



## City of Santa Clara – Minimum Wage Ordinance FAQs

### Introduction

The Santa Clara City Council passed a Minimum Wage Ordinance on September 22, 2015, to create a Minimum Wage greater than the State's for the City of Santa Clara. The Ordinance includes the following provisions:

- The ordinance applies to employers that maintain a place of business in Santa Clara and/or provide goods/services within city limits.
- The new rate will be **\$11.00 per hour** as of January 1, 2016.
- Employers are required to pay a minimum of \$11.00 per hour to each employee who performs at least two (2) hours or more per week of work in Santa Clara.
- Beginning January 1, 2017, and every January 1 thereafter, the rate will adjust by an amount corresponding to the increase, if any, of the prior year's Consumer Price Index (CPI).

### Frequently Asked Questions (FAQs)

**Q: What is the City of Santa Clara's Minimum Wage Ordinance?**

*A: The City Council approved an ordinance to create a citywide minimum wage. The ordinance requires employers that maintain a place of business in Santa Clara or perform any work/service within Santa Clara city limits such that the employer is subject to the City's business tax requirement to pay the city minimum wage. The city's minimum wage will be \$11.00 per hour as of January 1, 2016, and includes an annual adjustment for inflation.*

**Q: When did the City Council adopt the ordinance?**

*A: The Minimum Wage Ordinance was adopted on September 22, 2015.*

**Q: What is the new City Minimum Wage rate?**

*A: The city minimum wage rate will be \$11.00 per hour as of January 1, 2016, and includes an annual adjustment for inflation each January.*

**Q: How will the Santa Clara minimum wage be adjusted?**

*A: Beginning January 1, 2017, and on every January 1 thereafter, the city minimum wage will increase by an amount corresponding to the prior year's Consumer Price Index (Urban Wage Earners and Clerical Workers, U.S. City Average for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the Minimum Wage increase rounded to the nearest multiple of five cents. The intent of this increase is to adjust for inflation.*

**Q: What are the Minimum Wage Ordinance administrative requirements for covered employers?**

*A: In addition to payment of the minimum wage, employers are required to:*

- 1. Post a notice at the workplace of the current and prospective minimum wage rates and the employees' rights under the Ordinance;*
- 2. Maintain payroll records for a period of four (4) years; and,*
- 3. Provide each employee at time of hire with employer's name, address and telephone number.*

**Q: What is the difference between the Federal, State, and Santa Clara minimum wage laws?**

*A: Santa Clara employers are subject to Federal, State, and Santa Clara minimum wage laws. When there are conflicting requirements in the laws, the employer must follow the strictest standard – that is, the one that is most favorable to the employee. Since Santa Clara's ordinance will require a higher minimum wage rate than the State and Federal law, covered employers will be required to pay the city minimum wage. On January 1, 2016, the Federal minimum wage will be \$7.25 per hour; California minimum wage will be \$10.00 per hour, and Santa Clara's minimum wage will be \$11.00 per hour.*

**Q: Does the Minimum Wage Ordinance cover employees who work in Santa Clara, but are not Santa Clara residents?**

*A: Yes. Any person, who performs work for an employer that maintains a facility in the City of Santa Clara or provides goods and/or services within city limits such that the employer is subject to the City's business tax requirement, will be entitled to be paid the city minimum wage.*

**Q: Does the Santa Clara minimum wage apply to full-time and part-time employees?**

*A: Yes, the approved ordinance applies to any person working within the Santa Clara city limits who performs at least two (2) hours of work in any particular week.*

**Q: May employers use tips or fringe benefits (health insurance, vacation, sick leave) to pay the Santa Clara minimum wage?**

**A:** *No. Employers are not able to use an employee's tips or fringe benefits as a credit towards the employer's obligation to pay the city minimum wage. However, commissions or guaranteed gratuities may be counted toward payment of the minimum wage when they are earned and paid together with other compensation paid to the employee and the total amount is equal to or greater than the current minimum wage.*

**Q:** **Does the minimum wage apply to employees under the age of 18?**

**A:** *Yes. All employees who perform at least two (2) hours of work per week in Santa Clara will be paid at least \$11.00 per hour regardless of the age.*

**Q:** **Does the Santa Clara Minimum Wage Ordinance protect undocumented workers?**

**A:** *Yes. All workers in Santa Clara, whether or not they are legally authorized to work in the United States, are protected. The Office of Equality Assurance will process and investigate a wage claim without regard to a worker's immigration status. Workers filing a claim with the City of San Jose's Office of Equality Assurance will not be questioned about their immigration status*

**Q:** **My business is a family run business. Will I need to pay my parent, spouse or child the Santa Clara Minimum Wage?**

**A:** *No. Consistent with California Labor Code Section 3352(a), individuals who are the parents, spouses or children of the employers will not be covered by the Santa Clara minimum wage. Domestic partners will also be excluded under the Santa Clara Minimum Wage Ordinance. However, an employer will be required to pay the required Santa Clara minimum wage rate to any other person who performs more than two (2) hours of work in a week and qualifies as an employee entitled to payment of the minimum wage from any employer under the California Minimum Wage law as provided under Section 1197 of the California Labor Code and Wage orders published by the California Industrial Welfare Commission.*

**Q:** **Are residential care facilities located in Santa Clara required to pay the Santa Clara minimum wage?**

**A:** *Yes. Although state law exempts residential care facilities for six or fewer elderly persons from the city's business license tax, all residential care facilities, regardless of number or type of occupant, are required to pay local minimum wage to employees when located in Santa Clara.*

**Q:** **A company moves its headquarters to a neighboring city but still performs work in Santa Clara. Would the City of Santa Clara Minimum Wage Ordinance apply?**

**A:** *Yes. Even though a company does not maintain a facility in Santa Clara, it is conducting business in Santa Clara and is required to pay the Santa Clara business tax. The Ordinance*

*requires employers who maintain a facility in Santa Clara or employers that are subject to the Santa Clara Business Tax to comply with the Santa Clara Minimum Wage Ordinance.*

**Q: Is the 2x calculation for salaried employees based on the Santa Clara wage of \$11 or is it tied to the State's new \$10 per hour rate?**

*A: Under state law, employees who are classified as "exempt" must earn a monthly salary that is twice the state minimum for a full time employee - so the 2x calculation for salaried employees is tied to the state minimum wage of \$10 per hour.*

**Q: What is the '15 by 18' regional effort?**

*A: The City of Mountain View adopted a \$15.00 by 2018 Minimum Wage Ordinance on October 27, 2015. Cities like Sunnyvale and Palo Alto have joined in a discussion to adopt similar ordinances. These cities have minimum wages that intend to gradually climb to \$15 by 2018 through increments that would be approved annually by their city councils.*

**Q: Where can I get additional information regarding the Minimum Wage Ordinance?**

*A: You can send an email to [minimumwage@santaclaraca.gov](mailto:minimumwage@santaclaraca.gov), visit the website at [santaclaraca.gov/minimumwage](http://santaclaraca.gov/minimumwage) or call (408) 615-2210.*