

# CITY OF OAKLAND



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Councilmember Sheng Thao  
DISTRICT 4  
Councilmember Dan Kalb  
DISTRICT 1  
Councilmember Loren Taylor  
DISTRICT 6

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**Date:** 4/30/2020  
**To:** Members of the City Council  
**From:** Councilmember Sheng Thao, District 4  
President Pro Tempore Dan Kalb, District 1  
Councilmember Loren Taylor, District 6  
**Re:** Emergency Paid Sick Leave Ordinance

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## **RECOMMENDATION**

We Respectfully Request That The City Council: Adopt An Emergency Ordinance (1) Establishing Emergency Paid Sick Leave For Oakland Employees During The Novel Coronavirus (COVID-19) Pandemic and (2) Amend Chapter 2.44 Of The Oakland Municipal Code To Include Enforcement Of Emergency Paid Sick Leave As Part Of The Duties Of The Department Of Workplace And Employment Standards.

## **EXECUTIVE SUMMARY**

The Coronavirus (COVID-19) Pandemic is an unprecedented crisis. As we navigate the current shelter in place order and the gradual reopening of the Oakland economy, we must provide emergency paid sick leave to workers in order to minimize the spread of COVID-19 in our workplaces and in our communities. This is especially the case for low-wage workers on the frontlines and in service occupations. Workers who have access to emergency paid sick days are less likely to feel compelled to come to work sick, fully comply with the 14-day quarantine period recommended by public health officials, and more easily able to care for their loved ones and navigate school and nursing home closures.. Low wage workers – who are predominantly people of color – are not only on the front lines of the crisis, but among the hardest hit economically. This ordinance builds on the Federal Families First Coronavirus Response Act, which requires certain businesses to provide 80 hours of Emergency Paid Sick Leave for full-time employees to minimize the risk of contracting or spreading COVID-19, care for a family member who has been exposed to COVID-19, or care for a child whose school has been closed. Using the Federal legislation as a scaffold, this ordinance enables workers to receive their full compensation when using their Emergency Paid Sick Leave to care for loved ones, expands Emergency Paid Sick Leave to businesses with more than 500 employees, and allows laid-off workers to collect accumulated Paid Sick Leave under Oakland’s Measure FF. The ordinance only requires

employers with less than 50 employees to follow what is already required by the Federal law in order to protect Oakland's small businesses.

The very workers we depend on to navigate this crisis must be able to protect themselves and their families. No one should have to choose between keeping their family safe and putting food on the table.

## **BACKGROUND**

The Coronavirus (COVID-19) Pandemic has acutely alerted us to our reliance on, and the vulnerability of, our frontline, essential service workers. While the Federal Families First Coronavirus Response Act was an important step in protecting workers, California cities are realizing it is falling far short of what our workers need. Cities like Los Angeles, San Francisco, and San Jose have already passed expansions of the Federal legislation. It is imperative that Oakland follow suit to protect Oakland workers and continue to pave the way for statewide action, just as Bay Area Counties did by declaring a Shelter-in-Place Order. By eliminating the two-tier wage replacement system that limits workers' ability to use their Emergency Paid Sick Leave, this ordinance ensures that workers will not have to consider the financial impact of caring for a loved one, in line with Oakland's existing Paid Sick Day policy. Similarly, immune-compromised workers will not have to balance risking their lives with their checkbook. Our health depends on the health of the person next to us, and the person next to them. Protecting our workforce is critical to maintaining ongoing service, stopping this pandemic, and safeguarding the health and well-being of everyone in our community.

## **ANALYSIS**

The Families First Coronavirus Response Act (FFCRA) provides 80 hours of paid sick leave for fulltime workers and, for part-time workers, the FFCRA provides the number of hours of leave that the employee works on average over a two-week period. Workers can use FFCRA if they are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; if they have been advised by a healthcare provider to self-quarantine related to COVID-19; if they are experiencing COVID-19 symptoms and are seeking a medical diagnosis; if they are caring for an individual under a quarantine or isolation order; if they are caring for a child whose school or place of care is closed due to COVID-19, or if they are experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services in consultation with the Secretaries of Labor and Treasury. FFCRA does not apply to companies with more than 500 employees, ironically the companies most able to provide Paid Sick Leave. Under FFCRA, if employees are caring for a child whose school or place of care is closed, or caring for someone subject to a quarantine or isolation order, they are only compensated for 66% of their regular pay. Also, FFCRA does not allow workers to use Paid Sick Leave if they are immune-compromised or have other pre-existing conditions which make them more vulnerable to contracting and experiencing potentially fatal complications from COVID-19.

This emergency ordinance:

- 1) requires Oakland companies with greater than 50 employees to provide 10 days emergency paid sick leave;
- 2) grants workers full compensation for using sick leave to self-isolate due to exposure to COVID-19, to care for a loved one or child, or to protect themselves if they are at high risk of COVID-19

- 3) allows workers to receive their accrued paid sick leave under Measure FF if they are laid-off
- 4) codifies FFCRA into Oakland law, so the city's new Department of Workplace and Employment Standards can play a larger role in implementing and enforcing the federal requirements
- 5) does not apply expansions to the FFCRA to businesses with fewer than 50 employees, to protect Oakland's small businesses

### **COORDINATION & PUBLIC OUTREACH**

Councilmember Thao worked extensively with the East Bay Alliance for a Sustainable Economy (EBASE), and Councilmembers Kalb and Taylor were consulted. We have and will continue to work with stakeholders, including both workers and businesses, to move forward.

#### **Registered Support:**

ACLU of Northern California  
 African Black Coalition  
 Alameda Labor Council, AFL-CIO  
 Asian Pacific Environmental Network  
 Causa Justa::Just Cause  
 Centro Legal de la Raza  
 Chinese Progressive Association  
 East Bay Alliance for a Sustainable Economy (EBASE)  
 Economic Justice for Black Oakland  
 Faith Alliance for a Moral Economy  
 Faith In Action East Bay  
 Ella Baker Center for Human Rights  
 Gig Workers Rising  
 HIP (Human Impact Partners)  
 IFPTE Local 21  
 Light House Mosque  
 Mujeres Unidas y Activas  
 National Employment Law Project  
 Nomadic Press  
 Oakland Education Association  
 Oakland Peace Center  
 Oakland Rising  
 Partnership for Working Families  
 Qalbu Maryam Women's Mosque  
 Reem's  
 ROC the Bay  
 SEIU Local 1021  
 SEIU USWW  
 Street Level Health Project  
 Taylor Memorial United  
 The Urban Equity Group  
 UFCW Local 5  
 UNITE HERE Local 2850  
 Worksafe

**ACTION REQUESTED BY THE CITY COUNCIL**

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Sincerely,

Handwritten signature of Sheng Thao in black ink.

Councilmember Sheng Thao  
District 4

Handwritten signature of Dan Kalb in black ink.

President Pro Tempore Dan Kalb  
District 1

Handwritten signature of Loren Taylor in blue ink.

Councilmember Loren Taylor  
District 6