

ORDINANCE NO. 2023 - _

AN ORDINANCE AMENDING ARTICLE 1 OF CHAPTER 23 OF THE CITY CODE REGARDING EARNED SICK AND SAFE LEAVE AND AMENDING APPENDIX A RELATING TO ADMINISTRATIVE RELIEF AND FEES

The City Council for the City of Bloomington, Minnesota, ordains:

Section 1. That Chapter 23 of the City Code is hereby amended by adding those words that are underlined and deleting those words within brackets [] and stricken through, to read as follows:

CHAPTER 23: EARNED SICK AND SAFE LEAVE

ARTICLE I: EARNED SICK AND SAFE LEAVE

§ 23.06 ACCRUAL OF SICK AND SAFE LEAVE.

(b) Accrual of sick and safe time

- (1) Employees accrue a minimum of one (1) hour of sick and safe time for every thirty (30) hours worked within the geographic boundaries of the city up to a maximum of forty-eight (48) hours in a calendar year. Employees may not accrue more than forty-eight (48) hours of accrued sick and safe time in a calendar year unless the employer agrees to a higher amount. Sick and safe time shall accrue ~~[only]~~ in hour-unit increments[; there shall be no accrual of a fraction of an hour of sick and safe time]. An employer may exceed this minimum standard by recording time in fractions of an hour.

§ 23.10 REQUIRED STATEMENT TO EMPLOYEE.

An employer must comply with the requirements of Minnesota Statutes, section 181.032. The earnings statement required by Minnesota Statutes, section 181.032 must also include [Upon request by an employee, the employer must provide, in writing or electronically,] information stating the employee's then-current amount of:

- (a) Accrued sick and safe time available to the employee; and
- (b) Used sick and safe time.

[Employers may choose a reasonable system for providing this notification, including, but not limited to, listing information on each pay stub or developing an online system where employees can access their own information.] This sick and safe time information must be provided in the same format as is required for the earning statement required by Minnesota Statutes, section 181.032.

§ 23.17 ENFORCEMENT.

(b) Investigation process:

- (4) An employer's position and response to any request for records must be provided to the City

Attorney’s Office as provided in the City Attorney’s Office's rules. An employer's failure to provide a position statement or to timely and fully respond to a request for records or any other reasonable request issued by the department pursuant to an investigation creates a rebuttable presumption of a violation of this article for the purposes of the investigation and determination of violation. An employer that fails to respond to a request for records may not use such records in any appeal pursuant to section 23.19 [City Attorney’s Office] to challenge the correctness of any determination of violation by the City Attorney’s Office of damages owed or penalties assessed.

§ 23.18 RELIEF AND ADMINISTRATIVE PENALTIES.

As set forth in City Code Appendix A, the [The] City Attorney may order any appropriate relief for a determination including, but not limited to:

(a) Reinstatement and back pay[-] ;

(b) [~~The crediting to an employee of any accrued sick and safe time accrued but not credited plus payment to the employee of the dollar value of the accrued sick and safe time accrued but not credited multiplied by two (2), or two hundred fifty dollars (\$250.00), whichever amount is greater.~~] Relief for uncredited accrued sick and safe time;

(c) [~~The payment of any accrued sick and safe time unlawfully withheld plus payment to the employee of the dollar amount of accrued sick and safe leave withheld multiplied by two (2), or two hundred fifty dollars (\$250.00), whichever amount is greater.~~] Relief for unlawfully withheld sick and safe time;

(d) [~~For a second violation by an employer against the same employee, in addition to any of the above remedies, the City Attorney’s Office shall issue an administrative fine up to one thousand dollars (\$1,000.00) payable to the City. Such funds shall be allocated to the department and used to offset the costs of implementing and enforcing this article.~~] Fine for a second violation by an employer against the same employee;

(e) [~~For a third or subsequent violations by an employer against the same employee, in addition to any of the above remedies, the City Attorney’s Office shall issue an administrative fine up to one thousand dollars (\$1,000) payable to the employee.~~] Fine for a third or subsequent violations by an employer against the same employee;

(f) Fine for failure to comply with section 23.08;

(g) Fine for failure to comply section 23.09 or 23.10, and for a second or third violation of the same section within three (3) years; and

(h) Fine for failure to comply with section 23.11 and for a second or third violation within three (3) years.

Section 2. That Appendix A of the City Code is hereby amended by adding those words that are underlined, to read as follows:

APPENDIX A: ADMINISTRATIVE RELIEF AND FEE SCHEDULE

This appendix contains the various reliefs and fees adopted by ordinance in the listed sections of the City Code.

| <i>CODE SECTION</i> | <i>CROSS-REF</i> | <i>DESCRIPTION</i> | <i>RELIEF</i> |
|---------------------|------------------|--------------------|---------------|
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Chapter 23: EARNED SICK AND SAFE LEAVE

| CODE SECTION | CROSS-REF | DESCRIPTION | RELIEF |
|--|------------------|--|---|
| RELIEF AND ADMINISTRATIVE PENALTIES | | | |
| <u>§23.18(a)</u> | | <u>Relief for violation.</u> | <u>Reinstatement and back pay.</u> |
| <u>§23.18(b)</u> | | <u>Relief for uncredited accrued sick and safe time.</u> | <u>The crediting to an employee of any accrued sick and safe time accrued but not credited plus payment to the employee of the dollar value of the accrued sick and safe time accrued but not credited multiplied by two (2), or two hundred fifty dollars (\$250.00), whichever amount is greater.</u> |
| <u>§23.18(c)</u> | | <u>Relief for unlawfully withheld sick and safe time.</u> | <u>The payment of any accrued sick and safe time unlawfully withheld plus payment to the employee of the dollar amount of accrued sick and safe leave withheld multiplied by two (2), or two hundred fifty dollars (\$250.00), whichever amount is greater.</u> |
| <u>§23.18(d)</u> | | <u>Fine for a second violation by an employer against the same employee, in addition to any of the above remedies in §23.18 (a)-(c).</u> | <u>An administrative fine up to one thousand dollars (\$1,000.00) payable to the City.</u> |
| <u>§23.18(e)</u> | | <u>Fine for a third or subsequent violations by an employer against the same employee, in addition to any of the above remedies in §23.18 (a)-(d).</u> | <u>An administrative fine up to one thousand dollars (\$1,000) payable to the employee.</u> |
| <u>§23.18(f)</u> | | <u>The fine for failure to comply with section 23.08.</u> | <u>A civil fine of not less than two hundred and fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000.00) for each violation of section 23.08, payable to the City. This fine shall be in addition to payment to the employee of compensatory damages for the retaliatory conduct in the amount of wages due but unpaid, up to one thousand dollars (\$1,000.00).</u> |
| <u>§23.18(g)</u> | | <u>The fine for failure to comply section 23.10 or section 23.09, and for a second or third violation of the same section within three (3) years.</u> | <u>A civil fine of up to two hundred dollars (\$200.00) for each failure to comply with section 23.10, or section 23.09, payable to the City. For a second violation of the same section within three (3) years, the fine may be increased to up to four hundred dollars (\$400.00). For a third</u> |

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| | | | <u>violation of the same section within three (3) years, the fine may be increased to up to six hundred dollars (\$600.00). In determining the amount of the fine, the size of the employer and the gravity of the violation shall be considered.</u> |
| <u>§23.18(h)</u> | | <u>Fine for failure to comply with section 23.11 and for a second or third violation within three (3) years.</u> | <u>A civil fine of up to one thousand dollars (\$1,000.00) for each failure to comply with section 23.11, payable to the City. For a second violation within three (3) years, the fine may be increased to up to one thousand five hundred dollars (\$1,500.00). For a third violation within three (3) years, the fine may be increased to up to two thousand dollars (\$2,000.00). In determining the amount of the fine, the size of the employer and the gravity of the violation shall be considered.</u> |

Section 3. Effective Date. This Ordinance shall be in full force and effect from and on July 1, 2023.

Passed and adopted this ____ day of _____, 2023.

Mayor

ATTEST:

APPROVED:

Secretary to the Council

City Attorney