Local Minimum Wage Laws and the Challenge of Balancing Interests

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Sky Woodruff, City Attorney, El Cerrito and Larkspur, Special Counsel, South San Francisco

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Local Minimum Wage Laws and the Challenge of Balancing Interests

by

Sky Woodruff, Principal, Chair of the Public Finance Practice
Alex Mog, Associate, Municipal and Special District Law Practice

I. INTRODUCTION

Recently a movement to increase the minimum wage to $15 per hour has gained momentum in places across the country. With little chance of Congress raising the federal minimum wage in the immediate future, advocates of raising the minimum wage have instead focused on the enactment of state and local minimum wage laws. In California, where the minimum wage is currently $10 per hour, numerous cities have recently enacted or increased the local minimum wage rate, including Los Angeles, San Francisco, San Jose, Palo Alto, and El Cerrito. The State of California also recently enacted legislation that will increase the minimum wage statewide to $15 per hour over the span of a few years. The adoption of an increase in the state minimum wage will likely reduce the pressure on cities to adopt local minimum wage ordinances. However, individuals cities, especially in areas of the state with relatively higher costs of living or that want to accelerate increases more quickly, may nevertheless wish to adopt a local ordinance that establishes a minimum wage greater than what was established by the Legislature. This paper discusses some of the legal and policy issues to consider in drafting a local minimum wage ordinance.

II. AUTHORITY TO ENACT MINIMUM WAGE LAW

The Federal Fair Labor Standards Act of 1938 (“FLSA”), as amended from time to time, establishes a national minimum wage, which is currently $7.25 per hour. (29 U.S.C. § 206.) The FLSA expressly permits state and municipal governments to establish a minimum wage higher than the federal minimum wage. (29 U.S.C. § 218.) California has exercised this authority, and adopted a separate statewide minimum wage. (Labor Code § 1182.12.) Because the FLSA authorizes a city to establish its own minimum wage, whether or not a city can adopt its own minimum wage is dependent upon California law. Until recently, the vast majority of California cities adopting local minimum wage laws were charter cities. Some have wondered whether a general law city may enact a local minimum wage. It appears that general law and charter cities have the same authority to adopt local minimum wage ordinances. There is no express prohibition in state or federal law against general law cities establishing local minimum wage requirements.
The California Constitution gives both general law and charter cities the power to “make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws of the state.” (Cal. Const., art. XI, § 7.) It is well established that regulation of the employment relationship is an exercise of police power. (Metro. Life Ins. Co. v. Massachusetts (1985) 471 U.S. 724, 756; Salas v. Sierra Chem. Co. (2014) 59 Cal. 4th 407, 423.) This includes the establishment of a minimum wage. (Metro Life Ins. Co, 471 U.S. at 756.) “The power to regulate wages and employment conditions lies clearly within a state’s or a municipality’s police power. States possess broad authority under their police powers to regulate the employment relationship to protect workers within the state. Child labor laws, minimum and other wage laws . . . are only a few examples.” (RUI One Corp. v. City of Berkeley (9th Cir. 2004) 371 F.3d 1137, 1150 (internal citations omitted).)

State law does not preempt a city’s use of its police power to establish a minimum wage. To the contrary, the Labor Code expressly provides that “[n]othing in this part shall be deemed to restrict the exercise of local police powers in a more stringent manner.” (Labor Code § 1205(b).) Nothing in the Labor Code suggests that this authorization applies differently to charter cities and general law cities. The California minimum wage law is a matter of statewide concern, equally applicable to general law and charter cities. (See State Bldg. & Const. Trades Council of Cal., AFL-CIO v. City of Vista (2012) 54 Cal. 4th 547, 564.) However, the Legislature has authorized all cities to create more stringent minimum wage standards. Accordingly, there is no reason to believe that the Legislature intended to preempt a general law or charter city’s use of its police power to establish a minimum wage.

III. TIMING OF INCREASES AND AFFECTED EMPLOYERS

A. Phase in Schedule

Among the issues that has resulted in the greatest variation in crafting a local minimum wage ordinance is the decision of what the minimum wage will be. There is currently a movement, both nationally and in California, for states and localities to adopt a $15 per hour minimum wage. Many localities are adopting local minimum wage ordinances that provide for the minimum wage to eventually reach that rate, and the State of California has adopted legislation to create a $15 minimum wage for all employees by January 1, 2023 and for employers with 26 or more employees by January 1, 2022. Others that have already adopted a local minimum wage have elected not to use the $15 per hour target. Those jurisdictions will now have work through issues arising from the state’s schedule of increases potentially being higher than the local rates in some years and the final year. A city considering a local minimum wage ordinance is now precluded from considering rates lower than those in the new state law. In addition to the hourly rate, cities must still determine how quickly to raise the minimum wage to the desired amount. For example, a city might choose to increase the minimum hourly wage by $1 every year on January 1 until the wage is $15 per hour, rather than implement the entire increase at once. A city must also consider whether to coordinate the minimum wage increase with increases adopted by other jurisdictions. There are potential implementation benefits to different jurisdictions within the same geographic area adopting the same increase schedule, such as greater public awareness of the increases.
California’s adoption of a new statewide minimum significantly alters many of the considerations of whether or not to adopt a local minimum wage ordinance. There are significant administrative costs and burdens in adopting and enforcing a local minimum wage ordinance, which must be considered relative to the benefits, particularly if an existing or proposed schedule of increases differs only slightly from the state minimum wage. For example, if a local minimum wage is $0.25 more than the state minimum wage, the City would still bear the cost of enforcing the higher minimum wage, but perhaps without significant additional benefits to local low-wage workers. Cities might also want to consider the increased complexity employers could face if they have workers throughout California subject to slightly different minimum wage scales.

The minimum wage increase passed by the Legislature and signed into law by Governor Brown, increases the California minimum wage to $15 per hour for employers who employ 26 or more employees as of January 1, 2022.1 For employers who employ 25 or fewer employees, the $15 per hour minimum wage will be effective on January 1, 2023. Beginning on January 1, 2024, the minimum wage will increase by an amount equal to the rate of inflation or 3.5%, whichever is less. Cities that believe the state minimum wage takes too long to reach $15 per hour may still wish to adopt a local minimum wage ordinance. For example, an ordinance that establishes a $15 an hour minimum wage for all employees by January 1, 2020, and thereafter increases by the amount of inflation, would provide higher wages more quickly to minimum wage employees than will be provided by the state minimum wage.

It is advisable when presenting options to a city council and in drafting local minimum wage ordinances to take into account existing and potentially new state law regulating the minimum wage as well as neighboring jurisdictions’ regulations to assess potential administrative complications for the city, employers, and employees. Among the administrative complications worth considering are additional enforcement burdens potentially resulting from schedules or rules that conflict with state law or regulations in adjacent cities.

Finally, cities must consider whether the minimum wage should increase automatically every year after the final established wage rate is reached. Supporters of increasing the minimum wage note that the value of the minimum wage has fallen, in real terms, over time as a result of inflation. To rectify this problem, a city may decide to automatically increase the minimum wage annually by the same percent as the increase in the consumer price index. While automatic increases ensure that the minimum wage approximately keeps up with inflation, employers frequently object that such increases may result in financial hardship if their revenues do not increase enough to match steadily increasing labor costs. Options that have been identified to address that concern include capping the automatic increases at a maximum percentage and annual review by the city council to determine whether to allow an automatic increase to go into effect.

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1 The text of SB 3, signed by the Governor on April 4, 2016, is available at http://leginfo.ca.gov/pub/15-16/bill/sen/sb_0001-0050/sb_3_bill_20160404_chaptered.pdf
effect. Beginning in January, 2024 California’s minimum wage automatically increases by an amount equal to the rate of inflation or 3.5%, whichever is less.

B. Small Business Exceptions

In adopting a local minimum wage ordinance there will likely be a concern that increasing the minimum wage will be a significant financial burden on local businesses. To address this potential problem, there may be a desire to adopt a separate minimum wage for small and large employers, due to a belief that large employers have a greater ability to absorb the costs of an increased minimum wage. For example, if an ordinance established a timeline for the minimum wage to reach $15 per hour in four years for large employers, the ordinance might establish a six year time period before small employers were required to pay their employees that same minimum wage.

It is well established that a city may enact economic regulations that treat various individuals or businesses in different manners. A statutory classification that does not differentiate between individuals or businesses on account of a suspect classification, such as race or gender, does not violate equal protection as long as “there is any reasonably conceivable state of facts that could provide a rational basis for the classification.” (F.C.C. Beach Comm’ns, Inc. (1993) 508 U.S. 307, 313.) This is a low burden for a city to meet, and there are numerous conceivable rational bases for treating small and large employers differently under a minimum wage ordinance. (See Int’l Franchise Ass’n, Inc. v. City of Seattle (9th Cir. 2015) 803 F.3d 389, 407.)

Despite the clear legal authority to apply different minimum wage rates to small and large employers, there are many policy reasons a city council might nevertheless desire one uniform minimum wage. Most notably, an increased minimum wage is generally adopted for the benefit of low wage workers. A low wage worker is not less deserving of an increased wage simply because he or she works for a small employer. Depending on the economy of a particular city, treating small employers differently might result in the benefits of an increased minimum wage not reaching a large portion of the city’s low wage workers. Furthermore, creating two different minimum wages levels is likely to substantially increase the administrative burden of implementing and enforcing a local minimum wage ordinance. However, it is important to note that California’s new minimum wage law creates two separate wage rates for large and small employers, which might create an expectation of a similar distinction in local minimum wage ordinances.

IV. EXCEPTIONS AND SPECIAL CONSIDERATIONS

There are many considerations a city must address in adopting a local minimum wage ordinance. A city has broad discretion to design a unique ordinance, as long as it does not result in a worker being paid less than the state or federal minimum wage, or is otherwise in conflict with state or federal law. For example, a city must decide what workers, if any, will be exempt from the minimum wage requirement. A brief discussion of some of these special considerations is below.
A. State Formula

Cities may wish to exempt certain types of employees from the local minimum wage ordinance, or apply special rules to certain employees. However, developing these exceptions and rules might be difficult. Generally, cities have relatively little experience and expertise in regulating employment conditions in comparison to the state. When drafting a minimum wage ordinance, a city is unlikely to think of every possible employment situation that might justify a deviation from the standard minimum wage rate. In contrast, the state has developed a wide range of wage rules over a period of decades.

A simple way for a city to take advantage of the state’s developed set of rules is to draft the minimum wage ordinance to require that whenever the Labor Code or Department of Industrial Relations regulations require an employee to be paid using a formula based off of the state minimum wage, the same formula shall apply to workers within the city, except that the local minimum wage rate shall be used. For example, the Labor Code includes a learners exception that allows an employee with no previous or related experience in the occupation to be paid 85% of the minimum wage during the employee’s first 160 hours of employment. (Labor Code § 1192; Industrial Welfare Commission Order 4-2001, §4(A).) If a city does not provide any exceptions to its minimum wage ordinance, employers in the city would be required to pay “learners” the entire local minimum wage. In contrast, adopting state wage formulas, but substituting the local minimum wage rate, would allow employers to pay “learners” 85% of the local minimum wage. Adopting state wage formulas, but requiring the local minimum wage to be used, allows a city to take advantage of the state’s existing set of detailed regulations, while also ensuring the local minimum wage applies to the maximum extent possible.

