

AN ORDINANCE AMENDING TITLE 7, SECTION 7-20-2 OF THE VILLAGE OF ORLAND PARK MUNICIPAL CODE (PAYMENT OF PAID SICK LEAVE)

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WHEREAS, the Village of Orland Park, Illinois (the "Village") is a home rule municipality, having all of the powers and authority granted to such municipalities pursuant to Article VII, Section 6 of the Illinois Constitution of 1970, including the right to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, pursuant to Article VII, Section 6(i) of the Illinois Constitution of 1970, home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive; and

WHEREAS, Article VII, Section 6(c) of the Illinois Constitution provides that if "a home rule county ordinance conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction;" and

WHEREAS, on October 5, 2016, the Cook County Board of Commissioners adopted Ordinance 16-5768, entitled "An Ordinance Establishing Earned Sick Leave For Employees In Cook County," that requires private employers in Cook County to provide a minimum number of paid sick days to employees; and

WHEREAS, the Village found that Cook County Ordinance 16-5768 placed an undue and unequal burden on employers within the Village and, in response, on June 5, 2017, pursuant to its authority under Article VII, Section 6(c) of the Illinois Constitution of 1970, adopted Ordinance No. 5193, enacting Section 7-20-2 of the Village of Orland Park Municipal Code (hereinafter, the "Village Code"), to clearly define the sick leave regulations that apply to employers located in the Village as being those set forth in State and federal law; and

WHEREAS, on March 13, 2023, Governor J.B. Pritzker signed into law Public Act 102-1143, titled the Paid Leave for All Workers Act (the "Act"), establishing "a minimum paid leave standard for all workers in Illinois," with certain exceptions; and

WHEREAS, the Act takes effect on January 1, 2024, and applies to employers within Illinois, including State and local governments, with certain limited exceptions; and

WHEREAS, the mandatory paid leave standard required by the Act constitutes an unfunded mandate on the Village pursuant to the State Mandates Act, 30 ILCS 805/1, et seq.; and

WHEREAS, the Act does not expressly preempt the exercise of home rule powers under Article VII, Section 6 of the Illinois Constitution of 1970, nor does it contain specific language limiting or denying the power or function of a home rule unit pursuant to Section 7 of the Statute on Statutes, 5 ILCS 70/7; and

WHEREAS, the General Assembly incorporated language into Section 15(p) of the Act, 820 ILCS 192/15(p), which expressly provides that “[t]he provisions of this Act shall not apply to any employer that is covered by a municipal or county ordinance that is in effect on the effective date of this Act that requires employers to give any form of paid leave to their employees, including paid sick leave or paid leave;” and

WHEREAS, Section 15(n) of the Act, 820 ILCS 192/15(n), further provides that “[n]othing in this Act shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in effect on January 1, 2024. After that date, requirements of this Act may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms;” and

WHEREAS, the Village recognizes the importance of paid leave for workers; and

WHEREAS, it is the intent of this Ordinance, in compliance with Section 15(p) of the Act, to require employers within the Village of Orland Park, Illinois to provide a minimum of five (5) days of paid leave to their Full Time Employees, as defined herein, and to remove such employers from the application of the Paid Leave for All Workers Act; and

WHEREAS, while this Ordinance, by requiring employers to provide some form paid leave to their employees, provides the necessary requirement for rendering the Act inapplicable to Village employers, it is and at all times shall remain the responsibility of each employer to determine if they are going to provide paid leave in compliance with the Act, in addition to complying with the requirements set forth herein; and

WHEREAS, the President and Board of Trustees of the Village find that it is in the best interest of the Village and its residents, businesses and property owners, and the public’s general health, safety and welfare, to amend Section 7-20-2 of the Village Code to provide a uniform paid leave requirement for employers within the jurisdiction of the Village.

NOW, THEREFORE, BE IT ORDAINED by the Village President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, in the exercise of its home rule powers, as follows:

SECTION 1

Recitals. The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

SECTION 2

Amendment of Title 7, Section 7-20-2, of the Village Code. Title 7 (Business and License), Section 7-20-2, of the Village Code is hereby amended in its entirety as follows, with deletions struck through and additions underlined:

7-20-2: ~~PAYMENT OF PAID SICK-LEAVE:~~

(A) Employers within the Village shall be required to provide a minimum of five (5) days of paid leave to their Full Time Employees during a 12 month period to be specified by the employer, or such greater amount of paid leave as the employer may determine. Such paid leave may be used by employees for any reason and may be in addition to or included as part of other forms of leave offered by an employer.

(B) Employers located within the Village shall comply with all applicable Federal and/or State laws and regulations as such laws and regulations may exist from time to time with regard to paid sick leave. Employee eligibility for paid sick leave shall be in compliance with all applicable Federal and/or State laws and regulations as such laws and regulations may exist from time to time; provided, however, to the extent any State law provides that such law shall not apply to any employer that is covered by a municipal or county ordinance that is in effect on January 1, 2024 that requires employers to give any form of paid leave to their employees, employers within the Village shall be required to provide a minimum of five (5) days of paid leave to their Full Time Employees during a 12 month period to be specified by the employer, or such greater amount of paid leave as the employer may determine. Such paid leave may be used by employees for any reason and may be in addition to or included as part of other forms of leave offered by an employer.

(C) No additional obligations with regard to paid sick leave of any kind imposed by any ordinance adopted by the Cook County Board of Commissioners shall apply to any employer located within the Village, the Village hereby opts out of any such ordinance(s) adopted by the Cook County Board of Commissioners, and this Chapter of Title 7 of the Village Code is declared to conflict with any such ordinance(s) adopted by the Cook County Board of Commissioners that imposes additional obligations with regard to paid sick leave.

(D) Nothing in this Ordinance shall be deemed to affect the validity or change the terms of any collective bargaining agreements in effect on January 1, 2024.

(E) Nothing in this Ordinance shall be deemed to prohibit any employer from providing leave in accordance with the Paid Leave for All Workers Act, 820 ILCS 192/1 et seq., if an employer elects to do so. Employers shall remain ultimately responsible for determining whether or not to provide paid leave, and how much paid leave to provide to their employees, as long as the minimum amount of paid leave required by this Ordinance is provided. The Village shall not be responsible for any claims based on or relating to alleged non-compliance with the Act.

(F) For the purposes of this Chapter, the term "employee" means an individual permitted to work by an employer regardless of the number of persons the employer employs, and the term "employer" means any person employing one (1) or more employees, or seeking to employ one (1) or more employees, if the person has its principal place of business within the Village or does business within the Village. Full Time Employee means an employee who has worked for a minimum period of one (1) year and who is regularly scheduled to work a minimum of 1600 hours per year.

(G) For the purposes of this Chapter, the term "employer" does not mean:

1. The government of the United States or a corporation wholly owned by the government of the United States;
2. An Indian tribe or a corporation wholly owned by an Indian tribe;
3. The government of the State or any agency or department thereof; or
4. Any unit of government. (Ord. 5193, 6-5-17)

(H) Violations; Enforcement:

Complaints of violation of this Chapter may be filed in writing with the Director of Human Resources. The Director of Human Resources shall thoroughly investigate any such complaints, and shall decide whether prosecution is warranted. Any employer who violates the provisions of this Chapter shall upon conviction be fined according to the general penalty provisions of the Village Code and the fine schedule located in Appendix B for each such offense.

SECTION 3

Severability. If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 4

Repealer. Any policy, resolution or ordinance of the Village that conflicts with the provisions of this Ordinance shall be and is hereby repealed to the extent of such conflict.

SECTION 5

Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.