

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

ORDINANCE OF THE CITY OF CHULA VISTA ADDING  
CHAPTER 2.74, "HEALTHCARE WORKER MINIMUM  
WAGE" TO TITLE 2 OF THE CHULA VISTA MUNICIPAL  
CODE TO ESTABLISH A HEALTHCARE WORKER  
MINIMUM WAGE

WHEREAS, the City of Chula Vista (the "City"), a charter city, may adopt ordinances in accordance with its police powers to ensure the public health, welfare, and safety of its residents; and

WHEREAS, the City requires a sufficient healthcare workforce to ensure that life-saving healthcare facilities, including those vital to the social safety net, such as hospitals, health systems, community clinics, and dialysis clinics offer consistent, timely, high-quality care; and

WHEREAS, workers at acute care facilities provide vital services including emergency care, labor and delivery, psychiatric care, cancer treatments, and primary and specialty care. Similarly, dialysis clinic workers provide life-preserving care to patients with end-stage renal disease and are part of the continuum of kidney care that also includes hospitals, clinics, and health systems; and

WHEREAS, community clinics are essential safety-net providers that provide primary, dental, and behavioral healthcare to underserved communities and fully staffed community clinics help patients manage and prevent chronic conditions and stay healthy, minimizing unnecessary emergency room visits and hospitalizations; and

WHEREAS, hospitals, health systems, community clinics, and dialysis clinics are facing staffing shortages that could jeopardize the availability of care in Chula Vista; and

WHEREAS, prior to the COVID pandemic, California was facing an urgent and immediate shortage of healthcare workers, adversely impacting the health and well-being of Californians, especially economically disadvantaged Californians, and the COVID-19 pandemic has worsened these shortages; and

WHEREAS, healthcare job vacancies are rising as workers on the frontlines deal with the emotional, mental, and physical fallout of providing healthcare during a pandemic; and

WHEREAS, workforce shortages across industries also mean that the healthcare industry is competing with other economic sectors to fill critical non-clinical positions such as for cleaning staff, food service workers, and IT administrators; and

WHEREAS, with rising housing costs, healthcare workers are being forced to live further from their places of work, increasing their stress and leading to retention challenges; and

WHEREAS, raising the minimum wage in Chula Vista will help address retention challenges and workforce shortages which negatively impact care for vulnerable patients receiving lifesaving, complex care or essential preventive care in settings such as emergency rooms, operating rooms, community clinics, and dialysis clinics; and

WHEREAS, raising the minimum wage will also help to ensure that these healthcare facilities, including those serving underserved populations, are maintaining a robust workforce able to meet the challenges affecting our community; and

WHEREAS, on August 8, 2023, the City Council directed staff to draft and present a healthcare worker minimum wage ordinance for discussion; and

WHEREAS, a draft healthcare worker minimum wage ordinance was presented to the City Council for discussion on September 12, 2023 and the City Council received public testimony; and

WHEREAS, on September 12, 2023, the City Council directed staff to return with a healthcare worker minimum wage ordinance for action on September 19, 2023.

NOW, THEREFORE the City Council of the City of Chula Vista does ordain as follows:

**Section I.** Chapter 2.74 is added to the Chula Vista Municipal Code to read as follows:

**Chapter 2.74**  
**HEALTHCARE WORKER MINIMUM WAGE**

**2.74.010 Title**

This chapter is known as the “Healthcare Worker Minimum Wage Ordinance,” may be cited as such, and will be referred to herein as “this chapter”.

**2.74.020 Purpose and Intent**

The purpose of this chapter is to address the unique recruitment and retention challenges of healthcare workers by ensuring that, except in limited circumstances, healthcare workers are paid a wage at least \$25 per hour.

**2.74.030 Definitions**

When used in this chapter, the following words and phrases shall have the meanings ascribed to them below. Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code, or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included.

“City” means the City of Chula Vista.

“City Manager” means the City Manager of the City of Chula Vista, or designee.

“Code” means the City of Chula Vista Municipal Code.

“Covered Healthcare Facility” means the following types of facilities or work sites, provided that they are privately owned and are located within the boundaries of the City:

- A. A licensed general acute care hospital as defined in Section 1250(a) of the California Health and Safety Code, including a distinct part of any such hospital.
- B. A clinic as defined in Section 1206(d) of the California Health and Safety Code, that is conducted, operated, or maintained as an outpatient department of a general acute care hospital or acute psychiatric hospital.
- C. A licensed acute psychiatric hospital as defined in Section 1250(b) of the California Health and Safety Code, including a distinct part of any such hospital.
- D. A community clinic as defined in Section 1204(a)(1)(A) of the California Health and Safety Code, including a primary care clinic, or a chronic dialysis clinic, as defined in Section 1204(b)(2) of the California Health and Safety Code.
- E. A federally qualified health center as defined in Section 1396d(1)(2)(B) of Title 42 of the United States Code, including federally qualified health center look-alikes.
- F. A facility or other work site that is part of an Integrated Healthcare Delivery system.

“Covered Healthcare Worker” means an Employee who is employed to work at or by a Covered Healthcare Facility to provide patient care, healthcare services, or services supporting the provision of healthcare. “Covered Healthcare Worker” includes clinicians, professionals, non-professionals, nurses, certified nursing assistants, aides, technicians, maintenance workers, janitorial or housekeeping staff persons, groundskeepers, guards, food service workers, laundry workers, pharmacists, administrative workers, and business office clerical workers. A “Covered Healthcare Worker” works at a Covered Healthcare Facility only if that individual’s primary place of employment is physically located at one or more such facilities or work sites; for example, delivery workers employed primarily outside a Covered Healthcare Facility are not Covered Healthcare Workers for purposes of this chapter unless employed by a Person that owns, controls, or operates a Covered Healthcare Facility.

“Covered Physician Group” means a medical group practice, including a professional medical corporation as defined in Section 2406 of the California Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, or an independent practice association, provided that the group includes a total of 10 or more physicians.

“CPI” means the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the San Diego Area, as published by the U.S. Bureau of Labor Statistics on a monthly basis.

“Effective Date” means the effective date of this chapter, as set forth in Section 2.74.080.

“Employee” has the same meaning as section 2775 in the California Labor Code.

“Employer” means any Person, including a corporate officer or executive, who directly or indirectly, or through any other Person, including through the services of a temporary service, staffing agency, or similar entity, employs or exercises control over the wages, hours, or working conditions of any Employee.

“Integrated Healthcare Delivery System” means an entity or group of related entities that includes both of the following: (1) one or more hospitals and (2) one or more Covered Physician Groups, health care service plans, medical foundation clinics, other health care facilities, or other entities, providing health care or supporting the provision of health care, where the hospital or hospitals and other entities are related through:

- A. Parent/subsidiary relationships, joint or common ownership or control, common branding, or common boards of directors and shared senior management; or
- B. A contractual relationship in which affiliated Covered Physician Groups or medical foundation clinics contract with a healthcare service plan, hospital, or other part of the system, all operating under a common trade name; or
- C. A contractual relationship in which a nonprofit healthcare service plan provides medical services to enrollees in a specific geographic region of the state through an affiliated hospital system, and contracts with a single Covered Physician Group in each geographic region of the state to provide medical services to a majority of the plan’s enrollees in that region.

“Minimum Wage” means the minimum amount that must be paid to Covered Healthcare Workers as compensation for their labor, whether the amount is fixed or ascertained by the standards of time, task, piece, commission basis, or other method of calculation. “Minimum Wage” does not include bonuses, shift differentials, premium pay, reimbursement or allowances for work-related equipment or other expenses, credits for meals or lodging, tips, gratuities, or the cost of medical, dental, retirement or similar benefits.

“Person” means an individual, firm, partnership, limited partnership, limited liability partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

**2.74.040 Minimum Wage Required**

A. An Employer shall ensure that each Covered Healthcare Worker it employs is paid a Minimum Wage equivalent to no less than the hourly rate set forth herein or under the authority of this chapter for hours worked within the geographic boundaries of the City.

B. The Minimum Wage for Covered Healthcare Workers shall be as follows:

1. On the Effective Date, the Minimum Wage shall be not less than \$25 per hour for all hours worked as a Covered Healthcare Worker.

2. One year after the Effective Date, and annually thereafter on the same date, the Minimum Wage shall increase by the change in published CPI for the preceding twelve months. If the change to the published CPI over the twelve-month period is negative, the Minimum Wage shall remain unchanged. The City shall annually publish a bulletin announcing the adjusted Minimum Wage, at least 30 days prior to the effective date of such rate.

C. An Employer may not fund the Minimum Wage increases required by this chapter in any of the following ways:

1. Reducing Covered Healthcare Workers' premium pay rates or shift differentials;

2. Reducing vacation, healthcare, or other non-wage benefits of any Covered Healthcare Worker;

3. Reducing Covered Healthcare Workers' hours of work;

4. Laying off Covered Healthcare Workers; or

5. Increasing charges to any Covered Healthcare Worker for parking, work-related materials, or equipment.

D. An Employer is in violation of Section 2.74.040(C) if the Minimum Wage requirements of this chapter are a motivating factor in the Employer's decision to take any of the actions described in Section 2.74.040(C), unless Employer proves that it would have taken the same action at the time that it did irrespective of the operation of this ordinance.

E. Covered Healthcare Facilities shall post in a conspicuous place a notice of the current Minimum Wage for Covered Healthcare Workers required by this chapter.

F. Employers of Covered Healthcare Workers shall retain payroll records pertaining to Covered Healthcare Workers for a minimum of four (4) years and shall allow the City or its designee access to such records, with appropriate notice and during business hours, to monitor compliance with the requirements of this chapter.

**2.74.050      Retaliation**

No Employer shall discharge, terminate a contract with, reduce compensation to, or otherwise discriminate against or take adverse action against any Covered Healthcare Worker for opposing any practice prohibited by this chapter, for participating in proceedings related to this chapter, for seeking to enforce rights under this chapter by any lawful means, or for otherwise asserting rights under this chapter. Protections in this section shall apply to any Covered Healthcare Worker who mistakenly, but in good faith, alleges noncompliance with this chapter. Taking any adverse action against a Covered Healthcare Worker within 90 days of the Covered Healthcare Worker's exercise of rights protected under this chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

**2.74.060      Enforcement**

A. *Administrative Enforcement.* The City Manager may enforce this chapter in accordance with the provisions of CVMC Chapter 1.41.

B. *Civil Enforcement.* A Covered Healthcare Worker, a representative of a Covered Healthcare Worker, the City Attorney, or another Person acting on behalf of the public as provided for under applicable state law may bring a civil action in a court of competent jurisdiction against an Employer violating this chapter.

1. *Remedies for Violation.* A Court of competent jurisdiction may impose all remedies available under law or in equity, including injunctive or other equitable relief, reinstatement, the payment of any wages unlawfully withheld, the payment of penalties in the amount of up to \$120 to each Covered Healthcare Worker for each day that a violation occurred or continued, and reasonable attorneys' fees and costs. In an action initiated by the City Attorney, the recovery of attorneys' fees shall be subject to the provisions of 2.74.060(B)(2) below. In addition to the remedies identified above, a Covered Healthcare Worker who is the subject of retaliation by an Employer, as described in Section 2.74.050, is entitled to reinstatement and treble damages.
2. *Attorneys' Fees in City Initiated Action.* Attorneys' fees may be recovered by the prevailing party only in individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. If the City does not elect, at the initiation of an individual action or proceeding, to seek recovery of its own attorneys' fees, no other party shall seek or recover attorneys' fees.

**2.76.070 Limitations**

- A. Any waiver by a Covered Healthcare Worker of any or all of the provisions of this chapter or of rights or protections afforded under the authority of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.
- B. This chapter is not intended to, and shall not be interpreted to, conflict with federal or state law and shall be interpreted to be compatible with federal and state enactments, not limited to those dealing with employee/employer and labor relations, and in furtherance of the public purposes that those enactments encompass.
- C. This chapter does not create any cause of action for damages against the City.
- D. This chapter shall not be construed as limiting any Covered Healthcare Worker's right to obtain relief to which the Covered Healthcare Worker may be entitled at law or in equity. Exhaustion of remedies under this chapter is not a prerequisite to the assertion of any right.
- E. This chapter shall not be construed to discourage or prohibit an Employer from providing higher wages to its Employees.
- F. This chapter is not intended to cause a reduction in employment or work hours for Covered Healthcare Workers. Therefore, a court may grant a one-year waiver from the Minimum Wage requirements of this chapter if any Employer can demonstrate by substantial evidence that compliance with this ordinance would raise substantial doubt about the Employer's ability to continue as a going concern under generally accepted accounting standards. The evidence must include documentation of the Employer's financial condition, as well as the condition of any parent or affiliated entity, and evidence of the actual or potential direct financial impact of compliance with this chapter. A one-year waiver granted by a court pursuant to this section does not exempt an Employer from complying with any and all federal, state, or local laws and regulations, including any other applicable federal, state, or local minimum wage requirement.

**2.76.080 Promulgation of regulations, standards, and other legal duties**

- A. The City Manager is authorized to establish, consistent with the terms of this chapter, any additional administrative rules, regulations and standards determined to be necessary to carry out the purposes of this chapter.
- B. Regulations shall be published on the City's website and maintained and available to the public in the Office of the City Clerk.
- C. Regulations promulgated by the City Manager shall become effective and enforceable upon date of publication on the City's website.

**2.74.080 Effective Date**

This chapter shall take effect January 1, 2024.

**Section II. Severability**

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

**Section III. Construction**

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

**Section IV. Effective Date**

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

**Section V. Publication**

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

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Tiffany Allen  
Assistant City Manager

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Jill D.S. Maland  
Lounsbery Ferguson Altona & Peak  
Acting City Attorney