

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE 4 OF THE CITY CODE TO ADD A NEW CHAPTER 4-5 RELATING TO WORKING CONDITIONS AT CONSTRUCTION SITES; CREATING AN OFFENSE AND IMPOSING A MAXIMUM PENALTY OF \$500 FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Title 4 (*Business Regulation and Permit Requirements*) of the City Code is amended to add a new Chapter 4-5 to read:

CHAPTER 4-5. WORKING CONDITIONS AT CONSTRUCTION SITES.

§ 4-5-1 DEFINITIONS.

(1) **CONSTRUCTION SITE** means a site or structure for which a building permit or site plan has been issued under Title 25 (*Land Development Code*) for an existing or proposed use.

(2) **CONSTRUCTION ACTIVITY** means all work associated with construction, including but not limited to work involving the alteration, demolition, building, excavation, maintenance, and renovation of structures or sites.

(3) **DEPARTMENT** means the department designated by the city manager.

(4) **EMPLOYEE** means any person employed by the employer.

(5) **EMPLOYER** means an individual, partnership, association, corporation, business trust, or any person or group of persons who directly or indirectly, through an agent, or any other person or employee, exercises control over the wages, hours or working conditions of any person.

(6) **HOURS WORKED** means the time during which an employee is subject to the control of an employer and includes all the time the employee is required or permitted to work, whether or not required to do so.

(7) **REST BREAK** means a break from work within working hours, during which an employee may not work. The term excludes any regular meal period provided by the employer.

1 **§ 4-5-2 REST BREAK REQUIRED.**

2 (A) Except as provided in Subsection (B), an employee performing construction
3 activity at a construction site is entitled to a rest break of not less than ten (10)
4 minutes for every four (4) hours worked. No employee may be required to
5 work more than 3.5 hours without a rest break.

6 (B) An employee is not entitled to rest breaks under Subsection (A) of this section
7 on any day that the employee works less than 3.5 hours or spends more than
8 half of his or her work time engaged in indoor administrative or secretarial
9 activities, unless otherwise required by law.

10 (C) An employer shall provide rest breaks in accordance with the requirements of
11 this section. A rest break shall be scheduled as near as possible to the midpoint
12 of the work period.

13 **§ 4-5-3 SIGNAGE REQUIRED.**

14 (A) A sign describing the requirements of Section 4-5-2 (*Rest Break Required*) shall
15 be prominently displayed at every construction site in English and Spanish.

16 (B) The department shall prescribe by rule the size, content, and location of signs
17 required under Subsection (A) of this section.

18 **§ 4-5-4 CRIMINAL PENALTY.**

19 (A) A person commits a Class C misdemeanor if the person:

20 (1) fails to provide a rest break as required under Section 4-5-2 (*Rest Break*
21 *Required*); or

22 (2) fails to post signage required under Section 4-5-3 (*Signage*
23 *Requirements*).

24 (B) Proof of a culpable mental state is not required to prove an offense under this
25 chapter.

26 (C) Each day that a violation occurs or continues is a separate offense.

27 **§ 4-5-5 CIVIL REMEDIES.**

28 (A) The city council has determined that this chapter is necessary to protect health,
29 life, and property and to preserve the good government, order, and security of
30 the City and its inhabitants.

31 (B) A person who continues to violate this chapter after being notified of the
32 offense in writing by an authorized City representative is subject to a civil

1 penalty of not less than \$100 or more than \$500 for each day the violation
2 occurs.

3 (C) The City may file suit to enforce this chapter or collect a civil penalty.

4 (D) The City may seek to enjoin violations of this chapter.

5 **§ 4-5-6 CUMULATIVE REMEDIES.**

6 The remedies authorized under this article are cumulative. If the City files a civil or
7 criminal action, it is not precluded from pursuing any other action or remedy.

8
9 **PART 2.** The council finds that the need to ensure employee rest breaks at
10 construction sites constitutes an emergency. Because of this emergency, this ordinance
11 takes effect immediately on its passage for the immediate preservation of the public
12 peace, health, and safety.

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14 **PASSED AND APPROVED**

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18 _____, 2010

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19 _____
20 Lee Leffingwell
21 Mayor

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23 **APPROVED:** _____
24 Karen M. Kennard
25 Acting City Attorney

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ATTEST: _____
Shirley A. Gentry
City Clerk