Chapter. The notification shall be in the form provided by the City in English, Spanish and other languages spoken by a significant number of the Employees, and shall be posted prominently in areas at the work site where it will be seen by all Employees. A copy of such notification shall be forwarded to the City.

C. An Employer shall permit access to work sites and relevant personnel records for authorized City representatives for the purpose of monitoring compliance with this Chapter, investigating Employee complaints of noncompliance and evaluating the operation and effects of this Chapter, including the production for inspection and copying of its personnel records for any or all of its Employees. The City Council is authorized to increase

PETITION TO ADOPT ORDINANCE REGULATING WORKPLACE STANDARDS

mercantile license fees for those Employers covered by this Chapter to cover any additional costs to the City for enforcement.

Section 8 Enforcement by Employees.

A. It shall also constitute a violation of this Chapter for any person to discriminate against any other person for qualifying to receive payments under this Chapter, for pursuing enforcement of this Chapter or for assisting others in pursuing enforcement of this Chapter. For purposes of this section an "Employee" entitled to enforce this Chapter includes a former employee or person denied a job as a result of discrimination in violation of this Chapter.

B. The City or an Employee claiming violation of this Chapter may bring an action in the Superior Court of the State of New Jersey to enforce the provisions of this Chapter for himself and all similarly-situated Employees and shall be entitled to back pay, reinstatement injunctive relief, recovery of penalties for the City and to any other remedies available at law or in equity appropriate to remedy any violation of this Chapter. Discrimination in violation of this Chapter shall be subject to a penalty of at least \$100 per day after not being reinstated or hired after demand therefore, not to exceed \$2000 per violation.

C. The Court shall award reasonable attorney's fees and expert fees and costs to an Employee who prevails in any enforcement action.

D. Notwithstanding any other provision of this code to the contrary, no criminal penalties shall attach for any violation of this Chapter.

E. No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in court.

Section 9 Severability.

If any section or any portion of a section of this Chapter is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining sections and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining sections or portions of the sections of this Chapter. The courts are authorized to reform the provisions of this Chapter.