



**Legislative Department
Seattle City Council
Memorandum**

Date: May 29, 2014

To: Select Committee on Income Inequality and Minimum Wage

From: Dan Eder Patricia Lee, Council Central Staff

Subject: CB 118098 Minimum Wage and Minimum Compensation Ordinance

CB 118098, if enacted, will create a local minimum wage and minimum compensation requirement for all employees working in Seattle. Council has actively been discussing these concepts and has heard from the public through town hall meetings, lunch and learn sessions and public comment at council committees.

Committee Actions

At the May 29, 2014 Council Select Committee on Minimum Wage and Income Inequality (Select Committee) Councilmembers are expected to discuss and vote on potential amendments to CB 118098. The Select Committee may then consider voting on the amended ordinance. In the event that the Select Committee does vote on the amended ordinance on May 29th, Central Staff will incorporate any approved amendments into the ordinance in final form and prepare the amended ordinance for full Council's consideration and possible vote. The earliest possible date for a full Council vote on the ordinance is Monday, June 2nd.

The Select Committee is also expected to discuss and consider a possible vote on Resolution 31524 including any proposed amendments. Again, in the event that the Select Committee votes on the Resolution itself on May 29th, the earliest possible date for a full Council vote on the Resolution is Monday, June 2nd.

Proposed Amendments

This memo will serve as a road map for Council's discussion of the proposed amendments. The amendments are organized by subject, generally in the order they appear in the Mayor's proposed ordinance. Each amendment is listed as a separate numbered attachment to this memo. If you are using an iPad, there is a link to each amendment. If you are using paper copies, the attachments are numbered. This will allow you to have several amendments open on your iPad or before you in paper format during the discussion. The first attachment is a chart showing all the amendments by subject.

Central staff will describe each amendment. It is anticipated that the sponsoring Councilmember will then speak to the amendment. At the end of each amendment is a box marked Council Vote. This will help Council Central Staff and the Clerk's office record Council's action on each amendment.

Proposed Amendments to CB 118098

Attachment 1: Matrix of Proposed Amendments
Amendments 1a through 1n

Proposed Amendments to Resolution 31524

2.a.: Licata amendments

2.b.: Clark amendments

Attachment 1: Matrix of CM Amendments to Ordinance

Amendment Number	Issue	CM Sponsor	CS	Ordinance Section	Proposed Amendment
	Recitals				
1.a	<i>Gender equity</i>	Godden	Lee	Add after 3 rd recital	Add language recognizing a majority of low wage workers tend to be women
1.b	<i>Non-profits</i>	Sawant	Eder	Add as new second-to-last recital	State City’s intent to identify additional funding for non-profits
1.c	Start Date	Clark	Lee		Change start date from Jan 1 to April 1, 2015
1.d	Non-profits	Clark	Eder	Section 2	Put larger non-profits that are not primarily engaged in competition in the marketplace on same schedule as smaller employers. All smaller non-profits are already on this schedule (i.e., no change for smaller non-profits).
	Subminimum Wages				
1.e	<i>Rules for Youth Wages</i>	Clark	Eder	Section 3	Add new section authorizing FAS Director to make rules for youth subminimum wages that parallel State L&I Director’s rules
1.f	<i>Certificates</i>	Sawant / O’Brien	Eder	Section 3	Removes FAS discretion to issue a special certificate for employers for the following employees: a) Those with physical or cognitive disabilities b) Those enrolled in a certified apprenticeship or vocational education program

Amendment Number	Issue	CM Sponsor	CS	Ordinance Section	Proposed Amendment
	Schedules				
1.g	<i>Remove Adjustment Formula</i>	Clark	Eder	Section 5 and Section 6	Remove adjustment formula for large and smaller employers. Include extended schedule for minimum wage and minimum compensation.
1.h	<i>Change Schedules</i>	Sawant	Eder	Section 4 and Section 5 and Section 6	All large employers must pay all employees \$15/hour starting January 1, 2015; minimum wage rises with inflation. All smaller employers must pay all employees \$15/hour within 3 years. Eliminate minimum compensation for smaller employers.
1.i	Tips	Sawant	Eder	Section 2 and Section 6	Remove tips from calculation of minimum compensation, leaving only qualifying medical benefit plan payments
	Enforcement				
1.j	<i>Clarifying Language</i>	Licata / Sawant	Lee	Section 7	Remedy of violation shall include full payment of unpaid wages. Also clarifies language in enforcement section
1.k	<i>Charges</i>	O'Brien	Lee	Section 7	Charges do not need to be in writing Director may interview and review records regarding all workers at the worksite, Charging party name kept confidential as long as possible and disclosed only if required by law or the charging party consents
1.l	<i>Notice Posting and Records</i>	O'Brien	Lee	Section 7	Requires multi-lingual posting of notice of minimum wage and compensation and that retaliation is prohibited and employees have a right to bring charges or a civil action. Specified records employees must keep, open to Department inspection and Department may rely on

Amendment Number	Issue	CM Sponsor	CS	Ordinance Section	Proposed Amendment
					employee personal records if employer records are not kept.
1.m	<i>Clarify language</i>	Clark	Lee	Section 7	Remove reference to criminal code
1.n	<i>Private Right of Action</i>	Sawant	Eder	Section 7	Adds a private right of action. Remedy is 3x unpaid wages, costs and attorney's fees. Charging party cannot secure relief for same harm from more than one government agency or tribunal.
1.o	<i>Statute of Limitations</i>	Sawant / Licata	Eder	Section 7	Charges may be filed within three years and statute of limitations for any civil action tolled during the Department's investigation
1.p	<i>Penalties</i>	Sawant / Licata	Eder	Section 7	Allows Director to impose up to \$1,000 per employee penalty on the first instance. Clarifies that for subsequent instances Director may impose a maximum penalty of \$20,000 per employee.

Attachment 1a

CM Godden Amendment on Gender Equity

I move to amend CB 118098 to add a Whereas Clause, after the third Whereas Clause in the ordinance.

The new Whereas Clause would read:

Whereas, Seattle has one of the worst gender wage gaps in the country, where a majority of low wage workers tend to be women, and a higher minimum wage is a powerful tool to reduce the income disparity between women and men;

Council Action

Attachment 1.b.

CM Sawant Amendment on Non-Profits Recital

I move to amend CB 118098 to add the following new recital:

“WHEREAS, the City is committed to evaluating options for securing progressive sources of funding to ensure that non-profit human service providers with City-funded contracts can provide both a living wage to their workforce and continue to provide critical services for those in the greatest need;”

Council Action:

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Attachment 1c

CM Clark Amendment to Change Start Date

I move to amend CB 118098 to change the start date in year 1 from January 1, 2015 to April 1, 2015. In each subsequent year, the minimum wage increase would take place on January 1 in order to be consistent with state minimum wage law.

The following changes to the ordinance language would effect this change:

(On Page 8)

14.19.030 Hourly Minimum Wage – Schedule 1 Employers

A. Effective ~~January 1~~April 1, 2015, Schedule 1 employers shall pay each employee an hourly minimum wage of at least \$11.00.

(On Page 10)

14.19.040 Hourly Minimum Wage – Schedule 2 Employers

A. Effective ~~January 1~~April 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum wage of at least \$10.00.

(On Page 12)

14.19.050 Hourly Minimum Compensation – Schedule 2 Employers

A. Effective ~~January 1~~April 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum compensation of at least \$11.00.

Council Vote

1 **Attachment 1.d**

2 **CM Clark Amendment on Non-Profits**

3 I move to amend CB 118098 to amend Section 2 as follows:

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5 Section 2. A new Section 14.19.010 is added to the Seattle Municipal Code as follows:

6 **14.19.010 Definitions**

7 For the purposes of this Chapter:

8 A. "Actuarial value" means the percentage of total average costs for covered benefits that a
9 health benefits package will cover;

10 B. "Bonuses" means non-discretionary payments in addition to hourly, salary, commission,
11 or piece-rate payments paid under an agreement between the employer and employee;

12 C. "Business purpose" means primarily engaging in competition in the public marketplace
13 with commercial entities. Institutions that operate for a business purpose include hospitals.

