



STAFF REPORT

AGENDA NO: 10a

MEETING DATE: September 8, 2020

To: Honorable Mayor and City Council

Date: September 8, 2020

**From: Lisa K. Goldman, City Manager – (650) 558-7243
Kathleen Kane, City Attorney – (650) 558-7204**

Subject: Introduction of an Ordinance to Establish a Local Minimum Wage in Burlingame

RECOMMENDATION

Staff recommends that the City Council consider introduction of an ordinance adding Chapter 6.10 to the Burlingame Municipal Code establishing a local minimum wage. In order to do so, Council should:

- A. Receive the staff report and ask any questions of staff.
- B. Request that the City Clerk read the title of the proposed ordinance.
- C. By motion, waive further reading and introduce the ordinance.
- D. Conduct a public hearing.
- E. Following the public hearing, discuss the ordinance and determine whether to bring it back for second reading and adoption. If the Council is in favor of the ordinance, direct the City Clerk to publish a summary of the ordinance at least five days before its proposed adoption.

BACKGROUND

The minimum wage in California has increased each year since 2017. The following chart shows the current minimum wage and future minimum wage in California for all areas without local minimum wage ordinances.

Date	Minimum Wage for Employers with 25 Employees or Less	Minimum Wage for Employers with 26 Employees or More
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 state minimum wage reaches \$15 an hour for all employees, the rate will be adjusted annually (beginning January 1, 2024) for inflation based on the national consumer price index for

urban wage earners and clerical workers (CPI-W). However, the minimum wage cannot be lowered, even if there is a negative CPI, and the highest raise allowed in any one year is 3.5%.

On February 3, 2020, the City Council held a study session to discuss whether it wished to accelerate the increase in the minimum wage in Burlingame through adoption of a local ordinance. The staff report and meeting minutes from the study session are attached.

After hearing from a number of speakers at the study session, Councilmembers indicated their interest in considering a local minimum wage ordinance that would be effective January 1, 2021, which is one year in advance of the state reaching \$15/hour for employers with 26 or more employees. Councilmembers asked staff to use the City of San Mateo ordinance as a model. That ordinance is attached to this staff report.

DISCUSSION

Cities are permitted by law to enact their own higher minimum wage ordinances, and many in the Bay Area have elected to do so, often with the increase occurring over several years. The following chart shows the minimum wage for all San Mateo County cities that have a local minimum wage ordinance, ordered lowest to highest by 2021 rate. The total combined population in these nine cities represents approximately 65% of the county's population.

City	2020 Min. Wage	2021 Min. Wage	2022 Min. Wage
Daly City	\$13.75	\$15.00	\$15.00 + CPI (up to 3.5%)
East Palo Alto	State minimum wage	\$15.00	\$15.00 + CPI (no limit)
Half Moon Bay	State minimum wage	\$15.00	\$15.00 + CPI (no limit)
Menlo Park	\$15.00	\$15.00 + CPI (up to 3%)	2021 rate + CPI (up to 3%)
San Carlos	State minimum wage	\$15.00 + CPI (up to 3.5%)	2021 rate + CPI (up to 3.5%)
South San Francisco	\$15.00	\$15.00 + CPI (no limit)	2021 rate + CPI (no limit)
Redwood City	\$15.38	\$15.38 + CPI (no limit)	2021 rate + CPI (no limit)
San Mateo	\$15.38	\$15.38 + CPI (no limit)	2021 rate + CPI (no limit)
Belmont	\$15.00	\$15.90	\$15.90 + CPI (up to 3.5%)

The local minimum wage in these cities applies to all adults and minors who work two or more hours per week. (Employees classified as Learners, as defined by the California Industrial Welfare Commission Order No. 4-2001, can be paid no less than 85% of the minimum wage for the first 160 hours of employment. Thereafter, the employees must be paid the minimum wage.) Tips and other benefits may not be considered as an offset to the minimum wage.

Several cities in the Bay Area, including Redwood City and San Mateo, participate in a joint contract with the City of San Jose's Office of Equality Assurance to provide enforcement for the local minimum wage ordinance. Staff has been unable thus far to reach anyone at the Office of Equality Assurance to determine if the City of Burlingame will be able to participate in this joint contract and what the cost would be. A City of San Carlos staff report from last year estimates a cost of \$15,000 annually. Other cities provide enforcement in-house through their City Attorney's Office or City Manager's Office. In both cases, enforcement is complaint-based and follows typical code violation procedures.

At the February study session, staff noted that one or more Councilmembers from the City of Millbrae had indicated that their City planned to discuss a local minimum wage ordinance. As of the writing of this report, staff has been unable to find any information as to discussions about a local minimum wage ordinance in Millbrae.

In addition to the cities listed above, several cities in Santa Clara County have already adopted local minimum wage ordinances. The list includes: Cupertino, Los Altos, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara, and Sunnyvale. All of these cities include a CPI escalator.

San Mateo County has a living wage ordinance that sets a minimum wage contractors are required to pay employees providing services under County contracts. The current wage as of July 1, 2020, is \$17.19. It will increase by CPI on July 1, 2021, and the program is set to sunset on June 30, 2022.

