

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

Section 1. That Chapter 3 of the San Diego Municipal Code is amended by adding new Article 10, Division 1, sections 310.0101, 310.0102, 310.0103, 310.0104, 310.0105, 310.0106, 310.0107, and 310.0108, to read as follows:

**Article 10: City of San Diego Traffic Control Worker**

**Prevailing Wage**

**Division 1: City of San Diego Traffic Control Worker**

**Prevailing Wage Ordinance**

**§310.0101 Purpose and Intent**

Traffic control workers are responsible for stopping, slowing, and safely guiding, directing, or controlling traffic through construction and maintenance work in the public rights-of-way. Unexpected and difficult driving conditions in these areas can present a significant risk of harm to motorists, other users of the *City's* public rights-of-way, and the traffic control workers themselves. Traffic control workers employed on *public works projects* are paid a *prevailing wage* while the same workers employed on private construction projects may be paid significantly less to perform the same work. Low wages, less qualified workers, and difficult working conditions can present a significant risk of harm to workers and users of the *City's* public rights-of-way that can be mitigated by ensuring the most qualified, sufficiently paid workers are employed to provide traffic control work in the public rights-of-way. The *City* seeks to address the unique safety risks confronted by workers and users of *City* streets subject to traffic control by

ensuring that, except in limited circumstances, all traffic control workers are paid a wage at least equivalent to the *prevailing wage* they would receive if working on a *public works project*.

**§310.0102 Citation**

This Division shall be cited as the City of San Diego Traffic Control Worker Prevailing Wage Ordinance.

**§310.0103 Authority**

This Division is adopted pursuant to the powers vested in the *City* under the Constitution and laws of the State of California, including the police powers vested in the *City* pursuant to Article XI, section 7, of the California Constitution and California Labor Code section 1205(b). Nothing in this Division shall be interpreted or applied to create any power or duty in conflict with federal or state law.

**§310.0104 Definitions**

For purposes of this Division, defined terms appear in italics. The following terms apply to this Division:

*City* has the same meaning as in San Diego Municipal Code section 39.0104.

*Employee* has the same meaning as in San Diego Municipal Code section 39.0104.

*Employer* has the same meaning as in San Diego Municipal Code section 39.0104.

*Enforcement Office* has the same meaning as in San Diego Municipal Code section 39.0104.

*Enforcement Official* has the same meaning as in San Diego Municipal Code section 39.0104.

*Prevailing wage* means the prevailing rate of per diem wages as determined by the California Director of Industrial Relations in accordance with California Labor Code sections 1770, 1773, and 1773.1, as may be amended, for traffic control work by any method as a laborer within San Diego County on a *public works project*.

*Public works project* means the construction, reconstruction, or repair of public buildings, streets, utilities, and other public works, including design-build contracts, construction manager at risk contracts, and job orders.

*Public Right-of-Way Permit* means a permit issued by the *City* under Chapter 12, Article 9, Division 7, of this Code.

**§310.0105      Payment of Prevailing Wage**

*Employees* whose duties include stopping, slowing, or otherwise guiding, directing, or controlling traffic as required by a *Public Right-of-Way Permit* shall be paid no less than the *prevailing wage*, except as follows:

- (a) traffic control work performed by an *employee* in support of the construction, renovation, or repair of a single-family home or duplex;
- (b) traffic control work performed by an *employee* on any project costing \$1,000 or less, as specified in California Labor Code section 1771 or any subsequent cost threshold applicable to the payment of *prevailing wages* established by California law;

- (c) traffic control work performed by an *employee* of a gas or electric utility company on any project where the *employee* performs work for one hour or less per workday or one hour or less per shift;
- (d) traffic control work performed by an *employee* of any public agency; or
- (e) to the extent prohibited by law or by a state or federal funding source requirement applicable to the work.

