

City of Seattle Minimum Wage Ordinance

Frequently Asked Questions

Seattle's new Minimum Wage Ordinance establishes new minimum wage and compensation rates for employees working within Seattle city limits.

This Frequently Asked Questions document addresses some of the most common questions about the ordinance. Do you have a question that isn't covered by this FAQ? Call 206-684-4500 or send an [email](#).

A. General Information

1. When does the Seattle Minimum Wage Ordinance take effect?

The ordinance takes effect on April 1, 2015.

2. What City department is implementing the ordinance?

The City of Seattle's Office of Labor Standards (OLS) is responsible for implementation of the [Minimum Wage Ordinance \(SMC 14.19\)](#), along with the [Paid Sick and Safe Time Ordinance \(SMC 14.16\)](#), [Job Assistance Ordinance \(SMC 14.17\)](#) and [Administrative Wage Theft Ordinance \(SMC 14.20\)](#). OLS is a division of the Seattle Office for Civil Rights.

3. Where do employees call with questions?

Employees should call 206-684-4500.

4. Where do employers call with questions?

Employers should call 206-684-4536 or send an email to OCR_minwagequestions@seattle.gov.

5. Does immigration status impact coverage/application of the ordinance?

No. As a matter of policy, the City of Seattle does not ask about the immigration status of anyone using City services. In addition, it is a violation of the ordinance for an employer to tell or suggest to a person filing a wage claim that the employer will report suspected citizenship or immigration status of an employee or a family member to a government agency.

B. Employees

1. What is the definition of employee?

An employee means any individual employed by an employer, including full-time, part-time, temporary and seasonal employees. Some occupations are excluded from both the State of Washington's and Seattle's minimum wage laws, such as certain agricultural

workers, casual laborers, exempt “white collar” workers, volunteers, newspaper vendors/carriers, railroad workers, live-in workers and others. See [SMC 12A.28.200](#) for more details on the definition of employee in Seattle’s Minimum Wage Ordinance. See [RCW 49.46.010](#) for more information on the (identical) definition of employee in the State of Washington’s Minimum Wage Act.

2. Which employees are covered by the ordinance?

The ordinance covers employees who perform work in Seattle and applies to all hours worked within city limits. The ordinance does not apply to hours worked outside of Seattle. Also, certain threshold requirements apply to employees who work in the city on an occasional basis (i.e. not regularly scheduled). See questions #6 through #9 below and administrative rule SHRR 90-040 for information on occasional basis employees.

3. Which employees are not covered by the ordinance?

The ordinance does not cover employees who perform services under a work study agreement and employees excluded under the definition of employee in [SMC 12A.28.200\(B\)](#).

4. Does the ordinance cover the following employees:

a. Work study?

No. The ordinance does not cover employees performing services under a work study agreement. Work Study means a job placement program that provides students in secondary and/or post-secondary educational institutions with employment opportunities for financial aid and/or vocational training.

However, the Washington Student Achievement Council requires all **State Work Study (SWS) student employees** to be paid a wage that is comparable to what a non-student would earn in the same position. As of April 1, 2015, the SWS program requires all Seattle-based SWS funded positions to follow Seattle minimum wage requirements. For more information, contact Jeffrey Powell, Program Administrator at Washington Student Achievement Council, by phone (360-753-7621) and [email](#).

b. Paid interns?

Yes. Seattle’s minimum wage requirements apply to paid interns unless the paid intern qualifies for the work study exemption or a Special Certificate for a subminimum wage. (See question 4D for information on Special Certificates.)

c. Independent contractors?

No. The Ordinance only applies to employees. Whether an individual is an employee or independent contractor is determined by the “Economic Realities Test” that is used by the Fair Labor Standards Act (FLSA) and the Washington State Minimum Wage Act (MWA). Under the economic realities test, factors for distinguishing an employee from an independent contractor include the:

- Degree of control that the business has over the worker.
- Worker's opportunity for profit or loss depending on the worker's managerial skill.
- Worker's investment in equipment or material.
- Degree of skill required for the job.
- Degree of permanence of the working relationship.
- Degree to which the services rendered by the worker are an integral part of the business.

[Click here to view the Washington State Department of Labor and Industries Independent Contractor Guide.](#)

d. Salaried employees?

Yes. The ordinance covers non-exempt salaried employees; it does not cover exempt salaried employees, such as an employee in a bona fide, executive administrative, professional or outside sales position. For more information, see [SMC 12A.28.200\(B\)](#).

e. Family members who work for a business?

Yes. The ordinance applies to family members who work for a business, provided those family members qualify as employees as defined by the ordinance. See the Washington State Department of Labor and Industries document, "If family members work for you, know your obligations" in [English](#) and [Thai](#).

f. Employees who are required to live and/or sleep in-site as part of their job such as on-site apartment managers?

No. The definition of employee excludes, "Any individual whose duties require that [the individual] reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of [the individual's] work time subject to call, and not engaged in the performance of active duties."

g. Casual babysitters?

No. The definition of employee excludes "Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession."