B. Collective Bargaining Agreements

State and federal law both prohibit a collective bargaining agreement from establishing a wage rate below the respective state and federal minimum wage. (29 CFR § 541.4; Civil Code § 1668, 3513.) However, nothing prevents a city from exempting employees subject to a collective bargaining agreement from the city’s minimum wage requirement, as long as such agreement still complies with all federal and state labor laws. A city may decide that exempting collective bargaining agreements is beneficial for workers because it allows employees to bargain on all elements of compensation, rather than simply subjecting these workers to a uniform minimum wage rate. For example, workers might decide that it is beneficial to agree to wage rates below the local minimum wage in exchange for greater health care benefits. Generally, a collective bargaining agreement may only waive statutory rights if it is “clear and unmistakable” that such a waiver was the intent of the agreement. (Metro. Edison Co. v. N.L.R.B. (1983) 460 U.S. 693, 708.) If a city wants to exempt collective bargaining agreements from the local minimum wage ordinance, the city may consider incorporating standards for agreements to follow in order to be exempt from the local minimum wage. Such a requirement would help ensure that employees are aware of the rights they are agreeing to waive.
C. Treatment of tips and commissions

Local ordinances should also address the treatment of an employee’s tips and commissions. California law prohibits an employer from counting the tips received by an employee toward the payment of the California minimum wage. (Labor Code § 351.) In contrast, an employer is generally allowed to count commission payments toward the payment of minimum wage. (Labor Code § 200.) The reason for this distinction is straightforward - a tip is a voluntary payment made by a customer directly to an employee, whereas a commission is a portion of the proceeds of a sale shared with an employee by an employer.

Allowing tips to be counted toward the payment of minimum wage would decrease the impact of a minimum wage increase on some employers, perhaps increasing support for the ordinance. However, it would also necessarily decrease the benefit of a local minimum wage increase to tipped workers. Restaurants and other businesses with a high percentage of tipped workers are often among the businesses that are most vocal about the economic effects of a local minimum wage increase. Early and meaningful discussions with representatives of that sector—both employers and employees—can help a city understand the interests to be balanced in crafting a local policy about how to treat tips as part of a minimum wage ordinance. Similar consideration exists regarding the treatment of commission income.

D. Service Charges

Many advocates of adopting local minimum wage rates also support mandatory disbursement of hospitality service charges to employees. Examples of hospitality service charges include delivery fees and room service charges at a hotel. Additionally, a small number of restaurants have eliminated tips and implemented a flat service charge. The rationale behind requiring the distribution of service charges to employees is to ensure that the employee performing the service task receives the charge for that task. Furthermore, customers may consider these types of hospitality service charges to be in-lieu of a tip, and therefore leave a smaller tip or no tip at all. This results in a loss of tip income for employees, but with the hospitality service charge revenue actually going to the employer. Requiring employees to receive the revenue from any hospitality service charges ensures that the employee performing the service receives the fee for that service.

There are many issues to consider in adopting a requirement that hospitality service charges be given to employees. There may be reasons to exclude certain charges, and a city must decide what type of service charges to include within the requirement. For example, a delivery charge might be excluded because that charge is necessary for an employer to offset the costs of maintaining a delivery vehicle. Similarly, cities must decide what employees will share the service charge revenue. Does that revenue only go to the employee performing the actual task (like a delivery), or to other non-management employees who perform other related tasks (like making the pizza). Restaurants that have eliminated tips and implemented service charges say that the charge allows them to ensure that “back of the house employees” (like cooks and bussers)
receive a share of the charge. Furthermore, cities must consider the implementation challenges of adopting this type of requirement. It is far more difficult for a city to enforce this type of requirement than it is to enforce a minimum wage ordinance. Generally, an employee does not have knowledge of how much hospitality service charge revenue an employer collected, and therefore the employee, and city, have no easy way to determine if the employee is getting his or her legally required share.

V. ENFORCEMENT

Cities that adopt a local minimum wage ordinance must also consider how to enforce the ordinance. An individual who is paid less than the state minimum wage can currently report that violation of the Labor Code to the Department of Industrial Relations using a well-established procedure, and the Department of Industrial Relations has extensive experience investigating such reports. In contrast, cities generally do not have existing personnel or infrastructure in place to take on a new enforcement obligation. Even if a city has staff that can take on enforcement, they are unlikely to have experience with wage issues or auditing business financial records to determine whether the legally required amount has been paid to an employee. A city must decide how much resources and staff time to dedicate to enforcing a local minimum wage law. Some cities may decide it makes more sense, practically and financially, to hire a consultant or organization with more expertise in this area to assist in the investigation and enforcement of possible violations. Below is a brief discussion of some possible enforcement tools cities may utilize.

A. Linking Compliance to Business License

One tool for enforcement of a minimum wage ordinance is to incorporate compliance into the city’s business license regulations. An employer could be required to certify that it complies with the requirements of the minimum wage ordinance whenever it applies for a license renewal. Additionally, failure to pay all employees the local minimum wage could be grounds for revocation of a business license. The threat of losing a business license may be a more effective enforcement tool than fines or other forms of punishment. Although business license revocation or non-renewal provides a powerful remedy, a city would still have to be prepared to conduct investigations of non-compliance complaints.

2 Tips are the property of the employee, and the Fair Labor Standards Act of 1938 and United States Department of Labor regulations significantly restrict the ability of employers to require tips to be pooled and shared with employees who are not “customarily and regularly” tipped. (29 U.S.C. § 203(m); 76 Fed. Reg. 11,832, 18,841-42 (April 5, 2011); see also Oregon Rest. & Lodging Ass’n v. Perez, ___ F.3d ____ No. 13-35765, 2016 WL 706678 (9th Cir. Feb. 23, 2016).) These restrictions do not appear to apply to hospitality charges, which are the property of the employer. Accordingly, a City can mandate that hospitality charges be shared by tipped and non-tipped employees.
Additionally, if a city’s business license ordinance explicitly states that it is adopted only for revenue generating purposes, a city may want to amend the ordinance before using it as a tool to regulate and enforce a minimum wage ordinance.

**B. Enforcement Tools**

1. **Code enforcement**

A city may include within its minimum wage ordinances authority to utilize the full range of traditional enforcement tools provided to cities, such as imposing administrative citations and pursuing civil enforcement. In developing the range of enforcement tools available, it is important to remember the relatively unique nature of a minimum wage violation. Unlike most municipal code violations, violation of the minimum wage ordinance directly and personally impacts a single individual, the employee. The purpose of enforcement must be to ensure that employees receive the compensation to which they are entitled. Accordingly, cities may consider approaching minimum wage violations differently from other violations. For example, giving staff broad discretion to waive or reduce fines enables staff to use the promise of a reduction as a tool to ensure employers make employees whole as quickly as possible.

2. **Private right of action**

Another option is including within the ordinance a private right of action for employees, which would help ensure employees receive the full protection of the ordinance. Cities do not always have the resources or expertise to uncover every violation, and a private right of action allows any individual harmed by a violation of the minimum wage ordinance to pursue the compensation he or she is entitled to. Individuals being paid the minimum wage also often lack resources to initiate legal action to recover unpaid wages, but nonprofit organizations exist in many communities that can assist employees who believe they may not be receiving legally required compensation. Although a court would likely find that a minimum wage ordinance contains an implied cause of action, including an explicit private right of action within the ordinance telegraphs to employees that they have the ability to sue to enforce their compensation rights.

**C. Pooling Investigation and Enforcement with Other Local Government Agencies**

Neighboring cities may also want to consider pooling resources to investigate and enforce their local minimum wage ordinances. A small city may not have the resources, or the need, to dedicate significant staff time to enforcement. If cities work together they can share expertise and expenses, such as sharing the cost of a full-time consultant to investigate possible violations. The formality of the relationship between cities can differ depending on the manner and scope of the cooperation. However, formal cooperation and pooling of resources likely only makes sense if the cities have adopted similar minimum wage ordinances. This is another reason why cities may want to consider or replicate the ordinances other nearby jurisdictions have adopted when drafting their own ordinance.
VI. SICK DAYS

Cities may also wish to adopt minimum sick leave benefits at the same time that they adopt a local minimum wage ordinance. Advocates of such minimum benefits argue that the lack of sick leave can have significant financial consequences for low-wage workers if they are forced to take time off due to sickness or to care for a family member. Advocates also point to the public policy benefits of sick leave, such as a reduction in the spread of illness because sick employees have the ability to stay home.

The California Health Workplaces, Health Families Act of 2014 implemented statewide sick leave requirements effective July 1, 2015. (Labor Code § 245 et seq.) The Act requires employers to provide eligible employees with one hour of sick leave for every 30 hours worked. Employers may limit the use of sick leave to 24 hour or three days paid sick leave per year, and may limit the total accrual of sick leave to 48 hours or 6 days. Additionally, sick leave advocates are currently gathering signatures to place an initiative on the November 2016 ballot that would amend the Act to provide increased sick leave benefits, such as raising the minimum permitted usage cap to 48 hours or 6 days per year.3 Since the state law has been in effect for less than a year, and may change again soon, cities may wish to wait before implementing their own minimum sick leave requirements to better understand some of the challenges of implementing a minimum sick leave requirement and in order to better identify what deviations from the state law would be beneficial for a city to adopt. On the other hand, advocates have suggested that the new sick leave requirement is as inadequate as the current minimum wage, so there is just as much reason to enhance the benefit at the local level as there is to increase the minimum wage.

VI. CONCLUSION

A movement to increase the minimum wage to $15 per hour has gained momentum in places across the country, and the California Legislature recently adopted legislation to eventually increase the minimum wage to $15 statewide. Prior to the adoption of an increase in the California minimum wage, many cities adopted or were considering adopting local minimum wage ordinances. The Legislature’s recent action may decrease some cities desire to adopt local ordinances, but other cities may nevertheless move forward with adopting and implementing a local minimum wage. In drafting a local minimum wage ordinance cities must decide on a schedule for increasing that wage, whether to make the minimum wage applicable to all employers regardless of size, and whether to create any exceptions to the ordinance, among other considerations. Additionally, cities must evaluate whether the minimum wage ordinance is an appropriate method for adopting local sick leave requirements or a requirement to distribute mandatory service charges to staff. Given the adoption of a new statewide minimum wage, cities must also weigh whether the benefits of a new local minimum wage ordinance justify the significant administrative costs and burdens of adopting and enforcing a local minimum wage ordinance.

3 The text of the proposed ballot measure is available at http://www.oag.ca.gov/system/files/initiatives/pdfs/15-0105%20%28Minimum%20Wage%29_0.pdf
Authors:
Sky Woodruff, Principal, Chair of the Public Finance Practice
Alex Mog, Associate, Municipal and Special District Law Practice
Meyers Nave (800.464.3559, meyersnave.com; Oakland, Sacramento, San Francisco, Santa Rosa, Los Angeles, San Diego)
ORDINANCE NO. 7,352-N.S.
ADOPTING MINIMUM WAGE IN BERKELEY

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That a new Chapter 13.99 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 13.99
MINIMUM WAGE

Sections
13.99.010 Title and Purpose.
13.99.020 Authority.
13.99.090 Enforcement.
13.99.100 Relationship to Other Requirements.
13.99.120 Fees.
13.99.130 Exemptions.

13.99.010 Title and Purpose.
This ordinance shall be known as the "Minimum Wage Ordinance."

The purpose of this ordinance is to protect the public health, safety and welfare. It does this by requiring that employees are compensated by their employers or respective subcontractors in such a manner as to enable and facilitate their individual self-reliance within the City of Berkeley.

13.99.020 Authority.
This Chapter is adopted pursuant to the powers vested in the City of Berkeley under the laws and Constitution of the State of California but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution and Section 1205(b) of the California Labor Law.

The following terms shall have the following meanings:
A. "City" shall mean the City of Berkeley.
B. "Department" shall mean the Department of Finance or other City department or agency as the City shall by resolution designate.
C. "Employee" shall mean any person who:
1. In a calendar week performs at least two (2) hours of work for an Employer within the geographic boundaries of the City; and

2. Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission, or is a participant in a Welfare-to-Work Program.

D. "Employer" shall mean any person, including corporate officers or executives, as defined in Section 18 of the California Labor Code, who directly or indirectly through any other person, including through the services of a temporary employment agency, staffing agency, subcontractor or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee, or any person receiving or holding a business license through Title 9 of the Berkeley Municipal Code.

E. "Minimum Wage" shall have the meaning set forth in Section 13.99.040 of this Chapter.

F. "Nonprofit Corporation" shall mean a nonprofit corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and (if a foreign corporation) in good standing under the laws of the State of California, which corporation has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1988, as amended, and all rules and regulations promulgated under such Section, or any nonprofit educational organization qualified under Section 23701 (d) of the Revenue and Taxation code.

G. "Welfare-to-Work Program" shall mean the CalWORKS Program, County Adult Assistance Program (CAAP) which includes the Personal Assisted Employment Services (PAES) Program, and General Assistance Program, and any successor programs that are substantially similar to them.

A. Employers shall pay Employees no less than the Minimum Wage set forth below for each hour worked within the geographic boundaries of the City.

<table>
<thead>
<tr>
<th>Date</th>
<th>Minimum Hourly Wage</th>
</tr>
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<tbody>
<tr>
<td>October 1, 2014</td>
<td>$10.00</td>
</tr>
<tr>
<td>October 1, 2015</td>
<td>$11.00</td>
</tr>
<tr>
<td>October 1, 2016</td>
<td>$12.53</td>
</tr>
</tbody>
</table>

B. For Employers that are Nonprofit Corporations, the requirements of this Chapter shall not take effect until October 1, 2015, at which time the minimum wage will be $11.00 per hour.

C. A violation for unlawfully failing to pay the Minimum Wage shall be deemed to continue from the date immediately following the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the
California Labor Code, to the date immediately preceding the date the wages are paid in full.

To the extent required by federal law, all or any portion of the applicable requirements of this Chapter may be waived in a bona fide collective bargaining agreement, provided that such waiver is explicitly set forth in such agreement in clear and unambiguous terms.

A. By August 1 of each year, the Department shall publish and make available to Employers a bulletin announcing the adjusted Minimum Wage rate, which shall take effect on October 1 of that year. In conjunction with this bulletin, the Department shall by August 1 of each year publish and make available to Employers, in all languages spoken by more than five percent of the work force in the City, a notice suitable for posting by Employers in the workplace informing Employees of the current Minimum Wage rate and of their rights under this Chapter.
B. Every Employer shall post in a conspicuous place at any workplace or job site in the City where any Employee works the notice published each year by the Department informing Employees of the current Minimum Wage rate and of their rights under this Chapter. Every Employer shall post such notices in any language spoken by at least five percent of the Employees at the workplace or job site. Every Employer shall also provide each Employee at the time of hire with the Employer's name, address, and telephone number in writing. Failure to post such notice shall render the Employer subject to administrative citation, pursuant to Section 90, Subsection A, of this Chapter.
C. Employers shall retain payroll records pertaining to Employees for a period of four years, and shall allow the City access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow the City reasonable access to such records, the Employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise. Furthermore, failure to maintain such records or to allow the City reasonable access shall render the Employer subject to administrative citation, pursuant to Section 90, Subsection A, of this Chapter.
D. If a violation of this Chapter has been finally determined, the City shall require the Employer to post public notice of the Employer's failure to comply in a form determined by the City. Failure to post such notice shall render the Employer subject to administrative citation, pursuant to Section 90, Subsection A, of this Chapter.

It shall be unlawful for an Employer or any other party to discriminate in any manner or take any adverse action (including action relating to any term, condition or privilege of employment) against any person in retaliation for exercising rights protected under this Chapter. Rights protected under this Chapter include, but are not limited to, the right to file a complaint or inform any person about any party's alleged noncompliance with this Chapter; and the right to inform any person of his or her potential rights under this
Chapter or otherwise educate any person about this Chapter or to assist him or her in asserting such rights. Protections of this Chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this Chapter. Taking adverse action against a person within ninety (90) days of the person’s exercise of rights protected under this Chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights. Failure to comply with this provision shall render the Employer subject to administrative citation, pursuant to Section 90, Subsection A, of this Chapter.


A. Guidelines. The Department shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. The Department shall seek out partnerships with community-based organizations and collaborate with the Labor Commission to facilitate effective implementation and enforcement of this Chapter. Any guidelines or rules promulgated by the Department shall have the force and effect of law and may be relied on by Employers, Employees and other parties to determine their rights and responsibilities under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this Chapter, including supplementary procedures for helping to inform Employees of their rights under this Chapter, for monitoring Employer compliance with this Chapter, and for providing administrative hearings to determine whether an Employer or other person has violated the requirements of this Chapter.

B. Reporting Violations. An Employee or any other person may report to the Department in writing any suspected violation of this Chapter. The Department shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation. Provided, however, that with the authorization of such person, the Department may disclose his or her name and identifying information as necessary to enforce this Chapter or other employee protection laws. In order to further encourage reporting by Employees, if the Department notifies an Employer that the Department is investigating a complaint, the Department shall require the Employer to post or otherwise notify its Employees that the Department is conducting an investigation, using a form provided by the Department. Failure to post such notice shall render the Employer subject to administrative citation, pursuant to Section 90, Subsection A, of this Chapter.

