

ORDINANCE NO. 2021-_____

**AN ORDINANCE OF THE CITY OF CULVER CITY, STATE
OF CALIFORNIA, ESTABLISHING PREMIUM HAZARD
PAY FOR ON-SITE HOSPITAL WORKERS AT COVERED
HOSPITALS**

WHEREAS, the novel coronavirus (“COVID-19”) disease is caused by a virus that spreads easily from person to person and may result in serious illness or death, and is classified by the World Health Organization (WHO) as a worldwide pandemic; and

WHEREAS, on March 14, 2020, the City Manager, as the Director of Emergency Services, issued a Proclamation of Local Emergency due to the COVID-19 pandemic, which was ratified by the City Council on March 18, 2020 by Resolution No. 2020-R015. Such action followed the Los Angeles County Department of Public Health’s (LACDPH) and the Chair of the Board of Supervisor’s declarations of a local health emergency, the State of California’s declaration of a State of Emergency on March 4, 2020, and the declaration of a National Emergency on March 13, 2020; and

WHEREAS, after issuing local health emergency declarations, the County of Los Angeles, with guidance from the State of California, issued public health orders requiring the closure or modified operations of numerous business sectors, and ordered the general public to stay ‘safer at home’, except to provide essential services and to engage in essential activities, to mitigate the spread and the effects of COVID-19; and

WHEREAS, hospital operations were determined to be part of the essential infrastructure, and hospital workers were identified to be essential workers who continued to report to work throughout the pandemic and work long hours to serve their communities, despite the ongoing health hazard of being exposed to COVID-19; and

1 **WHEREAS**, on May 14, 2021, the LACDPH issued an amended order
2 with modified restrictions, based on, among other things, the following determinations:
3 evidence of continued community transmission of COVID-19 within the County;
4 asymptomatic transmission has been documented; evidence that a significant portion of
5 the County population continues to be at risk for infection with serious health
6 complications, including hospitalizations and death from COVID-19, due to age or pre-
7 existing health conditions; and further evidence that other County residents, including
8 younger and otherwise healthy people, are also at risk for serious negative health
9 outcomes and for transmitting the virus to others. The City Council acknowledges that
10 these conditions exist; and
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12 **WHEREAS**, according to the LACDPH, as of May 6, 2021 over 10,000
13 Hospital Workers have been infected with COVID-19. As of May 6, 2021 hospitals
14 continue to report the highest proportion of overall employee infection among all
15 healthcare worker and first responder settings, and nurses continue to face the highest
16 risk of infection among all healthcare workers and first responders in Los Angeles County,
17 totaling approximately five times as many reported cases as the next occupation with the
18 highest number of reported cases; and
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20 **WHEREAS**, according to the LACDPH, the vast majority of known
21 exposures among COVID-19 positive healthcare workers and first responders occurred in
22 a healthcare setting, reflecting the continued dangers and risks faced by Hospital Workers;
23 and
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25 **WHEREAS**, while existing community transmission of COVID-19 is at
26 a lower level, it continues to present a substantial and significant risk of harm to the health
27 of County residents and workforce. Only 43.5% of people over the age of 16 in Los
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1 Angeles County are fully vaccinated against COVID-19, leaving the majority of the
2 population susceptible to infections. Further, according to the LACDPH, as of May 14,
3 2021 there remains a strong likelihood that increased interactions among members of the
4 public who are not fully vaccinated against COVID-19 may result in an increased number
5 of cases of community transmission. Making the community transmission problem worse,
6 some individuals who contract the virus causing COVID-19 have no symptoms or only mild
7 symptoms, and so are unaware that they carry the virus and are transmitting it to others.
8 As the LACDPH concluded, as of May 14, 2021, the public health emergency and
9 attendant risks to public health associated with COVID-19 still predominate despite the
10 availability of the vaccine; and
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12 **WHEREAS**, Hospital Workers in Culver City put themselves and their
13 families at increased risk every day to care for patients with COVID-19 and are facing now
14 and will face substantial risk and burden over the coming weeks and months; and
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16 **WHEREAS**, caring for COVID-19 patients may also take an emotional
17 toll on Hospital Workers, who often serve as family surrogates for very ill or dying patients
18 and must bear the stress of record hospitalizations, declining caregiver-to-patient ratios,
19 longer work shifts and deferred time off; and
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21 **WHEREAS**, in 2021 the Centers for Disease Control and Infection
22 (CDC) has reported that multiple COVID-19 variants are circulating globally that appear to
23 spread more quickly and easily than other variants. Variants are present in Los Angeles
24 County, and the efficacy of vaccines against these new variants remains under
25 investigation. While the impact of these variants is not fully known, other nearby states
26 including Oregon, Nevada, Utah, and Arizona are experiencing a recent increase in case
27 and hospitalization rates. As COVID-19 cases continue to spread throughout the region,
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1 Hospital Workers continue to face health threats, including the threat from the potentially
2 more contagious variants of the coronavirus that have been detected in California; and