5. Where can I find a map of Seattle city boundaries?

- [Map showing Seattle's census tracts and zip code areas](#)
- [View a map showing Seattle's boundary lines](#)

On the left side of the page, click on the "Detailed Zoning" layer in the "Zoning" section (third section) to add shading that defines Seattle city limits. Enter an address or a neighborhood in the top left field to zero in on the location you are interested in. Click on "Building Outlines" to view specific lots; zoom in to read street names.

6. What does it mean to work in Seattle on an occasional basis?

Employees who perform work in Seattle on an irregular basis (i.e. not regularly scheduled) are considered to work in Seattle on an occasional basis. To be eligible for Seattle's minimum wage, occasional basis employees must work more than two hours within Seattle city limits during a two-week period. Once employees meet this threshold requirement, all hours worked in Seattle are covered by the Minimum Wage Ordinance for that pay period.

7. How does an employer determine what two-week period to use for occasional basis employees?

Employers can choose how to determine a two-week period as long as it is consecutive and consistently applied. The two-week period can be a calendar period, pay period, or a rolling period measured forward or backward from the first hour worked in Seattle. ([See SHRR 90-040\(3\) Two-week period.](#))

8. Who is responsible for tracking the hours of an employee who occasionally works in Seattle?

Employers may require employees to track their own hours. However, employers are responsible for providing their employees with information about the Minimum Wage Ordinance. They also must make sure that their employees have the ability to track the hours they work in Seattle.

9. Does the ordinance cover employees who travel through Seattle?

Employees who are simply traveling through Seattle (from a starting point outside Seattle to a destination outside of Seattle) are not covered by the ordinance. Incidental stops to refuel, eat a meal or take care of an errand are not considered employment-related stops. Employees who work in Seattle on an occasional basis and make work-related stops in Seattle may be covered by the ordinance, depending on how many hours' work they perform in Seattle during a two-week period (see questions F/G in this section).

10. When are owners, partners, officers and shareholders considered employees?

Whether owners, partners, officers and shareholders are considered employees must be decided on a case-by-case basis. In the context of an investigation, OLS will make this determination using guidance from the [EEOC's Compliance manual](#) for investigation of discrimination claims.

EEOC guidance states that in most circumstances, individuals who are partners, officers, members of boards of directors, or major shareholders will not qualify as employees. However the final determination is not made on the basis of a person's title and the following factors will be considered:

- a. Whether and, if so, to what extent the organization supervises the individual's work
- b. Whether the individual reports to someone higher in the organization
- c. Whether and, if so, to what extent the individual is able to influence the organization
- d. Whether the parties intended that the individual be an employee, as expressed in written agreements or contracts
- e. Whether the individual shares in the profits, losses, and liabilities of the organization

11. Can individuals or unions waive minimum wage requirements?

No.

12. Can employers pay less than Seattle's minimum wage to certain employees?

Yes, but only in specific situations. Employers can pay subminimum wage only to employees under age 16 years and to employees who qualify for a special certificate under Washington State's minimum wage law (e.g. learners, apprentices, messengers and workers with a disability). Employers must meet Washington State's criteria. For more information, see the Wages and Compensation section of this FAQ document and call Labor & Industries at 360-902-5552.

C. Employers

1. Which employers are required to pay minimum wage to its employees?

Employers with employees performing work in Seattle are covered by the ordinance.

2. Are non-profits covered by the ordinance?

Yes. Minimum wage requirements are the same for non-profit and private employers.

3. How do employers determine their minimum wage requirements?

Minimum wage requirements are based on a "schedule size" determined by an employer's number of employees.

4. What are employer schedules?

The ordinance uses the term, "schedule," to set different requirements and timelines for implementing the minimum wage based on an employer's number of employees. There are two schedules – Large and Small Employers.

a. What is a Large Employer (schedule 1)?

A Large Employer employs 501 or more employees in the United States. Large Employers include all franchisees associated with a franchise or a network of franchises that employ more than 500 employees in the United States.

b. What is a Small Employer (schedule 2)?

A Small Employer employs 500 or fewer employees in the United States. Small Employers do not include franchisees associated with a franchisor or a network of franchises that employ more than 500 employees in the United States.

5. How is employer “schedule size” determined?

An employer determines schedule size by calculating the average number of employees employed (i.e. paid) each calendar week during the prior calendar year. An employer should include any week during which at least one employee worked. Employers should not include weeks where no employees worked. All employees in the United States are counted, including:

- Full-time employees.
- Part-time employees.
- Temporary or seasonal employees.
- Jointly-employed employees.
- All employees of the franchise or a network of franchises in the United States.

For more information on jointly-employed employees, see question J in this section.

6. Does an employer’s schedule size include employees working outside of Seattle?

Yes. Employers must count all employees who work in the United States.

7. Does an employer’s schedule size count full-time equivalents (FTEs) or heads?

The number of employees is counted by head – that is, each employee counts as one employee regardless of whether that employee is full-time, part-time, temporary, etc.

8. How do new employers determine the number of employees?

Employers that did not have any employees during the previous calendar year count the average number of employees employed per calendar week during the first 90 calendar days of the current year of business.

9. How is a temporary worker obtained through a staffing agency counted for schedule size? Is the temporary worker counted as an employee of both the staffing agency and the contracting employer?

If the staffing agency and contracting employer are joint employers of the temporary workers, then both employers count the temporary worker to determine schedule size. The temporary worker is counted twice for this purpose.

