**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA AMENDING TITLE 5, BUSINESS TAXES, LICENSES AND REGULATIONS OF THE NAPA COUNTY CODE, RELATING TO THE ENACTMENT OF A MINIMUM WAGE TO BE PAID FOR WORK PERFORMED WITHIN THE UNINCORPORATED AREAS OF NAPA COUNTY**

**WHEREAS**, families and workers need to earn a living wage, and public policies which help achieve that goal are beneficial;

**WHEREAS**, payment of a minimum wage advances the interests of Napa County as a whole, by creating jobs that keep workers and their families out of poverty;

**WHEREAS**, a minimum wage will enable a worker to meet basic needs and avoid economic hardship.

The Napa County Board of Supervisors, State of California, ordains as follows:

 **SECTION 1.** A new Chapter 5.30 (Napa County Minimum Wage Ordinance) is hereby added to the Napa County Code to read in full as follows:

**Chapter 5.30**

**NAPA COUNTY MINIMUM WAGE ORDINANCE**

**Sections:**

 **5.30.010 Short Title.**

 **5.30.020 Definitions.**

 **5.30.030 Minimum Wage.**

 **5.30.040 Waiver Through Collective Bargaining.**

 **5.30.050 Notice and Posting Requirements.**

 **5.30.060 Retaliatory Action Prohibited.**

 **5.30.070 Relationship to Other Requirements.**

 **5.30.080 Application of Minimum Wage to Welfare-to-Work Programs.**

 **5.30.090 Implementation and Enforcement.**

 **5.30.100 Private Right of Action.**

**5.30.010 Short Title.**

 The ordinance codified in this chapter shall be known as the “Napa County Minimum Wage Ordinance.”

**5.30.020 Definitions.**

The general definitions contained in Chapter 1.04.010 shall be applicable to this chapter unless inconsistent with the following definitions:

A. “Department” shall mean the county department of planning, building and environmental services.

B. “Employee” shall mean any person who:

1. In a particular week performs at least two hours of work within the unincorporated areas of the county for an employer; and

2. 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, or is a participant in a Welfare-to-Work Program.

3. Employee shall not include any person up to twenty five years of age participating in youth job training programs operated by nonprofit corporations or governmental agencies.

C. “Employer” shall mean any person, including corporate officers or executives, as defined in Section 18 of the California Labor Code, including corporate officers or executives who directly or indirectly through the services of an agent or another person, including through the services of temporary employment agency, staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of any employee.

D. “Minimum Wage” shall have the same meaning set forth in Section 5.30.030 of this chapter.

E. “Welfare-to-Work Program” shall mean the CalWorks Program and the General Assistance Program, and any successor programs that are substantially similar to them.

**5.30.030 Minimum Wage.**

A. An employer shall pay an employee no less than the minimum wage set forth in this section for each hour worked within the geographic boundaries of the unincorporated areas of the county.

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| Date | Minimum Hourly Wage |
| January 1, 2017 | $11.00 |
| January 1, 2018 | $12.00 |
| January 1, 2019 | $12.60 |
| January 1, 2020 | $13.23 |
| January 1, 2021 | $13.89 |
| January 1, 2022 | $14.59 |
| January 1, 2023 | $15.00 |

B. To prevent inflation from eroding its value, beginning on January 1, 2024 and each year thereafter, the minimum wage shall increase by an amount corresponding to the prior year’s increase, if any, in the cost of living. The prior year’s increase in the cost of living shall be measured by the percentage increase, if any, as of August of the immediately preceding year over the level as of August of the previous year of the Consumer Price Index (Urban Wage Earners and Clerical Workers, San Francisco-Oakland-San Jose, CA for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents.

C. A violation for unlawfully failing to pay the minimum wage shall be deemed to continue from the date immediately following 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 immediately preceding the date the wages are paid in full.

D. For purposes of this section, the number of employees employed by an employer shall be determined by the average number of employees employed during the previous calendar year.

**5.30.040 Waiver Through Collective Bargaining.**

To the extent required by federal law, all or any portion of the applicable requirements of this chapter may be waived in a bona fide collective bargaining agreement, provided that such waiver is explicitly set forth in such agreement in clear and unambiguous terms.

