



CITY OF SAN MATEO

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Agenda Report

Agenda Number: 8

Section Name: {{section.name}}

File ID: {{item.tracking_number}}

TO: City Council
FROM: Drew Corbett, City Manager
PREPARED BY: City Attorney Department
MEETING DATE: March 01, 2021

SUBJECT:
COVID-19 Hazard Pay for Large Grocery Store and Large Drugstore Workers – Consider Ordinances

RECOMMENDATION:

Adopt an Emergency Ordinance to require large grocery stores and large drugstores to provide hazard pay to their public facing employees and introduce an Ordinance to require large grocery stores and large drugstores to provide hazard pay to their public facing employees.

BACKGROUND:

Introduction

At the January City Council goal setting meeting, Councilwoman Papan informed the Council that she had received information about efforts by some cities to require grocery stores to pay “hazard pay” to their frontline employees working through the pandemic. Councilwoman Papan expressed interest in the concept of requiring large grocery stores to pay hazard pay and asked whether the Council supported an effort to investigate this concept and report back for Council consideration. The Council agreed and directed staff to research this topic and report back to the Council for further direction.

At its February 16 meeting, the city attorney presented a report on the nature and origin of hazard pay ordinances for grocery store workers and sought direction from the Council on whether an ordinance should be prepared for Council consideration and what the key features of the ordinance should be. The Council directed the city attorney to prepare an ordinance for its consideration at the March 1 meeting. The Council also directed the city manager to research the businesses located within the City that might be impacted by the ordinance. The city manager’s staff has reached out to City businesses that would be impacted by the ordinance and has compiled a document summarizing its findings. This document is attached as Attachment 3 to this report.

Features of the Ordinances

As directed by the Council, the city attorney has prepared two ordinances for action by the Council. The ordinance attached to this report as Attachment 1 is an emergency ordinance and, if adopted by at least 4/5’s vote, will go into effect immediately. The ordinance attached as Attachment 2 is a regular ordinance that is presented for introduction at the March 1 meeting. If introduced it will be brought back for adoption at the council’s March 15 meeting. If adopted, it would go into effect 30 days after the date of adoption. The substantive provisions of the two ordinances are the same.

The Amount of the Hazard Pay

As directed by Council, the ordinance has been drafted to provide for a \$5 per hour requirement. The ordinance provides

for a credit against this amount for hazard pay that employers are voluntarily paying at the time the ordinance goes into effect.

Covered Employers

The ordinance applies to grocery stores and drugstores that employ 500 or more employees nationwide. The term "grocery store" is defined to include any retail store that devotes 10% or more of its floor area to the sale of food products.

Covered Employees

The ordinance has been drafted to require the payment of hazard pay to non-salaried employees (defined as those who would be entitled to the City's Minimum Wage) whose work exposes them to contact with store patrons.

Exception for Collective Bargaining Agreements

The ordinance provides that it does not apply to employers who have entered into a collective bargaining agreement that explicitly waives entitlement to the hazard pay the ordinance requires.

Duration

The ordinance has been drafted to expire 120 days after its adoption. It is anticipated that this will provide enough time for the covered employees to be vaccinated.

Other Key Features

The ordinance has been drafted to include key features found in the ordinances adopted by other California cities. These include a requirement that employers provide notice to their employees of the protections afforded by the ordinance and the provision of a private right of action authorizing employees to bring their own actions to enforce the ordinance.

BUDGET IMPACT:

The adoption of this ordinance will not have a material impact on the City's budget. It is expected that staff resources would be needed to provide outreach on the provisions of the ordinance. Staff resources, including attorney services, could also be required in the enforcement of the ordinance.

ENVIRONMENTAL DETERMINATION:

This ordinance is not a project subject to CEQA, because it can be seen with certainty that it will not cause a physical change in the environment. (Public Resources Code Section 21065.)

NOTICE PROVIDED

All meeting noticing requirements were met.

ATTACHMENTS

Att 1 - Proposed Emergency Ordinance

Att 2 - Proposed Ordinance

Att 3 - Summary of Information on City Businesses

STAFF CONTACT

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