

Frequently Asked Questions about the Local Minimum Wage Ordinance

- **How much is the City's Local Minimum Wage rate?**
 - Starting on January 1, 2023, the City's local minimum wage will increase to \$16.45, which is the current minimum wage plus the consumer price index (CPI) which is 5.7%.
 - The minimum wage in Half Moon Bay will be adjusted according to the Consumer Price Index (CPI).
 - All businesses within Half Moon Bay's boundaries are subject to pay the new minimum wage. The local minimum wage applies to employees working two or more hours a week within the geographic boundaries of Half Moon Bay. The minimum wage applies to companies not located within Half Moon Bay, but have employees who work within Half Moon Bay.
- **When does the change go into effect?**
 - The update wage rate goes into effect January 1, 2023, increasing the minimum wage to \$16.45 per hour.
- **Are non-profit organizations exempt from the City of Half Moon Bay's Minimum Wage requirements?**
 - No, non-profit organizations are not exempt from the minimum wage requirements. All businesses operating within the geographic boundaries of Half Moon Bay must pay employees who work two or more hours per week the local minimum wage.
- **Are small businesses exempt from the City of Half Moon Bay's Minimum Wage requirements?**
 - No, the City of Half Moon Bay minimum wage ordinance does not exempt small businesses. All businesses operating within the geographic boundaries of Half Moon Bay must pay employees who work two or more hours per week the local minimum wage.
- **Are tips and/or gratuity considered a part of the Minimum Wage hourly rate?**
 - No, tips and gratuity are not considered a part of the minimum hourly wage rate and may not offset the hourly 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.
- **Can an employee agree to work for less than the City of Half Moon Bay Minimum Wage?**
 - No, employees may not agree to work for less than the Half Moon Bay Minimum Wage unless there is a bona fide collective bargaining agreement in place.
- **Does the City minimum wage apply to employees who work in Half Moon Bay, but are not residents of Half Moon Bay?**
 - Yes, any person who works for an employer that maintains a facility in the City of Half Moon Bay or provides good and/or services within the City limits is eligible to be paid at the City of Half Moon Bay's minimum wage rate.
- **My company is located in the City of Half Moon Bay, but I have employees who work outside of the City of Half Moon Bay. Do I have to pay the Minimum Wage to these employees?**
 - No, only employees who work within the geographic boundaries of the City of Half Moon Bay are subject to the City's minimum wage. All businesses operating within the

geographic boundaries of Half Moon Bay must pay employees who work two or more hours per week the local minimum wage.

- **My company is not located in the City of Half Moon Bay, but I have employees who work in in the City of Half Moon Bay. Do I have to pay the Minimum Wage to these employees?**
 - Yes, any employee who works within the geographic boundaries of the City of Half Moon Bay is subject to the City of Half Moon Bay’s Minimum Wage Ordinance.
- **Are employees classified as “learners” paid the minimum wage according to the City of Half Moon Bay Minimum Wage Ordinance?**
 - An employee who is a Learner, as defined by the 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 hours of employment. Thereafter, the employee shall be paid the applicable Minimum Wage Rate.
- **What are my rights as an employee?**
 - The minimum wage in Half Moon Bay is increasing on January 1, 2023, to \$16.45 per hour. This applies to all employees working within the geographic boundaries of the City of Half Moon Bay, working two or more hours per week. All employees have rights pertaining to filing claims against employers who do not comply with the local minimum wage.
 - To file a complaint, you must submit in writing the nature of noncompliance to the City so they may investigate. When filing a complaint, the City considers all information confidential to the maximum extent permitted by law. It is illegal for employers to retaliate against an employee that brings a claim against them, even if the claim ends up being mistaken. The City will investigate claims and enforce wage violations.
 - As an Employee, you have certain protected rights under the law. These include the right to file a complaint about any employer’s alleged noncompliance. You may also inform any person of their rights as an employee and may assist them in asserting their rights (filing a claim, etc.). If violations are proved, the employee may receive the payment of back wages that were unlawfully withheld. Moreover, additional payment of up to \$50 per Employee/person whose rights were violated per day the violation occurred. The Employee is also entitled to interest accrued on all due and unpaid wages from the day wages were due to the date the wages are paid in full. These are just a couple examples of types of relief an Employee can receive if an employer does not comply with the Local Minimum Wage.
 - An Employee who is considered a Learner may be paid no less than 85% of the minimum wage for the first 160 hours of employment, after that the local minimum wage will prevail.
 - It is unlawful for employers to deduct or credit wages because of tips or gratuity.
- **What are the penalties for employers that do not pay the City of Half Moon Bay Minimum Wage?**
 - The City may issue an administrative citation with a fine of not more than \$50 for each day and for each employee to whom the violation occurred or continued and payment of back wages unlawfully withheld;
 - The City may issue an administrative compliance order;

- The City may initiate a civil action for injunctive relief and damages and civil penalties in a court of competent jurisdiction;
- Reimbursement of the City's administrative costs of enforcement and reasonable attorney's fees;
- The City may revoke or suspend any registration certificates, permits or licenses held or requested by the employer until the violation is remedied.
- **What are the penalties for not complying with the new minimum wage?**
 - The City is responsible for conducting all investigations of any possible violations by an employer or other person. The City has the authority to inspect workplaces, interview people, and request the City Attorney to subpoena books, papers, records or other items relevant to the enforcement of the minimum wage. It is highly recommended to keep thorough records of all employees and their pay. To protect yourself and business, keeping records for 3 years will ensure that if a claim is wrongfully brought against you, there will be proof of compliance with the MWO. If there are no records or other clear and convincing evidence, the employee will be presumed to have the most accurate information.
 - Failure to pay the minimum wage is a violation that, if happens, starts the day after the paycheck with the incorrect minimum wage was given, and continues to be in violation until the day before the correct minimum wage is paid in full. Along with civil action by an employee, entity, or entity acting on behalf of those whose rights were violated, the City may also issue fines of up to \$50 per day per employee who did not receive the accurate minimum wage. The City may also issue an administrative compliance order and may initiate civil action itself.
 - It is considered retaliation if an employee is terminated within 120 days of when they exercise their protected rights, i.e. if they bring a claim against a business that is not in compliance. The Ordinance also protects people who mistakenly, but in good faith, claims a business is not compliant.
- **What else besides paying the City of Half Moon Bay Minimum Wage to employees are required to do?**
 - Each year, the City will publish a bulletin notice by November 1 on the Minimum Wage web page. It is the business owner's responsibility to post the new wage rate and bulletin from the City in the workplace, in a location that employees may view the new rate along with their rights. All employees must be able to read and understand the rate, so posting in other languages is recommended.
- **What is CPI and how is it being used for Minimum Wage?**
 - The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for goods and services.
 - The CPI is used as an economic indicator measuring inflation, a deflator of economic series and as a means of adjusting dollar values. This relates to the minimum wage in that it adjusts consumers' income payments to automatically provide cost-of-living wage adjustments. So, if the cost of living increases or decreases in a year, the local minimum wage will reflect that by adding a percentage to the current minimum wage. The CPI will always be based on the previous year, calculated by using the August to August change. For example, if the cost of living increases by 5% in 2021, then on January 1, 2022 the

minimum wage will be \$15.00 per hour PLUS \$15 x 5%, making the new minimum wage \$15.75 per hour.

- NOTE: A decrease in the CPI will not result in a decrease in the Minimum Wage.
- **What is the difference between the Federal, State and Half Moon Bay's proposed minimum wage laws?**
 - The minimum wage established by Federal, State and local government law sets the lowest wage an employer may legally pay to workers.
 - The Federal minimum wage for covered nonexempt employees has been \$7.25 per hour since July 24, 2009.
 - As of January 1, 2023, the minimum wage set by the State of California for all industries will be \$14.00 per hour for businesses with less than 25 employees and \$15.00 per hour for businesses with 26 or more employees. After 2023, future wage increases are tied to inflation, reflecting increases in the Consumer Price Index, up to 3.5% per year.
 - The Half Moon Bay City Council made implementing a \$15 per hour minimum wage one of their five priorities for Fiscal Year 2019-2020. On February 4, 2020, the City Council adopted the local minimum wage ordinance that increases local minimum wage to \$15 on January 1, 2021. This new law applies to all businesses within the geographic boundaries of Half Moon Bay and any employee working at least two or more hours per week.
- **What relief may I get as an employee whose rights were violated by an employer that did not pay the local Minimum Wage?**
 - The remedies for violation of the local minimum wage include, but are not limited to:
 - Reinstatement, and the payment of back wages unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of \$50 to each employee whose rights were violated for each day that the violation occurred, and fines imposed pursuant to other provisions of the local minimum wage ordinance or State law,
 - Interest on all due unpaid wages at the rate of interest specified in subdivision (b) of Sec. 3289 of the California Civil Code, which accrues from the date that the wages were due and payable as provided to the date the wages are paid in full.
- **Where can I get more information about the City of Half Moon Bay's Minimum Wage?**
 - To get more information on the City of Half Moon Bay Minimum Wage, you may go to the City's website: www.hmbcity.com/minimumwage, e-mail minimumwage@hmbcity.com or call the City Manager's Office at (650) 750-2010.
- **Who do I contact if my employer is not paying the Minimum Wage?**
 - To report a possible violation, contact:

City of Half Moon Bay, City Manager's Office
501 Main Street
Half Moon Bay, CA 94019
(650) 750-2010
minimumwage@hmbcity.com