**5.30.050 Notice and Posting Requirements.**

A. By December 1 or as soon as practicable thereafter of each year, the county 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 county shall by December 1 or as soon as practicable thereafter of each year publish and make available to employers, in the top three languages spoken in the county based on the latest available census information for the county, 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. Beginning in 2024 and each year thereafter, the county shall calculate the amount of the adjustment to the minimum wage required by subsection B of Section 5.30.030 and incorporate the adjusted minimum wage rate into all bulletins and notices created pursuant to 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 county informing employees of the current minimum wage rate and of their rights under this chapter. Every employer shall post such notices in the top three languages spoken in the county based on the latest available census information for the county at the workplace or job site. Every employer shall also provide each employee at the time of hire with the employer’s name, address, and telephone number in writing.

C. Employers shall retain payroll records pertaining to employees for a period of four years, and shall allow the county 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 county reasonable access to such records, the employee’s account of how much that person was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise.

**5.30.060 Retaliatory Action Prohibited.**

No employer shall discharge, reduce in compensation, or otherwise discriminate against any employee for opposing any lawful practice proscribed by this chapter, for participating in proceedings related to this chapter, or for seeking to enforce that person’s rights provided under this chapter.

**5.30.070 Relationship to Other Requirements.**

This chapter provides for payment of a local 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.

**5.30.080 Application of Minimum Wage to Welfare-to-Work Programs.**

The minimum wage established pursuant to subsections (A) and (B) of Section 5.30.030 shall apply to the Welfare-to-Work Programs under which persons must perform work in exchange for receipt of benefits. Participants in Welfare-to-Work Programs shall not, during a given benefits period, be required to work more than a number of hours equal to the value of all cash benefits received during that period, divided by the Minimum Wage.

**5.30.090 Implementation and Enforcement.**

A. The department is authorized to coordinate implementation and enforcement of this chapter and may promulgate guidelines or rules for such purposes that are appropriate and consistent with the provisions of this chapter. Guidelines and rules promulgated by the department pursuant to its authority under this chapter shall have the force and effect of law and may be relied up by employers, employees, and other parties to determine their rights and responsibilities under this chapter.

B. Where prompt compliance is not forthcoming, the county shall take any appropriate enforcement action to secure compliance. All remedies in this code are considered cumulative and the use of one or more remedies by the county shall not bare the use of any other remedy for the purpose of enforcing these provisions.

C. It is a violation of this code, subject to punishment and prosecution pursuant to Chapters 1.24 and 1.28 of this code, for any employer or person to violate or fail to comply with any provision of this chapter.

D. This section shall not be construed to limit an employee’s right to bring legal action for violation of any other laws concerning wages, hours, or other standards or rights, nor shall exhaustion of remedies under this chapter be a prerequisite to the assertion of any right.

**5.30.100 Private Right of Action.**

Any person 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 remedy any violation of this chapter, including but not limited to back pay, reinstatement and/or injunctive relief. Violations of this chapter are declared to irreparably harm the public and covered employees generally. The court may award reasonable attorney’s fees, witness fee and expenses to any plaintiff who prevails in an action to enforce this chapter.

 **SECTION 2:** The Board of Supervisors finds that it can be seen with certainty that there is no possibility the proposed ordinance may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

**SECTION 3**. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Napa County Board of Supervisors hereby declares it would have passed and adopted this ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

 **SECTION 4**. A summary of this ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and read at a regular meeting of the Board of

**[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]**

Supervisors of Napa County, State of California, held on the 5th day of April, 2016, and passed at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2016, by the following vote:

 AYES: SUPERVISORS

 NOES: SUPERVISORS

 ABSTAIN: SUPERVISORS

 ABSENT: SUPERVISORS

 NAPA COUNTY, a political subdivision of

 the State of California

 ALFREDO PEDROZA, Chairman of the

 Board of Supervisors

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| APPROVED AS TO FORMOffice of County CounselBy: *S. Darbinian*Deputy County CounselBy: *Sue Ingalls*  County Code ServicesDate: March 31, 2016 | APPROVED BY THE NAPA COUNTYBOARD OF SUPERVISORSDate: Processed By:  Deputy Clerk of the Board | ATTEST: GLADYS I. COILClerk of the Board of SupervisorsBy:  |

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, DEPUTY

GLADYS I. COIL, CLERK OF THE BOARD