



Office of the City Manager

July 30, 2014

To: Honorable Mayor and Members of the City Council
From: Christine Daniel, City Manager 
Subject: Status Update: Minimum Wage Ordinance Implementation

Adopted by Council on June 24, 2014, Berkeley's Minimum Wage Ordinance (MWO) becomes effective October 1, 2014. Under the MWO, the minimum wage for covered employees will be \$10.00 per hour. Persons who perform at least two (2) hours of work in a calendar week for an Employer within the geographical boundaries of Berkeley must receive the minimum wage. For Employers that are Non-Profit Corporations, the requirements shall not take effect until October 1, 2015, at which time the Minimum Wage will be \$11.00 per hour.

The only exceptions to the Minimum Wage are 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, and 2) job training program participants up to 25 years of age in youth job training programs operated by Non-Profit Corporations or governmental agencies. Enforcement of the MWO will be complaint-driven.

A staff team, coordinated by staff in Health, Housing & Community Services (HH&CS) has been assembled to implement the MWO; this team includes representatives from the following departments: HH&CS, Finance, Information Technology, Parks, Recreation & Waterfront, and the City Manager's Office. Human Resources is assisting in the recruitment of a Community Development Project Coordinator (CDPC), who will be the staff person assigned with oversight of the MWO. The CDPC, located in Health, Housing and Community Services at 2180 Milvia, will coordinate all aspects of implementation, outreach, education and compliance. The MWO has been assigned Project Code 15HS02 to track costs associated with the MWO. Funding for the position and other MWO-related costs has been transferred into the HH&CS budget.

Staff will use the Business License Tax database to mail the initial MWO notices to businesses. The mailing to approximately 13,000 businesses is scheduled for delivery to the United States Postal Service on July 30, 2014. Frequently Asked Questions (FAQs) have been developed for the 311 call center. The MWO will have a dedicated email address MWO@cityofberkeley.info in addition to a webpage

www.cityofberkeley.info/MWO, which will be periodically updated with answers to questions and concerns received via the website, the call center, email and telephone. The website will be “self-service” with downloadable notices in multiple languages. Once translations are available, Notices in Spanish, Chinese, Vietnamese and Tagalog will be posted online.

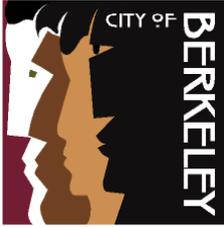
We also plan to include a web-based complaint form, and a downloadable complaint-form. Complaints can also be received in person using a paper form. As of this writing the complaint form has not been developed. It will be ready by October 1, 2014. Staff will also explore other methods of outreach in order to continually educate as many workers and businesses as possible regarding the MWO.

Attached are the documents sent to the businesses. Feel free to include this information in communications to your constituents.

Attachments:

1. Cover Notice for Mailing
2. Official Posting for businesses
3. Frequently Asked Questions (FAQs)

cc: William Rogers, Deputy City Manager
Mark Numainville, City Clerk
Matthai Chakko, Assistant to the City Manager
Ann-Marie Hogan, City Auditor
Jane Micallef, Director, Health, Housing & Community Services



Office of the City Manager

To: Berkeley Business Owner

Date: July 29, 2014

On June 10, 2014, the Berkeley City Council adopted a Minimum Wage Ordinance, No. 7,352-N.S., B.M.C Chapter 13. 99, which will take effect **October 1, 2014**. The Minimum Wage Ordinance requires an official notice to be posted in a location that is viewable by all employees. The Notice must also be posted in languages that are spoken by 5% or more of a business' employees.

Please use the attached “**Official Notice**” for your posting. Also included are “Frequently Asked Questions”. For additional questions, and/or for further inquiries regarding the availability of notices in additional languages, please email:

MWO@cityofberkeley.info

Or call

Health, Housing & Community Services Department
(510) 981-CITY/2489 or 311 from a landline in Berkeley

To download notices in Spanish, Vietnamese, Chinese and Tagalog visit:

www.cityofberkeley.info/MWO



PLEASE POST WHERE EMPLOYEES CAN READ EASILY
VIOLATORS SUBJECT TO PENALTIES

OFFICIAL NOTICE

To employers and employees working in occupations in the City of Berkeley

Berkeley Minimum Wage

\$10.00 Per hour effective October 1, 2014	\$11.00 Per hour effective October 1, 2015	\$12.53 Per hour effective October 1, 2016
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Beginning October 1, 2014, all employers must pay to each employee who performs work within the geographic boundaries of Berkeley, wages not less than ten dollars (\$10.00) per hour; not less than eleven dollars (\$11.00) per hour effective October 1, 2015; and not less than twelve dollars and fifty-three cents (\$12.53) effective October 1, 2016.

The minimum wage requirement, set forth in the Ordinance No. 7.352-N.S., Berkeley Municipal Code Chapter 13.99 applies to all employees who work two (2) or more hours per calendar week. Tips and/or gratuities cannot be used to achieve the minimum wage rate.

