

# CITY OF GRAND RAPIDS

## EARNED SICK AND SAFE LEAVE POLICY

January 1, 2025 ~~January 1, 2024; (Amended January 22, 2024)~~

### Earned Sick and Safe Leave

“Earned Sick and Safe Leave” (ESST) is paid time off available to ~~all~~ employees, including ~~paid-on-call firefighters, probationary,~~ temporary, seasonal, and part-time employees, or anyone who the City of Grand Rapids anticipates will performing work for at least 80 hours in a year for the City of Grand Rapids and is not an independent contractor.

For the purposes of this policy, a year is defined as the City’s fiscal year, or the 12-month period beginning in January and ending in December. ~~The hourly rate of Earned Sick and Safe Leave is the same hourly rate an employee earns from employment with the City of Grand Rapids.~~ Earned sick and safe time means leave, including paid time off and other paid leave systems, that is paid at the same base rate as an employee earns from employment. In no case shall this base rate be less than that provided in Minnesota Law.

For employees paid on an hourly basis, base rate means the same rate received per hour of work. For example, for employees paid on an hourly basis, who receive multiple hourly rates, the base rate is the rate the employee would have been paid for the period of time in which leave was taken. For employees paid on a salary basis, the base rate is the same rate guaranteed to the employee as if the employee had not taken the leave. For purposes of this section, base rate does not include commissions; shift differentials that are in addition to an hourly rate; premium payments for overtime work; premium payments for work on Saturdays, Sundays, holidays, or scheduled days off.

Paid Sick and Safe Leave hours will not be counted as hours worked for the purposes of any overtime calculation. In no circumstance shall Earned Sick and Safe Leave hours exceed 80 hours in any fiscal year. Unused Earned Sick and Safe Leave is not transferrable, nor may an employee donate it to another employee.

Employees may have additional rights under other local, state, or federal laws, such as family and medical leave, disability, labor relations, workers compensation, and other laws.

### FULL-TIME EMPLOYEES

For full-time and probationary employees, the City of Grand Rapids provides flexible time off (FTO) that meets or exceeds the requirements of the law. ~~Therefore, full time and probationary employees, please be advised that the first 48 hours of flexible time off (FTO) leave a full time and/or probationary employee uses in a fiscal year will be cross-designated as ESST.~~

If the full-time and/or probationary employee chooses to use FTO hours for reasons other than those outlined in this policy as ESST eligible hours, the full-time and/or probationary employee

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will not be provided with additional ESST hours. While full-time and/or probationary employees may use FTO hours for an ESST purpose, the employee will not be provided with additional ESST hours once available FTO hours have been exhausted.

Full-time and/or probationary employees with secondary positions with the City of Grand Rapids, ~~such as paid-on-call firefighters~~, shall not receive additional FTO or ESST hours beyond the FTO hours received as a full-time employee.

### ~~PAID-ON-CALL FIREFIGHTERS~~, TEMPORARY, SEASONAL, AND PART-TIME EMPLOYEES

At the beginning of each fiscal year, beginning January 1, 2024, 80 hours of Earned Sick and Safe Leave hours will be available for temporary, seasonal, and part-time employees' immediate use. Temporary, seasonal, and part-time employees are not eligible to carryover unused Earned Sick and Safe Leave into the following year. Beginning January 1, 2025, and thereafter, in the event a temporary, seasonal, or part-time employee leaves employment with the City, the employee will not receive payment for unused Earned Sick and Safe Leave hours received at the beginning of that fiscal year.

~~Paid-on-call firefighters, working at least 80 hours in a year for the City of Grand Rapids, will accrue one hour of Earned Sick and Safe Leave time for every 30 hours worked. For the purposes of this policy, "hours worked" shall consist of assigned shifts, scheduled trainings, required meetings, and other scheduled events as determined by Human Resources, City Administration, and this policy. Paid-on-call firefighters may accrue up to 80 hours of Earned Sick and Safe Leave hours each calendar year (January 1 through December 31). Accrued and unused Earned Sick and Safe Leave hours may be carried over from year to year, until an 80-hour maximum accrual is reached.~~

### Earned Sick and Safe Leave Use

The Earned Sick and Safe Leave hours may be used ~~in the smallest increment of time tracked by the City's payroll system (1/4 hour or quarter hour)~~ in the same increment of time for which employee's are paid, for the following circumstances:

- The employee's mental or physical illness, injury, or health condition; need for diagnosis, care, or treatment; or need for preventative care;
- A family member's mental or physical illness, injury, or health condition; need for diagnosis, care, or treatment; or need for preventative care;
- Absence due to domestic abuse, sexual assault, or stalking of the employee or a family member, provided the absence is to:

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- Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;
  - Obtain services from a victim services organization;
  - Obtain psychological or other counseling;
  - Seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault, or stalking; or
  - Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking;
- Absence to make arrangements for or attend funeral services or a memorial, or address financial or legal matters that arise after the death of a family member;
  - Closure of the employee's workplace due to weather or public emergency or an employee's need to care for a family member due to closure of the family member's school or place of care due to weather or public emergency;
    - Employees may not use leave under the provisions of Earned Sick and Safe Time for closure of the Employer due to weather or other public emergency, or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency, pursuant to Minnesota Statute 181.9447 subd. 1 clause (4).
    - Employees who are required to maintain a commercial driver's license and are needed for the Employer to maintain minimum staffing requirements may not use leave under the provisions of Earned Sick and Safe Time for closure of the Employer due to weather or other public emergency, or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency, pursuant to Minnesota Statute 181.9447 subd. 1 clause (4).
  - The employee's inability to work or telework because the employee is:
    - Prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a public emergency; or
    - Seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and such employee has been exposed to a communicable disease or the employee's employer has requested a test or diagnosis; and

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- When determined by a health authority or health care professional that the employee or family member is at risk of infecting others with a communicable disease, whether or not they have actually contracted a communicable disease.

### **For Earned Sick and Safe Leave purposes, “family member” includes an employee’s:**

- Spouse or registered domestic partner
- Child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in loco parentis
- Sibling, step sibling or foster sibling
- Biological, adoptive, or foster parent, stepparent or a person who stood in loco parentis when the employee was a minor child
- Grandchild, foster grandchild, or step grandchild
- Grandparent or step grandparent
- A child of a sibling of the employee
- A sibling of the parent of the employee or
- A child-in-law or sibling-in-law
- Any of the above family members of a spouse or registered domestic partner
- Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship
- Up to one non-family individual annually designated by the employee

### **Advance Notice for use of Earned Sick and Safe Leave**

If the need for sick and safe leave is foreseeable (such as for a scheduled medical appointment), the City of Grand Rapids requires seven days’ advance notice. However, if the need is unforeseeable, employees must provide notice of the need for Earned Sick and Safe Leave, as soon as practicable, by providing a written notice to the immediate supervisor, department head, and human resources.

When an employee uses Earned Sick and Safe Leave for more than three consecutive scheduled work-days, the City of Grand Rapids may require appropriate supporting documentation (such as medical documentation supporting medical leave, court records or related documentation to support safety leave). However, if the employee or employee's family member did not receive services from a health care professional, or if documentation cannot be obtained from a health care professional in a reasonable time or without added expense, then reasonable

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documentation may include a written statement from the employee indicating that the employee is using, or used, Earned Sick and Safe Leave for a qualifying purpose. The documentation provisions referenced in Minn. Stat. § 181.9447, subd. 3, shall not apply to paid leave available to an employee for absences from work in excess of the minimum amount required by Earned Sick and Safe Time.

The City of Grand Rapids will not require an employee to disclose details related to domestic abuse, sexual assault, or stalking or the details of the employee's or the employee's family member's medical condition.

In accordance with state law, the City of Grand Rapids will not require an employee using Earned Sick and Safe Leave to find a replacement worker to cover the hours the employee will be absent.

### **Retaliation ~~P~~rohibited**

The City of Grand Rapids shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee because they have exercised or attempted to exercise their rights under the Earned Sick and Safe Leave law, including, but not limited to, requesting, or using Earned Sick and Safe Leave. Employees have the right to file a complaint with the Minnesota Department of Labor and Industry or bring a civil action if the City of Grand Rapids has denied Earned Sick and Safe Leave or if they have been retaliated against for requesting or using Earned Sick and Safe Leave.

Further, use of Earned Sick and Safe Leave will not be factored into any attendance point system the City of Grand Rapids may use. Additionally, it is unlawful to report or threaten to report a person or a family member's actual or suspected citizenship or immigration status for exercising or attempting to exercise any right under the Earned Sick and Safe Leave law.

