

# WORKING PARTNERSHIPS USA

March 31, 2020

Mayor Sam Liccardo and Councilmembers  
City Council, City of San Jose  
200 E. Santa Clara St.  
San José, CA 95113

## **RE: SUPPORT FOR PAID SICK LEAVE AND RECOMMENDATION ON DRAFT ORDINANCE**

Dear Mayor and Council:

On behalf of Working Partnerships USA and a growing coalition of small business, healthcare, housing, community and labor organizations, I would like to encourage your support for the March 27th memo from Councilmembers Carrasco, Arenas and Esparza to draft and pass an urgency ordinance to provide emergency paid sick leave. We would also like to thank Mayor Liccardo for his memo and the strong support among members of the Rules Committee last week. Together we believe these two sets of ideas, and some revisions recommended below, can bring forward a strong ordinance that protects the public, working families and businesses alike.

At a time when COVID-19 is infecting a growing number of people across our County, workers should not be asked to choose between their family's economic well-being and caring for their own health and the health of their community. All workers who are sick, who have sick family members in need of care, or children impacted by COVID-19 related closures should be able to remain home to seek care, to care for loved ones and follow the direction of their doctors and County public health officials without sacrificing wages.

Thanks to availability of fully refundable Federal payroll tax credits under the *Families First Coronavirus Response Act*, which goes into effect April 1st, the City of San Jose has the ability to extend 14 days of paid sick leave to all workers AND to ensure small and medium sized businesses are fully compensated for dollars spent on providing such leave during the COVID-19 emergency. The City should leverage this unique opportunity to extend paid sick leave to all workers.

The draft ordinance published by the City Attorney on March 30<sup>th</sup>, which interprets the Mayor's memo, is a positive start, but we would like to provide further comment and some specific recommendations on how to best protect public health, working families, and our small and medium businesses.

### **Recommended revisions to the March 30th draft city ordinance:**

#### ***1) Cover Employers regardless of the status of potential discretionary exemptions from the Department of Labor under the Families First Coronavirus Response Act.***

Currently, Section 6(b) of the draft ordinance limits the application of the ordinance to small businesses with fewer than 50 employees to those employers "that have obtained from the United States Department of Labor a financial hardship exemption from the Federal Act".

Under the FFCRA, the Department of Labor is given the ability to issue Federal Rules to allow businesses under 50 employees to seek an exemption if following the bill's leave requirements would "jeopardize the viability of the business as a going concern" according to guidance issued to employers on March 24<sup>th</sup>. The specifics of these Federal Rules and the Department of Labor's process have not been made public.

While on paper Section 6(b) seems to accomplish the goal of Mayor Liccardo's memo to "[fill] gaps in the Families First Corona Virus Response Act (FFCRA)" it does not allow for a practical application and enforcement of such a goal. By allowing the City to only enforce the ordinance on employers which have received a Federal exemption, this could discourage such employers from ever seeking an exemption (and counting on lax enforcement of the Federal Law) or, worse yet, seeking an exemption only after the City has lifted its emergency and the City ordinance is no longer in effect, but the federal program is still active. Such scenarios could allow businesses the Mayor's proposal meant to cover to avoid responsibilities under both the City or Federal policy. Even if an employer acted to seek an exemption quickly, the implementation of this ordinance would depend on a timely response from the Department of Labor to provide the applying small business with approval of their exemption under this discretionary program. Workers are also unlikely to know the status of their employer applying or receiving such an exemption, creating difficulties for workers in understanding how best to assert their rights. The City's definitions should not depend on the discretionary actions of the Federal government to process exemptions or to issue future Guidance and Rulemaking that aligns with the City ordinance.

The spirit of Mayor Liccardo's memo and of the draft City ordinance is giving all workers certainty that they can take sick days if they or their loved ones experience symptoms or are directed to seek care or self-isolation from their healthcare providers or public health authorities. Creating an ordinance that lacks clarity or leaves substantial loopholes for employers to avoid providing workers this certainty undermines the value of the ordinance. Since all businesses under 50 employers can seek an exemption, and all have access to refundable Federal tax credits to fully pay for any expense related to providing that sick leave, the ordinance should clearly cover all those employers to protect against the loopholes described above.

***Recommendation:*** *Optimally, revise the City's ordinance Section 6 to include all employers regardless of size. At a minimum, the City Ordinance should include all businesses with 50 or fewer employees nationally, regardless of the status of a potential FFCRA hardship exemption.*

**2) Use thresholds for Employer size that align with thresholds within the FFCRA, measuring the number of Employees a firm employs nationally.**

The FFCRA classifies "Covered Employers" by the number of employees an employer employs nationally. The draft ordinance definition of "Covered Employers" references the numeric thresholds of the FFCRA but defines "Employee" as a worker working within the City of San Jose and eligible for the City's minimum wage. As such, the definitions of Section 6 would cover a much smaller universe of employers and workers than the "gap" in the FFCRA described in Mayor Liccardo's memo. Given the importance of following the definitions of the FFCRA for certain employers to be able to access

refundable tax credits provided by the law, and to meet the goal of Mayor Liccardo's memo to "fill the gap", the City ordinance should adopt employee thresholds in its definitions of "Covered Employer" based on the number of employees an employers employs nationally, not only the number employed in San Jose.

***Recommendation:*** *Revise the City draft ordinance Section 6 to apply employee number thresholds to classes of "Covered Employers" based on national numbers of employees, not employees within the City of San Jose.*

**3) Revise definition of eligible Employees to include those workers recognized as Employees under the California Labor Code.**

Many of the delivery workers for companies like Amazon, Instacart, Doordash, Uber Eats and Postmates, the drivers of various transportation network companies like Uber and Lyft, and many logistics, building services and trucking workers - which are deemed to be "essential" under the March 16<sup>th</sup> public health order - are misclassified by their employers as independent contractors, despite being recognized as employees under California Labor Code § 2750.3. These workers should be eligible for the State's minimum wage and paid sick days, but many of these companies have failed to provide even minimum protections to their workers. For instance, San Diego's City Attorney recently obtained an injunction against Instacart, preventing the company from alleging that their workers are independent contractors under current law. As the court rightly recognized, the misclassification of workers leaves them without access to minimum wages and sick days and puts law-abiding competitors at a disadvantage.

Numerous cities that have created their own paid sick leave policies have created definitions of who is a covered employee that are aligned with state Labor Code definitions, including Los Angeles, San Diego, Oakland, Berkeley, Emeryville, and Santa Monica.

The City of San Jose's definition of employees and employers for its draft paid sick days' ordinance relies on the definitions of the City's minimum wage, which passed before Labor Code § 2750.3 went into effect, and could exclude a significant number of the essential workers described above.

In addition, the definition of "Employee" depends on a definition of "Employer" which requires a business to be covered by the City's Business License Tax or to maintain a physical location in the City. While employees of these delivery and transportation network companies have been required to hold a business license, not all of the prominent gig economy companies providing these now "essential" services have been required to obtain their own business licenses, with the exception of those with physical locations within the City.

These gig companies are attempting to play a prominent role amid this public health crisis, but have offloaded the costs and risks of operating their business on to the backs of their workforce. Some of these companies continue to provide delivery services in the private market and are distributing food to vulnerable populations. Yet, without these vital protections, the workers put themselves, these vulnerable

consumers, and the broader community at risk. Like any other worker, it is critical that these drivers and delivery workers be able to stay home and access paid sick days if they are ill, feeling symptoms, or caring for a family member who may be ill, rather than risk the further spread of this virus to vulnerable populations.

**Recommendation:** *Revise the draft ordinance Section 5 to define “Employer” and “Employee” in such a way to include workers recognized as an employee under California Labor Code § 2750.3. This could be accomplished by revising the definition of Employer under the ordinance to include (additions in **bold**):*

*B. “Employer” means a person or entity that (a) is an “employer” as defined in Subsection C of Section 4.100.030 of the San Jose Municipal Code, or (b) suffers or permits an **Employee’s work, or (c) engages, and thereby creates a common law employment relationship with, an Employee (including through the services of a temporary services or staffing agency or similar entity).**”*

#### **4) Building off best-practices, exempt construction trades employers with a collective bargaining agreement.**

In the State of California’s paid sick leave policy, and city policies like in Los Angeles, San Francisco, San Diego and Oakland, each provide various exemption for employers in the building and construction trades which have a collective bargaining agreement which meet minimum standards on terms such as the wages, hours of work, and working conditions of employees, and premium wage rates for all overtime hours worked. Sometimes these laws, and similarly San Jose’s minimum wage ordinance, will allow for a construction trade or other unions to expressly waive such a labor standard in a collective bargaining agreement. Given the short term nature of this policy, and the challenges in amending collective bargaining agreements covering just the housing and public works construction sites still operating under the public health order, the City ordinance should include an exemption similar to what is provided under the California Labor Code § 245.5 A(2).

**Recommendation:** *The City ordinance should include an exemption similar to California Labor Code § 245.5 A(2) covering “all employee in the construction industry covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and regular hourly pay of not less than 30 percent more than the state minimum wage rate”.*

#### **5) In line with the standards of the FFCRA, give all eligible full-time workers access to 80 hours immediately.**

The draft ordinance, in line Mayor Liccardo’s Memo, applies a different standard for how many paid sick days a full-time worker should receive than the standard required under FFCRA. Under the draft ordinance, a full-time employee gets 40 hours of paid sick time automatically, but then can accrue up to 40 additional hours of paid sick time on a basis of one hour of paid leave hour for every two hour of



essential work completed. This stands in conflict with the paid sick time provided to full-time workers under FFCRA §5102 (b)(2)(A) which requires that full-time workers be given 80 hours of paid sick time and does not require the same kind of complicated accrual described in the draft ordinance.

This definition creates three problems. First by applying a standard that conflicts with the Federal standard for full-time workers, the City could be making it more complicated for small and medium sized businesses trying to follow Federal standards in order to seek their refundable tax credits under the law. Appropriately, the City Attorney adopted a standard that mimicked the federal law for part-time workers. The City should do the same for full-time workers. Secondly, by requiring an accrual-based system for full-time workers it could make it tougher for employees to hold their employer accountable, raising questions about how businesses will track accrued leave, when such accrual begins, and how employees can track accrual, each of which creates practical problems that the City, employers and employees would benefit from avoiding given the temporary nature of the policy. Lastly such a standard may prohibit certain full-time workers who need the sick time earlier in the program to access needed hours before they have been able to accrue it in order to self-isolate, seek care or care for a loved one.

***Recommendation:*** *Revise Section 8 to align with FFCRA §5102 (b)(2)(A) as follows (deletions in strikethrough):*

*A fulltime Employee is entitled to ~~a maximum of eighty (80) hours of sick leave.~~ 1. ~~The Employer must make the first forty (40) hours of sick leave available on the date this Ordinance is effective.~~ 2. ~~The Employee will accrue an additional one (1) hour of sick leave, up to the maximum number of hours, for every two (2) hours of Essential Work or Other Outside Work.~~*

**6) Ensure ordinance does not discriminate against Employees at Employers which qualify as Essential Businesses and/or deliver essential services who happen to work from home.**

Section 7 of the draft ordinance defines that sick days are only extended to an “Employee who leaves his/her residence to perform either Essential Work or Other Outside Work.” Under such language, workers in an essential business or who perform essential work under the March 16th public health order, but are currently working within their residence would be excluded from paid sick days. Whether you leave your home or not for your work, sick workers need to be able to access paid sick days to self isolate and seek care or to care for an eligible family member. Furthermore, discriminating against workers who work from home for an essential business or are providing essential work may create legal hurdles. The Americans with Disabilities Act (ADA) prevents employers from discriminating against qualified workers with disabilities. It also offers telecommuting as a reasonable accommodation to expand the workforce and prevent qualified professionals from getting denied employment opportunities.

Neither the CCPRA nor any state or local paid sick days policy makes a distinction between remote workers or workers “who leaves his/her residence.” The City should adopt a definition of worker eligibility that includes all workers still employed in the City that work for essential businesses and/or perform essential services outlined under the March 16th public health order, regardless of whether an

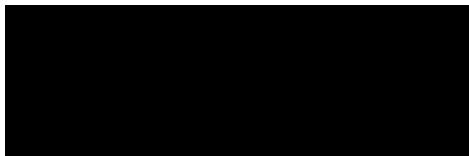
employee may be working from home at the time they or a loved one gets sick or needs to utilize the protection outlined in the ordinance. The City should also maintain the protection outlined in the draft ordinance for workers who may be working for businesses not allowed to operate under that public health order.

***Recommendation:*** Remove the terms “leave his/her residence to perform” from Section 5(c) and Section 7.

In addition to the above changes in the draft urgency ordinance, we also hope the City Council will consider taking steps towards developing a permanent paid sick leave policy in addition to the work to deliver a temporary policy to address the current public health emergency. As a large city in California, we also have some catching up to do in terms of a paid sick leave policy. San Jose remains the only one of California’s four largest cities without a paid sick leave ordinance giving workers more than the state-mandated 3 days of paid sick leave. Los Angeles, San Diego, San Francisco, Oakland, Berkeley, Emeryville, and Santa Monica each have private sector employer paid sick leave mandates, typically incorporated into the minimum wage requirements. After this emergency resides, working families and the economy of San Jose would still benefit from a paid sick leave policy.

Thank you for your consideration of this ordinance, these recommendations and all of your efforts to protect the working families and the broader public in San Jose.

Regards,



Jeffrey Buchanan, Director of Public Policy  
Working Partnerships USA

**From:** Katie Hansen

**Sent:** Wednesday, April 1, 2020 9:15 AM

**To:** The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

**Cc:** City Clerk

**Subject:** CRA Public Comment Item 20-419

April 1, 2020

The Honorable Mayor and City Councilmembers  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

**Subject:** Emergency Paid Sick Leave Ordinance: Oppose

Dear Mayor Liccardo and City Councilmembers,

The California Restaurant Association (CRA) is the definitive voice of the food service community in California and the oldest restaurant trade association in the nation. On behalf of the restaurants in San Jose, we must express our opposition to the proposed Paid Sick Leave Emergency ordinance that would require restaurants to provide paid sick leave during the COVID-19 crisis. The ordinance applies to employers with 500 or more employees and employers with 50 or fewer employees that have obtained from the U.S. Department of Labor a financial hardship exemption from the Federal Paid Sick Leave Act.

Under existing California law, all employers are already providing their employees who have worked in California for 30 or more days with 24 hours of paid sick leave, at an accrual rate of one hour for every thirty hours worked. This leave applies to all employees including temporary, seasonal and part-time employees.

The Federal Emergency Paid Sick Leave Act creates new emergency paid sick leave obligations for employers across the United State in response to the coronavirus. The Act applies to employers with fewer than 500 employees and an employee is immediately eligible for this leave. Full time employees are provided with 80 hours of paid leave and part time employees a two-week average of paid sick leave, on top of any other existing paid leave program, to quarantine or seek a diagnosis or preventative care for COVID-19. If the employee is absent to care for a sick family member or a child unable to attend school, they are compensated at two-thirds of the rate they would otherwise receive. Employers will receive a 100% tax credit for all wages that are paid.

CRA is concerned this proposal would hurt small businesses who have 50 or fewer employers. By requiring small businesses with 50 or fewer employees that have obtained a financial hardship exemption from the Federal Paid Sick Leave Act the US Department of Labor to provide paid sick leave in San Jose, you will be preventing them from utilizing the Federal tax credits for paid sick leave because they have already received an exemption from the US Department of Labor.

Creating any new additional program at the local level would be a costly burden for restaurants already struggling with financial hardship due to the loss of customers during the COVID-19 pandemic. In response to the Governor's Emergency Orders restaurants have closed their doors, closed their dining rooms and moved what operations they can to delivery and carry out. As a result of COVID-19 measures, customer traffic and restaurant sales have plummeted.

The impact of these changes to restaurant operations have been devastating in an industry that is uniquely characterized by razor-thin economic margins. For example: a restaurant owner typically only keeps about five cents to every dollar they make in sales. That means an owner earns about \$50,000 for every \$1 million in sales. Restaurants in today's crisis environment will not have revenue matching costs.

Restaurants need help from their local governments to survive these financially perilous time. Instead of creating new unnecessary sick paid leave employment mandates, we urge the San Jose City Council to consider measures to help restaurants, such as eviction protections and delayed licensing and fee payments. These and other local policies could help the restaurant community "hibernate" during this crisis and, hopefully, emerge as local employers and continue as the fabric of the San Jose community. For these reasons, we ask you to oppose the Emergency Paid Sick Leave ordinance.

Sincerely,

Katie Hansen  
Senior Legislative Director  
California Restaurant Association



## Item 3.2 - Support Mayor Liccardo's Memorandum

Andres Niemeyer

Wed 4/1/2020 11:32 AM

Dear Clerk City Clerk,

You have an opportunity to pass an emergency Paid Sick Leave Ordinance that will protect both workers and small businesses. Please support Mayor Sam Liccardo's memorandum to enact a sensible and pragmatic Paid Sick Leave policy.

The Mayor's proposal strengthens existing Paid Sick Leave policies above and beyond state requirements. It would also be considerate of the financial viability of vulnerable small businesses that have seen their customer base disappear overnight as a direct result of COVID-19. In this time of crisis, we need to encourage workers to stay home if they are sick and to protect valuable jobs provided by small businesses. It also hurts workers and their jobs, if we enact legislation that crushes small businesses at the same time.

Finally, the Mayor's proposal expands upon and leverages the new Federal Paid Sick Leave policy. It strongly encourages refundable federal tax credits and no-interest loans to help small businesses survive the COVID-19 crisis.

Please pass Mayor Liccardo's proposal for the emergency Paid Sick Leave Ordinance and clearly define exemptions for small businesses with 50 or less full time employees.

Sincerely,

Support this sensible and pragmatic approach to address the current pandemic economic hardships to our local businesses and workers.

Sincerely,

Andres Niemeyer

## Item 3.2 - Support Mayor Liccardo's Memorandum

Mike Benkert  
Wed 4/1/2020 11:39 AM

Dear Clerk City Clerk,

You have an opportunity to pass an emergency Paid Sick Leave Ordinance that will protect both workers and small businesses. Please support Mayor Sam Liccardo's memorandum to enact a sensible and pragmatic Paid Sick Leave policy.

The Mayor's proposal strengthens existing Paid Sick Leave policies above and beyond state requirements. It would also be considerate of the financial viability of vulnerable small businesses that have seen their customer base disappear overnight as a direct result of COVID-19. In this time of crisis, we need to encourage workers to stay home if they are sick and to protect valuable jobs provided by small businesses. It also hurts workers and their jobs, if we enact legislation that crushes small businesses at the same time.

Finally, the Mayor's proposal expands upon and leverages the new Federal Paid Sick Leave policy. It strongly encourages refundable federal tax credits and no-interest loans to help small businesses survive the COVID-19 crisis.

Please pass Mayor Liccardo's proposal for the emergency Paid Sick Leave Ordinance and clearly define exemptions for small businesses with 50 or less full time employees.

Sincerely,

Piling new regulations and expenses onto businesses that are already on the brink of extinction makes no sense for anyone in our community in the long run. Please do NOT make this any more difficult than it already is.

Sincerely,

Mike Benkert

Mayor Sam Liccardo and Councilmembers  
City of San Jose, City Council  
200 East Santa Clara Street  
San Jose, CA 95113

Re: <https://www.sanjoseca.gov/your-government/departments/city-council>

April 1, 2020

**Subject: Please Oppose the Paid Sick Leave Ordinance**

Dear Mayor and Councilmembers

I am writing to you to urge you to oppose the proposed Paid Sick Leave Emergency ordinance that would require restaurants to provide even more paid sick leave during the COVID-19 crisis.

The ordinance applies to employers with 500 or more employees and employers with 50 or fewer employees.

Under existing California law, all employers are already providing their employees who have worked in California for 30 or more days with at least 24 hours of paid sick leave, at an accrual rate of one hour for every thirty hours worked. This leave applies to all employees including temporary, seasonal and part-time employees.

Additionally, the ink is barely dry on the Federal Emergency Paid Sick Leave Act, which mandates additional emergency paid sick leave obligations for employers with fewer than 500 employees. Full time employees are provided with 80 hours of paid leave and part time employees a two-week average of paid sick leave, on top of any other existing paid leave program, to quarantine or seek a diagnosis or preventative care for COVID-19.

Forcing yet another layer of mandated leave on the restaurant community within San Jose would be a costly burden for restaurants already struggling with financial survival due to government directives to generally cease our operations.

The impact of these changes to restaurant operations have been devastating in an industry that is uniquely characterized by razor-thin economic margins.

Restaurants need help from their local governments to survive these financially perilous times. Instead of creating new layers of employment mandates, we urge the San Jose City Council to consider measures to help restaurants, and focus on local policies that could help the restaurant community "hibernate" during this crisis and, hopefully, emerge as local employers and continue as the fabric of the San Jose community.

For these reasons, we ask you to oppose the Emergency Paid Sick Leave ordinance.

Sincerely,



Marc Simon      President and CEO      Rubio's Restaurants, Inc.

## Item 3.2 - Support Mayor Liccardo's Memorandum



Duleep Pillai  
Wed 4/1/2020 11:18 AM



Dear Clerk City Clerk,

You have an opportunity to pass an emergency Paid Sick Leave Ordinance that will protect both workers and small businesses. Please support Mayor Sam Liccardo's memorandum to enact a sensible and pragmatic Paid Sick Leave policy.

The Mayor's proposal strengthens existing Paid Sick Leave policies above and beyond state requirements. It would also be considerate of the financial viability of vulnerable small businesses that have seen their customer base disappear overnight as a direct result of COVID-19. In this time of crisis, we need to encourage workers to stay home if they are sick and to protect valuable jobs provided by small businesses. It also hurts workers and their jobs, if we enact legislation that crushes small businesses at the same time.

Finally, the Mayor's proposal expands upon and leverages the new Federal Paid Sick Leave policy. It strongly encourages refundable federal tax credits and no-interest loans to help small businesses survive the COVID-19 crisis.

Please pass Mayor Liccardo's proposal for the emergency Paid Sick Leave Ordinance and clearly define exemptions for small businesses with 50 or less full time employees.

Sincerely,

Sincerely,

Duleep Pillai

## **Item 3.2 - Support Mayor Liccardo's Memorandum**

Jason Stein  
Wed 4/1/2020 12:51 PM

Dear Clerk City Clerk,

You have an opportunity to pass an emergency Paid Sick Leave Ordinance that will protect both workers and small businesses. Please support Mayor Sam Liccardo's memorandum to enact a sensible and pragmatic Paid Sick Leave policy.

The Mayor's proposal strengthens existing Paid Sick Leave policies above and beyond state requirements. It would also be considerate of the financial viability of vulnerable small businesses that have seen their customer base disappear overnight as a direct result of COVID-19. In this time of crisis, we need to encourage workers to stay home if they are sick and to protect valuable jobs provided by small businesses. It also hurts workers and their jobs, if we enact legislation that crushes small businesses at the same time.

Finally, the Mayor's proposal expands upon and leverages the new Federal Paid Sick Leave policy. It strongly encourages refundable federal tax credits and no-interest loans to help small businesses survive the COVID-19 crisis.

