

ORDINANCE NO. 1425

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
ADDING CHAPTER 8.76 MINIMUM WAGE

THIS ORDINANCE is adopted in light of the following facts and circumstances, which are hereby found and declared by the Daly City City Council:

WHEREAS, the State of California has enacted a minimum wage that will reach \$15.00 per hour in January of 2022; and

WHEREAS, in an effort to help working households achieve economic security and acknowledging the higher relative cost of living in the San Francisco Bay Area, the City Council of the City of Daly City wishes to enact a citywide minimum wage to reach \$15.00 before January 2022; and

WHEREAS, a higher minimum wage rate protects the public health, safety and welfare by requiring that employees are compensated in such a manner as to enable and facilitate their individual self reliance within the City of Daly City; and

WHEREAS, the City of Daly City may adopt a higher minimum wage pursuant to the powers vested in in the City under the laws and Constitution of the State of California including by not limited to the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DALY CITY DOES ORDAIN AS FOLLOWS:

SECTION 1: Chapter 8.76 of Title 8 of the Municipal Code is hereafter added to read as follows:

Chapter 8.76
MINIMUM WAGE

- 8.76.010** **Definitions**
- 8.76.020** **Minimum Wage**
- 8.76.030** **Notice and Posting**
- 8.76.040** **Implementation**
- 8.76.050** **Enforcement**
- 8.76.060** **No Preemption of Higher Standard**

8.76.010 **Definitions**

As used in this Chapter, the following terms shall have the following meaning:

- (a) “Calendar week” shall mean a period of seven consecutive days starting on Sunday.
- (b) “City” shall mean the City of Daly City
- (c) “Employee” shall mean any person who:
 - (1) In a calendar week performs at least two hours of work within the geographic boundaries of the City for an Employer.
 - (2) Qualifies as an employee entitled to payment of a minimum wage from any Employer under the California Minimum Wage law, as provided by the State of California Industrial Welfare Commission.
- (d) “Employer” shall mean any person (including a natural person, corporation, non-profit corporation, general partnership limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality or any other legal or commercial entity, whether domestic or foreign) who directly or indirectly (including through the services of a temporary services or staffing agency or similar entity) employs or exercises control over the wages , hours, or working conditions of any Employee.
- (e) “Minimum Wage” shall have the meaning set forth in Section 8.76.020 of this Chapter.

8.76.020 **Minimum Wage**

- (a) Employers shall pay Employees no less than the Minimum Wage for each hour worked within the geographic boundary of the City.
- (b) The Minimum Wage paid by all Employers shall be as follows:
 - (1) Beginning January 1, 2019, the Minimum Wage shall be an hourly rate of \$12.00.
 - (2) Beginning January 1, 2020, the Minimum Wage shall be an hourly rate of \$13.75
 - (3) Beginning January 1, 2021, the Minimum Wage shall be an hourly rate of \$15.00.
- (c) An Employer may not deduct an amount from wages due an Employee on account of any tip or gratuity, or credit the amount or any part thereof, of a tip or gratuity, against, or as part of, the wages due the Employee from the Employer.
- (d) Beginning on January 1, 2022, and each January thereafter, the minimum wage shall increase by the lesser of 3.5 percent or a percentage amount equal to the prior year’s

increase, if any, in the Consumer Price Index (CPI) for San Francisco-Oakland-San Jose as determined by the United States Department of Labor. The change shall be calculated using the August to August change in CPI to calculate the annual increase, if any. A decrease in the CPI shall not result in a decrease in the minimum wage

8.76.030 Notice and Posting

(a) By October of each year, the City shall publish and make available to Employers a bulletin announcing the adjusted Minimum Wage rate, to take effect January 1 of the following year. In conjunction with this bulletin, the City shall, by November 1 of each year, publish and make available to Employers a notice suitable for posting by Employers in the workplace informing Employees of the current Minimum Wage rate and of their rights under this Chapter.

(b) Each Employer shall give written notification to each current Employee, and to each new Employee at time of hire, of his or her rights under this Chapter. Failure to post such notice shall constitute a violation of this Chapter.

8.76.040 Implementation

City may promulgate regulations for the implementation and enforcement of this Chapter. Any regulation promulgated by City shall have the force and effect of law and may be relied on by Employers, Employees, and other parties to determine their rights and responsibilities under this Chapter. Any regulations may establish procedures for ensuring fair, efficient and cost-effective implementation of this Chapter, for monitoring Employee compliance with this Chapter, and for providing administrative hearings or determining whether an Employer has violated the requirements of this Chapter.

8.76.050 Enforcement

(a) Enforcement by the City.

City may take any enforcement action set forth in Chapter 1.12 of this Municipal Code to address violations of this Chapter.

(b) Private Right of Action.

An Employee claiming harm from a violation of this Chapter may bring an action against the Employer in court to enforce the provisions of this Chapter and shall be entitled to all remedies available to correct any violation of this Chapter, including but not limited to, back pay, reinstatement, injunctive relief, or civil penalties as provided herein. An Employee who is a prevailing party in an action to enforce this Chapter is entitled to an award of reasonable attorney's fees, witness fees and costs.

(c) Remedies.

The remedies for violation of this Chapter include, but are not limited to:

(1) Reinstatement, the payment of back wages unlawfully withheld, and payment of an additional sum as a civil penalty in the amount of \$40 to each Employee whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of State law.

(2) Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.

(3) Reimbursement of the City's administrative costs of enforcement and reasonable attorney fees.

The remedies, penalties and procedures provided under this Chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this Chapter.

(d) Retention of Records

Each Employer shall maintain for at least three years for each Employee, a record of his or her name, hours worked and pay rate. Each Employer shall provide each Employee with a copy of the records relating to such Employee upon the Employee's reasonable request.

Section 8.76.060 No Preemption of Higher Standards

The purpose of this Chapter is to ensure minimum labor standards. This Chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City.

SECTION 2. Severability. If any section, subsection, provision or part of this Ordinance, or its application to any person or circumstance, is held to be unconstitutional or otherwise invalid, the remainder of this Ordinance, and the application of such provision to other person or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

SECTION 3. Environmental Determination. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378, that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project as provided by the Act, in that it does not have a potential for resulting in a detrimental physical change in the environment, directly or ultimately, as provided in Title 14, Section 15378(a), and that it is also exempt under the definition of "project" in Section 15378(b)(3) in that it concerns general policy and procedure making.

SECTION 4. Publication and Effective Date. Pursuant to the provisions of Government Code Section 36933, a summary of this ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post it in the City Clerk's Office a certified copy of this ordinance. Within fifteen (15) days after the adoption of this ordinance, the City Clerk shall (1) publish the summary and (2) post in the City Clerk's Office a certified copy of the full text of this ordinance along with the names of those City Council members voting for and against this ordinance or otherwise voting. This ordinance shall be in full force and effect thirty (30) days after adoption by the City Council of the City of Daly City.

Introduced this 10th day of December, 2018.

Passed and adopted as an Ordinance of the City of Daly City at a regular meeting of the City Council of the City of Daly City held on the 14th day of January, 2019, by the following vote:

AYES, Councilmembers: Daus-Magbual, DiGiovanni,

Manalo, Sylvester, Buenaventura

NOES, Councilmembers: None

Absent, Councilmembers: None

K. Annette Hipona
CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

RAYMOND A. BUENAVENTURA
MAYOR OF THE CITY OF DALY CITY