



DATE: April 7, 2020

TO: City Council

FROM: Deputy City Manager

SUBJECT: Minimum Wage Ordinance: Introduce an Ordinance to Amend Chapter 6 “Minimum Wage Ordinance” of the City of Hayward Municipal Code Delaying the Implementation Date and Modifying the Yearly Adjustment Date for Increases in Response to Significant Impacts to Businesses Caused by the COVID-19 Pandemic

RECOMMENDATION

That Council introduces an Ordinance to amend Chapter 6 “Minimum Wage Ordinance” of the City of Hayward Municipal Code delaying the implementation date of the ordinance to January 1, 2021, adjusting the date of the yearly increases from July 1 to January 1, and finding that the proposed Ordinance is not a project under CEQA and, in any event, exempt under Section 15061 of the CEQA guidelines.

SUMMARY

Based on direction from Council at the March 24 meeting, staff has brought forward introduction of an ordinance delaying the implementation of the local minimum wage standards for the City of Hayward from July 1, 2020 to January 1, 2021 and adjust the yearly scheduled increases from July 1 to January 1, beginning January 1, 2022.

BACKGROUND

On February 4, 2020, the City Council adopted an ordinance establishing a local minimum wage for the City of Hayward. Per the adopted ordinance, beginning July 1, 2020, employers with 26 or more employees would need to pay at least \$15.00 an hour and those employers with 25 or fewer employees would need to pay \$14.00 an hour.

In subsequent years, beginning July 1, 2021, the minimum wage would increase based on the Consumer Price Index for the San Francisco-Oakland Hayward region. Beginning January 1, 2023, the minimum wage for small businesses would increase to \$15.00 an hour in alignment with state law and would increase each January as directed by the state. Large employers would continue to have the local ordinance increase each July 1.

On March 17, 2020, the City Council ratified a locally-declared state of emergency due to the COVID-19 pandemic.

On March 17, 2020, the County of Alameda Health Officer shelter-in-place order went into effect, which required the closure of any for-profit, non-profit or educational entities, regardless of the nature of the service, the function they perform or its corporate or entity structure. While “essential businesses” such as pharmacies and grocery stores are exempt and restaurants are allowed to serve customers via take-out only, the business community is facing severe economic injury. Businesses, small and large, have reported a complete collapse of their revenue streams, reduced sales, and the need to lay off or reduce their workforce’s hours. While sales have dramatically fallen, fixed costs such as rents, health care costs, outstanding loans, and taxes remain on the books.

On March 24, 2020, in response to the economic impacts of the COVID-19 crisis, the City Council approved a referral to direct staff to bring an item for Council consideration to delay the implementation of the minimum wage ordinance adopted on February 4, 2020 (Ordinance No. 20-03). Specifically, Council requested the following items be brought forward for consideration:

1. A six-month delay of the July 1, 2020 minimum wage increases until January 1, 2021.
2. A corresponding delay of future year increases so that they occur also on January 1 in subsequent years.
3. Any other minor adjustments to the ordinance that staff deems necessary to aid in the implementation of the local minimum wage ordinance.

DISCUSSION

Based on the direction on March 24, 2020 in the City Council referral and analysis of the issues, staff recommends the City Council introduce an ordinance amending Chapter 6 “Minimum Wage Ordinance” of the City of Hayward Municipal Code as follows:

Section 6-15.12 (b)

Beginning on ~~July 1, 2020~~ **January 1, 2021**, the minimum wage shall be an hourly rate of \$14.00 for small businesses. To prevent inflation from eroding its value, on ~~July 1, 2021 and July 1, 2022~~ **January 1, 2022**, the minimum wage shall increase by an amount corresponding to the Consumer Price Index (CPI), if any, to account for the increase in the cost of living but such increases shall not exceed a total of \$15.00 per hour. Beginning on January 1, 2023, the minimum wage shall be \$15.00 in accordance with current State of California minimum wage law. Beginning on January 1, 2024, and every January 1st thereafter the minimum wage shall increase by an amount corresponding to the CPI in accordance with State law.