C. Investigation. The Department shall be responsible for investigating any possible violations of this Chapter by an Employer or other person. The Department shall have the authority to inspect workplaces, interview persons and request the City Attorney to subpoena books, papers, records, or other items relevant to the enforcement of this Chapter.

D. Informal Resolution. The Department shall make every effort to resolve complaints informally, in a timely manner, and shall have a policy that the Department shall take no more than six months to resolve any matter, before initiating an enforcement action. The failure of the Department to meet these timelines within six months shall not be grounds for closure or dismissal of the complaint.
13.99.090 Enforcement.

A. Where prompt compliance is not forthcoming, the City and the Department shall take any appropriate enforcement action to secure compliance, including but not limited to the following:

1. The City may issue an Administrative Citation pursuant to Chapter 1.28 of the Berkeley Municipal Code. The amount of this fine shall vary based on the provision of this Chapter being violated, as specified below:
   a. A fine of one thousand dollars ($1,000.00) may be assessed for retaliation by an Employer against an Employee for exercising rights protected under this Chapter for each Employee retaliated against.
   b. A fine of five hundred dollars ($500.00) may be assessed for any of the following violations of this Chapter:
      i. Failure to post notice of the Minimum Wage rate
      ii. Failure to provide notice of investigation to Employees
      iii. Failure to post notice of violation to public
      iv. Failure to maintain payroll records for four years
      v. Failure to allow the City access to payroll records
   c. A fine equal to the total amount of appropriate remedies, pursuant to subsection E of this section. Any and all money collected in this way that is the rightful property of an Employee, such as back wages, interest, and civil penalty payments, shall be disbursed by the City in a prompt manner.

2. Alternatively, the City may pursue administrative remedies in accordance with the following procedures:
   a. Whenever the City determines that a violation of any provision of this Chapter is occurring or has occurred, the City may issue a written compliance order to the Employer responsible for the violation.
   b. A compliance order issued pursuant to this chapter shall contain the following information:
      i. The date and location of the violation;
      ii. A description of the violation;
      iii. The actions required to correct the violation;
      iv. The time period after which administrative penalties will begin to accrue if compliance with the order has not been achieved;
      v. Either a copy of this Chapter or an explanation of the consequences of noncompliance with this Chapter and a description of the hearing procedure and appeal process;
      vi. A warning that the compliance order shall become final unless a written request for hearing before the City is received within fourteen days of receipt of the compliance order.

   c. Following receipt of a timely request for a hearing, the City shall provide the Employer responsible for the violation with a hearing and, if necessary, a subsequent appeal to the City Council that affords the Employer due process. During the pendency of the hearing and any subsequent appellate process, the City will not enforce any aspect of the compliance order.

3. The City may initiate a civil action for injunctive relief and damages and civil
penalties in a court of competent jurisdiction.

B. Any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer or other person violating this Chapter and, upon prevailing, shall be awarded reasonable attorneys' fees and costs and shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as a civil penalty in the amount of $50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued, reinstatement in employment and/or injunctive relief. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief to employees, and reasonable attorneys' fees and costs.

C. This Section shall not be construed to limit an Employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights nor shall exhaustion of remedies under this Chapter be a prerequisite to the assertion of any right.

D. Except where prohibited by state or federal law, City agencies or departments may revoke or suspend any registration certificates, permits or licenses held or requested by the Employer until such time as the violation is remedied. The City shall not renew any such license of an Employer with outstanding violations, as finally determined under this Chapter, until such time as the violation is remedied.

E. The remedies for violation of this Chapter include but are not limited to:

1. Reinstatement, the payment of back wages unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of $50 to each Employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this Code or state law.

2. Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.

3. Reimbursement of the City's administrative costs of enforcement and reasonable attorney's fees.

4. If a repeated violation of this Chapter has been finally determined, the City may require the Employer to pay an additional sum as a civil penalty in the amount of $50 to the City for each Employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this Code or state law.

F. The remedies, penalties and procedures provided under this Chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this Chapter. Actions taken pursuant to this Chapter shall not prejudice or
adversely affect any other action, civil or criminal, that may be brought to abate a violation or to seek compensation for damages suffered.

13.99.100 Relationship to Other Requirements. This Chapter provides for payment of a local Minimum Wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections.

13.99.110 Application Of Minimum Wage To Welfare-To-Work Programs. The Minimum Wage established under this Chapter shall apply to the Welfare-to-Work programs under which persons must perform work in exchange for receipt of benefits. Participants in Welfare-to-Work Programs within the City of Berkeley shall not, during a given benefits period, be required to work more than a number of hours equal to the value of all cash benefits received during that period, divided by the Minimum Wage.

13.99.120 Fees. Nothing herein shall preclude the City Council from imposing a cost recovery fee on all Employers to pay the cost of administering this Chapter.

13.99.130 Exemptions. The requirements of this chapter shall not apply to the following Employees:

1. Employees who are standing by or on-call according to the criteria established by the Fair Labor Standards Act, 29 U.S.C. Section 201. This exemption shall apply only during the time when the employee is actually standing by or on-call.

2. Job training program participants up to 25 years of age in youth job training programs operated by Nonprofit Corporations or governmental agencies.

Section 2. Severability. If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid, the remainder of this ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.
Chapter 6.95 - CITY MINIMUM WAGE STANDARDS

Sections:

6.95.010 - Title.
This chapter shall be known as the "City Minimum Wage Standards."