Please pass Mayor Liccardo's proposal for the emergency Paid Sick Leave Ordinance and clearly define exemptions for small businesses with 50 or less full time employees.

Sincerely,

Sincerely,

Jason Stein





**April 1, 2020**

**City of San Jose Rules and Open Government Committee  
200 E Santa Clara St  
San Jose, CA 95113**

**Regarding: Proposed Sick Leave Ordinance for Rules Committee/Joint Council Agenda of 4/1/20**

**Honorable Mayor Liccardo, Vice Mayor Jones, and Council,**

**We continue to state our overall concern with the proposed Paid Sick Leave Ordinance, and the supporting Mayor's memo of March 24th, as well as the City Attorney's draft ordinance, for consideration at the April 7, 2020 City Council meeting.**

**This proposed ordinance forces regulations on business owners, that are already barely getting by, and or operating at a loss. By imposing this ordinance on employers, you will exacerbate an already dire situation with unintended consequences, the most significant of which is the permanent shuttering of many businesses. Those businesses, won't re-open, won't re-hire.**

**We again request, the Mayor, Vice Mayor and Council consider the gravity of imposing this order on our businesses. Our local businesses respect, appreciate, and support employees and their health and well-being. Their employees ARE their business. But without an operating business there are of course no employees; an unintended consequence.**

**We again, urge you to leave this issue to the Federal Government, and its relevant agencies, not the City of San Jose.**

**Sincerely,**

**Tracey Enfantino  
Board Chair  
Business San Jose Chamber PAC**

## ***San Jose Small Business Advisory Task Force***

April 1, 2020

Mayor Sam Liccardo and City Council  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

RE: Paid Sick Leave Ordinance

Dear Mayor Liccardo and Members of the City Council:

We, the members of the **San Jose Small Business Advisory Task Force**, strongly urge you to protect small businesses and workers as you consider moving forward with a proposed Paid Sick Leave Ordinance. The ordinance should clearly define an exemption for small businesses with 50 or less full time equivalent employee positions.

**Small businesses are the backbone of our regional economy.** In 2015, California small businesses employed about 7 million people or 48.8% of the private workforce.<sup>1</sup> In a 2015 Keen Independent Research study, commissioned by work2future, immigrants represent about 45% of local businesses in Santa Clara County.<sup>2</sup> Small minority and immigrant owned businesses are major job creators in Silicon Valley.

Since the enactment of the Bay Area's and California's mandatory shelter-in-place orders, we have lost more than one million jobs since March 13th. Many small businesses have seen their customer and revenue base dry up overnight since COVID-19 began spreading to our communities. **Small businesses simply cannot plan for this sudden break in cash flow and are especially vulnerable as shelter-in-place orders remain in effect to combat the COVID-19 epidemic.** These lost jobs will rapidly accelerate if we don't find ways to help our small business owners and their employees weather this public health and economic crisis, while shelter-in-place orders remain in effect.

**Everyone has an obligation to advance the public health interest to slow the spread of COVID-19, yet we should not further accelerate the demise of our small, minority-owned businesses in the meantime. As you move forward with strengthening a Paid Sick Leave ordinance for San Jose, we hope that you will consider protections for small businesses through an exemption for those with 50 or less full time employees.**

The Undersigned,

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<sup>1</sup> Statistics of U.S. Businesses, U.S. Census Bureau.  
<https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-CA.pdf>

<sup>2</sup> Keen Independent Research Study  
[http://work2future.biz/images/Keen\\_Independent\\_2015\\_San\\_Jose\\_Small\\_Business\\_Study\\_Summary\\_04232015\\_FINAL\\_comb.pdf](http://work2future.biz/images/Keen_Independent_2015_San_Jose_Small_Business_Study_Summary_04232015_FINAL_comb.pdf)

## ***San Jose Small Business Advisory Task Force***

Hispanic Chamber of Commerce

FilAm Chamber of Commerce Silicon Valley

Rainbow Chamber of Commerce

Silicon Valley Black Chamber of Commerce

Silicon Valley Chinese Technology & Business Association

Silicon Valley Vietnamese American Chamber of Commerce

The Silicon Valley Organization

Winchester Business Association

**From:** Mathew Reed

**Sent:** Wednesday, April 1, 2020 1:19 PM

**To:** Jimenez, Sergio <sergio.jimenez@sanjoseca.gov>; Peralez, Raul <Raul.Peralez@sanjoseca.gov>; Diep, Lan <lan.diep@sanjoseca.gov>; Carrasco, Magdalena <Magdalena.Carrasco@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; Arenas, Sylvia <sylvia.arenas@sanjoseca.gov>; Khamis, Johnny <johnny.khamis@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Esparza, Maya <Maya.Esparza@sanjoseca.gov>; Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Jones, Chappie <Chappie.Jones@sanjoseca.gov>