Section 6-15.12 (c)

Beginning on ~~July 1, 2020~~ **January 1, 2021**, the minimum wage shall be an hourly rate of \$15.00 for large businesses. To prevent inflation from eroding its value, beginning on ~~July 1, 2021~~ **January 1, 2022**, and each ~~July~~ **January 1st** thereafter, the minimum wage shall increase by an amount corresponding to the **Consumer Price Index (CPI)** ~~increase~~, if any, **to account for the increase** in the cost of living not to exceed five percent.

These proposed amendments will reset the implementation date of the local minimum wage ordinance to January 1, 2021 and the yearly increases to January 1st subsequent years. For small businesses, the minimum wage will come into alignment with the State mandated minimum wage on \$15.00 an hour beginning January 1, 2023 and each year thereafter. For large businesses, the City of Hayward will always remain greater than the State mandated minimum wage; however, the adjustment to January yearly increases will simplify the ordinance with only one wage change per year for both small and large businesses and reduce the amount of noticing that the City will have to complete each year. The table below summarizes the new dates and projected minimum wage rates for both large and small businesses.

Date	Small Businesses Proposed	Large Businesses Proposed	State Wage Rate Small/Large
January 1, 2021	\$14.00	\$15.00	\$13.00/\$14.00
January 1, 2022	\$14.42 (\$14 + CPI)	\$15.45 (\$15 + CPI)	\$14.00/\$15.00
January 1, 2023	\$15.00	\$15.91 (+CPI)	\$15.00/\$15.00

*The wage rates listed above assume a 3% CPI increase. The Governor can pause the increase in State minimum wage due to a recession in the economy.

Section 6-15.11 Definitions

“Large Business” means a business with 26 or more full or part-time employees **including persons employed outside the city.**

“Small Business” means a business with 25 or fewer full or part-time employees **including persons employed outside the city.**

The additional language added to the definitions of “Large” and “Small” businesses will clarify for those businesses that have multiple locations both inside and outside the City of Hayward.

ECONOMIC IMPACT

The proposed amendments are in response to the unprecedented impacts caused by the COVID-19 pandemic. Businesses across the region have had to close their doors for several weeks to help slow the spread of the virus. Many businesses have chosen to continue to pay their employees when possible, even without income coming into the business to support

their employees. The delaying of the start of the Local Minimum Wage will allow Hayward businesses additional time to recover from the extended closures and the significant economic losses many are experiencing.

A delay of six months for increasing the minimum wage will have a cost savings of approximately \$3,580 per employee for small and large businesses. For the average medium restaurant in Hayward that employs 13 full time employees, the cost savings by delaying the implementation of the minimum wage increase to January 1, 2021 will be approximately \$46,540.

Staff has received requests from several businesses seeking a delay in the implementation date of the local minimum wage rates due to the closures and economic losses due to the COVID-19 outbreak. While the State and Federal governments are trying to provide aid to small businesses during the outbreak, most of the programs are loans that must be paid back. The City also has launched the COVID-19 Business Resiliency Grant Program to assist small businesses and restaurants with \$5,000 grants. With the available funds, the City will be able to assist 76 businesses with the small grants.

FISCAL IMPACT

Local jurisdictions that adopt a minimum wage that differs from the State are required to provide notification to the business community each time the local minimum wage is adjusted. Based on the current ordinance, notification is required in April each year. Beginning in January 2023, notices would be required twice a year (April and October) due to the different yearly increase occurring for Large and Small businesses. The cost for each notice is approximately \$13,000 for each round of noticing to be completed, for a total of cost of \$26,000 in 2023.

If the proposed amendments are adopted for adjusting all increases to January, the notification costs will remain at approximately \$13,000 each year as only one round of notifications are required.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Grow the Economy. Specifically, this item relates to the implementation of the following project:

Project 7: Develop and implement a local minimum wage ordinance.

NEXT STEPS

If the Council introduces the Ordinance this evening, adoption would be scheduled for the next Council meeting and the Ordinance would be effective 30 days following adoption. If the Ordinance is adopted, no later than October 1, 2020, official notices will be made available to all businesses via the City website, in addition of mailed and emailed notifications.

Prepared by: Catherine Ralston, Economic Development Specialist

Recommended by: Paul Nguyen, Economic Development Manager
Jennifer Ott, Deputy City Manager

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager