

VOTER'S PAMPHLET

MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

CITY OF SANTA CRUZ

G

Shall the City adopt an ordinance requiring employers in the City of Santa Cruz to pay a minimum wage of \$9.25 per hour rather than the \$6.75 per hour minimum wage required by State law?

FULL TEXT OF BALLOT MEASURE G CITY OF SANTA CRUZ

AN ORDINANCE OF THE CITY OF SANTA CRUZ ADDING
CHAPTER 5.02 TO THE SANTA CRUZ MUNICIPAL CODE
TO PROVIDE FOR A MINIMUM WAGE FOR ALL EMPLOYEES
WORKING IN THE CITY OF SANTA CRUZ

FINDINGS

In order to safeguard the public welfare, health, safety and prosperity of the City of Santa Cruz (the "City"), it is essential that all persons working in our community earn wages that ensure a decent and healthy life for them and their families. An estimated 22,000 working people in Santa Cruz County earn little more than California's current state minimum wage of \$6.75 per hour – not nearly enough for them to meet their families' basic needs, particularly given the costs of living and housing in Santa Cruz County, which rank among the highest in California and the United States. As a consequence, they must work long hours and multiple jobs, causing hardship for their families, preventing them from pursuing further education, and limiting their participation in the civic and cultural life of our community.

Since its adoption in 2000, the Santa Cruz City Living Wage Ordinance has helped ensure decent pay for hundreds of workers at businesses that receive service contracts from the City. We now build on that success by adopting a broader Minimum Wage Ordinance that will ensure that all businesses in the City pay a decent minimum wage of at least \$9.25 per hour. By enabling more workers to support and care for their families, through their own efforts and with less need for financial assistance from the government, the City can safeguard the general welfare, health, safety and prosperity of all Santa Cruzans.

When businesses do not pay a livable wage, the surrounding community and the taxpayers bear many of the associated costs in the form of increased demand for taxpayer-funded services including homeless shelters and healthcare for the uninsured. Jobs paying a decent wage will ensure a more stable workforce for our City, increase consumer income, decrease poverty and invigorate neighborhood business. It is therefore in the interest of all Santa Cruzans to ensure that employers benefiting from the opportunity to do business in our City pay their employees a more adequate minimum wage. Consequently, public and private efforts to implement this policy accordingly serve the public interest and constitute a significant public benefit.

NOW THEREFORE, the People of the City of Santa Cruz do Ordain as Follows:

Section 1. Chapter 5.02 is hereby added to the Santa Cruz Municipal Code to read as follows:

Santa Cruz Municipal Code
Chapter 5.02
MINIMUM WAGE

Sections:

5.02.010 Title
5.02.020 Authority
5.02.030 Definitions
5.02.040 Minimum Wage
5.02.050 Notice, Posting and Payroll Records
5.02.060 Retaliation Prohibited
5.02.070 Implementation and Enforcement
5.02.080 Relationship to Other Requirements
5.02.090 Effective Date
5.02.100 Severability
5.02.110 Amendment by the City Council

5.02.010 – TITLE.

This Chapter shall be known as the "Minimum Wage Ordinance."

5.02.020 – AUTHORITY.

This Chapter is adopted pursuant to the powers vested in the City of Santa Cruz (the "City") under the laws and Constitution of the State of California and the City Charter including, but not limited to the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution and Section 1205(b) of the California Labor Law.

5.02.030 – DEFINITIONS.

"Department" shall mean the Living Wage/Minimum Wage compliance function of the Finance Department or such other City department or agency as the City shall by resolution designate.

"City" shall mean the City of Santa Cruz.

"Employee" shall mean any person who: (a) In a particular week performs at least two (2) hours of work for an Employer within the geographic boundaries of the City; and (b) Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission.

"Employer" shall mean any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent or any other person, 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.

"Minimum Wage" shall have the meaning set forth in Section 5.02.040 of this Chapter.

"Small Business" shall mean an Employer for which fewer than ten (10) persons perform work for compensation during a given week. In determining the number of persons performing work for an Employer during a given week, all persons performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work as an independent contractor, security guard services contractor, janitorial/cleaning services contractor, or through the services of a temporary services or staffing agency or similar entity.

"Nonprofit Corporation" shall mean a nonprofit corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and (if a foreign corporation) in good standing under the laws of the State of California, which corporation has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Service Code of 1986, as amended, and all such rules and regulations promulgated under such Section.

5.02.040 – MINIMUM WAGE.

(a) Employers shall pay Employees no less than the Minimum Wage for each hour worked within the geographic boundaries of the City.