3 **WHEREAS**, despite the availability of vaccines, the existence of
4 vaccine hesitancy individuals, vaccine refusal, and age and health conditions that prevent
5 vaccination mean that Hospital Workers will still be required to interface with and treat
6 individuals who have not been vaccinated over the coming weeks and months; and

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8 **WHEREAS**, according to a study by the Urban Institute, a nonprofit
9 health policy center, more than one-third of adults between the ages of 18 and 64 have
10 forgone or delayed medical care because of COVID-19. Even as community transmission
11 of COVID-19 declines, this pent-up demand for healthcare will place a substantial burden
12 on Hospital Workers; and

13 **WHEREAS**, even with growing percentages of the public becoming
14 vaccinated against COVID-19, Hospitals Workers still face increased risks and burdens
15 due to the fact that their employment requires them to work directly and over longer
16 periods of time with those with symptomatic COVID-19, as well as asymptomatic carriers
17 and those at higher risk of being asymptomatic carriers, including individuals who have not
18 or cannot take the vaccine; and

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20 **WHEREAS**, as the CDC has recognized, some individuals with
21 COVID-19 experience symptoms and require healthcare services for an extended period
22 of time, a phenomenon termed “Long Haul COVID;” “Long Haul COVID” may continue to
23 place a strain on the healthcare system and Hospital Workers for a substantial period of
24 time; and

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26 **WHEREAS**, as the CDC has recognized, there is limited data on
27 vaccine protection in people who are immunocompromised. Hospital Workers’
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1 employment requires them to treat and interface with people with immunocompromising
2 conditions; and

3 **WHEREAS**, in recognition of the heightened risks facing Hospital
4 Workers and those they treat, the recently relaxed masking guidelines released by the
5 CDC still call for wearing masks in, among other places, hospitals; and

6 **WHEREAS**, according to the U.S. Occupational Safety and Health
7 Administration (OSHA), worker classifications which have a “Very High Exposure Risk” to
8 COVID-19 includes jobs with a very high potential for exposure to known or suspected
9 sources of COVID-19 during specific medical, postmortem, or laboratory procedures; and

10 **WHEREAS**, examples of workers in the Very High Exposure Risk
11 category include healthcare workers such as nurses and emergency medical technicians
12 performing aerosol-generating procedures (e.g., intubation, cough induction procedures,
13 bronchoscopies, or invasive specimen collection) on known or suspected COVID-19
14 patients; and healthcare or laboratory personnel collecting or handling specimens from
15 known or suspected COVID-19 patients (e.g., manipulating cultures from known or
16 suspected COVID-19 patients); and

17 **WHEREAS**, OSHA further identifies “High Exposure Risk” worker
18 classifications as those with jobs with a high potential for exposure to known or suspected
19 sources of COVID-19, and this classification includes healthcare delivery and support staff
20 (including hospital staff who must enter patients’ rooms) exposed to known or suspected
21 COVID-19 patients, and those persons who have frequent or sustained contact with
22 coworkers, including under close working conditions indoors or in poorly ventilated spaces;
23 and
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1 **WHEREAS**, through this Ordinance, the City seeks to compensate
2 essential Hospital Workers for their daily sacrifices and the ongoing risks and burdens they
3 and their families face while providing vital services to the community during the pandemic
4 and in the coming weeks and months; and

