

# The City of San Diego Enacts COVID-19 Related Worker Recall and Retention Ordinances

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The City of San Diego enacted emergency ordinances requiring fair employment practices in response to job and economic insecurity due to the COVID-19 pandemic and stay-at-home directives. The [City of San Diego COVID-19 Building Service and Hotel Worker Recall Ordinance](#) (“Recall Ordinance”) and the [City of San Diego COVID-19 Worker Retention Ordinance](#) (“Retention Ordinance”) went into effect immediately upon their passage on September 8, 2020. The Ordinances apply to three categories of businesses and employers that the City found have been especially impacted by the COVID-19 pandemic:

1. **Commercial Property Employer:** defined by ordinance as an owner-operator, manager, or lessee, including contractor, subcontractor, or sublessee, of a non-residential property located within the geographical boundaries of the City of San Diego that employs 25 or more janitorial, maintenance, or security service employees. Only the janitorial, maintenance, and security service employees who perform work for a Commercial Property business or employer are covered by the Ordinance.
2. **Event Center Employer:** defined by ordinance as an owner, operator, or manager of a privately-owned structure of more than 50,000 square feet or 5,000 seats that is used for the purpose of public performances, sporting events, business meetings, or similar events, and includes concert halls, stadiums, sports arenas, racetracks, coliseums, and convention centers. The term “event center” also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the “event center’s” purpose, including food preparation facilities, ushering services, ticket taking services, concessions, retail stores, restaurants, bars, and structured parking facilities, but excludes governmental entities.
3. **Hotel Employer:** defined by ordinance as an owner, operator, or manager of a residential building located within the geographical boundaries of the City of San Diego with at least 200 guest rooms that provide temporary lodging in the form of overnight accommodations to transient patrons, and may provide additional services, such as conferences and meeting rooms, restaurants, bars, or recreation facilities available to guests or the general public. A “hotel employer” also includes the owner, operator, manager, or lessee of any contracted,

leased, or sublet premises connected to or operated in conjunction with the building's purpose, or providing services to the building.

The Recall Ordinance requires a covered employer to offer positions that become available on or after September 8, 2020, to qualified employees who were laid off on or after March 4, 2020. A laid-off employee is deemed qualified and must be offered a position – in the order of priority below – if the employee:

1. Held the same or similar position at the same location when the employee was laid off; or
2. Is or can be qualified for the position with the same training that would be provided to a new worker hired into the position.

If more than one laid-off employee is entitled to preference for a position, the employer must offer the position to the laid-off employee with the greatest length of service in the position and then to the laid-off employee with the greatest length of service with the employer at the employment site.

Under the Retention Ordinance, when a covered business experiences a Change in Control as defined by the Ordinance, covered employees are given preference in hiring by the successor business employer for a period of 6 months and must be retained for no less than 90 days, provided the successor employer continues operating for 90 days unless there is cause for termination (which the Ordinance does not define). Once the 90 days have elapsed, the successor employer must perform a written performance evaluation for each eligible employee retained pursuant to the Retention Ordinance.

The Ordinances will remain in effect for six months. However, they could be repealed by January 1, 2021, depending on whether Gov. Gavin Newsom signs pending [Assembly Bill 3216](#) into law, which would provide similar worker protections statewide.

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National Law Review, Volumess X, Number 265

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