14 DC. "Commissions" means a sum of money paid to an employee upon completion of a task,
15 usually selling a certain amount of goods or services;

16 DE. "Department" means the Department of Finance and Administrative Services;

17 FE. "Director" means the Director of the Department of Finance and Administrative Services,
18 or his or her designee;

19 GF. "Employ" means to permit to work;

20 HG. "Employee" means "employee," as defined under Section 12A.28.200. Employee does
21 not include individuals performing services under a work study agreement;

22 IH. "Employer" means any individual, partnership, association, corporation, business trust, or
23 any person or group of persons acting directly or indirectly in the interest of an employer in
24 relation to an employee;

25 J. "Franchise" means a written agreement by which:
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- 1 1. A person is granted the right to engage in the business of offering, selling,
2 or distributing goods or services under a marketing plan prescribed or
3 suggested in substantial part by the grantor or its affiliate;
- 4 2. The operation of the business is substantially associated with a trademark,
5 service mark, trade name, advertising, or other commercial symbol;
6 designating, owned by, or licensed by the grantor or its affiliate; and
- 7 3. The person pays, agrees to pay, or is required to pay, directly or indirectly,
8 a franchise fee;

9 KJ. “Franchisee” means a person to whom a franchise is offered or granted;

10 LK. “Franchisor” means a person who grants a franchise to another person;

11 ML. “Hearing Examiner” means the official appointed by the Council and designated as the
12 Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro
13 Tem, etc.);

14 NM. “Hourly minimum compensation” means the minimum compensation due to an employee
15 for each hour worked during a pay period;

16 ON. “Hourly minimum wage” means the minimum wage due to an employee for each hour
17 worked during a pay period;

18 PO. “Medical benefits plan” means a silver or higher level essential health benefits package,
19 as defined in 42 U.S.C. § 18022, or an equivalent plan that is designed to provide benefits that
20 are actuarially equivalent to 70 percent of the full actuarial value of the benefits provided under
21 the plan, whichever is greater;

22 QP. “Minimum compensation” means the minimum wage in addition to tips actually received
23 by the employee and reported to the Internal Revenue Service, and money paid by the employer
24 towards an individual employee’s medical benefits plan;

25 RQ. “Minimum wage” means all wages, commissions, piece-rate, and bonuses actually
26 received by the employee and reported to the Internal Revenue Service;

1 SR. “Non-profit organizations” means corporations or entities that are not for profit and are
2 organized or incorporated under RCW Title 24 or that are organized as non-profit corporations
3 under laws other than the laws of Washington State, such that no part of the income of the
4 organization is distributable to its members, directors, or officers.

5 TS. “Piece-rate” means a price paid per unit of work;

6 UTS. “Rate of inflation” means the Consumer Price Index annual percent change for urban
7 wage earners and clerical workers, termed CPI-W, or a successor index, for the twelve months
8 prior to each September 1st as calculated by the United States Department of Labor;

9 VUT. “Schedule 1 Employer” means all employers that employ more than 500 employees in
10 the United States, regardless of where those employees are employed in the United States, and
11 all franchisees associated with a franchisor or a network of franchises with franchisees that
12 employ more than 500 employees in aggregate in the United States. Schedule 1 employers do
13 not include non-profit employers except those non-profit employers operating for a business
14 purpose. Non-profit employers operating for a business purpose are Schedule 1 employers
15 regardless of the number of employees they employ in the United States;

16 WVU. “Schedule 2 Employer” means all employers that employ 500 or fewer employees
17 regardless of where those employees are employed in the United States and all non-profit
18 employers that do not operate for a business purpose. Schedule 2 employers do not include
19 franchisees associated with a franchisor or a network of franchises with franchisees that employ
20 more than 500 employees in aggregate in the United States;

21 XWV. “Tips” means a verifiable sum to be presented by a customer as a gift or gratuity in
22 recognition of some service performed for the customer by the employee receiving the tip;

23 YXW. “Wage” means compensation due to an employee by reason of employment, payable in
24 legal tender of the United States or checks on banks convertible into cash on demand at full face
25 value, subject to such deductions, charges, or allowances as may be permitted by rules of the
26 Director. Commissions, piece-rate, and bonuses are included in wages. Tips and employer
27 payments toward a medical benefits plan do not constitute wages for purposes of this Chapter;

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Council Action:

1 **Attachment 1.e.**

2 **CM Clark Amendment on Youth Wage Rule Making**

3 I move to amend CB 118098 to amend Section 3 as follows:

4 Section 3. A new Section 14.19.020 is added to the Seattle Municipal Code as follows:

5 **14.19.020 Employment in Seattle and Employer Schedule Determination**

6 A. Employees are covered by this Chapter for each hour worked within the geographic
7 boundaries of Seattle, provided that an employee who performs work in Seattle on an occasional
8 basis is covered by this Chapter in a two-week period only if the employee performs more than
9 two hours of work for an employer within Seattle during that two-week period. Time spent in
10 Seattle solely for the purpose of travelling through Seattle from a point of origin outside Seattle
11 to a destination outside Seattle, with no employment-related or commercial stops in Seattle
12 except for refueling or the employee's personal meals or errands, is not covered by this Chapter.
13 An employee who is not covered by this Chapter is still included in any determination of the size
14 of the employer.

15 B. For the purposes of determining whether a non-franchisee employer is a Schedule 1
16 employer or a Schedule 2 employer, separate entities that form an integrated enterprise shall be
17 considered a single employer under this Chapter. Separate entities will be considered an
18 integrated enterprise and a single employer under this Chapter where a separate entity controls
19 the operation of another entity. The factors to consider in making this assessment include, but
20 are not limited to:

- 21 1. Degree of interrelation between the operations of multiple entities;
- 22 2. Degree to which the entities share common management;
- 23 3. Centralized control of labor relations; and
- 24 4. Degree of common ownership or financial control over the entities.

25 There shall be a presumption that separate legal entities, which may share some degree of
26 interrelated operations and common management with one another, shall be considered separate
27 employers for purposes of this section as long as (1) the separate legal entities operate
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1 substantially in separate physical locations from one another, and (2) each separate legal entity
2 has partially different ultimate ownership. The determination of employer schedule for the
3 current calendar year will be calculated based upon the average number of employees employed
4 per calendar week during the preceding calendar year for any and all weeks during which at least
5 one employee worked for compensation. For employers that did not have any employees during
6 the previous calendar year, the employer schedule will be calculated based upon the average
7 number of employees employed per calendar week during the first 90 calendar days of the
8 current year in which the employer engaged in business.

9 C. The Director shall have the authority to issue a special certificate authorizing an
10 employer to pay a wage less than the City of Seattle minimum wage, as defined in this Chapter,
11 but above the Washington State minimum wage, as defined in RCW 49.46.020. Such special
12 certificates shall only be available for the categories of workers defined in RCW 49.46.060 and
13 shall be subject to such limitations as to time, number, proportion, and length of service as the
14 Director shall prescribe. Prior to issuance, an applicant for a special certificate must secure a
15 letter of recommendation from the Washington State Department of Labor and Industries stating
16 that the applicant has a demonstrated necessity pursuant to WAC 296-128.

17 D. The Director shall by rule establish the minimum wage for employees under the age of
18 eighteen years, provided that any percentage of the hourly rate established by rule shall not be
19 lower than the percentage applicable under state statutes and regulations.

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22 Council Action:
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1 **Attachment 1.f.**

2 **CM Sawant and CM O'Brien Amendment on Subminimum Wage Certificates**

3 I move to amend CB 118098 to amend Section 3 as follows:

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5 Section 3. A new Section 14.19.020 is added to the Seattle Municipal Code as follows:

6 **14.19.020 Employment in Seattle and Employer Schedule Determination**

7 A. Employees are covered by this Chapter for each hour worked within the geographic
8 boundaries of Seattle, provided that an employee who performs work in Seattle on an occasional
9 basis is covered by this Chapter in a two-week period only if the employee performs more than
10 two hours of work for an employer within Seattle during that two-week period. Time spent in
11 Seattle solely for the purpose of travelling through Seattle from a point of origin outside Seattle
12 to a destination outside Seattle, with no employment-related or commercial stops in Seattle
13 except for refueling or the employee's personal meals or errands, is not covered by this Chapter.
14 An employee who is not covered by this Chapter is still included in any determination of the size
15 of the employer.

16 B. For the purposes of determining whether a non-franchisee employer is a Schedule 1
17 employer or a Schedule 2 employer, separate entities that form an integrated enterprise shall be
18 considered a single employer under this Chapter. Separate entities will be considered an
19 integrated enterprise and a single employer under this Chapter where a separate entity controls
20 the operation of another entity. The factors to consider in making this assessment include, but
21 are not limited to:

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- 23 1. Degree of interrelation between the operations of multiple entities;
 - 24 2. Degree to which the entities share common management;
 - 25 3. Centralized control of labor relations; and
 - 26 4. Degree of common ownership or financial control over the entities.

27 There shall be a presumption that separate legal entities, which may share some degree of
28 interrelated operations and common management with one another, shall be considered separate

1 employers for purposes of this section as long as (1) the separate legal entities operate
2 substantially in separate physical locations from one another, and (2) each separate legal entity
3 has partially different ultimate ownership. The determination of employer schedule for the
4 current calendar year will be calculated based upon the average number of employees employed
5 per calendar week during the preceding calendar year for any and all weeks during which at least
6 one employee worked for compensation. For employers that did not have any employees during
7 the previous calendar year, the employer schedule will be calculated based upon the average
8 number of employees employed per calendar week during the first 90 calendar days of the
9 current year in which the employer engaged in business.

10 ~~C. The Director shall have the authority to issue a special certificate authorizing an~~
11 ~~employer to pay a wage less than the City of Seattle minimum wage, as defined in this Chapter,~~
12 ~~but above the Washington State minimum wage, as defined in RCW 49.46.020. Such special~~
13 ~~certificates shall only be available for the categories of workers defined in RCW 49.46.060 and~~
14 ~~shall be subject to such limitations as to time, number, proportion, and length of service as the~~
15 ~~Director shall prescribe. Prior to issuance, an applicant for a special certificate must secure a~~
16 ~~letter of recommendation from the Washington State Department of Labor and Industries stating~~
17 ~~that the applicant has a demonstrated necessity pursuant to WAC 296-128.~~

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19 Council Action:
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2 **Attachment 1.g.**

3 **CM Clark Amendment Removing Adjustment Formula**

4 I move to amend CB 118098 to amend Section 5 and 6 as follows:

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7 Section 5. A new Section 14.19.040 is added to the Seattle Municipal Code as follows:

8 **14.19.040 Hourly Minimum Wage – Schedule 2 Employers**

9 A. Effective January 1, 2015, Schedule 2 employers shall pay each employee an hourly
10 minimum wage of at least \$10.00. Schedule 2 employers can meet the applicable hourly
11 minimum wage requirement through a payment of the minimum wage, provided that the
12 Schedule 2 employer is in compliance with all applicable law. ~~Pursuant to the following~~
13 ~~schedule,~~ Effective January 1 of 2016 and each year thereafter, Schedule 2 employers shall pay
14 each employee an hourly minimum wage that is the lower of (a) the applicable hourly minimum
15 wage for Schedule 1 Employers or (b) the hourly minimum wage shown in the following
16 schedule:as follows:

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<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$10.50
2017	\$11.00
2018	\$11.50
2019	\$12.00
2020	\$13.50
2021	\$15.00
<u>2022</u>	<u>\$15.75</u>
<u>2023</u>	<u>\$16.50</u>
<u>2024</u>	<u>\$17.25</u>

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2 ~~Effective January 1, 2022, Schedule 2 employers shall pay each employee an hourly minimum~~
3 ~~wage that is calculated as follows: add \$15.00 to one-fourth the difference between the hourly~~
4 ~~minimum wage for Schedule 1 employers in 2021 and \$15.00, and increase this amount by the~~
5 ~~annual rate of inflation. The applicable hourly minimum wage shall be calculated to the nearest~~
6 ~~cent.~~

$$\text{Adjustment Factor} = (\text{Schedule 1 employer hourly minimum wage in 2021} - \$15.00) / 4$$

$$\text{Schedule 2 employer hourly minimum wage in 2022} = (\$15.00 + \text{Adjustment Factor}) \times (1 + \text{rate of inflation})$$

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13 ~~Effective January 1, 2023, Schedule 2 employers shall pay each employee an hourly minimum~~
14 ~~wage that is calculated as follows: add the Schedule 2 hourly minimum wage in 2022 to one-~~
15 ~~fourth the difference between the hourly minimum wage for Schedule 1 employers in 2021 and~~
16 ~~\$15.00, and increase this amount by the annual rate of inflation. The applicable hourly minimum~~
17 ~~wage shall be calculated to the nearest cent.~~

$$\text{Adjustment Factor} = (\text{Schedule 1 employer hourly minimum wage in 2021} - \$15.00) / 4$$

$$\text{Schedule 2 employer hourly minimum wage in 2023} = (\text{Schedule 2 hourly minimum wage in 2022} + \text{Adjustment Factor}) \times (1 + \text{rate of inflation})$$

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24 ~~Effective January 1, 2024, Schedule 2 employers shall pay each employee an hourly minimum~~
25 ~~wage that is calculated as follows: add the Schedule 2 hourly minimum wage in 2023 to one-~~
26 ~~fourth the difference between the hourly minimum wage for Schedule 1 employers in 2021 and~~
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1 ~~\$15.00, and increase this amount by the annual rate of inflation. The applicable hourly minimum~~
2 ~~wage shall be calculated to the nearest cent.~~

$$\text{Adjustment Factor} = (\text{Schedule 1 employer hourly minimum wage in 2021} - \$15.00) / 4$$

$$\text{Schedule 2 employer hourly minimum wage in 2024} = (\text{Schedule 2 hourly minimum wage in 2023} + \text{Adjustment Factor}) \times (1 + \text{rate of inflation})$$

9 Effective on January 1 of 2025, and January 1 of every year thereafter, the hourly minimum
10 wage paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage
11 applicable to Schedule 1 employers.

12 B. Schedule 2 employers can meet the applicable hourly minimum wage requirements
13 through a payment of the minimum wage, provided that the Schedule 2 employer is in
14 compliance with all applicable law.

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16 Section 6. A new Section 14.19.050 is added to the Seattle Municipal Code as follows:

17 **14.19.050 Hourly Minimum Compensation – Schedule 2 Employers**

18 A. Effective January 1, 2015, Schedule 2 employers shall pay each employee an hourly
19 minimum compensation of at least \$11.00. ~~Pursuant to the following schedule, e~~Effective
20 January 1 of each year thereafter, Schedule 2 employers shall pay each employee an hourly
21 minimum compensation that is the lower of (a) the applicable hourly minimum wage for
22 Schedule 1 Employers or (b) the hourly minimum compensation shown in the following
23 schedule; as follows:

<i>Year</i>	<i>Hourly Minimum Compensation</i>
2016	\$12.00

2017	\$13.00
2018	\$14.00
2019	\$15.00
<u>2020</u>	<u>\$15.75</u>

Effective January 1, 2020, Schedule 2 employers shall pay each employee an hourly minimum compensation that is calculated as follows: add \$15.00 to one-half the difference between the hourly minimum wage for Schedule 1 employers in 2019 and \$15.00, and increase this amount by the annual rate of inflation. The applicable hourly minimum compensation shall be calculated to the nearest cent.

$\text{Adjustment Factor} = (\text{Schedule 1 employer hourly minimum wage in 2019} - \$15.00) / 2$
$\text{Schedule 2 employer hourly minimum compensation in 2020} = (\$15.00 + \text{Adjustment Factor}) \times (1 + \text{rate of inflation})$

Effective January 1, 2021, the hourly minimum compensation paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

B. Schedule 2 employers can meet the applicable hourly minimum compensation requirement through wages (including applicable commissions, piece-rate, and bonuses), tips and money paid by an employer towards an individual employee's medical benefits plan, provided that the Schedule 2 employer also meets the applicable hourly minimum wage requirements.

