

San Mateo Minimum Wage Ordinance Frequently Asked Questions

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General questions

1. What is the County of San Mateo Minimum Wage Ordinance?

The Minimum Wage Ordinance is a law that sets a minimum wage for all workplaces within [unincorporated San Mateo County](#). The Minimum Wage Ordinance has been in effect since April 1, 2023, and the minimum wage rate is updated each year on January 1. In July 2025, the Minimum Wage Ordinance was amended to authorize the [Office of Labor Standards and Enforcement](#) to enforce the Ordinance and to establish penalties for violations.

2. How much is the minimum wage in unincorporated San Mateo County right now?

As of January 1, 2025, the minimum wage in unincorporated San Mateo County is \$17.46 per hour. The minimum wage rate will next be updated in accordance with the Consumer Price Index on January 1, 2026.

3. What parts of San Mateo County does the Minimum Wage Ordinance apply to?

The Minimum Wage Ordinance applies to work performed in [unincorporated San Mateo County](#). In many cases, an address located in the unincorporated area may include the name of an incorporated city or town. To check whether a business or worksite is located within the boundaries of the unincorporated area, [use this tool](#).

4. Does an employer based outside of unincorporated San Mateo County have to pay the minimum wage rate to employees who work in unincorporated San Mateo County?

Yes. Regardless of their business location, employers must pay at least the San Mateo County minimum wage rate to all employees who work at least two hours per week in unincorporated San Mateo County for all hours worked within the [geographic boundaries of the unincorporated area](#).

Example 1: Andrew owns a sandwich shop in Pacifica, an incorporated city. Each Saturday, two of his employees operate a pop-up location by the beach in San Gregorio, in the unincorporated area. Andrew must pay the employees who operate the pop-up location at least the San Mateo County minimum wage for all hours spent working at the pop-up, and any other time worked in the unincorporated area.

Example 2: Michelle is a farm labor contractor based in Salinas, Monterey County. She assigns a crew of workers to a farm near Pescadero, in unincorporated San Mateo County. Michelle must pay at least the San Mateo County minimum wage to these employees for all their work on the Pescadero farm, and any other time worked in the unincorporated area.

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

No. The County of San Mateo Minimum Wage ordinance only applies to work performed within the [unincorporated areas of the County](#). However, many San Mateo County cities have their [own minimum wage laws](#), as does the state of California.

6. There are several minimum wage laws: federal, state, and County of San Mateo. What is the difference, and which one applies to local businesses?

San Mateo County employers are subject to federal, state, and local minimum wage laws. In the unincorporated areas, the local minimum wage law is the County of San Mateo Minimum Wage Ordinance. Many incorporated cities have their own [local minimum wage laws](#). In



cities that do not have a local minimum wage law, employers must pay the California minimum wage.

When a local law and a state or federal law have different requirements, employers must follow the law that is most protective to workers.

Example 3: Belén is opening a restaurant in North Fair Oaks, in unincorporated San Mateo County. In setting up payroll, she considers whether she needs to pay her employees the California minimum wage of \$16.50 per hour or the County of San Mateo minimum wage of \$17.46 per hour. Because the County's minimum wage is higher, it is more protective to workers. Belén must pay her workers at least \$17.46 per hour, the County minimum wage.

7. Where can I get help understanding my rights or obligations?

Workers and employers can contact the [Labor Advice Hotline](#), provided by OLSE, to learn more about their rights and obligations under the County of San Mateo Minimum Wage Ordinance and other laws that apply to workplaces in San Mateo County. The Labor Advice Hotline can be reached at **1-866-870-7725** and is staffed by multilingual attorneys. All consultations are free and confidential.

