

ORDINANCE NO. O-2023-47

**AN ORDINANCE REGARDING THE CITY OF WHEATON'S PAID LEAVE
POLICIES AND THE ILLINOIS PAID LEAVE FOR ALL WORKERS ACT**

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and

WHEREAS, the City of Wheaton ("City") is a home rule unit of government pursuant to Article VII, Section 6(a) of the Illinois Constitution of 1970 and, pursuant to the provisions of said Section 6 of Article VII, may exercise any power or perform any function pertaining to its government and affairs; and

WHEREAS, on or about March 12, 2023, Governor Pritzker signed into law the Paid Leave for All Workers Act (820 ILCS 192/1 *et seq.*) (the "Act"); and

WHEREAS, the State of Illinois did not make the necessary appropriations or include statutory language exempting the Act from the Illinois State Mandates Act (30 ILCS 805/1 *et seq.*); and

WHEREAS, effective January 1, 2024, the Act requires an employer to provide certain paid leave to its employees, unless the employer is subject to an existing municipal or county ordinance that requires the employer to provide any form of paid leave to their employees; and

WHEREAS, the City, including the Wheaton Public Library, recognizes the importance of paid leave to its employees and currently provides reasonable paid leave benefits to its employees; and

WHEREAS, the City Council finds that the establishment of benefits for its employees is a power and duty entirely within the scope of the City's government and affairs, and which the City Council may generally exercise in accordance with Article VII, Section 6 of the Illinois Constitution; and

WHEREAS, Section 20(b) of the Act states that if an employer has any type of paid leave policy that satisfies the minimum amount of paid leave required by the Act, which can be taken for any reason, the employer is not required to modify the policy; and

WHEREAS, the City has such a paid leave policy set forth within its Employee Manual and/or collective bargaining agreements; and

WHEREAS, the City Council finds that, although the City currently provides paid leave to its employees which is more generous than the requirements of the Act, the imposition of other requirements in the Act will unnecessarily and negatively impact the City and place an undue financial and operational burden on the City's ability to provide uninterrupted services to its residents; and

WHEREAS, the Act does not include any express limitation on the City's home rule authority as required by Article VII, Section 6 of the Illinois Constitution; and

WHEREAS, the City Council finds and hereby declares that the public health, morals, safety and welfare of the City and its residents are best served through the paid leave policies previously adopted by the City and by opting out of the Act.

NOW, THEREFORE, be it ordained, by the City Council of the City of Wheaton, DuPage County, Illinois as follows:

Section 1. The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

Section 2. In the full exercise of its home rule authority and power under Article VII of the Illinois Constitution, the City hereby confirms and adopts its current paid leave policy for all City employees as set forth in the City's Employee Handbook, Annual Salary Ordinances, any collective bargaining agreements to which the City is a party, Wheaton Public Library's Employee Manual, and all other binding legislative actions governing paid leave adopted by the City Council, as the same may be amended from time to time. However, in no event shall the City, as an employer, provide less than five hours of paid leave per year to any City employee.

Section 3. Pursuant to the City's home rule authority, the City hereby declares that the City, including the Wheaton Public Library, as an employer, is exempt from the requirements of the Paid Leave for All Workers Act (820 ILCS 192/1 *et seq.*). The City, as an employer, including the Wheaton Public Library, shall have no additional obligations with regard to mandatory paid leave, including, without limitation, any obligations provided under the Act, except those obligations required by federal and/or state law which validly preempt the City's home rule authority.

Section 4. The City, including the Wheaton Public Library, may, from time to time, amend its paid leave policies, and those policies setting forth other benefits for its employees.

Section 5. All ordinances, resolutions, and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

Section 6. If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 7. This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Philip J. Suess

Mayor

ATTEST:



Andrea Rosedale

Roll Call Vote:

Ayes: Councilman Clousing
Councilwoman Robbins
Councilman Weller
Councilwoman Bray-Parker
Councilman Brown
Mayor Suess

Nays: None

Absent: Councilman Barbier
Motion Carried Unanimously

Passed: November 20, 2023
Published: November 21, 2023

