

ORDINANCE NO. _____

An urgency ordinance is required for the immediate protection of the public peace, health, and safety for the following reason: The State of California and the County of Los Angeles have declared a state of emergency due to the novel COVID-19 pandemic. Residents are subject to "stay at home" orders and certain businesses must reduce services or close. The pandemic increases the threat to the safety and welfare of County workers and their families as workers' incomes, health benefits, and the means to seek medical assistance are reduced or eliminated. Because of the immediate threat of economic hardship for workers in the County, this ordinance must become effective upon approval by the Board of Supervisors.

**The Board of Supervisors of the County of
Los Angeles ordains as follows:**

SECTION 1. Chapter 8.200 is hereby added to read as follows:

CHAPTER 8.200 - COVID-19 SUPPLEMENTAL PAID SICK LEAVE

8.200.010 PURPOSE.

8.200.020 DEFINITIONS.

8.200.030. COVID-19 SUPPLEMENTAL PAID SICK LEAVE.

**8.200.040. EMPLOYEE REQUEST FOR SUPPLEMENTAL PAID SICK
LEAVE.**

8.200.050. EXEMPTIONS.

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8.200.110. CONFLICTS.

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8.200.130. EXPIRATION OF ORDINANCE.

**8.200.140. EXEMPTION FOR COLLECTIVE BARGAINING
AGREEMENT, EXPRESS WAIVER.**

8.200.150. AUTHORITY.

8.200.010 PURPOSE.

As a result of the COVID-19 pandemic and "Safer at Home" emergency declarations by California Governor Gavin Newsom and the County Board of Supervisors, issued to protect the public health and welfare, many workers in the County of Los Angeles are facing significant job and economic insecurity. To ensure fair employment practices during the economic upheaval resulting from the pandemic and to reduce the demand on government-funded social services, the County hereby requires all employers, as defined below, in the unincorporated areas of the County to provide its employees with supplemental paid sick leave for COVID-19 related reasons.

8.200.020 DEFINITIONS.

The following definitions shall apply to this Chapter:

- A. "County"** means the County of Los Angeles.
- B. "Employee"** means an individual who performs any work within the geographic boundaries of the County for an Employer. For purposes of this Chapter, a worker is presumed to be an Employee, and an Employer has the burden to demonstrate that a worker is a bona fide independent contractor and not an Employee.
- C. "Employer"** mean a person, as defined in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee. This Chapter applies only to a private Employer with 500 or more employees nationally.
- D. "Person"** means a person, association, organization, partnership, business trust, limited liability company or corporation.
- E. "Supplemental Paid Sick Leave"** means time an Employee is compensated by an Employer for COVID-19 related leave as described in Section 8.200.040.

8.200.030. COVID-19 SUPPLEMENTAL PAID SICK LEAVE.

A. An Employee who ~~works for an~~has been employed with the same Employer ~~from February 3, 2020 through March 4, 2020,~~ is entitled to Supplemental Paid Sick Leave as follows:

1. An Employee who works at least 40 hours per week or is classified as a full-time Employee by the Employer shall receive 80 hours of Supplemental Paid Sick Leave. ~~Supplemental Paid Sick Leave shall be calculated based on an Employee's average two week pay over the period of February 3, 2020 through March 4, 2020.~~

2. An Employee who works less than 40 hours per week and is not classified as a full-time Employee by the Employer shall receive Supplemental Paid Sick Leave in an amount no greater than the Employee's average two week pay over the period of February 3, 2020 through March 4, 2020[GJ1].

B. In no event shall the Supplemental Paid Sick Leave amount paid to an Employee exceed \$511 per day and \$5,110 in the aggregate. Employees of joint Employers are only entitled to the total aggregate amount of leave specified for Employees of one Employer.

8.200.040. EMPLOYEE REQUEST FOR SUPPLEMENTAL PAID SICK LEAVE.

A. An Employer shall provide Supplemental Paid Sick Leave upon the written (includes but is not limited to electronic mail and text), request of an Employee if:

1. The Employee takes time off because a public health official or healthcare provider requires or recommends the Employee isolate or self-quarantine to prevent the spread of COVID-19;

2. The Employee takes time off work because the Employee is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system;

3. The Employee takes time off work because the Employee needs to care for a family member who is not sick but who public health officials or healthcare providers have required or recommended isolation or self-quarantine; or

4. The Employee takes time off work because the Employee needs to provide care for a family member whose senior care provider or whose school or child care provider caring for a child under the age of 18 temporarily ceases operations in response to a public health or other public official's recommendation.

5. An Employer may require a doctor's note or other documentation for the use of Supplemental Paid Sick Leave.

8.200.050. EXEMPTIONS.

A. An Employer of an Employee who is either an Emergency Responder or a health care provider as defined in Section 12945.2 of the California Government Code, Families First Coronavirus Response Act (HR 6201), and the Department of Labor Regulations shall be exempt from this Chapter.