5 **WHEREAS**, by requiring premium hazard pay for their work during the
6 COVID-19 pandemic, the City aims (1) to protect the health and welfare of its essential
7 Hospital Workers, their families, and the community; (2) to recognize and compensate
8 Hospital Workers for the risks and burdens they face every day and will continue to face in
9 the coming months; (3) support stable incomes among Hospital Workers; and (4) promote
10 job retention by ensuring Hospital Workers are adequately compensated for the
11 substantial risks, efforts, and expenses they are undertaking to provide essential services
12 in a safe and reliable manner.
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16 **NOW THEREFORE**, the City Council of the City of Culver City, California,
17 **DOES HEREBY ORDAIN** as follows:

18 **SECTION 1: DEFINITIONS.**

19 The following definitions shall apply to this Ordinance:

- 20 A. **“City”** means the City of Culver City.
- 21 B. **“Covered Hospital”** means any and all hospitals as defined in
22 California Health and Safety Code section 1250(a) that operate within the
23 geographical borders of the City.
- 24 C. **“Employer”** means any person, as defined in Section 18 of the
25 California Labor Code, including any person, who directly or indirectly or
26 through an agent or any other person, including through the services of a
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temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of any Hospital Worker.

D. **“Hospital Worker”** means any individual providing direct patient care and services supporting patient care at a Covered Hospital, including, but not limited to, clinicians, nurses, aides, technicians, janitorial and housekeeping staff, security guards, food services workers, laundry workers, pharmacists, and nonmanagerial administrative staff, but does not include any exempt manager or an individual performing exclusively managerial or supervisory functions, or any physician or surgeon licensed by the State of California pursuant to Chapter 5 of Division 2 of the Business and Professions Code.

E. **“Premium Hazard Pay”** means 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.

SECTION 2. PREMIUM HAZARD PAY FOR HOSPITAL WORKERS.

- A. Hospital Workers shall be entitled to no less than five dollars (\$5.00) per hour in Premium Hazard Pay for each hour worked on-site at a Covered Hospital in the City for an Employer. If an Employer already provides hourly Premium Hazard Pay as of the effective date of this Ordinance, such compensation may be credited as part of the additional five dollars per hour required by this section.

1 In no event shall any Premium Hazard Pay provided prior to the effective date of
2 this Ordinance be credited as part of the compensation due under this section.

3 B. Hospital Workers entitled to Premium Hazard Pay include Hospital Workers
4 employed directly by a Covered Hospital and Hospital Workers who are
5 contracted to work at the Covered Hospital through another Employer.

6 C. A Covered Hospital shall reimburse any contracted Employer for Premium
7 Hazard Pay pursuant to this Ordinance.
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9 10 **SECTION 3: RETALIATORY ACTION PROHIBITED.**

11 No Covered Hospital or Employer shall discharge, reduce in compensation, or
12 otherwise discriminate against any Hospital Worker for opposing any practice proscribed
13 by this Ordinance, for requesting the additional compensation owed under this Ordinance,
14 for participating in proceedings related to this Ordinance, for seeking to enforce his or her
15 rights under this Ordinance by any lawful means, or for otherwise asserting rights under
16 this Ordinance.
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18 19 **SECTION 4: ENFORCEMENT.**

20 Any Hospital Worker aggrieved by a violation of this Ordinance may bring a
21 civil action in a court of competent jurisdiction against the Employer violating this
22 Ordinance. An Employee, upon prevailing, shall be entitled to such legal or equitable relief
23 as may be appropriate to remedy the violation, including, without limitation, the payment of
24 any wages unlawfully withheld and/or injunctive relief, and shall be awarded attorney's
25 fees and costs.
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1 **SECTION 5: EXEMPTION FOR COLLECTIVE BARGAINING AGREEMENT**

