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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2025-21

INTRODUCED BY:

Mayor Alan Webber

A BILL

AMENDING SFCC 1987, SECTION 28-1.5 (“LIVING WAGE ORDINANCE”), TO INCREASE THE CITY’S BASE MINIMUM WAGE AND UPDATE THE FORMULA FOR CALCULATING THE MINIMUM WAGE ANNUALLY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 28-1.1 of SFCC 1987 (being Ord. No. 2002-13, § 1) is included for reference without amendments:

28-1.1 Short title.

This section may be cited as the "Living Wage Ordinance".

Section 2. Section 28-1.2 of SFCC 1987 (being Ord. No. 2007-43, § 1) is amended to read as follows:

28-1.2 Legislative findings.

A._____ The governing body of the city ~~[has determined that]~~ made findings in 2002, amended in 2003, and then amended again in 2007 as follows:

[A] (1). The public welfare, health, safety and prosperity of Santa Fe require wages and benefits sufficient to ensure a decent and healthy life for

workers and their families;

[B] (2). Many Santa Fe workers earn wages insufficient to support themselves and their families;

[C] (3). Many Santa Fe workers cannot participate in civic life or pursue educational, cultural, and recreational opportunities because they must work such long hours to meet their households' most basic needs;

[D] (4). Minimum wage laws promote the general welfare, health, safety and prosperity of Santa Fe by ensuring that workers can better support and care for their families through their own efforts and without financial governmental assistance;

[E] (5). The average earnings per job in Santa Fe County is twenty-three percent (23%) below the national average and the cost of living is eighteen percent (18%) higher than the national average;

[F] (6). Housing costs in Santa Fe are much higher than in most other parts of New Mexico, and low income workers must therefore spend a disproportionate percentage of their income sheltering themselves and their families;

[G] (7). Livable wages also benefit employers and the economy as a whole by improving employee performance, reducing employee turnover, lowering absenteeism, and thereby improving productivity and the quality of the services provided by employees;

[H] (8). When businesses do not pay a livable wage, the community bears the cost in the form of increased demand for taxpayer-funded social services including homeless shelters, soup kitchens and healthcare for the uninsured. Coupled with high real estate values, low wages reduce

1 the ability of low- and moderate-income residents to access affordable
2 housing. As a result, the city has had to invest significant tax dollars to
3 support affordable housing including funding to nonprofit
4 organizations, purchasing land, building infrastructure and waiving
5 fees. In addition, the city has allocated significant tax dollars to operate
6 after school and summer recreation programs and to support nonprofit
7 organizations offering an array of human services and children and
8 youth services, all of which are needed by very low-income residents
9 and their families;

10 [I] (9). It is in the public interest to require certain employers benefiting from
11 city actions and funding, and from the opportunity to do business in the
12 city, to pay employees a minimum wage, a "living wage", adequate to
13 meet the basic needs of living in Santa Fe;

14 [J] (10). According to the 2000 Census, approximately twelve and three-tenths
15 percent (12.3%) of the Santa Fe community lives below the poverty
16 level; and

17 [K] (11). According to the New Mexico department of labor, twenty-three and
18 one-half percent (23.5%) of Santa Feans who are employed in the
19 nongovernmental sector earn hourly wages of ten dollars and fifty cents
20 (\$10.50) per hour or less.

21 [L] (12). The governing body has reviewed the impact of previous minimum
22 wage increases, relevant studies and other appropriate data, and finds
23 that the city's minimum wage should be upwardly adjusted each year to
24 keep pace with increases in the cost of living.

25 [M] (13). The governing body has found that limiting coverage of the minimum

wage just to businesses with twenty-five (25) or more employees has hindered compliance and has created an uneven playing field among local businesses.

B. In 2025, the governing body of the city finds as follows:

(1) The legislative findings in SFCC 1987, Section 28-1.2, numbered 1 through 4, 6 through 8, 12, and 13 remain relevant today.

(2) Updating the legislative findings in SFCC 1987, Section 28-1.2, numbered 5 and 9 results as follows:

i. The average earnings per job in Santa Fe County are twelve percent (12%) below the national average.

ii. According to the 2023 Census, approximately twelve and two-tenths percent (12.2%) of the Santa Fe community lives below the poverty level.

(3) According to American Community Survey data, median gross rent for occupied units paying rent in the city of Santa Fe increased by twenty eight percent (28%) between 2015 and 2021, rising from \$970 to \$1,245.

(4) The city has implemented, or attempted to implement, numerous strategies to address housing affordability, including, but not limited to, the Santa Fe Homes Program, Low Priced Dwelling Units, Affordable Housing Trust Fund, three percent (3%) High-End Excise Tax for Affordable Housing, and donation of City-owned land.

Section 3. Section 28-1.3 of SFCC 1987 (being Ord. No. 2003-8, § 2) is included for reference without amendments:

28-1.3 Authority of the city of Santa Fe.

1 This Living Wage Ordinance is adopted pursuant to the general welfare and police powers
2 conferred upon the city of Santa Fe by Section 3-17-1 et seq. and Section 3-18-1 et seq. NMSA
3 1978, pursuant to the powers conferred upon the city of Santa Fe by New Mexico Constitution,
4 Article X §§ 6(D) and 6(E) and the Municipal Charter Act Section 3-15-1 et seq. NMSA 1978,
5 which have been exercised by the city's adoption of its "Santa Fe Municipal Charter".

6 **Section 4. Section 28-1.4 of SFCC 1987 (being Ord. No. 2003-8, § 3) is included**
7 **for reference without amendments:**

8 **28-1.4 Purpose.**

9 The purposes of this section are:

10 A. To have the city of Santa Fe set an example for the public and private sectors by
11 paying its employees a minimum wage adequate to meet the basic needs of living in Santa Fe.

12 B. To raise the income of low-income employees of employers who contract with the
13 city, receive grants, subsidies or other benefits from the city or benefit from the opportunity to do
14 business in Santa Fe.

15 **Section 5. Section 28-1.5 of SFCC 1987 (being Ord. No. 2007-43, § 2) is amended**
16 **to read as follows:**

17 **28-1.5 Minimum wage payment requirements.**

18 A. The following entities shall pay the minimum wage:

19 (1) The city of Santa Fe to all full-time permanent workers employed by the
20 city. However, the provisions of this section are expressly limited by and subject
21 to future union negotiations in compliance with the Fair Labor Standards Act and
22 subsequent appropriations by the governing body in compliance with the Bateman
23 Act;

24 (2) Contractors for the city, that have a contract requiring the performance of
25 a service including construction services but excluding purchases of goods, shall

1 pay the minimum wage to their workers and subcontractors performing work under
2 the contract if the total contract amount with the city is, or by way of amendment
3 becomes, equal to or greater than thirty thousand dollars (\$30,000.00); and

4 (3) Businesses receiving assistance relating to economic development in the
5 form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of
6 twenty-five thousand dollars (\$25,000.00) to those employed by such entity for the
7 duration of the city grant or subsidy; and

8 (4) Businesses required to have a business license or business registration
9 from the city of Santa Fe and nonprofit organizations shall pay the minimum wage
10 to their workers for all hours worked within the city of Santa Fe that month. For
11 purposes of this paragraph, worker shall not include any person who is related by
12 blood or by marriage to any person who may have or possess any ownership
13 interest in the business that employs them. For purposes of identifying persons
14 entitled to be paid the minimum wage, all individuals employed by or providing
15 work to the business for compensation, whether on a part-time, full-time or
16 temporary basis, during a given month shall be counted as a worker. This definition
17 shall include contingent or contracted workers, and persons made available to work
18 through the services of a temporary service, staffing or employment agency or
19 similar entity. However, interns working for a business for academic credit in
20 connection with a course of study at an accredited school, college or university or
21 persons working for an accredited school, college or university while also
22 attending that school, college or university, or persons working for a business in
23 connection with a court-ordered community service program such as teen court or
24 workers who are in an apprenticeship program in a 501C(3) organization (such as
25 the Santa Fe opera) shall not be counted as a worker for such purposes.

1 B. Beginning January 1, 2004, the minimum wage shall be an hourly rate of eight
2 dollars and fifty cents (\$8.50). In computing the wage paid for purposes of determining compliance
3 with the minimum wage, the value of health benefits and childcare shall be considered as an
4 element of wages. On January 1, 2006 , the minimum wage shall be increased to an hourly rate of
5 nine dollars and fifty cents (\$9.50). Beginning January 1, 2009, and each year thereafter, the
6 minimum wage shall be adjusted upward by an amount corresponding to the previous year's
7 increase, if any, in the consumer price index for the western region for urban wage earners and
8 clerical workers.

9 C. Beginning January 1, 2027, the minimum wage shall be an hourly rate of seventeen
10 dollars and fifty cents (\$17.50). In computing the wage paid for purposes of determining
11 compliance with the minimum wage, the value of health benefits and childcare shall be considered
12 as an element of wages. On March 1, 2028, the minimum wage shall be increased by the average
13 of the annual increase of the following two factors:

14 (1) the United States Bureau of Labor Statistics Consumer Price Index for All Urban
15 Consumers, the Western Region, as published by the United States Bureau of Labor
16 Statistics ("Western Region CPI-U"); and

17 (2) Fair Market Rent ("FMR")for a two-bedroom unit in Santa Fe, New Mexico, as
18 published annually by the United States Department of Urban Development ("HUD").

19 If either factor is unchanged or decreases, then the minimum wage shall increase by a rate that is
20 equal to half the percent increase of the other factor. If both factors are unchanged or decrease, then
21 the minimum wage shall remain the same. In other words, the annual increase to the minimum
22 wage shall be calculated as follows: annual increase = 0.50 (annual percent increase (if there is
23 one) to Western Region CPI-U) + 0.50 (annual percent increase (if there is one) to the HUD's FMR
24 for a two- bedroom unit in Santa Fe). Increases to the minimum wage rate shall not exceed five
25 percent and the minimum wage shall not decrease.

1 [~~C~~] D. For workers who customarily receive more than one hundred dollars (\$100.00) per
2 month in tips or commissions, any tips or commissions received and retained by a worker shall be
3 counted as wages and credited toward[s] satisfaction of the minimum wage provided that, for tipped
4 workers, all tips received by such workers are retained by the workers, except that the pooling of
5 tips among workers shall be permitted.

6 [~~D~~] E. Nonprofit organizations whose primary source of funds is from Medicaid waivers
7 are exempt.

8 [~~E~~. — Staff shall contract for a study or studies to review the impact of changes made to
9 the Living Wage Ordinance approved as Ordinance No. 2007-43 on businesses of less than ten (10)
10 employees and on the student drop-out rate. The study shall be presented to the governing body no
11 later than July 1, 2009.]

12 **Section 6. Section 28-1.6 of SFCC 1987 (being Ord. No. 2003-8, § 5) is included**
13 **for reference without amendments:**

14 **28-1.6 Prohibitions against retaliation and circumvention.**

15 A. It shall be unlawful for any employer or employer's agent or representative to take
16 any action against an individual in retaliation for the exercise of or communication of information
17 regarding rights under this section. This section shall also apply to any individual that mistakenly,
18 but in good faith, alleges noncompliance with this section.

19 B. Taking adverse action against an individual within sixty (60) days of the
20 individual's assertion of or communication of information regarding rights shall raise a rebuttable
21 presumption of having done so in retaliation for the assertion of rights.

22 C. It shall be unlawful for any business or employer to intentionally circumvent the
23 requirements of this section by contracting portions of its operation or leasing portions of its
24 property.

25 **Section 7. Section 28-1.7 of SFCC 1987 (being Ord. No. 2004-38-, § 1) is included**

1 **for reference without amendments:**

2 **28-1.7 Reserved.**

3 Editor's note— Former subsection 28-1.7, Compliance Through Collective Bargaining Process,
4 previously codified herein and containing portions of Ordinance No. 2002-13, was repealed in its
5 entirety by Ordinance No. 2004-38.

6 **Section 8. Section 28-1.8 of SFCC 1987 (being Ord. No. 2003-8, § 6) is amended**
7 **to read:**

8 **28-1.8 Enforcement; remedies.**

9 A. *Administrative Enforcement.* The city manager, or ~~his/her~~ their designee, is
10 authorized, as appropriate and as resources permit, to enforce this section. The city manager is
11 authorized to investigate possible violations of this section. Where the city manager, after a
12 proceeding that affords a suspected violator due process, concludes that a violation has occurred,
13 the city manager may issue orders to the employer appropriate to effectuate the complaining
14 person's rights, including but not limited to back pay and reinstatement. The city manager also has
15 the power to order termination of any and all economic benefit derived by any offending party from
16 the city and has the power to revoke the employer's business license or registration.

17 B. *Criminal Penalty.* A person violating this section shall be guilty of a misdemeanor
18 and, upon conviction, for each offense may be subject to fines and imprisonment as set forth in
19 Section 1-3 SFCC 1987. A person violating any of the requirements of this section shall be guilty
20 of a separate offense for each day or portion thereof and for each worker or person as to which any
21 such violation has occurred.

22 C. *Other Remedies.* The city, any individual aggrieved by a violation of this section,
23 or any entity the members of which have been aggrieved by a violation of this section, may bring
24 a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation
25 of this section and, upon prevailing, shall be entitled to such legal or equitable relief as may be

appropriate to remedy the violation including, without limitation, reinstatement, the payment of any wages due and an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

D. *Nonexclusive Remedies and Penalties.* The remedies provided in this section are not exclusive, and nothing in this section shall preclude any person from seeking any other remedies, penalties, or relief provided by law.

Section 9. Section 28-1.9 of SFCC 1987 (being Ord. No. 2002-13, § 9) is included for reference without amendments:

28-1.9 Effect.

Nothing in this Living Wage Ordinance shall be deemed to nor shall be applied in such a manner so as to have a constitutionally prohibited effect as an ex post facto law or impairment of an existing contract within the meaning of New Mexico Constitution, Article II, § 19.

Section 10. Section 28-1.10 of SFCC 1987 (being Ord. No. 2003-8, § 7) is included for reference without amendments:

28-1.10 Severability.

The requirements and provisions of this section and their parts, subparts and clauses are severable. In the event that any requirement, provision, part, subpart or clause of this section, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the governing body that the remainder of the section be enforced to the maximum extent possible consistent with the governing body's purpose of ensuring a living wage for persons covered by the section.

Section 11. Section 28-1.11 of SFCC 1987 (being Ord. No. 2003-8, § 8) is included for reference without amendments:

28-1.11 Notice; posting; and publication.

Any business subject to the provisions of this section shall as a condition to obtaining and holding

1 a city of Santa Fe business license or registration, post and display in a prominent location next to
2 its business license or registration on the business premises a notice, in English and Spanish, that
3 the business is in compliance with the provisions of this section and in particular post the text of
4 subsections 28-1.5, 28-1.6 and 28-1.8 SFCC 1987. Failure to comply with this subsection shall be
5 construed a violation of this section and, in addition, shall be considered grounds for suspension,
6 revocation, or termination of the business license or registration.

7 **Section 12. Section 28-1.12 of SFCC 1987 (being Ord. No. 2003-8, § 9) is amended**
8 **to read as follows:**

9 ~~[The city shall conduct a review of this section on or before July 1, 2005. In conducting~~
10 ~~said review the governing body may, at its discretion and pursuant to a duly adopted resolution,~~
11 ~~appoint an ad hoc committee to advise and assist in making recommendations regarding this section~~
12 ~~and to investigate the economic and social effects of this section on Santa Fe. The city will contract~~
13 ~~with an independent third party to develop an evaluation that will generate objective measures on~~
14 ~~the effect of the Living Wage Ordinance on the health, security, and livelihood of Santa Feans by~~
15 ~~March 31, 2003. Data necessary for such an evaluation on Santa Fe city businesses will be compiled~~
16 ~~and presented to the governing body for their review on or before July 1, 2003. In compiling the~~
17 ~~data, consideration should be given to potential impacts on youth employment and possible~~
18 ~~recommendations that might prevent unforeseen consequences hurting children in the community]~~

19 The city shall contract for a study or studies to determine the effects of the Living Wage Ordinance
20 No. 2025- including, but not limited to, effects on the following: low-wage employment and
21 hours in hospitality and retail sectors; business openings and closures in food service and lodging
22 sectors; Gross Receipts Tax trends in hospitality linked North American Industry Classification
23 System codes; worker turnover and vacancy durations; and youth employment. The study shall be
24 presented to the governing body no later than July 1, 2029.

25 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2025.

1 APPROVED AS TO FORM:

2 *Erin McSherry*
3 Erin McSherry (Sep 4, 2025 11:17:35 MDT)

4 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/Bill/2025/Living Wage*