C. Effective January 1, 2025, minimum compensation will no longer be applicable as defined in this Chapter.

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Council Action:

1 **Attachment 1.h.**

2 **CM Sawant Amendment on Schedules**

3 I move to amend CB 118098 to amend Section 4, 5, and 6 as follows:

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6 Section 4. A new Section 14.19.030 is added to the Seattle Municipal Code as follows:

7 **14.19.030 Hourly Minimum Wage – Schedule 1 Employers**

8 A. Effective January 1, 2015, Schedule 1 employers shall pay each employee an hourly
9 minimum wage of at least 15.00. Effective January 1, 2016, the hourly minimum wage paid by a
10 Schedule 1 employer to any employee shall be increased annually on a percentage basis to reflect
11 the rate of inflation and calculated to the nearest cent on January 1 of each year thereafter.
12 ~~\$11.00. Pursuant to the following schedule, effective January 1 of each year thereafter, Schedule~~
13 ~~1 employers shall pay any employee an hourly minimum wage as follows:~~

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<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$13.00
2017	\$15.00

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19 ~~Effective January 1, 2018, the hourly minimum wage paid by a Schedule 1 employer to any~~
20 ~~employee shall be increased annually on a percentage basis to reflect the rate of inflation and~~
21 ~~calculated to the nearest cent on January 1 of each year thereafter.~~

22 B. Schedule 1 employers can meet the applicable hourly minimum wage requirement
23 through a payment of the minimum wage, provided that the Schedule 1 employer is in
24 compliance with all applicable law. Where an employee is paid on a commission or piece-rate
25 basis, wholly or partially, the amount earned on such basis in each work-week period may be
26 credited as a part of the total wage for that period, and the total wages paid for such period shall
27 be computed on the hours worked in that period resulting in no less than the applicable minimum
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1 wage rate. Where an employee is paid a bonus, the amount of the bonus in each work-week
2 period may be credited as a part of the total wage for that period, and the total wages paid for
3 such period shall be computed on the hours worked in that period resulting in no less than the
4 applicable minimum wage rate. ~~Pursuant to the following schedule, effective January 1, 2016,~~
5 ~~Schedule 1 employers that pay toward an individual employee's medical benefits plan shall pay~~
6 ~~the employee an hourly minimum wage as follows:~~

<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$12.50
2017	\$13.50
2018	\$15.00

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13 ~~Effective January 1, 2019, payment by the employer of health benefits for employees shall no~~
14 ~~longer affect the hourly minimum wage paid by a Schedule 1 employer.~~

15 Section 5. A new Section 14.19.040 is added to the Seattle Municipal Code as follows:

16 **14.19.040 Hourly Minimum Wage – Schedule 2 Employers**

17 A. Effective January 1, 2015, Schedule 2 employers shall pay each employee an hourly
18 minimum wage of at least ~~\$10~~11.00. Schedule 2 employers can meet the applicable hourly
19 minimum wage requirement through a payment of the minimum wage, provided that the
20 Schedule 2 employer is in compliance with all applicable law. ~~Pursuant to the following~~
21 ~~schedule, effective January 1 of 2016 and each year thereafter, Schedule 2 employers shall pay~~
22 ~~each employee an hourly minimum wage as follows:~~

<i>Year</i>	<i>Hourly Minimum Wage</i>
2016	\$10.50
2017	\$11.00

2018	\$11.50
2019	\$12.00
2020	\$13.50
2021	\$15.00

Effective January 1, 2022, Schedule 2 employers shall pay each employee an hourly minimum wage that is calculated as follows: ~~\$12.25 increased by the rate of inflation in 2015. add \$15.00 to one-fourth the difference between the hourly minimum wage for Schedule 1 employers in 2021 and \$15.00, and increase this amount by the annual rate of inflation.~~ The applicable hourly minimum wage shall be calculated to the nearest cent.

$$\text{Schedule 2 employer hourly minimum wage in 2016} = (\$12.25) \times (1 + \text{rate of inflation for 2015})$$

$$\text{Adjustment Factor} = (\text{Schedule 1 employer hourly minimum wage in 2021} - \$15.00) / 4$$

$$\text{Schedule 2 employer hourly minimum wage in 2022} = (\$15.00 + \text{Adjustment Factor}) \times (1 + \text{rate of inflation})$$

Effective January 1, 2023, Schedule 2 employers shall pay each employee an hourly minimum wage that is calculated as follows: ~~\$13.50 increased by the rate of inflation in 2015, and further increased by the rate of inflation in 2016. add the Schedule 2 hourly minimum wage in 2022 to one-fourth the difference between the hourly minimum wage for Schedule 1 employers in 2021 and \$15.00, and increase this amount by the annual rate of inflation.~~ The applicable hourly minimum wage shall be calculated to the nearest cent.

$$\text{Adjustment Factor} = (\text{Schedule 1 employer hourly minimum wage in 2021} - \$15.00) / 4$$

$$\text{Schedule 2 employer hourly minimum wage in 2023} = (\text{Schedule 2 hourly minimum wage in 2022} + \text{Adjustment Factor}) \times (1 + \text{rate of inflation})$$

minimum wage in 2022 + Adjustment Factor) x (1 + rate of inflation)

Schedule 2 employer hourly minimum wage in 2017 = (\$13.50) x (1 + rate of inflation for 2015) x (1 + rate of inflation for 2016)

~~Effective January 1, 2024, Schedule 2 employers shall pay each employee an hourly minimum wage that is calculated as follows: add the Schedule 2 hourly minimum wage in 2023 to one-fourth the difference between the hourly minimum wage for Schedule 1 employers in 2021 and \$15.00, and increase this amount by the annual rate of inflation. The applicable hourly minimum wage shall be calculated to the nearest cent.~~

Adjustment Factor = (Schedule 1 employer hourly minimum wage in 2021 - \$15.00) / 4

Schedule 2 employer hourly minimum wage in 2024 = (Schedule 2 hourly minimum wage in 2023 + Adjustment Factor) x (1 + rate of inflation)

Effective on January 1 of 2018~~25~~, and January 1 of every year thereafter, the hourly minimum wage paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

B. Schedule 2 employers can meet the applicable hourly minimum wage requirements through a payment of the minimum wage, provided that the Schedule 2 employer is in compliance with all applicable law.

~~Section 6. A new Section 14.19.050 is added to the Seattle Municipal Code as follows:~~

~~**14.19.050 Hourly Minimum Compensation — Schedule 2 Employers**~~

~~A. — Effective January 1, 2015, Schedule 2 employers shall pay each employee an hourly minimum compensation of at least \$11.00. Pursuant to the following schedule, effective January~~

1 ~~1 of each year thereafter, Schedule 2 employers shall pay each employee an hourly minimum~~
2 ~~compensation as follows:~~

<i>Year</i>	<i>Hourly Minimum Compensation</i>
2016	\$12.00
2017	\$13.00
2018	\$14.00
2019	\$15.00

10
11 ~~Effective January 1, 2020, Schedule 2 employers shall pay each employee an hourly minimum~~
12 ~~compensation that is calculated as follows: add \$15.00 to one-half the difference between the~~
13 ~~hourly minimum wage for Schedule 1 employers in 2019 and \$15.00, and increase this amount~~
14 ~~by the annual rate of inflation. The applicable hourly minimum compensation shall be calculated~~
15 ~~to the nearest cent.~~

$\text{Adjustment Factor} = (\text{Schedule 1 employer hourly minimum wage in 2019} - \$15.00) / 2$
$\text{Schedule 2 employer hourly minimum compensation in 2020} = (\$15.00 + \text{Adjustment Factor}) \times (1 + \text{rate of inflation})$

22 ~~Effective January 1, 2021, the hourly minimum compensation paid by a Schedule 2 employer to~~
23 ~~any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.~~

24 ~~B. Schedule 2 employers can meet the applicable hourly minimum compensation~~
25 ~~requirement through wages (including applicable commissions, piece rate, and bonuses), tips and~~
26 ~~money paid by an employer towards an individual employee's medical benefits plan, provided~~
27 ~~that the Schedule 2 employer also meets the applicable hourly minimum wage requirements.~~

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~~C. Effective January 1, 2025, minimum compensation will no longer be applicable as defined in this Chapter.~~

Council Action:

1 **Attachment 1.i.**

2 **CM Sawant Amendment on Tips**

3 I move to amend CB 118098 to amend Section 2 and 6 as follows:

4
5 Section 2. A new Section 14.19.010 is added to the Seattle Municipal Code as follows:

6 **14.19.010 Definitions**

7 For the purposes of this Chapter:

8 A. "Actuarial value" means the percentage of total average costs for covered benefits that a
9 health benefits package will cover;

10 B. "Bonuses" means non-discretionary payments in addition to hourly, salary, commission,
11 or piece-rate payments paid under an agreement between the employer and employee;

12 C. "Commissions" means a sum of money paid to an employee upon completion of a task,
13 usually selling a certain amount of goods or services;

14 D. "Department" means the Department of Finance and Administrative Services;

15 E. "Director" means the Director of the Department of Finance and Administrative Services,
16 or his or her designee;

17 F. "Employ" means to permit to work;

18 G. "Employee" means "employee," as defined under Section 12A.28.200. Employee does
19 not include individuals performing services under a work study agreement;

20 H. "Employer" means any individual, partnership, association, corporation, business trust, or
21 any person or group of persons acting directly or indirectly in the interest of an employer in
22 relation to an employee;

