

**MINIMUM WAGE ORDINANCES; COMPARISON**

**REVISED MAY 29, 2015 – CDB, OFFICE OF CITY ATTORNEY**

*(Working Files)*

1. RICHMOND, CALIFORNIA – June 2014
2. BERKELEY, CALIFORNIA – June 2014
3. SAN FRANCISCO, CALIFORNIA – November 2003
4. SEATTLE, WASHINGTON – June 2014
5. SAN JOSE, CALIFORNIA – November 2012
6. SEATAC, WASHINGTON – January 2014
7. MONTGOMERY COUNTY, MARYLAND – November 2013
8. ALBUQUERQUE, NEW MEXICO – December 2006
9. BERNALILLO COUNTY, NEW MEXICO – May 2013
10. LOS ANGELES, CALIFORNIA – Draft May 2015
11. OAKLAND, CALIFORNIA – Nov 2014

**(Note:** Las Cruces, New Mexico was not included because the code was not available in a searchable format)

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## A. FINDINGS

### SeaTac:

The following measures are necessary in order to ensure that, to the extent reasonably practicable, all people employed in the hospitality and transportation industries in SeaTac have good wages, job security and paid sick and safe time.

### Montgomery County:

Findings and definitions.

(a) Findings.

(1) Many persons employed in the County are paid wages which are insufficient to sustain minimum standards of living in the County.

(2) Minimum standards of living in the County are higher than the minimum standards of living in many other areas of the State.

(3) Minimum wage standards in the County are necessary to:

(A) promote the health and welfare of County residents;

(B) safeguard employers and employees against unfair competition;

(C) increase the stability of industry in the County;

(D) increase the buying power of employees in the County; and

(E) decrease the need for the County to spend public money for the relief of employees who also live in the County.

## **B. AUTHORITY**

### Richmond:

This chapter is adopted pursuant to the powers vested in the City of Richmond under the laws and Constitution of the State of California and the City Charter, including, 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.

### Berkeley:

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.

### San Jose:

This Chapter is adopted pursuant to the powers vested in the City of San Jose 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.

### San Francisco:

#### AUTHORITY.

This Chapter is adopted pursuant to the powers vested in the City and County of San Francisco ("the City") under the laws and Constitution of the State of California and the City Charter including, 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.

## C. PURPOSE

### Berkeley:

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.

### Los Angeles:

#### PURPOSE.

According to consultants retained by the City and studies submitted to the City for its consideration, Los Angeles is a low-wage city with a high cost of living. Without action to raise the wage floor, the problems caused by incomes that are inadequate to sustain working families will become more acute. The cost of living is continuing to rise in Los Angeles and labor market projections by the California Employment Development Department show that the number of low-wage jobs will grow faster than the number of mid- and high-wage jobs. Inaction will mean that the share of the labor force that does not receive sustaining pay will grow and the gap between stagnating low wages and the cost of a basic standard of living in Los Angeles will continue to widen.

Contrary to popular perception, the large majority of affected workers are adults, with a median age of 33 (only three percent are teens). The proposed minimum wage increase will greatly benefit workers of color, who represent over 80% of affected workers. Workers of all education levels will benefit from the proposed law, with less educated workers benefitting the most.

Los Angeles also ranks highest in California in child poverty rates. In short, although the City is experiencing strong economic growth which has spurred employment, poverty and inequality remain high and wages continue to stagnate. Affected workers disproportionately live in low-income families; on average, affected workers bring home more than half of their family's income. Affected workers live disproportionately in the lower-income areas of the City. These areas will experience greater earnings gains than the City as a whole due to a higher minimum wage. The research literature suggests that downstream benefits will result from the proposed wage increase, such as improved health outcomes for both workers and their children, and increases in children's academic achievements and cognitive and behavioral outcomes.

Studies show that minimum wage increases reduce worker turnover. Turnover creates financial costs for employers. Reduced worker turnover means that workers will have more tenure with the same employer, which creates incentives for both employers and workers to increase training and worker productivity.

The City has recognized that income inequality is one of the most pressing economic and social issues facing Los Angeles. Workers, who must live paycheck to paycheck, are frequently forced to work two or three jobs to provide food and shelter for their families. These workers often rely

on the public sector as a provider of social support services and, therefore, the City has an interest in promoting an employment environment that protects government resources. Therefore, by paying a higher than state-mandated minimum wage, the City seeks to promote the health, safety and welfare of thousands of workers by ensuring they receive a decent wage for the work they perform.

## D. DEFINITIONS:

### Richmond:

#### 7.108.030 - Definitions.

The following terms shall have the following meanings:

- (a) "City" means City of Richmond, California.
- (b) "Department" means the Employment and Training Department of the City of Richmond or such other City department as the City Manager shall designate.
- (c) "Employee" means any person who:
  - (1) In a calendar week performs at least two (2) hours of work for an employer as defined below within the geographic boundaries of the City; and
  - (2) Qualifies as an employee entitled to payment of a minimum wage from any employer as defined below 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. An employee who is exempt from payment of a minimum wage under California minimum wage law is not an employee for purposes of this chapter. Employees in California who are exempt from California minimum wage law are not employees subject to this chapter. This includes, but is not limited to, learners as defined by the Division of Labor Standards Enforcement. Employees in California who are exempt from payment of a minimum wage or are entitled to a reduced minimum wage under California minimum wage law are not employees subject to this chapter. This includes, but is not limited to, learners as defined by the Division of Labor Standards Enforcement and the California Code of Regulations.
  - (3) "Employee" shall not include any person who is employed through the YouthWORKS Youth Summer Employment Program, which is the City of Richmond program that offers Richmond youth, ages 15 to 21, the chance to work in a variety of local jobs to gain professional working experience during the summer months. Employee shall also not include any employee that receives fifty percent (50%) or more of his or her income from government grants, reimbursement programs, or vouchers, where the funding agency providing the grants, reimbursement programs, or vouchers specifies the amount of funding being provided for the employee's compensation.
- (d) "Employer" means any person, 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 or similar entity, employs or exercises control over the wages, hours or working conditions of any employee. "Employer," however, shall not include any small business employer who pays for less than 800 hours of employee labor during a given two-week period, including all persons performing work for compensation on a full-time, part-time, or temporary basis. An employer that pays for 800 or more hours of employee labor during any two-week period at all business locations, whether inside or outside the City of Richmond, shall be deemed to be a covered employer for the entirety of that two-week period and the remainder of that calendar year quarter. In determining how many hours of employee labor an employer pays for, all labor performed by businesses with substantial overlapping ownership or control shall be aggregated.
- (e) Minimum wage:

- (1) "Minimum wage" shall have the meaning set forth in Section 7.108.040 of this chapter.
- (2) "Intermediate minimum wage" shall mean an amount equal to the midpoint between the minimum wage as set forth in Section 7.108.040 of this chapter, and the minimum wage required by State law, rounded up to the nearest penny.
- (f) "Welfare-to-Work Program" means 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.

Berkeley:

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 1986, as amended, and all rules and regulations promulgated under such Section, or any non-profit 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.

Seattle:

Definitions

For the purposes of this Chapter:

"Actuarial value" means the percentage of total average costs for covered benefits that a health

benefits package will cover;

"Agency" means the Office for Civil Rights and any division therein;

"Bonuses" means non-discretionary payments in addition to hourly, salary, commission, or piece-rate payments paid under an agreement between the employer and employee;

"Commissions" means a sum of money paid to an employee upon completion of a task, usually selling a certain amount of goods or services;

"Director" means the Division Director of the Office of Labor Standards within the Office for Civil Rights or the Division Director's designee;

"Employ" means to permit to work;

"Employee" means "employee," as defined under Section 12A.28.200. Employee does not include individuals performing services under a work study agreement;

"Employer" means any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

"Franchise" means a written agreement by which:

1. A person is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed or suggested in substantial part by the grantor or its affiliate;

2. The operation of the business is substantially associated with a trademark, service mark, trade name, advertising, or other commercial symbol; designating, owned by, or licensed by the grantor or its affiliate; and

3. The person pays, agrees to pay, or is required to pay, directly or indirectly, a franchise fee;

"Franchisee" means a person to whom a franchise is offered or granted;

"Franchisor" means a person who grants a franchise to another person;

"Hearing Examiner" means the official appointed by the Council and designated as the Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro Tem, etc.);

"Hourly minimum compensation" means the minimum compensation due to an employee for each hour worked during a pay period;

"Hourly minimum wage" means the minimum wage due to an employee for each hour worked during a pay period;

"Medical benefits plan" means a silver or higher level essential health benefits package, as defined in 42 U.S.C. section 18022, or an equivalent plan that is designed to provide benefits that are actuarially equivalent to 70 percent of the full actuarial value of the benefits provided under the plan, whichever is greater;

"Minimum compensation" means the minimum wage in addition to tips actually received by the employee and reported to the Internal Revenue Service, and money paid by the employer towards an individual employee's medical benefits plan;

"Minimum wage" means all wages, commissions, piece-rate, and bonuses actually received by the employee and reported to the Internal Revenue Service;

"Piece-rate" means a price paid per unit of work;

"Rate of inflation" means the Consumer Price Index annual percent change for urban wage earners and clerical workers, termed CPI-W, or a successor index, for the twelve months prior to each September 1st as calculated by the United States Department of Labor;

"Schedule 1 Employer" means all employers that employ more than 500 employees in the United



States, regardless of where those employees are employed in the United States, and all franchisees associated with a franchisor or a network of franchises with franchisees that employ more than 500 employees in aggregate in the United States;

"Schedule 2 Employer" means all employers that employ 500 or fewer employees regardless of where those employees are employed in the United States. Schedule 2 employers do not include franchisees associated with a franchisor or a network of franchises with franchisees that employ more than 500 employees in aggregate in the United States;

"Tips" means a verifiable sum to be presented by a customer as a gift or gratuity in recognition of some service performed for the customer by the employee receiving the tip;

"Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the Director. Commissions, piece-rate, and bonuses are included in wages. Tips and employer payments toward a medical benefits plan do not constitute wages for purposes of this Chapter.

### SeaTac:

#### Definitions

As used in this Chapter, the following terms shall have the following meaning:

A. "City" means the City of SeaTac.

B. "Compensation" includes any wages, tips, bonuses, and other payments reported as taxable income from the employment by or for a Covered Worker.

C. "Covered Worker" means any individual who is either a Hospitality Worker or a Transportation Worker.

D. "Hospitality Employer" means a person who operates within the City any Hotel that has one hundred (100) or more guest rooms and thirty (30) or more workers or who operates any institutional foodservice or retail operation employing ten (10) or more nonmanagerial, nonsupervisory employees. This shall include any person who employs others providing services for customers on the aforementioned premises, such as a temporary agency or subcontractor.

E. "Hospitality Worker" means any nonmanagerial, nonsupervisory individual employed by a Hospitality Employer.

F. "Hotel" means a building that is used for temporary lodging and other related services for the public, and also includes any contracted, leased, or sublet premises connected to or operated in conjunction with such building's purpose (such as a restaurant, bar or spa) or providing services at such building.

G. "Institutional foodservice or retail" is defined as foodservice or retail provided in public facilities, corporate cafeterias, conference centers and meeting facilities, but does not include preparation of food or beverage to be served in-flight by an airline. Restaurants or retail operations that are not located within a hotel, public facility, corporate cafeteria, conference

facility or meeting facility are not considered a hospitality employer for the purpose of this Chapter.

H. "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, or any other legal or commercial entity, whether domestic or foreign, other than a government agency.

I. "Predecessor Employer" means the Hospitality or Transportation Employer that provided substantially similar services within the City prior to the Successor Employer.

J. "Retention Employee" means any Covered Worker who:

- 1) was employed by a Predecessor Employer for at least 30 workdays; and
- 2) was either:
  - a) laid off or discharged for lack of work due to the closure or reduction of a Hospitality or Transportation Employer's operation during the preceding two years; or
  - b) is reasonably identifiable as a worker who is going to lose his/her job due to the closure or reduction of the Hospitality or Transportation Employer's operation within the next 6 months.

