

**DULUTH, MINNESOTA, SICK AND SAFE TIME ORDINANCE**

Earned paid sick leave will accrue at a rate of **one hour for every 50 hours (accrual is in hour-unit increments) worked in the city of Duluth up to a maximum of 40 hours** of sick and safe time per calendar year. A calendar year will be from January 1st to December 31<sup>st</sup> each year.

**Covered Employee:** The ordinance applies to employees who perform work in city of Duluth, MN, for more than 50% of their working time in a 12-month period or is based in the city of Duluth and spends a “substantial part” of his or her time working in the city and does not spend more than 50 percent of their work-time in a 12-month period in any other particular place. "Substantial part of time" means more than 50% of working time. Employees working from home, or otherwise commuting, are covered for hours worked in Duluth.

Exempt: Seasonal employees and student interns

Employers will permit an employee to **accrue up to 64 hours** of earned sick and safe time per year.

**After 90 calendar days of employment**, employees may **use up to 40 hours of earned sick and safe time each year** if they are unable to work all or part of a scheduled shift.

Employers shall permit an employee to **carry over up to 40 hours** of earned but unused sick and safe time into the following year.



**EFFECTIVE: 1/1/2020**

**Note:** Any paid leave policy, such as a paid time off policy, which meets or exceeds, and does not otherwise conflict, with the minimum standards and requirements provided in the ordinance are not required to provide additional sick and safe time.

**Use of Earned Sick and Safe Time**

An employer shall allow an employee to use earned sick and safe time for the following reasons:

1. An absence resulting from an employee’s own mental or physical illness, injury, or health condition; to accommodate the employee’s need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee’s need for preventive medical care;
2. To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care for a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care; and
3. An absence due to domestic abuse, sexual assault, or stalking of the employee or employee’s family member.

**Family member** means an employee’s:

- Child, step-child, adopted child, foster child, legal ward or child for whom the employee is legal guardian regardless of age;
- Spouse or domestic partner;
- Sibling, stepsibling or foster sibling;
- Parent, stepparent, mother-in-law, father-in-law;
- Grandchild, foster grandchild, grandparent, step-grandparent; and;
- Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.

Use of Earned Paid Sick Time (Cont.)	
<ul style="list-style-type: none"> <li>• An employer must compensate an employee for used sick and safe time at the employee’s standard hourly rate, for hourly employees, or an equivalent rate, for salaried employees.</li> <li>• Employees are not entitled to compensation for lost tips or commissions and compensation is required only for hours that an employee is scheduled to have worked.</li> </ul>	<p>An employee may <b>use accrued paid sick time in hourly increments.</b></p> <p>An employer may not require, as a condition of an employee’s using sick and safe time, that the employee find a replacement worker to cover the hours during which the employee uses sick and safe time.</p> <p>Nothing in this ordinance shall prevent an employer from taking reasonable action (e.g., discipline) when an employee’s use of earned sick and safe time is not in good faith, such as a clear instance of abuse. Disciplinary actions may not include deductions from an employee’s legitimate earned sick and safe time.</p>
Paid Sick Time Accrual and Carry Over	
<ul style="list-style-type: none"> <li>• Employees shall earn and accrue earned sick and safe time at the commencement of employment. For individuals who are employed on the date this ordinance takes effect, accrual shall begin on the date this ordinance takes effect.</li> </ul>	<p>Earned sick and safe time <b>shall accrue only in hour-unit increments</b>; there shall be no accrual of a fraction of an hour.</p>

**Employee Notice Requirements**

- Earned sick and safe time shall be provided upon the request of an employee. When possible, the request shall include the expected duration of the absence. An employer may require an employee to comply with the employer’s usual and customary notice and procedural requirements for absences or for requesting leave, provided that such requirements do not interfere with the purposes for which leave is needed.
- When an employee uses sick time for a foreseeable absence, the employee shall make a reasonable effort to schedule the sick time in a manner that does not unduly disrupt the operations of the customer or employer. For example, the employee should make a reasonable attempt not to schedule medical appointments during peak business hours, when work is time-sensitive or when mandatory meetings are scheduled.
- The employee shall inform the employer (and customer) of any change in the expected duration of the sick time as soon as practicable.
- **If the reason for sick time is unforeseeable**, such as an emergency, accident, or sudden illness, the employee shall provide notice to the customer and their branch representative at company before the start of the employee’s shift or, when circumstances prevent the employee from providing notice before the start of the employee’s shift, as soon as is practicable.
- If both the employer and employee agree the employee may work additional hours or shifts instead of using earned medical time. If, by taking on additional hours, the employee works more than 40 hours in a week, then he or she must be paid at the overtime rate (if applicable). **The employee will not be paid any accrued earned medical time, if the time is made up.**
- Employees must claim used, earned paid medical time when used, and must be paid medical time on the same schedule as regular wages are paid. Employers may not delay compensating employees for earned paid medical time, therefore, **employees must claim earned medical time no later than the week after it is used.**

