

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE CITY OF CULVER CITY, STATE OF CALIFORNIA, ADDING CHAPTER 11.33 TO THE CULVER CITY MUNICIPAL CODE, TO ESTABLISH A \$25.00 PER HOUR MINIMUM WAGE FOR HEALTHCARE WORKERS AT COVERED HEALTHCARE FACILITIES.

WHEREAS, nearly three years since cases were first reported, the coronavirus 19 (“COVID-19”) disease presents an ongoing transmission risk in the community and remains an acute global emergency according to the World Health Organization (WHO); and

WHEREAS, COVID-19 has broadly spread throughout California and the risk of emergent new variants of COVID-19 and future surges remain real and a significant health risk to the community, especially healthcare workers and members of our most vulnerable population; and

WHEREAS, healthcare workers perform services that are fundamental to the economy and health of the community. From the start of the COVID-19 pandemic they worked in high-risk conditions with inconsistent access to protective equipment and other safety measures; worked in public situations with limited ability to engage in physical distancing; and continually exposed themselves and the public to the spread of disease; and

WHEREAS, after over two years of working on the front lines, healthcare workers are experiencing emotional, mental, and physical fallouts of providing healthcare during a pandemic. At the same time, healthcare workers are dealing with the stress caused by the increased cost of living; and

1 **WHEREAS**, hospitals, health systems, and clinics across the state of
2 California are facing staffing shortages that could jeopardize the availability of care in
3 Culver City. The availability of healthcare workers is fundamental to the health of the
4 Culver City community. Healthcare workers in Culver City will continue to face safety
5 risks and difficult working conditions as the virus presents an ongoing threat for an
6 uncertain period, likely resulting in subsequent waves of infection; and
7

8 **WHEREAS**, establishing a requirement for covered healthcare facilities to
9 provide a minimum wage of \$25.00 per hour to healthcare workers protects public
10 health, supports stable incomes, and promotes job retention by ensuring that
11 healthcare workers are compensated for the substantial risks, efforts, and expenses
12 they are undertaking to provide essential services in a safe and reliable manner as
13 the COVID-19 virus remains a threat to the community.
14

15 **NOW THEREFORE**, the City Council of the City of Culver City, California,
16 **DOES HEREBY ORDAIN** as follows:

17 **SECTION 1: Findings and Purposes.**

18 This Ordinance, adopted by the City Council of the City of Culver City, makes
19 the following findings and has the following purposes:

20 In the City of Culver City, healthcare workers are integral to the City's
21 wellbeing. Healthcare workers have risked their own health to ensure that residents
22 have access to healthcare. While healthcare providers have seen drastic increases
23 in profits, even during the COVID-19 pandemic, some healthcare workers are still
24 underpaid and struggle to afford housing and other basic needs. Healthcare
25 workers have been and continue to be the backbone of the COVID-19 response
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1 over the past two and a half years and deserve to be fairly compensated for keeping
2 the community safe while facing risks to themselves and their families.

3 The purpose of this Ordinance is to establish a minimum wage for covered
4 healthcare workers within Culver City. Culver City needs a sufficient healthcare
5 workforce to ensure that healthcare facilities that provide necessary care to
6 residents and visitors offer consistent, timely, high-quality care. Healthcare workers
7 in a variety of areas, including maintenance workers, cleaning staff, food service
8 workers, and IT administrators providing services for residents and visitors within the
9 walls of a healthcare facility, are at a significantly higher risk of exposure to COVID-
10 19 and its variants than similar workers performing similar services across other
11 industries within Culver City.
12

13 **Workforce Shortages and Retention**

14 Hospitals, health systems, and clinics are facing staffing shortages that could
15 jeopardize the availability of healthcare in the City. Healthcare job vacancies are
16 rising as workers on the frontlines deal with the emotional, mental, and physical
17 fallout of providing healthcare during a pandemic. For example, according to job
18 posting websites, Southern California Hospital Culver City has approximately 130 job
19 vacancies for various types of critical positions including medical assistants and
20 maintenance workers. Workforce shortages across industries also mean that the
21 healthcare industry is competing with other economic sectors to fill critical non-clinical
22 positions such as for cleaning staff, food service workers, and IT administrators.
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24

25 **Healthcare Industry Profits**

26 While healthcare workers are experiencing unprecedentedly difficult working
27 conditions and burnout, the healthcare industry received billions of dollars in stimulus
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1 funds during the pandemic and many CEOs were paid compensation packages in the
2 millions.¹ The healthcare industry needs to fairly compensate workers who are
3 sacrificing every day to care for their patients.

4 **Significant Cost of Living Increases**

5 With rising housing costs, healthcare workers are being forced to live further
6 from their places of work, increasing their stress and leading to retention challenges.
7 According to BAE Economics, the City's consultant for the City's rent control
8 program, the average market rate for a rental unit in Culver City is \$2,982.00 per
9 month, while the median home sales price in Culver City for 2021-2022 is
10 \$1,800,000 for a single-family home, and \$700,000 for a condominium or
11 townhome. Raising the minimum wage can help stabilize the incomes of healthcare
12 workers who are generally considered lower-wage earners.

13 Raising the minimum wage will help address retention challenges and
14 workforce shortages affecting healthcare facilities in Culver City and will fairly
15 compensate healthcare workers for their contributions and sacrifices.

16 **SECTION 2:** The Culver City Municipal Code is hereby amended to add
17 Chapter 11.33, entitled Healthcare Workers Minimum Wage, as follows:

18 **HEALTHCARE WORKERS MINIMUM WAGE**

19 **11.33.005 Title.**

20 **11.33.010 Definitions.**

21 **11.33.015 Payment of Minimum Wage to Healthcare Workers.**

22 **11.33.020 Retaliation.**

23 **11.33.025 Posting and Payroll Records.**

24 **11.33.030 Enforcement and Implementation.**

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27 ¹ S&P Global: Market Intelligence (August 19, 2022):
28 <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/equity-packages-push-clover-bright-health-ceos-to-top-of-managed-care-pay-list-71765051>

1 **11.33.035 No Waiver of Rights.**

2 **11.33.040 Coexistence with Other Available Relief.**

3 **11.33.045 One-Year Court-Granted Waiver.**

4 **11.33.050 Supercession by Collective Bargaining Agreement.**

5 **11.33.055 Conflicts.**

6 **§ 11.33.005 TITLE.**

7 This Chapter shall be known as the "Healthcare Workers Minimum
8 Wage Ordinance."

9 **§ 11.33.010 DEFINITIONS.**

10 The following definitions shall apply to this Chapter:

11 **CITY.** The City of Culver City.

12 **COVERED HEALTHCARE FACILITY.** Means the following types of facilities,
13 provided that they are privately owned and are located within the boundaries of
14 the City:

15 1. A licensed general acute care hospital as defined in Section
16 1250(a) of the California Health and Safety Code, including a distinct part of
17 any such hospital.

18 2. A clinic, as defined in Section 1206(d) of the California Health
19 and Safety Code, that is conducted, operated, or maintained as an outpatient
20 department of a general acute care hospital or acute psychiatric hospital.

21 3. A licensed acute psychiatric hospital as defined in Section 1250(b)
22 of the California Health and Safety Code, including a distinct part of any such
23 hospital.

24 4. A licensed chronic dialysis clinic as described in Section 1204(b)
25 (2) of the California Health and Safety Code.

26 5. A licensed psychiatric health facility as defined in Section 1250.2
27 of the California Health and Safety Code.

28 6. All facilities that are part of an Integrated Healthcare Delivery
29 System.

30 **COVERED PHYSICIAN GROUP.** A medical group practice, including a
31 professional medical corporation as defined in Section 2406 of the California
32 Business and Professions Code, another form of corporation controlled by
33 physicians and surgeons, a medical partnership, or an independent practice
34 association, provided that the group includes a total of 10 or more physicians.

