



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: November 7, 2024

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8664 adding a new Chapter 12-6, "Minimum Wage," B.R.C. 1981, setting a local City of Boulder minimum wage to be competitive and responsive to current and future needs of its community; and setting forth related details.

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Teresa Taylor Tate, City Attorney
Laurel Witt, Assistant City Attorney II
Pam Davis, Assistant City Manager
Joel Wagner, Finance Deputy Director
Ryan Hanschen, Community Engagement Manager
Taylor Reimann, Senior Program Manager Circular Economy
Meggs Valliere, City Council Program Manager
Brooks Fordham, Legal Intern

EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider adoption of an ordinance creating a local City of Boulder minimum wage that is higher than the state's minimum wage. Minimum wage is the lowest amount of money that an employer can legally pay an employee. In the United States it is described as a per hour rate, and defining the wage floors is done through legislation. While the federal minimum wage is \$7.25 per hour, rates vary widely across states and local communities. Minimum wage for the state of Colorado and the City of Boulder is currently \$14.42 per hour.

On October 10, 2024, council held a first reading and public hearing for proposed Ordinance 8664 (**Attachment A**). The proposed ordinance will increase the minimum wage by 8% each year over the next three years, 2025, 2026, 2027, and then increase the minimum wage yearly thereafter in line with the Consumer Price Index for All Urban Consumers (CPI-U) (Denver-Aurora-Lakewood). Under this proposal, Boulder’s minimum wage will be \$15.57 in 2025. The council also chose to include unemancipated minors in the definition of Employee/Worker in the local ordinance, which was amended on first reading to read “any individual performing, or expected to perform...” Any minor will have the same wage floor as any other person.

COUNCIL ACTION

Suggested Motion Language:

Staff has provided the following motion for council consideration:

Motion to adopt Ordinance 8664 adding a new Chapter 12-6, “Minimum Wage,” B.R.C. 1981, setting a local City of Boulder minimum wage to be competitive and responsive to current and future needs of its community; and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Instituting a regional minimum wage will have impacts on individuals and households and macroeconomic impacts on the business community and regional economy. These impacts were explored in the economic analysis report and discussed at the [August 22, 2024](#) study session. They include:
 - Macroeconomic indicators such as population growth, unemployment, and inflation, and
 - More-detailed examinations of employment, worker, and household characteristics.
- Social – The social impacts of an increased minimum wage are complex and interdependent with the economic impacts explored above. Feedback from community engagement increased our understanding of the social impacts to individuals and the community at large.
 - Unique impacts of increased minimum wages on small businesses and specific industries, such as:
 - Small businesses that are likely operating on narrow profit margins prior to minimum wage implementation,
 - Childcare providers that are more likely to employ younger minimum wage workers,
 - Agricultural businesses requiring significant manual labor,
 - Restaurants that are more likely to see increased gaps in earnings between tipped and non-tipped labor, and

- Nonprofits that may have to increasingly rely on volunteer labor and fundraising to maintain services.
- The legacies of institutional racism and inequity have led to substantial correlations between racial identity, educational and employment opportunities, wealth generation, and earning potential, which may result in differential positive or negative impacts on different groups of people. The demographics of minimum wage workers compared to all workers include disproportionate representations among people under that age of 24, people that identify as female, people in BIPOC communities (especially those that identify as Hispanic and Latino), and college students.
- Concern about the phenomenon known as the “benefit cliff,” wherein increased wages push individuals and families above the income eligibility limits for safety net benefits programs in which they are enrolled, and their additional income is insufficient to backfill and/or exceed the value of their lost benefits. The benefit cliff phenomenon would only impact individuals who are currently enrolled in benefits and whose incomes increase above eligibility guidelines – many individuals who are eligible for benefits are not currently enrolled. Economic analysis, the literature review, and feedback from community engagement received mixed and sometimes contradictory evidence and feedback on this topic. Each households’ income situation is unique and it’s difficult to make any accurate generalizations.
- Balancing the needs of different individuals working in roles that are paid the minimum wage; for example, the needs of adults with families vs. unemancipated minors who all earn the same minimum wage, and balancing those needs with interests and priorities of the business community.

OTHER IMPACTS

- Fiscal – Increasing the minimum wage will have direct fiscal impact to the city’s budget, as some of the city’s employees would have wage changes. Staff revised the forecast of the direct effects of an increased minimum wage, as well as the effects of wage compression from what was presented during the August study session (linked above) to account for the proposal to increase the minimum wage by 8% each year for the next three years. The budgetary impact grows to an estimated \$429,000-\$919,000 ongoing increase by 2030. Providing public notice of a minimum wage raise will also require a communications campaign, which will have a budget impact depending on the scope of the campaign.
- Staff time – Implementation needs for the proposed minimum wage ordinance will require additional staff time, but the impact is not known at this time, and whether it could be addressed through existing staff workloads. Initial implementation actions would require:
 - Notifying the Colorado Department of Labor and Employment, directing community members to state resources for enforcement and complaints, and a public communications campaign.
 - Ensuring annual wage increases are reflected in city employee compensation structures and policies.

- Receiving and processing wage theft claims submitted to the city. The city's community relations staff do not have any information about whether or not a change in minimum wage would affect the number of claims received in the future, or how many claims would potentially engage the Human Relations Commission in its quasi-judicial role.

BOARD AND COMMISSION FEEDBACK

The Human Relations Commission received multiple presentations on the minimum wage project along with opportunities to provide feedback on project deliverables.

- At the beginning of the project, Commissioners encouraged studying impacts experienced in neighboring communities that have already raised the minimum wage, such as Denver.
- In July of 2024 Commissioners received a presentation on the draft engagement report. In general, they shared positive feedback on the completeness and quality of the report, and they were particularly interested in ways of mitigating disproportionate impacts on small businesses, as well as unique impacts on industries such as restaurants, agriculture, and health care settings. They also had specific questions on the relative equity impacts of no action versus passing a new policy on BIPOC community members, and what other solutions might be available to address affordability challenges in the community.

PUBLIC FEEDBACK

Detailed community engagement feedback was summarized in the study session memo from [August 22, 2024](#), including full reports listed in the packet attachments. Since early August several community members have used the council contact form and made testimony at public comment periods to share their opinions on a new minimum wage. The special meeting held on October 10, 2024, was the first reading and public hearing for Proposed Ordinance 8664 and more than 50 people provided testimony.

BACKGROUND

Following the adoption of state [House Bill 19-1210](#) which lifts the preemption on local minimum wage laws, communities across Colorado began exploring an increase to their local minimum wage. To date, new laws have been adopted in three communities – Denver, Edgewater, and unincorporated Boulder County.

Several Boulder County communities (Cities of Longmont, Lafayette, Louisville, and the Town of Erie) collectively explored an increase to the local minimum wage in their respective communities, as allowed by state law. A multijurisdictional group of staff from each of the five municipalities as well as representatives from various community groups worked together to conduct a third-party economic analysis and community engagement to assess current economic conditions and understand community sentiment. Aside from the City of Boulder, no other communities in the original regional collaboration are acting on an increased minimum wage in 2025.

Over the last two and a half years, the City Council has held several discussions and received staff updates on the topic:

- On May 3, 2022, the council supported Council Member Folkerts' participation in a Regional Minimum Wage Working Group forming through the Boulder County Consortium of Cities (discussion, no materials).
- On May 25, 2023, the council voted to join Regional Minimum Wage Working Group (discussion, no materials).
- On August 24, 2023, the council affirmed their participation in the working group (discussion, no materials).
- On [March 21, 2024](#), the council received an information item update.
- On [August 22, 2024](#), the council held a study session to consider the findings from community engagement and the economic analysis and determine whether to pursue a local ordinance to raise the minimum wage in the city of Boulder in 2025. A summary of that discussion is included in the [September 19, 2024](#), study session summary.
- [October 10, 2024](#), the council held first reading of the proposed ordinance and public hearing on the item. A majority of council voted in support of increasing the minimum wage by 8% each year over three years in 2025, 2026 and 2027.

ANALYSIS

During the study session on August 22, 2024, and subsequent council discussion on September 5, 2024, and October 10, 2024, staff received council direction on all elements needed for a new minimum wage, which are reflected in Proposed Ordinance 8664:

- All council members were supportive of increasing the minimum wage in 2025.
- The council directed staff to develop an ordinance to raise the minimum wage, with an 8% annual increase each year over three years in 2025, 2026 and 2027, and then increase the minimum wage yearly thereafter in line with the CPI-U (Denver-Aurora-Lakewood). Under this proposal, Boulder's minimum wage will be \$15.57 in 2025.
- Additional council direction included majority support for exempting independent contractors; and unanimous support for indexing with the CPI-U (Denver-Aurora-Lakewood) and using state enforcement.
- The council also chose to include unemancipated minors in the definition of Employee/Worker in the local ordinance and expressed a desire to monitor whether or not this decision would impact the number of employment opportunities available to those youth.

Minimum Wage and City Personnel Budget Impact

As an employer, the City of Boulder is subject to a change in minimum wage. While the minimum wage applies to all employees, it is most relevant for positions not covered by the city's living wage policy, which provides a higher wage for all standard full-time, part-time, or temporary employees as well as to city contracts related to custodial,

landscaping and emergency service responders. The living wage does not apply to seasonal and varied positions. Examples of the types of positions directly impacted include entry-level positions (lifeguards, junior ranger crews, recreation instructor). The Parks and Recreation and Open Space & Mountain Parks departments mainly employ 14–18-year-olds in these roles to help deliver city services and programs. The state minimum wage applies to these positions at \$14.42/hour, not the city’s living wage.

