



Fremont City Council

3300 Capitol Avenue
Fremont, CA 94538

SCHEDULED

Meeting: 01/15/19 07:00 PM
Div/Dept: Finance Department
Category: Code Adoptions & Amendments

STAFF REPORT (ID # 3653)

Sponsors:
DOC ID: 3653

CONSIDERATION OF MINIMUM WAGE ORDINANCE - Consider Introduction of Ordinance to Establish a Local Minimum Wage.

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Executive Summary: On December 4, 2018, staff provided the City Council with a summary of results from public outreach efforts related to possible establishment of a local minimum wage ordinance. At that meeting, the City Council directed staff to prepare two versions of a draft local minimum wage ordinance: one that would provide small businesses with more time to increase wages, and one that would treat small and large businesses the same. This report transmits the two requested versions of the local minimum wage ordinance, with two variations of the two tier version, for City Council consideration.

BACKGROUND: On July 17, 2018, in response to a referral from Vice Mayor Bacon, staff presented the City Council with a report that described what steps the State and other cities in our region have taken to increase the minimum wage, identified segments of the Fremont community that might be impacted by a local minimum wage ordinance, and offered options for City Council action. The staff report and the presentation slides for agenda item 7.B. are available on the City's website at: <https://www.fremont.gov/AgendaCenter/City-Council-4>.

The City Council directed staff to conduct public outreach and community meetings to receive resident and local business feedback, with the understanding that staff would return to Council to present results and request further guidance. Staff followed-up with outreach efforts including an online survey conducted through the City's Fremont Open City Hall online civic engagement forum, a facilitated public meeting with business representatives, a discussion with leaders of local non-profit organizations, and moderated focus groups of low-wage workers employed by Fremont businesses.

On December 4, 2018, staff provided the City Council with a summary of results from public outreach efforts related to possible establishment of an accelerated local minimum wage ordinance. The staff report and the presentation slides for agenda item 7.A. are available on the City's website at the URL shown above.

At that meeting, the Mayor and some Councilmembers expressed concern that the City's smaller employers might be disadvantaged if they were required to adhere to the same accelerated schedule as larger employers. Consequently, the City Council directed staff to prepare two versions of a draft local minimum wage ordinance: one that would provide small businesses with more time to increase wages, and one that would treat small and large businesses the same.

DISCUSSION/ANALYSIS: The following sections review the two alternative implementation schedules requested by the City Council, as well as two other aspects of the ordinance under consideration that staff thought important to bring to the Council’s attention: future year annual adjustments and an exemption for youth.

Implementation Schedules

State of California Schedule

As a reference, the State’s minimum wage implementation schedule is shown in the table below. Employers located in Fremont are subject to these minimum wages unless the City enacts a local ordinance with higher requirements.

Effective Date (January 1)	Small Employers (25 or Less Employees)	Large Employers (26 or More Employees)
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

Single Tier Schedule

The implementation schedule in the first version of the local minimum wage ordinance (Exhibit A) is similar to that of the other cities in our region in that it does not distinguish between large and small businesses. Under this single tier schedule, all employers located in the City of Fremont would be subject to a local minimum wage of \$13.50 per hour beginning on July 1, 2019. On July 1, 2020, the local minimum wage would increase to \$15.00 per hour.

Effective Date (July 1)	All Employers
2019	\$13.50
2020	15.00
2021	Based on CPI

Two Tier Schedule

The implementation schedule in the second version of the local minimum wage ordinance (Exhibit B) is similar to that of the State in that it gives small businesses an additional year to reach the same level as large businesses. Under this two tier schedule, large employers located in the City of Fremont would be subject to a local minimum wage of \$13.50 per hour beginning on July 1, 2019. On July 1, 2020, the local minimum wage would increase to \$15.00 per hour. Small employers would continue to be subject to the State minimum wage until July 1, 2020, at which time the City’s higher requirement of \$13.50 per hour would become effective, increasing to \$15.00 per hour on July 1, 2021.

Effective Date (July 1)	Small Employers (25 or Less Employees)	Large Employers (26 or More Employees)
2019	\$11.00	\$13.50
2020	13.50	15.00
2021	15.00	Based on CPI

Future Year Annual Adjustments

To prevent inflation from eroding the value of the \$15.00 per hour minimum wage, both implementation schedules prepared by staff assume that the minimum wage will be adjusted in future years by the local consumer price index. This is consistent with the State's schedule and most local ordinances in our region, as well as a strong concern expressed by participants in the employee focus groups conducted as part of our public outreach.

Assuming that the purpose of the two tier schedule is to give small employers more time to reach the \$15.00 per hour target, but not to create a permanent minimum wage differential between large and small employers, Exhibit B-1 includes language that would increase the small employer minimum wage to the large employer level on July 1, 2022. From that point on, both large and small businesses would be subject to the same minimum wage increasing by the local consumer price index.

As an alternative, if the City Council wanted to permanently maintain the minimum wage differential between large and small employers, staff has prepared Exhibit B-2 in which the minimum wage for each employer tier increases independently in the years after the \$15.00 per hour target level is reached.

If the City Council had an interest in allowing the City's local minimum wage to converge to the Statewide schedule, the Council could direct staff to prepare a version of the ordinance that freezes the local minimum wage at \$15.00 per hour until the State schedule catches up, at which point the City's ordinance would be pre-empted.

Exemption for Youth

To preserve opportunities for youth, students, and trainees, the proposed ordinances exempt employees up to twenty-five years of age who are employed by a non-profit or governmental entity for after school or summer employment, student internships, paid volunteer activities, or job training programs (no longer than 120 days). Staff has included this provision in the proposed ordinances in response to feedback received through our public outreach. Although some cities in our region have adopted similar exemptions, others have not.

Inclusion of the proposed youth exemption could substantially reduce the fiscal impact to the City's recreation program, since the majority of the City's part-time recreation workers are high school or college students. It is important to recognize, however, that the City

competes with other employers in our region for part-time labor, and may need to pay a market rate to attract qualified candidates.

Options for City Council Action

Staff is requesting that Council provide direction as to the next steps the City should pursue with regard to an accelerated local minimum wage ordinance. As discussed elsewhere in this report, staff has prepared the following versions of the draft ordinance:

- Exhibit A (Single Tier)
- Exhibit B-1 (Two Tier Converging to Single Tier in 2022)
- Exhibit B-2 (Two Tier)

Three potential options for City Council action are as follows:

1. Choose not to pursue a local minimum wage ordinance and 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. Select and introduce the preferred version of the local minimum wage ordinance attached to this report; or
3. Direct staff to make specified revisions to the preferred version of the local minimum wage ordinance and return to Council for approval.

FISCAL IMPACT: The ongoing annual cost of administering and enforcing a local minimum wage ordinance could range between \$15,000 (if the City were able to contract out) and \$180,000 (if the City were to staff internally). Because outreach and education activities would need to begin in FY 2018/19, staff would likely propose a General Fund appropriation for this purpose as part of the FY 2018/19 Midyear Budget Review in March 2019.

The implementation schedule proposed by staff would not impose the local minimum wage until July 2019, so there would be no impact to the cost of City services in the current fiscal year. During the two year implementation period beginning in FY 2019/20, the City could expect annual costs for park maintenance and certain other services to increase by up to \$50,000. As previously discussed, inclusion of the youth exemption eliminates most of the impact to recreation services, which otherwise could have exceeded \$500,000 during the two year implementation period.

ENVIRONMENTAL REVIEW: The proposed action is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15061(b)(3) because the proposed ordinance does not have the potential for causing a significant effect on the environment.

ATTACHMENTS:

- Minimum Wage Ord - Ex. A
- Minimum Wage Ord - Ex. B-1
- Minimum Wage Ord - Ex. B-2

RECOMMENDATIONS:

1. Find that the proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline Section 15061(b)(3) because the proposed ordinance does not have the potential for causing a significant effect on the environment.
2. Waive full reading and introduce ordinance replacing Fremont Municipal Code Title 5, Chapter 5.30 "Minimum Wage" as shown in Exhibit A.
or
3. Waive full reading and introduce ordinance replacing Fremont Municipal Code Title 5, Chapter 5.30 "Minimum Wage" as shown in Exhibit B-1.
or
4. Waive full reading and introduce ordinance replacing Fremont Municipal Code Title 5, Chapter 5.30 "Minimum Wage" as shown in Exhibit B-2.