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(O-2021-101REV.)

ORDINANCE NUMBER O- **21303** (NEW SERIES)

DATE OF FINAL PASSAGE APR 14 2021

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 3,  
DIVISION 8 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTION 23.0806 RELATING TO PROVISIONAL  
APPOINTMENT.

WHEREAS, pursuant to San Diego Municipal Code (Municipal Code) section 24.1001, a retired City of San Diego (City) employee may be employed provisionally for a period not to exceed 720 hours in any one fiscal year; and

WHEREAS, this provisional employment requirement is also set forth under the City of San Diego Civil Service Rules, at Rule VII, section 5, which is codified at Municipal Code section 23.0806; and

WHEREAS, the Mayor desires to remove the 720 hours per fiscal year limit when a retiree is provisionally appointed to the City's Chief Operating Officer position, and to codify the same within the Municipal Code; and

WHEREAS, by an accompanying ordinance (O-2021-102), Municipal Code section 24.1001 is before the San Diego City Council (City Council) for approval of an amendment removing the 720 hours per fiscal year limit for the City's Chief Operating Officer position; and

WHEREAS, therefore, Civil Service Rule VII, section 5, as codified in Municipal Code section 23.0806, must be amended to be consistent; and

WHEREAS, San Diego Charter (Charter) section 118 provides that the City's Civil Service Commission shall recommend to the City Council all rules and amendments thereto for the government, supervision, and control of the classified service; and

WHEREAS, Charter section 118 sets forth the procedure for amendment of a Civil Service Rule by the City Council as follows: No rule or amendment shall become effective until it is adopted by ordinance after a noticed public hearing; following such public hearing the City Council may adopt, amend, or reject the rule or amendment as recommended by the Civil Service Commission; and any rule or amendment adopted by ordinance shall have the force and effect of law; and

WHEREAS, under Charter section 118, the Civil Service Commission must make appropriate recommendations to the City Council; and

WHEREAS, the City's Management Team submitted this amendment in compliance with Charter section 118, for consideration by the Civil Service Commission at a special meeting on March 11, 2021; and

WHEREAS, the Civil Service Commission voted to recommend to the City Council, modification of Rule VII, section 5, as codified in Municipal Code section 23.0806 to conform to the proposed amendment to San Diego Municipal Code section 24.1001, which would remove the 720 hours per fiscal year limit for the City's Chief Operating Officer position; and

WHEREAS, this ordinance applies retroactively to a provisionally appointed Chief Operating Officer in Fiscal Year 2021; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 2, Article 3, Division 8 of the San Diego Municipal Code is amended by amending section 23.0806 to read as follows:

**Article 3: Provisional Appointment**

**Division 8: Provisional Appointment**

**§23.0806 Provisional Appointment**

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

(c) The 720 hours per fiscal year limit in subsection (b) does not apply to any retired person who is provisionally appointed to the City's Chief Operating Officer position. A provisionally appointed Chief Operating Officer is not authorized to work in excess of 40 hours per workweek.

(d) The removal of the 720 hours per fiscal year limit for a provisionally appointed Chief Operating Officer shall remain in effect until July 1, 2022, at which time subsection (c) shall be automatically repealed unless an extension is approved by a majority vote of the City Council.

(e) The City will not appoint a retired person as a provisional employee under subsection (b) if the retired person received unemployment insurance compensation arising out of prior employment as a provisional employee under subsection (b). The eligibility for provisional employment under subsection (b) will be reviewed on a regular basis.

Section 2. That pursuant to Charter section 116, the Personnel Director shall take any and all necessary action to conform existing Personnel Regulations and any other relevant rules or provisions to this action.

Section 3. That this ordinance applies retroactively to a provisionally appointed Chief Operating Officer in Fiscal Year 2021

Section 4. That a full reading of this ordinance is dispensed with prior to its passage, a written copy having been made available to the City Council and the public prior to the day of its passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/Thomas J. Brady  
Thomas J. Brady  
Deputy City Attorney

TJB:jvg  
3/2/21  
3/16/21 REV.  
Or.Dept: Mayor  
Doc. No.: 261233

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 04/06/2021.

ELIZABETH S. MALAND  
City Clerk

By /s/ Matthew R. Hilario  
Deputy City Clerk

Approved: 4/13/21  
(date)

  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

(NOTE: The date of final passage is April 14, 2021, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**

**NEW LANGUAGE: Double Underline**

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AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 3,  
DIVISION 8 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTION 23.0806 RELATING TO PROVISIONAL  
APPOINTMENT.

**§23.0806 Provisional Appointment**

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

(c) ~~The City will not appoint a retired person as a provisional employee under subsection (b) if the retired person received unemployment insurance compensation arising out of prior employment as a provisional employee under subsection (b). The eligibility for provisional employment under subsection (b) will be reviewed on a regular basis. The 720 hours per fiscal year limit in subsection (b) does not apply to any retired person who is provisionally appointed to the City's Chief Operating Officer position. A provisionally appointed Chief Operating Officer is not authorized to work in excess of 40 hours per workweek.~~

(d) The removal of the 720 hours per fiscal year limit for a provisionally appointed Chief Operating Officer shall remain in effect until July 1, 2022, at which time subsection (c) shall be automatically repealed unless an extension is approved by a majority vote of the City Council.

- (e) The City will not appoint a retired person as a provisional employee under subsection (b) if the retired person received unemployment insurance compensation arising out of prior employment as a provisional employee under subsection (b). The eligibility for provisional employment under subsection (b) will be reviewed on a regular basis.

TJB:jvg  
3/2/21  
3/16/21 REV.  
Or.Dept: Mayor  
Doc. No.: 2606023\_3

Passed by the Council of The City of San Diego on APR 06 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 14 2021.

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on MAR 16 2021, and on APR 14 2021.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

<p>Office of the City Clerk, San Diego, California</p> <p>Ordinance Number O- <u>21303</u></p>
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