

**Key Provisions of the Cook County Earned Sick Leave Ordinance and City of Chicago Minimum Wage and Paid Sick Leave Ordinance, current as of July 16, 2017<sup>1</sup>**

Subject	Cook County Ordinance & Rules	Chicago Ordinance & Rules
Covered employer	Employs at least 1 covered employee who works in Cook County (which could include the employee’s home if, among other things, the employee is <i>required</i> to telecommute). <i>See</i> Ordinance, 42-2; Rules, 320.100. For exempt employers, such as federal, state, and local governments, <i>see</i> Ordinance, 42-2, Rules, 320.100(C)	Same as ← but, the employer must employ at least 1 covered employee who works in the City of Chicago (note that this could arguably include work from the employee’s home if the employee is <i>permitted</i> to telecommute) ( <i>See</i> Ordinance, 1-24-010, “employee”; Rules, Article 1, Section 1, “covered employee”). Exempt employers are not discussed or defined by the Ordinance or Rules.
Covered employee	<p>Covered employee: Employee who works for a minimum of 2 hours in any two-week period in Cook County (note that uncompensated commuting or traveling through Cook County without stopping for a work purpose do not count; However, compensated commuting or travel, or work from home in Cook County does count if <i>required</i> by the employer. <i>See</i> Ordinance 42-2; Rules, 310.100</p> <p>Exempt employees: Certain employees subject to a collective bargaining agreement and independent contractors. <i>See</i> Rules, 310.100(D)</p>	<p>Same as ← for covered employees but, the employee must work in Chicago (note that work from home in Chicago may count if such work is <i>permitted</i> by the employer. <i>See</i> Rules, Article 1, Section 1</p> <p>Exempt employees (among others): Certain employees subject to various subsections of the Illinois Minimum Wage Law, employees of any subsidized temporary youth program, employees of any governmental entity other than the City of Chicago, certain employees covered by a collective bargaining agreement. <i>See</i> Rule MW 1.05.</p>

<sup>1</sup> The chart is intended to highlight some of the key provisions of the Cook County Earned Sick Leave Ordinance No. 16-4229, effective July 1, 2017 (the “Cook County Ordinance”), the Interpretative and Procedural Rules governing the Cook County Ordinance, approved May 25, 2017 (the “Cook County Rules”), the City of Chicago Minimum Wage and Paid Sick Leave Ordinance, Chapter 1-24 of the Municipal Code of Chicago, effective July 1, 2017 (the “Chicago Ordinance”), and the rules interpreting the Chicago Ordinance dated June 28, 2017 (the “Chicago Rules”). The chart is not intended to include all provisions and terms of the Cook County and Chicago Ordinances (collectively the “Ordinances”), or their corresponding rules. Users should review the full text of the Ordinances and corresponding rules to confirm the scope and applicability of the Ordinances. This document shall in no way constitute legal advice or form any attorney-client relationship.

Subject	Cook County Ordinance & Rules	Chicago Ordinance & Rules
Eligibility to use paid sick leave	Employee must work 80 hours within any 120-day period. <i>See</i> Ordinance, 42-3(a)(1); Rules 310.300(B). However, the employer may establish a use waiting period prohibiting the employee from using paid sick leave until as late as 180 days after the start of employment. <i>See</i> Rules, 500.200	Same as ← <i>See</i> Ordinance, 1-24-045(a)(1), (c)(1); Rules MW 3.03, 3.08
Rate of accrual of paid sick leave	<p>(a) 1 hour of paid sick leave per 40 hours worked in Cook County.</p> <p>(b) Overtime exempt employees are assumed to work 40 hours per week, unless their normal workweek is less than 40 hours, in which case paid sick leave shall accrue based upon that normal work week. <i>See</i> Ordinance, 42-3(b)(3)</p> <p>(c) If non-exempt from overtime, an employee may earn more than 1 hour per week depending on the number of hours actually worked. <i>See</i> Ordinance, 42-3(b)(2)-(3); Rules, 400.200</p> <p>(d) Employers need not award paid sick leave in fractional increments. <i>See</i> Rules, 400.200(E)</p> <p>(e) Employers may front load paid sick leave to avoid having to track accrual. <i>See</i> Ordinance, 42-3(b)(7); Rules, 400.200(G)</p>	<p>Same as ← (a) but, hours must be worked in Chicago. Ordinance, 1-24-045(b)(2); Rule MW 3.04(b)</p> <p>Same as ← (b), (d), (e) (<i>See</i> Ordinance, 1-024-045(b)(2)-(3); Rule MW 3.04(c), (e); Rule MW 3.05</p> <p>Silent as to (c)</p>
Date of initial accrual	The later of July 1, 2017 or the first calendar day after the start of employment in Cook County (so if an employee worked for a covered employer prior to July 1, 2017, but worked for the employer in another county, the date of initial accrual would not begin until the employee worked for the employer in Cook County for 2 hours in a two-week period). <i>See</i> Ordinance, 42-3(b)(1); Rules, 400.100	Same as ← except work must be in Chicago. <i>See</i> Ordinance, 1-24-045(b)(1); Rule MW 3.04(a)
Maximum accrual per year	40 hours per 12-month period (with some exceptions). <i>See</i> Ordinance, 42-3(b)(4); Rules, 400.500	Same as ← <i>See</i> Ordinance, 1-24-045(b)(4); Rule MW 3.08(c), (d)

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<p>Carryover of unused and accrued paid sick leave</p>	<p>Depends on whether covered employer is FMLA eligible:</p> <p>(a) For non-FMLA eligible: Half of unused hours may be carried over into the following year, up to 20 hours. <i>See</i> Ordinance 42-3(b)(5); Rules, 400.600(A)</p> <p>(b) For FMLA eligible: the employee may carry over up to 40 hours of accrued and unused paid sick leave to be used exclusively for FMLA purposes. This is in addition to the carryover of a maximum of 20 hours of regular paid sick leave. <i>See</i> Ordinance, 42-3(b)(6); Rules, 400.600(B)</p> <p>(c) the carryover must be in hourly increments, and may not be fractional. Therefore, if the employee has an odd number of accrued and unused sick leave hours, that amount should be rounded up before calculating the carryover. <i>See</i> Rules, 400.600</p> <p>(d) employers may front load carryover to avoid individualized calculations of the amount of unused earned sick leave to be carried over from one accrual period to the next. <i>See</i> Rules, 400.600(C).</p> <p>If the benefit year begins after an employee’s start date, the employer may frontload a greater amount of paid sick leave than the amount to which the employee is entitled OR allow the employee to carry over up to 20 hours of any accrued paid sick leave without first dividing in half the accrued and unused paid sick leave hours. Rules, 600.300(E)</p> <p>Note that frontloading the accrual and carryover are not the only alternatives to tracking accrual. Employers are free to adopt other alternative practices as long as those practices do not treat employees worse than if the employer followed the accrual and carryover procedures.</p>	<p>Same as ← (a), (b), (c), (d) <i>See</i> Ordinance, 1-24-045(b)(5), (6); Rule MW 3.06(a), (d)</p> <p>If the employer frontloads 40 hours of paid sick leave for non-FMLA eligible and 60 hours for FMLA eligible (40 hours for FMLA leave and 20 hours for ordinance paid sick leave, or 40 hours for ordinance paid sick leave and 20 hours for FMLA leave) at the beginning of the covered employee’s 12-month benefit period, the employer is not required to carryover hours from one year to the next. <i>See</i> Rule MW 3.05</p> <p>If the benefit year begins after an employee start date, up to 20 hours of any accrued paid sick leave shall be carried over. Unlike normal carryover, where the figure gets halved, all of the unused accrued paid sick leave, up to 20 hours, is carried over. Rule MW 3.06(b)</p>

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Permissible uses for accrued paid sick leave	When the employee or a family member is ill, injured, seeking medical care, treatment, or diagnosis, the victim of domestic violence or stalking, or when the employee's child's school or daycare or the employee's place of business is closed by order of federal, state or local government for a public health emergency. <i>See</i> Ordinance, 42-3(c)(2); Rules, 500.500	Same as ← <i>See</i> Ordinance, 1-24-045(c)(2)
Maximum use of accrued paid sick leave per accrual period	Maximum of 40 hours, unless the employer allows for more. Also, if the employer/employee are FMLA eligible, the maximum use could be as high as 60 hours. <i>See</i> Ordinance, 42-3(c)(1); Rules, 500.300(C)  Note that the employee's sick leave bank could be greater than what they are actually entitled to use.	Same as ← <i>See</i> Ordinance, 1-24-045(c)(1); Rule MW 3.08(c), (d)
Increments of use	Minimum of 1 hour; But the employer may provide a policy requiring employees to take leave in up to 4-hour increments. <i>See</i> Rules, 500.400	Same as ← BUT, the minimum use policy is not capped at 4-hour increments. Leave can be taken in hourly increments unless the employer establishes a written minimum use policy. <i>See</i> Rule MW 3.08(b)
Remuneration for unused sick pay	Employer is not required to compensate employee for unused sick leave upon separation from employment, unless a collective bargaining agreement provides otherwise. <i>See</i> Rules, Section 200.200	Same as ← <i>See</i> Ordinance, 1-24-045(a)(3); Rule MW 3.11(c)