10. What are joint employers?

Separate business entities (with separate owners, managers and facilities) may be treated as joint employers under this ordinance. An individual may also be a joint employer.

While a joint employment relationship generally exists when an employee performs work that benefits two or more employers, the final determination depends on a number of nonexclusive factors that are part of an “**economic realities test.**” The five primary factors are:

- a. The nature and degree of control of the workers;
- b. The degree of supervision (direct or indirect) of the work;
- c. The power to determine the pay rates or the methods of payment of the workers;
- d. The right (directly or indirectly) to hire, fire, or modify the employment conditions of the workers; and
- e. Preparation of payroll and the payment of wages.

Other factors include:

- a. Whether the work is a specialty job on the production line;
- b. Whether responsibility between a labor contractor and an employer passes from one labor contractor to another without material changes;
- c. Whether the premises and equipment of the employer are used for the work;
- d. Whether the employees have a business organization that shifts as a unit from one work site to another;
- e. Whether the work is piecework and not work that requires initiative, judgment or foresight (i.e. considering if the service rendered requires a special skill);
- f. Whether the employee has an opportunity for profit or loss depending upon the employee's managerial skill;
- g. Whether there is permanence in the working relationship; and
- h. Whether the service rendered is an integral part of the employer's business.

11. How do joint employers determine schedule size?

Employees who are jointly employed must be counted by all joint employers, regardless of whether the employee is maintained on only one of the employers' payrolls.

12. How is the pay rate determined for employees who are jointly employed by joint employers?

The Schedule size of the joint employer with the most employees determines the hourly rate for the employee who is jointly employed.

13. Are both joint employers responsible for providing notice, posting and records?

Yes.

14. How do employers determine if they are part of a franchise? Some business agreements use words like “affiliate” or “chapter,” rather than franchise.

A franchise is a written agreement in which:

- a. A person is granted the right to sell or distribute goods or services under a marketing plan prescribed or suggested in substantial part by a grantor or its affiliate.
- b. The business operation is substantially associated with a trademark, trade name, advertising, or other symbols owned or licensed by the grantor or its affiliate.
- c. The person is required to pay a franchise fee. See RCW 19.100.010 for more details.

15. How do employers determine if they are a part of an integrated enterprise?

An integrated enterprise is a business relationship in which one separate entity controls the operation of another entity. To determine schedule size, separate entities that form an integrated enterprise are considered a single employer. Factors to consider in making this assessment include (but are not limited to):

- a. Degree of interrelation between the operations of multiple entities;
- b. Degree to which the entities share common management;
- c. Centralized control of labor relations; and
- d. Degree of common ownership or financial control over the entities.

Separate legal entities that share some degree of interrelated operations and common management are generally considered separate employers (for the purposes of this ordinance) as long as they are substantially in separate physical locations from one another and each separate legal entity has partially different ultimate ownership.

D. Wages and Compensation

1. What are wages?

Wages include salary, hourly pay, piece rate pay, commissions, and non-discretionary performance bonuses. Tips and employer payments toward medical benefits plans are not wages.

2. What are the minimum wage requirements for Large Employers?

Large employers will reach the \$15.00/hour minimum wage over the next 3-4 years.

Starting April 1, 2015, large employers must pay a minimum wage of \$11.00/hour. On January 1, 2016, the minimum wage for large employers will increase to \$13.00/hour.

Large employers can meet this requirement in two ways:

- a. Pay an hourly minimum wage of \$13.00/hour
- b. Pay a reduced hourly minimum wage of \$12.50/hour if they pay towards an employee’s qualifying medical benefits plan.

In subsequent years, the minimum wage will continue to increase on January 1. By 2018, all large employers will reach Seattle’s minimum wage of \$15.00/hour (and payments

toward medical benefits will no longer impact minimum wage requirements). The City of Seattle will calculate future percentage changes to the minimum wage based on the Consumer Price Index (CPI). The current estimate is 2.4% annually.

See “[Information for Large Employers](#)” for more details.

LARGE EMPLOYERS

YEAR	MINIMUM WAGE only	MINIMUM WAGE with payments toward employee’s medical benefits
2015 (April 1 st)	\$11.00	\$11.00
2016 (January 1 st)	\$13.00	\$12.50
2017 (January 1 st)	\$15.00	\$13.50
2018 (January 1 st)		\$15.00

3. What are the minimum wage requirements for Small Employers?

Small employers will reach the \$15.00/hour minimum compensation over the next 5-7 years.

Starting April 1, 2015, small Employers must pay a minimum compensation of \$11.00/hour. Small employers can meet this requirement in two ways:

- a. Pay an hourly minimum compensation rate of \$11.00/hour; or
- b. Pay an hourly minimum wage of \$10.00/hour and make up the balance with employee tips reported to the IRS and/or payments toward an employee’s medical benefits plan.

In 2025, minimum compensation requirements will expire. Small employers will pay the same minimum wage rate as large employers and will no longer count employee tips and/or payments toward an employee’s medical benefit plan toward minimum wage requirements. The City of Seattle will calculate percentage changes to the minimum wage based on the Consumer Price Index (CPI). The current estimate is 2.4% annually.

See “[Information for Small Employers](#)” for more details.