Employees and businesses covered by the law

8. Which employees are covered by the County of San Mateo Minimum Wage Ordinance?

The Minimum Wage Ordinance applies to virtually all workers in [unincorporated San Mateo County](#), as long as the employee works at least two hours per week within the geographic boundaries of the unincorporated area. Workers covered by the Ordinance include:

1. Full-time employees
2. Part-time employees
3. Temporary and seasonal employees
4. Per diem and on-call employees
5. Employees who live outside of unincorporated San Mateo County but work within the unincorporated area
6. Employees of any age, including minors

Example 4: Marisol, a high school junior, gets a part-time summer job working for a sandwich shop based in Pacifica (see Example 1). On Saturdays, Marisol is assigned to work at the shop's pop-up location by the beach in San Gregorio, in unincorporated San Mateo County. Her Saturday shifts are typically 6 hours long. Marisol is covered by the San Mateo County Minimum Wage Ordinance and must be paid at least \$17.46 per hour for all hours spent working at the pop-up, and any other time worked in the unincorporated area.

9. Does the Minimum Wage Ordinance apply to undocumented workers?

Yes. All workers have the same rights and protections under the County of San Mateo Minimum Wage Ordinance, regardless of where they were born or what their legal status is. City, state, and federal minimum wage laws also apply regardless of immigration status.



The [Office of Labor Standards and Enforcement](#) will answer questions and process minimum wage complaints without regard to legal status. An employee's legal status is not relevant to an OLSE investigation, so OLSE will never ask about it.

10. Does the Minimum Wage Ordinance apply to independent contractors?

No. The Minimum Wage Ordinance applies to all workers who work at least two hours per week in unincorporated San Mateo County and are considered "employees" for the purposes of California's minimum wage law. The state minimum wage law does not apply to "independent contractors."

However, many workers whose employers call them "independent contractors" may in fact be employees under the law. When an employer treats somebody who is an employee under the law as an independent contractor, the employer is "[misclassifying](#)" them.

Whether a worker is an "[employee](#)" or an "[independent contractor](#)" depends on how they do their work, not their job title. Most California and San Mateo County workers are considered employees unless their employer can answer "yes" to all three of the following questions:

1. Is the worker free from the employer's direction and control in connection with the performance of the work?
2. Is the worker doing work that is not part of the usual course of the employer's business?
3. Is the worker customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed?

Determining whether a worker is an employee or an independent contractor can be complicated. The [Office of Labor Standards and Enforcement](#) encourages workers with questions about their coverage status to contact the free and confidential [Labor Advice Hotline](#) at **1-866-870-7725** to analyze their specific situation with the help of an attorney.

11. Does the Minimum Wage Ordinance apply to gig workers?

Many, but not all, gig workers are covered by the County of San Mateo Minimum Wage Ordinance, provided they work at least two hours per week in the unincorporated areas.

As discussed in [FAQ 10](#), the Minimum Wage Ordinance applies to workers who are considered "employees" as that term is used in California's minimum wage law. The state minimum wage law does not apply to many "independent contractors," which includes some gig workers. For example, certain app-based ridesharing and delivery workers [are considered independent contractors](#) under Proposition 22. However, many other gig workers may be considered "employees" covered by the Minimum Wage Ordinance and other protections if the company they work for cannot answer "yes" to [all three questions above](#).

Whether a gig worker is covered by the Ordinance depends on the details of their work situation. The [Office of Labor Standards and Enforcement](#) encourages gig workers with questions about their coverage status to contact the free and confidential [Labor Advice Hotline](#) at **1-866-870-7725** to analyze their specific situation with the help of an attorney.

12. Are there exceptions to the Minimum Wage Ordinance for small or family-run businesses?

No. All employers must pay the San Mateo County minimum wage to all employees who work at least two hours per week within the unincorporated areas of the County, regardless of the size of



their business. Employers must pay the minimum wage to most family members, but there is a narrow exception: employees who are the **parent, spouse, or child** of the business owner are not covered the Ordinance.

Example 5: Carolina runs a small flooring company that is working on a major job in El Granada, in unincorporated San Mateo County. In addition to three unrelated employees, Carolina’s husband and nephew work for her business. Carolina must pay her nephew and the unrelated employees at least the San Mateo County minimum wage for all work performed in the unincorporated areas, but Carolina’s husband is not covered by the Minimum Wage Ordinance.

13. Can an employee agree to work for less than the County of San Mateo minimum wage?

No. In general, employees cannot give up (or “waive”) their right to be paid the County of San Mateo minimum wage, even if they signed an agreement that says they did.

However, in rare cases, rights under the Minimum Wage Ordinance may be waived in a Collective Bargaining Agreement (CBA). For a CBA waiver to be valid, all three of the following must be true:

7. The work performed is **not** in the property services industry; and
8. The CBA or addendum containing the waiver specifically states that employees covered by the CBA waive County-mandated minimum wage rates that are higher than contractually required wage rates for any group of covered employees; and
9. The entire CBA or addendum containing the waiver was negotiated and finalized **before** April 1, 2023.

Workers in the property services industry who cannot waive their minimum wage rights even through a CBA include janitors, landscapers, groundskeepers, and security guards.

Minimum wage rate

14. How is the San Mateo County minimum wage rate calculated?

The original minimum wage rate was set at \$16.50 by the San Mateo County Board of Supervisors in April 2023. Under the Minimum Wage Ordinance, the minimum wage rate is adjusted each year using a calculation set forth in the Ordinance.

Each January 1, the minimum wage rate is increased from the previous year’s rate by the lesser of:

- 3.5 percent, or
- The percent increase from the prior year in [the Consumer Price Index for Urban Wage Earners and Clerical Workers](#) (CPI-W).

On January 1, 2025, [the minimum wage was increased](#) from \$17.06 to \$17.46.

15. Are employees classified as “learners” entitled to the full minimum wage?

Workers who are classified as “learners” under California law are covered by the Minimum Wage Ordinance but may be paid a reduced rate of 85% of the minimum wage for their first 160 hours of work. A “learner” is a worker who is learning a new skill and has no similar or related experience. For help determining whether you or someone you employ is a learner, contact the [Labor Advice Hotline](#) at **1-866-870-7725** for a free and confidential attorney consultation.



16. Are tips included in the minimum wage?

No. Employers may not use their employees' tips as a credit towards their obligation to pay the San Mateo County minimum wage.

17. May commissions be counted toward payment of the San Mateo County minimum wage?

Yes. Commissions may be counted toward payment of the San Mateo County minimum wage. If the employee's commissions plus any other compensation they earn add up to an amount equal to or greater than their total hours multiplied by the minimum wage during each pay period, the employer has satisfied their minimum wage obligations.

18. If an employer provides a worker with housing and/or meals, can these costs be counted towards payment of the San Mateo County minimum wage?

It depends. An employer may only use the costs of meals and lodging provided to an employee as a credit towards its minimum wage obligations if the following strict conditions are met:

1. The employee agreed, in writing, to allow the employer to offset the costs of meals and/or lodging from their minimum wage obligations before the employer started doing so;
2. The employee's agreement to the offset was voluntary; and
3. The housing and meal costs credited towards the employer's minimum wage obligations do not exceed [the maximum credits set by California law](#).

19. Are employees who are paid in cash entitled to the same minimum wage?

Yes. Employees in the unincorporated areas of the County must be paid the minimum wage regardless of how they are paid—whether by cash, check, direct deposit, or some other method.

Retaliation

20. Can an employer penalize a worker for asking to be paid the minimum wage under the County of San Mateo Minimum Wage Ordinance?

No. Retaliation is illegal. No employer—or any other person acting on an employer's behalf—can retaliate against employees for exercising or attempting to exercise their rights under the Minimum Wage Ordinance, including by asking to be paid the minimum wage.

Other ways employees might attempt to exercise their rights under the Ordinance that are also protected from retaliation include:

- Complaining to employers or supervisors about possible minimum wage violations
- Talking to coworkers about minimum wage rights or concerns
- Consulting with legal service providers or other advocates about minimum wage concerns
- Making a complaint to OLSE, the California Labor Commissioner, or another government agency about problems with the minimum wage at work
- Filing or participating in a lawsuit about minimum wage violations
- Participating in an OLSE investigation, or sharing information with OLSE or another government agency

An employee does not have to specifically refer to the Minimum Wage Ordinance to be protected from retaliation.