2 All of the provisions of this Ordinance, or any part thereof, may be expressly
3 waived in a collective bargaining agreement, but only if the waiver is explicitly set forth in
4 the agreement in clear and unambiguous terms. Unilateral implementation of terms and
5 conditions of employment by either party to a collective bargaining relationship shall not
6 constitute a waiver of all or any of the provision of this Ordinance.
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8 **SECTION 6: NO WAIVER OF RIGHTS.**

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10 Except for a collective bargaining agreement provision made pursuant to
11 Section 5, any waiver by an Employee of any or all of the provisions of this Ordinance shall
12 be deemed contrary to public policy and shall be void and unenforceable.
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14 **SECTION 7: COEXISTENCE WITH OTHER AVAILABLE RELIEF FOR**
15 **DEPRIVATIONS OF PROTECTED RIGHTS.**

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17 The provisions of this Ordinance are in addition to or independent of any
18 other rights remedies, or procedures available under any other law and do not diminish,
19 alter, or negate any other legal rights, remedies, or procedures available to an Employee.
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21 **SECTION 8: CONFLICTS**

22 Nothing in this Ordinance shall be interpreted or applied to create any power
23 or duty in conflict with any federal or state law.
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1 **SECTION 9: RULES AND REGULATIONS.**

2 The City Manager or their designee shall promulgate Rules and Regulations
3 that will be updated when necessary consistent with this Ordinance for further clarification
4 of the provisions of this Ordinance if warranted. The Rules and Regulations shall be
5 posted on the City’s website.
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7 **SECTION 10: SUNSET**

8 This Ordinance shall expire 120 days after the effective date of this
9 Ordinance. The City will continue to monitor COVID-19 indicators to assess the impact of
10 the disease and may rescind this Ordinance before the full 120 days elapses if evolving
11 conditions render it advisable to do so.
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13 **SECTION 11. ENVIRONMENTAL DETERMINATION.** The City Council

14 finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”)
15 pursuant to CEQA guidelines, California Code of Regulations, Title 14, Chapter 3,
16 §15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect
17 physical change in the environment] and §15060(c)(3) [the activity is not a project as
18 defined in §15378] because it has no potential for resulting in physical change to the
19 environment, directly or indirectly.
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23 **SECTION 12. EFFECTIVE DATE.** Pursuant to Section 619 of the City

24 Charter, this Ordinance shall take effect thirty (30) days after its adoption.
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1 **SECTION 13. SEVERABILITY.** The provisions of this Ordinance are
2 declared to be separate and severable. The City Council hereby declares that, if any
3 provision, section, subsection, paragraph, sentence, phrase, or word of this Ordinance, or
4 the application thereof to any covered hospital, employer, hospital worker, person, or
5 circumstance, is rendered or declared invalid or unconstitutional by any final action in a
6 court of competent jurisdiction or by reason of any preemptive legislation, then the City
7 Council would have independently adopted the remaining provisions, sections,
8 subsections, paragraphs, sentences, phrases, words or applications of this Ordinance and
9 as such they shall remain in full force and effect.
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12 **SECTION 14. PUBLICATION.** Pursuant to Sections 616 and 621 of the City
13 Charter, prior to the expiration of fifteen (15) days after the adoption, the City Clerk shall
14 cause this Ordinance, or a summary thereof, to be published in the Culver City News and
15 shall post this Ordinance or a summary thereof in at least three places within the City.
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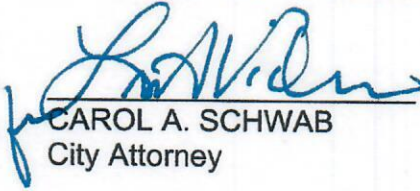
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18 APPROVED and ADOPTED this _____ day of _____ 2021.
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21 _____
ALEX FISCH, MAYOR
City of Culver City, California
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23 ATTEST:

24 APPROVED AS TO FORM:

25 _____
26 JEREMY GREEN
City Clerk
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CAROL A. SCHWAB
City Attorney