

ORDINANCE NO. 2025 -

**AN ORDINANCE AMENDING PREVAILING WAGE DEFINITIONS
AND EXCEPTIONS THEREBY AMENDING CHAPTER 23 OF THE
CITY CODE**

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 23 of the City Code is hereby amended by deleting those words that are contained in brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 23: LABOR

ARTICLE II: PREVAILING WAGE

§ 23.31 DEFINITIONS.

(a) TERMS. For the purposes of this article, the following words and phrases have the meanings ascribed to them in this section:

APPRENTICESHIP PROGRAM means a bona fide apprenticeship program registered with the U.S. Department of Labor or recognized by a governmental agency of the State of Minnesota.

CITY means the City of Bloomington, the Housing and Redevelopment Authority in and for the City of Bloomington, and the Port Authority of the City of Bloomington.

CITY FUNDS means contract payments, grants, loans, loan guarantees, tax increment financing, tax abatements, tax credits, lease payments, loan payments, contract for deed payments, revenue from bonds, or any other financial assistance. *City funds* does not mean (1) conduit public bond financing or (2) pass-through funding wherein the City is allocated funds and as grantee distributes those funds to sub-grantees, and the grantor does not require prevailing wage.

COMPLIANCE OFFICER means those positions designated by the City Manager to investigate complaints pertaining to this article on behalf of the City.

COVERED PERSONS means contractors, subcontractors, holders of interests in real property, agents, or other persons regardless of the form of business entity used by the Covered Person, including but not limited to individuals, sole proprietorships and independent contractors, performing all or part of the work on Projects.

DEPARTMENT means the department, division, or office of the City designated to undertake a Project.

PHASE means one of the numerous stages of the development process that converts land into a suitable location and results in a completed development.

PREVAILING WAGE RATE shall have the meaning contained in Minnesota Statutes, Section 177.42, Subd. 6, as determined from time to time by the Minnesota Department of Labor and

Industry for the area where the Project is located. The Minnesota Department of Labor and Industry shall determine the prevailing wage rate in accordance with Minnesota Statutes, Sections 177.41-177.44, and applicable rules promulgated thereto, including but not limited to Minnesota Rules Parts 5200.1000-5200.1120.

PREVAILING HOURS OF LABOR means the hours of labor per day and per week worked within the area by a larger number of workers of the same class than are employed within the area for any other number of hours per day and per week. The prevailing hours of labor may not be more than eight hours per day or more than 40 hours per week.

PROJECT(S) means any construction work, demolition work, or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, removal of public nuisances or any other improvement of public or private property where (a) the Project is financed in whole or in part with City Funds and (b) the estimated cost of the Project exceeds \$175,000.

§ 23.34 MONITORING AND COMPLIANCE.

(a) *Submission of certified payroll records.* Each covered person must furnish copies of certified payroll records for all work performed on the Project no later than 14 calendar days after each pay period to the Department.

(b) *Compliance Officer.* The Compliance Officer will investigate all complaints and monitor compliance upon receipt of a complaint regarding violations of this article. The Compliance Officer may request additional records reasonably required to monitor compliance or investigate complaints regarding this article. Upon request made by the Compliance Officer, each covered person shall promptly provide additional records reasonably required to monitor compliance with this article. Each covered person shall permit the Compliance Officer physical access to the site where the project is located at any time for the purpose of monitoring compliance with this article.

(c) *Rulemaking.* The City Attorney's Office may promulgate appropriate rules to implement, administer, and enforce this article. Such rules shall (1) be consistent with this article and may be relied on to determine rights and responsibilities under this article; and (2) establish procedures for fair, efficient, and cost-effective implementation and enforcement of this article. Any rules or revisions to published rules shall be published, maintained, and made available to the public at least 30 days prior to their effective date.

§ 23.36 EXCEPTIONS.

(a) **APPRENTICESHIP PROGRAM.** This article does not apply to apprentices working on Projects pursuant to a bona fide registered Apprenticeship Program for work performed in their trade. A trainee and a helper are not exempt under this provision; the Covered Person must assign the trainee or helper a job classification that is the “same or most similar” to the work being performed and compensate the trainee or helper for the actual work performed regardless of the trainee’s or helper’s skill.

(b) **DAVIS-BACON ACT.** For housing developments, this article follows the same exemptions found in the federal Davis-Bacon Act as further set forth in the rules.

(c) **PHASE OR PROJECT WAIVER.** Upon receipt of a written request from a Covered Person or Department, the City Council may approve by resolution a waiver of the requirements of this article for a Phase of a Project or for a Project. When requesting the waiver of a Phase of a Project, other Phases of the Project must be in harmony with the purpose and intent of this article. Prior to approval, the City Council must make written findings (1-2) that:

(1) the Project is consistent with the Comprehensive Plan; and

(2) The Covered Person has established that the Project is financially infeasible for the Covered Person due to unforeseen circumstances unique to the site and not created by the Covered Person, such as but not limited to substantial soil contamination;

and at least one of the following (3-5):

(3) The Covered Person has established that previous efforts to undertake a project on the site have failed due to circumstances unique to the site; or

(4) The site of the Project has been vacant for at least five (5) years; or

(5) The Covered Person has established the existence of an unusual hardship unique to the Project and that this waiver addresses that unusual hardship.

(d) **CERTAIN HOUSING DEVELOPMENTS.** For housing developments of 20 units or less, this article does not apply.

Section 2. Effective Date. This Ordinance is effective upon publication.

Passed and adopted this _____ day of _____, 2025.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney