

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: RAISSA DE LA ROSA,
ECONOMIC DEVELOPMENT MANAGER
SUBJECT: PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA
CITY CODE TO ESTABLISH MINIMUM WAGES TO BE PAID BY
EMPLOYERS

AGENDA ACTION: ORDINANCE INTRODUCTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council introduce an ordinance adding Chapter 10-45 to the Santa Rosa City Code to establish minimum wages to be paid by employers.

EXECUTIVE SUMMARY

California Senate Bill 3 (Leno) was signed into law on April 4, 2016, setting the stage to raise the state minimum wage by set amounts each year to reach \$15.00 per hour by January 1, 2022, for employers with 26 or more employees, and by January 1, 2023, for employers with 25 or fewer employees. After the \$15.00 per hour threshold is reached, the state minimum wage will increase annually based on the Consumer Price Index up to 3.5% per year. SB 3 maintains existing exemptions in the State's minimum wage law. Pursuant to a proposal from labor, and community organizations for Santa Rosa to expedite the State timeline, and following similar actions taken by neighboring jurisdictions, this ordinance outlines a \$15.00/hour minimum wage for employers with 26 or more employees and a \$14.00 minimum wage for 25 or fewer employees effective July 1, 2020. On January 1, 2021, the ordinance further outlines the minimum wage for employers with 25 or fewer employees will be \$15.00 per hour and, on this same date and annually thereafter, the minimum wage for all employers regardless of size will increase based on the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-Hayward Consolidated Metropolitan Statistical Area up to 3.5%, thereby realigning the "small" and "large" employer minimum wage.

ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA CITY CODE TO ESTABLISH MINIMUM WAGES TO BE PAID BY EMPLOYERS WITHIN THE CITY OF SANTA ROSA
PAGE 2 OF 10

BACKGROUND

On April 4, 2016, California Senate Bill 3 (Leno) was signed into law setting the stage to raise the state minimum wage incrementally by set amounts each year to reach \$15.00 per hour by January 1, 2022, for employers with 26 or more employees, and by January 1, 2023, for employers with 25 or fewer employees.

Schedule for California Minimum Wage rate 2017-2023.

Chart 1

Date	Minimum Wage for Employers with 25 Employees or Less	Minimum Wage for Employers with 26 Employees or More
January 1, 2017	\$10.00/hour	\$10.50/hour
January 1, 2018	\$10.50/hour	\$11.00/hour
January 1, 2019	\$11.00/hour	\$12.00/hour
January 1, 2020	\$12.00/hour	\$13.00/hour
January 1, 2021	\$13.00/hour	\$14.00/hour
January 1, 2022	\$14.00/hour	\$15.00/hour
January 1, 2023	\$15.00/hour	

After the \$15.00 per hour threshold is reached, the state minimum wage will increase annually based on the Consumer Price Index up to 3.5% per year. SB 3 maintains existing exemptions in the State’s minimum wage law (see **Attachment 1**, SB 3 Phase-in / FAQ).

Subsequent to SB 3, labor, and community organizations, led by North Bay Jobs with Justice (NBJJ) and the North Bay Labor Council began working with North Bay cities proposing local ordinances to expedite the State timeline. Originally NBJJ proposed a \$15.00/hour minimum wage for all employers be implemented regardless of business size. Working with numerous cities, including Santa Rosa, Petaluma, Sonoma, Sebastopol, and Novato, NBJJ modified their proposal to scale for size consistent with SB 3 such that effective July 1, 2020, the minimum wage for employers with 26 or more employees would be raised to \$15.00/hour, and for employers with 25 or fewer employees to \$14.00/hour. Effective January 1, 2021, minimum wage for employers with 25 or fewer employees would also raise to \$15.00 per hour and, on this same date and annually thereafter, the minimum wage for all employers regardless of size would increase based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the San Francisco-Oakland-Hayward Consolidated Metropolitan Statistical Area up to 3.5%.

ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA CITY CODE TO ESTABLISH MINIMUM WAGES TO BE PAID BY EMPLOYERS WITHIN THE CITY OF SANTA ROSA
PAGE 3 OF 10

Thus far, the North Bay cities of Sonoma and Petaluma have passed local minimum wage ordinances aligning with or going beyond the NBJJ efforts. The Novato City Council will also introduce an ordinance accelerating the \$15.00/hour minimum wage. Chart 2 provides an overview of the ordinances or proposed ordinance (see also **Attachment 2**, North Bay Local Minimum Wage Ordinances Chart, and see **Attachment 3**, Sonoma County Cities and Santa Rosa Comparator Cities Minimum Wage List).

Chart 2

Implementation Date	City of Sonoma		City of Petaluma		City of Novato (proposed)		
	Large Business (26+ employees)	Small Business (<25 employees)	Large Business (26+ employees)	Small Business (<25 employees)	Very Large (100+ empl)	Large Business (26-99 employees)	Small Business (1-25 employees)
January 1, 2019	\$12.00	\$11.00	\$12.00	\$11.00	\$12.00	\$12.00	\$11.00
January 1, 2020	\$13.50	\$12.50	\$15.00	\$14.00	\$13.00	\$13.00	\$12.00
July 1, 2020	----	----	----	----	\$15.00	\$14.00	\$13.00
January 1, 2021	\$15.00	\$14.00	\$15.00 + CPI	\$15.00 + CPI	CPI	\$15.00	\$14.00
January 1, 2022	\$16.00	\$15.00	CPI	CPI	CPI	CPI	\$15.00
January 1, 2023	\$17.00	\$16.00	CPI	CPI	CPI	CPI	CPI
January 1, 2024	TBD	TBD	CPI	CPI			
CPI Adjustment	TBD	TBD	San Francisco-Oakland-Hayward CPI-W	San Francisco-Oakland-Hayward CPI-W	San Francisco-Oakland-Hayward CPI-W (no more than 3.5%)	San Francisco-Oakland-Hayward CPI-W (no more than 3.5%)	San Francisco-Oakland-Hayward CPI-W (no more than 3.5%)

PRIOR CITY COUNCIL REVIEW

On July 16, 2019, City Council held a minimum wage study session to review information and provide direction. Staff was directed by the majority of Council to move an ordinance forward. Clarity was requested or direction given regarding annual adjustment indices (CPI), data linked to measuring effectiveness of the ordinance, consistency with SB 3 and other county-wide minimum wage ordinances, and compliance/enforcement issues.

ANALYSIS

Santa Rosa Ordinance Consistencies with State Minimum Wage Laws:

- Most employers are subject to both federal and state minimum wage laws, as well as local minimum wage laws. Per the California Department of Industrial Relations, when there are conflicting requirements in the laws, the employer must follow the stricter standard (that is, the standard that is most beneficial to the employee).
- State law allows for some exceptions to the minimum wage. These exceptions are also applicable to Santa Rosa’s minimum wage ordinance, as are all exemptions provided by law.
 - Government Employers: There is an issue whether governmental agencies are exempt from this ordinance. While no specific legal authority on point was found, it is believed that the doctrine of sovereign immunity may apply to exempt such agencies. To address this issue, the ordinance defines “Employer” to exclude those that the law exempts.
 - Trainees or Learners: In accordance with Minimum Wage Order MW-2017 - *“There is an exception for learners, regardless of age, who may be paid not less than 85 percent of the minimum wage rounded to the nearest nickel during their first 160 hours of employment in occupations in which they have no previous similar or related experience.”* A learner is defined as someone working in an occupation in which they have no previous similar or related experience.
 - Disabled Workers: California minimum wage laws only permits an employer to pay mentally and/or physically disabled workers, and nonprofit organizations such as sheltered workshops or rehabilitation facilities that employ disabled workers a wage rate lower than the standard minimum wage if the employer has obtained licenses to do so from the California Division of Labor Standards Enforcement.
 - Apprentices: The Industrial Welfare Commission may establish a sub-minimum wage rate that may be paid apprentices regularly indentured under the State Division of Apprenticeship Standards.
 - Other Exceptions: There are a few other types of employees who are exempt from state minimum wage laws, including individuals who are the parent, spouse, or child of the employer.
- There is no reduced minimum wage rate for tipped employees in California. Similarly, there is no exception in California for non-trainee learners, student learners, or student workers, for whom standard minimum wage rates apply. Also consistent with state law, this ordinance would apply to workers who work two hours per week or more in the city regardless of where the employer may be based.