**Cc:** Hughes, Scott <scott.hughes@sanjoseca.gov>; Ramos, Christina M <christina.m.ramos@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; Herbert, Frances <frances.herbert@sanjoseca.gov>; Groen, Mary Anne <maryanne.groen@sanjoseca.gov>; McGarrity, Patrick <Patrick.McGarrity@sanjoseca.gov>; Connolly, Shane Patrick <shane.connolly@sanjoseca.gov>; The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; david.sykes@sanjoseca.gov <david.sykes@sanjoseca.gov>; EconomicDevelopment <Economic.Development@sanjoseca.gov>; Leslye Corsiglia

**Subject:** Re: 3.2 Paid Sick Leave Ordinance

Dear Mayor Liccardo, Vice Mayor Jones, and Councilmembers Arenas, Carrasco, Davis, Diep, Carrasco, Esparza, Foley, Khamis, and Peralez.

### **Re: 3.2 Paid Sick Leave Ordinance**

These are extremely difficult times for all of us. The COVID-19 outbreak and the evolving conditions in San Jose present an urgent need for a range of responses to protect working people and public health.

We support the efforts of this council, and the leadership of Councilmembers Esparza, Carrasco, Arenas, and Mayor Liccardo, in addressing the need for policy to ensure everyone can take paid time off if they or their family gets sick. No one should have to choose between their health, and the risk of spreading the infection, and making rent and taking care of their families.

We understand that the landscape of state and federal response and resources has shifted since this item was first introduced, and that there are a number of policy details that will need to be resolved in today's emergency council meeting. We are confident that you can agree on ways of addressing these needs, and filling the gaps in coverage that are essential to community health and household stability.

Thank you for your ongoing leadership as we all work collectively to respond to the challenges of this crisis. This will not be the last time this leadership will be called upon.

Sincerely,

Mathew Reed

## Item 3.2 - Support Mayor Liccardo's Memorandum

Vivian Vo

Wed 4/1/2020 4:01 PM

Dear Clerk City Clerk,

You have an opportunity to pass an emergency Paid Sick Leave Ordinance that will protect both workers and small businesses. Please support Mayor Sam Liccardo's memorandum to enact a sensible and pragmatic Paid Sick Leave policy.

The Mayor's proposal strengthens existing Paid Sick Leave policies above and beyond state requirements. It would also be considerate of the financial viability of vulnerable small businesses that have seen their customer base disappear overnight as a direct result of COVID-19. In this time of crisis, we need to encourage workers to stay home if they are sick and to protect valuable jobs provided by small businesses. It also hurts workers and their jobs, if we enact legislation that crushes small businesses at the same time.

Finally, the Mayor's proposal expands upon and leverages the new Federal Paid Sick Leave policy. It strongly encourages refundable federal tax credits and no-interest loans to help small businesses survive the COVID-19 crisis.

Please pass Mayor Liccardo's proposal for the emergency Paid Sick Leave Ordinance and clearly define exemptions for small businesses with 50 or less full time employees.

Sincerely,

Sincerely,

Vivian Vo



## Item 3.2 - Support Mayor Liccardo's Memorandum

**Timothy Leets**

Wed 4/1/2020 4:38 PM

Dear Clerk City Clerk,

You have an opportunity to pass an emergency Paid Sick Leave Ordinance that will protect both workers and small businesses. Please support Mayor Sam Liccardo's memorandum to enact a sensible and pragmatic Paid Sick Leave policy.

The Mayor's proposal strengthens existing Paid Sick Leave policies above and beyond state requirements. It would also be considerate of the financial viability of vulnerable small businesses that have seen their customer base disappear overnight as a direct result of COVID-19. In this time of crisis, we need to encourage workers to stay home if they are sick and to protect valuable jobs provided by small businesses. It also hurts workers and their jobs, if we enact legislation that crushes small businesses at the same time.

Finally, the Mayor's proposal expands upon and leverages the new Federal Paid Sick Leave policy. It strongly encourages refundable federal tax credits and no-interest loans to help small businesses survive the COVID-19 crisis.

Please pass Mayor Liccardo's proposal for the emergency Paid Sick Leave Ordinance and clearly define exemptions for small businesses with 50 or less full time employees.

Sincerely,

We consult with 260 Bay Area companies. Many of which are in San Jose. The owners of these companies are doing a lot to help their employees. Also navigating choppy waters as the combinations of Federal, State, County, and Local laws are literally changing daily.

A common sense approach is needed that protects both employees and small businesses.

Thanks for your support of the Mayor's proposal.

