

# CITY OF SAN MATEO MINIMUM WAGE ORDINANCE FREQUENTLY ASKED QUESTIONS



## **What is the City of San Mateo Minimum Wage Ordinance and how does this affect my business?**

The San Mateo City Council adopted an ordinance to create a City minimum wage. The ordinance requires employers that maintain a place of business in the City of San Mateo or perform any work/service within the City limits to pay the City's minimum wage to its employees (as defined by State law). The ordinance went into effect on January 1, 2017.

## **What is the Minimum Wage and how is it adjusted in the City of San Mateo?**

The minimum wage increases on January 1<sup>st</sup> of every year and is adjusted based on the regional Consumer Price Index (CPI), which includes a maximum increase of 3.5%, a catch-up provision to allow wages to realign with inflation in later years and is rounded to the nearest nickel. Starting on January 1, 2026, all employers are required to pay employees \$18.60 per hour.

## **Does the Minimum Wage apply elsewhere within the County of San Mateo?**

No, the City of San Mateo minimum wage only applies to employees who work within the geographic boundaries of the City of San Mateo.

## **There are several Minimum Wage laws: Federal, State, and City of San Mateo. What is the difference and which one applies to local businesses?**

City of San Mateo employers are subject to Federal, State and San Mateo minimum wage laws. When there are conflicts in the laws, the employer must follow the strictest standard, meaning that employers must follow the standard that is most favorable to the employee. Since the City of San Mateo's ordinance is higher than the State and Federal law, covered employers are required to pay the City's minimum wage. State and federal agencies, including school districts, are not required to pay the City's minimum wage when the work performed is related to their governmental function.

## **Who Does the City of San Mateo Minimum Wage Ordinance Apply to?**

### **Does the City of San Mateo Minimum Wage apply to employees who are under the age of 18?**

Yes, there is no age limit for eligibility for the minimum wage.

### **Are employees classified as "learners" paid the minimum wage according to the City of San Mateo Minimum Wage Ordinance?**

An employee who is a Learner, as defined by California Industrial Welfare Commission Order No. 4-2001, shall be paid no less than 85 percent of the applicable Minimum Wage for the first 160 hour of employment. Thereafter, the employee shall be paid the applicable Minimum Wage Rate.

### **Do I have to pay the Minimum Wage, even if the employee is part time?**

Yes, the minimum wage applies to any employee who performs at least two hours of work in a calendar week within the geographic boundaries of the City of San Mateo for an employer.

### **Does the San Mateo Minimum Wage ordinance apply to undocumented workers?**

Yes, all workers in the City of San Mateo, whether or not they are legally authorized to work in the United States must be paid the minimum wage as set forth in the ordinance. Wage claims will be processed and investigated

without regard to a worker's immigration status. Workers filing a claim will not be questioned about their immigration status.

**Are salaried employees exempt from the City of San Mateo Minimum Wage requirements?**

Yes, salaried employees are subject to State Law. The current law requires a minimum monthly salary of no less than two times the state minimum wage for full-time employment. Additional information is available at <http://www.labor.ca.gov/>

**Are small businesses exempt from the City of San Mateo Minimum Wage requirements?**

No, the City of San Mateo minimum wage ordinance does not exempt small businesses.

**Are non-profit organizations exempt from the City of San Mateo Minimum Wage requirements?**

No, non-profit organizations are not exempt from the minimum wage requirements.

**Does the City Minimum Wage apply to employees who work in San Mateo, but are not San Mateo residents?**

Yes, any person who works for an employer that maintains a facility in the City of San Mateo or provides goods and/or services within the City limits, is eligible to be paid the City of San Mateo's minimum wage rate.

## Other Employer Questions

**What else besides paying the City of San Mateo Minimum Wage to employees am I required to do?**

Employers must post the Minimum Wage Official Notice in the workplace, informing employees of the rate and their rights. Employers must provide their name, address and phone number in writing to employees at the time of hire. It is illegal to retaliate against any persons for exercising their rights protected under the ordinance.

**Does the City of San Mateo Minimum Wage go up yearly, if so, how is this adjusted?**

The minimum wage will increase annually based on the regional Consumer Price Index (CPI). The maximum annual increase will not exceed 3.5%, even if the CPI for that year is higher. A decrease in the CPI shall not result in a decrease in the minimum wage. On August 15, 2022, City Council updated the minimum wage to include a CPI catch-up provision to allow wages to realign with inflation in future years and rounded wages to the nearest nickel.

**I pay for health insurance, vacation, sick leave and other benefits to my employees. Do these count towards the amount of the Minimum Wage paid to employees?**

No, an employer may not use fringe benefits such as health insurance, vacation, sick leave or other benefits to offset or use as a credit towards the employer's obligation to pay the City minimum wage.

**Are tips considered a part of the Minimum Wage hourly rate?**

No, tips are not considered a part of the Minimum hourly wage and may not offset the hourly wage.

**Are taxi companies that work in or pass through the City of San Mateo required to pay the Minimum Wage?**

Taxi companies are required to have a taxi permit with the City if they do business within the City limits and are subject to the Minimum Wage Ordinance.

**My company is not located in the City of San Mateo, but I have employees who work in the City of San Mateo. Do I have to pay the Minimum Wage to these employees?**

Yes, any employee who works within the geographic boundaries of the City of San Mateo is subject to the City of San Mateo's Minimum Wage Ordinance.

**My company is located in the City of San Mateo, but I have employees who work outside of the City of San Mateo. Do I have to pay the City of San Mateo Minimum Wage to these employees?**

No, only employees who work within the geographic boundaries of the City of San Mateo are subject to the City's minimum wage.

## **Can an employee agree to work for less than the City of San Mateo Minimum Wage?**

No, employees may not agree to work for less than the San Mateo Minimum Wage unless there is a bona fide collective bargaining agreement in place.

## **General Information and where to report violations**

### **What are the penalties for employers that do not pay the City of San Mateo Minimum Wage?**

Penalties to the employer for violation of the Ordinance include but are not limited to:

1. Payment of back wages unlawfully withheld, and a civil penalty of \$50 per day per employee
2. Payment of interest on all due and unpaid wages according to the California Civil Code from the date that the wages were due and payable
3. Reimbursement of the City's administrative costs of enforcement and reasonable attorney fees
4. Assessment of additional fees as a civil penalty of \$50 to the City for each day for each employee whose rights were violated

### **Where can I get more information about the City of San Mateo's Minimum Wage?**

To get more information on the City of San Mateo Minimum Wage, you may go to the City's website:

[www.CityofSanMateo.org/MinimumWage](http://www.CityofSanMateo.org/MinimumWage), email: [MinimumWage@cityofsanmateo.org](mailto:MinimumWage@cityofsanmateo.org) or call the City Manager's Office at (650) 522-7009.

### **Who do I contact if my employer is not paying the Minimum Wage?**

The City of San Mateo partners with the County of San Mateo's Office of Labor Standards and Enforcement (OLSE) to oversee and enforce the City's minimum wage requirements. Contact OLSE: 1866-870-7725 or email [olse@smgov.org](mailto:olse@smgov.org) to file a compliant or ask a question.