K. "Service charge" is defined as set forth in RCW 49.46.160(2)(c).

L. "Successor Employer" means the new Hospitality or Transportation Employer that succeeds the Predecessor Employer in the provision of substantially similar services within the City.

M. "Transportation Employer" means:

- 1) A person, excluding a certificated air carrier performing services for itself, who:
  - a) operates or provides within the City any of the following: any curbside passenger check-in services; baggage check services; wheelchair escort services; baggage handling; cargo handling; rental luggage cart services; aircraft interior cleaning; aircraft carpet cleaning; aircraft washing and cleaning; aviation ground support equipment washing and cleaning; aircraft water or lavatory services; aircraft fueling; ground transportation management; or any janitorial and custodial services, facility maintenance services, security services, or customer service performed in any facility where any of the services listed in this paragraph are also performed; and
  - b) employs twenty-five (25) or more nonmanagerial, nonsupervisory employees in the performance of that service.
- 2) A transportation employer also includes any person who:
  - a) operates or provides rental car services utilizing or operating a fleet of more than one hundred (100) cars; shuttle transportation utilizing or operating a fleet of more than ten (10) vans or buses; or parking lot management controlling more than one hundred (100)

parking spaces; and

b) employs twenty-five (25) or more nonmanagerial, nonsupervisory employees in the performance of that operation.

N. "Transportation Worker" means any nonmanagerial, nonsupervisory individual employed by a Transportation Employer.

O. "Tips" mean any tip, gratuity, money, or part of any tip, gratuity, or money that has been paid or given to or left for a Covered Worker by customers over and above the actual amount due for services rendered or for goods, food, drink, or articles sold or served to the customer.

#### San Jose:

The following terms shall have the following meanings:

A. "City" shall mean City of San Jose.

B. "Employee" shall mean any person who:

1. In a calendar week performs at least two (2) hours of work for an Employer as defined below.
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.

C. "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 or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee and who is either subject to the Business License Tax Chapter 4.76 of the Municipal Code or maintains a facility in the City.

D. "Minimum Wage" shall have the meaning set forth in Section 4.100.040 of this Chapter.

E. "Office" shall mean the Office of Equality Assurance or such other City department or office as the Council shall by resolution designate.

F. "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.

#### Albuquerque:

#### DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY.** The City of Albuquerque.

**EMPLOYEE.** Any person who performs work for an employer for monetary compensation for at least two hours in a given week within the municipal limits of the city. EMPLOYEE shall include persons who perform work for an employer on a full-time, part-time, seasonal, or temporary basis.

EMPLOYEE shall not include any person who is excluded from the definition of employee under NMSA §§ 50-4-21(c)(3)-(5), (7) of the New Mexico Minimum Wage Act, except that persons employed by the City of Albuquerque are employees. EMPLOYEE shall not include interns working for an employer for academic credit in connection with a course of study at an accredited school, college or university or employees working for an accredited school, college or university pursuant to a work-study program while attending that school, college or university. EMPLOYEE shall not include any person who has received a certificate from the state labor commissioner pursuant to § 50-4-23 NMSA 1978 or § 50-4-21(c)(12) NMSA 1978.

EMPLOYER. Any person, partnership, association, corporation, business trust, legal representative, or any other entity, or group of persons or entities, including corporate officers or executives, who is required to have a business license or business registration from the City of Albuquerque and who directly or indirectly or through an agent or any other person including, but not limited to, through a subsidiary or through the services of a temporary services agency, a staffing agency, a building services contractor, or any similar entity, employs or exercises control over the wages, hours or working conditions of any employee. EMPLOYER shall include the City of Albuquerque.

MINIMUM WAGE, MINIMUM WAGE RATE. The minimum hourly rates of monetary compensation for work as specified in this article.

TIP. A sum presented by a customer as a gift or gratuity in recognition of some service performed for the customer. TIP shall include only tips actually received by an employee as money belonging to him or her. Where employees practice tip pooling or splitting, as where wait staff give a portion of their tips to bus persons, both the actual amounts retained by the waiters or waitresses and those given the bus persons shall be considered TIPS of the individual employee who retains them. A compulsory charge for service imposed on a customer by an employer's establishment shall not be considered a TIP unless it is distributed by the employer to its employees.

TIPPED EMPLOYEE. Any employee engaged in an occupation in which he or she customarily and regularly receives tips from customers.

#### Montgomery County:

Definitions. As used in this Article:

Director means the Executive Director of the Office of Human Rights and includes the Executive Director's designee.

Employ means to engage a person to work for compensation.

Employee means any person permitted or instructed to work or be present by an employer in the County and who is an employee subject to the minimum wage requirements of the Federal Act or the State Act.

Employer means any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity operating and doing business in the County that employs 2 or more persons in the County. Employer includes the County government, but does not include the United States, any State, or any other local government.

Federal Act means the federal Fair Labor Standards Act of 1938, as amended.

State Act means the Maryland Wage and Hour Law, as amended.

Wage means all compensation that is due to an employee for employment.

## Los Angeles:

The following definitions shall apply to this article:

A. "City" means the City of Los Angeles.

B. "Designated Administrative Agency (DAA)" means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

C. "Employee" means any individual 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.

D. "Employer" means any person, as defined in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any employee.

E. "Non-Profit Corporation" means a non-profit 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 non-profit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated thereunder.

F. "Person" means any person, association, organization, partnership, business trust, limited liability company or corporation.

## Bernalillo County:

Definitions.

County means the County of Bernalillo

Employer means any person, who is required to have a business registration from the county and who directly or indirectly or through an agent or any other person including, but not limited to, through a subsidiary or through the services of a temporary services agency, a staffing agency, a building services contractor, or any similar entity, employs or exercises control over the wages, hours or working conditions of any employee. "Employer" shall include the county.

Employee means any person who performs work for an employer for monetary compensation for at least two hours in a given week within the unincorporated limits of the county. "Employee" shall include persons who perform work for an employer on a full-time, part-time, seasonal, or temporary basis. Employee shall not include any person who is excluded from the definition of employee under NMSA 1978, §§ 50-4-21(C)(3)—(5), (7) of the New Mexico Minimum Wage Act, except that persons employed by the County of Bernalillo are employees.

"Employee" shall not include interns working for an employer for academic credit in connection with a course of study at an accredited school, college or university or employees working for an accredited school, college or university pursuant to a work-study program while attending that school, college or university. "Employee" shall not include any person who has received a

certificate from the state labor commissioner pursuant to NMSA 1978, § 50-4-23 or § 50-4-21(C)(12).

Minimum wage, minimum wage rate means the minimum hourly rates of monetary compensation for work as specified in this ordinance.

Tip means a sum presented by a customer as a gift or gratuity in recognition of some service performed for the customer. "Tip" shall include only tips actually received by an employee as money belonging to him or her. Where employees practice tip pooling or splitting, as where wait staff give a portion of their tips to bus persons, both the actual amounts retained by the waiters or waitresses and those given the bus persons shall be considered "tips" of the individual employee who retains them. A compulsory charge for service imposed on a customer by an employer's establishment shall not be considered a "tip" unless it is distributed by the employer to its employees.

Tipped employee means any employee engaged in an occupation in which he or she customarily and regularly receives tips from customers.

Tipped minimum wage means the minimum cash wage that a tipped employee must receive from his or her employer, as provided under section 2-220(a).

#### San Francisco:

#### DEFINITIONS.

As used in this Chapter, the following capitalized terms shall have the following meanings:

"Agency" shall mean the Living Wage/Living Health Division of the Office of Contract Administration or such other City department or agency as the City shall by resolution designate.

"City" shall mean the City and County of San Francisco.

"Employee" shall mean any person who:

(a) In a particular week performs at least two (2) hours of work for an Employer within the geographic boundaries of the City; and

(b) 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.

"Employer" shall mean any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.

"Minimum Wage" shall have the meaning set forth in Section [12R.]4 of this Chapter.

"Small Business" shall mean an Employer for which fewer than ten (10) persons perform work for compensation during a given week. In determining the number of persons performing work for an Employer during a given week, all persons performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity.

"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 1986, as amended, and all rules and regulations promulgated under such Section.

"Welfare-to-Work Program" shall mean the City's 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.

#### Oakland:

##### Definitions

As used in this Chapter, the following capitalized terms shall have the following meanings:

"City" shall mean the City of Oakland.

"Employee" shall mean any person who:

- a. In a particular week performs at least two (2) hours of work within the geographic boundaries of the City for an Employer; and
- b. 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 directly or indirectly (including through the services of a temporary services or staffing agency or similar entity) employs or exercises control over the wages, hours or working conditions of any Employee.

"Paid Sick Leave" shall mean paid "sick leave" as defined in California Labor Code § 233(b)(4), except that the definition here extends beyond the Employee's own illness, injury, medical condition, need for medical diagnosis or treatment, or medical reason, to also encompass time taken off work by an Employee for the purpose of providing care or assistance to other persons specified below with an illness, injury, medical condition, or need for medical diagnosis or treatment.

"Minimum Wage" shall have the meaning set forth in Section 5.92.020 of this Chapter.

"Person" means an individual corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

"Small Business" shall mean an Employer for which normally fewer than ten persons work for compensation during a given week, including persons employed outside the City. The City Council is authorized to adopt regulations further defining "small business" for businesses with fluctuating numbers of employees. In determining the number of persons performing work for an employer during a given week, all persons performing work for the same business enterprise for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity.

## E. MINIMUM WAGE REQUIRED

### Richmond:

#### Minimum wage.

- (a) Employers shall pay employees no less than the minimum wage set forth in this section for each hour worked within the geographic boundaries of the City. The minimum wage shall be as follows:
  - (1) For a transition period beginning on January 1, 2015, and ending on December 31, 2015, the minimum wage shall be an hourly rate of nine dollars and sixty cents (\$9.60). For a transition period beginning on January 1, 2016 and ending on December 31, 2016, the minimum wage shall be an hourly rate of eleven dollars and fifty-two cents (\$11.52). For a transition period beginning on January 1, 2017 and ending on December 31, 2017, the minimum wage shall be an hourly rate of twelve dollars and thirty cents (\$12.30).
  - (2) Beginning on January 1, 2018, the minimum wage shall be an hourly rate of thirteen dollars (\$13.00).
  - (3) To prevent inflation from eroding its value, beginning on January 1, 2019, and each year thereafter, the minimum wage shall increase by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area, or any successor index as published by the U.S. Department of Labor or its successor agency.
  - (4) The adjusted minimum wage shall be announced by October 1 of each year, and shall become effective as the new minimum wage on January 1.
  - (5) If the employer pays at least \$1.50 per hour per employee towards an employee medical benefits plan, which allows the employee to receive employer-compensated care from a licensed physician, the employer shall pay employees the minimum wage as defined in this section, less \$1.50, so long as such deduction is consistent with Section 7.108.100. The department guidelines established pursuant to this chapter shall include rules for calculating this medical benefits plan credit, as well as address any procedures required for obtaining this credit.
  - (6) Employer shall pay its employees no less than the intermediate minimum wage for each hour worked if employer derives more than fifty percent (50%) of its income from transactions where the employer's goods and services produced by the employer in Richmond are delivered or shipped outside the City of Richmond. In determining whether this fifty percent (50%) threshold is met, the employer shall only consider operations within the City of Richmond, and the income shall be based on the combined value of goods and services.
- (b) 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.



Berkeley:

Minimum Wage.

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.

<b>Date</b>	<b>Minimum Hourly Wage</b>
October 1, 2014	\$10.00
October 1, 2015	\$11.00
October 1, 2016	\$12.53

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.

