

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
ADDING CHAPTER 9, ARTICLE 38 OF THE FRESNO
MUNICIPAL CODE, RELATING TO CRIMINAL
PROSECUTION OF WAGE THEFT

WHEREAS, wage theft is widespread in California, and is particularly egregious in low-wage industries, disproportionately impacting the most vulnerable workers; and

WHEREAS, wage theft can take many forms, ranging from pay practices like group piece rate, to standard misclassification and cash pay, to requiring workers to clock out before working overtime hours or to falsify timesheets; and

WHEREAS, existing resources are insufficient to protect workers or to incentivize legal compliance by employers; and

WHEREAS, wage theft and practices like misclassification do not only harm workers, it also creates unfair competition for responsible employers who follow the law; and

WHEREAS, it is essential that the City of Fresno maximizes the tools available to public enforcement agencies to give workers access to justice, hold companies that break the law accountable, and secure our public safety net.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 38 of Chapter 9 is added to the Fresno Municipal Code to read:

SECTION 9-3801. – CRIMINAL PROSECUTION OF WAGE THEFT

1 of 6

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: 

Ordinance No.

(a) Purpose. This article is adopted for the purpose protecting workers against wage theft and misclassification by enhancing the enforcement available to the City for violations of the California Labor Code relating to wage and hour laws and employee classification.

(b) Definitions.

(1) "Employee" means any person in the service of an "Employer" under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.

(2) "Employer" means any person or persons, as defined in California Labor Code Section 18, who exercises control over the wages, hours, or working conditions of any Employee, or suffers or permits the Employee to work.

(3) "Independent Contractor" shall be defined in accordance with the definition provided in California Labor Code 2750.3.

(4) "Labor" shall be defined as any labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

(5) "Theft of Wages" means the intentional deprivation of compensation by an employer owed to an employee under the law.

Such deprivation may include:

(i) Wages, as defined in Section 200 of the California Labor Code;

(ii) Gratuities, as defined in Section 350 of the California Labor Code; or

(iii) Benefits owed under the law or contractual agreements, including the right not to be misclassified as an independent contractor.

(c) Regulations. It is unlawful for any employer to engage in any of the following activities:

(1) . The theft of wages lawfully owed to an employee or independent contractor for their labor.

(2) Willful misclassification of an individual as an independent contractor.

(3) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's

employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.

(d) Enforcement Authority. The City Attorney is authorized to commence and prosecute, independently, a civil or criminal action for violations of the California Labor Code concerning wage and hour laws or employee classification provisions that occur within the jurisdiction of the City.

(e) Allocation of Recovered Funds.

(1) Any moneys recovered by the City Attorney under this article shall first be used to pay wages, damages, penalties, or other amounts found due to affected employees.

(2) All civil penalties recovered, to the extent not allocated to the workers shall be paid to the General Fund of the State, unless otherwise specified by the Labor Code or by judicial order.

(f) Violations. A violation of this article is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the Fresno County jail for a period of not more than one year, or by both such fine and imprisonment. In addition to the penalties set forth in this subsection, a court shall order restitution in accordance with the California Penal Code Section 1202.4(f).

(g) Civil Penalties and Remedies.

(1) Employers found in violation of this article shall be subject to a civil proceeding for wage theft (including unpaid wages, overtime violations, illegal deductions, or misclassification as independent contractors) are required to pay all wages unlawfully withheld plus interest at the statutory interest rate.

(2) Employers found in violation of subsection (c)(2) or (c)(3) will be liable for payment of statutory penalties and liquated damages, including not less than \$5,000 and not more than \$15,000 per misclassification violation, in addition to any other penalties or fines permitted by law.

(3) Employers found to have engaged in or is engaging in a pattern or practice of violating subsection (c)(2) or (c)(3), shall be subject to a civil penalty of not less than \$10,000 and not more than \$25,000 for each violation, in addition to any other penalties or fines permitted by law.

(4) In any action or proceeding brought by the City to enforce this article, the City shall be entitled to recover its attorney's fees and costs when it is the prevailing party.

(5) In addition, the City Attorney shall also have the power to seek injunctive relief for any violation of this Article.

(6) The City may also impose administrative penalties pursuant to Section 1-308 of this Code for violations of this chapter.

(h) Severability. If any section, subsection, clause or phrase of this article or the application thereof is for any reason held invalid, the validity of the remainder of the article shall not be affected.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2025.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2025
Mayor Approval/No Return: _____, 2025
Mayor Veto: _____, 2025
Council Override Vote: _____, 2025

TODD STERMER, MMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Angela M. Karst Date
Senior Deputy City Attorney