Under the Ordinance, employees who assert their rights to receive the City's minimum wage are protected from retaliation. An employee or any other person may report to the City any suspected violation of the Minimum Wage Ordinance. The City will investigate possible violations, will have access to payroll records and will enforce violations of the minimum wage requirements.

If you have questions or require additional information, please contact your employer or the City of Berkeley:

Health, Housing & Community Services Department
(510) 981-CITY/2489 or 311 from any landline in Berkeley

MWO@cityofberkeley.info
www.cityofberkeley.info/MWO

Language Interpretation Available



**Minimum Wage Ordinance
Berkeley Municipal Code Chapter 13.99**

***Frequently Asked Questions
Updated August 1, 2014***

1. Q: Where can I find the current Berkeley minimum wage?

A: *The current minimum wage is posted on the City of Berkeley website at www.cityofberkeley.info/MWO. You can also call the City's 311 information line (call 981-CITY/2589 from a landline)*

2. Q: When does the new Berkeley minimum wage take effect?

A: *Beginning October 1, 2014 the minimum wage in Berkeley will be \$10.00 per hour; on October 1, 2015 the minimum wage will be \$11.00 per hour; on October 1, 2016 the minimum wage in Berkeley will be \$12.53 per hour*

3. Q: Does the Berkeley minimum wage apply to all employers that have employees who perform work in Berkeley?

A: *Yes, all employers regardless of where they are located, must pay the Berkeley minimum wage to their employees who perform at least two hours of work in Berkeley.*

4. Q: Is the Berkeley minimum wage the same for employees of non-profit agencies?

A: *For employers that are Nonprofit Corporations, the minimum wage will take effect on October 1, 2015, the wage will be \$11.00 per hour.*

5. Q: Does the Berkeley minimum wage cover employees who work in Berkeley but are not Berkeley residents?

A: *Yes! Any person who performs at least two hours of work in a particular week for an employer within the geographic boundaries of the City of Berkeley is entitled to be paid the Berkeley minimum wage.*

6. Q: If a person works as a server (waitperson) in a restaurant, can the employer use tips as a credit towards the obligation to pay the Berkeley minimum wage?

A: *No! An employer must not use an employee's tips as a credit towards its obligation to pay the Berkeley minimum wage.*

7. Q: Does the Berkeley Minimum Wage Ordinance protect undocumented workers?

A: *Workers reporting violations of the Minimum Wage Ordinance with the City of Berkeley will not be questioned about their immigration status.*

8. Q: What is the difference between the Federal, State and Berkeley Minimum wage laws?

A: *Berkeley employers are subject to the Federal, State and Berkeley minimum wage laws. When there are conflicting requirements in the laws, the employer must follow the stricter*

standard; that is, the one that is most beneficial to the employee. Since Berkeley's current law requires a higher minimum wage rate than the state and federal laws, all employers that have employees who perform work in Berkeley must pay Berkeley's minimum wage rate unless their employees are exempt under California law.

9. Q: May an employee agree to work for less than the Berkeley minimum wage?

A: The Berkeley minimum wage is an obligation of the employer and cannot be waived by an employee except through a bona fide collective bargaining agreement (union agreement) as described in Section 13.99.050.

10. Q: What can I do if my employer doesn't pay me at least the Berkeley minimum wage?

A: You can file a wage claim with the City of Berkeley's Department of Health, House & Community Services; you must file a claim in writing by mail or in person. The city will conduct an investigation and has 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 the Minimum Wage Ordinance (Section 13.99.080). You also have the right to file a civil action in court against the employer (Section 13.99.090).

11. Q: What can I do if my employer retaliates against me because I question him/her about not being paid the Berkeley minimum wage?

A: Under the ordinance, it is unlawful for the employer to retaliate against any employee who asserts their right to receive the Berkeley minimum wage.

12. Q: Are there any exemptions to the Berkeley Minimum Wage Ordinance?

A: Yes, there are two exemptions listed in Section 13.099.130
1. Employees who are on stand by or on-call according to the criteria established by the Fair Labor Standards Act (FLSA), 29 U.S.C. Section 201.
2. Job training participants up to 25 years of age in youth job training programs operated by Non-profit Corporations or governmental agencies.

13. Q: My business is a family owned business. Do I need to pay my parent, spouse or child the Berkeley minimum wage?

A: No. Consistent with California Labor Code, Sec 3352, (a) Individuals who are the parents, spouses or children of the employer are not covered by the Berkeley minimum wage.

Please email further questions to MW@cityofberkeley.info

Or call

**Health, Housing & Community Services Department
(510) 981-CITY/2489 or 311 from a landline in Berkeley
www.cityofberkeley.info/MWO**

This fact sheet is intended as general information only and does not carry the force of legal opinion. This information is provided as a public service.