SMALL EMPLOYERS

YEAR	MINIMUM COMPENSATION	MINIMUM WAGE with tips and/or payments toward employee's medical benefits
2015 (April 1 st)	\$11.00	\$10.00
2016 (January 1 st)	\$12.00	\$10.50
2017 (January 1 st)	\$13.00	\$11.00
2018 (January 1 st)	\$14.00	\$12.00
2019 (January 1 st)	\$15.00	\$12.50
2020 (January 1 st)		\$13.50
2021 (January 1 st)		\$15.00
2022 (January 1 st)		\$15.75
2023 (January 1 st)		\$16.50
2024 (January 1 st)		\$17.25

4. Are there situations when employers can pay less than minimum wage?

Employers can pay a subminimum wage only to employees under age 16 years and to employees who qualify for a special certificate under Washington State's minimum wage (i.e. learners, apprentices, messengers and workers with a disability). Employers must meet Washington State's criteria for the special certificate. For more information, call Washington State Department of Labor and Industries at 360-902-5552.

5. What are the minimum wage requirements for Minors?

a. Employees who are 16-17 years old

Employees who are 16-17 years old earn the same Seattle minimum wage as adults.

b. Employees who are under 16 years old

Employees who have not yet reached 16 years can earn 85% of the hourly rate required by the Seattle minimum wage ordinance.

6. How does an employer obtain a Special Certificate to pay a subminimum wage for learners, apprentices, messengers or workers with a disability?

The Director of the Office of Labor Standards has the authority to issue a Special Certificate authorizing an employer to pay a wage less than the hourly rate defined in this ordinance for learners, apprentices, messengers and people with disabilities as described in [RCW 49.46.060](#). See [WAC 296-128](#) for more information.

a. Applications

Applications to pay less than Seattle minimum wage to this category of workers must include an approved Special Certificate from Washington State Labor & Industries and must be submitted to the OLS Director in writing. They will be considered on a case-by-case basis.

b. Limitations

If an application is approved, the OLS Director's Special Certificate will have the same limitations for time, number, proportion and length of service as prescribed by Washington State Department of Labor and Industries, provided that the hourly rate is above the Washington State minimum wage.

7. Can an employer apply for a Special Certificate for a whole group of employees instead of individuals?

Yes. However, the employer must provide qualifying information on every individual to secure a letter of recommendation for Washington State Department of Labor and Industries.

8. Where can I find more information about the process for obtaining a Special Certificate from Washington State Department of Labor & Industries?

The Special Certificate application is available on [the Washington State Department of Labor and Industries web site](#). For more information, call Labor & Industries at 360-902-5552 and read about the criteria in [Washington Administrative Code \(WAC\) 296-128](#).

- a. Workers with a disability: 296-128-050.
- b. Adult Learners: 296-128-100.
- c. Student Learners: 296-128-175.
- d. Student Workers: 296-128-275.
- e. Apprentices: 296-128-225.

9. Tips and Service Charges

a. What tips can be counted toward minimum compensation?

Small employers can pay an hourly minimum wage and make up the minimum compensation balance with employee tips and/or payments toward an employee's medical benefits plan. To use tips to make up the balance of minimum compensation, the tips must be (a) actually received by the employee **and** (b) reported to the Internal Revenue Service. Note: employers must provide employees notice of tip policy at the time of hire (as required by the City of Seattle's [Administrative Wage Theft Ordinance](#)).

b. How do small employers report tips to the IRS?

Small employers who are using tips to meet minimum compensation requirements may use methods established by the IRS for reporting tips and must also keep records of tips in pay roll records. See this IRS Publication, "[Reporting Tip Income - Restaurant Tax Tips](#)," for more information.

Also, both large and small employers must provide employees working in Seattle with written notice of earned tips every pay day. This is a requirement of the [Administrative Wage Theft Ordinance](#).

c. Can tips be averaged over a pay period?

Yes, but only for the tipped position. When an employee is performing work in both a tipped position and a non-tipped position for the same Small Employer (Schedule 2), tips count toward hourly minimum compensation only for those hours worked in the tipped position.

d. Can employers apply tips earned in a pay period toward an employee's participation in a mandatory staff meeting?

If participation in a mandatory staff meeting is a requirement of a tipped employee's position, the employer can count tips for the entire pay period toward the minimum compensation payment for the hours worked during the meeting.

e. Are there restrictions on tip pooling?

Employers may establish a mandatory tip pooling or sharing arrangement among employees, including servers, counter personnel, bussers, service bartenders, and kitchen staff. Depending on the circumstances, shift supervisors may share in tip pools if they do not have the authority to hire and fire and have duties primarily consisting of customer service tasks rather than managerial duties.

f. Are employers allowed to deduct a certain amount from credit card tips for transaction fees?

When customers charge tips on a credit card and the employer must pay the credit card company a percentage on each sale, the employer may pay the employee the tip minus that percentage.

Example: a credit card company charges an employer 3% on all sales charged to its credit service. The employer may pay the tipped employee 97% of those charged tips. However, this charge on tips may not reduce the employee's wage below the required minimum wage. In addition, the employer must pay the amount due the employee no later than the employees' regular pay day, and the employer cannot withhold payment while awaiting reimbursement from the credit card company.

g. What if an employee works two or more positions for an employer and one position does not receive tips?