(b) Beginning on the effective date of this Chapter, the Minimum Wage shall be an hourly rate of \$9.25. To prevent inflation from eroding its value, beginning on January 1, 2008, and each year thereafter, the Minimum Wage shall increase by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area. The Minimum Wage shall be adjusted based upon the increase, if any, from August of the preceding year to August of the year in which the calculation is made.

(c) The Minimum Wage for Employers that are Small Businesses or Nonprofit Corporations shall phase in, in order to afford such Employers time to adjust. For such Employers, the Minimum Wage of \$8.00 per hour must be paid January 1, 2007. Beginning on January 1, 2008, the Minimum Wage for Employees of such Employers shall be the regular Minimum Wage established pursuant to Section 5.02.040 of this Chapter, and shall be adjusted consistent with Section (b), above.

5.02.050 – NOTICE, POSTING AND PAYROLL RECORDS.

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(a) By December 1 of each year, the Department shall publish and make available to Employers a bulletin announcing the adjusted Minimum Wage rate for the upcoming year, which shall take effect on January 1. In conjunction with this bulletin, the Agency shall by December 1 of each year publish and make available to Employers, in Spanish and English, and any other language spoken by at least 5% of the workforce, informing Employees of the current Minimum Wage rate and of their rights under this Chapter.

(b) Every Employer shall post in a conspicuous place at any workplace or job site where any Employee works the notice published each year by the Department informing Employees of the current Minimum Wage rate and of their rights under this Chapter. Every Employer shall post such notices in Spanish and English and any other language spoken by at least 5% of the workforce. Every Employer shall also provide each Employee at the time of hire the Employer's name, address and telephone number in writing.

(c) Employers shall retain payroll records for a period of four years, and allow the Department access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow the Department reasonable access to such records, it shall be presumed that the Employer paid no more than the applicable federal or state minimum wage, absent clear and convincing evidence otherwise.

(d) Employers shall allow any Employee or his or her designated representative to inspect and copy the Employer's payroll records pertaining to the Employee at no expense to the Employee.

5.02.060 – RETALIATION PROHIBITED.

It shall be unlawful for an Employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this Chapter. Rights protected under this Chapter include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this Chapter; and the right to inform any person of his or her potential rights under this Chapter and to assist him or her in asserting such rights. Protections of this Chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this Chapter. Taking adverse action against a person within ninety (90) days of the person's exercise of rights protected under this Chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights. For purposes of enforcing this Section, a person's immigration status is irrelevant and in any proceedings undertaken to enforce it, no inquiry shall be permitted into a person's immigration status.

5.02.070 – IMPLEMENTATION AND ENFORCEMENT.

(a) Implementation: The Department shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the Department 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 guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this Chapter, including supplementary procedures for helping to inform Employees of their rights under this Chapter, for monitoring Employer compliance with this Chapter, and for providing administrative hearings to determine whether an Employer or other person has violated the requirements of this Chapter.

(b) Administrative Enforcement: The Department is authorized to take appropriate steps to enforce this Chapter. The Department may investigate any possible violations of this Chapter by an Employer or other person. Where the Department has reason to believe that a violation has occurred, it may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing. Where the Department, after a hearing that affords a suspected violator due process, determines that a violation has occurred, it may order any appropriate relief including, but not limited to, reinstatement, the payment of any back wages unlawfully withheld, and the payment of an additional sum as an administrative penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day or portion

thereof that the violation occurred or continued. Where prompt compliance is not forthcoming, the Department may take any appropriate enforcement action to secure compliance, including initiating a civil action pursuant to Section 5.02.070 of this Chapter and/or, except where prohibited by state or federal law, requesting that City agencies or departments revoke or suspend any registration certificates, permits or licenses held or requested by the Employer or person until such time as the violation is remedied. In order to compensate the City for the costs of investigating and remedying the violation, the Department may also order the violating Employer or person to pay to the City a sum of not more than \$50 for each day or portion thereof and for each Employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the Department and shall be used to offset the costs of implementing and enforcing this Chapter. The amounts of all sums and payments authorized or required under this Chapter shall be updated annually for inflation, beginning January 1, 2008, using the inflation rate and procedures set forth in Section 5.02.040 of this Chapter. An Employee or other person may report to the Agency in writing any suspected violation of this Chapter. The Department shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation. Provided, however, that with the authorization of such person, the Department may disclose his or her name and identifying information as necessary to enforce this Chapter or for other appropriate purposes.

(c) Civil Enforcement: The Department, the City Attorney, any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer or other person violating this Chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as liquidated damages in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued, reinstatement in employment and/or injunctive relief, and shall be awarded reasonable attorneys' fees and costs. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief, and reasonable attorneys' fees and costs.

5.02.080 – RELATIONSHIP TO OTHER REQUIREMENTS.

This Chapter provides for payment of a minimum wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections, including, but not limited to the Santa Cruz Living Wage Ordinance.

