What is the City of San Carlos Minimum Wage Ordinance and Who Does it Apply to?

1. What is the City of San Carlos Minimum Wage Ordinance and how does this affect my business?

   The San Carlos City Council adopted an Ordinance to establish a local minimum wage that applies to all employees working in San Carlos. The Ordinance requires employers that maintain a place of business or perform any work/service within San Carlos city limits pay the local minimum wage rage to its employees. The Ordinance is effective January 1, 2021.

2. What is the Minimum Wage in the City of San Carlos?

   Beginning January 1, 2021, the minimum wage is $15.00 per hour plus the annual change in Consumer Price Index at a maximum of 3.5% (maximum wage $15.53 per hour). The minimum wage will be adjusted annually on January 1 based on the regional Consumer Price Index (CPI) to a maximum of 3.5%.

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

   City of San Carlos employers are subject to Federal, State and San Carlos 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 San Carlos’s minimum wage is higher than the State and Federal law, covered employers are required to pay the City’s minimum wage.

4. Does the San Carlos Minimum Wage apply to employees who are under the age of 18?

   Yes, there is no age limit for eligibility for the minimum wage.

5. Are employees classified as “learners” paid the minimum wage according to the San Carlos 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.
6. 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 San Carlos.

7. Does the San Carlos Minimum Wage Ordinance apply to undocumented workers?

Yes, all workers in the city of San Carlos, 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.

8. Are salaried employees exempt from the San Carlos Minimum Wage requirements?

Yes, salaried employees are subject to State law. The current law requires a minimum monthly salary of no less than two times the State minimum wage for full-time employment. Additional information is available online at http://www.labor.ca.gov/.

9. Are small businesses exempt from the San Carlos Minimum Wage requirements?

No, the City of San Carlos Minimum Wage Ordinance does not exempt small businesses.

10. Are non-profit organizations exempt from the San Carlos Minimum Wage requirements?

No, non-profit organizations are not exempt from the Minimum Wage Ordinance requirements.

11. Does the Minimum Wage apply to employees who work in San Carlos, but are not San Carlos residents?

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

12. What else besides paying the San Carlos Minimum Wage to employees am I required to do regarding minimum wage?

Employers must post the Minimum Wage Official Notice informing employees of the rate and their rights in the workplace in an area where it can be easily seen by employees. 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. Employers must retain payroll records pertaining to employees for a period of three (3) years, and must allow the City or its enforcement service provider to access such records in the event of a violation investigation.

13. Does the San Carlos Minimum Wage go up annually, if so, how is this adjusted?

The minimum wage will increase annually based on the regional Consumer Price Index (CPI) to a maximum of 3.5% of the previous years’ rate. A decrease in the CPI shall not result in a decrease in the minimum wage. The City will notify employers of increases by November 1 each year.

14. 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.

15. Are tips considered a part of the Minimum Wage hourly rate?

No, tips are not considered a part of minimum wage and may not offset the hourly wage.

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

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

17. My company is located in the City of San Carlos, but I have employees who work outside of the City of San Carlos. Do I have to pay the Minimum Wage to these employees?
No, only employees who work within the geographic boundaries of the City of San Carlos are subject to the City’s minimum wage.

18. Can an employee agree to work for less than the San Carlos Minimum Wage?

No, employees may not agree to work for less than the City’s minimum wage unless there is a bona fide collective bargaining agreement in place.
Employee Rights and Where to Report Violations

19. What are my rights as an employee under the Minimum Wage Ordinance?

Employees have the right to report any violation of the Ordinance to the City’s enforcement provider. The City will investigate possible violations and may take enforcement action including reinstatement of the employee, payment of back wages, and civil penalties. Under the Ordinance, an employer may not retaliate against an employee for making a complaint to the City regarding his/her right to receive the minimum wage specified. Employees also have the right to file a civil lawsuit against their employers for any violation of the Ordinance.

20. What are the penalties for employers that do not pay the San Carlos Minimum Wage?

Penalties to the employer for violation of the Ordinance include but are not limited to:

i. Payment of back wages unlawfully withheld, and a civil penalty of $50 per day per employee.
ii. 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.
iii. Reimbursement of the City’s administrative costs of enforcement and reasonable attorney fees.
iv. Assessment of additional fees as a civil penalty of $50 to the City for each day for each employee whose rights were violated.

21. Where can I get more information about the San Carlos’s Minimum Wage?

If you have questions or need additional information, please contact the City of San Carlos at:

City of San Carlos - City Manager’s Office
600 Elm Street, San Carlos, CA 94070
Phone: (650) 802-4204
Email: minimumwage@cityofsancarlos.org

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

Beginning January 1, 2021, the City of San Carlos will contract with the San Jose Office of Equality Assurance to provide enforcement for the Minimum Wage Ordinance.
To report a possible violation *after January 1, 2021* contact:

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