21. What is retaliation?

Retaliation is any action that penalizes a worker covered by the minimum wage ordinance for exercising or attempting to exercise their rights under the Ordinance. It can include:

- threats;
- intimidation;
- discipline;
- discharge;
- demotion;
- suspension;
- harassment;
- discrimination;
- cuts to an employee's hours or pay;
- reassignment to worse job duties or hours;
- informing another employer of a worker's exercise of rights under the Ordinance; or
- blacklisting.

Retaliatory actions include those related to an employee's perceived immigration status or work authorization, such as requiring an employee to [re-verify their employment eligibility](#) because the employee has attempted to exercise their rights under the Minimum Wage Ordinance.

There is a rebuttable presumption of retaliation if an employer takes any adverse action against a worker within 90 days of the worker exercising their rights under the Minimum Wage Ordinance.

Example 6: Shireen starts a new job at a restaurant in the unincorporated area of San Mateo County. She is paid at the San Mateo County minimum wage rate, but after a few months, she notices that her employer is shaving time off her paychecks: not paying her for all the hours she works. She goes to her manager with her most recent paystub, which show 35 hours worked, and her own log of her hours during that pay period, which shows 37. Her manager becomes angry, and the next day, Shireen is fired for insubordination.

Q: Could this be retaliation?

A: Yes. Shireen attempted to exercise her rights under the Minimum Wage Ordinance, and her employer fired her just one day later. Because of this timing, there is a rebuttable presumption that Shireen's employer unlawfully retaliated against her. Unless the employer can point to clear and convincing evidence that they fired Shireen for a reason other than her exercise of rights, the employer is in violation of the law.

22. What can I do if my employer retaliated against me for exercising my rights under the County of San Mateo Minimum Wage Ordinance?

Workers who believe they have been retaliated against for exercising their rights under the Minimum Wage Ordinance should contact the [Office of Labor Standards and Enforcement](#) as soon as possible by calling the [Labor Advice Hotline](#) at **1-866-870-7725** or sending an email to olse@smcgov.org. OLSE can order the employer to reinstate the worker, restore their hours, or otherwise take back the retaliatory action—in addition to seeking back wages and penalties.



Workers who experience retaliation may also file a lawsuit against their employers in court or may file claims with the California Labor Commissioner.

Notice and recordkeeping

23. What information do employers have to give employees about their rights under the County of San Mateo Minimum Wage Ordinance?

Employers must inform all employees of their rights under the Minimum Wage Ordinance in writing. This includes providing the current minimum wage rate and informing employees of their right to report problems to the [Office of Labor Standards and Enforcement](#) and be protected from retaliation. Employers may use [the Minimum Wage Notice poster](#) provided by OLSE to ensure they are in compliance with the Ordinance.

Employers must provide the required rights information to workers by:

- Giving each employee a written Minimum Wage Notice (or document containing the substantially the same information) every year after the minimum wage increases, or at their time of hire if the employee starts mid-year; **AND**
- Posting the Minimum Wage Notice in the workplace in an area where it is visible and will be seen by all employees.

In addition, employers must provide each employee, at the time of hire, with the employer's name, address, and telephone number in writing.

24. What records must employers covered by Minimum Wage Ordinance keep?

Employers must keep records documenting their compliance with the Minimum Wage Ordinance. This includes keeping the following records for each current and former employee:

1. **Contact information:** The employee's name, phone number, and email address if the employer uses email to communicate with their employees;
2. **Timekeeping information:** Hours worked each day, and start and end time of work each day, including any breaks;
3. **Payroll information:** For each pay period, all rates of pay applicable to the employee, how many hours the employee worked at each rate of pay, all other compensation paid to the employee, and all deductions made from the employee's pay.

Employers must keep records documenting their compliance with the County of San Mateo Minimum Wage Ordinance for four years, including but not limited to all the records listed above.