When an employee is performing work in both a tipped and non-tipped position for the same Small Employer (Schedule 2), tips count toward hourly minimum compensation only for those hours worked in the tipped position. An employee is in a tipped position if s/he contributes toward the chain of service provided to the customer, including servers, counter personnel, bussers, service bartenders, and kitchen staff. Depending on the circumstances, shift supervisors may be considered tipped employees if their duties primarily consist of customer service tasks rather than managerial duties, and if they lack the authority to hire and fire.

h. Do service charges count toward minimum wage and minimum compensation?

Service charges are automatic, separately designated amounts added to customers' bills that appear to be for services provided by employees. Service charges include but are not limited to automatic charges designated on receipts as a "service charge," "gratuity," "delivery charge," or "portage charge."

Service charges are not tips. If paid to employees, service charges may be considered commissions for purposes of this ordinance if they meet the definition of commission in SMC 14.19.010. For the purposes of this ordinance, service charges are considered earnings only above the state minimum wage.

i. What are the disclosure requirements for service charges?

Employers who include automatic service charges must disclose the percentage of the automatic service charge that is paid directly to the employee or employees serving the customer. The disclosure must appear both on itemized receipts and on any menus provided to the customer. If employers do not comply with this disclosure requirement, OLS will automatically presume that the service charge was not paid to the employee and will not credit the amount toward Seattle's minimum wage requirements.

j. Does applying a "Seattle Surcharge" trigger disclosure requirements?

It depends how the surcharge is described. If the business implies to customers that the surcharge is for services provided by employees, then the employer must follow disclosure requirements. If the language that the employer uses to describe the surcharge does not suggest that the amount is being collected for services, and that the amount will not be paid to the employee, then the employer is not required to follow disclosure requirements.

10. Medical Benefits

a. What is a qualifying medical benefits plan?

A qualifying medical benefits plan must meet the requirements of a silver level or equivalent plan under the Affordable Care Act (see [42 U.S.C. § 18022\(d\)](#)).

b. What happens when an employee declines an employer-offered medical benefits plan?

To meet minimum wage and minimum compensation requirements, large and small employers must actually make payments toward an individual employee's medical benefits plan. If an employee declines a medical benefit plan, then the employer must pay the higher minimum wage or minimum compensation hourly rate.

c. What if an employer has a policy of delaying medical benefits for a new employee until the employee has completed an eligibility period (e.g. 90 days)?

The employer must pay the new employee the higher minimum wage or minimum compensation rate until the employee completes the eligibility period and enrolls in

the employer-offered medical benefits plan. This situation may also arise with a current employee if the employee's enrollment status changes for some reason.

11. Miscellaneous issues

a. What are permissible deductions from wages?

Washington state regulations establish permissible deductions from wages. See WAC 296-126-025 and WAC 296-126-028.

b. Can an employer add the cost of employee housing to wages to meet minimum wage requirements?

No. Under state minimum wage law, an employer cannot add the cost of housing to meet minimum wage requirement. Housing is deemed a benefit, not part of wages.

However, if an employer pays minimum wage, the cost of housing can be deducted with a written agreement that complies with RCW 49.52.060 (i.e. authorized in writing in advance by the employee for a lawful purpose accruing to the benefit of the employee). In this situation, the employer would have paid minimum wage and the cost of housing would be considered a benefit. Notably, employers also would also be responsible to reporting the employee's pay to IRS and employment security. For more information, See Washington State Department of Labor and Industries Administrative Policy ES.A.2.

c. Do transportation benefits count toward minimum wage and minimum compensation requirements?

No.

d. Does the Seattle minimum wage apply to the rate of pay for Paid Sick and Safe Time?

Yes. Seattle's Paid Sick and Safe Time Ordinance requires paid leave for work absences due to an employee's need to care for a personal or family member's physical or mental health condition or critical safety issue. Under the PSST ordinance, an employee must be compensated at the same hourly rate for a PSST absence as the employee would have earned during the time the paid leave is taken. For small employers who pay minimum compensation through a combination of minimum wage, tips and/or payments toward a medical benefits plan, all employee hours during that pay period, including PSST hours, must average to at least the minimum compensation rate.

Example: Maria is a server at a small employer restaurant. She earns at least \$11.00/hour minimum compensation through a \$10/hour minimum wage plus tips. In one pay period, she works 72 hours and uses 8 hours of PSST. She earns (and reports to the IRS) \$200 in tips. Her minimum compensation for the pay period is

\$12.50/hour and exceeds Seattle minimum wage requirements (\$800 wages (80 x \$10.00/hour) + \$200 tips = \$1000 / 80 hours = \$12.50/hour.

e. **Does the Seattle minimum wage apply to the rate of pay for vacation and holiday leave?**

No. However, employers who agree to pay vacation/holiday pay at a certain rate of pay and fail to pay for the use of the paid leave could be committing a wage theft violation. OLS would investigate these types of complaints under the [Administrative Wage Theft Ordinance](#).

f. **Does Seattle minimum wage apply to overtime rates?**

State overtime requirements apply to Seattle's minimum wage. Unless there is an exception, employees working in excess of 40 hours per work week must be paid at a rate that is not less than one and one-half times the regular rate that the person is employed. See [RCW 49.46.130](#). Under Seattle's minimum wage, one and one-half times the regular rate applies to the minimum wage or flat rate paid to the employee, but does not include tips and/or payments toward medical benefits.

Employee complaints for failure to pay overtime can be filed with the Office of Labor Standards under the [Administrative Wage Theft Ordinance](#) and with the [Washington State Department of Labor and Industries](#).

Example: Paul works for a small employer who pays toward his silver level medical benefits plan. To earn \$11.00/hour in minimum compensation, Paul regular rate of pay is \$10.00/hour and his employer pays at least \$1.00/hour toward his medical benefits. If Paul works more than 40 hours in a work week, his overtime rate is \$15.00 per hour.

Example: Esi works for a small employer. To earn \$11.00/hour in minimum compensation, Esi's regular rate of pay is a flat \$11.00/hour. If Esi works more than 40 hours in a work week, her overtime rate is \$16.50/hour.

Example: Linda works for a large employer who pays toward her silver level medical benefits plan. In 2016, Linda's regular rate of pay is \$12.50/hour. If Linda works more than 40 hours in a work week, her overtime rate is \$18.75/hour.

E. **Notice and Posting**

1. **What are the notice and posting requirements of the ordinance?**

Employers are required to give notice to their employees about their rights and protections under the ordinance in English, Spanish and any other language commonly spoken by employees at the particular workplace:

- a. Employees are entitled to minimum wage and/or minimum compensation;
- b. Retaliation is illegal; and
- c. Employees have a right to file a complaint with the Office of Labor Standards if their employer does not pay them minimum wage and/or minimum compensation or if the employees are retaliated against for exercising their rights under the ordinance.

2. What can employers do to comply with the ordinance’s notice and posting requirements?

The Office of Labor Standards has created a poster that meets the notice requirements. The poster is available on-line in English on the [Minimum Wage Ordinance web site](#). OLS will provide posters in other languages soon.

F. Payroll Records

1. How long must employers retain payroll records?

Employers must retain payroll records for three years documenting minimum wages and minimum compensation paid to covered employees. See [SMC 14.19.060](#).

2. What information is required for payroll records?

Payroll records must contain information required for this ordinance and for Washington state minimum wage, including:

- a. Name, home address, occupation and date of birth (if under eighteen).
- b. Time of day and day of week on which the employee's workweek begins.
- c. Hours worked each workday and total hours worked each workweek.
- d. Total daily or weekly straight-time earnings or wages.
- e. Total overtime compensation for the workweek.
- f. Total additions to or deductions from wages paid each pay period.
- g. Total wages, including non-discretionary bonuses, commissions and piece-rate, paid each pay period.
- h. Date of payment and the pay period covered by payment.

Payroll records also must have information regarding medical benefits and tips that demonstrate the payment of Seattle minimum wages and minimum compensation to each employee. The records do not need to show an “hourly rate of pay” but must demonstrate that the sum total of wages, tips and payments toward medical benefits (if applicable) equal minimum wage and minimum compensation requirements.

3. What information must be provided to the employee every pay period?

Under Seattle’s [Administrative Wage Theft Ordinance](#), employers must provide employees with written notice (in English, Spanish and any other language commonly spoken in that particular workplace) of the following information each time that wages are paid:

- a. Rate or rates of pay;
- b. Tip compensation;

- c. Pay basis (e.g. hour, shift, day, week, commission);
- d. Gross wages; and
- e. All deductions for that pay period.

G. Enforcement

1. Complaints

a. How will the Office of Labor Standards enforce the Minimum Wage Ordinance?

During the first year of implementing Seattle's Minimum Wage Ordinance, the Office of Labor Standards will use a compliance letter designed to quickly remedy violations, make the worker whole and provide employer education. OLS will not impose civil penalties unless there is evidence of an egregious violation. While the compliance letter will permit informal resolutions of complaints, it will have almost every characteristic of a charge except for a civil penalty when a violation is found.

The compliance letter will:

- Ensure confidentiality of worker(s) to the maximum extent possible.
- Address individual and company-wide allegations of noncompliance.
- Require employers to provide written evidence of compliance.

If evidence shows noncompliance, OLS will seek a settlement agreement that provides a full remedy for all workers (i.e., back wages plus interest), an agreement to future compliance, and monitored compliance for 12 months. This type of settlement agreement also will constitute a first violation of the ordinance.

OLS will file a Director's Charge if:

- An employer fails to respond to a compliance letter;
- An employer fails to provide written evidence within a stated time period; and/or
- An employer does not agree to settlement when evidence shows noncompliance.

b. How does a person file a complaint?

Employees can contact OLS by phone, in-person and on-line:

- 206-684-4500.
- 810 Third Avenue, Suite 750 in downtown Seattle.
- OCR_intake@seattle.gov

c. Will the Office of Labor Standards allow a complainant to remain anonymous?

Yes, to the extent possible under the law.

d. How long does a person have to file a complaint?

A person can file a complaint up to three years after the occurrence of the alleged violation.

e. What types of violations will be investigated for a minimum wage claim?