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Breaks in service	<p>(a) When a covered employee is rehired by the same employer within 120 days of his separation, he is considered to have continued his employment during the 120-day period for purposes of being eligible for paid sick leave and surpassing any applicable use waiting period. <i>See</i> Rules, 310.400.</p> <p>(b) When a covered employee is rehired by the same employer more than 120 days after separation, the employee must reestablish eligibility for coverage and use of paid sick leave. Rules, Section 310.400.</p> <p>(c) If a covered employee has separated from service with unused paid sick leave, the employer does not need to restore this leave when the employee is rehired. Rules, Section 310.400.</p>	<p>Same as (c) ← Rule MW 3.10</p> <p>Silent as to (a) and (b)</p>
Notice and documentation from covered employee relating to use of paid leave	<p>Employer may establish reasonable notice requirements for covered employees using earned sick leave for both foreseeable and unforeseeable absences from work. <i>See</i> Rules, Section 500.600</p> <p>Employer may require certain documentation when employee is absent for more than 3 consecutive work days. <i>See</i> Ordinance, 42-3(c)(5); Rules, Section 500.700</p>	<p>Same as ← <i>See</i> Rule MW 3.12</p> <p>Same as ← except a special rule exists for employees of a common carrier regulated by the railway Labor Act. <i>See</i> Ordinance, 1-24-045(c)(5); Rule MW 3.14</p>
Notification of employee's rights under the Ordinances	<p>Employer is required to post a notice of employee's rights under the Ordinance as well as provide each covered employee with a notice of rights. <i>See</i> Ordinance, 42-6; Rules, 700.100-200</p>	<p>Same as ← except the posting and notice to be provided to covered employees may be in the form provided by the Commissioner and the employer shall provide notice with the first paycheck. <i>See</i> Ordinance, 1-24-070; Rule MW, 1.04.</p>

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Required recordkeeping of covered employer	Technically, none, until the covered employer is named as a respondent in a claim filed under the Ordinance; However, the Rules anticipate that moderately sophisticated employers will keep certain employment records for the most recent 3 years and if they don't maintain certain information, there may be an adverse presumption in a later filed claim by an employee. <i>See Rules, 800.100</i>	Employer must maintain, at a minimum, 12 different types of records relating to a covered employee for a period of not less than 5 years. <i>See Rule MW 1.06</i>
Prohibited acts under the Ordinance (these lists should not be read as exhaustive)	<ul style="list-style-type: none"> <li>• (a) requiring a covered employee to find coverage as a condition of using earned sick leave. <i>See Ordinance, 42-3(c)(3)</i></li> <li>• (b) retaliating against a covered employee for exercising his rights under the Ordinance. <i>See Ordinance, 42-7</i></li> <li>• (c) counting absences arising from the use of properly noticed earned sick leave that triggers any adverse employment action.</li> <li>• (d) switching the employee's schedule after he provides notice of intent to use earned sick leave to avoid paying him during his absence.</li> <li>• (e) paying a covered employee not to take earned sick leave. <i>See Rules. 900.100</i></li> </ul>	Same as ← (a), (b), (e) <i>See Ordinance, 1-24-045(c)(3), 1-24-080; Rule MW 3.11(b)</i>
Successor employer	Not mentioned in the Ordinance	Unused paid sick leave shall be retained by the covered employee if the employer sells, transfers, or otherwise assigns the business to another employer and the covered employee continues to work in the City of Chicago. <i>See Rule MW 3.13</i>
Ordinance enforced by:	Cook County Commission on Human Rights	City of Chicago's Department of Business Affairs and Consumer Protection

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Administrative process: Time limit for filing a complaint	Within 3 years of the alleged violation of the Ordinance. BUT, if there is evidence that the employer concealed the violation, then the covered employee may file the complaint within 3 years after the covered employee discovered, or reasonably should have discovered, the violation. Ordinance, 42-8(b); Rules, 1020.100. Even if a claim is time-barred before the Commission, it may not preclude a covered employee from filing a claim in court. Such a claim may be filed without the covered employee's exhaustion of its administrative rights. Ordinance, 1040.100	The Commissioner of the City of Chicago's Department of Business Affairs and Consumer Protection has discretion whether or not to accept a complaint filed more than 3 years after the disputed wages were due or the sick time was not granted. Rule MW 4.01(c)  This does not alter a covered employee's ability to file a civil action. Ordinance, 1-24-110; Rule MW 4.01(c)
Administrative remedies	Fines (not to exceed \$500 per violation per covered employee per day); Lost wages; injunctive relief. <i>See</i> Rules, 1030	Fines, license suspension or revocation, restitution to the covered employees and former covered employees. <i>See</i> Rules MW 4.02(d)
Damages in civil action	Damages up to 3 times the full amount of any unpaid sick leave denied or lost, plus interest, attorney's fees and costs. <i>See</i> Ordinance 42-8(b)	Same as ← <i>See</i> Ordinance 1-24-110

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