

Open Letter Requesting Clarification Regarding Burien Minimum Wage Implementation

To:

Burien City Council

Interim City Manager Bob Larson

Interim City Attorney Ann Marie Soto

We are a group of Burien business owners writing to request immediate clarification regarding the City's recent guidance concerning Burien Municipal Code Chapter 5.16 and the implementation of Initiative 1.

We want to be clear that our concern is not that Burien may have a higher minimum wage than surrounding jurisdictions, even though that is a big concern for many small businesses. But we will attempt to comply with policy decisions when those decisions are clearly stated, lawfully adopted, and consistently administered.

Our concern is that the City has publicly taken positions that appear difficult to reconcile, leaving employers uncertain about their legal obligations while simultaneously warning of significant liability for getting those obligations wrong.

As business owners, we are attempting in good faith to comply with the law. However, the City's website, administrative guidance, litigation positions, and published wage schedules appear to create substantial uncertainty regarding what law is currently in effect and what wage Burien employers are legally required to pay.

The City's current position appears difficult to reconcile. In its declaratory judgment action, the City argued that Initiative 1 contained substantial legal and constitutional defects, including the inability to determine a clear minimum wage from the text adopted by voters. The City also raised concerns regarding conflicts between Initiative 1 and existing law, as well as questions requiring judicial interpretation.

Yet the City now publishes specific wage rates, implementation schedules, and enforcement guidance through administrative action. If the initiative, and the BMC 5.16, itself does not clearly establish a wage, employers are left wondering what legal authority permits the City to derive and enforce one. Conversely, if the wage can be clearly determined, it is unclear why judicial intervention was necessary in the first place.

We also understand that the court is expected to address many of these unresolved legal questions in the coming months, with a ruling anticipated around mid-August. That decision appears likely to provide guidance regarding the validity, interpretation, and implementation of Initiative 1 and BMC 5.16. Given the significance of those unresolved issues, it is unclear why the City is moving forward with administrative rules, wage calculations, and potential enforcement actions before the court has issued its decision. If the court's ruling ultimately differs from the City's current new interpretation and

positions, employers may be placed in the position of having relied on guidance that later proves inconsistent with the court's determination of the law.

This places employers in an impossible position.

The City's website warns employers that failure to comply may expose them to substantial liability, including back wages, penalties, damages, attorneys' fees, and claims reaching back 5 years into the past. At the same time, employers who seek clarification are effectively directed to obtain private legal counsel to determine what the law means.

Respectfully, business owners should not be required to hire attorneys to determine what wage the City itself is unable to clearly identify within its own municipal code. The problem is not that Burien may ultimately have a higher minimum wage (the highest in the world for small businesses). The problem is that the City previously informed a court that the voter initiative does not clearly define a wage, while now publishing wage rates through administrative guidance and expecting employers to rely upon them under threat of enforcement.

To help employers understand their obligations, we respectfully request written answers to the following questions:

1. Where in Burien Municipal Code Chapter 5.16 is the minimum wage specifically defined?
2. What exact date are Burien employers legally required to begin paying the wage rates currently shown on the City's website, and where in BMC 5.16 is that effective date stated?
3. Was Initiative 1 formally incorporated into Burien's official ordinance records as required by RCW 35.17.330 following voter approval?
4. If so, when was it incorporated, and where can the public inspect the official ordinance record reflecting that incorporation?
5. Does the City intend to enforce BMC 5.16 retroactively for any period beginning in 2025?
6. Why does the Washington State Department of Labor & Industries minimum wage chart for Burien appear to differ from the wage chart currently published by the City of Burien?
7. Is the City continuing to pursue its declaratory judgment action regarding Initiative 1, or have Ordinance 892 and Administrative Rule 2026-01 altered the City's litigation position?
8. If the City continues to maintain that portions of Initiative 1 are unclear, invalid, unconstitutional, or otherwise require judicial interpretation, what legal authority allows the City to establish specific wage rates through administrative guidance before those questions have been resolved by the court?
9. If BMC 5.16 does not itself state a numerical minimum wage, what specific legal authority authorizes Administrative Rule 2026-01 to establish or calculate a wage

rate, and how does the City distinguish that action from creating substantive policy through administrative rulemaking rather than implementing voter-approved law?

10. Given that the court is expected to rule on many of these issues in the coming months, why is the City proceeding with implementation and potential enforcement before receiving judicial guidance on the questions that were the subject of the City's own declaratory judgment action?

These questions are not academic. Burien employers are making payroll decisions right now. Employees are making employment decisions right now. Both deserve clarity regarding what law governs and what obligations exist.

Employers should be able to easily determine their legal obligations by reading the municipal code and official ordinances without having to reconcile conflicting statements from litigation filings, administrative rules, City web pages, and state agency publications.

We respectfully request a public written response so that all Burien employers, employees, and residents can understand what law is currently in effect, how the City arrived at its published wage rates, and what obligations exist under that law.

Transparency and clarity benefit everyone involved. We share the City's stated goal of compliance. Compliance, however, requires a law that can be identified, understood, and consistently applied.

Sincerely,
Concerned Burien Business Owners

The Little Chicken
Marlaina's Mediterranean Kitchen
Luis Rangel
Nelle's
Anthony Hayes (as business owner)
Classic Eats (business)
P.S. & Co.
Lowride Cookies
bodySTRONG
Centro NK
Luxe & Lattes
Pigfish Café
Paper Delights
Seahurst Cabinetry
Fireside
Howard & Marge
Dek Thai
Royal Everest
Sitka Living

Glass Expressions
Flight Path
The Point
Aya Yoga Oasis
Dry Spell
Painted Pooch
Azteca
The Heart Gallery
Inner Alchemy
David Meinert
CMG
Now Make Me A Sandwich
Santy's Eatery
La Costa
El Centonario
909
Burien Pizzeria
Angelo's