OLS will investigate any violation of the ordinance, including:

- Failure to pay minimum wage and/or minimum compensation.
- Failure to comply with notice or posting requirements.
- Retaliation.

f. Where else can a minimum wage claim be filed

[Washington State Department of Labor and Industries](#) also can investigate claims for wages owed under the Seattle Minimum Wage Ordinance.

g. What private rights of action are available to workers?

While the Seattle Minimum Wage Ordinance does not provide a private right of actions, workers can bring a private right of action under [Washington State's Wage Payment Collection Act, RCW 49.48](#).

h. Can a minimum wage complaint be filed at the same time as a criminal wage and administrative wage theft complaint?

Yes. To file a criminal wage theft complaint, contact the Seattle Police Department. If the wage theft is under \$500.00, you can file a police report quickly and easily through [SPD's online reporting system](#). If the wage theft is over \$500.00, call the SPD's Non-Emergency line at 206-625-5011.

2. Investigations

a. What can I expect in an investigation?

The Office of Labor Standards is a neutral, fact-finding agency. OLS does not take sides or advocate for one party against another in matters while they are under investigation. All services are free.

OLS gathers evidence by conducting interviews, obtaining witness statements, and reviewing written information. Throughout the investigation, OLS can help the parties reach a settlement agreement for early resolution.

b. Who can represent a party in an investigation?

The investigation is designed to be accessible and easy to navigate, so employees and employers involved in an investigation should not feel that they have to be represented. However, parties are free to engage attorneys to represent them. Parties also are free to invite other individuals to support them during the process.

c. Can an employee complainant be represented by a union?

Union representatives have no formal standing in the investigative process, but employees can invite union representatives to support them.

d. How long does an investigation take?

The length of an investigation depends on the complexity of a case. OLS will request a response to allegations of noncompliance within ten days and will file a charge within 30 days if the employer has not responded or the matter is not moving toward resolution. OLS will require payment of amounts owed to workers within 20 days of a final settlement agreement or Director's Order.

e. What information is an employer asked to provide?

The information requested depends on the specifics of the alleged violation. Types of information may include:

- Copy of any notice given to employees of their rights under the Ordinances;
- Statement of the number of employees employed in the United States during the preceding calendar year;
- List of employees with their current position, phone number and address;
- Original time cards which show the actual hours worked each day;
- Payroll records (see SHRR 90-110 for specific contents); and
- Other relevant documents.

3. Resolutions

a. Are settlements available?

If evidence shows noncompliance, OLS will seek a settlement agreement that provides a full remedy for all workers (i.e., back wages plus interest), an agreement to future compliance, and monitored compliance for 12 months. This type of settlement agreement also will constitute a first violation of the ordinance.

b. What happens if an employer does not respond to a charge?

OLS will file a Director's Charge if:

- An employer fails to respond to a compliance letter;
- An employer fails to provide written evidence within a stated time period; and/or
- An employer does not agree to settlement when evidence shows noncompliance.

c. What happens when the Office of Labor Standards finds that an employer has violated the ordinance? What findings are provided?

OLS will provide written findings of fact and a written determination. If OLS issues a notice of violation, OLS will confer with the parties and determine an appropriate remedy within sixty days. The remedy will include full payment of any unpaid wages due to the charging or aggrieved party and will be recorded in a written Director's order.

4. Appeals

a. What appeal rights do parties have if they disagree with the outcome of the investigation?

- **Employers:** An employer can appeal the Director's order by requesting a contested hearing in writing within 15 days of service. If an employer fails to appeal the Director's order within 15 days of service, the Director's order is final and enforceable. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period runs until 5 p.m. on the next business day. In a contested hearing, the Office of Labor Standards has the burden of proof by a preponderance of the evidence before the Hearing Examiner.
- **Employees:** The current ordinance only provides an employer the right to formally appeal a Director's Order. However, the Office of Labor Standards is developing an internal procedure for employees to request reconsideration if the Director finds that there was no minimum wage violation.

5. Employee Remedies

a. What happens if OLS finds that an employer is in violation of the ordinance?

If evidence shows noncompliance, OLS will seek a settlement agreement that provides a full remedy for all workers (i.e., back wages plus interest), an agreement to future compliance, and monitored compliance for 12 months. This type of settlement agreement also will constitute a first violation of the ordinance.

b. What remedies are available to the employee?

The settlement agreement with the employer will state the amount owed to the employee (i.e., back wages plus interest), an agreed-upon timeline for payment and a stipulation that failure to comply with settlement terms will result in an automatic Director's order with appeal rights waived.

c. What interest rate applies?

Interest will accrue at 12%, the maximum rate permitted under RCW 19.52.020. It will start accruing from the date payment of the wages were due.

d. How are remedies paid to employee?

OLS will collect the amount from the employer and distribute it to workers.

e. What is the City's collection procedure for unpaid orders?

If an employer refuses to comply with a settlement agreement, including payment of back wages and interest, OLS will refer the case to collection proceedings.

f. What remedies are available to employees in retaliation cases?

If the evidence shows that an employer unlawfully retaliated against an employee in violation of the minimum wage ordinance, OLS would assess penalties and endeavor to secure a full remedy for the worker. Although remedies under this ordinance are limited to back wages for hours worked, OLS would seek a more robust resolution through the settlement process.

g. What is the successor liability for minimum wage violations?

