



## HERO PAY ORDINANCE - FREQUENTLY ASKED QUESTIONS

### **1. *When did the Santa Monica Hero Pay Ordinance go into effect?***

The City's Hero Pay Ordinance went into effect on March 11, 2021. Employees covered by the Ordinance begin earning Hero Pay at 12:00 a.m. on March 11, 2021. The complete text of the Ordinance can be found online by visiting:

[https://www.santamonica.gov/Media/Default/Minimum\\_Wage/Ordinance2664\\_HeroPay.pdf](https://www.santamonica.gov/Media/Default/Minimum_Wage/Ordinance2664_HeroPay.pdf)

The Hero Pay Ordinance is found at Chapter 4.65 of the Santa Monica Municipal Code.

### **2. *Which businesses does the Hero Pay Ordinance apply to?***

Generally the Hero Pay Ordinance applies to grocery or drug retail stores, or retail stores that are over 85,000 square feet and dedicate 10% or more of the sales floor to groceries or to drug retail, and meet **ALL** of the following requirements:

1. Employs or exercises control over the wages, hours, or working conditions of any employee;
2. Operates at least one retail grocery store, retail drug store, or large retail store that includes a grocery or drug component to its retail sales in the City of Santa Monica;
3. Either is a publicly traded company or employs 300 or more workers nationwide; and
4. Employs more than 10 employees per store.

### **3. *How much is the Hero Pay amount?***

Hero pay amount is no less than \$5 per hour in addition to the employee's base hourly wage.

### **4. *Who is exempt from the Hero Pay Ordinance?***

This Hero Pay Ordinance does not apply to public entities, such as federal, state, county, and city entities, including school districts. In addition, anyone exempt from the California State Minimum Wage Law is also exempt from the Hero Pay Ordinance.

### **5. *Can employees elect to receive paid leave instead of Hero Pay?***

Yes, employees may elect to receive paid leave instead of Hero Pay. An election to receive paid leave in lieu of Hero Pay must be made in a writing signed by the employee. An employee accrues one full hour of paid leave when the Hero Pay earned totals one hour of the employee's Base Wage.

### **6. *If an employer already provides an employee with COVID-19 related voluntary hazard pay, are they still obligated to pay their employees Hero Pay?***

If an employer provides an employee with COVID-19 related hazard pay of less than \$5, the employer must pay the difference between the hazard pay and \$5 Hero Pay to ensure compliance with the Hero Pay Ordinance.

**7. How long is the Hero Pay Ordinance in effect?**

The Hero Pay Ordinance requires hero pay starting on March 11, 2021, and continuing for 120 days.

**8. What is considered retaliatory action by the employer under the Hero Pay Ordinance?**

The City's Hero Pay Ordinance prohibits an employer from retaliating against their employees. An employer may not discharge, reduce compensation, or otherwise discriminate against an employee for exercising their rights under the Hero Pay Ordinance.

**9. Does the Hero Pay Ordinance cover employees that are teleworking?**

No, employees must be physically present in the workplace to receive Hero Pay.

**10. How long does an employee have to file a complaint for violations of the Hero Pay Ordinance?**

An employee has three years from the date the violation first occurred to file a complaint.

**11. Do employers have to provide notice of Hero Pay to employees?**

Yes, the Hero Pay Ordinance requires covered employers to post written notice informing employees of the Hero Pay Ordinance and their rights under the Ordinance. The notice must be posted in a conspicuous place at every store located in the City of Santa Monica where an employee entitled to Hero Pay physically works.

**12. Are employers required to keep payroll records of Hero Pay?**

Yes, employers are required to keep payroll records to demonstrate compliance with this Hero Pay Ordinance for a period of four years.

**13. Is there is a grace period for employers to comply with the Hero Pay Ordinance?**

The Hero Pay for covered employees begins accruing at 12:00 a.m. on Thursday, March 11, 2021. However, employers have until April 12, 2021 to pay any accrued Hero Pay and avoid any fines for non-payment of Hero Pay. This grace period is to afford employers time to incorporate the Hero Pay requirements into their payroll systems. However, the grace period only applies to fines for non-payment of Hero Pay—it does **not** apply to any fines imposed for employers retaliating against their employees for exercising a right protected under the Hero Pay Ordinance.

**14. Who enforces the ordinance?**

The City of Santa Monica has partnered with Los Angeles County Department of Business and Consumer Affairs (DCBA) for minimum wage and Hero Pay claims. DCBA can investigate allegations of violations of the Hero Pay Ordinance; require employers to pay covered employees the Hero Pay they have earned; cite and fine employers who are in violation of the Hero Pay Ordinance; and require employers to reinstate an employee to the position the employee was discharged from if the discharge was retaliatory. To File a "Hero Pay" Complaint: [dcba.lacounty.gov/heropay/](https://dcba.lacounty.gov/heropay/) or call 800.593.8222

**15. Can I take my employer to court if I do not get paid Hero Pay?**

Yes, the Hero Pay Ordinance provides that an employee claiming a violation of the Ordinance may file a lawsuit against the employer within three years of the violation and can seek reinstatement of their job if the discharge was retaliatory; back pay unlawfully withheld; and penalties and fines.

**16. Who can I contact with questions?**

City of Santa Monica COVID-19 Hotline staff can help respond to any questions: (310) 458-8400 or visit [santamonica.gov/minimum-wage](https://santamonica.gov/minimum-wage).