



Wage Cleanup Ordinance

Correcting the Citywide Minimum Wage CPI Calculation Method

The Problem

Due to a technical drafting error, Denver's citywide minimum wage refers to a "prior year" Consumer Price Index (CPI) rate that is only calculated after the close of the calendar year, meaning it cannot be calculated until the end of January or later of each year -- too late to announce and adjust Denver's citywide minimum wage increase on January 1.

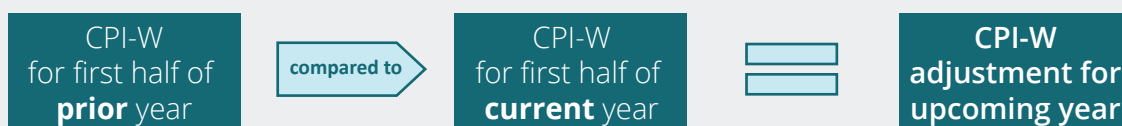
Solution/Legislative Proposal

Use a CPI calculation that is available mid-year to adjust Denver's minimum wage.

Detailed Background

It is a best practice to index minimum wages with CPI to mitigate against erosion of buying power over time. Denver's citywide minimum wage included three specified annual wage increases, and then moves to annual CPI-W increases starting in 2023. The state legislation that granted Colorado cities the power to create local minimum wages only allows local minimum wage increases to go into effect on January 1 of each year. Which means that the city must calculate CPI and announce the new wage for the forthcoming year no later than the fall of the prior year, to ensure that there is adequate notice to employers to adjust payroll and plan for January 1 implementation.

The State of Colorado faced the same challenge for the statewide minimum wage, which also adjusts January 1 of each year. The proposal is to replicate their method of calculation, which compares the first half of the prior year to the first half of the current year to calculate a CPI adjustment in time for fall announcement. So for example, to set the 2023 wage level, Denver would compare CPI-W for the first half of 2022 with CPI-W for the first half of 2021. The corresponding percentage increase would be applied to the current wage of \$15.87 to calculate the new, CPI-W adjusted wage for 2023.



Aligning the Contractor and Citywide Minimum Wages

The Problem

Workers who perform services under city contracts or on city-owned property are currently subject to two minimum wage provisions with similar but not identical wage rates, creating confusion among both workers and employers and risk of underpayment of wages.

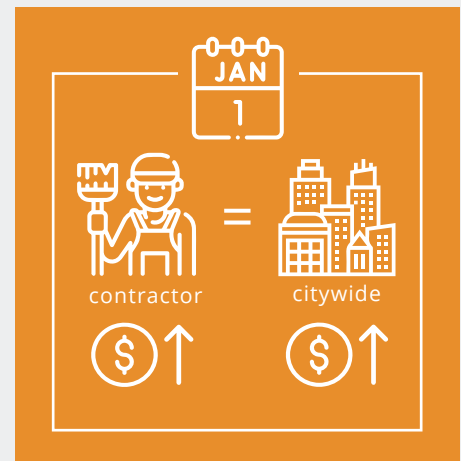
Solution/Legislative Proposal

Align the two wage rates under the higher, citywide minimum going forward.

Detailed Background

In 2018, a longstanding campaign for higher wages for airport workers gained steam, considered a ballot measure, and ultimately worked with Councilwoman Kniech, DEN and Mayor Hancock's administration on wage legislation that met the legal constraints at the time. At that time, and until 2019, the state of Colorado preempted and did not allow local minimum wages with general applicability to all workers. But the city did have the power to establish standards for those with whom we did business, our contractors and/or tenants. A "contractor minimum wage" was proposed and ultimately passed by the city council in Spring of 2019. The contractor minimum wage called for three planned increases, followed by annual CPI increases, scheduled on July 1 of each year.

Just as Denver's contractor wage ordinance passed, the state legislature repealed the preemption on local minimum wages, clearing the path for a citywide minimum wage beginning in 2020. The same sponsors and stakeholders who worked on the contractor minimum wage agreed to work together on a citywide minimum wage for Jan 1, 2020. But the contractor wage had been negotiated over many months, and workers and employers were already planning on the raises and schedule provided in that bill. So to honor the commitments made to contract/tenant workers, the contractor wage timeline and raises were retained as passed, on July 1 of each year, even though these workers would *also* benefit from citywide minimum wage increases on January 1 of each year.



The law requires the highest wage to be paid. This meant that contract workers received two raises per year for several years. This was confusing and resulted in many, many inquiries and likely payroll errors and underpayments, but it honored all commitments during the transition.

The intention was always to reconsider the contractor wage at the point at which the citywide minimum wage became higher, to either repeal the separate contractor wage requirements or to otherwise align them if both ordinances were still needed. While repealing the contractor wage may eventually be considered, more time is required to analyze enforcement and to ensure repeal would not create any gaps. So the immediate proposal is to align the two wages by setting the contractor minimum wage going forward at the same level as the citywide minimum wage, making the wages the same amount and increasing on the same January 1 date. This would eliminate any confusion over maintaining two separate wage levels even though employers must pay the higher wage.

Repeal of the Obsolete Living Wage

The Problem

Denver code contains a “Living Wage” provision that is obsolete now that contractor and citywide minimum wages exist.

Solution/Legislative Proposal

Repeal the obsolete provision.

Detailed Background

In the late 1990s, a campaign for better jobs led by ACORN and others resulted in a living wage that covered a few service contractor job categories that were not covered by Denver’s prevailing wage. The living wage is lower than the contractor/citywide wages and is no longer needed today.

Adding Legally Required Details for Collection of Unpaid Wages and Penalties

The Problem

Denver is unable to fully utilize existing provisions for collecting unpaid back wages owed to workers.

Solution/Legislative Proposal

Align the collections provisions in the minimum wage with standard city collections processes.

Detailed Background

The original ordinance clearly authorized the Auditor to “collect any and all assessed and unpaid penalties and other amounts.” In the vast majority of cases employers pay what they owe workers. But in several cases the Auditor has attempted to leverage a contractor to help collect overdue, unpaid wages. In 2020, Denver learned that the original minimum wage ordinance lacked some of the detail required to leverage the city’s collections contractor. Currently three cases worth \$568,000 in unpaid wages and \$320,000 in penalties are outstanding.

This ordinance will conform collections under this ordinance with other collection procedures used by the city, including use of outside collections legal counsel, recoverable costs, attorney fees, interest, collection fees and other provisions by referencing Denver Revised Municipal Code Section 54-403. Additional legally required procedural detail will be added to the minimum wage collections provision:

- Notice shall be sent via first class mail to the most recent mailing address of the employer; notice deemed complete seven days later
- Penalties shall be due and payable thirty (30) days after notice
- Clarifying a late fee of twenty-five dollars (\$25.00) and 10% annual interest on penalties not paid within 30 days