23 I. "Franchise" means a written agreement by which:

- 24 1. A person is granted the right to engage in the business of offering, selling,
25 or distributing goods or services under a marketing plan prescribed or
26 suggested in substantial part by the grantor or its affiliate;

- 1 2. The operation of the business is substantially associated with a trademark,
2 service mark, trade name, advertising, or other commercial symbol;
3 designating, owned by, or licensed by the grantor or its affiliate; and
4 3. The person pays, agrees to pay, or is required to pay, directly or indirectly,
5 a franchise fee;

6 J. “Franchisee” means a person to whom a franchise is offered or granted;

7 K. “Franchisor” means a person who grants a franchise to another person;

8 L. “Hearing Examiner” means the official appointed by the Council and designated as the
9 Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro
10 Tem, etc.);

11 M. “Hourly minimum compensation” means the minimum compensation due to an employee
12 for each hour worked during a pay period;

13 N. “Hourly minimum wage” means the minimum wage due to an employee for each hour
14 worked during a pay period;

15 O. “Medical benefits plan” means a silver or higher level essential health benefits package,
16 as defined in 42 U.S.C. § 18022, or an equivalent plan that is designed to provide benefits that
17 are actuarially equivalent to 70 percent of the full actuarial value of the benefits provided under
18 the plan, whichever is greater;

19 P. “Minimum compensation” means the minimum wage ~~in addition to tips~~ actually received
20 by the employee and reported to the Internal Revenue Service, and money paid by the employer
21 towards an individual employee’s medical benefits plan;

22 Q. “Minimum wage” means all wages, commissions, piece-rate, and bonuses actually
23 received by the employee and reported to the Internal Revenue Service;

24 R. “Piece-rate” means a price paid per unit of work;

25 S. “Rate of inflation” means the Consumer Price Index annual percent change for urban
26 wage earners and clerical workers, termed CPI-W, or a successor index, for the twelve months
27 prior to each September 1st as calculated by the United States Department of Labor;

1 T. “Schedule 1 Employer” means all employers that employ more than 500 employees in
2 the United States, regardless of where those employees are employed in the United States, and
3 all franchisees associated with a franchisor or a network of franchises with franchisees that
4 employ more than 500 employees in aggregate in the United States;

5 U. “Schedule 2 Employer” means all employers that employ 500 or fewer employees
6 regardless of where those employees are employed in the United States. Schedule 2 employers
7 do not include franchisees associated with a franchisor or a network of franchises with
8 franchisees that employ more than 500 employees in aggregate in the United States;

9 V. “Tips” means a verifiable sum to be presented by a customer as a gift or gratuity in
10 recognition of some service performed for the customer by the employee receiving the tip;

11 W. “Wage” means compensation due to an employee by reason of employment, payable in
12 legal tender of the United States or checks on banks convertible into cash on demand at full face
13 value, subject to such deductions, charges, or allowances as may be permitted by rules of the
14 Director. Commissions, piece-rate, and bonuses are included in wages. Tips and employer
15 payments toward a medical benefits plan do not constitute wages for purposes of this Chapter;

16
17
18 Section 6. A new Section 14.19.050 is added to the Seattle Municipal Code as follows:

19 **14.19.050 Hourly Minimum Compensation – Schedule 2 Employers**

20 A. Effective January 1, 2015, Schedule 2 employers shall pay each employee an hourly
21 minimum compensation of at least \$11.00. Pursuant to the following schedule, effective January
22 1 of each year thereafter, Schedule 2 employers shall pay each employee an hourly minimum
23 compensation as follows:

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<i>Year</i>	<i>Hourly Minimum Compensation</i>
2016	\$12.00

2017	\$13.00
2018	\$14.00
2019	\$15.00

Effective January 1, 2020, Schedule 2 employers shall pay each employee an hourly minimum compensation that is calculated as follows: add \$15.00 to one-half the difference between the hourly minimum wage for Schedule 1 employers in 2019 and \$15.00, and increase this amount by the annual rate of inflation. The applicable hourly minimum compensation shall be calculated to the nearest cent.

$\text{Adjustment Factor} = (\text{Schedule 1 employer hourly minimum wage in 2019} - \$15.00) / 2$
$\text{Schedule 2 employer hourly minimum compensation in 2020} = (\$15.00 + \text{Adjustment Factor}) \times (1 + \text{rate of inflation})$

Effective January 1, 2021, the hourly minimum compensation paid by a Schedule 2 employer to any employee shall equal the hourly minimum wage applicable to Schedule 1 employers.

B. Schedule 2 employers can meet the applicable hourly minimum compensation requirement through wages (including applicable commissions, piece-rate, and bonuses), tips and money paid by an employer towards an individual employee's medical benefits plan, provided that the Schedule 2 employer also meets the applicable hourly minimum wage requirements.

C. Effective January 1, 2025, minimum compensation will no longer be applicable as defined in this Chapter.

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Council Action:

Attachment 1j

CM Licata Amendment - Clarifying changes on Enforcement

I move to amend CB 118098 Section 7 as follows:

Section 7. A new Section 14.19.060 is added to the Seattle Municipal Code as follows:

14.19.060 Enforcement

A. Powers and Duties

1. The Department shall ~~receive and investigate charges~~ alleged ~~ing~~ violations of this Chapter as defined herein, and shall have such powers and duties in the performance of these functions as are defined in this Chapter and otherwise necessary and proper in the performance of the same and provided for by law.
2. The Director is authorized and directed to promulgate rules consistent with this Chapter.

B. Exercise of Rights Protected; Retaliation Prohibited

1. It shall be a violation for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.
2. It shall be a violation for an employer to take adverse action or to discriminate against an employee because the employee has exercised in good faith the rights protected under this Chapter. Such rights include but are not limited to the right to file a complaint with the Department about any employer's alleged violation of this Chapter; the right to inform his or her employer, union or similar organization, and/or legal counsel about an employer's alleged violation of this ~~Chapter section~~; the right to cooperate with the Department in its investigations of alleged violations of this Chapter; the right to oppose any policy, practice, or act that is unlawful under this ~~section Chapter~~; and the right to inform other employees of his or her potential rights under this ~~Chapter section~~.

C. Notice, Posting, and Records

1. Employers shall give notice to employees who are entitled to the minimum wage and minimum compensation as defined in this Chapter;

2. Every employer shall post in a conspicuous place at any workplace or job site where any covered employee works the notice published each year by the Department informing employees of the current minimum wage and minimum compensation rates [applicable in that particular workplace or jobsite](#) and of their rights under this Chapter;

3. Employers shall retain payroll records pertaining to covered employees for a period of three years documenting minimum wages and minimum compensation paid to each employee.

D. Charges and Investigation

1. [The Department may investigate any violations of this Chapter.](#) A charge alleging a violation of this Chapter shall be in writing and signed by or on behalf of a charging party. [A charge alleging a violation of this Chapter may also be filed by the Director on behalf of an aggrieved individual when the Director has reason to believe that a violation has occurred.](#) An allegation of a violation should include a statement of the dates, places, and persons or entities responsible for such violation.

2. Charges filed under this Chapter must be filed within 180 days after the occurrence of the alleged violation.

3. The Director shall cause to be served or mailed by certified mail, return receipt requested, a copy of the charge on the respondent within 20 days after the filing of the charge and shall promptly make an investigation thereof.

4. The investigation shall be directed to ascertain the facts concerning the alleged violation of this Chapter, and shall be conducted in an objective and impartial manner.

5. During the investigation the Director shall consider any statement of position or evidence with respect to the allegations of the charge which the charging party or the respondent wishes to submit. The Director shall have authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, and the production of evidence including but not limited to books, records, correspondence or documents in the possession or under the control of the employer subpoenaed.

E. Findings of Fact and Notice of Violation.

1. The results of the investigation shall be reduced to written findings of fact, and a written determination shall be made by the Director that a violation of this Chapter has occurred. The findings of fact shall be furnished promptly to the respondent and charging [or aggrieved](#) party in the form of a notice of violation.

2. Within sixty days of a notice of violation, the Director shall confer with the parties and determine an appropriate remedy, which ~~may~~shall include full payment of unpaid wages due to the charging or aggrieved party under the terms of this Chapter. Such remedy shall be reduced to writing in an order of the Director.

F. Remedies

1. An employer who willfully violates the notice and posting requirements of this section shall be subject to a civil penalty in an amount not to exceed \$125 for the first violation and \$250 for subsequent violations.