Staff revised the five-year forecast for the fiscal impact of increasing the minimum wage to \$15.57/hour in 2025 and reaching \$19.84 by 2030. Staff modeled the direct effects of an increased minimum wage, as well as the effects of wage compression (which accounts for an increase in pay ranges for titles related to those directly affected by minimum wage). As reflected in the tables below, the budgetary impact is less significant in the short-term but grows to an estimated \$429,000-\$919,000 in 2030. Staff has built in a minimum wage increase for city personnel into the proposed 2025 budget, if the council chooses to proceed with a minimum wage.

Estimated Fiscal Impact 2025-2030 - Direct Increase + Address Wage Compression						
Services	2025	2026	2027	2028	2029	2030
Parks & Recreation	\$113,000	\$322,000	\$547,000	\$638,000	\$732,000	\$825,000
Open Space	\$5,000	\$26,000	\$55,000	\$67,000	\$79,000	\$91,000
Utilities	\$0	\$0	\$0	\$0	\$2,000	\$3,000
Total	\$118,000	\$348,000	\$602,000	\$705,000	\$813,000	\$919,000

NEXT STEPS

The proposed Ordinance 8664 will be on the consent agenda for the October 24, 2024 council meeting for second reading. If adopted during this meeting, the minimum wage increase will increase on January 1, 2025. Staff will then implement the ordinance and communicate the decision to the community.

ATTACHMENTS

A – Proposed Ordinance 8664

ORDINANCE 8664

AN ORDINANCE ADDING A NEW CHAPTER 12-6, "MINIMUM WAGE," B.R.C. 1981, SETTING A LOCAL CITY OF BOULDER MINIMUM WAGE TO BE COMPETITIVE AND RESPONSIVE TO CURRENT AND FUTURE NEEDS OF ITS COMMUNITY; AND SETTING FORTH RELATED DETAILS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. A new Chapter 12-6, "Minimum Wage," B.R.C. 1981, is hereby added to read as follows:

Chapter 6 – Minimum Wage

12-6-1. – Purpose and Legislative Intent.

- (a) Purpose. The purpose of this chapter is to recognize the importance of addressing living affordability in the city of Boulder; to ensure all workers within the city are paid a sufficient wage relative to the cost of living; to do so in a manner that is mindful of the larger market in which the city is situated; and to administer a local minimum wage requirement in a manner that respects, serves, and protects the interests of both employers and employees within the city.
- (b) Legislative Intent. The City Council recites the following legislative findings and statements of intent that were taken into consideration in the adoption of this chapter:
 - (1) The City Council of the City of Boulder recognizes that the cost of living in Boulder exceeds the average cost of living in the state of Colorado.
 - (2) Despite the statewide minimum wage increases, the present rate does not adequately provide enough financial support for the health and wellbeing of the city’s working residents.
 - (3) According to a 2024 study conducted by ECONorthwest, twenty-two percent of city residents live below the Federal Poverty Level and approximately thirty-seven percent of employment in the city of Boulder is in low-wage industries, including service and retail industries.

- 1 (4) To address this concern, the City of Boulder seeks to raise the local wage to an
2 amount that aids working residents within the city to afford basic living necessities.
3 Doing so will allow for greater prosperity for workers in Boulder and combat
4 economic and social inequities, as well as racial and gender wage gaps.
- 5 (5) Raising the minimum wage would place the city on par with other local
6 jurisdictions within the state which have raised their wages to increase affordability.
- 7 (6) The state of Colorado allows local jurisdictions to establish a minimum wage for
8 individuals performing work while physically within the jurisdiction under Title 29,
9 Article 1, Part 14 of the Colorado Revised Statutes. Pursuant to this statute, the City
10 of Boulder has the authority to set a minimum wage exceeding the state minimum
11 wage as long as the city abides by the state’s qualifications and restrictions on
12 applicability.
- 13 (7) Enforcement of this chapter shall be through the Colorado Department of Labor and
14 Employment.
- 15 (8) Addressing the minimum wage for the working residents of the city of Boulder is a
16 matter of significant local concern.

12-6-2. – Definitions.

13 *Employee or Worker* means an individual performing, or expected to perform, four or more
14 hours of work for an employer in any given week within the city. The terms *employee* or *worker*
15 does not include:

- 16 (1) a person traveling through the city’s jurisdiction from a point of origin outside of
17 the city to a destination outside of the city, with no employment-related or
18 commercial stops in the city, except for refueling or the employee’s personal meals
19 or errands; or
- 20 (2) a person providing volunteer services that are uncompensated except for
21 reimbursement of expenses such as meals, parking or transportation; or
- 22 (3) an independent contractor, as defined in federal law.

