

Attachment 1**ORDINANCE NO.****ORDINANCE ADDING CHAPTER 2.122 TO THE SANTA CRUZ
COUNTY CODE RELATING TO A LIVING WAGE**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION 1

Title 2 of the Santa Cruz County Code is hereby amended by adding Chapter 2.122 thereto, said new chapter to read as follows:

Chapter 2.122**PAYMENT OF LIVING WAGE**

2.122.010	FINDINGS AND PURPOSE
2.122.020	LIVING WAGE REQUIREMENT
2.122.030	DEFINITIONS
2.122.040	EXEMPTIONS
2.122.050	NONPROFIT AND OTHER AGENCIES
2.122.060	ASSIGNEES/SUCCESSORS IN INTEREST
2.122.070	CONTRACT PROVISIONS
2.122.080	CERTIFICATION BY CONTRACTOR
2.122.090	APPLICATION OF CHAPTER
2.122.100	NOTIFICATION OF EMPLOYEES
2.122.110	MONITORING AND ENFORCEMENT
2.122.120	THIRD TIER REVIEW
2.122.130	LABOR RELATION NEUTRALITY
2.122.140	EMPLOYEE RETENTION
2.122.150	SEVERABILITY

Section 2.122.010 **FINDINGS AND PURPOSE**. In enacting this Chapter the Board of Supervisors makes the following findings and articulates the following purposes for the promulgation of the living wage regulations set forth herein:

1. The health and welfare of all Santa Cruz County residents is benefitted and advances when Santa Cruz County workers are paid a living wage;

2. The County awards many contracts to private sector employers to provide services to the County in accordance with those contracts;

3. Many workers in Santa Cruz County and their families live at or below the poverty line. The payment of inadequate wages to those workers tends to negatively affect the quality of services provided to the County and its residents by fostering high turnover and instability in the workplace;

4. The payment of a living wage will increase the ability of low wage workers to attain sustenance, decrease the amount of poverty and reduce the amount of taxpayer funded services provided in the County of Santa Cruz;

5. Some employers who provide contract services to the County do not provide health insurance benefits to their employees. This factor negatively affects worker performance and the quality of services delivered to the County and its residents, results in unwarranted employee absenteeism and negatively impacts local and State health programs. These problems can be favorably impacted if employers provide reasonable health insurance benefits to their employees; and

6. Living wage jobs will decrease poverty, increase consumer income and invigorate neighborhood businesses.

2.122.020 LIVING WAGE REQUIREMENT.

(a) Covered employees shall be paid a living wage.

(b) The “living wage” to be paid to employees pursuant to the requirements of this Chapter shall be a minimum hourly wage of \$11.00 with employer sponsored benefits or \$12.00 without employer sponsored benefits, until adjusted by further action of the Board of Supervisors annually after consideration of the annual cost of living increase as measured by the San Francisco-Oakland-San Jose area Consumer Price Index. Any adjustments made to the minimum hourly wage shall become effective the following July 1st.

(c) “Benefits” as used in this section means all of the following at a minimum, provided by employer: twelve days compensated sick and vacation leave (combined) annually for full-time employees, prorated for employees working less than full time; payment of at least \$1.00 per hour toward health insurance for the employee. No covered employer will fund wage increases required by this Chapter, or otherwise respond to the provisions of this ordinance, by reducing the health insurance, pension, vacation, or other non-wage benefits of any of its employees.

(d) Amendments to this Chapter concerning the definition of living wage shall apply to contracts entered into or extended following the effective date of such amendments.

2.122.030 DEFINITIONS. The following words and phrases, whenever used in this Chapter, shall be given the following definitions:

A. “Contract for private sector services” shall refer to any contract for profit between the County and a private sector contractor for the following services:

- Automotive repair and maintenance
- Equipment maintenance service
- Facility and building maintenance
- Furniture moving and installation/maintenance services
- Janitorial and custodial services
- Landscaping services
- Laundry services
- Office and clerical services
- Pest control services
- Recreation services
- Security services
- Transportation and shuttle services
- Towing services
- Tree trimming and removal

A. “Contract for private sector services” does not refer to: contracts for commodities, goods, or supplies; contracts for public works; contracts for public projects subject to a prevailing wage requirements; contracts for professional services including but not limited to the services of architects, engineers, landscape architects, land surveyors, construction managers, scientists, physicians, attorneys, financial advisers, or consultants; nor leases.

B. “Contractor for private sector services” shall refer to any private sector contractor/employer who enters into a contract or contracts for private sector services with the County, with the cumulative compensation amount in one County fiscal year greater than \$15,000.

C. “Subcontractor” shall refer to any subcontractor who enters into a subcontract with a contractor for private sector services.

D. “Covered Employee” shall refer to any employee of a contractor for

private sector services, or to any employee of a subcontractor who lives or works in Santa Cruz County. In the foregoing context, “covered employees” are persons hired by contractors or subcontractors to work on a full-time, part-time, temporary, seasonal, or regular basis for wages or salary.

“Covered Employee” shall not include persons who are: in positions that are designated for “trainees” that are part of an employer’s bona fide time-limited training program, which training program enables the employee to advance into a permanent position; in positions of employment that require student status as a prerequisite to being employed in that position; volunteers; recipients of income support such as but not limited to Supplemental Security Income who would become ineligible for such benefits by virtue of receiving a living wage as described herein, who waive in writing their entitlement to a living wage; or workers in licensed, sheltered workshops or supported employment; recipients of public funds who have been placed in a work experience, on the job training position, summer employment position, or wage-based community service position as defined by the Human Resources Agency Administrator or Health Services Agency Administrator .

“Covered Employee” shall not include those employees who are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law and for whom a collective bargaining labor agreement is in effect governing their terms and conditions of employment.

E. “County” shall refer to the County of Santa Cruz including all County departments related County entities governed by the Board of Supervisors, such as the Redevelopment Agency, excluding the Public Authority.

2.122.040 EXEMPTIONS.

(a) Exempted from the requirements of this Chapter are contractors with five or fewer employees.

(b) The Board of Supervisors in its sole discretion, or its designee, may grant an exemption for additional grounds upon making a finding and determination either that compliance with the living wage will cause economic hardship, or that the exemption is necessary for the best interests of the County and is due to unusual circumstances (e.g., following a declared natural disaster) or where the County is required to award a contract for services to a sole source contractor for services. For all exemption requests, the exemption applicant must provide a written statement that includes complete details in support of the request for exemption and describe alternative solutions pursued. Exemptions will apply only to the contract for which they are granted.

2.122.050 NONPROFIT AND OTHER AGENCIES. Applicability of this Chapter to nonprofit agencies will be considered by the Board of Supervisors in April 2002 and for-profit health and human service agencies shall be addressed at a later phase.

2.122.060 ASSIGNEES/SUCCESSORS IN INTEREST. The living wage requirement imposed by this Chapter shall be binding upon the assignees and successors in interest of any contractor or subcontractor to which this Chapter applies.

2.122.070 CONTRACT PROVISION. County departments and officers shall place in contracts for services and related requests for proposals or bid documents language in substantially the following form: "This contract is subject to the provisions of Santa Cruz County Code Chapter 2.122, requiring payment of a living wage to covered employees. Noncompliance during the term of the contract will be considered a material breach and may result in termination of the contract or pursuit of other legal or administrative remedies."

2.122.080 CERTIFICATION BY CONTRACTOR. Prior to commencement of the contract's term or execution by County, Contractor will certify to the satisfaction of the County that its employees are paid a living wage as provided by this Chapter.

2.122.090 APPLICATION OF CHAPTER. The living wage requirement imposed by this Chapter shall apply to all contracts for services and related subcontracts made or entered into, or extended, on or after the effective date of the ordinance enacting this Chapter.

