

ORDINANCE NUMBER O- 21519 (NEW SERIES)

DATE OF FINAL PASSAGE SEP 21 2022

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 9, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 129.0121 RELATING TO LICENSE AND INSURANCE REQUIREMENTS OF CONTRACTORS AND SUBCONTRACTORS FOR CONSTRUCTION PERMITS.

WHEREAS, the City of San Diego (City) wants to increase the transparency of contracting in the City; and

WHEREAS, the City desires to create a culture of safety, accountability, and legal compliance, and to ensure that labor standards are upheld; and

WHEREAS, California Business and Professions Code Division 3, Chapter 9 requires all persons performing contracting work on any project valued at \$500 or more in combined labor and material costs to be licensed by the Contractors State Licensing Board; and

WHEREAS, unlicensed contractors lack accountability, and have a high rate of involvement in construction scams; and

WHEREAS, unlicensed contractors are unfair competition for licensed contractors who operate with bonds, insurance, and other responsible business practices; and

WHEREAS, the City of San Diego strives to protect human rights, protect workers' rights, and end labor exploitation by rooting out labor violations and unqualified operators; and

WHEREAS, the City of San Diego protects consumers and law-abiding contractors, and provides economic justice in the contracting process; and

WHEREAS, it is in the best interest of the City, and all its residents to protect and secure all obligations due by developers and contractors by requiring construction permit applicants to use licensed contractors and subcontractors, and provide information on their contractors and subcontractors; NOW, THEREFORE,

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

Section 1. That Chapter 12, Article 9, Division 1 of the San Diego Municipal Code is amended by adding new Section 129.0121 to read as follows:

§129.0121 License and Insurance Requirements for Contractors and Subcontractors

(a) Applicability of this Section.

(1) This Section applies to *construction permits* listed in Section 129.0121(a)(1)(A) but only if the *development* involves any of the activities listed in Section 129.0121(a)(1)(B)-(D):

(A) Building Permits, Electrical Permits, Plumbing/Mechanical Permits, Demolition/Removal Permits, Grading Permits, Public Right-of-Way Permits, and Fire Permits.

(B) Residential and mixed-use *development* consisting of, or involving twenty or more *dwelling units*, including *single dwelling unit* and multi-family subdivisions.

(C) Commercial or industrial *development* that proposes 20,000 square feet or more of tenant improvements, or construction of 20,000 square feet of additional new *gross floor area*.

(D) Any *development* that requires a Public Right-of-Way Permit.

(2) This Section applies to all local, state, and federal agencies (unless exempt) except for the City of San Diego. The City of San Diego is subject to the requirements in Chapter 2, Article 2, Divisions 30, 31, 33, 34 and 36 of the San Diego Municipal Code.

(3) Any contractor that believes its work is exempt under California Business and Professions Code Division 3, Chapter 9, Article 3 (Exemptions) and therefore not subject this Section shall provide in writing the basis for the exemption to the City.

(b) Requirements of this Section.

(1) No person shall be issued, or utilize a *construction permit*, as specified in Section 129.0121(a), unless they are:

(A) A contractor licensed and insured pursuant to the applicable provisions of the California Business and Professions Code or agent; or

(B) The *record owner* or an agent of the *record owner* performing their own work, or

(C) Any other person who can demonstrate a legal right, interest, or entitlement to the use of the real property performing their own work.

- (2) All work as specified in Section 129.0121(a) shall be performed by contractors and subcontractors licensed and insured pursuant to the applicable provisions of the California Business and Professions Code, except a *record owner* or person identified in Section 129.0121(b)(1)(c) performing their own work.
- (c) Compliance with this Section.
 - (1) Prior to permit issuance, the *applicant* shall submit the following:
 - (A) A list of all project contractors and subcontractors that includes the following information for each contractor and subcontractor:
 - (i) Valid worker's compensation insurance information, including policy number and expiration date;
 - (ii) State contractor license number, license category, and license expiration date;
 - (iii) City business license number and expiration date;
 - (iv) State, and federal tax identification numbers; and
 - (v) Whether the contractor or subcontractor has any pending, or prior enforcement actions for any state, or federal labor violations, or paid any penalties to a government agency related to the provisions of the California Labor Code.

- (B) For Public Right-of-Way Permits, the *applicant* shall state whether the work to be performed requires safety certifications, safety trainings, professional certifications, or professional licenses. If any of these apply, the *applicant* shall provide the following:
- (i) A list of the certifications, trainings, and licenses required for the work; and
 - (ii) Confirmation that the *applicant's* employees, or the employees of the relevant contractor, subcontractor, or agent have the required certifications, trainings and licenses, specifying the contractor, subcontractor, or agent if applicable.
- (2) If the *applicant* is unable to provide the information in Section 129.0121(c)(1)(A)-(B) prior to *construction permit* issuance, or in the event the *permit holder* adds or changes contractors or subcontractors following permit issuance, the *permit holder* shall provide the information required in Section 129.0121(c)(1)(A)-(B) prior to work being performed or the new contractor or subcontractor starting work.
- (3) If any of the information required in Section 129.0121(c)(1)(A)-(B) changes for any of the contractors or subcontractors, the *permit holder* shall provide updated information prior to the

contractor or subcontractor performing any further work under the
construction permit.

- (d) Violation of this Section. Failure to comply with this Section shall constitute performance of work without the required permit, pursuant to Section 121.0302. A violation of this Section is subject to all remedies available to the City under Chapter 12, Article 1, Division 3 of the San Diego Municipal Code.

Section 2. That no permits shall be issued for development that is inconsistent with the provisions of this Ordinance unless applications for such permits are submitted and deemed complete to the City prior to the date on which the applicable provisions of this Ordinance become effective.

Section 3. 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 4. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

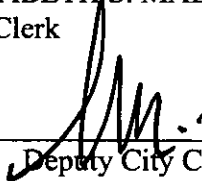
APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Shannon C. Eckmeyer
Shannon C. Eckmeyer
Deputy City Attorney

SCE:sc
07/14/2022
Or.Dept: Mayor
Doc. No.: 3031067

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of SEP 13 2022.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 9/20/22
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(NOTE: The date of final passage is September 21, 2022, 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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San Diego Municipal Code.

SCE:sc
07/14/2022
Or.Dept: Mayor
Doc.No.: 3031062

Passed by the Council of The City of San Diego on SEP 13 2022, 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 SEP 21 2022.

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 AUG 01 2022, and on SEP 21 2022.

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

Office of the City Clerk, San Diego, California
Ordinance Number O-21019