Seattle:

14.19.020 - Employment in Seattle and Employer Schedule Determination

A. Employees are covered by this Chapter for each hour worked within the geographic boundaries of Seattle, provided that an employee who performs work in Seattle on an occasional basis is covered by this Chapter in a two-week period only if the employee performs more than two hours of work for an employer within Seattle during that two-week period. Time spent in Seattle solely for the purpose of travelling through Seattle from a point of origin outside Seattle to a destination outside Seattle, with no employment-related or commercial stops in Seattle except for refueling or the employee's personal meals or errands, is not covered by this Chapter. An employee who is not covered by this Chapter is still included in any determination of the size of the employer.

B. For the purposes of determining whether a non-franchisee employer is a Schedule 1 employer or a Schedule 2 employer, separate entities that form an integrated enterprise shall be considered a single employer under this Chapter. Separate entities will be considered an integrated enterprise and a single employer under this Chapter where a separate entity controls the operation of another entity. The factors to consider in making this assessment include, but are not limited to:

1. Degree of interrelation between the operations of multiple entities;
2. Degree to which the entities share common management;
3. Centralized control of labor relations; and
4. Degree of common ownership or financial control over the entities.

There shall be a presumption that separate legal entities, which may share some degree of interrelated operations and common management with one another, shall be considered separate employers for purposes of this section as long as (1) the separate legal entities operate substantially in separate physical locations from one another, and (2) each separate legal entity has partially different ultimate ownership. The determination of employer schedule for the current calendar year will be calculated based upon the average number of employees employed per calendar week during the preceding calendar year for any and all weeks during which at least one employee worked for compensation. For employers that did not have any employees during the previous calendar year, the employer schedule will be calculated based upon the average number of employees employed per calendar week during the first 90 calendar days of the current year in which the employer engaged in business.

- C. The Director shall have the authority to issue a special certificate authorizing an employer to pay a wage less than the City of Seattle minimum wage, as defined in this Chapter, but above the Washington State minimum wage, as defined in RCW 49.46.020. Such special certificates shall only be available for the categories of workers defined in RCW 49.46.060 and shall be subject to such limitations as to time, number, proportion, and length of service as the Director shall prescribe. Prior to issuance, an applicant for a special certificate must secure a letter of recommendation from the Washington State Department of Labor and Industries stating that the applicant has a demonstrated necessity pursuant to WAC 296-128.
- D. The Director shall by rule establish the minimum wage for employees under the age of eighteen years, provided that any percentage of the hourly rate established by rule shall not be lower than the percentage applicable under state statutes and regulations.

14.19.030 - Hourly Minimum Wage - Schedule 1 Employers

- A. Effective April 1, 2015, Schedule 1 employers shall pay each employee an hourly minimum wage of at least \$11.00. Pursuant to the following schedule, effective January 1 of each year thereafter, Schedule 1 employers shall pay any employee an hourly minimum wage as follows:

Year	Hourly Minimum Wage
2016	\$13.00
2017	\$15.00

Effective January 1, 2018, the hourly minimum wage paid by a Schedule 1 employer to any employee shall be increased annually on a percentage basis to reflect the rate of inflation and calculated to the nearest cent on January 1 of each year thereafter.

- B. Schedule 1 employers can meet the applicable hourly minimum wage requirement through a payment of the minimum wage, provided that the Schedule 1 employer is in compliance with all applicable law. Where an employee is paid on a commission or piece-rate basis, wholly or partially, the amount earned on such basis in each work-week period may be

credited as a part of the total wage for that period, and the total wages paid for such period shall be computed on the hours worked in that period resulting in no less than the applicable minimum wage rate. Where an employee is paid a bonus, the amount of the bonus in each work-week period may be credited as a part of the total wage for that period, and the total wages paid for such period shall be computed on the hours worked in that period resulting in no less than the applicable minimum wage rate. Pursuant to the following schedule, effective January 1, 2016, Schedule 1 employers that pay toward an individual employee's medical benefits plan shall pay the employee an hourly minimum wage as follows:

Year	Hourly Minimum Wage
2016	\$12.50
2017	\$13.50
2018	\$15.00

Effective January 1, 2019, payment by the employer of health benefits for employees shall no longer affect the hourly minimum wage paid by a Schedule 1 employer.

#### 14.19.040 - Hourly Minimum Wage - Schedule 2 Employers

- A. Effective April 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum wage of at least \$10.00. Schedule 2 employers can meet the applicable hourly minimum wage requirement through a payment of the minimum wage, provided that the Schedule 2 employer is in compliance with all applicable law. Effective January 1 of 2016 and each year thereafter, Schedule 2 employers shall pay each employee an hourly minimum wage that is the lower of (a) the applicable hourly minimum wage for Schedule 1 Employers or (b) the hourly minimum wage shown in the following schedule:

Year	Hourly Minimum Wage
2016	\$10.50
2017	\$11.00
2018	\$11.50
2019	\$12.00
2020	\$13.50

2021	\$15.00
2022	\$15.75
2023	\$16.50
2024	\$17.25

Effective on January 1 of 2025, and January 1 of every year thereafter, the hourly minimum wage paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

- B. Schedule 2 employers can meet the applicable hourly minimum wage requirements through a payment of the minimum wage, provided that the Schedule 2 employer is in compliance with all applicable law.

14.19.050 - Hourly Minimum Compensation - Schedule 2 Employers

- A. Effective April 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum compensation of at least \$11.00. Effective January 1 of each year thereafter, Schedule 2 employers shall pay each employee an hourly minimum compensation that is the lower of (a) the applicable hourly minimum wage for Schedule 1 Employers or (b) the hourly minimum compensation shown in the following schedule:

Year	Hourly Minimum Compensation
2016	\$12.00
2017	\$13.00
2018	\$14.00
2019	\$15.00
2020	\$15.75

Effective January 1, 2021, the hourly minimum compensation paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

- B. Schedule 2 employers can meet the applicable hourly minimum compensation requirement through wages (including applicable commissions, piece-rate, and bonuses), tips and money

paid by an employer towards an individual employee's medical benefits plan, provided that the Schedule 2 employer also meets the applicable hourly minimum wage requirements.

- C. Effective January 1, 2025, minimum compensation will no longer be applicable as defined in this Chapter.

SeaTac:

Establishing A Living Wage For Hospitality Workers and Transportation Workers

A. Each Hospitality Employer and Transportation Employer shall pay Covered Workers a living wage of not less than the hourly rates set forth in this section. The rate upon enactment shall be fifteen dollars (\$15.00) per hour worked.

B. On January 1, 2015, and on each following January 1, this living wage shall be adjusted to maintain employee purchasing power by increasing the current year's wage rate by the rate of inflation. The increase in the living wage rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the twelve months prior to each September 1st as calculated by the United States department of labor. The declaration of the Washington State Department of Labor and Industries each September 30 regarding the rate by which Washington State's minimum wage rate is to be increased effective the following January 1, pursuant to RCW 49.46.020(4)(b), shall be the authoritative determination of the rate of increase to be applied for purposes of this provision.

C. The City Manager shall publish a bulletin by October 15 of each year announcing the adjusted rates. Such bulletin will be made available to all Hospitality Employers and Transportation Employers and to any other person who has filed with the City Manager a request to receive such notice but lack of notice shall not excuse noncompliance with this section.

D. Each Hospitality Employer and Transportation Employer shall provide written notification of the rate adjustments to each of its workers and make the necessary payroll adjustments by January 1 following the publication of the bulletin. Tips, gratuities, service charges and commissions shall not be credited as being any part of or be offset against the wage rates required by this Chapter.

San Jose:

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

B. The Minimum Wage shall be an hourly rate of ten dollars (\$10). To prevent inflation from eroding its value, beginning on January 1, 2014, and each year thereafter, the Minimum Wage shall increase by an amount corresponding to the prior year's increase, if any, in the cost of living. The prior year's increase in the cost of living shall be measured by the percentage increase, if any, as of August of the immediately preceding year over the level as of August of the previous year of the Consumer Price Index (Urban Wage Earners and Clerical Workers, U.S. City Average for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest

multiple of five cents. The adjusted minimum wage shall be announced by October 1 of each year, and shall become effective as the new minimum wage on January 1.

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.

Albuquerque:

MINIMUM WAGE

(A) Minimum wage payment required. Except as provided herein, employers shall pay all employees no less than the minimum wage for each hour worked within the municipal limits of the city. Tips or commissions received and retained by an employee shall be counted as wages and credited towards satisfaction of the minimum wage.

(B) Minimum wage rate. Beginning January 1, 2007, the minimum wage for employees shall be an hourly rate of \$6.75. Beginning January 1, 2008, the minimum wage for employees shall be an hourly rate of \$7.15. Beginning January 1, 2009, the minimum wage for employees shall be an hourly rate of \$7.50. For employers who provide healthcare and/or childcare benefits to an employee during any pay period for which the employer pays an amount for those healthcare benefits equal to or in excess of an annualized cost of \$2,500.00, beginning January 1, 2007, the minimum wage for that employee shall be an hourly rate of \$5.75, in addition to the healthcare benefits and/or childcare benefits, beginning January 1, 2008, the minimum wage for that employee shall be an hourly rate of \$6.15, in addition to the healthcare and/or childcare benefits, and beginning January 1, 2009, the minimum wage for that employee shall be an hourly rate of \$6.50, in addition to the healthcare and/or childcare benefits.

Montgomery County:

Minimum wage required.

(a) County minimum wage. Except as provided in Subsection (b), an employer must pay wages to each employee for work performed in the County at least the greater of:

- (1) the minimum wage required for that employee under the Federal Act;
- (2) the minimum wage required for that employee under the State Act; or
- (3) \$11.50 per hour.

(b) Exclusions. The County minimum wage does not apply to an employee who:

- (1) is exempt from the minimum wage requirements of the State or Federal Act;
- (2) is under the age of 19 years and is employed no more than 20 hours per week; or
- (3) is subject to an opportunity wage under the State or Federal Act.

(d) Retaliation prohibited. A person must not:

- (1) retaliate against any person for:
  - (A) lawfully opposing any violation of this Article; or
  - (B) filing a complaint, testifying, assisting, or participating in any manner in an

investigation, proceeding, or hearing under this Article; or  
(2) obstruct or prevent enforcement or compliance with this Article.

Los Angeles:

PAYMENT OF MINIMUM WAGE TO EMPLOYEES.

A. An Employer shall pay an Employee a wage of no less than the hourly rates set under the authority of this article.

B. Employers with 26 or more Employees shall pay a wage of no less than the hourly rates set forth:

1. On July 1, 2016, the hourly wage shall be \$10.50.
2. On July 1, 2017, the hourly wage shall be \$12.00.
3. On July 1, 2018, the hourly wage shall be \$13.25.
4. On July 1, 2019, the hourly wage shall be \$14.25.
5. On July 1, 2020, the hourly wage shall be \$15.00.

C. Employers with 25 or fewer Employees shall pay a wage of no less than the hourly rates set forth:

1. On July 1, 2017, the hourly wage shall be \$10.50.
2. On July 1, 2018, the hourly wage shall be \$12.00.
3. On July 1, 2019, the hourly wage shall be \$13.25.
4. On July 1, 2020, the hourly wage shall be \$14.25.
5. On July 1, 2021, the hourly wage shall be \$15.00.

D. On July 1, 2022, and annually thereafter, the minimum wage will increase based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area (Los Angeles-Riverside-Orange County, CA), which is published by the Bureau of Labor Statistics. The DAA shall announce the adjusted rates on January 1st and publish a bulletin announcing the adjusted rates, which shall take effect on July 1 of each year.

E. Employees, who are "Learners" as defined in Labor Code Section 1192 and consistent with wage orders published by the California Industrial Welfare Commission and are 14-17 years of age, shall be paid not less than 85% of the minimum wage rounded to the nearest nickel during their first 160 hours of employment. After more than 160 hours of employment, Learners shall be paid the applicable minimum wage pursuant to this section.

F. For purposes of this article, the size of an Employer's business or Non-Profit Corporation shall be determined by the average number of Employees employed during the previous calendar year.

San Francisco:

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) Beginning on the effective date of this Chapter, the Minimum Wage shall be an hourly rate of \$8.50. To prevent inflation from eroding its value, beginning on January 1, 2005, and each year thereafter, the Minimum Wage shall increase by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index for urban wage earners and clerical workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area.

(c) The Minimum Wage for Employers that are Small Businesses or Nonprofit Corporations shall phase in over a two year period in order to afford such Employers time to adjust. For such Employers, the effective date of this Chapter shall be January 1, 2005. For a transition period beginning January 1, 2005 and ending December 31, 2005, the Minimum Wage for Employees of such Employers shall be an hourly rate of \$7.75. Beginning January 1, 2006, the Minimum Wage for Employees of such Employers shall be the regular Minimum Wage established pursuant to Section 4(b)1 of this Chapter.

### **Oakland:**

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. Beginning on the 2nd of March, 2015, the Minimum Wage shall be an hourly rate of \$12.25. To prevent inflation from eroding its value, beginning on the 1st of January 2016, and then each year thereafter on the 1st of January, the Minimum Wage shall increase by an amount corresponding to the prior calendar year's increase, if any, in 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).

### **Bernalillo County:**

Minimum wage.

(a) Minimum wage payment required. Except as provided herein, employers shall pay all employees no less than the minimum wage for each hour worked within the unincorporated limits of the county. The current State of New Mexico minimum wage of \$7.50, except as provided in subsection (b), must become the greater by \$1.00 per hour, in \$2.50 increments as provided below:

(1) The minimum wage shall be enacted via two incremental increases of \$0.50 as provided in subsection (b).

(2) The minimum wage shall be increased by \$0.50 effective July 1, 2013; and a second increment of \$0.50 increase effective January 1st, 2014.

(3) Effective January 1, 2014 the minimum wage for Bernalillo County shall be \$8.50, except as provided in subsection (b).

(4) Annual cost of living adjustment. The minimum wage shall be increased on January 1, 2015, and on January 1 of successive years by the Bernalillo County Commission based on the increase, if any, in the cost of living, and rounded to the nearest multiple \$0.05. The increase in the cost of living shall be calculated based on the percentage increase, if any, of the Consumer Price Index or its successor index as published by the U.S. Department of Labor or its successor



agency. The county shall publish the adjusted minimum wage for the forthcoming year on its Internet home page by October 15 of each preceding year, and they shall become effective on January 1 of the forthcoming year.

(5) The board of county commissioners will review the minimum wage every five years, in order to assess its continuing adequacy.

(b) Exceptions to the minimum wage increase shall include:

(1) Any person employed by a parent, spouse or a sibling;

(2) Any person performing babysitting services in the employer's home on a casual basis;

(3) Any employee under the age of 16.

(c) For any employee who customarily and regularly receives tips or gratuities, the minimum wage shall remain at the federal minimum wage of \$2.13 per hour. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage established in section A, the employer shall make up the difference. This subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

(d) Minimum wage rate. For employers who provide healthcare and/or childcare benefits to an employee during any pay period for which the employer pays an amount for those healthcare benefits equal to or in excess of an annualized cost of \$2,500.00, beginning April 1, 2013 and each year thereafter, the minimum wage for that employee shall be an hourly rate of \$1.00 less than the current minimum wage otherwise applicable to employees who do not receive such benefits.

## F. TIPS/ SERVICES CHARGES

### **SeaTac:**

Require That Service Charges and Tips Go To Those Performing The Service

A. Any service charge imposed on customers of, or tips received by employees of, a Hospitality Employer shall be retained by or paid to the nonmanagerial, nonsupervisory Hospitality or Transportation Workers who perform services for the customers from whom the tips are received or the service charges are collected.

B. The amounts received from tips or service charges shall be allocated among the workers who performed these services equitably; and specifically:

- 1) Amounts collected for banquets or catered meetings shall be paid to the worker(s) who actually work with the guests at the banquet or catered meeting; and
- 2) Amounts collected for room service shall be paid to the worker(s) who actually deliver food and beverage associated with the charge; and
- 3) Amounts collected for portage service shall be paid to the worker(s) who actually carry the baggage associated with the charge.

### **Montgomery County:**

Tipped employees.

(a) Definition. As used in this Section, tipped employee means:

(1) an employee who:

(A) is engaged in an occupation in which the employee customarily and regularly receives more than \$30 each month in tips;

(B) has been informed by the employer about the provisions of this Section; and

(C) has kept all of the tips that the employee received.

(2) Notwithstanding paragraph (1)(C), this Section does not prohibit the pooling of tips.

(b) Computation of wage. Except as provided in subsection (c), an employer may include, as part of the wage of a tipped employee:

(1) an amount that the employer sets to represent the tips of the employee; or

(2) if the employee or representative of the employee satisfies the Director that the employee received a lesser amount in tips, the lesser amount.

(c) Limit. The tip credit amount that the employer may include under subsection (b) must not exceed the County minimum wage less 50% of the minimum wage required for that employee under the State Act.

## **G. REPORTING REQUIREMENTS**

### **SeaTac:**

#### Employee Work Environment Reporting Requirement

A. Hospitality Employers and Transportation Employers shall retain records documenting hours worked, paid sick and safe time taken by Covered Workers, and wages and benefits provided to each such employee, for a period of two years, and shall allow the City Manager or designee access to such records, with appropriate notice and at a mutually agreeable time, to investigate potential violations and to monitor compliance with the requirements of this Chapter.

B. Hospitality Employers and Transportation Employers shall not be required to modify their recordkeeping policies to comply with this Chapter, as long as records reasonably indicate the hours worked by Covered Workers, accrued paid sick and safe time, paid sick and safe time taken, and the wages and benefits provided to each such Covered Worker. When an issue arises as to the amount of accrued paid sick time and/or paid safe time available to a Covered Worker under this chapter, if the Hospitality Employers and Transportation Employers does not maintain or retain adequate records documenting hours worked by the Covered Worker and paid sick and safe time taken by the Covered Worker, it shall be presumed that the Hospitality Employers and Transportation Employers has violated this chapter.

C. Records and documents relating to medical certifications, re-certifications or medical histories of Covered Worker or Covered Workers' family members, created for purposes of this chapter, are required to be maintained as confidential medical records in separate files/records from the usual personnel files. If the Americans with Disabilities Act (ADA) and/or the Washington Law Against Discrimination (WLAD) apply, then these records must comply with the ADA and WLAD confidentiality requirements.

### **Los Angeles:**

Every three years after July 1, 2016, the Chief Legislative Analyst (CLA) with the assistance of the City Administrative Officer (CAO) shall commission a study to review the state of the City's economy; minimum wage impacts; textile and apparel manufacturing impacts; temporary workers, guards and janitors impacts; home health care services impacts; residential care and nursing facilities impacts; child day care services impacts; restaurants and bars impacts; personal and repair services impacts; transitional jobs programs impacts; service charges, commissions and guaranteed gratuities impacts; and wage theft enforcement. On an annual basis, the CLA and CAO shall collect economic data, including jobs, earnings and sales tax.

### **San Francisco:**

The Office of Labor Standards Enforcement shall provide annual reports to the Board of Supervisors on the implementation of the Minimum Wage Ordinance.

## H. WAIVERS; EXEMPTIONS; EXCEPTIONS:

### **Richmond:**

To the extent required by 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.

### **Berkeley:**

#### 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.

### **SeaTac:**

#### Waivers

The provisions of this Chapter may not be waived by agreement between an individual Covered Worker and a Hospitality or Transportation Employer. All of the provisions of this Chapter, or any part hereof, including the employee work environment reporting requirement set forth herein, 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.

### **San Jose:**

#### 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.

### **Los Angeles:**

#### DEFERRAL APPLICATION FOR CERTAIN NON-PROFIT EMPLOYERS.

The DAA shall establish a procedure to allow an Employer that is a Non-Profit Corporation with 26 or more Employees to qualify for the deferral rate schedule specified in Section 187.02.C. A Non-Profit Employer seeking the deferral must establish by compelling evidence that:

- A. The chief executive officer earns a salary which, when calculated on an hourly basis, is less than five times the lowest wage paid by the corporation; or
- B. It is a Transitional Employer as defined in Section 10.31.1(h) of the Los Angeles Administrative Code; or
- C. It serves as a child care provider; or
- D. It is funded primarily by City, County, State or Federal grants or reimbursements.

**Los Angeles:**

NO WAIVER OF RIGHTS.

Any waiver by an Employee of any or all of the provisions of this article shall be deemed contrary to public policy and shall be void and unenforceable.

**Berkeley:**

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.

**SeaTac:**

Exceptions

The requirements of this Chapter shall not apply where and to the extent that state or federal law or regulations preclude their applicability. To the extent that state or federal law or regulations require the consent of another legal entity, such as a municipality, port district, or county, prior to becoming effective, the City Manager is directed to formally and publicly request that such consent be given.

**San Francisco:**

WAIVER THROUGH COLLECTIVE BARGAINING.

All or any portion of the applicable requirements of this Chapter shall not apply to Employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

**Oakland:**

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, except that Employees shall not be barred from entering into a written valid collective bargaining agreement waiving a provision of this Chapter if such waiver is set forth in clear and unambiguous terms. 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.

## I. NOTICE; POSTING; RECORDS

### **Richmond:**

Notice, posting and payroll records.

- (a) By December 1 of each year, the department shall publish and make available to employers a bulletin announcing the adjusted minimum wage rate for the upcoming year. In conjunction with this bulletin, the department shall by December 1 of each year publish and make available to employers, in all languages spoken by more than five percent (5%) 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 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 (5%) of the employees at the work-place or job site.
- (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.

### **Berkeley:**

Notice, Posting and Payroll Records.

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 work-place 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.

**Seattle:** (Note: Subsection "C" below is from the enforcement provisions of the Seattle Min Wage Code).

C. Notice, Posting, and Records

1. Employers shall give notice to employees in English, Spanish and any other language commonly spoken by employees at the particular workplace that they are entitled to the minimum wage and minimum compensation; that retaliation against employees who exercise their rights under this Chapter is prohibited; and that each employee has the right to file a charge if the minimum wage or minimum compensation as defined in this Chapter is not paid or the employee is retaliated against for engaging in an activity protected under this Chapter.
2. Employers may comply with this section by posting in a conspicuous place at any workplace or job site where any covered employee works a notice published each year by the Agency informing employees of the current minimum wage and minimum compensation rates applicable in that particular workplace or jobsite and of their rights under this Chapter in English, Spanish and any other languages commonly spoken by employees at the particular workplace or job site.
3. Employers shall retain payroll records pertaining to covered employees for a period of three years documenting minimum wages and minimum compensation paid to each employee.

**San Jose:**

NOTICE, POSTING AND PAYROLL RECORDS

A. By December 1 of each year, the Office 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 Office shall by December 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 where any Employee works the notice published each year by the Office 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 work-place 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.

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.

### **Albuquerque:**

#### **NOTICE, POSTING AND RECORDS.**

(A) Notice to employees. Every employer shall post in a conspicuous place at any workplace or job site where any employee works a notice published each year by the City Attorney informing employees of the current minimum wage rates and of their rights under this article. Every employer shall post such notices in English and Spanish.

(B) Records. Employers shall maintain payroll records showing the hours worked daily by and the wages paid to all employees. Employers shall retain payroll records pertaining to employees for a period of three years. When the employer uses tips to meet the minimum wage for an employee, the employer must have a tip declaration signed by the tipped employee for each pay period.

### **Los Angeles:**

#### **NOTIFYING EMPLOYEES OF THEIR POTENTIAL RIGHT TO THE FEDERAL EARNED INCOME CREDIT.**

Employers shall inform Employees of their possible right to the federal Earned Income Credit (EIC) under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. Section 32.

### **Bernalillo County:**

Notice, posting and records.

(a) Notice to employees. Every employer shall post in a conspicuous place at any workplace or job site where any employee works a notice published each year by the county zoning, building and planning office informing employees of the current minimum wage rates and of their rights under this division. Every employer shall post such notices in English and Spanish.

(b) Records. Employers shall maintain payroll records showing the hours worked daily by and the wages paid to all employees. Employers shall retain payroll records pertaining to employees for a period of three years. When the employer uses tips to meet the minimum wage for an employee, the employer must have a tip declaration signed by the tipped employee for each pay period.

**San Francisco:**

**NOTICE, POSTING AND PAYROLL RECORDS.**

(a) By December 1 of each year, the Agency 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 Agency shall by December 1 of each year publish and make available to Employers, in all languages spoken by more than five percent of the San Francisco work force, 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 Agency informing Employees of the current Minimum Wage rate and of their rights under this Chapter. Every Employer shall post such notices in English, Spanish, Chinese and any other 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 the Employer's name, address and telephone number in writing.

(c) Employers shall retain payroll records pertaining to Employees for a period of four years, and shall allow the Agency access to such records, with appropriate notice and during business hours, 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 Agency reasonable access to such records, it shall be presumed that the Employer paid no more than the applicable federal or state minimum wage, absent clear and convincing evidence otherwise.

(d) The Director of the Agency or his or her designee shall have access to all places of labor subject to this ordinance during business hours to inspect books and records, interview employees and investigate such matters necessary or appropriate to determine whether an Employer has violated any provisions of this ordinance.

(e) The Agency shall be authorized under Section 12R.7 to develop guidelines or rules to govern Agency investigative activities, including but not limited to legal action to be taken in the event of employer noncompliance or interference with Agency investigative actions.

**Oakland:**

**NOTICE TO EMPLOYEES**

Each Employer shall give written notification to each current Employee and to each new Employee at time of hire, of his or her rights under this Chapter. The notification shall be in all languages spoken by a more than 10% of the Employees, and shall also be posted prominently in areas at the work site where it will be seen by all Employees. The City Administrator is authorized to prepare sample notices and Employer use of such notices shall constitute compliance with this subsection.

**Oakland:**

#### RETENTION OF RECORDS

Each Employer shall maintain for at least three years for each Employee a record of his or her name, hours worked, pay rate, Paid Sick Leave accrual and usage, and Service Charge collection and distribution. Each Employer shall provide each Employee a copy of the records relating to such Employee upon the Employee's reasonable request.

## J. RETALIATION

### **Richmond:**

Retaliation prohibited.

- (a) It shall be unlawful for an employer or any other party to discriminate in any manner or take adverse action 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 the right to inform any person about any party's alleged noncompliance with this chapter or any person's potential rights under this chapter. Protections of this chapter shall apply to any person who in good faith alleges noncompliance with this chapter.
- (b) 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.

### **Berkeley:**

Retaliation Prohibited.

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.

### **SeaTac:**

Prohibiting Retaliation Against Covered Workers For Exercising Their Lawful Rights

A. It shall be a violation for a Hospitality Employer or Transportation Employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

B. It shall be a violation for a Hospitality Employer or Transportation Employer to take adverse action or to discriminate against a Covered Worker because the Covered Worker has exercised in good faith the rights protected under this Chapter. Such rights include but are not limited to the right to file a complaint with any entity or agency about any Hospitality Employer's or Transportation Employer's alleged violation of this chapter; the right to inform his or her employer, union or other organization and/or legal counsel about a Hospitality Employer's or

Transportation Employer's alleged violation of this section; the right to cooperate in any investigation of alleged violations of this chapter; the right to oppose any policy, practice, or act that is unlawful under this section; and the right to inform other Covered Workers of their rights under this section. No Covered Worker's compensation or benefits may be reduced in response to this Chapter or the pendency thereof.

C. The protections afforded under subsection B shall apply to any person who mistakenly but in good faith alleges violations of this Chapter.

**San Jose:**

**RETALIATION PROHIBITED**

It shall be unlawful for an Employer or any other party to discriminate in any manner or take adverse action 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 and 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.

**Los Angeles:**

**RETALIATORY ACTION PROHIBITED.**

No Employer shall discharge, reduce in compensation or otherwise discriminate against any Employee for opposing any practice proscribed by this article, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

**San Francisco:**

**RETALIATION PROHIBITED.**

It shall be unlawful for an Employer or any other party to discriminate in any manner or take adverse action 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 and 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.

**Oakland:**

**A. RETALIATION BARRED**

1. A Person shall not discharge, reduce the compensation of nor otherwise discriminate against any Person 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. Within 120 days of an Employer being notified of such activity, it shall be unlawful for the Employer to discharge any Employee who engaged in such activity unless the Employer has clear and convincing evidence of just cause for such discharge.

## **K. IMPLEMENTATION; ENFORCEMENT; VIOLATIONS**

### **Richmond:**

#### Implementation.

- (a) Guidelines. The department shall be authorized to coordinate implementation and enforcement of this chapter and shall promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the department 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. Any guidelines or rules shall require that employers claiming a reduction of the minimum wage based on payment of employee benefits, a right to pay the intermediate minimum wage, small business employer status, or any other exemption or reduction in this chapter bear the burden of demonstrating that such exemption or reduction applies to the satisfaction of the department when a violation of this chapter is reported; and shall set forth procedures for claiming such a reduction.
- (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 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 may require the employer to notify its employees that the department is conducting an investigation, using a form provided by the department.
- (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) Report. The City Manager or his designee shall present a report to the City Council regarding the effectiveness and implementation of this chapter on or about January 1, 2016, and on an annual basis thereafter.

### **Richmond:**

#### Enforcement.

- (a) When a violation is reported under this chapter, the department shall investigate the report of violation and provide the employer with an opportunity to abate the violation through a notice of violation and demand to abate. The notice and demand shall set forth a description of the alleged violation, date(s) of violation, the specific action(s) needed to correct the violation, and the date by which to correct the violation. The notice and demand shall provide no more than thirty (30) days to abate and correct the violation.
- (b) Failure to comply with a notice of violation and demand to abate issued pursuant to this chapter shall constitute a nuisance and violation of the Richmond Municipal Code, subject to all penalties and legal actions as set forth in Sections 1.04.100 through 1.04.160 of this

- Code, the department shall take any appropriate enforcement action to secure compliance.
- (c) In addition to legal actions, the department may issue an administrative citation as set forth in Chapter 2.62 of this Code, with the following exceptions:
    - (1) The administrative citation fine shall not exceed \$50 per each day or portion of a day that the violation occurs, and for each employee as to whom the violation occurred or continued; and
    - (2) Section 2.62.105 of this Code shall not apply; and
    - (3) The Hearing Officer's decision issued pursuant to Chapter 2.62 shall be final, and a person aggrieved by the Hearing Officer's decision may seek judicial review in the superior court pursuant to Government Code Section 53069.4.
  - (d) Any person aggrieved by a violation of this chapter, any entity with a member 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, including, without limitation, the relief set forth in this section below. 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.
  - (e) This chapter 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. Nothing in this chapter shall be construed to authorize a right of action against the City.
  - (f) 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, including but not limited to business licenses as defined by Chapter 7.04 of this Code.
  - (g) Relief in Civil Action Brought Under this chapter. The remedies for violation of this chapter include but are not limited to:
    - (1) Reinstatement in employment and/or injunctive relief, 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 costs of enforcement and reasonable attorneys' fees.

### **Berkeley:**

#### Implementation.

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.

### **Berkeley:**

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.

### **San Jose:**

#### **IMPLEMENTATION**

A. Guidelines. The Office shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the Office 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 Office in writing any suspected violation of this Chapter. The Office 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 Office 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 Office notifies an Employer that the Office is investigating a complaint, the Office shall require the Employer to post or otherwise notify its Employees that the Office is conducting an investigation, using a form provided by the City.

C. Investigation. The Office shall be responsible for investigating any possible violations of this Chapter by an Employer or other person. The Office 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 Office shall make every effort to resolve complaints informally, in a timely manner, and shall have a policy that the Office shall take no more than one year to resolve any matter, before initiating an enforcement action. The failure of the Office to meet these timelines within one year shall not be grounds for closure or dismissal of the complaint.

### **Albuquerque:**

#### **IMPLEMENTATION AND ENFORCEMENT.**

(A) Rulemaking. The city shall have the authority to coordinate implementation and enforcement of this article and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the city 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 article. Any such guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this article, including supplementary procedures for helping to inform employees of their rights under this article and for monitoring employer compliance with this article.

(B) Civil enforcement. Any employee receiving less than the wage to which the employee is entitled under this article may bring a civil action in a court of competent jurisdiction and, upon prevailing, shall recover the balance of the wages owed, including interest thereon, and an additional amount equal to twice the wages owed, and any other appropriate legal or equitable relief. Any employee who has suffered discrimination in any manner or had adverse action taken against that employee in retaliation for exercising rights protected under this article may bring a civil action in a court of competent jurisdiction and, upon prevailing, shall recover actual damages plus reinstatement in the case of discharge. In any case where an employee has been discharged in retaliation for exercising rights under this article, the period of violation extends from the day of discharge until the day the employee is reinstated, the day the employee agrees to waive reinstatement or, in the case of an employee who may not be rehired, from the day of discharge until the day legal judgment is final. The requirements of this article may also be enforced by the City Attorney. In such case, unpaid wages and actual damages recovered shall be payable to the individual employee as to whom the violation occurred. A plaintiff prevailing in an action to enforce this article shall be entitled to recover his or her costs and expenses of suit and reasonable attorney's fees.

## **Los Angeles:**

### IMPLEMENTATION.

The DAA may promulgate guidelines and rules consistent with this article for the implementation of the provisions of this article. Any guidelines or rules shall have the force and effect of law, and may be relied upon by Employers, Employees and other parties to determine their rights and responsibilities under this article.

## **Bernalillo County:**

- Implementation and enforcement.

(a) Rulemaking. The county shall have the authority to coordinate implementation and enforcement of this division and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the county 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 division. Any such guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this division, including supplementary procedures for helping to inform employees of their rights under this division and for monitoring employer compliance with this division.

(b) Civil enforcement. Any employee receiving less than the wage to which the employee is entitled under this division may bring a civil action in a court of competent jurisdiction and, upon prevailing, shall recover the balance of the wages owed, including interest thereon, and an additional amount equal to twice the wages owed, and any other appropriate legal or equitable relief.

## **Seattle:**

### Enforcement

#### A. Powers and Duties

1. The Agency shall investigate alleged violations of this Chapter as defined herein, and shall have such powers and duties in the performance of these functions as are defined in this Chapter and otherwise necessary and proper in the performance of the same and provided for by law.
2. The Director is authorized and directed to promulgate rules consistent with this Chapter.

#### B. Exercise of Rights Protected; Retaliation Prohibited

1. It shall be a violation for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.
2. It shall be a violation for an employer to discharge, threaten, harass, demote, penalize, or in any other manner discriminate or retaliate against any employee because the employee has exercised in good faith the rights protected under this Chapter. Such rights include but are not limited to the right to file an oral or written complaint with the Agency about any employer's alleged violation of this Chapter; the right to inform his or

her employer, union or similar organization, and/or legal counsel about an employer's alleged violation of this Chapter; the right to cooperate with the Agency in its investigations of alleged violations of this Chapter; the right to oppose any policy, practice, or act that is unlawful under this Chapter; and the right to inform other employees of his or her potential rights under this Chapter.

3. It shall be a violation for an employer to communicate to a person filing a wage claim, directly or indirectly, explicitly or implicitly, the willingness to inform a government employee that the person is not lawfully in the United States, report or threaten to report suspected citizenship or immigration status of an employee or a family member of the employee to a federal, state, or local agency because the employee has exercised a right under this Chapter.

#### C. Notice, Posting, and Records

1. Employers shall give notice to employees in English, Spanish and any other language commonly spoken by employees at the particular workplace that they are entitled to the minimum wage and minimum compensation; that retaliation against employees who exercise their rights under this Chapter is prohibited; and that each employee has the right to file a charge if the minimum wage or minimum compensation as defined in this Chapter is not paid or the employee is retaliated against for engaging in an activity protected under this Chapter.
2. Employers may comply with this section by posting in a conspicuous place at any workplace or job site where any covered employee works a notice published each year by the Agency informing employees of the current minimum wage and minimum compensation rates applicable in that particular workplace or jobsite and of their rights under this Chapter in English, Spanish and any other languages commonly spoken by employees at the particular workplace or job site.
3. Employers shall retain payroll records pertaining to covered employees for a period of three years documenting minimum wages and minimum compensation paid to each employee.

#### D. Charges and Investigation

1. The Agency may investigate any violations of this Chapter. A charge alleging a violation of this Chapter should include a statement of the dates, places, and persons or entities responsible for such violation. A charge alleging a violation of this Chapter may also be filed by the Director on behalf of an aggrieved individual when the Director has reason to believe that a violation has occurred.
2. Charges filed under this Chapter must be filed within three years after the occurrence of the alleged violation. To the extent permitted by law, the applicable statute of limitations for civil actions is tolled during the Department's investigation and any administrative enforcement proceeding under this Chapter based upon the same facts.
3. The Director shall cause to be served or mailed by certified mail, return receipt requested, a copy of the charge on the respondent within 20 days after the filing of the charge and shall promptly make an investigation thereof.

4. The investigation shall be directed to ascertain the facts concerning the alleged violation of this Chapter, and shall be conducted in an objective and impartial manner.
  5. During the investigation the Director shall consider any statement of position or evidence with respect to the allegations of the charge which the charging party or the respondent wishes to submit. The Director shall have authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, and the production of evidence including but not limited to books, records, correspondence or documents in the possession or under the control of the employer subpoenaed.
- E. Findings of Fact and Notice of Violation. Except when there is an agreed upon settlement, the results of the investigation shall be reduced to written findings of fact, and a written determination shall be made by the Director that a violation of this Chapter has or has not occurred based on a preponderance of the evidence before the Director. The findings of fact shall be furnished promptly to the respondent and charging or aggrieved party in the form of a notice of violation or a written determination of no violation shown.
- F. Remedies
1. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil penalty in an amount not to exceed \$125 for the first violation and \$250 for subsequent violations.
  2. It is unlawful for any employer to willfully resist, prevent, impede or interfere with the Director in the performance of his or her duties under this Chapter. Conduct made unlawful by this subsection 14.19.060.F.2 constitutes a violation, and any employer who commits such a violation may be punished by a civil penalty of not less than \$1,000 and not more than \$5,000.
  3. For a first time violation of this Chapter, the Director, in addition to the remedies provided in subsections 14.19.060.F.1, 14.19.060.F.2, and 14.19.060.F.4 of this Section, shall issue a warning and may assess a civil penalty of up to \$500 for improper payment of minimum wage and minimum compensation as defined in this Chapter. For subsequent violations, the Director, in addition to the remedies provided in subsections 14.19.060.F.1, 14.19.060.F.2, and 14.19.060.F.4 of this Section, shall assess a civil penalty for improper payment of minimum wage and minimum compensation as defined in this Chapter. A civil penalty for a second time violation of this Chapter shall be not greater than \$1,000 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. A civil penalty for a third violation of this Chapter shall not be greater than \$5,000 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a violation of this chapter shall be \$20,000 per employee.
  4. Within sixty days of a notice of violation of this Chapter, the Director shall confer with the parties and determine an appropriate remedy, which shall include full payment of unpaid wages and accrued interest due to the charging or aggrieved party under the terms of this Chapter and any civil penalties provided in the Section. Such remedy shall be reduced to writing in an order of the Director.
- G. Appeal Period and Failure to Respond

An employer may appeal the Director's order, including all remedies issued pursuant to subsection 14.19.060.F of this Section, by requesting a contested hearing before the Hearing Examiner in writing within 15 days of service. If an employer fails to appeal the Director's order within 15 days of service, the Director's order shall be final and enforceable. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5:00 p.m. on the next business day.

#### H. Appeal Procedure and Failure to Appear

1. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases. The Director shall have the burden of proof by a preponderance of the evidence before the Hearing Examiner. Failure to appear for a requested hearing will result in an order being entered finding that the employer cited committed the violation stated in the Director's order. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.
2. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying or reversing the Director's order.
3. In the event an employer fails to comply with any final order issued by the Director or the Hearing Examiner, the Director shall refer the matter to the City Attorney for the filing of a civil action in superior court, the Seattle Municipal Court or any other court of competent jurisdiction to enforce such order.

#### **SeaTac:**

##### Enforcement of Chapter

A. Any person claiming violation of this chapter may bring an action against the employer in King County Superior Court to enforce the provisions of this Chapter and shall be entitled to all remedies available at law or in equity appropriate to remedy any violation of this chapter, including but not limited to lost compensation for all Covered Workers impacted by the violation(s), damages, reinstatement and injunctive relief. A plaintiff who prevails in any action to enforce this Chapter shall be awarded his or her reasonable attorney's fees and expenses.

B. The City shall adopt auditing procedures sufficient to monitor and ensure compliance by Hospitality Employers and Transportation Employers with the requirements of this Chapter. Complaints that any provision of this Chapter has been violated may also be presented to the City Attorney, who is hereby authorized to investigate and, if it deems appropriate, initiate legal or other action to remedy any violation of this chapter; however, the City Attorney is not obligated to expend any funds or resources in the pursuit of such a remedy.

C. Nothing herein shall be construed to preclude existing remedies for enforcement of Municipal Code Chapters.

#### **San Jose:**



## ENFORCEMENT

A. Where prompt compliance is not forthcoming, the Office shall take any appropriate enforcement action to secure compliance.

1. The Office may issues an Administrative Citation pursuant to Chapter 1.15 of the Code with a fine of not more than \$50 for each day or portion thereof and for each Employee or person as to whom the violation occurred or continued.

2. Alternatively, the Office may initiate a proceeding under Chapter 1.14 of the Code by issuing a 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.

### E. Relief

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 attorneys fees.

#### F. Posted Notice

If a repeated violation of this Chapter has been finally determined, the Office may require the Employer to post public notice of the Employer's failure to comply in a form determined by the City.

#### **Montgomery County:**

Enforcement.

(a) A covered employee who was paid a wage rate less than the County minimum wage in violation of this Article may file a complaint with the Director under Section 27-7.

(b) The County Executive must delegate the authority to enforce this Article to a State agency that:

- (1) enforces the State Act; and
- (2) is legally authorized to enforce the County minimum wage.

Sec. 27-70. Enforcement.

(a) A covered employee who was paid a wage rate less than the County minimum wage in violation of this Article may file a complaint with the Director under Section 27-7 .

(b) The County Executive must delegate the authority to enforce this Article to a State agency that:

- (1) enforces the State Act; and
- (2) is legally authorized to enforce the County minimum wage.

Administration and enforcement.

(a) Filing complaints. Any person subjected to a discriminatory act or practice in violation of this Article, or any group or person seeking to enforce this Article or Articles X, XI, or XII, may file with the Director a written complaint, sworn to or affirmed under the penalties of perjury, that must state:

- (1) the particulars of the alleged violation;
- (2) the name and address of the person alleged to have committed the violation; and
- (3) any other information required by law or regulation.

(b) Commissioner initiated complaints. Any commissioner or the Commission may initiate a

complaint in the commissioner's or Commission's name in the manner provided in subsection (a).

(c) Testing and corroboration. After a complaint is filed, the director promptly must provide a copy or synopsis of the complaint to the respondent. If the director decides to corroborate the complaint by testing, the director must provide the copy or synopsis to the respondent promptly after completion of the testing. The Commission may also initiate or corroborate complaints on the basis of testing carried out by its staff, contractors, or volunteers authorized by the Commission or the director, or their designees.

(d) Limitations; filing with other agencies. Any complaint must be filed with the director or the Commission within one year after the alleged discriminatory act or practice. If those acts or practices are continuing in nature, the complaint must be filed within one year after the most recent act or practice. Filing with any federal or state agency charged with civil rights enforcement constitutes a filing under this article.

(e) Investigation.

(1) After receiving a complaint, the director must investigate as necessary to ascertain appropriate facts and issues. The director may:

(A) issue subpoenas to compel the attendance of witnesses, the production of documents, and other evidence relevant and necessary to investigate the complaint;

(B) conduct discovery, including interrogatories and depositions; and

(C) require both the complainant and respondent to attend a fact-finding conference and, if either party fails to attend, dismiss the complaint, impose a default judgment, or order other appropriate sanctions against the absent party.

(2) The Commission, director, and staff must not disclose any information gathered during the investigation, including the parties' identities, except that:

(A) Any information may be released at any time if the release has been agreed to in writing by both the complainant and the respondent.

(B) The identity of the complainant may be disclosed to the respondent at any time.

(C) If the director certifies a complaint to the Commission, any information may be released unless the case review board grants a private hearing before the board or a hearing examiner.

(D) After the director certifies a case to the Commission, documents or materials gathered during the investigation must be available to the parties, except that any investigatory materials that the Commission, case review board, hearing examiner, or director determines are privileged or confidential and would not be used at a hearing must not be released to any party.

(f) Initial determination, dismissal before hearing.

(1) The Director must determine, based on the investigation, whether reasonable grounds exist to believe that a violation of this Article or Articles X, XI, or XII, occurred and promptly send the determination to the complainant and the respondent.

(2) If the Director determines that there are no reasonable grounds to believe a violation occurred, and the complainant appeals the determination to the Commission within 30 days after the Director sends the determination to the complainant, the Director promptly must certify the complaint to the Commission. The Commission must appoint a case review board to consider the appeal. The board may hear oral argument and must:

(A) dismiss the complaint without a hearing;

(B) order the Director to investigate further; or

(C) set the matter for a hearing by a hearing examiner or the board itself, and consider and decide the complaint in the same manner as if the Director had found reasonable grounds to believe that a violation of this Article or Articles X, XI, or XII, occurred.

(3) If the Director determines that there are reasonable grounds to believe a violation occurred, the Director must attempt to conciliate the matter under subsection (g).

(g) Conciliation.

(1) A conciliation conference is informal and nothing said or done during a conciliation conference is admissible in any subsequent hearing under this article. The Commission or the director may disclose something said or done during a conciliation conference only if the parties agree in writing.

(2) The terms of a conciliation agreement must be reduced to writing and approved by the Commission. An approved conciliation agreement is an "informal disposition" under Section 2A-10(g), is binding on the parties, has the force and effect of a contract, and is enforceable as a contract. The Commission may enforce the agreement as an order of the Commission.

(3) A conciliation agreement that requires confidentiality and is otherwise acceptable to the Commission:

(A) may be approved by the Commission, at its discretion, to resolve a complaint regarding discrimination in a place of public accommodation;

(B) must not be approved unless the Commission finds that disclosure would not further the purposes of this article or State or federal laws prohibiting discrimination in real estate;

(C) should be approved by the Commission to resolve a complaint regarding employment

discrimination.

(4) If conciliation has not occurred within 90 days after the director found reasonable grounds to believe a violation occurred, or the director decides at any time that conciliation would be fruitless, the director promptly must certify the complaint to the Commission, which must appoint a case review board to consider and decide the complaint. The director may extend the conciliation deadline by mutual consent of the complainant and respondent.

(h) Hearings. The hearing must be conducted by the Commission case review board or a hearing examiner according to Sections 2A-1 to 2A-11, this Chapter, and Commission rules. If a hearing is granted, the Commission or the director may ask the County Attorney to intervene on behalf of the County to enforce this Chapter. The County may recover its costs, including reasonable attorney's fees, if it substantially prevails.

(i) Decision and order.

(1) The case review board must issue a final decision on a complaint according to Section 2A-10, this Chapter, and Commission rules.

(2) If any party, after proper notice, does not appear at a scheduled hearing, a hearing examiner may recommend and the board may order any relief to another party that the facts on record warrant.