The request for leave can be made orally, in writing, or electronic means or by any means acceptable by the employer.

**For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation** that the earned paid sick time has been used for a purpose covered by this ordinance.

Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this act. In cases of domestic violence, sexual violence, abuse or stalking, one of the following types of documentation selected by the employee shall be considered reasonable documentation:

1. A police report;
2. A protective order;
3. A signed statement from a domestic violence or sexual violence program or victim services organization;
4. A signed statement from a witness advocate;
5. A signed statement from an attorney, member of the clergy, or a medical or other professional; or
6. An employee’s written statement affirming that the employee or the employee’s family member is a victim of domestic violence, sexual violence, abuse, or stalking, and that the leave was taken for one of the purposes listed in the act.

**Note:** The documentation does not need to explain the nature of the health condition or the details of the domestic violence, sexual violence, abuse or stalking.

Reasonable documentation may not result in an unreasonable burden or expense on the employee.

**No Pay Out Upon Termination**

There will be **no pay out** of accrued but unused sick and safe time upon termination, resignation, retirement, or other separation from employment.

**Transfers**

If an employee is transferred to a different division, entity, or location within the city, but remains employed by the same employer, the employee is entitled to all accrued sick and safe time accrued but not used at the prior division, entity, or location and is entitled to use all accrued sick and safe time as provided in this ordinance.

**Rehires**

When there is a separation from employment and the employee is rehired within 90 days of separation by the same employer, previous accrued sick and safe time that had not been used must be reinstated. An employee is entitled to use accrued sick and safe time and accrue additional sick and safe time previously not used.

**Successor Employer**

When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all accrued sick and safe time accrued but not used when employed by the original employer, and are entitled to use all accrued sick and safe time previously accrued but not used.

**Confidentiality**

An employer shall maintain the confidentiality of information provided by the employee or others to support of an employee’s request for sick and safe time, including health information and the fact that the employee or employee’s family member is a victim of domestic abuse, sexual assault, or stalking; that the employee has requested or obtained leave under this ordinance; and may written or oral statement, documentation, record, or corroborating evidence provided by the employee.

**Exercise of Rights Protected; Retaliation Prohibited**

It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this article.

It shall be unlawful for an employer’s absence control policy to count earned paid sick and safe time taken under this ordinance as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

<b>Duluth, Minnesota</b> – In SmartSearch, if the employee is <i>working</i> in Duluth, Minnesota, mark Personnel subarea as “Duluth, MN.” If they work in Minnesota but do not work in Minneapolis, mark Personnel subarea as “Other Locations.”		
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# CITY OF DULUTH

## NOTICE TO EMPLOYEES

# EARNED SICK AND SAFE TIME

By law, employers with five or more workers must provide paid time off to all part-time and full-time employees working within the city limits of Duluth.

This paid time off is earned by employees whenever they work in Duluth – for every 50 hours worked, employees earn one hour of paid leave.

### Employees can use Earned Sick and Safe Time (ESST) for:

- Caring for themselves or a family member due to a physical or mental health condition or illness.
- Attending a doctor's appointment or seeking preventative care.
- Caring for themselves, a family member, or a roommate for reasons related to domestic violence, sexual assault, or stalking.

### Employers cannot retaliate against employees for:

- Asserting their right to ESST/requesting to use ESST
- Filing a complaint with the City of Duluth
- Telling others about their rights

### EMPLOYERS MUST PROVIDE ESST. RETALIATION IS ILLEGAL.

If you believe your right to ESST has been violated, you can file a complaint:

218-730-5500 • [sicktimeinfo@duluthmn.gov](mailto:sicktimeinfo@duluthmn.gov)

[www.duluthmn.gov/city-clerk/earned-sick-safe-time](http://www.duluthmn.gov/city-clerk/earned-sick-safe-time)

