

**NOTICE OF MINIMUM WAGE AND EMPLOYEE RIGHTS UNDER THE
ALBUQUERQUE MINIMUM WAGE ORDINANCE FOR JANUARY 1, 2013
THROUGH DECEMBER 31, 2013**

THE MINIMUM WAGE WITHIN THE CITY LIMITS OF ALBUQUERQUE IS

\$8.50 PER HOUR WITHOUT HEALTH CARE AND/OR CHILDCARE BENEFITS

\$7.50 PER HOUR WITH HEALTH CARE AND/OR CHILDCARE BENEFITS

This is a legal notice and summary of the requirements of the Albuquerque Minimum Wage Ordinance. Any conflicts between this notice and the ordinance shall be resolved in favor of the ordinance. The ordinance contains more information than this notice and defines terms used in this notice. The full Albuquerque Minimum Wage Ordinance and this Notice are available to the public on the City Clerk's website at www.cabq.gov/clerk. Employers shall post this notice in English and in Spanish in a conspicuous place at any workplace or job site.

Tipped Employees

The cash wage paid to a tipped employee by his or her employer shall be no less than the "tipped minimum wage" which, beginning January 1, 2013, shall be 45% of the minimum wage and, beginning January 1, 2014 and each year thereafter, shall be 60% of the minimum wage. An employer may credit tips as part of the wages of a tipped employee only if the employer informs the tipped employee in advance in writing, pays the tipped employee a cash wage equal to or greater than the tipped minimum wage, and is able to establish by the tipped employee's declaration for Federal Insurance Contributions Act (FICA) purposes or by its records of charged tips that the total of the tips received by the tipped employee and the cash wages paid by the employer is equal to or greater than the minimum wage. The tips received by a tipped employee become the property of the tipped employee and may not be shared with the employer. The Albuquerque Minimum Wage Ordinance shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

Cost of Living Adjustment

Additionally, beginning on January 1, 2014 and annually on each January 1 thereafter, the minimum wage and the tipped minimum wage shall be adjusted based on the increase, if any, in the cost of living according to the Consumer Price Index as more fully addressed in the Albuquerque Minimum Wage Ordinance.

Definition of Employee

An employee is any person who performs work for an employer for monetary compensation for at least two hours in a given week within the municipal limits of the City. An employee is any person who performs work for an employer on a full-time, part-time, seasonal, or temporary basis.

The term "employee" does not include (1) any person who is excluded from the definition of "employee" under NMSA 1978 § 50-4-21(c)(3)-(5) and (7) (2008), except that persons employed by the City of Albuquerque are employees, (2) interns working for an employer for academic credit in connection with a course of study at an accredited school, college or university or employees working for an accredited school, college or university pursuant to a work-study program while attending that school, college or university or (3) any person who has received a certificate from the state labor commissioner pursuant to NMSA 1978 §§ 50-4-23 (2007) or § 50-4-21(C)(12) (2008).

EMPLOYEE'S RIGHTS UNDER THE ALBUQUERQUE MINIMUM WAGE ORDINANCE

Any employee receiving less than the wage to which the employee is entitled under the Albuquerque Minimum Wage Ordinance may bring a civil action in a court of competent jurisdiction and, upon prevailing, shall recover the balance of the wages owed, including interest, and an additional amount equal to twice the wages owed, and any other appropriate legal or equitable relief. Any employee who has suffered discrimination in any manner or had adverse action taken against that employee in retaliation for exercising rights protected under this ordinance may bring a civil action in a court of competent jurisdiction and, upon prevailing, shall recover actual damages plus reinstatement in the case of discharge subject to certain restrictions in the Albuquerque Minimum Wage Ordinance. A plaintiff prevailing in an action to enforce this ordinance shall be entitled to recover his or her costs and expenses of suit and reasonable attorney's fees.