2. It is unlawful for any employer to willfully resist, prevent, impede or interfere with the Director in the performance of his or her duties under this Chapter. Conduct made unlawful by this section constitutes a violation subject to the provisions of Chapter 12A.02 of the Seattle Criminal Code, and any employer who commits such a violation may be punished by a civil penalty of not less than \$1,000 and not more than \$5,000.

3. For a first time violation of this Chapter, the Director shall issue a warning. For subsequent violations, the Director shall also assess a civil penalty for improper payment of minimum wage and minimum compensation as defined in this Chapter. A civil penalty for a second time violation of this Chapter shall be not greater than \$500 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. A civil penalty for a third violation of this Chapter shall not be greater than \$5,000 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a violation of this chapter shall be \$20,000.

4. Within sixty days of a notice of violation of this Chapter, the Director shall confer with the parties and determine an appropriate remedy, which ~~may~~shall include full payment of unpaid wages and accrued interest due to the charging or aggrieved party under the terms of this Chapter. Such remedy shall be reduced to writing in an order of the Director.

Attachment 1k

CM O'Brien Amendment to strengthen Charges and Investigation

I move to amend CB 118098 Section 7; 14.19.060 (D) Enforcement, Charges and Investigation as follows:

14.19.060 Enforcement

D. Charges and Investigation

1. A charge alleging a violation of this Chapter ~~shall be in writing and signed by or on behalf of a charging party. An allegation of a violation~~ should include a statement of the dates, places, and persons or entities responsible for such violation.

5. During the investigation the Director may interview and review records regarding any or all relevant employees at the worksite in order to determine whether a violation has occurred. The identity of a cooperating employee shall be kept confidential and shall not be disclosed unless such disclosure is required under applicable law or the employee in writing waives confidentiality~~Director shall consider any statement of position or evidence with respect to the allegations of the charge which the charging party or the respondent wishes to submit.~~ The Director shall have authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, and the production of evidence including but not limited to books, records, correspondence or documents in the possession or under the control of the employer subpoenaed.

Rationale

This amendment strengthens the provisions included in the Enforcement section of the ordinance by:

- Allowing oral complaints or complaints delivered by electronic means. This is consistent with the request to develop a mobile app and website in the companion Resolution on Minimum Wage.
- Ensuring that the Director has broad authority to gather information from all workers in the workplace and protect them from retaliation.

Council Action

Attachment 1I

CM O'Brien Amendment on Notice, Posting and Records.

I move to amend CB 118098 Section 7 (C) Notice, Posting, and Records as follows:

*****C. Notice, Posting, and Records

1. Employers shall give notice to employees in English, Spanish and any other languages commonly spoken by employees at the particular workplace that they are ~~who are~~ entitled to the minimum wage and minimum compensation that retaliation against employees who exercise their rights under this Chapter is prohibited; and that each employee has the right to file a charge or bring a civil action if the minimum wage or minimum compensation as defined in this Chapter; is not paid or the employee is retaliated against for engaging in an activity protected under this Chapter;

2. ~~Every~~ Employers may comply with this section by ~~shall post~~ posting in a conspicuous place at any workplace or job site where any covered employee works a ~~the~~ notice published each year by the Department informing employees of the current minimum wage and minimum compensation rates applicable in that particular workplace or jobsite and of their rights under this Chapter; , in English, Spanish and any other languages commonly spoken by employees at the particular workplace or job site;

3. Employers shall retain payroll records pertaining to covered employees for a period of three years documenting minimum wages and minimum compensation paid to each employee including the rate of pay, amount paid each pay period to each employee, the hours worked each day and each work week by such employee, the deductions made from that amount, and such other information as the Department may prescribe by rule. Such records shall be open for inspection by the Department at any reasonable time. When an issue arises as to the amount of wages paid under this Chapter, if the employer does not maintain or retain adequate records documenting hours worked by the employee, or does not allow the Department reasonable access to such records,

the Department may rely upon personal records kept by employees to determine back wages owed.

Rationale

This amendment strengthens the provisions for notice, posting and record keeping included in the Enforcement section of the ordinance by:

- Ensuring that all workers, including those who speak limited English, have information about their rights under the Ordinance
- Relieving employers of the burden of preparing their own posters.
- Making this section consistent with the State minimum wage law and the law developed under the federal Fair Labor Standards Act.

Attachment 1m

CM Clark Amendment to remove the reference to the Criminal Code

I move to amend CB118098 Section 7 (F) (2) as follows.

2. It is unlawful for any employer to willfully resist, prevent, impede or interfere with the Director in the performance of his or her duties under this Chapter. Conduct made unlawful by this section constitutes a violation ~~subject to the provisions of Chapter 12A.02 of the Seattle Criminal Code~~, and any employer who commits such a violation may be punished by a civil penalty of not less than \$1,000 and not more than \$5,000.

Rationale: The Seattle Criminal Code includes both criminal offenses and civil violations. The reference to the Seattle Criminal Code in this section is deleted because it is confusing and implies that this is a criminal offense when it is not. The penalty is a civil monetary penalty.

Council Action

1 **Attachment 1.n.**

2 **CM Sawant Amendment on Private Right of Action**

3 I move to amend CB 118098 to amend Section 7 as follows:

4
5 Section 7. A new Section 14.19.060 is added to the Seattle Municipal Code as follows:

6 **14.19.060 Enforcement**

7 A. Powers and Duties

8 1. The Department shall receive and investigate charges alleging violations of this
9 Chapter as defined herein, and shall have such powers and duties in the performance of
10 these functions as are defined in this Chapter and otherwise necessary and proper in the
11 performance of the same and provided for by law.

12 2. The Director is authorized and directed to promulgate rules consistent with this
13 Chapter.

14 B. Exercise of Rights Protected; Retaliation Prohibited

15 1. It shall be a violation for an employer or any other person to interfere with,
16 restrain, or deny the exercise of, or the attempt to exercise, any right protected under this
17 Chapter.

18 2. It shall be a violation for an employer to take adverse action or to discriminate
19 against an employee because the employee has exercised in good faith the rights
20 protected under this Chapter. Such rights include but are not limited to the right to file a
21 complaint with the Department about any employer's alleged violation of this Chapter;
22 the right to inform his or her employer, union or similar organization, and/or legal
23 counsel about an employer's alleged violation of this section; the right to cooperate with
24 the Department in its investigations of alleged violations of this Chapter; the right to
25 oppose any policy, practice, or act that is unlawful under this section; and the right to
26 inform other employees of his or her potential rights under this section.

27 C. Notice, Posting, and Records

1 1. Employers shall give notice to employees who are entitled to the minimum wage
2 and minimum compensation as defined in this Chapter;

3 2. Every employer shall post in a conspicuous place at any workplace or job site
4 where any covered employee works the notice published each year by the Department
5 informing employees of the current minimum wage and minimum compensation rates
6 and of their rights under this Chapter;

7 3. Employers shall retain payroll records pertaining to covered employees for a
8 period of three years documenting minimum wages and minimum compensation paid to
9 each employee.

10 D. Charges and Investigation

11 1. A charge alleging a violation of this Chapter shall be in writing and signed by or
12 on behalf of a charging party. An allegation of a violation should include a statement of
13 the dates, places, and persons or entities responsible for such violation.

14 2. Charges filed under this Chapter must be filed within 180 days after the
15 occurrence of the alleged violation.

16 3. The Director shall cause to be served or mailed by certified mail, return receipt
17 requested, a copy of the charge on the respondent within 20 days after the filing of the
18 charge and shall promptly make an investigation thereof.

19 4. The investigation shall be directed to ascertain the facts concerning the alleged
20 violation of this Chapter, and shall be conducted in an objective and impartial manner.

21 5. During the investigation the Director shall consider any statement of position or
22 evidence with respect to the allegations of the charge which the charging party or the
23 respondent wishes to submit. The Director shall have authority to sign and issue
24 subpoenas requiring the attendance and testimony of witnesses, and the production of
25 evidence including but not limited to books, records, correspondence or documents in the
26 possession or under the control of the employer subpoenaed.

27 E. Findings of Fact and Notice of Violation.
28

1 1. The results of the investigation shall be reduced to written findings of fact, and a
2 written determination shall be made by the Director that a violation of this Chapter has
3 occurred. The findings of fact shall be furnished promptly to the respondent and charging
4 party in the form of a notice of violation.