Tim Leets

Sincerely,

Timothy Leets

## Item 3.2 - Support Mayor Liccardo's Memorandum

Canan Sonuk

Wed 4/1/2020 7:27 PM

Dear Clerk City Clerk,

You have an opportunity to pass an emergency Paid Sick Leave Ordinance that will protect both workers and small businesses. Please support Mayor Sam Liccardo's memorandum to enact a sensible and pragmatic Paid Sick Leave policy.

The Mayor's proposal strengthens existing Paid Sick Leave policies above and beyond state requirements. It would also be considerate of the financial viability of vulnerable small businesses that have seen their customer base disappear overnight as a direct result of COVID-19. In this time of crisis, we need to encourage workers to stay home if they are sick and to protect valuable jobs provided by small businesses. It also hurts workers and their jobs, if we enact legislation that crushes small businesses at the same time.

Finally, the Mayor's proposal expands upon and leverages the new Federal Paid Sick Leave policy. It strongly encourages refundable federal tax credits and no-interest loans to help small businesses survive the COVID-19 crisis.

Please pass Mayor Liccardo's proposal for the emergency Paid Sick Leave Ordinance and clearly define exemptions for small businesses with 50 or less full time employees.

Sincerely,

Paid sick leave are not used accordingly by hourly wages workers. Most workers have multiple jobs. They call in sick for one job and go work for the other job they have and then do other way to cash out their "sick leave". It is putting employers and clients at great risk of losing the business especially clients are very upset when the employee does not show up to work in service business. Good intentions are turning this state/city into not friendly for small business owners. Workers actions are costing hundreds of thousand of dollars lost business, creating unreliable workers with no work ethics but only to manipulate system. Please stop being naive and bringing new laws to the table. sick will stay home if they are sick, but most workers who had a bad day or bad morning will not show up to work claiming sick or use that day to work someplace else. We love California, don't create any more rules to bring us closer to become a socialist state.... You are hurting small businesses....

Sincerely,

Canan Sonuk

## Paid Sick Leave Ordinance 4.1.20

CouncilMeeting

**From:** Mary Helen Doherty

**Sent:** Wednesday, April 1, 2020 5:38 PM

**To:** CouncilMeeting

**Subject:** Paid Sick Leave Ordinance 4.1.20

Dear Mayor and Members of the City Council,

Unfortunately I wasn't called on during the Zoom call that is now in progress which may be because I failed to leave my hand raised.

For the record I urge the council to pass an ordinance that covers all workers, including employees of small and micro businesses and gig companies for the sake of our public health today. I also encourage the Council to take the steps to create a permanent paid sick leave policy in the long-term.

Thank you,  
Mary Helen Doherty  
Member of the Housing Team,  
People Acting in Community Together

## Item 3.2 - Support Mayor Liccardo's Memorandum

Steven Meneses

Today, 10:08 AM

Agendadesk

Dear Clerk City Clerk,

You have an opportunity to pass an emergency Paid Sick Leave Ordinance that will protect both workers and small businesses. Please support Mayor Sam Liccardo's memorandum to enact a sensible and pragmatic Paid Sick Leave policy.

The Mayor's proposal strengthens existing Paid Sick Leave policies above and beyond state requirements. It would also be considerate of the financial viability of vulnerable small businesses that have seen their customer base disappear overnight as a direct result of COVID-19. In this time of crisis, we need to encourage workers to stay home if they are sick and to protect valuable jobs provided by small businesses. It also hurts workers and their jobs, if we enact legislation that crushes small businesses at the same time.

Finally, the Mayor's proposal expands upon and leverages the new Federal Paid Sick Leave policy. It strongly encourages refundable federal tax credits and no-interest loans to help small businesses survive the COVID-19 crisis.

Please pass Mayor Liccardo's proposal for the emergency Paid Sick Leave Ordinance and clearly define exemptions for small businesses with 50 or less full time employees.

Sincerely,

Our community consist of entrepreneurs of small business (\$2MM annual revenue or less) which in many cases are immigrant and first generation owned and operated. Let's advocate for our community workforce that drive the essentials of our day to day lives.

Sincerely,

Steven Meneses

**From:** kathryn hedges

**Sent:** Wednesday, April 1, 2020 6:09 PM

**To:** CouncilMeeting

**Subject:** Thank you

I would like to thank Councilmembers Arenas, Carrasco, Esparza, Jimenez, and Peralez for their support of paid sick leave--not just during the Shelter In Place but in general. The USA is one of the few industrialized countries that expects people to work when sick, even if they're just going to pass around a typical cold or flu. I'm sure sick leave policies are why the In-N-Out Burger in my old neighborhood in San Diego had Hepatitis outbreaks every so often, and anyone who ate there in the past week would need to go get treated for Hepatitis. Let's be like the rest of the industrialized world and have generous sick leave.

Sincerely,

Kathryn Hedges