23 *Employer* means an individual, person, partnership, firm, corporation, association,
24 organization or any other person, group, collective or entity that employs one or more
25 employees, or any successor thereof.

26 *Food and beverage worker* means a worker for any business or enterprise that prepares and
27 offers for sale food or beverages for consumption either on or off an employer’s physical
28 premises.

29 *Tips* means an optional verifiable sum presented directly and customarily by customers as a
30 gratuity in recognition of some service performed for customers by the person receiving the tip.
31 Tips include, but are not limited to:

- 1 (1) tips received directly from customers;
- 2 (2) tips received electronically from employers;
- 3 (3) tips received from other employees through tip-sharing arrangements;
- 4 (4) charged tips, like credit and debit card charges, that are distributed to employees by employers; and
- 5 (5) noncash forms of tips, including tickets, passes, or other goods or commodities that customers give to employees.

6 *Work* means any services performed physically within the geographic boundaries of the city on behalf of or for the benefit of an employer whether on an hourly, piecework, commission, time, task, or other basis.

8 **12-6-3. – Minimum Wage Required.**

- 9 (a) Every employer must ensure its employees are paid not less than the City of Boulder Minimum Wage. An increase in the City of Boulder Minimum Wage takes effect on the same date as a secured increase to the statewide minimum wage required under section 15 of article XVII of the state constitution.
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- 12 (b) The City of Boulder Minimum Wage is as follows, exclusive of fringe benefits and any other deductions or credits, except as otherwise described in this chapter:
 - 13 (1) Beginning January 1, 2025: \$15.57 per hour;
 - 14 (2) Beginning January 1, 2026: \$16.82 per hour;
 - 15 (3) Beginning January 1, 2027: \$18.17 per hour;
 - 16 (4) Beginning January 1, 2028, and on January 1 of each subsequent calendar year, the City of Boulder Minimum Wage shall increase by an amount corresponding to the prior year increase, if any, in the Consumer Price Index, for all items, published annually for the Denver-Aurora-Lakewood Area.
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- 18 (c) Tips regularly and actually received by a food and beverage worker may be applied to an employer’s obligation to pay the food and beverage worker the City of Boulder Minimum Wage. However, no more than \$3.02 per hour in tip income (“Tip Credit”) may be used to partially offset payment of this wage.
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- 21 (d) Nothing in this chapter shall lessen any other obligation applicable to an employer to pay a minimum wage under any other law, rule, or regulation, including but not limited to federal and state minimum wage laws or that arise from or in connection with federal or state funding. In the event of a conflict with any other applicable wage requirement, the greater wage rate must be paid.
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1 **12-6-4. – Employer Responsibilities.**

- 2 (a) Employers must post notice with letters no less than one inch high of the currently effective
3 City of Boulder Minimum Wage in a prominent place that is easily accessible to all
4 employees. Employers must display the posting in English and Spanish. If the display of a
5 physical notice is not feasible, including the situation when an employee does not have a
6 regular workplace or job site, employers must provide the required information on an
7 individual basis, in an employee’s primary language, in paper or electronic form that is
8 reasonably conspicuous and accessible. Notice shall include how to contact the Colorado
9 Department of Labor and employment to file a complaint.
- 7 (b) Employers must make, retain, and make available to the city or to the Colorado Department
8 of Labor and Employment, upon request, payroll records adequate to determine compliance
9 with this chapter for a minimum of three years for each record.

9 **12-6-5. – Violations; Enforcement; Penalties.**

- 10 (a) It is unlawful and a violation of this chapter to commit, authorize, allow, aid, abet, or
11 conceal a violation of this chapter.
- 12 (b) The Colorado Department of Labor and Employment is fully authorized to investigate and
13 issue orders to remedy violations of this chapter.
- 14 (c) Any person claiming to be aggrieved by a violation of this chapter may file or pursue a
15 complaint with the Colorado Department of Labor and Enforcement against an employer
16 alleged to have violated this chapter within two years of any alleged violation, except that
17 violations under this chapter for a willful violation may be brought within three years after
18 the date of the violation. Nothing in this chapter shall preclude an individual from pursuing
19 or participating in any other enforcement action or other remedy available under state of
20 Colorado law.
- 18 (d) A violation of this chapter shall be considered sufficient “cause” to suspend or revoke a city
19 business license pursuant to the procedures set forth in Section 4-1-10, “Revocation or
20 Suspension of Licenses,” of this code.

21 **12-6-6. – City Manager Rules.**

22 The city manager is authorized to adopt rules and regulations necessary to interpret,
23 further define or implement the provisions of this chapter.

24 Section 2. This Ordinance is necessary to protect the public health, safety, and welfare of
25 the residents of the City and covers matters of local concern.

