

Attachment 2

Summary of proposed Citywide Minimum Wage Ordinance for Novato, Petaluma, Santa Rosa, Sebastopol, Cotati, and Sonoma

Please note references to the language of specific provisions in minimum wage laws implemented by the cities of Emeryville (2015), San Mateo (2016) and Cupertino (2016).

1) Wage Rate: \$15 an hour phased-in over two years

October 1, 2019 \$12.75 an hour

October 1, 2020 \$15.00 an hour

Note: the law would cover all employees performing at least 2 hours of work a week for an employer within the geographic boundaries of the city.

2) COLA: (based on the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area) will be automatically applied annually beginning July 1, 2021.

3) Possible extra year for phase-in for small employers with 25 or less employees.

October 1, 2019 \$11.66 an hour

October 1, 2020 \$13.32 an hour

October 1, 2021 \$15.00 an hour

Note: California minimum wage phases in to \$15 an hour by 2022 for large employers (26 or more employees) and for small employers (25 or less), the phase-in reaches \$15 an hour in 2023 with COLA 2024;

4) Exemptions and Qualifications:

Employees of governmental agencies including federal and state agencies, public higher education and school districts are exempted but city employees are included.

Employees classified as 'Learners' (of any age) who have no previous similar or related experience in a given occupation may be paid less than the proscribed minimum period of their employment. "An employee who is a Learner as defined by the California Industrial Welfare Commission shall be paid no less than 85 percent of the applicable minimum wage for the first 160 days of employment. Thereafter the employee will be paid the applicable minimum wage rate" (San Mateo)

Employees who work from home in the city (at least 2 hours a week) for an employer located outside the city are covered.

5) No Tip Credit:

“An employer may not deduct any amount from wages due an employee on account of any tip or gratuity, or credit the amount or any part thereof, of a tip or gratuity, against and as a part of the wages due the employee from the employer.” (San Mateo)

6) Waiver By Collective Bargaining Agreement:

“All or any portion of the applicable requirements of this Chapter shall not apply to employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.” (Cupertino). Unionized workers may decide to opt-out of the minimum wage law in order to bargain for enhanced benefits in exchange for an hourly cash wage below the new minimum wage.

7) Enforcement: Right of Private Action

“An employee claiming harm from a violation of this Chapter may bring action against the employer in court to enforce the provisions of this chapter and shall be entitled to all remedies available to correct any violation of this Chapter, including but not limited to back pay reinstatement, injunctive relief or any civil penalties as provided herein. An employee who is a prevailing party in an action to enforce this chapter is entitled to reasonable attorney fees, witness fees and costs.” (San Mateo)

8) Other Enforcement Provisions:

Employees covered by the minimum wage law should be protected from retaliation by the employer if they file a complaint with the city about alleged violations and noncompliance. “It is unlawful for an employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this chapter.” (Cupertino)

For employers not complying with the law, the city may assess fines and penalties including liquidated damages and revoking or suspending business licenses, permits, and registration certificates.