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.020 - Authority.
This chapter is adopted pursuant to the powers vested in the City of El Cerrito under the laws and Constitution of the State of California, including but not limited to, the police powers vested in the City pursuant to Article XI Section 7 of the California Constitution and Section 12050(b) of the California Labor Code.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.030 - Definitions.
As used in this chapter, the following capitalized terms shall have the following meanings:

"City" shall mean the City of El Cerrito or any person, business, or public agency designated by the city council or city manager to perform various investigative, enforcement and informal resolution functions pursuant to this chapter.

"CPI" shall mean the Consumer Price Index for urban wage earners and clerical workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area (or, if such index is discontinued, then in the most similar successor index).

"Employee" shall mean any person who:
1. In a particular week performs at least two hours of work within the geographic boundaries of the city for an employer; and
2. Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission.

"Employer" shall mean any person who conducts business in the city, or maintains a business facility in the city, and directly or indirectly (including through the services of a temporary services, staffing agency or similar entity) employs or exercises control over the wages, hours or working conditions of any employee. Any person exempt from payment of the California minimum wage is not an employer for the purposes of this chapter.

"Minimum wage" shall have the meaning set forth in Section 6.95.040.

"Person" shall mean any individual, association, organization, partnership, business trust, limited liability company, corporation, or other legal entity.

"Particular week" shall mean any seven consecutive days, starting with the same calendar day each week beginning at any hour on any day, so long as it is fixed and regularly occurring.
1. An employer may establish the day of week when an employee's "particular week" starts, but once an employee's workweek is established, it remains fixed regardless of his/her working schedule.
2. An employer may change an employee's workweek only if the change is intended to be permanent and is not designed to evade an employer's obligations to this chapter.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.040 - Minimum wage.
A. Employers shall pay employees no less than the minimum wage for each hour worked within the geographic boundaries of the city.

B. The minimum wage rate shall be as follows:
1. Beginning on July 1, 2016, the minimum wage shall be an hourly rate of eleven dollars and sixty cents per hour.
2. Beginning on January 1, 2017, the minimum wage shall be an hourly rate of twelve dollars and twenty-five cents per hour.
3. Beginning on January 1, 2018, the minimum wage shall be an hourly rate of thirteen dollars and sixty cents per hour.
4. Beginning on January 1, 2019, the minimum wage shall be an hourly rate of fifteen dollars per hour.
5. Beginning on January 1, 2020, and each January 1 thereafter, the minimum wage shall increase by an amount equal to the prior year's increase, if any, in the CPI as determined by the United States Department of Labor. The city shall use
the August to August change in the CPI to calculate the annual increase, if any. A decrease in the CPI shall not result in a decrease of the minimum wage.

C. An employer may not count an employee's tips or gratuities as a credit toward the employer's obligation to pay the employee the minimum wage.

D. An employer who compensates employees, in whole or in part, on a commission basis that is consistent with state and federal law, may count commission earnings toward its obligation to pay the minimum wage.

E. Whenever the California Labor Code requires an employee to be paid at a rate using a formula based on the state minimum wage, the same formula shall be used to calculate the payment of an employee under this chapter, except that the local minimum wage shall be used. This section shall also apply to learners and apprentices eligible to be paid less than the minimum wage under the provisions of the Labor Code and the regulations of the Department of Industrial Relations.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.050 - Exemptions and waivers.
A. Individual Waiver Prohibited. Any waiver by an individual employee of any of the provisions of this chapter shall be deemed contrary to public policy and shall be void and unenforceable. Any request to an individual employee by an employer to waive his or her rights under this chapter shall constitute a violation of this chapter.

B. Waiver through Collective Bargaining. To the extent required by federal law, all or any portion of the applicable requirements of this chapter may be waived in a bona fide collective bargaining agreement, provided that such waiver is explicitly set forth in such agreement in clear and unambiguous terms.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.060 - Notice, posting and payroll records.
A. By November 1 of each year, the city shall publish and make available to employers a bulletin announcing the adjusted minimum wage rate for the upcoming year, which shall take effect on January 1. In conjunction with this bulletin, the city shall publish and make available to employers, in all languages spoken by at least ten percent of the workforce in the city, a notice suitable for posting by employers in the workplace informing employees of the current minimum wage rate and of their rights under this chapter.

B. 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 city informing employees of the current minimum wage rate and of their rights under this chapter. Every employer shall post such notices in any language spoken by at least ten percent of the employees at the workplace or job site. In the event that at least ten percent of the employees at a workplace or job site speak a language for which the city does not publish and make available a notice, the employer shall be responsible for accurately translating the notice published by the city. Every employer shall also provide each employee at the time of hire with the employer's name, address, and telephone number in writing.

C. Employers shall maintain for at least three years a record for each employee, which shall include the employee's name, hours worked, pay rate, and service charges collected and distributed. Upon an employee's reasonable request, employers shall provide that employee with a copy of his or her records within ten calendar days.

D. Employers shall permit access to work sites and relevant records for authorized city representatives, with appropriate notice and during normal business hours or at a mutually agreeable time, for the purpose of monitoring compliance with this chapter and investigating employer complaints of noncompliance, including production for inspection and copying of its employment records, but without allowing social security numbers to become a matter of public record. Relevant payroll records may include all time cards, cancelled checks, cash receipts, books, documents, schedules, forms, reports, receipts or other evidence which reflect job assignments, work schedules by days and hours, and the disbursement of payments to an employee(s). Where an employer does not maintain or retain adequate records documenting wages paid, or does not allow the city reasonable access to such records, the employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise. Any employer who fails to maintain or retain adequate records may be subject to a fine or penalty pursuant to Section 6.95.090.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.070 - Retaliation barred.
It is unlawful for an employer to discriminate in any manner or take adverse action against any employee, including but not limited to termination, reduction in compensation or number of hours worked, or reassignment of duties, in retaliation for the employee exercising his or her rights under this chapter, including for making a complaint to the city, participating in any of its proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this chapter.

Taking adverse action against an employee within 120 days of that employee's exercise of rights protected by this chapter shall raise a rebuttable presumption that the Employer acted in retaliation. The employer may overcome this presumption by establishing, with clear and convincing evidence, a non-retaliatory reason for the adverse action.
(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.080 - Implementation.
A. Guidelines. The city manager or designee is authorized to establish an administrative procedure for receiving and investigating complaints of noncompliance with this chapter and rendering the city’s decisions on the merits of such complaints. The city manager or designee shall coordinate implementation and enforcement of this chapter and may promulgate appropriate guidelines or rules for such purposes. The city manager or designee is also authorized to establish administrative procedures and guidelines for the city initiating investigation and enforcement of noncompliance with this chapter on its own accord and in the absence of a specific complaint.

B. Investigation. The city shall be responsible for investigating any possible violation of this chapter by an employer or other person. The city shall have the authority to inspect workplaces, interview persons and request the city attorney to subpoenas books, papers, records or other items relevant to the enforcement of this chapter.

C. Reporting Violations. An employee or any other person may report to the city in writing any suspected violation of this chapter. The city shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation, provided, however, that with the authorization of such person, the city may disclose his or her name and identifying information as necessary to enforce this chapter or other labor laws. In order to further encourage reporting by employees, if the city notifies an employer that the city is investigating a complaint, the city shall require the employer to post or otherwise notify its employees that the city is conducting an investigation, using a form provided by the city.

D. Informal Resolution. The city shall make every effort to resolve complaints informally, in a timely manner, and shall have a policy that the city shall take no more than one year to resolve any matter before initiating an enforcement action. However, the failure of the city to meet this one year deadline shall not be grounds for closure or dismissal of the complaint.

E. The city is authorized to award the same relief in its proceedings as a court may award. Employees are not required to pursue administrative remedies as a prerequisite for pursuing a civil action under this chapter.

F. The city manager, upon approval by the city council, may designate another agency or entity to administer this chapter.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.090 - Enforcement.
Where compliance with the provisions of this chapter is not forthcoming, as determined by the city in its sole discretion, the city may take any appropriate enforcement action to ensure compliance, including but not limited to the following:

A. The city may issue an administrative citation pursuant to provisions of the City's Municipal Code, El Cerrito Municipal Code Chapter 1.14. The amount of this fine shall vary based on the provision of this chapter violated, as specified below:
   1. A fine may be assessed for retaliation by an employer against an employee for exercising rights protected under this chapter. The fine may be up to one thousand dollars for each employee retaliated against.
   2. A fine of up to five hundred dollars may be assessed for any of the following violations of this chapter:
      a. Failure to post notice of the minimum wage rate.
      b. Failure to maintain payroll records for the minimum period of time as provided in this chapter.
      c. Failure to allow the city access to payroll records.

B. A fine equal to the total amount of appropriate remedies, pursuant to Section 6.95.110 of this chapter. Any and all money collected in this way that is the rightful property of an employee, such as back wages, interest, and civil penalty payments, shall be disbursed by the city in a prompt manner.

C. If a repeated violation of this chapter has been finally determined, the city may require the employer to post public notice of the employer's failure to comply in a form determined by the city.

D. The city has the authority to waive or decrease the amount of any fee or civil penalty an employer owes to the city under this chapter.

E. The city attorney may initiate a civil action for injunctive relief and damages and civil penalties in a court of competent jurisdiction.

F. Any employer who receives an administrative citation under this section may appeal such citation pursuant to the provisions of El Cerrito Municipal Code Chapter 1.14.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.100 - Private rights of action.
Any person claiming harm from a violation of this chapter may bring an action against the employer in a court of competent jurisdiction to enforce the provisions of this chapter and shall be entitled to all remedies available to remedy any violation of this chapter, including but not limited to back pay, reinstatement and/or injunctive relief. Violations of this chapter are declared to irreparably harm the public and covered employees generally. The court shall award reasonable attorney's fees, witness fees and
expenses to any plaintiff who prevails in an action to enforce this chapter. Any person who negligently or intentionally violates this chapter shall be also liable for civil penalties up a maximum of one thousand dollars for each violation, in addition to any other remedies provided.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.110 - Remedies.
A. The remedies for violation of this chapter include but are not limited to:
1. Reinstatement, the payment of back wages unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of at least fifty dollars to each employee whose rights under this chapter were negligently or intentionally violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this chapter or state law.
2. Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.
3. Reimbursement of the city's administrative costs of enforcement and reasonable attorney's fees.
4. The city may require the employer to pay an additional sum as a civil penalty in the amount of one hundred dollars to the city for each employee or person whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and other penalties imposed pursuant to other provisions of this Code or state law.
B. The remedies, penalties and procedures provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this chapter. Actions taken pursuant to this chapter shall not prejudice or adversely affect any other action, administrative or judicial, that may be brought to abate a violation or to seek compensation for damages suffered.
C. No criminal penalties shall attach for any violation of this chapter, nor shall this chapter give rise to any cause of action for damages against the city.
D. The city may place a lien or special assessment on an employer's property for the recovery of any unpaid fines or penalties under this chapter, pursuant to the procedures provided for in Chapter 3.08 of this Code.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.120 - No preemption of higher standards.

The purpose of this chapter is to ensure minimum labor standards. This chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the city. This chapter shall not be construed to limit a discharged employee's right to bring a common law cause of action for wrongful termination. In the event that the state or federal minimum wage is greater than the minimum wage provided for in this chapter, the greater minimum wage shall apply.

(Ord. No. 2015-09, § 2, 11-17-2015)

6.95.130 - Fees.

Nothing herein shall preclude the city council from imposing a fee on all employers to recover the cost of administering this chapter.

(Ord. No. 2015-09, § 2, 11-17-2015)