5 2. Within sixty days of a notice of violation, the Director shall confer with the
6 parties and determine an appropriate remedy, which may include full payment of unpaid
7 wages due to the charging party under the terms of this Chapter. Such remedy shall be
8 reduced to writing in an order of the Director.

9 F. Remedies

10 1. An employer who willfully violates the notice and posting requirements of this
11 section shall be subject to a civil penalty in an amount not to exceed \$125 for the first
12 violation and \$250 for subsequent violations.

13 2. It is unlawful for any employer to willfully resist, prevent, impede or interfere
14 with the Director in the performance of his or her duties under this Chapter. Conduct
15 made unlawful by this section constitutes a violation subject to the provisions of Chapter
16 12A.02 of the Seattle Criminal Code, and any employer who commits such a violation
17 may be punished by a civil penalty of not less than \$1,000 and not more than \$5,000.

18 3. For a first time violation of this Chapter, the Director shall issue a warning. For
19 subsequent violations, the Director shall also assess a civil penalty for improper payment
20 of minimum wage and minimum compensation as defined in this Chapter. A civil penalty
21 for a second time violation of this Chapter shall be not greater than \$500 per employee or
22 an amount equal to ten percent of the total amount of unpaid wages, whichever is greater.
23 A civil penalty for a third violation of this Chapter shall not be greater than \$5,000 per
24 employee or an amount equal to ten percent of the total amount of unpaid wages,
25 whichever is greater. The maximum civil penalty for a violation of this chapter shall be
26 \$20,000.

1 4. Within sixty days of a notice of violation of this Chapter, the Director shall confer
2 with the parties and determine an appropriate remedy, which may include full payment of
3 unpaid wages and accrued interest due to the charging party under the terms of this
4 Chapter. Such remedy shall be reduced to writing in an order of the Director.

5 G. Appeal Period and Failure to Respond

6 1. An employer may appeal the Director's order by requesting a contested hearing in
7 writing within 15 days of service. If an employer fails to appeal the Director's order
8 within 15 days of service, the Director's order shall be final and enforceable. When the
9 last day of the appeal period so computed is a Saturday, Sunday, or federal or City
10 holiday, the period shall run until 5:00 p.m. on the next business day.

11 H. Appeal Procedure and Failure to Appear

12 1. Contested hearings shall be conducted pursuant to the procedures for hearing
13 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing
14 Examiner for hearing contested cases. The Director shall have the burden of proof by a
15 preponderance of the evidence before the Hearing Examiner. Failure to appear for a
16 requested hearing will result in an order being entered finding that the employer cited
17 committed the violation stated in the Director's order. For good cause shown and upon
18 terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order
19 entered upon a failure to appear.

20 2. In all contested cases, the Hearing Examiner shall enter an order affirming,
21 modifying or reversing the Director's order.

22 I. Enforcement by Private Persons

23 1. Any person who claims to have been injured by non-payment of wages required
24 under this Chapter may commence a civil action in Superior Court no later than three years after
25 the occurrence of the alleged violation. The computation of the three-year period shall not
26 include time during which an administrative proceeding under this section was pending with
27 respect to a charge based on the same facts and circumstances.

1 2. In a civil action under this Section, if the court finds that an employer failed to
2 pay wages due, the court may award the aggrieved employee, or his or her assignee, judgment
3 for thrice the amount of the wages unlawfully withheld by way of exemplary damages, together
4 with costs of suit and a reasonable sum for attorney's fees.

5 J. No charging party or aggrieved person may secure relief from more than one
6 governmental agency or tribunal for the same harm or injury.

7 Section 8. A new Section 14.19.070 is added to the Seattle Municipal Code as follows:

8 **14.19.070 Severability**

9 The provisions of this Chapter are declared to be separate and severable. If any clause,
10 sentence, paragraph, subdivision, section, subsection or portion of this Chapter, or the
11 application thereof to any employer, employee, or circumstance, is held to be invalid, it shall not
12 affect the validity of the remainder of this Chapter, or the validity of its application to other
13 persons or circumstances.

14
15 Section 9. A new Section 14.19.080 is added to the Seattle Municipal Code as follows:

16 **14.19.080 Other Legal Requirements**

17 This Chapter provides minimum wage and minimum compensation requirements and
18 shall not be construed to preempt, limit, or otherwise affect the applicability of any other law,
19 regulation, requirement, policy, or standard that provides for greater wages or compensation; and
20 nothing in this Chapter shall be interpreted or applied so as to create any power or duty in
21 conflict with federal or state law. Nor shall this Chapter be construed to preclude any person
22 aggrieved from seeking judicial review of any final administrative decision or order made under
23 this Chapter affecting such person.

24
25 Section 10. This ordinance shall take effect and be in force 30 days after its approval by
26 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
27 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

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Passed by the City Council the ____ day of _____, 2014, and
signed by me in open session in authentication of its passage this
____ day of _____, 2014.

President _____ of the City Council

Approved by me this ____ day of _____, 2014.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2014.

Monica Martinez Simmons, City Clerk

(Seal)

1 **Attachment 1.o.**

2 **CM Sawant Amendment on Statute of Limitations and Maximum Penalty**

3 I move to amend CB 118098 to amend Section 7 as follows:

4
5 Section 7. A new Section 14.19.060 is added to the Seattle Municipal Code as follows:

6 **14.19.060 Enforcement**

7 A. Powers and Duties

8 1. The Department shall receive and investigate charges alleging violations of this
9 Chapter as defined herein, and shall have such powers and duties in the performance of
10 these functions as are defined in this Chapter and otherwise necessary and proper in the
11 performance of the same and provided for by law.

12 2. The Director is authorized and directed to promulgate rules consistent with this
13 Chapter.

14 B. Exercise of Rights Protected; Retaliation Prohibited

15 1. It shall be a violation for an employer or any other person to interfere with,
16 restrain, or deny the exercise of, or the attempt to exercise, any right protected under this
17 Chapter.

18 2. It shall be a violation for an employer to take adverse action or to discriminate
19 against an employee because the employee has exercised in good faith the rights
20 protected under this Chapter. Such rights include but are not limited to the right to file a
21 complaint with the Department about any employer's alleged violation of this Chapter;
22 the right to inform his or her employer, union or similar organization, and/or legal
23 counsel about an employer's alleged violation of this section; the right to cooperate with
24 the Department in its investigations of alleged violations of this Chapter; the right to
25 oppose any policy, practice, or act that is unlawful under this section; and the right to
26 inform other employees of his or her potential rights under this section.

27 C. Notice, Posting, and Records

1 1. Employers shall give notice to employees who are entitled to the minimum wage
2 and minimum compensation as defined in this Chapter;

3 2. Every employer shall post in a conspicuous place at any workplace or job site
4 where any covered employee works the notice published each year by the Department
5 informing employees of the current minimum wage and minimum compensation rates
6 and of their rights under this Chapter;

7 3. Employers shall retain payroll records pertaining to covered employees for a
8 period of three years documenting minimum wages and minimum compensation paid to
9 each employee.

10 D. Charges and Investigation

11 1. A charge alleging a violation of this Chapter shall be in writing and signed by or
12 on behalf of a charging party. An allegation of a violation should include a statement of
13 the dates, places, and persons or entities responsible for such violation.

14 2. Charges filed under this Chapter must be filed within 3 years after the occurrence
15 of the alleged violation. The applicable statute of limitations for civil actions is tolled
16 during the Department's investigation and any administrative enforcement proceeding
17 under this Chapter based upon the same facts.

18 ~~Charges filed under this Chapter must be filed within 180 days after the occurrence of the~~
19 ~~alleged violation.~~

20 3. The Director shall cause to be served or mailed by certified mail, return receipt
21 requested, a copy of the charge on the respondent within 20 days after the filing of the
22 charge and shall promptly make an investigation thereof.

23 4. The investigation shall be directed to ascertain the facts concerning the alleged
24 violation of this Chapter, and shall be conducted in an objective and impartial manner.

25 5. During the investigation the Director shall consider any statement of position or
26 evidence with respect to the allegations of the charge which the charging party or the
27 respondent wishes to submit. The Director shall have authority to sign and issue
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1 subpoenas requiring the attendance and testimony of witnesses, and the production of
2 evidence including but not limited to books, records, correspondence or documents in the
3 possession or under the control of the employer subpoenaed.

4 E. Findings of Fact and Notice of Violation.

5 1. The results of the investigation shall be reduced to written findings of fact, and a
6 written determination shall be made by the Director that a violation of this Chapter has
7 occurred. The findings of fact shall be furnished promptly to the respondent and charging
8 party in the form of a notice of violation.

