

**AN ORDINANCE TO AMEND CHAPTER 40 OF THE CITY CODE BY REPEALING AND REPLACING SECTION 40-8 THEREOF REGARDING THE WILMINGTON EMPLOYEE PLAN OF OCCUPATIONAL SAFETY AND HEALTH**

#4854

Sponsor:

Council  
Member  
Guy

**WHEREAS**, the United States Department Of Labor, Occupational Safety and Health Administration's mission is to ensure that employees work in a safe and healthful environment by setting and enforcing standards, and by providing training, outreach, education and assistance. Employers must comply with all applicable OSHA standards. Employers, as defined by the OSH Act (the "Act), they must also comply with the General Duty Clause of the Act, which requires employers to keep their workplace free of serious recognized hazards that are causing or are likely to cause death or serious physical harm to its employees; and

**WHEREAS**, a standard (or regulation) is a regulatory requirement established and published by the agency to serve as criteria for measuring whether employers are in compliance with the OSH Act laws. OSHA standards are published in Title 29 of the Code of Federal Regulations (CFR); and

**WHEREAS**, Delaware is under federal OSHA jurisdiction which covers most private sector workers within the state. State and local government workers are not covered by federal OSHA; and

**WHEREAS**, State Plans are OSHA-approved workplace safety and health programs operated by individual states or U.S. territories. There are currently 22 State Plans covering both private sector and state and local government workers, and there are six State Plans covering only state and local government workers. State Plans are monitored by OSHA and must be at least as effective as OSHA in protecting workers and in preventing work-related injuries, illnesses, and deaths; and

**WHEREAS**, the goal of the City of Wilmington is to be at least as effective as OSHA

in protecting city workers and in preventing work-related injuries, illnesses, and deaths.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** Chapter 40 of the City Code is hereby amended by repealing the stricken language of Section 40-8(a)-(c) and adding the underlined language to read as follows:

**Section 40-8. Wilmington Employee Plan of Occupational Safety and Health.**

~~(a) A city occupational safety and health plan ("city OSH plan") is hereby established, which shall apply to city employees only.~~

~~(b) A city occupational safety and health committee ("city OSH committee") is hereby established within the personnel department, division of risk management and employee benefits, to carry out the administration and enforcement of the city OSH plan. The personnel department shall coordinate the OSH committee, which shall include those representatives from city departments as may be designated by the city risk management committee.~~

~~(c) Preparation of the city OSH plan shall be the responsibility of the city OSH committee.~~

(a) There is hereby established a Wilmington Occupational Safety and Health Plan ("WOSH Plan") for City of Wilmington employees only. The standards for the WOSH Plan shall be identical to the Federal standards in the Federal Law under OSHA, 29 U.S.C. §651, et seq., and the regulations and guidelines promulgated pursuant thereto, and the provisions of 29 Code of Federal Regulations ("CFR") Part 1910, et seq.

(b) There is hereby established within the Personnel Department, the Wilmington Occupational Safety and Health Administration ("WOSHA") to carry out the administration and enforcement of the Wilmington OSH Plan.

(c) Preparation of the WOSH Plan shall be the responsibility of the WOSHA.

**SECTION 2.** This Ordinance shall become effective immediately upon its date of

passage by the City Council and approval by the Mayor.

First Reading.....August 27, 2020  
Second Reading.... August 27, 2020  
Third Reading.....

Passed by City Council,

\_\_\_\_\_  
President of City Council

ATTEST: \_\_\_\_\_  
City Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Mayor

**SYNOPSIS:** This Ordinance is being presented by City Council for Council’s review and approval. This Ordinance amends Section 40-8 of the City Code by placing responsibility for preparation of the Wilmington Occupational Health and Safety Plan with the Wilmington Occupational Health and Safety Administration.