

February 11, 2014

Zoe S. Mirabile, City Clerk  
City of Davis  
23 Russell Blvd., Suite 1  
Davis, CA 95616

Received  
City Clerk's Office

FEB 11 2014

City of Davis

**RE: Minimum Wage Ordinance for the City of Davis**


Dear Ms. Mirabile:

Pursuant to the California Elections Code, we hereby request preparation of a ballot title and summary for an initiative petition to be circulated to voters in the City of Davis that will propose a "Minimum Wage Ordinance." Enclosed you will find the notice of intention, the text of the proposed initiative ordinance, a check for the necessary filing fee, and the necessary certifications of the proponents.

Please direct the ballot title and summary and all future communications to the attention of:

Richard C. Miadich, Esq.  
Olson Hagel & Fishburn, LLP  
555 Capitol Mall, Suite 1425  
Sacramento, California 95814


Sincerely,

  
\_\_\_\_\_  
Joaquin Chavez  
Proponent  
1709 Bates Drive  
Davis, California 95618

2/11/2014  
Dated

  
\_\_\_\_\_  
Bernie Goldsmith  
Proponent  
1113 Kent Drive  
Davis, CA 95616

2/11/2014  
Dated

  
\_\_\_\_\_  
Ian Lee  
Proponent  
545 Sycamore Lane  
Apartment 203  
Davis, CA 95616


2/11/2014  
Dated

Enclosures: as stated above


## NOTICE OF INTENTION TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Davis for the purpose of enacting a Minimum Wage Ordinance. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

Someone who works hard and plays by the rules deserves a fair wage. Our current minimum wage subjects workers in our city to economic hardship, sacrifice, and dependence. At a time when our workforce has never been more productive and profitable, we expect our low wage workers to take multiple jobs, be subject to uncertain schedules, and work without health or retirement benefits. They are paid so little that they can maintain no hope of improvement. They must rely on government and community resources to make ends meet. Those who work hard for a legal wage should be paid enough to support themselves in comfort and dignity. Furthermore, decades of research has shown that increasing the minimum wage improves the economic climate and the health of small businesses. Providing workers with fairer wages and economic security does not significantly impact the number of jobs. Therefore, we propose an increase in the minimum wage in Davis, implemented in stepwise fashion, to reach \$15 by January 1, 2016. It's smart, fair, and overdue.

  
\_\_\_\_\_  
Joaquin Chavez  
Proponent

2/11/2014  
Dated

  
\_\_\_\_\_  
Bernie Goldsmith  
Proponent

2/11/2014  
Dated

  
\_\_\_\_\_  
Ian Lee  
Proponent

2/11/2014  
Dated

## CERTIFICATION

I, Joaquin Chavez, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

  
\_\_\_\_\_  
Joaquin Chavez  
Proponent

Dated this 11<sup>th</sup> day of February, 2014

## CERTIFICATION

I, Bernie Goldsmith, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.



Bernie Goldsmith  
Proponent

Dated this 11<sup>th</sup> day of February, 2014

## CERTIFICATION

I, Ian Lee, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.



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Ian Lee  
Proponent

Dated this 11<sup>th</sup> day of February, 2014

AN INITIATIVE ORDINANCE OF THE CITY OF DAVIS AMENDING THE DAVIS  
MUNICIPAL CODE TO REQUIRE THE PAYMENT OF A CITY-WIDE MINIMUM  
WAGE

**WHEREAS** the state minimum wage has not kept pace with cost of living in California, including in the City; and

**WHEREAS** worker productivity has dramatically increased during the same period of time that the purchasing power of the state minimum wage has declined; and

**WHEREAS** families and workers in the City need to earn a living wage and public policies which help achieve that goal are beneficial; and

**WHEREAS** payment of a minimum wage advances the interests of the City as a whole by creating jobs that keep workers and their families out of poverty; and

**WHEREAS** a minimum wage ordinance will enable workers in the City to meet basic needs and avoid economic hardship; and

**WHEREAS** this ordinance is intended to improve the quality of services provided in the City to the public by reducing high turnover, absenteeism, and instability in the workplace; and

**WHEREAS** prompt and efficient enforcement of a minimum wage will provide workers in the City with economic security and the assurance that their rights will be respected.

THE PEOPLE OF THE CITY OF DAVIS DO ORDAIN AS FOLLOWS:

**SECTION 1. TITLE.**

This ordinance shall be known as the "Minimum Wage Ordinance."

**SECTION 2. AUTHORITY.**

This ordinance is adopted pursuant to the powers vested in the City of Davis under the laws and Constitution of the State of California including but not limited to Section 1205(b) of the California Labor Code.