2.122.100 NOTIFICATION OF EMPLOYEES. Contractors for services and subcontractors shall notify all employees subject to the provisions of this chapter of the requirement to pay a living wage, the current minimum living wage rates, the minimum vacation leave and sick leave that must be provided and the minimum amount paid toward health insurance to qualify for the lower minimum living wage. Contractors for services and subcontractors shall post a copy of this Chapter and the approved Complaint Procedure, in the workplace, and provide this information to employees upon request.

2.122.110 MONITORING AND ENFORCEMENT. Monitoring of compliance with the requirements of this Chapter shall occur under the same monitoring program as applicable to the County's prevailing wage requirements. An annual report shall be provided to the Board of Supervisors or its designee concerning the status of the program.

The County Administrative Officer shall be the Compliance Officer for the purpose of enforcing the provisions of this Chapter. Complaints concerning contractors' compliance with this Chapter shall be made to the Compliance Officer, who shall follow

the complaint procedure established by the Board of Supervisors.

Any employee claiming violation of the Chapter may report such acts to the County and may bring an action in the appropriate Court of the State of California or other appropriate administrative agency, against an employer to enforce his or her rights. Nothing in this Chapter shall preclude an employee from seeking any or all forms of relief and damages.

Contractors or subcontractors shall not discharge, reduce the compensation of, discriminate or otherwise retaliate against or intimidate any person for making a complaint to the County concerning noncompliance with obligations under this Chapter. Contractors for services, and subcontractors shall also comply with federal, state and all other applicable law proscribing retaliation for union organizing.

2.122.120 THIRD TIER REVIEW

Prior to commencement of the contract's term or execution by County, Contractor and/or Subcontractor will certify to the satisfaction of the County that its employees are paid a living wage as provided by this Chapter. Contractors and Sub-Contractors must include a statement of findings of any violations found against the Contractor and/or Subcontractor over the past five years and how these violations were addressed, with the National Employees Relations Board, the Occupational Safety and Health Agency, the California Labor Commission, the Equal Employment Opportunity Commission and/or the Department of Fair Employment and Housing.

Prior to final approval of contracts procured pursuant to Section 2.37.040 in the County Code, pertaining to Board of Supervisors approval of services agreements, the County would consider the history of the proposer as an employer and the working conditions of the employer's employees as deemed appropriate by the Board of Supervisors. The County shall be authorized to access and review the employer's employee turnover, wages paid, benefits and employee grievances or complaints and consider references from entities engaged in prior contracts with the Contractor or Subcontractor. Any proprietary information, or personnel and employee information, shall be kept confidential. This information would be taken into account as part of consideration of the contract and may be used by the Board as the basis for contract denial.

2.122.130 LABOR RELATION NEUTRALITY. Contractors for services and subcontractors shall not hinder or further collective bargaining organization or other collective bargaining activities by or on behalf of an employer's employees. However, this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure made pursuant to obligations incurred under a bona fide collective bargaining agreement.

2.122.140 EMPLOYEE RETENTION. In the event that any contract for services for an amount greater than \$50,000 is terminated by County prior to its expiration, any new contract with a subsequent contractor for those same services shall include the following term:

Contractor shall make best efforts to offer employment to qualified employees of the prior contractor for the performance of this contract. Such efforts shall not be required in regard to employees who are (1) exempt under the Fair Labor Standards Act, (2) family members of prior contractor, (3) employed by prior contractor for less than six months, or (4) convicted of a job-related or workplace crime. Upon request by the County, the Contractor shall demonstrate to the County that good faith efforts have been made to comply with this provision.

2.122.150 SEVERABILITY. If any section, subdivision, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portion of the ordinance. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subdivision, subsection, paragraph, sentence, clause or phrase of this ordinance.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage.

PASSED AND ADOPTED this ____ day of _____, 2001, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Tony Campos
Chairman of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:



Dana McRae
County Counsel

DISTRIBUTION: County Counsel
Human Resources Agency