B. An Employer of an Employee that is a federal, state, or local government agency shall be exempt from this Chapter.

8.200.060. EMPLOYER OFFSET.

An Employer's obligation to provide 80 hours of Supplemental Paid Sick Leave

under this Chapter shall be reduced for every hour an Employer allowed an Employee to take paid leave in an amount equal to or greater than the requirements in Section 8.200.030, not including previously accrued hours, on or after March 4, 2020, for any of the reasons described in Section 200.040.A.

8.200.070. ENFORCEMENT.

A. An Employee claiming a violation of this Chapter may bring an action in Superior Court of the State of California against an Employer and may be awarded:

1. Reinstatement to the position the Employee was discharged in violation of this Chapter.
2. Back pay and Supplemental Paid Sick Leave unlawfully withheld, calculated at the Employee's average rate of pay.
3. Other legal or equitable relief the court may deem appropriate.

B. If an Employee is the prevailing party in any legal action taken pursuant to this Chapter, the court may award reasonable attorneys' fees and costs as part of the costs recoverable.

8.200.080. RETALIATORY ACTION PROHIBITED.

No Employer shall discharge, reduce in compensation or otherwise discriminate against any Employee for opposing any practice proscribed by this Chapter, for requesting to use or actually using Supplemental Paid Sick Leave under this Chapter, for participating in proceedings related to this Chapter, for seeking to enforce his or her rights under this Chapter by any lawful means, or for otherwise asserting rights under this Chapter.

8.200.090. NO WAIVER OF RIGHTS.

Any waiver by an Employee of any or all of the provisions of this Chapter shall be deemed contrary to public policy and shall be void and unenforceable.

8.200.100. COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR SPECIFIC DEPRIVATIONS OF PROTECTED RIGHTS.

With the exception of rights and remedies provided to employees pursuant to the federal Families First Coronavirus Response Act (HR 6201), the provisions of this Chapter are in addition to or independent of any other rights, remedies, or procedures available under any other law and do not diminish, alter, or negate any other legal rights, remedies, or procedures available to an Employee.

8.200.110. CONFLICTS.

Nothing in this Chapter shall be interpreted or applied to create any power or duty in conflict with any federal or state law.

8.200.120. SEVERABILITY.

If any subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors hereby declares that it would have adopted this Chapter and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the Chapter would be subsequently declared invalid or unconstitutional.

8.200.130. EXPIRATION OF ORDINANCE.

Due to the extraordinary effects on employment resulting from the COVID-19 pandemic, this ordinance shall be in effect until December 31, 2020, unless the Board of Supervisors takes an action to extend this ordinance.

8.200.140. EXEMPTION FOR COLLECTIVE BARGAINING AGREEMENT, EXPRESS WAIVER.

All of the provisions of this Chapter, or any part of, may be expressly waived in a collective bargaining agreement, but only if the waiver is explicitly set forth in the agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted to constitute, a waiver of all or any of the provisions of this Chapter.

8.200.150. AUTHORITY.

This Chapter 8.200 is approved pursuant to sections 25123(d) and 25131 of the California Government Code, allowing for ordinances for the immediate preservation of the public peace, health, or safety.

SECTION 2. Emergency Findings

This urgency ordinance is adopted pursuant to California Government Code sections 25123(d) and 25131 and shall take effect immediately upon its approval by at least a four-fifths vote of the Board of Supervisors ("Board"). The Board finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following facts:

1. The COVID-19 pandemic has caused a health crisis in the State of California, and many workers in the County of Los Angeles are facing significant job and economic insecurity.
2. California Government Code section 8630 and Los Angeles County Code Section 2.68.110 empower the Board, or if the Board is not in session, in the following priority order, the chair, the chief executive officer, or the sheriff, to proclaim the existence of a local emergency when the County is affected or likely to be affected by a public calamity, subject to ratification by the Board at the earliest practicable time.

3. On March 4, 2020, the Governor of the State of California proclaimed a State of Emergency to exist in the State as a result of the threat of COVID-19.

4. On March 19, 2020, the Governor of the State of California issued a "Stay at Home" order as a result of the threat of COVID-19.

5. On March 16, 19, and 21, 2020, the County of Los Angeles Department of Public Health issued Public Health Orders ("Orders") as a result of the threat of COVID-19, which ordered the immediate closure of certain commercial businesses and properties, including but not limited to, Non-Essential Retail Businesses, indoor malls, shopping centers bars that do not service food, gyms, and movie theaters. The Orders also permitted certain Essential Businesses, as defined, to remain open.

6. On March 22, 2020, the President of the United States declared the existence of a major disaster in the State of California and ordered federal aid to supplement State and local recovery efforts in the areas affected by COVID-19.

7. As of April 3, 2020, COVID-19 has led to 4,566 cases and 89 deaths in Los Angeles County.

8. It is essential that the changes made by this ordinance to the Los Angeles County Code be implemented immediately to allow sick workers to stay home when they are sick so they will not expose others. Such paid sick leave will assist workers in avoiding greater economic insecurity.

SECTION 3. Immediate Effect.

This ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage by a four-fifths (4/5) or greater vote.