(3) The board may award costs, including reasonable attorney's fees, to any party if another party filed or maintained a frivolous complaint, or filed or maintained a complaint not in good faith.

(4) The board must apply relevant federal, State, County, and case law to the facts. The board may order payment of damages and any other relief that the law and facts allow and warrant. The board's decision is binding on the parties, subject to appeal to the courts under subsection (k).

(5) If a hearing examiner conducts the hearing, the hearing examiner must forward a recommended decision and order to the board. The board may hear additional oral argument and must adopt, reverse, modify, or remand the recommended decision before issuing the board's final decision and order.

(j) Notification to other agencies. If a case review board determines that a person has violated this article, the director may refer the decision to any State or County agency or authority that:

(1) issued a license or franchise to the person; or

(2) does business under contract with the person.

(k) Appeal. Any party aggrieved by a case review board's final decision may seek full appellate review under Section 2A-11. A decision by a case review board under subsection

(f)(2)(A) to uphold the Director's finding that there are no reasonable grounds to believe a violation occurred is not subject to appellate review.

(l) Enforcement of orders and subpoenas. The Commission, a case review board, or a hearing examiner may direct, and the director may ask, the County Attorney to enforce by any appropriate legal action a subpoena or other order issued by the director, hearing examiner, board, or Commission. The County or any party seeking to enforce an order or subpoena may recover costs and reasonable attorney's fees if the County or party substantially prevails.

(m) Interim relief. At any time after a complaint has been filed, the Commission, a case review board, or a hearing examiner may direct, and the director may ask, the County Attorney to seek any appropriate legal relief, such as a temporary restraining order or a preliminary injunction, to preserve the status quo or prevent irreparable harm.

### **San Francisco:**

#### **IMPLEMENTATION AND ENFORCEMENT.**

(a) Implementation. The Agency shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes consistent with this Chapter. Any guidelines or rules promulgated by the Agency 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. The Agency shall make every effort to resolve complaints in a timely manner and shall have a policy that the Agency shall take no more than one year to settle, request an administrative hearing under Section 12R.7(b), or initiate a civil action under Section 12R.7(c). The failure of the Agency to meet these timelines within one year shall not be grounds for closure or dismissal of the complaint.

(b) Administrative Enforcement. The Agency is authorized to take appropriate steps to enforce this Chapter. The Agency may investigate any possible violations of this Chapter by an Employer or other person. Where the Agency has reason to believe that a violation has occurred, it may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing. Where the Agency, after a hearing that affords a suspected violator due process, determines that a violation has occurred, it may order any appropriate relief including, but not limited to, reinstatement, the payment of any back wages unlawfully withheld, and the payment of an additional sum as an administrative 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. A violation for unlawfully withholding wages 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. Where prompt compliance is not forthcoming, the Agency may take any appropriate enforcement action to secure compliance, including initiating a civil action pursuant

to Section 7(c)1 of this Chapter and/or, except where prohibited by state or federal law, requesting that City agencies or departments revoke or suspend any registration certificates, permits or licenses held or requested by the Employer or person until such time as the violation is remedied. In order to compensate the City for the costs of investigating and remedying the violation, the Agency may also order the violating Employer or person to pay to the City a sum of not more than \$50 for each day and for each Employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the Agency and shall be used to offset the costs of implementing and enforcing this Chapter. The amounts of all sums and payments authorized or required under this Chapter shall be updated annually for inflation, beginning January 1, 2005, using the inflation rate and procedures set forth in Section 4(b)2 of this Chapter. An Employee or other person may report to the Agency in writing any suspected violation of this Chapter. The Agency 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 Agency may disclose his or her name and identifying information as necessary to enforce this Chapter or for other appropriate purposes. In order to further encourage reporting by Employees, if the Agency notifies an Employer that the Agency is investigating a complaint, the Agency shall require the Employer to post or otherwise notify its Employees that the Agency is conducting an investigation, using a form provided by the Agency.

(c) Civil Enforcement. The Agency, the City Attorney, 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 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 liquidated damages 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, and shall be awarded reasonable attorneys' fees and costs. 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, and reasonable attorneys' fees and costs. Nothing in this Chapter shall be interpreted as restricting, precluding, or otherwise limiting a separate or concurrent criminal prosecution under the Municipal Code or state law. Jeopardy shall not attach as a result of any administrative or civil enforcement action taken pursuant to this Chapter.

(d) Interest. In any administrative or civil action brought for the nonpayment of wages under this Section, the Agency or court, as the case may be, shall award 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.

(e) Posting Notice of Violation. If an Employer fails to comply with a settlement agreement with the Agency, a final determination by the Agency after an administrative hearing officer issues a decision after a hearing under Section 12R.7(b), an administrative citation issues under Section 12R.19, a decision made in an administrative appeal brought under Section 12R.21, or

judgment issued by the Superior Court, and the Employer has not filed an appeal from the administrative hearing decision, administrative citation, administrative appeal decision, or judgment, or the appeal is final, the Agency may require the Employer to post public notice of the Employer's failure to comply in a form determined by the Agency.

**San Francisco:**

**CIVIL ACTIONS.**

In addition to the actions provided for in Section 12R.7(c), the City Attorney may bring a civil action to enjoin any violation of this Chapter. The City shall be entitled to its attorney's fees and costs in any action brought pursuant to this Section where the City is the prevailing party.

**SEC. 12R.15. REMEDIES CUMULATIVE.**

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.

**SEC. 12R.16. ADMINISTRATIVE PENALTIES AND CITATIONS.**

(a) Administrative Penalties; Citations. An administrative penalty may be assessed for a violation of the provisions of this Chapter as specified below. The penalty may be assessed by means of an administrative citation issued by the Director of the Office of Labor Standards Enforcement.

(b) Administrative Penalty Amounts. In addition to all other civil penalties provided for by law, the following violations shall be subject to administrative penalties in the amounts set forth below:

**VIOLATION PENALTY AMOUNT**

Failure to maintain payroll records or to retain payroll records for four years – Administrative Code Section 12R.5(c) \$500.00

Failure to allow the Office of Labor Standards Enforcement to inspect payroll records – Administrative Code Section 12R.5(c) \$500.00

Retaliation for exercising rights under Minimum Wage Ordinance – Administrative Code Section 12R.6

The Penalty for retaliation is \$1,000.00 per employee. \$1,000.00

Failure to Post notice of Minimum Wage rate – Administrative Code Section 12R.5(b)

Failure to provide notice of investigation to employees – Administrative Code Section 12R.7(b)

Failure to post notice of violation to public – Administrative Code Section 12R.7(e)

Failure to provide employer's name, address, and telephone number in writing – Administrative Code Section 12R.5(b) \$500.00

The penalty amounts shall be increased cumulatively by fifty percent (50%) for each subsequent violation of the same provision by the same employer or person within a three (3) year period. The maximum penalty amount that may be imposed by administrative citation in a calendar year for each type of violation listed above shall be \$5,000 or \$10,000 if a citation for retaliation is issued. In addition to the penalty amounts listed above, the Office of Labor Standards Enforcement may assess enforcement costs to cover the reasonable costs incurred in enforcing the administrative penalty, including reasonable attorneys' fees. Enforcement costs



shall not count toward the \$5,000 annual maximum.

#### SEC. 12R.17. VIOLATIONS.

(a) Separate and Continuing Violations; Penalties Paid Do Not Cure Violations. Each and every day that a violation exists constitutes a separate and distinct offense. Each section violated constitutes a separate violation for any day at issue. If the person or persons responsible for a violation fail to correct the violation within the time period specified on the citation and required under Section 12R.18, the Director of the Office of Labor Standards Enforcement may issue subsequent administrative citations for the uncorrected violation(s) without issuing a new notice as provided in Section 12R.18(b). Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar any further enforcement action by the City. If penalties and costs are the subject of administrative appeal or judicial review, then the accrual of such penalties and costs shall be stayed until the determination of such appeal or review is final.

(b) Payments to City; Due Date; Late Payment Penalty. All penalties assessed under Section 12R.16 shall be payable to the City and County of San Francisco. Administrative penalties and costs assessed by means of an administrative citation shall be due within thirty (30) days from the date of the citation. The failure of any person to pay an administrative penalty and costs within that time shall result in the assessment of an additional late fee. The amount of the late fee shall be ten (10) percent of the total amount of the administrative penalty assessed for each month the penalty and any already accrued late payment penalty remains unpaid.

(c) Collection of Penalties; Special Assessments. The failure of any person to pay a penalty assessed by administrative citation under Section 12R.16 within the time specified on the citation constitutes a debt to the City. The City may file a civil action, create and impose liens as set forth below, or pursue any other legal remedy to collect such money.

(d) Liens. The City may create and impose liens against any property owned or operated by a person who fails to pay a penalty assessed by administrative citation. The procedures provided for in Chapter 10, Article XX of the Administrative Code shall govern the imposition and collection of such liens.

(e) Payment to City. The Labor Standards Enforcement Officer has the authority to require that payment of back wages found to be due and owing to employees be paid directly to the City and County of San Francisco for disbursement to the employees. The Controller shall hold the back wages in escrow for workers whom the Labor Standards Enforcement Officer, despite his/her best efforts, including any required public notice, cannot locate; funds so held for three years or more shall be dedicated to the enforcement of the Minimum Wage Ordinance or other laws enforced by the Office of Labor Standards Enforcement.

#### SEC. 12R.18. ADMINISTRATIVE CITATION; NOTICE OF VIOLATION.

(a) Issuance of Citation. The Director has the authority to issue an administrative citation for any violation of this Chapter that is identified in Section 12R.16(b). The administrative citation shall be issued on a form prescribed by the Office of Labor Standards Enforcement.

(b) Notice and Opportunity to Cure. In order to facilitate compliance, the Director of the Office of Labor Standards Enforcement ("Director") or his or her designee may notify any person in violation of the Code provisions identified in Section 12R.16(b) of such violation prior to the issuance of an administrative citation. Regardless of the manner of service of the notice under Section 12R.19, the Director or his or her designee may post the notice of violation by affixing the notice to a surface in a conspicuous place on property that is (1) the person's

principal place of business in the City, or (2) if the person's principal place of business is outside the City, the fixed location within the City from or at which the person conducts business in the City, or (3) if the person does not regularly conduct business from a fixed location in the City, one of the following: (i) the location where the person maintains payroll records if the notice of violation is for violation of Section 12R.5(c), or (ii) the jobsite or other primary location where the person's employees perform services in the City at the time the notice is posted. The notice of violation shall specify the action required to correct or otherwise remedy the violation(s). At the discretion of the Director or his or her designee, the person or persons responsible for the violation may be allowed ten (10) days from the date of the notice of violation to establish that no violation occurred or such person or persons are not responsible for the violation, or correct or otherwise remedy the violation; provided, however, that the Director may, in his or her discretion, assign a longer period, not to exceed twenty-one (21) days, within which to correct or otherwise remedy each violation, or establish that no violation occurred or such person or persons are not responsible for the violation. The Director may consider the cost of correction and the time needed to obtain information, documents, data and records for correction in assigning a specific period of time within which to correct or otherwise remedy each violation, or obtain and submit evidence that no violation occurred or such person or persons are not responsible for the violation.

#### SEC. 12R.19. ADMINISTRATIVE CITATION AND NOTICE OF VIOLATION; SERVICE.

Service of a notice of violation and an administrative citation under Section 12R.16 may be accomplished as follows:

- (a) The Director or his or her designee may obtain the signature of the person responsible for the violation to establish personal service of the citation; or
- (b) (1) Director or his or her designee shall post the citation by affixing the citation to a surface in a conspicuous place on the property described in Section 12R.18. Conspicuous posting of the citation is not required when personal service is accomplished or when conspicuous posting poses a hardship, risk to personal health or safety or is excessively expensive; and
- (2) The Director or his or her designee shall serve the citation by first class mail as follows:
  - (i) The administrative citation shall be mailed to the person responsible for the violation by first class mail, postage prepaid, with a declaration of service under penalty of perjury; and
  - (ii) A declaration of service shall be made by the person mailing the administrative citation showing the date and manner of service by mail and reciting the name and address of the person to whom the citation is issued; and
  - (iii) Service of the administrative citation by mail in the manner described above shall be effective on the date of mailing.