**§310.0106 Enforcement**

- (a) Any person may file a written complaint with the *Enforcement Office* regarding a violation of this Division. The written complaint must describe the alleged violation, including a statement of relevant facts, dates, places, and Persons or entities responsible for the alleged violation.
- (b) The *Enforcement Office* has full authority to implement and enforce this Division, consistent with the authority, powers, and procedures of the *Enforcement Office* set forth in Chapter 1, Article 2, Division 1, and section 39.0113 of this Code.
- (c) If an *employer* ceases its business operations, or sells, exchanges, transfers, or otherwise disposes of the *employer's* business, then any Person or entity that becomes a successor to the business shall be liable for any unpaid amounts owed under this Division if, at the time of the conveyance of the business, the successor has actual or constructive knowledge of the amounts owed as determined by the *City*.
- (d) This Division does not create any cause of action for damages against the *City*.

- (e) The City Manager or *Enforcement Official* may promulgate policies, rules, and regulations reasonably necessary to implement the intent and provisions of this Division.
- (f) This Division is not to be construed to limit the rights of an *employee* to bring legal action for a violation of any law concerning wages, hours, or other standards or rights. Exhaustion of remedies under this Division is not a prerequisite to the assertion of any right.

**§310.0107 Prevailing Wage Requirement in Public Right-of-Way Permits**

- (a) Any *Public Right-of-Way Permit* that includes a traffic control plan shall include the requirement to pay at least the *prevailing wage* to traffic control workers, unless an exception in section 310.0105 applies.
- (b) In addition to the enforcement of this Division under section 310.0106, a violation of the *prevailing wage* requirement of a *Public Right-of-Way Permit* is subject to enforcement under Chapter 12, Article 1, Division 3 of this Code.


**§310.0108 No Effect on Higher Wages**

This Division shall not be construed to discourage or prohibit an *employer* from providing higher wages to its *employees*.

Section 2. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. 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   
Alison P. Adema  
Deputy City Attorney

APA:cm:sc  
07/14/2023  
07/26/2023 COR. COPY  
Or.Dept: Council District 7  
Doc. No. 3359593\_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of  
San Diego, at this meeting of SEP 12 2023.

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

Approved: 9/15/23  
(date)

  
TODD GLORIA, Mayor

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

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

(Note: The date of final passage is September 18, 2023, 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

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 3 OF THE  
SAN DIEGO MUNICIPAL CODE BY ADDING NEW  
ARTICLE 10, DIVISION 1, SECTIONS 310.0101, 310.0102,  
310.0103, 310.0104, 310.0105, 310.0106, 310.0107, AND  
310.0108 RELATING TO THE TRAFFIC CONTROL WORKER  
PREVAILING WAGE ORDINANCE.

### Article 10: City of San Diego Traffic Control Worker

#### Prevailing Wage

### Division 1: City of San Diego Traffic Control Worker

#### Prevailing Wage Ordinance

#### §310.0101 Purpose and Intent

Traffic control workers are responsible for stopping, slowing, and safely guiding, directing, or controlling traffic through construction and maintenance work in the public rights-of-way. Unexpected and difficult driving conditions in these areas can present a significant risk of harm to motorists, other users of the City's public rights-of-way, and the traffic control workers themselves. Traffic control workers employed on public works projects are paid a prevailing wage while the same workers employed on private construction projects may be paid significantly less to perform the same work. Low wages, less qualified workers, and difficult working conditions can present a significant risk of harm to workers and users of the City's public rights-of-way that can be mitigated by ensuring the most

qualified, sufficiently paid workers are employed to provide traffic control work in the public rights-of-way. The *City* seeks to address the unique safety risks confronted by workers and users of *City* streets subject to traffic control by ensuring that, except in limited circumstances, all traffic control workers are paid a wage at least equivalent to the *prevailing wage* they would receive if working on a *public works project*.

**§310.0102**     **Citation**

This Division shall be cited as the City of San Diego Traffic Control Worker Prevailing Wage Ordinance.

**§310.0103**     **Authority**

This Division is adopted pursuant to the powers vested in the *City* under the Constitution and laws of the State of California, including the police powers vested in the *City* pursuant to Article XI, section 7, of the California Constitution and California Labor Code section 1205(b). Nothing in this Division shall be interpreted or applied to create any power or duty in conflict with federal or state law.

**§310.0104**     **Definitions**

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Employer has the same meaning as in San Diego Municipal Code

section 39.0104.

Enforcement Office has the same meaning as in San Diego Municipal Code

section 39.0104.

Enforcement Official has the same meaning as in San Diego Municipal Code

section 39.0104.

Prevailing wage means the prevailing rate of per diem wages as determined by

the California Director of Industrial Relations in accordance with California

Labor Code sections 1770, 1773, and 1773.1, as may be amended, for traffic

control work by any method as a laborer within San Diego County on a public

works project.

Public works project means the construction, reconstruction, or repair of public

buildings, streets, utilities, and other public works, including design-build

contracts, construction manager at risk contracts, and job orders.

Public Right-of-Way Permit means a permit issued by the City under Chapter 12,

Article 9, Division 7, of this Code.

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Employees whose duties include stopping, slowing, or otherwise guiding,

directing, or controlling traffic as required by a Public Right-of-Way Permit shall

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- (a)      traffic control work performed by an employee in support of the  
construction, renovation, or repair of a single-family home or duplex;

- (b) traffic control work performed by an *employee* on any project costing \$1,000 or less, as specified in California Labor Code section 1771 or any subsequent cost threshold applicable to the payment of *prevailing wages* established by California law;
- (c) traffic control work performed by an *employee* of a gas or electric utility company on any project where the *employee* performs work for one hour or less per workday or one hour or less per shift;
- (d) traffic control work performed by an *employee* of any public agency; or
- (e) to the extent prohibited by law or by a state or federal funding source requirement applicable to the work.

**§310.0106**      **Enforcement**

- (a) Any person may file a written complaint with the *Enforcement Office* regarding a violation of this Division. The written complaint must describe the alleged violation, including a statement of relevant facts, dates, places, and Persons or entities responsible for the alleged violation.
- (b) The *Enforcement Office* has full authority to implement and enforce this Division, consistent with the authority, powers, and procedures of the *Enforcement Office* set forth in Chapter 1, Article 2, Division 1, and section 39.0113 of this Code.
- (c) If an *employer* ceases its business operations, or sells, exchanges, transfers, or otherwise disposes of the *employer's* business, then any Person or entity that becomes a successor to the business shall be liable for

any unpaid amounts owed under this Division if, at the time of the conveyance of the business, the successor has actual or constructive knowledge of the amounts owed as determined by the City.

- (d) This Division does not create any cause of action for damages against the City.
- (e) The City Manager or *Enforcement Official* may promulgate policies, rules, and regulations reasonably necessary to implement the intent and provisions of this Division.
- (f) This Division is not to be construed to limit the rights of an *employee* to bring legal action for a violation of any law concerning wages, hours, or other standards or rights. Exhaustion of remedies under this Division is not a prerequisite to the assertion of any right.

**§310.0107 Prevailing Wage Requirement in Public Right-of-Way Permits**

- (a) Any *Public Right-of-Way Permit* that includes a traffic control plan shall include the requirement to pay at least the *prevailing wage* to traffic control workers, unless an exception in section 310.0105 applies.
- (b) In addition to the enforcement of this Division under section 310.0106, a violation of the *prevailing wage* requirement of a *Public Right-of-Way Permit* is subject to enforcement under Chapter 12, Article 1, Division 3 of this Code.

**§310.0108**     **No Effect on Higher Wages**

This Division shall not be construed to discourage or prohibit an *employer* from  
providing higher wages to its *employees*.

APA:cm:sc  
07/14/2023  
07/26/2023 COR. COPY  
Or.Dept: Council District 7  
Doc. No. 3359597\_2

Passed by the Council of The City of San Diego on SEP 12 2023, 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"/> |
| Kent Lee                 | <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 type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Date of final passage SEP 18 2023.

AUTHENTICATED BY:

(Seal)

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

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Kristell Medina, 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

AUG 01 2023, and on SEP 18 2023.

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)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21723