

City of Pittsburgh, City Council, Ordinance, File No. 2020-0927 (Ordinance 41 of 2020, Chapter 626A Temporary Emergency COVID-19 Paid Sick Leave)

Enactment No.: 41 **Enactment date:** 2020-12-08 **Passed:** 2020-12-08 **Introduced:** 2020-11-23

Title: An Ordinance providing for special conditions for the operation and use of Paid Sick leave under the Paid Sick Days Act during and due to the crisis presented by COVID-19 through inclusion in the Pittsburgh Code of Ordinances of Chapter 626A: Temporary Emergency COVID-19 Paid Sick Leave. (Executive Session held 12/7/20) (Post Agenda held 12/7/20)

Text as published by the City Clerk of Pittsburgh through the Legistar Web API (public legislative record): <https://webapi.legistar.com/v1/pittsburgh/Matters/25751/Texts/27060>; matter record [Matters/25751](https://webapi.legistar.com/v1/pittsburgh/Matters/25751); public page <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=25751>. Retrieved September 26, 2026 (StenTam ERC Practice Defense, Orders Library, MET-PIT).

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..Body

WHEREAS, the Mayor of the City of Pittsburgh issued a Declaration of Emergency ("Declaration") in response to the existing public health emergency associated with the spread of COVID-19 on March 13th, 2020; and

WHEREAS, the Council of the City of Pittsburgh has continued to ratify the Declaration on March 17th, 2020 and renew the Declaration to remain in effect; and

WHEREAS, the Governor of the Commonwealth of Pennsylvania issued and continues to renew a Proclamation of Disaster Emergency, and, in accordance with the Pennsylvania Disease Prevention and Control Act, cite, the Governor's Office and Pennsylvania Department of Health have since issued various orders, providing directives and guidance to businesses and the public to reduce the spread of COVID-19; and

WHEREAS, City Council by passage of Ordinance 27 of 2015 provided for the "Paid Sick Days Act" in the City Code of Ordinance which, among other requirements, mandated a grant of sick time for certain employees working within the City of Pittsburgh; and

WHEREAS, the Paid Sick Days Act permitted employers to provide the required time off on an accrual basis; and

WHEREAS, the Families First Coronavirus Response Act, H.R. 6201, Public Law No. 116-127, was passed by the federal government earlier this year to provide limited sick time to certain employees adversely impacted by COVID-19 and defined a small business as those under 50 employees; and

WHEREAS, employers within the City of Pittsburgh have an interest in maintaining operations; and

WHEREAS, the City of Pittsburgh has an interest in collection of various tax revenues to provide basic and essential governmental services; and,

WHEREAS, the City of Pittsburgh has an interest in preventing spread of COVID-19 within and throughout the City of Pittsburgh; and

WHEREAS, the exigent circumstances posed by COVID-19 require balancing those interests; and

WHEREAS, the City of Pittsburgh finds it appropriate to mandate that employees receiving Paid Sick time under the Paid Sick Days Act should be provided such time immediately without need for accrual in the event that the use of Paid Sick time arises from COVID-19.

THEREFORE, BE IT RESOLVED BY THE CITY OF PITTSBURGH AS FOLLOWS:

Section 1: The City of Pittsburgh Code of Ordinances shall be amended by inclusion of the following new Section 626A (the "Chapter"):

CHAPTER 626A: - TEMPORARY COVID-19 EMERGENCY PAID SICK LEAVE

A. Unless otherwise provided hereunder, all capitalized terms contained herein shall be defined according to Section 626.02 of the City Code. Further, any Sick Time provided pursuant to this Chapter 626A shall conform in all respects to the requirements, procedures, and regulations of Chapter 626, except as specifically stated herein. For the purposes of this Chapter, "COVID-19 Sick Time" shall mean Paid Sick Time that is made available for one or more of the purposes set forth in Section H of this Chapter. This Chapter shall cover Employers of 50 or more Employees and shall apply to Employees who are (a) working for that Employer within Pittsburgh after the effective date of this Ordinance, (b) normally work for that Employer within the City of Pittsburgh but are currently teleworking from any other location as a result of COVID-19, or (c) work for that Employer from multiple locations or from mobile locations, provided that 51% or more of such employee's time is spent within the City of Pittsburgh.

B. The option of Employers to withhold Sick Time on an accrual basis is hereby temporarily revoked if an Employee's otherwise permissible Sick Time use request arises directly from COVID-19. Such Employers shall make available the maximum amount of Sick Time required under Chapter 626, to Employees immediately upon hiring if their otherwise permissible requested use arises directly from COVID-19. Employers may continue to require receipt of Sick Time on an accrual basis for all other permissible requests for use of Sick Time under Chapter 626.

C. Employers with 50 or more Employees shall provide COVID-19 Sick Time to Employees in the following amount:

i) For Employees who work 40 hours or more per week, COVID-19 Sick Time shall be provided in the amount of 80 hours, unless the employer designates a higher limit;

ii) For Employees who work fewer than 40 hours in a week, COVID-19 Sick Time shall be provided in an amount equal to the amount of time the Employee is otherwise scheduled to work or works on average in a 14-day period, whichever is greater and unless the employer designates a higher limit. In the case of an Employee whose schedule varies from week to week, the Employer shall use the following in place of such number to determine the amount of time worked on average in a 14-day period: (i) Subject to a number equal to the average number of hours that the Employee was scheduled over the past 90 (ninety) days of work, including hours for which the Employee took leave of any type.