**SECTION 3. DEFINITIONS.**

The following terms shall have the following meanings:

A. "City" shall mean City of Davis.

B. "Employee" shall mean any person who:

1. In a calendar week performs at least two (2) 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.

C. "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 or 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.

D. "Minimum Wage" shall have the meaning set forth in Section 4.

#### **SECTION 4. 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 January 1, 2015, the Minimum Wage shall be an hourly rate of eleven dollars (\$11.00). Beginning July 1, 2015, the Minimum Wage shall be an hourly rate of thirteen dollars (\$13.00). Beginning January 1, 2016, the Minimum Wage shall be an hourly rate of fifteen dollars (\$15.00). Thereafter, the Minimum Wage shall increase annually, effective July 1<sup>st</sup>, in accordance with increases during the preceding year in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose (CPI-U), as published by the U.S. Department of Labor, Bureau of Labor Statistics.

C. Nothing in this Section shall be construed to limit an Employer's discretion to provide its Employees hourly pay greater than the Minimum Wage.

D. All or any portion of this Section 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.

#### **SECTION 5. NOTICE, POSTING AND PAYROLL RECORDS.**

A. The City shall publish and make available to Employers a notice describing Employees' rights under this ordinance and announcing the adjusted Minimum Wage rate for the upcoming year.

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 City informing Employees of the current Minimum Wage rate and of their rights under this ordinance. 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 ordinance. 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.

#### **SECTION 6. 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 ordinance. Rights protected under this ordinance include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this ordinance and the right to inform any person of his or her potential rights under this ordinance and to assist him or her in asserting such rights. Protections of this ordinance shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this ordinance.

B. Taking adverse action against a person within ninety (90) days of the person's exercise of rights protected under this ordinance shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

#### **SECTION 7. COMPLAINTS REGARDING NONCOMPLIANCE.**

A. An Employee or any other person may report alleged or suspected violations of this ordinance to the city manager or designee. The city manager shall establish a procedure for receiving and investigating such complaints and shall take appropriate enforcement action.

B. To the extent permitted by law, any complaints and related investigation documents shall be treated as confidential and exempt from disclosure in accordance with the Public Records Act.

#### **SECTION 8. IMPLEMENTATION BY CITY.**

The City may adopt guidelines or rules to establish procedures for ensuring fair, efficient and cost-effective implementation of this ordinance, including supplementary procedures for helping to inform Employees of their rights under this ordinance, for investigating and monitoring Employer compliance with this ordinance, for the manner in which a person



may report a violation of this ordinance, for the establishing an administrative process to determine whether an Employer or other person has violated the requirements of this ordinance, and for enforcing this ordinance.

## **SECTION 9. ENFORCEMENT.**

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

1. The city manager or designee may issue an Administrative Citation in the maximum amount permitted by state law against any Employer or person who violates this ordinance.
2. The City may initiate a civil action for injunctive relief and damages and civil penalties in a court of competent jurisdiction. The City shall be entitled to recover its administrative costs of enforcement from an Employer who violates this ordinance.
3. Except where prohibited by state or federal law, the City may revoke or suspend any registration certificates, permits or licenses held or requested by the Employer until such time as the violation is remedied.

B. Any person aggrieved by a violation of this ordinance, any entity a member of which is aggrieved by a violation of this ordinance, 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 ordinance and obtain the following remedies:

1. Back pay for each day during which the employer failed to pay the Minimum Wage;
2. Reinstatement, compensatory damages, and punitive damages;
3. Injunctive or other equitable relief;
4. Reasonable costs and attorneys fees;
5. Any other relief the court deems just and proper.

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 ordinance be a prerequisite to the assertion of any right.

D. If a repeated violation of this ordinance has been finally determined, whether by administrative action or through judicial proceedings, the City may require the Employer

to post public notice of the Employer's failure to comply in a form determined by the City.

E. The remedies, penalties and procedures authorized under this Section are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures.

**SECTION 10. FEES.**

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

**SECTION 11. CITY OF DAVIS LIVING WAGE ORDINANCE.**

This ordinance is intended to apply in harmony with the City of Davis Living Wage Ordinance, such that all persons being paid hourly wages in the City are paid hourly wages in accordance with this ordinance or the City of Davis Living Wage Ordinance. Accordingly, this ordinance shall not apply to Employees who are required to be paid hourly wages in accordance with the Davis Living Wage Ordinance during the time they are required to receive such hourly wages.

**SECTION 12. RELATIONSHIP TO OTHER REQUIREMENTS.**

This ordinance 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.

**SECTION 13. AMENDMENT BY THE CITY COUNCIL.**

This ordinance may be amended by the City Council without a vote of the people as regards the implementation or enforcement thereof, in order to achieve the purposes of this ordinance, but not with regard to lessening the substantive requirements of the ordinance or its scope of coverage.

**SECTION 14. EFFECTIVE DATE.**

This ordinance shall become effective at the earliest date permitted by state law. This ordinance is intended to have prospective effect only.

**SECTION 15. SEVERABILITY.**

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.