



City of San Leandro

Meeting Date: July 6, 2021

Staff Report

File Number: 21-438

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.E.

TO: City Council

FROM: Fran Robustelli
City Manager

BY: City Council

FINANCE REVIEW: Not Applicable

TITLE: Staff Report for City of San Leandro City Council Urgency ORDINANCE to Amend Both the Urgency Ordinance and Regular Ordinance Related to Grocery Workers Hazard Pay so that they Terminate on July 29, 2021

RECOMMENDATIONS

Pass an Urgency Ordinance that Amends Ordinances No. 2021-001 and No. 2021-002, which defines the end of the effectiveness of both the urgency and regular ordinances to be July 29, 2021.

BACKGROUND AND SUMMARY

On February 16, 2021, the City Council adopted Ordinance No. 2021-001, which was an urgency ordinance establishing an immediate requirement for grocery stores to provide premium pay, also known as “hazard pay”, to grocery workers, to compensate for the substantial risks, efforts, and expenses they are undertaking to provide essential services in a safe and reliable manner during the COVID-19 emergency. On March 1, 2021, the City Council approved Ordinance No. 2021-002, which was a regular ordinance establishing a requirement for grocery stores to provide hazard pay to grocery workers. The ordinances require large grocery stores to provide hazard pay until the later of 120 days from the effective date of the ordinances, the date Alameda County reaches the Minimal (yellow) tier under the State’s Blueprint for a Safer Economy, or such time as all covered employees, as defined in the ordinances, are vaccinated, excluding those covered employees who are prevented from receipt of vaccination by disability or sincerely held religious beliefs. At the time the Ordinances were adopted, it was clearly uncertain when vaccinations would be available to the general population beyond frontline emergency workers, healthcare workers, and other essential workers. Grocery stores were deemed an essential business sector, such that grocery store workers were also essential workers, who could also receive the vaccine ahead of the general population. Because of the uncertainty during February and March 2021 regarding vaccination availability, the City Council included a vaccination requirement in its grocery workers hazard pay ordinance to incentivize covered

employers and employees to get vaccinations.

After the ordinances went into effect, California and, in particular, the nine Bay Area counties, made significant progress in fighting the spread of COVID-19 by making vaccinations as available as possible. Case rates decreased in recent months. As a result of decreasing case rates and increasing vaccination rates, the State and Alameda County lifted many restrictions regarding activities and business operations, and the Governor terminated the Blueprint for a Safer Economy. COVID-19 vaccinations are now widely available to any adult in Alameda County. Over 80% of Alameda County residents 12 years of age or older have received at least one dose, and over 67% are fully vaccinated. As a result, the City Council desires to amend the ordinances requiring the payment of hazard pay to grocery workers to reflect the fact that vaccines are now widely available and that the Blueprint for a Safer Economy is no longer relevant. Recognizing that vaccination is the primary means to help combat the continued spread of COVID-19 and its variants, and because the State of California and San Leandro are still in a state of emergency due to COVID-19 and its variants, this Ordinance must be passed as an urgency ordinance to protect public health, safety, and welfare to encourage all workers in the City to get their vaccinations. As such, upon passage, in accordance with San Leandro Municipal Code Section 1-1-345(b), this ordinance goes into effect immediately.



City of San Leandro

Meeting Date: July 6, 2021

Urgency Ordinance

File Number: 21-439 **Agenda Section:** CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Fran Robustelli
City Manager

BY: City Council

FINANCE REVIEW: Not Applicable

TITLE: Urgency Ordinance of the City of San Leandro City Council Amending the Retail Food Worker Hazard Pay Ordinance and the Retail Food Worker Hazard Pay Urgency Ordinance to Clarify the Duration of Required Hazard Pay

WHEREAS, the novel coronavirus 19 (COVID-19) disease is caused by a virus easily transmissible from person to person and may result in serious illness or death, and is classified by the Centers for Disease Control and the World Health Organization (WHO) as a pandemic; and,

WHEREAS, on March 4, 2020, California Governor Gavin Newsom proclaimed a state of emergency in response to rising cases of COVID-19, directing state agencies to use all resources necessary to prepare for and respond to the outbreak; and