Consumer Price Index:

The ordinance states beginning on January 1, 2021, and annually thereafter, the minimum wage will be adjusted on the Consumer Price Index for Urban Wage Earners and Clerical

ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA CITY CODE TO ESTABLISH MINIMUM WAGES TO BE PAID BY EMPLOYERS WITHIN THE CITY OF SANTA ROSA
PAGE 5 OF 10

Workers (CPI-W) for the San Francisco-Oakland-Hayward Consolidated Metropolitan Statistical Area. While the state labor code also adjusts annually based on CPI-W, it is the national CPI-W that is used. Additionally, the state calculation increases the minimum wage by the lesser of 3.5% and the US CPI-W.

During outreach and engagement, questions were asked about the difference between the CPI-U and the CPI-W, and why Santa Rosa would use one over the other. At the July Council Study Session staff was directed to remain as consistent as possible with the state labor code and surrounding cities who have or are planning to introduce ordinances expediting the minimum wage timeline. As such, CPI-W is used consistently in all examples. Also, at this study session a concern about consistency with Social Security cost of living adjustments (COLAs) was raised. By statute, Social Security benefit COLAs are calculated using the US CPI-W.

Index differences:

- **CPI-U** is a more general index that seeks to track retail prices as they affect all urban consumers.
- **CPI-W** is a more specialized index that seeks to track retail prices as they affect urban hourly wage earners and clerical workers. It is a subset of the broader CPI-U group.

Chart 3 tracks the difference between the average annual US CPI-W compared with the average annual Bay Area CPI-W for the past 10 years. As with the state labor code, if the rate of change is negative, there will be no increase or decrease in the Santa Rosa minimum wage on the following January 1 (see **Attachment 4** – Average Annual CPI-W).

Year	US CPI-W	US CPI-W % Change	Bay Area CPI-W	BA CPI-W % Change
2009	209.63		219.645	
2010	213.967	2.1	223.624	1.8
2011	221.575	3.6	230.337	3.0
2012	226.229	2.1	237.097	2.9
2013	229.324	1.4	242.125	2.1
2014	232.771	1.5	248.326	2.6
2015	231.81	-0.4	253.910	2.2
2016	234.076	1.0	260.830	2.7
2017	239.051	2.1	268.990	3.1
2018	245.146	2.5	279.572	3.9

Enforcement:

An individual paid less than the state minimum wage currently has two possible courses of

ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA CITY CODE TO
ESTABLISH MINIMUM WAGES TO BE PAID BY EMPLOYERS WITHIN THE CITY OF
SANTA ROSA
PAGE 6 OF 10

action: report the violation to the Division of Labor Standards Enforcement (DLSE) or sue their employer directly. Analysis of wage complaints filed with the DLSE between 2008-2011 conducted by the UCLA and UC Berkeley Centers for Labor Research and Education show the value of the average complaint on unpaid wages is \$2,000, making the value of private action less likely.

2016's AB 970 amended the state labor code to authorize the Labor Commissioner to enforce local laws regarding overtime and minimum wage provisions and to issue citations and penalties for violations, provided the local entity has not already cited the employer for the same violation. The bill also authorized the Labor Commissioner to issue citations and penalties to employers who violate the expense reimbursement provisions of the state labor code.

That said, to implement an effective minimum wage law it is generally recommended by labor and labor research entities (see **Attachment 5** – UCLA and UC Berkeley Centers for Labor Research and Education best practices report on enforcing city minimum wage laws) for cities with enough resources and administrative infrastructure to establish a local enforcement program to serve as a centralized location to educate workers and employers, administer complaints, and collect wages due; in essence acting as the local enforcement entity.

The ordinance provides that employees can bring an action on their own behalf against their employer and gives the City discretion to initiate an action, if the matter cannot be resolved informally. It is not anticipated that significant City resources will be needed for enforcement, but if that is not the case, staff can return to Council with options and seek direction. One option is to rely on the state agency for core enforcement activities related to investigating and adjudicating wage and hour complaints, and issuing citations and collecting administrative fines and penalties. In addition, outsourcing enforcement and notification needs could be considered. As more Sonoma County cities adopt minimum wage ordinances, another option to consider is a regional collaboration on enforcement beyond what the state could provide. Again, based on staff research, enforcement issues in other Bay Area cities appear to be minimal with nothing noted as rising to a level that could be considered significant and that could not be handled in coordination with the Labor Commissioner and/or through their enforcement contract or in-house program.

Metrics and Tracking:

Staff has identified the following data sources and metrics that may indicate the influence of Santa Rosa's minimum wage ordinance over time:

- Bureau of Labor statistics – Santa Rosa Area Economic Summary (**Attachment 6**)
- Bureau of Labor statistics – Occupational Employment and Wages in Santa Rosa (**Attachment 7**)
- Licensed childcare slots and average fees

Note: the biggest cost for childcare is wages and benefits; tuition is most frequently the sole or primary source of income for the business. According to a University of Washington study on the effect of Seattle's incremental minimum wage increases,

ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA CITY CODE TO ESTABLISH MINIMUM WAGES TO BE PAID BY EMPLOYERS WITHIN THE CITY OF SANTA ROSA
PAGE 7 OF 10

many childcare businesses raised their fees and/or reduced staff affecting access and/or slot availability.

Note: a second study by the University of Washington focused on food prices at supermarkets found no significant evidence of price increases linked to the minimum wage law. With null findings, if local food prices remain steady while earnings increase for low and minimum wage workers, those workers' purchasing power for quality foods increases.

- Number of Santa Rosa Business Tax Certificates (currently tracking)

Communication and Outreach:

Outreach and Engagement: between the July Council Study Session to present, staff focused efforts on generating feedback from business and labor communities to gauge the potential impact of expediting the state's \$15.00/hour minimum wage timeline. A web page on the City's site was created (srcity.org/minimumwage) as an ongoing repository of information. Community groups that were engaged include:

- Santa Rosa Metro Chamber and SRMC Advocacy Council
- Downtown Action Organization
- Sonoma County Alliance Board
- Hispanic Chamber of Commerce
- Los Cien
- Roseland area small businesses
- Railroad Square Association

Following approval of the ordinance, at minimum outreach will consist of the following elements:

- Announcement of change sent to local media as well as employee and business associations
- Ongoing social media campaign and notifications using the City's on-line tools (e.g. GovDelivery)
- Updates to srcity.org/minimumwage including compliance and other resources, and downloadable informational postcards and posters highlighting the difference between the local ordinance and state minimum wages
- Notifications via direct mailings using the business tax certificate contact information as well as in the City's water utility bill.

Business Survey Results and Request to Delay Effective Date:

As noted, between July and October staff met with many business and community groups to generate feedback, understand perspectives and discuss issues.

Overall, arguments in favor of a higher minimum wage pointed to the discrepancy between earnings and housing costs in Sonoma County, and the need to restore purchasing power to lower income workers. Arguments opposed centered around limited employer options to remain at a steady profit: reduce the number of people they employ or increase the price of goods/services.

The primary result of these discussions is the recommended change in effective date from

ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA CITY CODE TO ESTABLISH MINIMUM WAGES TO BE PAID BY EMPLOYERS WITHIN THE CITY OF SANTA ROSA
PAGE 8 OF 10

what was presented at the study session – specifically delaying the effective date from January 1, 2020, to July 1, 2020.

While this provides an additional 6 months for businesses to prepare for the higher wage rate, and while many are not opposed to a higher local minimum wage, timing remains the main sticking point expressed:

- The change is not incremental over a longer period as it is in SB 3 (or as was typical in other jurisdictions excluding those North Bay cities reacting to this current effort). This compressed timeline effects contracts, contract negotiations, and other business planning elements/needs.

Furthermore, while business would have an additional six months to prepare for the 20% increase in labor costs, wages would again increase only six months later (Chart 4):

Percentage Change of Minimum Wage Increases Chart 4

Implementation Date	State Law			City of Santa Rosa (proposed)		
	Large Business	% Change	Small Business	Large Business (26+ employees)	% Change	Small Business (<25 employees)
January 1, 2019	\$12.00	5% - 8%	\$11.00	\$12.00	5% - 8%	\$11.00
January 1, 2020	\$13.00	8%	\$12.00	----		----
July 1, 2020	----		----	\$15.00	20%	\$14.00
January 1, 2021	\$14.00	7%	\$13.00	\$15.00 + CPI		\$15.00 + CPI

Understanding that most affected workers are employed in the private, for-profit sector (non-profit and public employees are less likely to be affected than the overall workforce), and that the industries where the most affected workers hold jobs are in retail trade (17.1%), food services (12.9%), and health services (8.4%), staff relied on the Santa Rosa Metro Chamber to create and promote a survey. Links to this survey were shared by other groups, too, with the data ultimately collected by the Chamber. (See **Attachment 8** for the full survey results)

Survey Highlights:

- 57% of the respondents represent businesses as the owner or owner/operator of the organization, and 41% hold the position of executive director or manager. The average years in business was 29, the median 28 years. 30.4% of the 69 businesses responding have employees currently earning minimum wage.
- 70% of respondents agree with the SB 3 classification of small (≤ 25 employees) and large (≥ 26 employees) businesses

ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA CITY CODE TO
ESTABLISH MINIMUM WAGES TO BE PAID BY EMPLOYERS WITHIN THE CITY OF
SANTA ROSA
PAGE 9 OF 10

- Employee size of the 63 responding businesses (6 of the 69 responding businesses have no employees based in Santa Rosa)
 - \leq 25 employees – 40 respondents
 - \geq 26 employees – 15 respondents
 - $>$ 100 employees – 8 respondents
- 42% indicated the immediate impact of an increase of the minimum wage to \$15.00/hour would have no impact on their business. 47% indicated it would cause a reduction of staff or services/hours.
- When asked what the effect would be on staff, 49% indicated there would be no impact or the change would increase stability of staff and provide a higher quality of life for staff. 43% indicated there would be reductions in staffing, mostly between 1-9 positions.

FISCAL IMPACT

At this time, there is little to no fiscal impact. Staff will address expenses associated with the minimum wage ordinance in the Fiscal Year (FY) 2020-21 Proposed Budget. Costs may be associated with enforcement and notification for the minimum wage which, based on the experience of other cities in the Bay Area, range as high as \$200,000 per year. Additionally, there will be a fiscal impact to the Recreation Department associated with seasonal temporary workers.

There are no compaction issues within the City for non-temp staff as the lowest hourly wage for a permanent employee is \$17.60.

Regarding part-time seasonal workers, recreation and parks services utilize 133,000 hours of seasonal temporary employee hours annually, equivalent to 64 FTEs in six seasonal temporary employee job classifications. In 2017 the Recreation & Parks Department, in cooperation with Human Resources and approved by the City Manager, prepared a wage scale for each of the six seasonal temporary job classifications that meets the state minimum wage requirements between 2017 and 2022, included on Attachment 9. The schedule also maintains a wage structure for the recruitment and retention of seasonal employees that recognizes the increasingly complex work required by some of the positions in City operations. The City Council adopted the most recent update to the Salary Schedule, which included these temporary classifications, on March 14, 2019.

Adoption of an accelerated minimum wage schedule will have negligible impact in FY 19-20 due to the state minimum wage increasing to \$13.00/hr on January 1, 2020, which was taken into account during budget planning. Impacts for a \$15.00/hr minimum wage in FY 20-21 and the compaction to the wage scale for Recreation's seasonal temporary workers will be approximately \$350,000, as reflected for the various business units on Attachment 9. In FY 20-21, the seasonal job classifications for Recreation Aide and Recreation Leader

ORDINANCE ADDING CHAPTER 10-45 TO THE SANTA ROSA CITY CODE TO
ESTABLISH MINIMUM WAGES TO BE PAID BY EMPLOYERS WITHIN THE CITY OF
SANTA ROSA
PAGE 10 OF 10

would be accelerated to the \$15.00/hr and the remaining seasonal job classifications would be adjusted accordingly. (see **Attachment 9**, Recreation and Parks Seasonal Employee Minimum Wage Analysis)

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

ATTACHMENTS

- Attachment 1: SB 3 Phase-in / FAQ
- Attachment 2: North Bay Local Minimum Wage Ordinances Chart
- Attachment 3: Sonoma County Cities and Santa Rosa Comparator Cities Minimum Wage List
- Attachment 4: Average Annual CPI-W
- Attachment 5: UCLA and UC Berkeley Centers for Labor Research and Education best practices report on enforcing city minimum wage laws
- Attachment 6: Bureau of Labor statistics – Santa Rosa Area Economic Summary
- Attachment 7: Bureau of Labor statistics – Occupational Employment and Wages in Santa Rosa
- Attachment 8: Santa Rosa Metro Chamber Survey
- Attachment 9: Recreation and Parks Seasonal Employee Minimum Wage Analysis
- Attachment 10: Correspondence

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