D. COVID-19 Sick Time shall be provided to Employees immediately without any waiting period or accrual requirements, once they have been employed by the Employer for the previous ninety (90) days. An Employee shall be entitled to use this COVID-19 Sick Time until one (1) week following the official termination or suspension of the public health emergency.

E. COVID-19 Sick Time shall be in addition to any paid leave or sick time provided by the Employer or pursuant to Chapter 626, and an Employee may choose to use COVID-19 Sick Time before any sick

time under Chapter 626.

F. With respect to an Employer that provides paid leave on the day before the effective date of this Act, the COVID-19 Sick Time in addition to such paid leave; and the Employer may not change such paid leave on or after such effective date to avoid being subject to this section. An Employer may not require an Employee to use other paid leave provided by the Employer to the Employee before the Employee uses COVID-19 Sick Time, unless state or federal law requires otherwise.

G. Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work 40 hours in each work week for purposes of COVID-19 Sick Time under this Act unless their normal work week is less than 40 hours, in which case COVID-19 Sick Time under this Act is based upon that normal work week.

H. COVID-19 Sick Time shall be provided to Employees for the following absences, if they are unable to work in person or telework, related to COVID-19:

i) Determination by a public official or public health authority having jurisdiction, a health care provider, or an Employee's Employer that the Employee's presence on the job or in the community would jeopardize the health of others because of the Employee's exposure to COVID-19 or because the individual is exhibiting symptoms that might jeopardize the health of others, regardless of whether the individual has been diagnosed with COVID-19;

ii) Care of a family member of the Employee due to a determination by a public official or health authority having jurisdiction, a health care provider, or the family member's Employer that the presence of the family member on the job or in the community would jeopardize the health of others because of the family member's exposure to COVID-19 or a determination by the Employer that the Employee is a danger to the health of others because they are exhibiting symptoms that might jeopardize the health of others, regardless of whether the family member has been diagnosed with COVID-19;

iii) An Employee's need to: (a) self-isolate and care for oneself because the Employee is diagnosed with COVID-19; (b) self-isolate and care for oneself because the employee is experiencing symptoms of COVID-19; (c) seek or obtain medical diagnosis, care, or treatment if experiencing symptoms of an illness related to COVID-19; or

iv) Care of a family member who: (a) is self-isolating due to being diagnosed with COVID-19; (b) is self-isolating due to experiencing symptoms of COVID-19; (c) needs medical diagnosis, care, or treatment if experiencing symptoms of an illness related to COVID-19.

I. An Employer is not obligated to provide financial or other reimbursement to an Employee upon the Employee's termination, resignation, retirement, or other separation from employment for unused COVID-19 Sick Time.

J. Employees shall provide notice to the Employer of the need for COVID-19 Sick Time as soon as practicable.

K. An Employer may not require that an Employee making use of COVID-19 Sick Time search for or find a replacement worker to cover the hours during which the Employee is using COVID-19 Sick Time as a condition for providing COVID-19 Sick Time.

L. An Employee may use their COVID-19 Sick Time in the smallest increment that the Employer's payroll system uses to account for absences or use of other time.

M. To the extent that federal or state laws require employers to provide paid leave or paid sick time related to COVID-19, Employers may substitute leave under the federal or state law for its obligations under this ordinance to the extent they coincide and the relevant federal or state law permits such concurrent use of paid leave. Employers shall be required to provide additional COVID-19 Sick Time under this Chapter to the extent that the requirements of this Chapter exceed the requirements of those laws and to the extent permitted under the federal or state law.

N. To the extent that an Employer has adopted a policy subsequent to the March 13, 2020 Declaration of Emergency which provides its Employees with additional Paid Sick Time specifically for use during COVID-19, Employers may substitute leave under such Employer policy for the leave required under this ordinance to the extent they coincide. Employers shall be required to provide additional COVID-19

Sick Time under this Chapter to the extent that the requirements of this Chapter exceed the requirements its own COVID-19 specific Paid Sick policy.

O. Notwithstanding any provision to the contrary in Chapter 626 including specifically Section 626.09(e)(1)(a), the provisions of this Chapter 626A shall be effective immediately and may be fully enforced, without delay or grace period, by the entirety of Section 626.09.

P. The Mayor's Office of Equity shall be empowered to promulgate guidelines and advisory documents concerning this Chapter. It shall also be empowered to work with the Allegheny County Health Department for the promulgation of any regulations required per applicable law.

Section 2: The provisions of this Chapter shall expire upon expiration of either the COVID-19 emergency disaster Declaration of the Commonwealth of Pennsylvania or the COVID-19 emergency disaster Declaration of the City of Pittsburgh; whichever is sooner.

Section 3: If any provision of this Chapter or application thereof to any person or circumstances is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable. In no event shall this Chapter be construed as part or portion of Chapter 626 of the City of Pittsburgh Code of Ordinance.