OFFICE OF COUNCILMEMBER TODD GLORIA
COUNCIL DISTRICT THREE

EARNED SICK LEAVE AND MINIMUM WAGE ORDINANCE FREQUENTY ASKED QUESTIONS (FAQs)

When does the Ordinance go into effect?
The San Diego County Registrar of Voters is completing the ballot count from the June 7, 2016 election. The Registrar will then forward the election results to the City Clerk for certification, who will forward the results to the City Council for approval. The Ordinance takes effect on the day the City Council approves the resolution certifying the election results. As of that effective date, employers must provide employees with the local minimum wage and earned sick leave in accordance with the Ordinance.

Where can I find the Ordinance language?
https://www.sandiego.gov/treasurer/minimum-wage-program

What will the City's minimum wage be upon the measure going into effect?
Upon the Ordinance's effective date, employees working within the geographic boundaries of the City are entitled to be paid a minimum wage of at least $10.50 an hour. Starting January 1, 2017, this minimum wage increases to $11.50 an hour. Starting January 1, 2019, and each year thereafter, the minimum wage increases by an amount corresponding to the prior year's increase, if any, in the cost of living based on the Consumer Price Index.

How will the ordinance be enforced? What office will administer the ordinance?
The Ordinance states that the City Council will designate the Enforcement Office in an implementing ordinance. On June 22, 2016, the Budget and Government Efficiency Committee discussed this implementing ordinance and directed staff and the City Attorney's Office to present a proposed ordinance for City Council consideration on the date the City Council acts upon the June 7, 2016 election results.

How will the City notify employers of the law?
The Ordinance requires the City to publish and provide notices to employers regarding the law, including:

a) A bulletin announcing the adjusted minimum wage for the upcoming year and its effective date;
b) A notice for employers to post in the workplace informing employees of the current minimum wage and of their rights to the minimum wage and earned sick leave, including information about the accrual and use of sick leave, the right to be free from retaliation, and the right to file a complaint with the Enforcement Office or a court of competent jurisdiction;
c) A template notice suitable for use by employers in compliance with this section.

Are there any exemptions for small businesses?
There are no exemptions for small businesses. Employees who perform at least two hours of work within the geographic boundaries of the City in one or more calendar

weeks of the year and who are entitled to be paid minimum wage under California law are entitled to the benefits of the Ordinance, with three specific exceptions. Employees not covered are those authorized to be employed at less than the minimum wage under a special license issued under California Labor Code sections 1191 or 1191.5; employees under a publicly subsidized summer or short-term youth employment program, such as the San Diego County Urban Corps Program; and student employees, camp counselors, or program counselors of an organized camp as defined in California Labor Code section 1182.4. Employee does not include any person who is employed as an independent contractor as defined by the California Labor Code.

When does an employee begin accruing sick leave? When can an employee begin using sick leave?
Existing employees must begin to accrue earned sick leave on the effective date of the Ordinance. Employees who start work after the effective date of the Ordinance begin to accrue on their starting date of employment. Employers may limit use of earned sick leave until the employee's 91st day of employment with the employer.

My employee works some hours inside the City of San Diego and some hours outside the City of San Diego. Do I need to provide sick leave for all hours worked?
No. Employers must provide an employee with one hour of earned sick leave for every thirty hours worked by the employee within the geographic boundaries of the City.

Do we need to provide sick leave to salaried employees?
Yes. Employees who are not covered by the overtime requirements of California law or regulations are assumed to work forty hours in each work week for purposes of earned sick leave accrual unless their regular work week is less than forty hours, in which case earned sick leave accrues based upon that regular work week.

My employee works some hours at a higher rate. Do we need to calculate their sick leave at this higher rate?
Employees accrue leave by the hour, not by a specific wage rate. When used, these hours must be paid at the hourly rate the employee earns at the time the employee uses the earned sick leave.

Can an employer cap an employee's accrual of sick leave? What happens to unused sick leave at the end of the year?
Employers may limit an employee's use of earned sick leave to forty hours per year, but employers must allow employees to continue to accrue earned sick leave. Unused earned sick leave must be carried over to the following year. The Council will consider placing a cap on the leave as part of the implementing ordinance.

Can an employer "front load" 40 hours of sick leave rather than award it through the accrual method?
The ordinance provides only for the accrual of paid sick time at the rate of one hour of sick time for every 30 hours worked. The ordinance does not provide for any other method of awarding earned sick leave. The implementing ordinance may clarify the methods used to satisfy this provision of the ordinance.

How does the Ordinance impact employers' compliance with federal and state law?
Employers with employees working in the geographic boundaries of the City must comply with all applicable federal and state laws, as well as the Ordinance.