

1 (C) EMPLOYEE means an individual who performs at least 80 hours of work for
2 pay within the City of Austin in a calendar year for an employer, including
3 work performed through the services of a temporary or employment agency.
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5 (D) EMPLOYER means any person, company, corporation, firm, partnership,
6 labor organization, non-profit organization or association that pays an
7 employee to perform work for an employer and exercises control over the
8 employee's wages, hours and working conditions. The term does not include:
9

10 (1) the United States;

11 (2) a corporation wholly owned by the government of the United
12 States;

13 (3) the state or a state agency; or

14 (4) a political subdivision of the state.
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19 (E) FAMILY MEMBER means an employee's spouse, child, parent, or any other
20 individual related by blood or whose close association with the employee is
21 the equivalent of a family relationship.
22

23 **§4-19-2. EARNED SICK TIME STANDARDS.**
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25 (A) An employer shall grant an employee one hour of earned sick time for every
26 30 hours worked for the employer.
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28 (B) Earned sick time shall accrue starting at the commencement of employment
29 or the date this Chapter is effective, whichever is later.
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31 (C) Earned sick time shall be available for an employee to use in accord with this
32 Chapter as soon as it is accrued.
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34 (D) An employee may request earned sick time from an employer for an absence
35 from the employee's scheduled work time caused by:
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37 (1) the employee's physical or mental illness or injury, preventative
38 medical or health care, or health condition; or

39 (2) the employee's need to care for a family member's physical or mental
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1 illness, preventative medical or health care, injury, or health condition;
2 or

3
4 (3) the employee's need to seek medical attention or to participate in legal
5 or court ordered action related to an incident of domestic abuse, sexual
6 assault, or stalking involving the employee or employee's family
7 member.
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9 (E) An employer may adopt reasonable verification procedures to establish that
10 an employee's request for earned sick time meets the requirements of
11 Subsection (D) for a request to use earned sick time for more than three
12 consecutive work days.
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14 (F) An employer shall provide earned sick time for an employee's absence from
15 the employee's scheduled work time if the employee has available earned
16 sick time. An employer may not prevent an employee from using earned sick
17 time for an unforeseeable qualified absence as established in Subsection (D).

18 (G) An employer is not required to provide more than 64 hours of earned sick
19 time to an employee in a calendar year. All available earned sick time up to
20 64 hours shall be carried over to the following year. An employer may
21 inform an employee that leave requested in excess of the employee's
22 available earned sick time will not be paid.

23 (H) An employer shall provide an employee with earned sick time that meets the
24 requirements under this Section in an amount up to the employee's available
25 earned sick time. The employer shall pay earned sick time in an amount equal
26 to what the employee would have earned if the employee had worked the
27 scheduled work time, exclusive of any overtime premium, tips, or
28 commissions, but no less than the state minimum wage.

29 (I) On no less than a monthly basis, an employer shall provide electronically or
30 in writing to each employee a statement showing the amount of the
31 employee's available earned sick time. For the period required for
32 maintenance of records under Title 29, Section 516(a), Code of Federal
33 Regulations, an employer shall maintain records establishing the amount of
34 earned sick time accrued and used by each covered employee.

35 (J) An employer may not require an employee to find a replacement to cover the
36 hours of earned sick time as a condition of using earned sick time.

1 (K) Neither the amount of earned sick time nor the right to use earned sick time
2 shall be affected by an employee's transfer to a different facility, location,
3 division, or job position with the same employer.

4 (L) An employee who is rehired by an employer within 12 months following
5 separation of employment from that employer may use any earned sick leave
6 available to the employee at the time of separation.
7

8 (M) An employer may provide paid leave benefits that exceed the requirements
9 of this Chapter. This Chapter does not require an employer who makes paid
10 time off available to an employee under conditions that meet the accrual,
11 purpose, and usage requirements of this Chapter to provide additional earned
12 sick time to the employee.

