

DRAFT ORDINANCE:

AN ORDINANCE AMENDING THE COUNTY CODE OF ADMINISTRATIVE  
ORDINANCES RELATING TO EMPLOYMENT ON COUNTY CONSTRUCTION  
PROJECTS AND PROPERTY

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Purpose. Inadequate pay and poor working conditions have a significant adverse impact on the ability of working families to obtain adequate housing and provide for their families, and threaten public health. Poverty, unemployment, and income inequality threaten the County of San Diego's economic prosperity, stability, and competitiveness. The County of San Diego seeks to address these issues by ensuring that those working on County projects or at County-owned property are paid wages and provided working conditions that allow them to adequately provide for themselves and their families, and by taking steps to remove obstacles to quality employment opportunities for area residents.

Section 2. Section 73.10 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

SEC 73.10. EMPLOYMENT STANDARDS FOR COUNTY CONSTRUCTION PROJECTS

All construction completed pursuant to a County-awarded contract, regardless of property ownership, including contracts led by the County in accordance with the Public Contract Code, shall be subject to the following requirements, which shall be incorporated into all such contracts as necessary to implement these requirements:

- (a) A skilled and trained workforce shall be employed in the completion of the project as set forth in Public Contract Code section 2600, et seq. as is required by Section 2600 on the date on which this Section 73.10 becomes effective;
- (b) All contractor's employees and subcontractors working on the County-awarded contract, regardless of whether such persons are classified as employees or independent contractors ("workers"), shall be paid the higher of (i) prevailing wage rates set by the California Department of Industrial Relations, regardless of whether the payment of such wages is otherwise required under the Labor Code; (ii) minimum wage, living wage, or similar wage rates as may be set by the County by ordinance; and (iii) local, State, or federal minimum or similar wage rates if applicable to the work; and
- (c) Contractors shall provide workers with paid sick leave to cover, at a minimum, absences due to all of the following as applicable to the worker or their family members:
  - (i) mental or physical illness, injury, or health condition;
  - (ii) the need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
  - (iii) the need for preventive medical care;

- (iv) medical attention needed to recover from physical or psychological injury or disability due to domestic violence, sexual assault, or stalking;
  - (v) the need to obtain services from a victim services organization or psychological or other counseling due to domestic violence, sexual assault, or stalking;
  - (vi) the need to relocate or secure an existing home due to domestic violence, sexual assault, or stalking; and
  - (vii) the need to obtain legal services, including preparing for or participating in any civil or criminal legal proceeding, related to or resulting from domestic violence, sexual assault, or stalking.
- (d) The sick leave required by Section 73.10(d) shall accumulate at the rate of one hour of paid sick time for every thirty hours worked, and may minimally be accumulated up to 56 hours per year.
- (e) Contractors and their employees and subcontractors shall not discharge or in any way discriminate or take adverse action against any worker for disclosing, in any manner, a concern about the terms and conditions of employment.
- (f) Contractors shall post the following in a conspicuous and accessible place in each location at which workers are employed:
- (i) notice of the requirements set forth in subdivisions (a)-(e) above;
  - (ii) notice that violations of such requirements may be reported to the County Office of Labor Standards and Enforcement; and
  - (iii) the phone number and address of the County Office of Labor Standards and Enforcement.

Section 3. Section 73.11 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

**SEC 73.11. EMPLOYMENT STANDARDS FOR WORKERS ON COUNTY-OWNED LEASED PROPERTY**

Lessees, licensees, concessionaires, and others making use of County-owned property pursuant to a contract with the County, and the sublessees (at any level), real property licensees (at any level), and others contracting (at any level) with such persons in furtherance of the use of County property for business purposes through a lease, license or other agreement with the County (collectively referred to in this Section 73.11 as “Lessee Parties”) shall be subject to the following requirements applicable to the County property being used, which shall be incorporated into all such leases, licenses and other agreements as necessary to implement these requirements:

- (a) The employees and contractors of Lessee Parties working on or from County-owned property shall be paid the higher of any (i) prevailing wage rates set by the California Department of Industrial Relations, regardless of whether the payment of such wages is otherwise required under the Labor Code; (ii) minimum wage, living wage, or similar

wage rates as may be set by the County by ordinance; and (iii) local, State, or federal minimum or similar wage rates if applicable to the work; and

- (b) All facilities located on and conditions of County-owned property shall meet the requirements of any County-enacted ordinances or Board policies regulating workplace conditions.
- (c) Lessee Parties shall provide their employees working on or from County-owned property with paid sick leave to cover, at a minimum, absences due to all of the following as applicable to the employee or their family members:
  - (i) mental or physical illness, injury, or health condition;
  - (ii) the need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
  - (iii) the need for preventive medical care;
  - (iv) medical attention needed to recover from physical or psychological injury or disability due to domestic violence, sexual assault, or stalking;
  - (v) the need to obtain services from a victim services organization or psychological or other counseling due to domestic violence, sexual assault, or stalking;
  - (vi) the need to relocate or secure an existing home due to domestic violence, sexual assault, or stalking; and
  - (vii) the need to obtain legal services, including preparing for or participating in any civil or criminal legal proceeding, related to or resulting from domestic violence, sexual assault, or stalking.
- (d) The sick leave required by Section 73.11(c) shall accumulate at the rate of one hour of paid sick time for every thirty hours worked, and may minimally be accumulated up to 56 hours per year.
- (e) Lessee Parties and their employees and contractors working on or from County-owned property shall not discharge or in any way discriminate or take adverse action against any employee for disclosing, in any manner, a concern about the terms and conditions of employment.
- (f) Lessee Parties shall post the following in a conspicuous and accessible place in each location at which Lessee Parties' employees and contractors are employed:
  - (iv) notice of the requirements set forth in subdivisions (a)-(e) above;
  - (v) notice that violations of such requirements may be reported to the County Office of Labor Standards and Enforcement; and
  - (vi) the phone number and address of the County Office of Labor Standards and Enforcement.

Section 4. Section 73.12 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

SEC 73.12. LIMITATIONS OF SCOPE OF SECTIONS 73.10 & 73.11

- (a) Sections 73.10 and 73.11, and subparts thereof, shall not apply in any of the following instances:
1. to the extent prohibited by law or by State or federal funding source requirements applicable to the work;
  2. to County construction projects below the Public Contract Code bidding thresholds;
  3. to job order contracts let pursuant to Public Contract Code section 20128.5;
  4. construction contracts of less than \$500,000;
  5. single craft projects of less than \$25,000;
  6. housing projects where the County received the underlying proposal or entered into an agreement for the project before the effective date of this Ordinance.
  7. where the County is a party to a project labor agreement covering the work; or
  8. where the Board of Supervisors has waived all or a portion of the requirements with regard to a particular project or agreement.
- (b) Sections 73.10 and 73.11 are intended to have prospective effect only and shall not be interpreted to impair the obligations of any agreement entered into by the County prior to the effective date of this Ordinance unless such agreement requires compliance with later-enacted ordinances or policies. Notwithstanding the prior sentence, these requirements shall, to the extent legally permissible, be incorporated into existing agreements as a condition of any amendment extending the term of the agreement.
- (c) If another subsequently enacted ordinance includes stricter or higher standards for particular or specific types of enterprises or activities, the higher or stricter standards prevail.

Section 5. Section 73.13 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

SEC 73.13. VIOLATIONS.

Violations of Sections 73.10 through 73.12 above may be reported to the County's Office of Labor Standards and Enforcement.

In accordance with Section 81.6 of this Code, and without limiting any contractual remedies available to the County, the County may implement the Administrative Remedies found at Division 8 of Title 1 of the County Code of Regulatory Ordinances to address any violation of Sections 73.10 through 73.12 above.

Section 6. Section 73.14 is hereby added to the County Code of Administrative Ordinances to read in its entirety as follows:

SEC 73.14. SEVERABILITY

If any provision of Sections 73.10 through 73.13 or the application thereof is judged invalid, the invalidity shall not affect other provisions or applications of the sections that can be given effect without the invalid provision or application, and to this end any provision judged invalid is declared severable.