#### SEC. 12R.20. ADMINISTRATIVE CITATION; CONTENTS.

The administrative citation under Section 12R.16 shall include all the following:

- (1) A description of the violation;
- (2) The date and location of the violation(s) observed;
- (3) A citation to the provisions of law violated;
- (4) A description of corrective action required;
- (5) A statement explaining that each day of a continuing violation may constitute a new and separate violation;
- (6) The amount of administrative penalty imposed for the violation(s);

(7) A statement informing the violator that the fine shall be paid to the City and County of San Francisco within thirty (30) days from the date on the administrative citation, the procedure for payment, and the consequences of failure to pay;

(8) A description of the process for appealing the citation, including the deadline for filing such an appeal; and

(9) The name and signature of the Director.

#### SEC. 12R.21. ADMINISTRATIVE APPEAL.

(a) Period of Limitation for Appeal. Persons receiving an administrative citation may appeal it within fifteen (15) days from the date the citation is served. The appeal must be in writing and must indicate a return address. It must be accompanied by the penalty amount, specifying the basis for the appeal in detail, and must be filed with both the Office of Labor Standards Enforcement and the Controller's Office as indicated in the administrative citation.

(b) Hearing Date. As soon as practicable after receiving the written notice of appeal and the penalty amount, the Controller or his or her designee shall promptly select a hearing officer (who shall not be an employed in the Office of Labor Standards Enforcement) to hear and decide the administrative appeal. The hearing officer shall fix a date, time and place for the hearing on the appeal. Written notice of the time and place for the hearing may be served by first class mail, at the return address indicated on the written appeal. Service of the notice must be made at least ten (10) days prior to the date of the hearing to the person appealing the citation. The hearing shall be held no later than thirty (30) days after service of the notice of hearing, unless that time is extended by mutual agreement of the parties.

(c) Notice. Except as otherwise provided by law, the failure of any person with an interest in property affected by the administrative citation, or other person responsible for a violation, to receive a properly addressed notice of the hearing shall not affect the validity of any proceedings under this Chapter. Service by first class mail, postage prepaid, shall be effective on the date of mailing.

(d) Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this Section or to appear at the hearing shall constitute a failure to exhaust administrative remedies and a forfeiture of the penalty amount previously remitted.

(e) Submittals for the Hearing. No later than five (5) days prior to the hearing, the person to whom the citation was issued and the Office of Labor Standards Enforcement shall submit to the hearing officer, with simultaneous service on the opposing party, written information including, but not limited to, the following: the statement of issues to be determined by the hearing officer and a statement of the evidence to be offered and the witnesses to be presented at the hearing.

(f) Conduct of Hearing. The hearing officer appointed by the Controller or the Controller's designee shall conduct all appeal hearings under this Chapter. The Office of Labor Standards Enforcement shall have the burden of proof in such hearings. The hearing officer may accept evidence on which persons would commonly rely in the conduct of their serious business affairs, including but not limited to the following:

(1) A valid citation shall be prima facie evidence of the violation;

(2) The hearing officer may accept testimony by declaration under penalty of perjury relating to the violation and the appropriate means of correcting the violation;

(3) The person responsible for the violation, or any other interested person, may present testimony or evidence concerning the violation and the means and time frame for correction.

The hearing shall be open to the public and shall be tape-recorded. Any party to the hearing

may, at his or her own expense, cause the hearing to be recorded and transcribed by a certified court reporter. The hearing officer may continue the hearing and request additional information from the Office of Labor Standards Enforcement or the appellant prior to issuing a written decision.

(g) Hearing Officer's Decision; Findings. The hearing officer shall make findings based on the record of the hearing and issue a decision based on such findings within fifteen (15) days of conclusion of the hearing. The hearing officer's decision may uphold the issuance of a citation and penalties stated therein, may dismiss a citation, or may uphold the issuance of the citation but reduce, waive or conditionally reduce or waive the penalties stated in a citation or any late fees assessed if mitigating circumstances are shown and the hearing officer finds specific grounds for reduction or waiver in the evidence presented at the hearing. The hearing officer may impose conditions and deadlines for the correction of violations or the payment of outstanding civil penalties. Copies of the findings and decision shall be served upon the appellant and the Office of Labor Standards Enforcement by certified mail.

(h) Hearing Officer's Decision. The decision of the hearing officer is final. If the hearing officer concludes that the violation charged in the citation did not occur or that the person charged in the citation was not the responsible party, the Office of Labor Standards Enforcement shall refund or cause to be refunded the penalty amount to the person who deposited such amount. The hearing officer's decision shall be served on the appellant by certified mail.

#### SEC. 12R.22. REGULATIONS.

The Office of Labor Standards Enforcement may promulgate and enforce rules and regulations, and issue determinations and interpretations relating to the administrative penalty and citation system pursuant to Sections 12R.16 through 12R.20, inclusive. The Controller may promulgate and enforce rules and regulations, and issue determinations and interpretations relating to the conduct of administrative appeals under Section 12R.21. Any rules and regulations promulgated by the Office of Labor Standards Enforcement or Controller shall be approved as to legal form by the City Attorney, and shall be subject to not less than one noticed public hearing. The rules and regulations shall become effective 30 days after receipt by the Clerk of the Board of Supervisors, unless the Board of Supervisors by resolution disapproves or modifies the regulations. The Board of Supervisors' determination to modify or disapprove a rule or regulation submitted by the Office of Labor Standards Enforcement or Controller shall not impair the ability of the Office of Labor Standards Enforcement or Controller to resubmit the same or similar rule or regulation directly to the Board of Supervisors if the Office of Labor Standards Enforcement or Controller determines it is necessary to effectuate the purposes of this Chapter.

#### SEC. 12R.23. JUDICIAL REVIEW.

(a) Procedures. After receipt of the decision of the hearing officer under Section 12R.21, the appellant may file an appeal with the superior court pursuant to California Government Code Section 53069.4. The appeal shall be submitted within twenty (20) days of the date of mailing of the hearing officer's decision, with the applicable filing fee. The appeal shall state the reasons the appellant objects to the findings or decision.

(b) Review. The superior court shall conduct a de novo hearing, except that the contents of the Office of Labor Standards Enforcement's file (excluding attorney client communications and other privileged or confidential documents and materials that are not discoverable or may be

excluded from evidence in judicial proceedings under the Evidence Code, Civil Code, Code of Civil Procedure or other applicable law) shall be received into evidence. A copy of the notice of violation and imposition of penalty shall be entered as prima facie evidence of the facts stated therein.

(c) Filing Fee. The superior court filing fee shall be twenty-five (\$25.00). If the court finds in favor of the appellant, the amount of the fee shall be reimbursed to the appellant by the City and County of San Francisco. Any deposit of penalty shall be refunded by the City and County of San Francisco in accordance with the judgment of the court.

#### SEC. 12R.24. OTHER REMEDIES NOT AFFECTED.

The administrative citation procedures established in this Chapter shall be in addition to any other criminal, civil, or other remedy established by law which may be pursued to address violations of this Chapter. An administrative citation issued 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.

### **Oakland:**

#### CITY AUTHORIZED TO CONSIDER COMPLIANCE

City officials are hereby authorized to consider, to the maximum extent permitted by law, an Employer's record of noncompliance with this Chapter in making City decisions on City contracts and land use approvals and other entitlements to expand or operate within the City. The City is authorized to either deny approval or include conditions for approval ensuring future compliance by investigating complaints of noncompliance with this Chapter and rendering City decisions on the merits of such complaints. The City is authorized to award the same relief in its proceedings as a court may award. Pursuit of such administrative remedy shall not be a prerequisite for pursuing a private action under this Chapter.

#### PRIVATE RIGHTS OF ACTION

Any Person claiming harm from a violation of this Chapter may bring an action against the Employer in court 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 liable for civil penalties for each violation with a maximum of \$1000 per violation, the amount to be determined by the court. 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.

## L. RELATIONSHIP TO OTHER REQUIREMENTS

### **Richmond:**

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.

### **Berkeley:**

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.

### **Seattle:**

This Chapter provides minimum wage and minimum compensation requirements and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater wages or compensation; and nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. Nor shall this Chapter be construed to preclude any person aggrieved from seeking judicial review of any final administrative decision or order made under this Chapter affecting such person.

### **San Jose:**

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.

### **Los Angeles:**

The provisions of this article shall not be construed as limiting any Employee's right to obtain relief to which he or she may be entitled at law or in equity.

### **Los Angeles:**

Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with any federal or State law.

**Albuquerque:**

This article provides for payment of minimum wage rates 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, benefits, or protections. Nothing contained in this article prohibits an employer from paying more than the minimum wage rates established under this article.

**Bernalillo County:**

Relationship to other requirements.

This division provides for payment of minimum wage rates 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, benefits, or protections. Nothing contained in this division prohibits an employer from paying more than the minimum wage rates established under this division.

**San Francisco:**

This Chapter provides for payment of a 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 including, but not limited to, the San Francisco Minimum Compensation Ordinance.

**Oakland:**

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 or Port of Oakland. This Chapter shall not be construed to limit a discharged Employee's right to bring a common law cause of action for wrongful termination.

## **M. WELFARE TO WORK PROGRAMS**

### **Richmond:**

Application of minimum wage to welfare-to-work programs.

The minimum wage established pursuant to 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 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.

### **Berkeley:**

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.

### **San Jose:**

APPLICATION OF MINIMUM WAGE TO WELFARE-TO-WORK PROGRAMS.

The Minimum Wage established pursuant to Section 4(b) of 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 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.

### **San Francisco:**

APPLICATION OF MINIMUM WAGE TO WELFARE-TO-WORK PROGRAMS.

The Minimum Wage established pursuant to Section 4(b)1 of this Chapter shall apply to the City's Welfare-to-Work Programs under which persons must perform work in exchange for receipt of benefits. Participants in Welfare-to-Work Programs 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. Where state or federal law would preclude the City from reducing the number of work hours required under a given Welfare-to-Work Program, the City may comply with this Section by increasing the cash benefits awarded



so that their value is no less than the product of the Minimum Wage multiplied by the number of work hours required.

## N. FEES

### **Richmond:**

Fees.

Nothing in this chapter shall preclude the City Council from imposing a cost recovery fee on all employers to pay the cost of administering this chapter.

### **Berkeley:**

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

### **San Jose:**

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

## O. OUTREACH

### San Francisco:

The Office of Labor Standards Enforcement shall establish a community-based outreach program to conduct education and outreach to employees. In partnership with organizations involved in the community-based outreach program, the Office of Labor Standards shall create outreach materials that are designed for workers in particular industries.

## **P. SEVERABILITY**

### **Seattle:**

The provisions of this Chapter are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection or portion of this Chapter, or the application thereof to any employer, employee, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances.

### **SeaTac:**

If any provision of this Ordinance is declared illegal, invalid or inoperative, in whole or in part, or as applied to any particular Hospitality or Transportation Employer and/or in any particular circumstance, by the final decision of any court of competent jurisdiction, then all portions and applications of this Ordinance not declared illegal, invalid or inoperative, shall remain in full force or effect to the maximum extent permissible under law.

### **San Jose:**

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.

### **Los Angeles:**

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

### **San Francisco:**

SEVERABILITY.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, 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 Chapter are severable.

### **Oakland:**

SEVERABILITY

If any provision or application of this Chapter is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid or inoperative shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this Chapter in order to preserve the maximum permissible effect of each subsection herein. Nothing herein may be construed to impair any contractual obligations of the Port or City of Oakland. This Chapter shall not be applied to the extent it will cause the loss of any federal or state funding of City or Port activities.”