WHEREAS, on March 16, 2020, due to an escalating increase in the number of cases in Alameda County, under San Leandro Municipal Code section 3-4-124, the Director of Emergency Services proclaimed a local emergency and a state of emergency related to COVID-19; and

WHEREAS, on March 16, 2020, at its regular meeting the San Leandro City Council confirmed the Director of Emergency Services' proclamation of a local emergency and a state of emergency related to COVID-19; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued a "Stay Home - Stay Healthy" proclamation closing all non-essential workplaces, requiring people to stay home except to participate in essential activities or to provide essential business services, and banning all gatherings for social, spiritual, and recreational purposes. In addition to healthcare, public health and emergency services, the "Stay Home - Stay Healthy" proclamation identified grocery stores as part of an essential business sector critical to protecting the health and well-being of all Californians and designated grocery store workers as essential critical infrastructure workers; and

WHEREAS, on March 19, 2020, the California State Public Health Officer designated specific sectors and their workers, including grocery stores, as Essential Critical Infrastructure Workers ("essential workers") to ensure the "continuity of functions critical to public health and

safety, as well as economic and national security;” and

WHEREAS, on March 24, 2020, in order to mitigate the effects of COVID-19, Alameda County’s Public Health Officer issued the “Safer at Home” Order to control the spread of COVID-19 by closing all non-essential workplaces, requiring people to stay home except to participate in essential activities or to provide essential business services, and banning all gatherings for social, spiritual, and recreational purposes. In addition to healthcare, public health and emergency services, the “Safer at Home” Order identified grocery stores as essential businesses critical to protecting the health and well-being of all Californians and designated their workers as essential critical infrastructure workers; and

WHEREAS, the “Safer at Home” and “Stay Home - Stay Healthy” restriction remained in effect, in some form, throughout 2020 and the first few months of 2021; and

WHEREAS, grocery workers working for grocery stores are essential workers who perform services that are fundamental to the economy and health of the community during the COVID-19 crisis. They work in high risk conditions with inconsistent access to personal protective equipment and other safety measures; work in public situations with limited ability to engage in physical distancing; and continually expose themselves and the public to the spread of disease; and

WHEREAS, premium pay, paid in addition to regular wages, is an established type of compensation for employees performing hazardous duty or work involving physical hardship that can cause extreme physical discomfort and distress; and

WHEREAS, grocery workers working during the COVID-19 emergency merit additional compensation because they are performing hazardous duty due to the significant risk of exposure to the COVID-19 virus. Grocery workers have been working under these hazardous conditions for months. They are working in these hazardous conditions now and will continue to face safety risks as the virus presents an ongoing threat for an uncertain period, potentially resulting in subsequent waves of infection; and

WHEREAS, the availability of grocery stores is fundamental to the health of the community and is made possible during the COVID-19 emergency because grocery workers are on the frontlines of the pandemic supporting public health, safety, and welfare by working in hazardous conditions; and

WHEREAS, on February 16, 2021, the City Council adopted Ordinance No. 2021-001, which was an urgency ordinance establishing an immediate requirement for grocery stores to provide premium pay, also known as “hazard pay”, to grocery workers, to compensate for the substantial risks, efforts, and expenses they are undertaking to provide essential services in a safe and reliable manner during the COVID-19 emergency; and

WHEREAS, on March 1, 2021, the City Council adopted Ordinance No. 2021-002, which was a regular ordinance establishing a requirement for grocery stores to provide hazard pay to grocery workers; and

WHEREAS, the ordinances requires large grocery stores to provide hazard pay until the later of 120 days from the effective date of the ordinances, the date the City reaches the Minimal (yellow) tier under the State’s Blueprint for a Safer Economy, or such time as all Covered Employees, as defined in the ordinances, are vaccinated, excluding those Covered Employees who are prevented from receipt of vaccination by disability or sincerely held religious beliefs; and

WHEREAS, California has made significant progress in fighting the spread of COVID-19, and case rates have decreased in recent months; and

WHEREAS, as a result of decreasing case rates and increasing vaccination rates, the State and Alameda County have lifted many restrictions regarding activities and business operations, and the Governor has terminated the Blueprint for a Safer Economy; and

WHEREAS, COVID-19 vaccinations are now widely available to any adult in Alameda County. Over 80% of Alameda County residents 12 years of age or older have received at least one dose, and over 67% are fully vaccinated; and

WHEREAS, the City Council desires to amend the ordinances requiring the payment of hazard pay to grocery workers to reflect the fact that vaccines are now widely available and that the Blueprint for a Safer Economy is no longer relevant; and

WHEREAS, while it is generally understood that vaccination is the best means to protect against COVID-19 and its variants, COVID-19 is still present in the community presenting a clear and present danger to public health, safety, and welfare. The City Council takes notice that the State of California is still in a state of emergency, and San Leandro is still in a local emergency without, at this time, a foreseeable end. As such, the City Council urges all covered employees to get vaccinated as quickly as possible to help the City, Alameda County, and the State lower rates of transmission of COVID-19 and any of its variants.

NOW, THEREFORE, the City Council of the City of San Leandro **ORDAINS** as follows:

SEC. 1 RECITALS.

The City Council finds the foregoing recitals to be true and correct and hereby incorporates those recitals into this Ordinance.

SEC. 2 TITLE AND PURPOSE.

The retail food workers of San Leandro have continued to report to work and to serve their communities in the face of an unprecedented global pandemic. Under the Retail Food Worker Hazard Pay Ordinance adopted as an urgency ordinance on February 16, 2021 (the "Urgency Hazard Pay Ordinance") and the Retail Food Worker Hazard Pay Ordinance adopted as a regular ordinance on March 1, 2021 (the "Regular Hazard Pay Ordinance"), these workers have been entitled to hazard pay to justly compensate retail food workers for the clear and present dangers of doing their jobs as essential workers during the pandemic.

The City has an interest in ensuring the welfare of its workers and the continued operation of its food supply chain. The City also has an interest in encouraging workers to get vaccinations to protect against COVID-19, and to encourage businesses to make vaccines available to their employees. As vaccines are now readily available, the specific provisions in the Hazard Pay Urgency Ordinance and the Regular Hazard Pay Ordinance that tied the duration of those ordinances to vaccinations are no longer necessary. Additionally, because the Governor has terminated the Blueprint for a Safer Economy, references to the Blueprint tiers in those ordinances are no longer relevant.

SEC. 3 AUTHORITY.

This Chapter is adopted pursuant to the powers vested in the City of San Leandro City Council under the laws of the State of California, including, but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution, California Labor Code section 1205(b), and the Charter of the City of San Leandro.

SEC. 4 EMERGENCY NEED.

The City Council finds the foregoing recitals to be true and correct and hereby incorporates those recitals into this Ordinance

In accordance with subsection (b) of San Leandro Municipal Code Section 1-1-345, the City Council finds and declares that adoption of this Emergency Ordinance is necessary for preserving the public peace, health and safety for the following reasons:

- A. The COVID-19 pandemic has led to the current state of emergency in California, and local emergency in the City of San Leandro.
- B. The City Council of the City of San Leandro finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, welfare and safety that warrants this ordinance, which finding is based upon the facts stated in the recitals above, and in the staff report dated July 6, 2021, as well as any oral and written testimony at the July 6, 2021 City Council meeting. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health, welfare, and safety. The facts constituting such urgency are all of those certain facts set forth and referenced in this Ordinance and the entirety of the record before the City Council.

SEC. 5 EFFECTIVE DATE.

This Ordinance shall take effect immediately if adopted in accordance with subsection (b) of San Leandro Municipal Code section 1-1-345.

SEC. 6 AMENDMENT TO HAZARD PAY ORDINANCES.

(a) Section 7(b) of the Urgency Hazard Pay Ordinance is amended in its entirety to read as follows:

“Duration of Hazard Pay. Covered Employers shall pay Hazard Pay to all workers for any pay period from the effective date of this Ordinance until, and including, July 29, 2021.”

(b) Section 7(b) of the Regular Hazard Pay Ordinance is amended in its entirety to read as follows:

“Duration of Hazard Pay. Covered Employers shall pay Hazard Pay to all workers for any pay period from the effective date of this Ordinance until, and including, July 29, 2021.”

SEC. 7 PUBLICATION.

Upon its adoption pursuant to City of San Leandro Municipal Code section 1-1-345(b), this Ordinance shall be published in accordance with Cal. Govt. Code Sec. 36933.

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