Minimum wage complaints will be dually investigated as administrative wage theft complaints. If evidence shows a violation of the Administrative Wage Theft Ordinance, successor liability applies to both the wage theft and minimum wage violations. Therefore, if an employer sells or transfers a business, any person who becomes a successor to that business becomes liable for the full amount of the remedy for a minimum wage violation.

6. Employer Penalties

a. Will penalties be imposed for the first year of implementation?

OLS will not impose penalties during the first year of implementing the minimum wage ordinance unless there are repeated or egregious violations.

b. What are the penalties?

- (Willful) Notice and Posting Violation: An employer who willfully violates the ordinance's notice and posting requirements may be fined up to \$125 for the first violation and \$250 for subsequent violations.
- (Willful) Interference: A person who willfully resists or interferes with the work of the Office of Labor Standards may be fined from \$1,000 to \$5,000.
- Improper payment of wages – first violation: The Office of Labor Standards will issue a warning and may assess a civil penalty of up to \$500 per instance of improper payment of minimum wage (i.e. per employee).
- Improper payment of wages – second violation: The civil penalty for a second time violation is up to \$1,000 per employee or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater.
- Improper payment of wages – third violation: A civil penalty for a third violation is up to \$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 is \$20,000 per employee.

H. Outreach

1. Workers

a. **How can workers learn more about Seattle’s minimum wage requirements and their rights under the ordinance?**

- Visit the [Minimum Wage Ordinance web site](#) for information and materials, including downloadable posters, fact sheets, etc.
- Call 206-684-4500 to report possible violations or ask a question.
- Email OCR_Intake@seattle.gov with your questions, or join our [email list](#) to receive updates and announcements.

b. **What is the City of Seattle’s outreach plan for workers?**

The Office of Labor Standards wants every worker in Seattle to be familiar with the City’s minimum wage and other labor standards, and to know who to call to report problems. In addition to advertising and other outreach efforts, OLS has a Community Outreach and Education fund that will contract with community organizations to:

- Educate workers.
- Train service providers.
- Set up community sites where workers can receive information, counseling, referrals and help with filing claims and complaints.

Outreach will include a focus on low wage workers, communities of color and immigrant and refugee communities. Information and presentations will be provided in different languages to reach as many people as possible.

c. **Where can I find more information about the Community Outreach and Education Fund?**

The Office of Labor Standards is developing the Request for Proposal (RFP) and will post guidelines on our web site shortly. Join our [email list](#) to receive personal notification of the guidelines and workshops.

d. **What is the wage calculator? How can it help me as a worker?**

The calculator allows workers to enter information and find out the minimum wage they should be receiving. After April 1, 2015, the wage calculator will be available on our mobile-optimized, [Minimum Wage Ordinance web site](#).

2. Business

a. **How can businesses learn more about minimum wage requirements?**

- Visit our [Minimum Wage Ordinance web site](#) for information and materials, including downloadable posters, fact sheets, etc.
- Call 206-684-4536 for answers to specific questions about the Minimum Wage Ordinance and Seattle’s other labor standards laws.

- Email minimumwage@seattle.gov with your questions, or join our [email list](#) to receive updates and announcements.

b. What is the outreach plan for business?

The Office of Labor Standards also wants every business in Seattle to be familiar with the City’s minimum wage and other labor standards ordinances, and to know who to call for compliance support. Soon after the creation of OLS as new division within the Seattle Office for Civil Rights in late 2014, SOCR staff began working closely with the business community. In addition to creating Administrative Rules, posters, fact sheets, this Frequently Asked Questions document and other materials, OLS has:

- Mailed a postcard to nearly 50,000 local businesses announcing minimum wage and minimum compensation requirements.
- Added information about the Minimum Wage Ordinance and other Seattle labor standards to the City of Seattle on-line Business License [registration](#) and [renewal](#) process.
- Added information about Seattle’s labor standards to Finance and Administrative Services general Web site for business licenses. See “[Related Sites.](#)”
- Held three public meetings at diverse locations and times to hear questions that informed our Minimum Wage rulemaking process
- Convened a Stakeholders Group with representatives of business, labor and the community to identify Administrative Rule issues and provide input on solutions.
- Held dozens of meetings and presentations with individuals and business organizations. OLS will continue to meet with businesses and make presentations upon request.
- Answered questions from hundreds of employers over the phone and via email. OLS will continue to provide direct assistance to employers.

c. Will there be an outreach and education fund for businesses?

In addition to advertising and other outreach efforts, OLS will contract with business and community organizations to increase awareness and understanding of Seattle’s labor standards among Seattle’s employers. These contracts will focus on ethnic and minority-owned businesses, including businesses owned by immigrants and refugees, and will include outreach conducted in different languages to reach as many people as possible. More information coming soon!

Recently, the [Office of Economic Development](#) conducted a competitive process to award \$210,000 to a contractor to provide entrepreneur support and training for immigrant, refugee and minority business that will be impacted by the new \$15 minimum wage ordinance. More information will soon be provided regarding the recipient of this contract.

d. What is the wage calculator? How can it help me as an employer?

The calculator allows businesses to enter information and find out the minimum wage they should be paying to employees. After April 1, 2015, the wage calculator will be available on our mobile-optimized, [Minimum Wage Ordinance web site](#).