



MINIMUM WAGE ORDINANCE FREQUENTLY ASKED QUESTIONS

What is the City of Foster City Minimum Wage Ordinance and how does this affect my business?

The Foster City 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 Foster City 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 goes into effect on July 1, 2022.

What is the Minimum Wage in the City of Foster City?

Effective January 1, 2024, all employers are required to pay employees no less than **\$17.00 per hour**. The minimum wage increases on January 1st of every year thereafter and is adjusted based on the regional Consumer Price Index (CPI) not-to-exceed three percent (3%).

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

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

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

City of Foster City employers are subject to Federal, State and Foster City 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 Foster City'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 Foster City Minimum Wage Ordinance Apply to?

Does the City of Foster City 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 Foster City 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 Foster City for an employer.

Does the Foster City Minimum Wage ordinance apply to undocumented workers?

Yes, all workers in the City of Foster City, 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 any businesses exempt from the City of Foster City Minimum Wage requirements?

No, the City of Foster City Minimum Wage Ordinance applies to all businesses within City limits.

Are non-profit organizations exempt from the City of Foster City 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 Foster City, but are not Foster City residents?

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

Other Employer Questions

What else besides paying the City of Foster City 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 Foster City Minimum Wage increase yearly, if so, how is this adjusted?

Following the increase on January 1, 2024 (\$17.00 per hour), the minimum wage will increase annually on January 1st each year thereafter based on the regional Consumer Price Index (CPI) not- to-exceed three percent (3%). A decrease in the CPI shall not result in a decrease in the minimum wage.

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 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.

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

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

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

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

Can an employee agree to work for less than the City of Foster City Minimum Wage?

No, employees may not agree to work for less than the Foster City 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 Foster City 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

Employers are required to maintain records for each employee for at least three (3) years per the City's Minimum Wage Ordinance.

Where can I get more information about the City of Foster City's Minimum Wage?

To get more information on the City of Foster City Minimum Wage, you may go to the City's website: www.fostercity.org/minimumwage, email: minimumwage@fostercity.org or call the City Manager Department at (650) 286-3220.

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

The City of Foster City has contracted with the City of San Jose Office of Equality Assurance to provide enforcement for the Minimum Wage Ordinance. For any questions or to report a possible violation, please contact:

City of San Jose, Office of Equality Assurance
200 East Santa Clara Street, 5th Floor
San Jose, CA 95113
Phone: (408) 535-8430
Email: mywage@sanjoseca.gov