5.02.090 – EFFECTIVE DATE.

This Chapter shall become effective January 1, 2007. This Chapter is intended to have prospective effect only.

5.02.100 – SEVERABILITY.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provisions to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

5.02.110 – AMENDMENT BY THE CITY COUNCIL.

This Chapter may be amended by the City Council as to facilitate or strengthen only the section pertaining to implementation and enforcement.

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IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE G

MINIMUM WAGE INITIATIVE

This initiative, if adopted by the voters, would serve to add a chapter to the Santa Cruz Municipal Code requiring the payment of a minimum wage to persons employed in the City of Santa Cruz. The current minimum wage required by California state law is \$6.75 per hour. This ordinance would set the minimum wage paid to employees in the City of Santa Cruz at \$9.25 per hour and provide for indexed annual minimum wage increases determined by reference to the Bay Area Urban Wage Earners and Clerical Workers Consumer Price Index. Small businesses which employ ten or fewer employees and non-profit corporations would initially be required to pay a minimum wage of \$8.00 per hour; however, beginning on January 1, 2008 small businesses and non-profit corporations would be required to pay the same minimum wage paid by other employers subject to the ordinance. Employees entitled to the minimum wage called for by the ordinance would include all persons who, for an employer, perform at least two hours of work a week in the City of Santa Cruz. Employers would be required to pay the minimum wage called for by the ordinance beginning on January 1, 2007.

The proposed ordinance contains additional provisions which would require covered employers to post current and prospective minimum wage rates at the place of employment and to notify covered employees of current and prospective minimum wage rates. The ordinance would prohibit employer retaliation in response to an employee's exercise of rights conferred by the ordinance or employer discrimination against any such employee. The ordinance would also authorize the City of Santa Cruz Finance Department, or another City department or agency designated by City Council resolution, to administer and enforce the provisions of the ordinance. To this end the Finance Department, or other City department or agency, would be authorized to conduct administrative hearings relative to disputes between employers, employees and other affected persons arising out of the interpretation, application and enforcement of the ordinance. The ordinance would also authorize the City as well as any person aggrieved by a violation of the ordinance to take legal action in court to enforce the ordinance and to seek monetary damages caused by ordinance violations. Finally the ordinance would require the administering City department or agency to compute and publish by December 1 of each year the minimum wage rate for the following calendar year.

s/ John G. Barisone
City Attorney

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ARGUMENT IN FAVOR OF MEASURE G

Poverty and growing inequality breed despair and sometimes fuel violence. They're bad for individuals, bad for families, and communities. Both, however, are alive and well in Santa Cruz. The real value of California's minimum wage (now \$6.75 an hour) has declined by a third since 1968. A full-time minimum-wage worker earns \$13,000 a year, scarcely enough to pay rent in our city.

One remedy, impossible today, is to "lower the ceiling" by taxing the rich to provide services to the poor. Another is to "raise the floor" by increasing the minimum wage. California law prohibits doing that county-wide, but allows it in a chartered city.

Measure G will increase the wages of at least four thousand local workers now earning less than \$9.00 an hour. They'll make \$9.25 an hour, or \$19,240 a year, beginning in 2007 - just under the federal poverty guideline for a family of four. The measure will also link our minimum wage to the cost of living like a Social Security check, so it can keep up with inflation. Year after year that will put more money in workers' pockets to spend in Santa Cruz, and perhaps more sales tax revenue in the city's coffers. A higher minimum wage provides a stabler, more reliable work force, and increases hope in the families of low-wage workers.

Measure G will challenge the independent businesses on which we all depend for the quality of our lives; and it may even produce small increases in prices. But it's the right thing to do, and the fair thing to do. It is our responsibility as citizens faced with growing inequality, as pacesetters in California reform politics, and as consumers with conscience. Fair trade, like charity, begins at home.

For fair wages and a strong community, Vote Yes on Measure G.

s/ Mark Lopez
UCSC Student, Union Assembly Activists

s/ Tim Fitzmaurice
Santa Cruz City Councilmember

s/ Jane Weed
Chair, Community Action Board, Inc.

s/ Sharlene Cece
Grocery Worker, UFCW Local 839

s/ Osiris Ortiz
Working Alliance for a Just Economy

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE G

PROTECT LOCAL JOBS, BENEFITS, AND FAMILY OWNED BUSINESSES

The proponents of Measure G are asking voters to trust that their proposal will have virtually no impact on the local economy and our community yet they have been unable or unwilling to provide any local data to suggest their plan is sustainable for Santa Cruz.

Prior to implementing their plan they chose not to ask locally owned family businesses or cherished non-profits like Goodwill Industries and Hope Services how Measure G will impact them.

