

CITY OF LOS ANGELES



RULES AND REGULATIONS IMPLEMENTING THE PREMIUM HAZARD PAY FOR ON-SITE GROCERY AND DRUG RETAIL WORKERS ORDINANCE

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FOR ON-SITE GROCERY AND DRUG RETAIL WORKERS ORDINANCE**

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Note: These Rules and Regulations are guidelines to help employers and employees understand their responsibilities and rights. We anticipate that these Rules and Regulations will be updated and encourage those implementing the Premium Hazard Pay for On-site Grocery and Drug Retail Workers Ordinance to check <https://wagesla.lacity.org/> regularly for the latest guidance available from the Office of Wage Standards.

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SCOPE OF OWS AUTHORITY

The Department of Public Works, Bureau of Contract Administration, Office of Wage Standards (“OWS”) promulgates these Rules and Regulations as authorized by the Ordinance adding Section 200.100 to Article 9 of Chapter XX of the Los Angeles Municipal Code (“LAMC”) effective March 8, 2021. The OWS may also amend or revise these Rules and Regulations from time to time, consistent with applicable law.

RULES AND REGULATIONS IMPLEMENTING THE PREMIUM HAZARD PAY FOR ON-SITE GROCERY AND DRUG RETAIL WORKERS ORDINANCE

DEFINITIONS

The following definitions shall apply to these Rules and Regulations:

“Ordinance” means the Premium Hazard Pay for On-Site Grocery and Drug Retail Workers Ordinance adopted by the Los Angeles City Council on March 3, 2021.

“OWS” means the Department of Public Works, Bureau of Contract Administration, Office of Wage Standards.

Additional definitions can be found in Section 200.101 of the Ordinance.

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REGULATION #1: DETERMINING WHO IS AN EMPLOYEE

An Employee covered by the Ordinance is an individual who meets the following requirements:

1. In a particular week performs at least two (2) hours of work within the geographic boundaries of the City for an Employer; and
2. Qualifies as an Employee entitled to payment of a minimum wage from any Employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission.

“Particular Week” means any seven (7) consecutive days, starting with the same calendar day each week. “Week” for the purpose of the Ordinance’s Employee hour shall be a fixed and regularly occurring period of seven (7) consecutive 24-hour periods which is equivalent to a period of 168 hours.

An Employee is covered by the Ordinance regardless of whether the Employee is full-time, part-time, seasonal, or temporary.

An Employee not covered by the Ordinance is a manager who is exempt under the California Industrial Welfare Commission wage orders. However, merely labeling someone as an “exempt worker” does not make it so.

An Employee not covered by the Ordinance is an individual who performs all work outside the City, even if the Employer is based in the City.

See Regulation #2 for the definition of an Employer.

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REGULATION #2: DETERMINING WHO IS AN EMPLOYER

An Employer is a person (see California Labor Code Section 18), including a corporate officer or executive, that operates:

1. A grocery retail store:
 - a. With more than 300 employees nationwide;
 - b. With more than ten (10) Employees on-site in the City; and
 - c. That sells primarily food or household goods, including the sale of produce, meats, poultry, fish, deli products, canned foods, dry foods, beverages, baked foods, and/or prepared foods.

OR

2. A drug retail store:
 - a. With more than 300 employees nationwide;
 - b. With more than ten (10) Employees on-site in the City; and
 - c. That sells a variety of prescription and nonprescription medicines and miscellaneous items, including, but not limited to, drugs, pharmaceuticals, sundries, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, prepared foods, and other merchandise.

OR

3. Any site of a retail store with more than 300 employees nationwide and more than ten (10) Employees on-site in the City, where:
 - a. The retail store has at least one (1) site in the City over 85,000 square feet that:
 - i. Dedicates at least ten percent (10%) of its sales floor to groceries, including, but not limited to, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, and/or prepared foods; or
 - ii. Dedicates at least ten percent (10%) of its sales floor to drug retail, including, but not limited to, drugs, pharmaceuticals, sundries, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, prepared foods, and other merchandise; and
 - b. The site:
 - i. Dedicates at least ten percent (10%) of its sales floor to groceries, including, but not limited to, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, and/or prepared foods; or

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- ii. Dedicates at least ten percent (10%) of its sales floor to drug retail, including, but not limited to, drugs, pharmaceuticals, sundries, produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, prepared foods, and other merchandise.

Determining the Size of an Employer

To determine the number of employees nationwide, the calculation shall include all employees nationwide who work for compensation including, but not limited to, hourly employees, managers, supervisors, and exempt workers. The calculation shall be determined by the number of employees employed nationwide as of March 8, 2021.

To determine the number of Employees on-site at each location in the City, the calculation shall include all Employees at the specific location who qualify as an Employee in Regulation #1. The calculation shall be determined by the number of Employees employed at each location as of March 8, 2021.

It is the Employer's responsibility to maintain a record of the number of employees nationwide and the number of Employees on-site employed as of March 8, 2021.

Examples

Example 1: A grocery retail store that primarily sells food has 500 employees nationwide and multiple locations in the City. Each store located in the City that has more than ten (10) Employees is covered by the Ordinance. A store located outside of the City is not covered by the Ordinance.

Example 2: A drug retail store that primarily sells pharmaceuticals has 200 employees nationwide and multiple locations in the City. Each store located in the City has 20 employees. The stores are not covered by the Ordinance.

Example 3: A big-box retailer with more than 300 employees nationwide dedicates ten percent (10%) of its sales floors to grocery and/or drug retail at each of its locations. This retailer owns: a 90,000 square foot store in the City with 90 Employees, a 50,000 square foot store with 50 Employees, and a 10,000 square foot store in the City with 10 Employees. The 90,000 square foot store and the 50,000 square foot store is covered by the Ordinance. The 10,000 square foot store is not covered by the Ordinance.

Example 4: A retail store employs more than 300 employees nationwide and has at least one location in the City that is over 85,000 square feet that dedicates at least ten percent (10%) of its sales floor to grocery or drug retail. All of its locations in the City that employ more than ten (10) Employees and dedicate at least ten percent (10%) of its sales floor to grocery or drug retail are covered by the Ordinance, regardless of the square footage of the location.

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REGULATION #3: PREMIUM HAZARD PAY

Premium Hazard Pay is additional compensation owed to an Employee in addition to the Employee's other compensation, including, but not limited to, salaries, wages, tips, overtime, commissions, piece rate, bonuses, rest breaks, paid leave, and reimbursement for expenses.

An Employee is entitled to at least five (5) dollars per hour in Premium Hazard Pay for each hour worked on-site for an Employer in the City. Nothing in the Ordinance prohibits any Employer from paying more than five (5) dollars per hour in Premium Hazard Pay to its Employees.

If an Employer already provides hourly Premium Hazard Pay as of March 8, 2021, such compensation may be credited against the additional payment required by the Ordinance. Premium Hazard Pay or any additional compensation provided prior to March 8, 2021 cannot be credited as part of the compensation due under this Ordinance.

If an Employer provides Premium Hazard Pay on a flat rate basis, the Premium Hazard Pay lump sum payment shall be calculated by multiplying the number of hours worked in a workweek or pay period by five (5) dollars.

Examples

Example 5: An Employee works ten (10) hours a day. For the first eight (8) hours, the Employee earns an hourly wage rate of sixteen (16) dollars. For the remaining hours, the Employee earns the overtime rate of a time and a half or 24 dollars per hour. This Employee must also be paid five (5) dollars per hour worked in Premium Hazard Pay.

Hour	1	2	3	4	5	6	7	8	9	10	Total
Wage Rate	\$16	\$16	\$16	\$16	\$16	\$16	\$16	\$16	\$24	\$24	\$176
Premium Hazard Pay	\$5	\$5	\$5	\$5	\$5	\$5	\$5	\$5	\$5	\$5	\$50

Example 6: Company X provided two (2) dollars per hour to each of its Employees since the beginning of the COVID-19 pandemic and labeled it as "Thank You" pay. If the Company continues to provide the two (2) dollars per hour in "Thank You" pay, it must provide an additional three (3) dollars per hour in Premium Hazard Pay to each Employee to comply with the Ordinance.

Example 7: Company Y provides 200 dollars of Premium Hazard Pay in a weekly lump sum payment to its Employees who work forty (40) hours a week. This satisfies the Premium Hazard Pay requirement of the Ordinance for these Employees for that week because the flat rate payment for that workweek (200 dollars) divided by the number of hours worked (40) is the equivalent of five (5) dollars per hour worked.

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REGULATION #4: RETALIATION

No Employer shall discharge, reduce in compensation, or otherwise discriminate against any worker for opposing any practice proscribed by the Ordinance, for requesting additional compensation owed under the Ordinance, for participating in proceedings related to the Ordinance, for seeking to exercise his or her rights under the Ordinance by any lawful means, or for otherwise asserting rights under this Ordinance.

Additional forms of retaliation may include, but are not limited to, a reduction in hours, demotion, reassignment to a less desirable assignment or location or schedule, the denial or reduction of other benefits, or a reduction in the base hourly wage.

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REGULATION #5: ENFORCEMENT

An Employee claiming a violation of this Ordinance or these Rules and Regulations may bring a civil action in a court of competent jurisdiction against an Employer for such violations and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, but not limited to:

1. Payment of any wages unlawfully withheld; and/or
2. Injunctive relief.

An Employee, upon prevailing, shall be awarded attorney's fees and costs.

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REGULATION #6: EXPIRATION

The Ordinance and these Rules and Regulations will be in effect until July 6, 2021, which is 120 days after the effective date. The Los Angeles City Council may amend the Ordinance and this expiration date.