



Fremont City Council

3300 Capitol Avenue
Fremont, CA 94538

SCHEDULED

Meeting: 07/17/18 07:00 PM

Div/Dept: Finance Department

Category: Code Adoptions & Amendments

Sponsors:

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STAFF REPORT (ID # 3527)

**RESPONSE TO REFERRAL ON MINIMUM WAGE ORDINANCE - Staff Study
Providing Regional Context for a Local Minimum Wage Ordinance, Identifying
Impacted Segments of the Community, and Offering Options for Council Action**

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Executive Summary: At the City Council meeting on June 12, 2018, Vice Mayor Bacon submitted a referral asking that the City Council consider a minimum wage ordinance. After discussing Vice Mayor Bacon’s referral, the City Council directed staff to return to the Council with a study that:

- Provides context by describing what steps the State and other cities in our region have taken to increase the minimum wage;
- Identifies segments of the Fremont community that might be impacted by a local minimum wage ordinance; and
- Offers options for City Council action.

BACKGROUND: In California, the State has historically been responsible for regulating the employer-employee relationship through agencies such as the Department of Industrial Relations, and began setting minimum wages in 1916. The federal government established a national minimum wage as part of the Fair Labor Standards Act (FLSA) in 1938. The FLSA minimum wage of \$7.25 per hour has been in effect since July 24, 2009.

On April 4, 2016, Governor Jerry Brown signed legislation creating a schedule to annually increase California’s minimum wage for all industries from the then-current \$10 per hour level. The schedule is summarized in the following table:

Effective Date (January 1)	Small Employers (25 or Less Employees)	Large Employers (26 or More Employees)
2017	\$10.00	\$10.50
2018	10.50	11.00
2019	11.00	12.00
2020	12.00	13.00
2021	13.00	14.00
2022	14.00	15.00
2023	15.00	Based on CPI

The wage increase schedule may be temporarily suspended by the Governor during economic downturns. The law also maintained existing exemptions in the state's minimum wage law.

DISCUSSION/ANALYSIS:

Bay Area Local Minimum Wage Ordinances

In June 2016 the Cities Association of Santa Clara County recommended to its members that they adopt local minimum wage ordinances which would achieve the minimum wage increase to \$15 per hour more rapidly than the State schedule -- by 2019. At that time, at least five cities in Santa Clara County had already adopted minimum wage ordinances. To date, eight of the fifteen cities in Santa Clara County have adopted local ordinances, targeting 2018 or 2019 for the \$15 hourly minimum wage.

Among Alameda County's thirteen cities, three have adopted minimum wage ordinances targeting \$15 per hour by 2018 or 2020: Berkeley, Emeryville, and San Leandro. Oakland voters approved a minimum wage ballot initiative in 2014, but its minimum wage is not expected to reach \$15 per hour before 2022. The City of Alameda is expected to consider a minimum wage ordinance at a City Council meeting in September 2018.

Several other cities in our region have minimum wage ordinances in effect: San Francisco, San Mateo, El Cerrito, and Richmond. San Francisco reached \$15 per hour on July 1, 2018, and the others will reach that level on January 1, 2019.

All of the cities in our region who chose to adopt a minimum wage ordinance took action in 2016 or earlier, with the exception of Milpitas, which adopted its ordinance in February 2017. These ordinances generally impose annual increases ranging from \$1 to \$1.50 per hour, although Milpitas implemented two increases at six-month intervals for a \$2.50 per hour annual increase and Sunnyvale moved from \$11 to \$15 per hour over two years using \$2 annual increases.

Local Minimum Wage Ordinance Impacts on the Fremont Community

A City of Fremont minimum wage ordinance would most directly impact wage earners at or near the current minimum wage and their employers. Occupations with a high share of minimum wage employees include security guards, food service and retail positions, building and grounds cleaning positions, and personal care positions such as home health aides and childcare workers. Within the non-profit sector, childcare, after-school programs, in-home care for seniors, and homeless services have been identified as having large numbers of minimum wage earners.

Fremont-specific data on the number of employers or employees who would be affected by a local minimum wage ordinance is not available. However, the 2018 Silicon Valley Index, published by Joint Venture Silicon Valley, estimates that jobs paying at or close to the minimum wage constitute almost a third of total employment in Silicon Valley. The Fremont Chamber of Commerce has recently conducted a survey of its members to gauge the potential impact of a local ordinance, and the results will be provided to the City Council when they become available.

Businesses impacted by the increase in minimum wage will most likely respond with some combination of increasing prices to customers, decreasing hours for minimum wage

employees, and eliminating minimum wage jobs. Low-margin businesses in competitive markets that rely heavily on minimum wage labor may not be able to continue operating. Non-profit organizations, having less ability to pass along increased costs, may ultimately respond by reducing their services to the community.