When confronted with the fact that Measure G will force Goodwill Industries to move 76 jobs out of the City, they refer to this reality as "...not statistically significant." It is sad to think that some jobs in our community are perceived as statistically insignificant.

According to a recent study by the Locally Owned Business Alliance, some of the detrimental impacts of Measure G include:

- Forcing locally owned family businesses, especially restaurants, to eliminate jobs, decrease employee hours, and increase prices.
- Limiting the ability of locally owned family businesses to hire young people in our community.
- Providing competitive advantages to chain retailers at the expense of locally owned family businesses.
- Costing valued non-profits Goodwill Industries and Hope Services a combined \$645,000 in the first full year.

Raising the minimum wage is necessary but not in a way that unfairly punishes locally owned family businesses, non-profits in our community, and seniors living on fixed incomes.

Support local jobs, benefits, and family owned businesses.

VOTE NO ON MEASURE G

s/ Cindy Geise
Ristorante Avanti

s/ Tom Walsh
Senior Coalition Executive Director

s/ Geoffrey Dunn
Former Non-Profit Executive Director

s/ Kelly Porter Sanchez
Kelly's French Bakery

s/ Charlie Keutmann
The Garden Company

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ARGUMENT AGAINST MEASURE G

PROTECT LOCAL JOBS, BENEFITS, AND FAMILY OWNED BUSINESSES – VOTE NO ON MEASURE G.

Measure G is best characterized as good intentions, bad idea. This proposal was initiated without a community-wide discussion of what is best for Santa Cruz. Increasing wages and creating good jobs in our community is important, but this is not the way.

A recent study by the Locally Owned Business Alliance of Santa Cruz brought to light many unintended but detrimental consequences of Measure G

FACT: Measure G will cost locally owned family businesses and non-profits at least \$12.5 million in the first year alone.

FACT: Measure G will provide a huge advantage to chain stores at the expense of locally owned businesses in Santa Cruz making it much harder for these family businesses to remain viable.

FACT: Measure G only affects the City of Santa Cruz. This puts our locally owned businesses on an uneven playing field with businesses in neighboring cities.

FACT: Measure G will cost Goodwill Industries of Santa Cruz in excess of \$420,000 in the first full year. This will force Goodwill to move its donated goods processing center out of the City, taking with it over 70 local jobs that provide essential work for City residents in need.

FACT: Measure G will force locally owned family businesses to eliminate healthcare coverage or increase employee co-pays in order to cover rising costs.

FACT: Measure G will increase costs to locally owned family businesses and non-profits each year with an automatic COLA increase therefore limiting the ability to create new jobs in Santa Cruz.

We believe that any increases in the minimum wage should be handled by the State so that all jobs and businesses will be impacted equally.

Support local jobs, benefits, and family owned businesses.

Vote NO ON MEASURE G.

s/ Casey Coonerty
Bookshop Santa Cruz

s/ Larry Pearson
Former Chair, Vision Santa Cruz

s/ Lenne Bennett
Senior Vice President, Goodwill Industries

s/ Maria Eleana Espinoza
Cafe El Palomar, La Mission Restaurant

s/ Ken Whiting
Whiting's Foods

REBUTTAL TO ARGUMENT AGAINST MEASURE G

Workers mean business too. Four thousand low-wage workers play a vital role in our local economy by contributing their labor, and by spending their paychecks.

These folks serve our community all year round. Yet it's harder each year for them to pay rent and to feed themselves and their families.

FACTS: California's \$6.75 minimum wage hasn't increased in five years. Its real value is a third less than it was in 1968. The governor's election-year proposal to raise it just a little has no annual adjustment for inflation.

FACTS: Working fulltime all year for \$9.25 yields \$19,240 before taxes. Low-wage workers today earn much less. The federal "poverty-level wage" for a family of four is \$19,360.

FACTS: Measure G's automatic annual adjustment will work the way Social Security's does. That'll go a long way towards helping low-wage workers keep up with the rising cost of living in Santa Cruz.

FACTS: Few independent local businesses provide health insurance to low-wage workers. Higher wages can provide a little more access to health care.

FACT: \$12,500,000 is less than 1% of the city's total annual sales.

If the state and national governments won't help, we must take care of our own.

Santa Cruzans buy fresh and local. We buy fair trade products from abroad. But real fair trade begins at home. A fair local economy pays a fair wage to ALL of its workers.

FOR WORKERS, FOR FAMILIES, FOR A STRONGER COMMUNITY, VOTE YES ON MEASURE G.

s/ Sarah Ringler
High School Teacher

s/ David Sweet
Retired Professor, UCSC

s/ Julian Posadas
AFSCME Local 3299

s/ Ron Pomerantz
Firefighter

s/ Gail-Jean McGuire
Grocery Worker, UFCV Local 839