Finally, the City and County of San Francisco has both a local minimum wage ordinance and a minimum compensation ordinance. The local minimum wage in San Francisco increased from \$15.59 to \$16.07 on July 1. The minimum compensation ordinance (MCO) covers most City service contractors and tenants at the San Francisco International Airport. Under the MCO, employers must provide their employees with no less than the minimum compensation wage rate, which is increased from \$17.66/hour to \$18.24/hour for for-profit employers. The rate for non-profit and public entity employers remains \$16.50/hour.

Ordinance Summary

The draft ordinance before the City Council contains the following components:

- The minimum wage is set at \$15 per hour starting in January 2021 for Burlingame businesses.
- Business owners do not have to pay first-degree relatives the increased minimum wage, but all other requirements of relevant state law continue to apply.

Public Outreach

During the February study session, Mayor Beach noted that she had reached out to a number of members of the Burlingame business community, including retailers and restaurateurs, to seek their input regarding a local minimum wage ordinance. A summary spreadsheet of those contacts is attached.

From August 20 to September 1, the City conducted a non-scientific local minimum wage survey via SurveyMonkey. The link to the survey was included in the City's eNews twice. It was also posted on Nextdoor, sent directly to the Chamber of Commerce and BIDs for distribution to their members, and shared with the hoteliers and Burlingame Talks Shop attendees who submitted their email addresses.

The survey garnered 200 responses, with 173 respondents living in Burlingame, and 59 owning a business in Burlingame. (Note that some respondents living in Burlingame also own a business in Burlingame.) The overall survey responses are attached (with the answers to questions 7 and 8 at the end of the document) as well as two subsets of responses—those who checked that they were residents, and those who checked that they were business owners. Among those who checked that they were residents, 125 responded that they were strongly or somewhat in favor of an increase in the minimum wage, while 46 were somewhat or strongly against an increase. Among business owners, 30 were strongly or somewhat in favor of an increase in the minimum wage, while 29 were somewhat or strongly opposed to an increase.

Questions from February Study Session

Impacts on Child Care: At the February study session, Councilmembers expressed concern about the impact of a higher minimum wage on child care providers in Burlingame and whether child care would become unaffordable. In 2017, First 5 San Mateo County and the Child Care Partnership Council (CCPC) conducted a study of early childhood education workforce compensation practices in center-based programs within San Mateo County. According to the attached Building Our Future flyer, the lowest-paid employees in these programs were, on average, making more than \$15/hour at the time of the survey. Staff does not have any data about wages paid by home-based child care providers.

Business Closures in Local Cities with a Local Minimum Wage Ordinance: One Councilmember asked whether San Mateo County cities with local minimum wage ordinances had any data with respect to businesses closing or reducing full-time employees to part-time status as a result of the higher minimum wage. In response to this question, staff contacted the City Managers for Belmont, Menlo Park, Redwood City, San Mateo, and South San Francisco, all of which have a 2020 minimum wage of \$15/hour or above. The Cities of Belmont, Redwood City, and San Mateo all responded that some of their businesses had warned that this would happen prior to passage of the ordinance, but the cities had no data to indicate that any businesses had actually closed or converted full-time staff to part-time staff as a result of the higher minimum wage. The City of San Mateo noted that prior to the pandemic, many of their businesses already had to pay a higher wage due to the tight labor market. The City of Menlo Park responded that the City had received a number of complaints from restaurants and two merchants in the early stages of implementation, but no complaints since then. The City of South San Francisco had not responded as of the writing of this report.

Exemptions for Family Members and Babysitters: At the February study session, Councilmembers asked whether there could be exemptions made for family members and babysitters. The attached ordinance exempts family members of business owners (defined as first-degree relatives). The minimum wage requirement applies to those persons who meet the definition

of “employee” under the state labor code: most people providing ad hoc services, such as babysitters, and independent contractors would be exempt from the minimum wage requirement.

FISCAL IMPACT

Should the City Council choose to enact a local minimum wage ordinance, there will be unknown costs associated with noticing employers about the new wage rate and with enforcing the ordinance, either in-house or via a contract with another agency should that be available.

There will also be additional personnel costs in several City Departments. Staff estimates that increased costs of approximately \$8,000 in the Public Works Department in the first year, rising in subsequent years if the Council includes an escalator.

The Parks and Recreation Department has eight active staff members (in the Recreation Leader 1 classification) making less than \$15/hour. This position is a part-time, temporary position that generally assists with camps and similar programs. Because this position is part of a series of classifications, increases would likely be necessary in other classifications so as to avoid compaction issues. The City could recoup the increased costs through increased fees to participate in Parks and Recreation programming, or it could choose to subsidize the costs through General Fund support. The Council would need to consider its interest in subsidizing the programs during the budget process in the spring. If the City were to increase program fees to cover costs, staff estimates that there would be an increase of 8-10% initially, which would rise if an escalator is included. Depending on the timing of any increase, the City may also need to cover the increased costs of some programs for a period of time since fees for Parks and Recreation Department programs are advertised well in advance of the start of the programs.

The Library has one casual employee classification with a starting salary just over \$15/hour. Due to the COVID-19 shelter-in-place orders and the closure of the Library, there are no current employees in this classification. The Police Department has three Police Services Aide positions with a starting salary below \$15/hour. Only one of these positions is currently filled.

Exhibits:

- Proposed Ordinance
- February 3, 2020 Staff Report
- February 3, 2020 Study Session Minutes
- City of San Mateo Minimum Wage Ordinance
- Mayor Beach Outreach Information
- Survey Results: Total Results, Filtered by Resident, and Filtered by Business Owner
- Building Our Future Flyer