13 **§4-19-3. SIGNAGE REQUIRED.**

14 (A) An employer shall display a sign describing the requirements of this Chapter
15 in at least English and Spanish in a conspicuous place or places where notices
16 to employees are customarily posted. An employer is not required to post
17 such signage until the City of Austin makes such signage available publicly
18 on its website.
19

20 (B) EEO/FHO shall prescribe by rule the size, content, and location of signs
21 required under Subsection (A) of this Section.
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23 **§4-19-4. RETALIATION PROHIBITED.** An employer may not transfer,
24 demote, discharge, suspend, reduce hours, or directly threaten these actions against
25 an employee for requesting or using earned sick time, or for reporting a violation
26 or participating in an administrative proceeding under this Chapter.

27 **§4-19-5. ADMINISTRATION.**

28 (A) The EEO/FHO shall:
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- 30
- 31 (1) educate employers and employees about this Chapter;
 - 32 (2) receive and investigate complaints, including anonymous complaints,
33 alleging a violation of this Chapter;
 - 34 (3) enforce this Chapter;
- 35
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1 (4) seek voluntary compliance with this Chapter before collecting a civil
2 penalty; and
3

4 (5) adopt rules necessary to implement this Chapter.
5

6 (B) A complaint alleging a violation of this Chapter must be filed with the
7 EEO/FHO by or on behalf of an aggrieved employee within two years from
8 the date of the violation.
9

10 (C) If the EEO/FHO finds after investigation of a timely complaint that a
11 violation of this Chapter has occurred:
12

13 (1) the EEO/FHO shall assess a civil penalty up to \$500 against the
14 employer for each violation of this Chapter, and shall provide written
15 notice of the assessment to the employer; and
16

17 (2) the EEO/FHO shall seek voluntary compliance from the employer to
18 remedy any violation of this Chapter. If voluntary compliance is not
19 achieved within 10 business days following the employer's receipt of
20 the written civil penalty assessment, the employer shall be liable to the
21 City for the amount of the assessed civil penalty.
22

23 (D) This Section does not create a criminal offense.
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25 **§4-19-6. INVESTIGATION OF COMPLAINTS.**

26 (A) The director of the EEO/FHO may subpoena records or testimony relevant
27 to the investigation of a complaint under this Chapter. A subpoena shall:
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29 (1) be directed to a person with knowledge or information relevant to a
30 complaint under this Chapter, or to a custodian of records relevant to
31 a complaint under this Chapter;
32

33 (2) be in writing and signed by the director of the EEO/FHO;
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35 (3) identify the records or testimony to be produced under the subpoena;
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37 (4) direct the person to whom it is issued to produce the records or
38 provide the testimony identified in the subpoena at a specific place
39 and time, which shall be not earlier than 10 business days from the

1 date of service of the subpoena;

2
3 (5) identify the individual complaint made under this Chapter to which
4 the subpoena relates;

5
6 (6) state that the subpoena is issued under the authority of this Chapter
7 for purposes of investigating a complaint under this Chapter;

8
9 (7) state that failure to comply with the subpoena is an offense and
10 punishable as a Class C misdemeanor under this Code; and

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12 (8) be served on the person to whom it is directed by certified mail or
13 personal delivery.

14
15 (B) A person commits an offense if the person fails to comply with a subpoena
16 issued and served on the person as provided in Part (A). The offense is
17 punishable as a Class C misdemeanor as provided in Section 1-1-99 of this
18 Code. A culpable mental state is not a necessary element of the offense.

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20 (C) The EEO/FHO may inform employees at a work site of any investigation
21 of a complaint at that worksite alleging a violation of this Chapter.

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23 **PART 3.** For a violation of Chapter 4-19 that occurs within the first three months
24 after the effective date of this ordinance, the EEO/FHO shall issue a notice to the
25 employer that a civil penalty may be assessed for a violation that occurs at any
26 time after October 1, 2018.

27
28 **PART 4.** The council directs the city manager to design and provide a
29 multilingual public education campaign to inform employers and residents of the
30 requirements of Chapter 4-19, such as a website with best practices for employers,
31 and an educational outreach strategy for informing employees and residents of the
32 earned sick time ordinance.

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34 **PART 5.** Except as provided in Part 3 and Part 4, this ordinance takes effect on
35 May ____, 2018.

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PASSED AND APPROVED

_____, 2018

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Steve Adler
Mayor

APPROVED: _____

Anne L. Morgan
City Attorney

ATTEST: _____

Jannette S. Goodall
City Clerk

DRAFT