9 2. Within sixty days of a notice of violation, the Director shall confer with the
10 parties and determine an appropriate remedy, which may include full payment of unpaid
11 wages due to the charging party under the terms of this Chapter. Such remedy shall be
12 reduced to writing in an order of the Director.

13 F. Remedies

14 1. An employer who willfully violates the notice and posting requirements of this
15 section shall be subject to a civil penalty in an amount not to exceed \$125 for the first
16 violation and \$250 for subsequent violations.

17 2. It is unlawful for any employer to willfully resist, prevent, impede or interfere
18 with the Director in the performance of his or her duties under this Chapter. Conduct
19 made unlawful by this section constitutes a violation subject to the provisions of Chapter
20 12A.02 of the Seattle Criminal Code, and any employer who commits such a violation
21 may be punished by a civil penalty of not less than \$1,000 and not more than \$5,000.

22 3. For a first time violation of this Chapter, the Director shall issue a warning. For
23 subsequent violations, the Director shall also assess a civil penalty for improper payment
24 of minimum wage and minimum compensation as defined in this Chapter. A civil penalty
25 for a second time violation of this Chapter shall be not greater than \$500 per employee or
26 an amount equal to ten percent of the total amount of unpaid wages, whichever is greater.
27 A civil penalty for a third violation of this Chapter shall not be greater than \$5,000 per
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1 employee or an amount equal to ten percent of the total amount of unpaid wages,
2 whichever is greater. The maximum civil penalty for a violation of this chapter shall be
3 \$20,000 per employee.

4 4. Within sixty days of a notice of violation of this Chapter, the Director shall confer
5 with the parties and determine an appropriate remedy, which may include full payment of
6 unpaid wages and accrued interest due to the charging party under the terms of this
7 Chapter. Such remedy shall be reduced to writing in an order of the Director.

8 G. Appeal Period and Failure to Respond

9 1. An employer may appeal the Director's order by requesting a contested hearing in
10 writing within 15 days of service. If an employer fails to appeal the Director's order
11 within 15 days of service, the Director's order shall be final and enforceable. When the
12 last day of the appeal period so computed is a Saturday, Sunday, or federal or City
13 holiday, the period shall run until 5:00 p.m. on the next business day.

14 H. Appeal Procedure and Failure to Appear

15 1. Contested hearings shall be conducted pursuant to the procedures for hearing
16 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing
17 Examiner for hearing contested cases. The Director shall have the burden of proof by a
18 preponderance of the evidence before the Hearing Examiner. Failure to appear for a
19 requested hearing will result in an order being entered finding that the employer cited
20 committed the violation stated in the Director's order. For good cause shown and upon
21 terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order
22 entered upon a failure to appear.

23 2. In all contested cases, the Hearing Examiner shall enter an order affirming,
24 modifying or reversing the Director's order.

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Council Action:

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1 **Attachment 1.p.**

2 **CM Sawant Amendment on Penalties**

3 I move to amend CB 118098 to amend Section 7 as follows:

4
5 Section 7. A new Section 14.19.060 is added to the Seattle Municipal Code as follows:

6 **14.19.060 Enforcement**

7 A. Powers and Duties

8 1. The Department shall receive and investigate charges alleging violations of this
9 Chapter as defined herein, and shall have such powers and duties in the performance of
10 these functions as are defined in this Chapter and otherwise necessary and proper in the
11 performance of the same and provided for by law.

12 2. The Director is authorized and directed to promulgate rules consistent with this
13 Chapter.

14 B. Exercise of Rights Protected; Retaliation Prohibited

15 1. It shall be a violation for an employer or any other person to interfere with,
16 restrain, or deny the exercise of, or the attempt to exercise, any right protected under this
17 Chapter.

18 2. It shall be a violation for an employer to take adverse action or to discriminate
19 against an employee because the employee has exercised in good faith the rights
20 protected under this Chapter. Such rights include but are not limited to the right to file a
21 complaint with the Department about any employer's alleged violation of this Chapter;
22 the right to inform his or her employer, union or similar organization, and/or legal
23 counsel about an employer's alleged violation of this section; the right to cooperate with
24 the Department in its investigations of alleged violations of this Chapter; the right to
25 oppose any policy, practice, or act that is unlawful under this section; and the right to
26 inform other employees of his or her potential rights under this section.

27 C. Notice, Posting, and Records

1 1. Employers shall give notice to employees who are entitled to the minimum wage
2 and minimum compensation as defined in this Chapter;

3 2. Every employer shall post in a conspicuous place at any workplace or job site
4 where any covered employee works the notice published each year by the Department
5 informing employees of the current minimum wage and minimum compensation rates
6 and of their rights under this Chapter;

7 3. Employers shall retain payroll records pertaining to covered employees for a
8 period of three years documenting minimum wages and minimum compensation paid to
9 each employee.

10 D. Charges and Investigation

11 1. A charge alleging a violation of this Chapter shall be in writing and signed by or
12 on behalf of a charging party. An allegation of a violation should include a statement of
13 the dates, places, and persons or entities responsible for such violation.

14 2. Charges filed under this Chapter must be filed within 180 days after the
15 occurrence of the alleged violation.

16 3. The Director shall cause to be served or mailed by certified mail, return receipt
17 requested, a copy of the charge on the respondent within 20 days after the filing of the
18 charge and shall promptly make an investigation thereof.

19 4. The investigation shall be directed to ascertain the facts concerning the alleged
20 violation of this Chapter, and shall be conducted in an objective and impartial manner.

21 5. During the investigation the Director shall consider any statement of position or
22 evidence with respect to the allegations of the charge which the charging party or the
23 respondent wishes to submit. The Director shall have authority to sign and issue
24 subpoenas requiring the attendance and testimony of witnesses, and the production of
25 evidence including but not limited to books, records, correspondence or documents in the
26 possession or under the control of the employer subpoenaed.

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2 written determination shall be made by the Director that a violation of this Chapter has
3 occurred. The findings of fact shall be furnished promptly to the respondent and charging
4 party in the form of a notice of violation.

5 2. Within sixty days of a notice of violation, the Director shall confer with the
6 parties and determine an appropriate remedy, which may include full payment of unpaid
7 wages due to the charging party under the terms of this Chapter. Such remedy shall be
8 reduced to writing in an order of the Director.

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12 violation and \$250 for subsequent violations.

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14 with the Director in the performance of his or her duties under this Chapter. Conduct
15 made unlawful by this section constitutes a violation subject to the provisions of Chapter
16 12A.02 of the Seattle Criminal Code, and any employer who commits such a violation
17 may be punished by a civil penalty of not less than \$1,000 and not more than \$5,000.

18 3. ~~For a first time violation of this Chapter, the Director shall issue a warning. For~~
19 ~~subsequent violations, t~~The Director shall also assess a civil penalty for improper
20 payment of minimum wage and minimum compensation as defined in this Chapter. A
21 civil penalty for a ~~second~~first time violation of this Chapter shall be in an amount not
22 greater than ~~\$500~~\$1,000 per employee or an amount equal to ten percent of the total
23 amount of unpaid wages, whichever is greater. ~~A civil penalty for a third violation of this~~
24 ~~Chapter shall not be greater than \$5,000 per employee or an amount equal to ten percent~~
25 ~~of the total amount of unpaid wages, whichever is greater.~~The maximum civil penalty for
26 ~~a subsequent~~ violations of this chapter shall be \$20,000 per employee.
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1 4. Within sixty days of a notice of violation of this Chapter, the Director shall confer
2 with the parties and determine an appropriate remedy, which may include full payment of
3 unpaid wages and accrued interest due to the charging party under the terms of this
4 Chapter. Such remedy shall be reduced to writing in an order of the Director.

5 G. Appeal Period and Failure to Respond

6 1. An employer may appeal the Director's order by requesting a contested hearing in
7 writing within 15 days of service. If an employer fails to appeal the Director's order
8 within 15 days of service, the Director's order shall be final and enforceable. When the
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10 holiday, the period shall run until 5:00 p.m. on the next business day.

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14 Examiner for hearing contested cases. The Director shall have the burden of proof by a
15 preponderance of the evidence before the Hearing Examiner. Failure to appear for a
16 requested hearing will result in an order being entered finding that the employer cited
17 committed the violation stated in the Director's order. For good cause shown and upon
18 terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order
19 entered upon a failure to appear.

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21 modifying or reversing the Director's order.