

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 42, SECTIONS 22.4201, 22.4205, 22.4210, 22.4215, 22.4225, AND 22.4230 RELATING TO THE CITY OF SAN DIEGO LIVING WAGE ORDINANCE.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. The City of San Diego (City) has introduced the City of San Diego Hospitality Minimum Wage Ordinance (Hospitality Minimum Wage Ordinance), which requires certain hospitality employers in the City to pay their employees a hospitality minimum wage. The event centers that would be subject to the Hospitality Minimum Wage Ordinance are also currently subject to the City of San Diego Living Wage Ordinance (Living Wage Ordinance).

B. The City wishes to eliminate all references to City facility agreements, City facilities, and City facility employers, as those terms are defined, from the Living Wage Ordinance to clarify the minimum wage and related requirements applicable to those City facilities that may be covered by both the Hospitality Minimum Wage Ordinance, if adopted, and the Living Wage Ordinance. The City intends for those facilities to be covered under the Hospitality Minimum Wage Ordinance, if adopted.

C. The Office of the City Attorney prepared this Ordinance based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 2, Article 2 of the San Diego Municipal Code is amended by amending Division 42, sections 22.4201, 22.4205, 22.4210, 22.4215, 22.4225, and 22.4230, to read as follows:

Division 42: City of San Diego Living Wage Ordinance

§22.4201 Purpose and Intent

The *City* awards many agreements to *businesses* that provide *services* to the public and to the *City* or that are intended to promote economic development, job creation, and retention. It is the experience of the *City* that many of these *services* to the public and to the *City* are provided by workers who live at or below the poverty line. This Division recognizes that agreements, including *service contracts* and *financial assistance agreements*, advance the interests of the *City* as a whole by creating jobs that keep workers and their families out of poverty. This Division therefore requires *covered employers* and their subcontractors to pay their employees a wage that will enable a full-time worker to meet basic needs and avoid economic hardship. Paying *services* employees a living wage is intended to improve the quality of *services* provided to the *City* and to the public by reducing high turnover, absenteeism, and instability in the workplace. This Division also promotes the *City's* policies and programs that seek to meet the employment and economic development needs of the *City* and its workforce. *Businesses* that do not fall into any of the above-described categories are not required to comply with this Division.

§22.4205 Definitions

Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters. For purposes of this Division, the following definitions shall apply:

Affordable Care Act through *City* [No change in text.]

City Manager through *Compensated leave* [No change in text.]

Covered employee means any individual employed on a full-time, part-time, temporary, or seasonal basis by (a) a *service contractor* with regard to any hours worked in performance of a *service contract*; or (b) a *financial assistance recipient* who works at least 20 hours a month at the site that is the subject of the *financial assistance agreement* or at least 20 hours a month on the program that is the subject of the *financial assistance agreement*. *Covered employee* does not include: (a) individuals who, in addition to wages, receive academic credit for their work from an accredited educational institution; or (b) individuals who participate in job training and education programs that have as their express purpose the provision of basic job skills or education.

Covered employer means any *service contractor*, *financial assistance recipient*, or any authorized agent thereof.

Financial assistance agreement through *Service contractor* [No change in text.]

Services means the following types of employment activities and any other non-managerial, non-supervisory, or non-professional services that are consistent with the intent of this Division and designated in a *financial assistance agreement* or *service contract*:

(a) through (t) [No change in text.]

Unfair immigration-related practice through Willful violation [No change in text.]

§22.4210 Applicability of Living Wage Ordinance

- (a) This Division shall apply to:
 - (1) through (3) [No change in text.]
- (b) For any contract subject to this Division, the *prime service contractor* must use its own employees to perform at least fifty percent of the work described in the contract.

§22.4215 Exemptions

- (a) [No change in text.]
- (b) The following *businesses*, even if otherwise qualified as a *covered employer*, are exempt from the requirements of this Division:
 - (1) Businesses, including their parent and subsidiary entities, employing twelve or fewer employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, so long as the City determines that the business, including any of its subcontractors, will not need to retain more than twelve employees to perform work related to a service contract or financial assistance agreement.
 - (2) [No change in text.]
- (c) The definitions of *service contract* or *financial assistance agreement* shall be liberally interpreted so as to further the policy objectives of this Division.

§22.4225 Reporting and Notification Requirements

- (a) Every *service contract* and *financial assistance agreement* must require that the party contracting with the *City* be subject to the terms of this

Division and all regulations and rules promulgated under this Division and that all applicable subcontractors, sublessees, and concessionaires comply with the terms of this Division and all regulations and rules promulgated under this Division.

(b) through (c) [No change in text.]

- (d) Each *covered employer* must file with the *City Manager* an annual report documenting compliance with this Division. The *covered employer* must maintain records documenting compliance for at least three years, but is not required to maintain records for more than seven years, after the *City's* final payment on the *service contract* or *financial assistance agreement*. Such records must be made available to the *City* upon request. The records to be maintained must include all wage records, proof of payment for *health benefits*, *covered employee* name, address, date of hire, job classification, rate of pay, cost and amount paid for *health benefits*, hours worked in each pay period, and paid and unpaid time off (accrued and used).
- (e) Each *covered employer* must post a notice informing *covered employees* of their rights under this Division, and any applicable exemptions from the hourly wage rate requirements of this Division. The poster must be at the site of work, or a site frequently accessed by *covered employees*, in a prominent and accessible place where it can easily be seen by *covered employees*. Each *covered employer* must update this notice annually and within thirty days of receiving notice from the *City* of the amended hourly wage rates under this Division.

§22.4230 Enforcement and Remedies

- (a) [No change in text.]
- (b) The court may award the following monetary damages to a *covered employee* who proves a violation of this Division:
 - (1) For failure to pay the required hourly wage on applicable *service contracts* or *financial assistance agreements*, the difference between the hourly wage required by this Division and the amount actually paid to the *covered employee*, plus interest, and penalties for *willful violations*.
 - (2) For failure to pay the *health benefits rate* on applicable *service contracts* or *financial assistance agreements*, the difference between the *health benefits rate* required by this Division and the amount actually paid towards the *health benefits rate* for the *covered employee*, plus interest, and penalties for *willful violations*.
 - (3) through (5) [No change in text.]
- (c) through (e) [No change in text.]
- (f) Whether based upon a complaint or otherwise, where the *City Manager* has determined that a *covered employer* has violated this Division, the *City Manager* shall issue a written notice to the *covered employer* that the violation is to be corrected within thirty days. If the *covered employer* does not demonstrate to the *City Manager* within such period that it has substantially cured any material violation, the *City Manager* shall take one or more of the following enforcement actions:

(1) Declare a material breach of the *service contract* or *financial assistance agreement* and exercise the *City's* contractual remedies, which are to include, but not be limited to, suspension or termination of the *service contract* or *financial assistance agreement* and the return of monies paid by the *City* for services not yet rendered.

(2) through (5) [No change in text.]

(g) through (i) [No change in text.]

Section 2. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 3. This Ordinance shall take effect and be in force on July 1, 2026, or the thirtieth day from and after its final passage, whichever is later, if the condition in Section 4 is satisfied.

Section 4. This Ordinance is effective contingent upon final passage of the Hospitality Minimum Wage Ordinance, a copy of which is on file with the Office of the City Clerk as Ordinance Number O-_____, and shall not take effect if the Hospitality Minimum Wage Ordinance is not adopted.

APPROVED: HEATHER FERBERT, City Attorney

By _____
Elena S. Min
Deputy City Attorney

ESM:jvg
August 27, 2025
Or.Dept: Council District 9
Doc. No. 4187446

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on _____.

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor