



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: David Sykes

SUBJECT: SAN JOSE MINIMUM
WAGE ORDINANCE UPDATE

DATE: October 8, 2013

Approved

Date

10/10/13

INFORMATION

The purpose of this memorandum is to provide a six month update on the implementation of the San José Minimum Wage Ordinance (MWO).

BACKGROUND

The San Jose MWO was approved by a majority of San José voters on November 6, 2012, and went into effect on March 11, 2013. Under the MWO, the minimum wage for covered employees working in San José is \$10.00 per hour. The only employer exceptions to the MWO are those employers who neither have a facility within San José nor are subject to the San José Business Tax. In addition, the MWO does not apply to employees who work less than two hours per week in San José. Covered employers are required to post notices in the workplace regarding the wage rates and employee rights, and they are required to maintain payroll records for a period of four years.

Enforcement of the MWO is based on complaints. The Office of Equality Assurance (OEA) does not actively monitor or enforce the minimum wage requirements until a complaint is filed.

To prevent inflation from eroding the value of the minimum wage, the MWO calls for increases to take affect each January 1 beginning in 2014. The increases are to be based on the Consumer Price Index (Urban Wage Earners and Clerical Workers, U.S. City Average for All Items). If the CPI remains the same or decreases, the minimum wage in San José remains the same.

Leading up to the March 11 implementation date, staff conducted significant public outreach and education. In addition, extensive information about the San José minimum wage law, including wage posters, frequently asked questions, how to file a complaint, etc., is available at <http://www.sanjoseca.gov/minimumwage>.

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COMPLAINTS AND ENFORCEMENT

As mentioned above, enforcement is on a complaint-basis. From March 11 to the date of this report, OEA has received twenty-one complaints. Thirteen complaints have been investigated and closed with one employee owed back wages of \$115.54. The other eight complaints are active and are under investigation. Please see attachment for listing of complaints.

WAGE INCREASE ON JANUARY 1, 2014

Minimum wage employees who work in San José will receive a 15 cent per hour raise on January 1, 2014. The minimum wage will increase from \$10.00 to \$10.15 per hour. Over the last 12 months (August 2012 to August 2013), the CPI increased 1.5 percent.

The adjusted minimum wage is required to be announced by October 1 of each year. By December 1 of each year, OEA is to publish and make available to employers a bulletin announcing the adjusted minimum wage rate for the upcoming year. The City's minimum wage webpage will be updated as well as all other materials and documents prior to December 1. The wage posters will be available in downloadable format in English, Spanish, Vietnamese and Chinese. Staff will continue to perform ongoing public outreach and education.

CALIFORNIA STATE MINIMUM WAGE INCREASE

California became the first state in the nation to commit to raising the minimum wage to \$10.00 per hour, although the increase will take place gradually. On Wednesday, September 25, 2013, Governor Jerry Brown signed legislation raising the California minimum wage rate from \$8.00 per hour to \$9.00 per hour beginning July 1, 2014, and to \$10.00 per hour on January 1, 2016. Because San José's minimum is higher, the California minimum wage will not affect workers subject to the San José MWO.

SANTA CLARA COUNTY PROPOSED MINIMUM WAGE INCREASE

In May of this year, Supervisor Dave Cortese requested the County Counsel and the County Executive to report to the Finance and Government Operations Committee on August 8, 2013, and provide a recommendation and proposed minimum wage ordinance that would apply in the unincorporated areas of the County. Additional information was provided to the County Finance and Government Operations Committee in September and hearings are planned to be scheduled in October.

Staff will continue to monitor the progress of the proposed County Ordinance.

/s/

DAVID SYKES

Director of Public Works

For questions, please contact Nina Grayson, Division Manager, at 408-535-8455.

STATUS OF SAN JOSE MINIMUM WAGE COMPLAINTS
March 11, 2013 through September 30, 2013

COMPANY NAME	STATUS	RESOLUTION	BACK WAGES OWED
Vianney Catalog	Completed	Commission paid to employees	\$0.00
Millennium Transport	Completed	Two pay rates for CSJ and non-CSJ deliveries	\$0.00
Capitol Toyota	Completed	Sales Representatives required to sign new minimum wage employment agreements	\$0.00
Service by Medallion	Completed	SEIU agreement deferred wage increase to 6/1/13	\$0.00
Kenzo Sushi	Completed	OEA review of payroll reports showed employees paid correctly	\$0.00
7-11 (Camden Avenue)	Completed	Store located in unincorporated Santa Clara County	\$0.00
Team San Jose	Completed	Employees receive guaranteed service charges. Two employees were classified as "Learners" as provided in Industrial Wage Commission Wage Orders.	\$0.00
Capital Club	Completed	Employees receive guaranteed service charges	\$0.00
Baskin Robbins (Almaden Expressway)	Completed	Employees classified as "Learners" as provided in Industrial Wage Commission Wage Orders	\$0.00
GCA (Western Digital)	Completed	SEIU agreement deferred wage increase to 6/1/13	\$0.00
Teen Challenge International	Completed	Main facility located in unincorporated Santa Clara County. Second facility is residential.	\$0.00
Hayes Mansion	Completed	Employees receive guaranteed service charges	\$0.00
Satellite Morelos Bay Area	Completed	OEA review of payroll reports found one (1) employee underpaid	\$115.54
Rose Garden Court Elderly Care Home	Active		
Beck's Shoes	Active		
United Wholesale Flowers	Active		
Godiva Chocolates (Valley Fair)	Active		
Teavana Tea Store (Valley Fair)	Active		
smashburger	Active		
Holiday Inn (North First Street)	Active		
Sky Chefs Inc.	Active	4/11/13 OEA Notice of Complaint & Request for Documentation 5/20/13 OEA Notice of Violation 7/11/13 OEA Notice of Violation & Opportunity to Correct 7/19/13 Sky Chefs contests Notice of Violation 8/21/13 OEA Director upholds Notice of Violation 8/29/13 Sky Chefs requests meeting with Public Works Director 10/31/13 Meeting scheduled with Public Works Director	