### **Benefits and return to work protections**

During an employee's use of Earned Sick and Safe Leave, an employee will continue to receive the City's employer insurance contribution as if they were working, and the employee will be responsible for any share of their insurance premiums.

An employee returning from time off using accrued Earned Sick and Safe Leave is entitled to return to their City employment at the same rate of pay received when their leave began, plus any automatic pay adjustments that may have occurred during the employee's time off. Seniority during Earned Sick and Safe Leave absences will continue to accrue as if the employee has been continually employed.

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When there is a separation from employment with the City of Grand Rapids and the employee is rehired within 180 days of separation, Earned Sick and Safe Leave that had not been used will be reinstated. An employee is entitled to use Earned Sick and Safe Leave at the commencement of reemployment.

### **Notice and Posting**

The City of Grand Rapids must give notice to all employees that they are entitled to earned sick and safe time, including the amount of earned sick and safe time, the accrual year for the employee, the terms of its use under this section, a copy of the written policy which includes a statement that retaliation against employees who request or use earned sick and safe time is prohibited; and that each employee has the right to file a complaint or bring a civil action if earned sick and safe time is denied by the employer or the employee is retaliated against for requesting or using earned sick and safe time.

The City of Grand Rapids must supply employees with a notice in English and the primary language of the employee, as identified by the employee.

The means used by the City of Grand Rapids must be at least as effective as the following options for providing notice: posting a copy of the ESST Policy at each location where employees perform work and where the notice must be readily observed and easily reviewed by all employees performing work; providing a paper or electronic copy of the notice to employees; or a conspicuous posting in a web-based or app-based platform through which an employee performs work.

### **Record of ESST Hours Available and ESST Hours Used**

At the end of each pay period, the City of Grand Rapids will select a reasonable system, which includes electronically through a payroll system, to provide an employee about an employee's ESST hours available for use and ESST hours used during the pay period, subject to Minn. Stat. § 181.9447, subd. 10. The City will provide their employees with access to an employer-owned computer during regular working hours to review and print the information.

### **Employer Records**

Employers shall retain accurate records documenting hours worked by employees and earned sick and safe time taken. The records required by this policy must be kept for three years.

All records required to be kept under this section must be readily available for inspection by the commissioner upon demand. The records must be either kept at the place where employees are working or kept in a manner that allows the employer to comply with this paragraph within 72 hours.

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### Confidentiality and Nondisclosure.

If, in conjunction with this policy, the City of Grand Rapids possesses health or medical information regarding an employee or an employee's family member; information pertaining to domestic abuse, sexual assault, or stalking; information that the employee has requested or obtained leave under this section; or any written or oral statement, documentation, record, or corroborating evidence provided by the employee or an employee's family member, the employer must treat such information as confidential.

Information given by an employee may only be disclosed by the City of Grand Rapids if the disclosure is requested or consented to by the employee, when ordered by a court or administrative agency, or when otherwise required by federal or state law.

Records and documents relating to medical certifications, recertifications, or medical histories of employees or family members of employees must be maintained as confidential medical records separate from the usual personnel files. At the request of the employee, the employer must destroy or return the records that are older than three years prior to the current calendar year, unless state or federal law, rule, or regulation requires the employer to retain such records.

The City of Grand Rapids may not discriminate against any employee based on records created for the purposes of this policy.

### Remedies Available

In the event an employer fails to provide or allow ESST use as required by law, the employer is liable to the employee for the amount of ESST the employer should have provided or the employee could have used, in addition to an equal amount of liquidated damages, subject to Minn. Stat. § 177.50, subd. 7.

This policy may be revised or updated at any time. In the ~~event~~ effect-this policy is updated or revised, employees shall receive an updated copy of the policy. ~~Employees will be provided with the notice of ESST rights, in the form attached hereto, on or before January 1, 2024.~~ Employees hired after January 1, 2024 will receive said notice upon hire.

The Earned Sick and Safe Leave Policy shall supersede any conflicting provisions in the City of Grand Rapids Personnel Policies.

~~Approved by City of Grand Rapids City Council on December 18, 2023; Amended by the City of Grand Rapids City Council on January 22, 2024 with any and all language retro-active to January 1, 2024.~~ Amended by the City of Grand Rapids City Council on \_\_\_\_\_ with any and all language effective January 1, 2025.