35 **EMPLOYEE.** Has the same meaning as in Section 2775 of the California Labor
36 Code.

1 **EMPLOYER.** Any Person, including a corporate officer or executive, who directly
2 or indirectly or through any other Person, including through the services of a
3 temporary service, staffing agency, or similar entity, employs or exercises control
4 over the wages, hours or working conditions of any Employee.

5 **HEALTHCARE WORKER.** An Employee who is employed to work at or by a
6 Covered Healthcare Facility to provide patient care, healthcare services, or
7 services supporting the provision of healthcare. "Healthcare Worker" includes a
8 clinician, professional, non-professional, nurse, certified nursing assistant, aide,
9 technician, maintenance worker, janitorial or housekeeping staff person,
10 groundskeeper, guard, food service worker, laundry worker, pharmacist,
11 nonmanagerial administrative worker and business office clerical worker, but does
12 not include a manager or supervisor. A "Healthcare Worker" works at a Covered
13 Healthcare Facility only if that individual's primary work assignment is physically
14 located at one or more such facilities; for example, delivery workers employed
15 principally outside a Covered Healthcare Facility are not Healthcare Workers for
16 purposes of this chapter unless employed by such a facility.

17 **INTEGRATED HEALTHCARE DELIVERY SYSTEM.** A system that includes both
18 of the following:

- 19 (A) one or more hospitals; and
- 20 (B) Covered Physician Groups, health care service plans, medical
21 foundation clinics, or other facilities or entities, where the hospital or hospitals
22 and other facilities or entities are related through:
 - 23 1. Parent/subsidiary relationships, common ownership or control, or
24 common boards of directors and shared senior management; or
 - 25 2. A contractual relationship in which affiliated Covered Physician
26 Groups or medical foundation clinics contract with a health care service
27 plan, hospital or other part of the system, all operating under a common
28 trade name; or
 - 3. A contractual relationship in which a nonprofit health care 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.

29 **MINIMUM WAGE.** The minimum amount that must be paid to Employees as
30 compensation for their labor, whether the amount is fixed or ascertained by the
31 standard of time, task, piece, commission basis, or other method of calculation.
32 "Minimum Wage" does not include bonuses, shift differentials, premium pay,
33 reimbursement or allowances for work-related equipment or other expenses,
34 credits for meals or lodging, tips, gratuities, or the cost of medical, dental,
35 retirement, or similar benefits.

36 **PERSON.** An individual, corporation, partnership, limited partnership, limited
37 liability partnership, limited liability company, business trust, estate, trust,
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association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

§ 11.33.015 PAYMENT OF MINIMUM WAGE TO HEALTHCARE WORKERS.

A. An Employer shall ensure that each Healthcare Worker it employs, or over whom it exercises control, 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 Healthcare Workers shall be as follows:

1. On _____[NOTE: City Council to determine implementation date on date of introduction], the Minimum Wage shall be no less than \$25.00 per hour.

2. On January 1, 2024, and annually thereafter, the Minimum Wage shall increase based on the annual increase in the cost of living, as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area (Los Angeles-Long Beach-Anaheim, CA), which is published by the Bureau of Labor Statistics. The City shall publish a bulletin announcing the adjusted rates, which shall take effect on January 1 of each year.

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

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

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

3. Reducing Healthcare Workers' hours of work;

4. Laying off Healthcare Workers; or

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

D. An Employer is in violation of Subsection C of this Section 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 Subsection C of this Section, unless the Employer proves that it would have taken the same action at the time that it did irrespective of the operation of this Chapter.

§ 11.33.020 RETALIATION.

No Employer shall discharge, terminate a contract with, reduce compensation to, or otherwise discriminate against or take adverse action against any Healthcare Worker for opposing any practice proscribed 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

1 this Chapter. Protections of this Section shall apply to any Healthcare Worker who
2 mistakenly, but in good faith, alleges noncompliance with this Chapter. Taking any
3 adverse action against a Healthcare Worker within 90 days of the 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.