Adoption of a local minimum wage ordinance could impact the City's efforts to attract new retail and restaurant establishments in core retail nodes, including the Downtown. It could also be of concern to businesses looking to locate or expand in Fremont, as it could be interpreted as a signal that the City Council is prepared to take a more active role in regulating the employer-employee relationship.

A significant increase in the minimum wage could help some families remain housed and, by offsetting childcare costs, might allow an additional family member to seek employment. In general, households with workers receiving higher pay will experience a higher level of economic self-sufficiency. It is important to recognize, however, that even at a wage of \$15 per hour a household with two full-time workers would need to devote almost half of its income to afford rental housing in the City of Fremont. A last point to note is that the Federal Poverty Guideline, which is used as the eligibility standard for many governmental assistance programs, equates to an hourly wage of \$11.66 on a full-time basis. Increasing the local minimum wage could have an undesirable impact on single-earner households.

To summarize, affected businesses and non-profits with sufficient operating flexibility to make the needed adjustments will continue serving customers, although perhaps at a lower service level. Businesses or non-profits without such flexibility would need to cease operations. Some minimum wage workers will see an increase in pay, some will see a reduction in work hours, and some will lose their jobs. Indirect effects could include reduced desire by businesses to locate or expand in Fremont and loss of eligibility for governmental assistance for some households.

Impact on City Services

The City of Fremont has 688 part-time employees, with the majority working in the Community Services Department providing recreation or parks maintenance services. Over 550 of those employees earn between \$11 (the current minimum wage for large employers) and \$17 per hour based on job duties and years of experience. In the Recreation Division alone, the allocation for part-time wages in FY 2018/19 is \$2.7 million.

Based on the current State minimum wage schedule, the Recreation Division's expenses in part-time wages will average an increase of \$107,000 annually between 2019 and 2022 when the minimum wage reaches \$15 per hour. This phased approach allows the City to gradually adjust the recreation program fees charged to participants.

Accelerating the minimum wage to \$15 per hour on January 1, 2019 (a 36.4% increase) would increase the Recreation Division's costs in the current fiscal year by almost \$500,000. Such a large increase is likely not feasible, so a General Fund subsidy of approximately \$400,000 would be needed to make up the difference. Raising annual fees for services at a higher rate than currently anticipated could reduce the General Fund subsidy in future years.

Administration and Enforcement Costs

Adoption of a local minimum wage ordinance will require the City to administer and enforce the minimum wage on an ongoing basis. Administration typically involves outreach and education activities to ensure employers and employees understand that Fremont's minimum wage is higher than the State level. At a minimum, the City will need to annually produce and distribute workplace posters in multiple languages displaying the local minimum wage, and be prepared to answer written and telephonic inquiries. Enforcement activities include responding to complaints and investigating claims by interviewing employees and employers, reviewing payroll data, and holding administrative and appeals hearings.

Most cities in Santa Clara County with local minimum wage ordinances contract with the City of San Jose Office of Equality Assurance to provide administration and enforcement services, and this may be an option for Fremont as well. The cost to those cities is based on the number of complaints received and the extent of the follow-up activity. Assuming a relatively low level of inquiries and complaints, the annual expense could be as low as \$15,000.

The four cities in Alameda County with local minimum wage ordinances (Oakland, Berkeley, San Leandro, and Emeryville) have also adopted other workplace-related regulations such as a living wage ordinance or paid sick leave ordinance. Oakland and Berkeley employ specially-trained dedicated staff to administer their ordinances, while Emeryville contracts with a labor compliance consultant.

Since the City of Fremont has not previously regulated labor relations, we have no current staff trained and working in this area. If the City was not able to contract with the City of San Jose or another service provider, one approach could be to add staff in existing classifications, as Milpitas has done, while another approach would be to establish a labor compliance classification. Either way, staffing a position to provide administration and enforcement services, along with the associated contractual services, would add approximately \$180,000 of costs to the General Fund annual operating budget.

Options for City Council Action

Staff is requesting that Council provide direction as to the next steps the City should pursue in regards to an accelerated minimum wage ordinance. Based on research, staff has developed three potential options for the City's next steps:

1. Continue to operate under the State of California's increasing minimum wage schedule which reaches \$15 per hour for all employees by January 1, 2023.
2. Direct staff to conduct public outreach and community meetings to receive resident and local business feedback regarding a local minimum wage ordinance.
3. Direct staff to develop an accelerated minimum wage schedule and minimum wage ordinance.

FISCAL IMPACT: Adoption of a local minimum wage ordinance would increase annual costs for certain City services by approximately \$500,000, some of which might be recovered through higher recreation program fees, and permanently add ongoing expenses ranging between \$15,000 and \$180,000 related to administration and enforcement.

ENVIRONMENTAL REVIEW: The proposed action is not subject to the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to the definition of "project" in CEQA Guidelines Section 15378.

ATTACHMENTS: None.

RECOMMENDATIONS:

1. Receive staff report.
2. Provide staff with direction as to next steps.