25. When must employers make records available to OLSE?

An employer under investigation by the [Office of Labor Standards and Enforcement](#) must provide requested records to OLSE within the timeframe listed in the OLSE Notice of Investigation, unless OLSE and the employer agree on a different timeframe. Additionally, employers must allow OLSE access to all their workplaces within unincorporated San Mateo County during business hours.

26. When must employers make records available to workers?

If an employee requests, employers must provide the employee with a copy of all records the employer is required to maintain under the Minimum Wage Ordinance within 21 days of the employee's request.



27. What are the consequences of an employer's failure to provide records to OLSE?

An employer's failure to maintain or produce a record that is required to be maintained under the Minimum Wage Ordinance and is requested by OLSE during an investigation may subject the employer to civil penalties and a rebuttable presumption that the employer has violated the Minimum Wage Ordinance.

Complaints and enforcement

28. What can I do if my employer doesn't pay me at least the San Mateo County minimum wage?

Workers covered by the Minimum Wage Ordinance can report problems to the [Office of Labor Standards and Enforcement](#). Complaints can be made by contacting OLSE's free and confidential Labor Advice Hotline at **1-866-870-7725**, or by email to OLSE@smcgov.org. OLSE accepts complaints in all languages and will provide free interpretation services if desired.

Employees may also file minimum wage complaints with the California Labor Commissioner or in court. Employees are not required to file a complaint with OLSE before filing a lawsuit in court.

29. What happens if an employee files a complaint with OLSE and a lawsuit in court?

The [Office of Labor Standards and Enforcement](#) may decline to investigate a minimum wage complaint if a Labor Commissioner investigation or lawsuit regarding the same allegations is already in progress when the worker files their complaint. Likewise, OLSE may pause its investigation if a worker files a lawsuit after an investigation has already started.

If a court or Labor Commissioner case is resolved by judgment or settlement, OLSE will not further investigate the violations resolved by the judgment or settlement but may investigate any violations at the same workplace not covered by the resolution.

Note: OLSE is authorized to open a minimum wage investigation on its own initiative, regardless of whether there is a California Labor Commissioner claim or lawsuit pending.

30. Is there a deadline for employees to file complaints about violations of the County of San Mateo Minimum Wage Ordinance?

Yes. In general, employees must file complaints with the [Office of Labor Standards and Enforcement](#) or in court within three years of the date the last violation they allege occurred.

31. What does OLSE do with complaints about violations of the Minimum Wage Ordinance?

The [Office of Labor Standards and Enforcement](#) investigates complaints to identify any potential violations of the Ordinance. This generally involves collecting information from the employee, the employer, and any other parties that may have relevant information.

If, as a result of the investigation, OLSE determines that a violation has occurred, OLSE works with the employer to come into compliance and attempts to resolve the case.

If OLSE and the employer are unable to reach a voluntary resolution, OLSE will issue an Administrative Citation ordering the employer to pay all back wages and penalties owed. Alternatively, the County Attorney's Office may initiate a lawsuit.



32. Does OLSE keep employees' identities confidential?

Yes. The [Office of Labor Standards and Enforcement](#) keeps the identities of complainants and witnesses—including people who provide information to OLSE who are not complainants—confidential unless disclosing their identity is necessary to resolve the investigation, required by law, or otherwise impracticable to avoid. OLSE will make every effort to notify a complainant or witness before disclosing their identity if possible.

33. I am not a U.S. citizen. Can I still file a complaint?

Yes. All workers have the same rights and protections under the County of San Mateo Minimum Wage Ordinance, regardless of their legal status. The [Office of Labor Standards and Enforcement](#) will not collect any information about a worker's legal status to pursue a complaint.

34. Can OLSE open minimum wage investigations without receiving a complaint?

Yes. The County of San Mateo Minimum Wage Ordinance authorizes the [Office of Labor Standards and Enforcement](#) to open an investigation on its own initiative, including when it has reason to believe that an employer might have violated the Ordinance. OLSE does not need to receive an employee complaint to begin an investigation.

35. What are the consequences of violating the Minimum Wage Ordinance for an employer?

Under the Minimum Wage Ordinance, the [Office of Labor Standards and Enforcement](#) or a judge may order an employer who violates the Ordinance to pay damages and fines to the worker and the County. This includes:

1. **Back wages:** the difference between the wages the employer actually paid the employee, and the wages they should have paid the employee under the Minimum Wage Ordinance;
2. **Interest on back wages:** interest in the amount of 10% per year on all back wages owed to the employee, calculated from the date the wages should have been paid to the date the wages are paid in full; **AND**
3. **[Effective July 10, 2025] Administrative penalties** of up to \$50 per day for each day a violation that impacted the employee existed.

In retaliation cases, back wages may also include compensation for wages lost due to the employer's retaliation. OLSE or a judge may also order the employer to reinstate an unlawfully fired worker or otherwise take back any retaliatory action.

In addition, OLSE or a judge may order the employer to pay the County:

4. **[Effective July 10, 2025] Administrative fees** of up to \$50 per employee per day for each day a violation of the Minimum Wage Ordinance existed, and each employee who experienced the violation; **AND**
5. **[Effective July 10, 2025] Administrative penalties** for the following specified violations of the Ordinance:
 - a. Failure to maintain payroll records for four years: \$500 per violation, up to \$5,000 per year;
 - b. Failure to provide OLSE with access to payroll records: \$500 per violation, up to \$5000 per year;



- c. Failure to post the Minimum Wage Notice: \$500 per violation, up to \$5000 per year;
- d. Failure to inform employees of an OLSE investigation, if OLSE requires the employer to do so: \$500 per violation, up to \$5000 per year;
- e. Failure to provide workers with the employer's name, address, and telephone number in writing at the start of employment: \$500 per violation, up to \$5000 per year; and
- f. Retaliation: \$1,000 per violation, up to \$10,000 per year.

Finally, if a worker or the County files a lawsuit to remedy violations of the Minimum Wage Ordinance, a judge can also order the employer to pay the worker or the County's attorney's fees and litigation costs.

36. Will OLSE seek administrative fees and penalties for violations of the San Mateo County Minimum Wage Ordinance that occurred before the July 10, 2025?

No. The [Office of Labor Standards and Enforcement](#) will only seek the administrative fees and penalties established by the July 2025 amendments for violations that occurred after July 10, 2025, when the amendments went into effect. However, OLSE will seek back wages and interest on back wages for any violation of the Minimum Wage Ordinance that occurred since it went into effect in April 2023.

Example 7: Shane has worked at a convenience store in the unincorporated area since March 2025. Her employer pays her at the California minimum wage of \$16.50 per hour and never provided her with notice of her rights under the Minimum Wage Ordinance. In August 2025, she learns about the County Minimum Wage from a neighbor and files a complaint with OLSE.

Q: If OLSE's investigation confirms that Shane's employer has violated her San Mateo County minimum wage rights, how much will OLSE order Shane's employer to pay her?

A: OLSE will order Shane's employer to pay her back wages—in this case, the difference between the California minimum wage and the San Mateo County minimum wage for all hours worked—and interest on back wages for the entire period of her employment. OLSE may also order Shane's employer to pay her administrative penalties of \$50 per day starting the first day after payday for the first full pay period following July 10, 2025.

37. Can employers appeal OLSE's determinations?

Yes. As described in [FAQ 30](#), when the [Office of Labor Standards and Enforcement](#) determines that a violation has occurred, OLSE will first work with the employer to come into compliance and attempt to resolve the case voluntarily.

If OLSE and the employer are unable to reach a voluntary resolution, OLSE will issue an Administrative Citation ordering the employer to pay all back wages and penalties owed. If the employer disagrees with the Administrative Citation, they may request an appeal hearing before a neutral Hearing Officer. The Hearing Officer will consider evidence and argument from both OLSE and the employer, and may uphold, dismiss, or modify OLSE's citation.

If the employer disagrees with the Hearing Officer's decision after the appeal hearing, the employer may seek judicial review by filing an appeal in San Mateo County Superior Court. A judge will conduct a de novo hearing, meaning that both OLSE and the employer will have a second chance to present their positions and evidence, and make a final decision.