4 **§ 11.33.025 POSTING AND PAYROLL RECORDS.**

5 A. Covered Healthcare Facilities shall post in a conspicuous place a
6 notice of the current Minimum Wage for Healthcare Workers required by this
7 Chapter.

8 B. Employers of Healthcare Workers shall retain payroll records
9 pertaining to Healthcare Workers for a minimum of four 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.

10 **§ 11.33.030 ENFORCEMENT AND IMPLEMENTATION.**

11 A. Enforcement of this Chapter may include any of the following:

12 1. Establishing a process for reporting complaints of
13 violations of this Chapter.

14 2. Establishing and implementing processes for
investigating complaints and other possible violations of this Chapter.
15 Employers and Covered Healthcare Facilities shall cooperate fully in
any such investigation.

16 3. Establishing and implementing an administrative citation
process that may include the issuance of correction orders, a hearing
17 and appeal process, and the imposition of administrative fines or
penalties owed to the City.

18 4. Taking appropriate enforcement action through the
administrative citation process, civil actions, or other approaches on
19 behalf of Healthcare Workers, collecting back wages and any other
amounts owed to Healthcare Workers, and disbursing them to
20 Healthcare Workers.

21 5. Permitting any person, including a legal entity or
organization or a government agency, acting for the interests of itself,
22 its members, or the general public to bring a civil action on behalf of
Healthcare Workers and collecting damages to enforce this Chapter.

23 6. Conducting any other education and enforcement
24 activities necessary to ensure compliance with this Chapter.

25 B. The City is authorized to promulgate rules and regulations and
26 issue determinations and interpretations relating to this Chapter that are
consistent with its purposes. Violations of the administrative regulations adopted
27 pursuant to this Chapter shall constitute violations of this Chapter, and shall
subject the violator to the penalties set forth in this Chapter.

1 C. The City may seek to enter into an agreement with the Department
2 of Consumer and Business Affairs of the County of Los Angeles to allow the
3 County's Wage Enforcement Program to provide wage enforcement and education
4 services necessary for enforcement of this Chapter. If the City and County enter
5 into such an agreement, it may include any services necessary to carry out the
6 enforcement and education responsibilities and activities described in Subsection
7 A of this Section or pursuant to rules and regulations relating to this Chapter.

8 D. Any person, including a legal entity or organization or a government
9 agency, acting for the interests of itself, its members, or the general public may
10 bring a civil action to enforce this Subchapter. Upon proof of a violation, a court
11 shall award the following:

12 1. Damages in the amount of either:

13 a. Upon proof, actual damages; or

14 b. With insufficient or no proof of damages, five hundred
15 dollars (\$500) for each violation of this Subchapter (hereinafter
16 "statutory damages"). Each day of a continuing violation shall
17 constitute a separate violation. Notwithstanding any other provision of
18 this Subchapter, no person suing on behalf of the general public shall
19 recover statutory damages based upon a violation of this Subchapter if
20 a previous claim brought on behalf of the general public by another
21 person for statutory damages and based upon the same violation has
22 been adjudicated, whether or not the person bringing the subsequent
23 claim was a party to the prior adjudication.

24 2. Exemplary damages, where it is proven by clear and
25 convincing evidence that the defendant is guilty of oppression, fraud,
26 malice, retaliation, or a conscious disregard for the public health.

27 3. The person may also bring a civil action to enforce this
28 Chapter by way of a conditional judgment or an injunction. Upon proof
of a violation, a court shall issue a conditional judgment or an injunction.

E. Notwithstanding any legal or equitable bar against a person
seeking relief on its own behalf, a person may bring an action to enforce this
Subchapter solely on behalf of the general public. When a person brings an
action solely on behalf of the general public, nothing about such an action shall
act to preclude or bar the person from bringing a subsequent action based upon
the same facts but seeking relief on his, her or its own behalf.

F. Nothing in this Subchapter prohibits a person from bringing a civil
action in small claims court to enforce this Subchapter, so long as the amount in
demand and the type of relief sought are within the jurisdictional requirements of
that court.

1 **§ 11.33.035 NO WAIVER OF RIGHTS.**

2 Except as otherwise provided for in this Chapter, any waiver by a Healthcare
3 Worker of any or all of the provisions of this Chapter or of rights or protections
4 afforded under the authority of this Chapter shall be deemed contrary to public
5 policy and shall be void and unenforceable.

6 **§ 11.33.040 COEXISTENCE WITH OTHER AVAILABLE RELIEF.**

7 The provisions of this Chapter shall not be construed as limiting any
8 Healthcare Worker's right to obtain relief to which the Healthcare Worker may be
9 entitled at law or in equity.

10 **§ 11.33.045 ONE-YEAR COURT-GRANTED WAIVER.**

11 This Chapter is not intended to cause reduction in employment or work hours
12 for Healthcare Workers. Therefore, a court may grant a one-year waiver from the
13 Minimum Wage requirements of this Chapter if an Employer can demonstrate by
14 substantial evidence that compliance with this Chapter would raise substantial
15 doubt about Employer's ability to continue as a going concern under generally
16 accepted accounting standards. The evidence must include documentation of the
17 Employer's financial condition, as well as the condition of any parent or affiliated
18 entity, and evidence of the actual or potential direct financial impact of compliance
19 with this Chapter. A one-year waiver granted by a court pursuant to this Section
20 does not exempt an Employer from complying with any and all federal, state, or
21 local laws and regulations, including any other applicable federal, state, or local
22 minimum wage requirement.

23 **§ 11.33.050 SUPERCESSION BY COLLECTIVE BARGAINING AGREEMENT.**

24 The provisions of this Chapter, or any part thereof, may be waived in a bona
25 fide collective bargaining agreement, but only if the waiver is explicitly set forth in
26 such agreement in clear and unambiguous terms. Unilateral implementation of
27 terms and conditions of employment by either party to a collective bargaining
28 relationship shall not constitute or be permitted as a waiver of all or any part of the
29 provisions of this Chapter.

30 **§ 11.33.055 CONFLICTS.**

31 Nothing in this Chapter shall be interpreted or applied so as to create any
32 power or duty in conflict with any federal or state law.

33 **SECTION 3:** This Ordinance is adopted pursuant to the powers vested in the
34 City of Culver City under the laws and Constitution of the State of California and the
35 City Charter, including but not limited to, the police powers vested in the City

1 pursuant to Article XI, Section 7 of the California Constitution and Section 1205(b) of
2 the California Labor Law.

3 **SECTION 4:** Pursuant to Section 619 of the City Charter, this Ordinance shall
4 take effect thirty (30) days after its adoption. Pursuant to Section 616 and 621 of the
5 City Charter, prior to the expiration of fifteen (15) days after the adoption, the City
6 Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver
7 City News and shall post this Ordinance or a summary thereof in at least three (3)
8 places within the City.
9

10 **SECTION 5:** City Council hereby declares that, if any provision, section,
11 subsection, paragraph, sentence, phrase or word of this Ordinance is rendered or
12 declared invalid or unconstitutional by any final action in a court of competent
13 jurisdiction or by reason of any preemptive legislation, then the City Council would
14 have independently adopted the remaining provisions, sections, subsections,
15 paragraphs, sentences, phrases, or words of this Ordinance, and as such they shall
16 remain in full force and effect.
17

18 APPROVED and ADOPTED this _____ day of _____ 2022.
19
20

21 _____
22 Dr. Daniel Lee, Mayor
23 City of Culver City, California

24 ATTEST:

APPROVED AS TO FORM:

25 _____
26 Jeremy Bocchino
27 City Clerk

28 
for Heather S. Baker
City Attorney