



CITY OF KIRKLAND
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Director of Finance & Administration
Kyle Butler, Budget Analyst

Date: February 3, 2014

Subject: SEATTLE PAID SICK TIME ORDINANCE BACKGROUND

BACKGROUND DISCUSSION:

This memorandum provides background information to support a City Council discussion at the February 21 Retreat about the City of Seattle Paid Sick and Safe Time Ordinance. In addition, data regarding how many businesses in Kirkland might be impacted if the City Council were to adopt a similar program is provided.

Potential Benefits of Paid Sick Time

Paid sick time (also referred to as sick leave or paid sick leave) guarantees workers paid time off to stay home when they are sick. Depending on how they are written, such policies can also allow paid sick time to be used to care for sick family members, to attend routine doctor or medical appointments, or to address health and safety needs related to domestic violence or sexual assault. The City of Kirkland provides comprehensive paid sick time to its employees.

An analysis from the Bureau of Labor Statistics (BLS) in 2009 found that nationally, around 39 percent of American workers in the private sector do not have paid sick leave and around 79 percent of workers in low-wage industries do not have paid sick time. Nationally, the food service and hotel industries are often highlighted as not providing paid sick days for workers.

Paid sick leave advocates argue that providing paid sick time can reduce employee turnover, increase employee productivity, and reduce the spread of contamination in the workplace and the community. The Centers for Disease Control (CDC) recommend that workers stay home if they are sick and keeping sick kids out of school. Without paid sick time, workers often report to work while ill, either because they can't afford to lose wages or in some cases because they fear consequences from the employer for missing work due to illness. Sick workers spread illness throughout the organization, resulting in lost wages and lost productivity for many employees. Sick workers also risk passing illnesses on to customers. In addition, parents without sick leave often cannot take time off to care for sick children, sending them to school instead. When sick children attend school, they are poor learners and spread illnesses such as the flu, which compounds the negative effects through a larger population. Advocates contend that the economic and societal cost of not having paid sick leave outweighs the economic cost to businesses to provide paid sick leave.

City of Seattle Paid Sick and Safe Time Ordinance

Effective September 1, 2012, City of Seattle implemented its Paid Sick and Safe Time Ordinance, which sets minimum requirements for employees working within Seattle City limits. Attachment A contains a summary of the program from the City of Seattle’s website and more detailed information can be found at: <http://www.seattle.gov/civilrights/SickLeave.htm>.

In short, employers with 5 or more employees are required to provide employees within the Seattle City limits with the following mandatory leave levels:

City of Seattle Sick Leave Tiers in PSST Ordinance	
	Annual sick leave hours required
Exempt (less than 5 FTEs)	0
Tier 1 Employer (5-49 FTEs)	40
Tier 2 Employer (50 - 249 FTEs)	56
Tier 3 (250 or more FTEs)	72

Attachment B provides some of the key statistics that the City of Seattle gathered in a business survey conducted by the University of Washington.

Potential Impacts of the Seattle Ordinance in Kirkland

A rough estimate of potential wage impacts has been generated assuming that Kirkland adopted Seattle’s ordinance and the impacts on our businesses would follow Seattle’s. Note that this latter assumption would need to be tested if additional analysis was conducted, given the substantial differences between the scale of Seattle and Kirkland business bases.

Kirkland’s in-City employment within the Seattle tiers is summarized in the table that follows.

Kirkland In-City Business Data		
Business size	# of Businesses	FTEs
Less than 5 FTEs	3,916	5,526
5 - 49 FTEs	817	10,357
50 - 249 FTEs	80	8,005
250 or more FTEs	7	5,336
Subtotal: 5 or more FTEs	904	23,698
Grand Total	4,820	29,224

Potential Impact in Kirkland (Estimates)		
Eligible FTEs	23,698	In-City FTEs 5 or more
% without sick leave	35.9%	Based on City of Seattle survey data
FTEs gaining sick leave	8,509	Estimated FTEs impacted
New sick leave hours	447,670	Avg/FTE = 52.61 hours
Hourly wage range (low/high)	\$9.32 to \$33.15	Low=min. wage/High=Seattle avg. wage
Annual cost of sick leave	\$4.2 - \$14.8 million	Based on hourly wage range

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Note that this rough estimate only includes businesses within the Kirkland city limits, but the Seattle Ordinance applies to any company that has employees that spend more than 240 hours per year within the city limits. Based on the limited data we have available for Kirkland, outside City businesses were not included in the estimate. Another issue that would require added research if outside City businesses were included would be how the City would enforce such a provision.

Clearly this cost analysis does not include the potential positive economic and social benefits of paid sick leave being provided to workers who do not currently have it. Nor does it cover all of the potential negative costs to businesses. Staff would need to do much more detailed analysis of the economic impacts of paid sick time in cities like Seattle and San Francisco before Kirkland staff could reach a conclusion on whether paid sick time was a net positive economic policy for the City.

This summary was not intended to be a comprehensive evaluation of paid sick time. If the City Council is interested in pursuing this concept further, a considerable amount of additional research would be required. Stakeholders for both sides of the issue would need to be contacted and asked to provide input and information on both the benefits and drawbacks of mandatory leave. It is likely that the City would also want to conduct a statistically valid survey to refine the impacts on local businesses. Key questions would include how many current Kirkland businesses with 5 or more FTEs already provide some amount of paid sick leave, what wages are paid by Kirkland businesses, the impact of sick workers on local businesses, and the attitude of Kirkland businesses and residences towards mandatory paid sick time.

At the retreat, staff will be looking for Council direction as to whether and how to proceed on the issue.

Seattle Paid Sick and Safe Time Ordinance

Overview

- Begins on September 1, 2012.
- Provides paid sick and safe time (PSST) for employees working within Seattle City limits.
- Sets minimum requirements for accrual, use, and carryover of PSST.
- Requires employer notification and tracking of PSST.
- Offers basic job protections for employees who use PSST.
- New law is enforced by Seattle Office for Civil Rights.

What is PSST?

SICK TIME can be used for:

- Personal illness or preventative care.
- Care for a family member's illness or preventative care (child, grandparent, parent, parent-in-law, spouse and registered domestic partner).

SAFE TIME can be used for:

- Survivors of domestic violence, sexual assault or stalking.
- Closure of workplace or child's school or place of care by public official to limit exposure to infectious agent, biological toxin or hazardous material.

Who is covered?

- Employees who perform work in Seattle:
 - Full-time, part-time, temporary, and occasional-basis employees.
 - Employees who telecommute in Seattle.
 - Employees who stop in Seattle as a purpose of their work.
- Excludes:
 - Federal, state, or county government employers
 - Employees who work or telecommute outside of Seattle.
 - Employees who travel through Seattle.
 - Students enrolled in a work study program.
 - Two year exemption for new small and medium-sized employers (Tier 1 and Tier 2)

General Information	Small (Tier 1) Employer	Medium (Tier 2) Employer	Large (Tier 3) Employer
Full Time Equivalent (FTEs)	More than 4-49 employees	More than 49 to 249 employees	250 or more employees
Accrual of paid sick/safe time	1 hour / 40 hours worked	1 hour / 40 hours worked	1 hour / 30 hours worked
Use of paid sick/safe time	40 hours / calendar year	56 hours / calendar year	72 hours / calendar year
Carryover of unused paid sick/safe time	40 hours / calendar year	56 hours / calendar year	72 hours / calendar year

Other facts:

- **Accrual begins** on September 1, 2012 or when the employee is hired after this date.
- **Accrual based on hours worked in Seattle** including overtime for non-exempt employees.
- **Accrual for occasional employees begins** after they have worked 240 hours in a calendar year. Accrual begins on the 241st hour; employees are covered for current and following calendar year.
- **Use begins** after 180th calendar day from the beginning of employment.
- **Hour-long increments:** PSST can be used in hour-long increments.
- **Carry-over:** Employees permitted to carry over unused hours to the next calendar year.
- **Frontloading permitted** for accrual, use and carry over.
- **Combined or universal leave** (aka Personal Time Off / PTO) policies are permitted, provided they comply with the PSST Ordinance.
- **Cash out option:** If employer allows, employees have the voluntary option to cash out unused PSST.
- **Rate of pay:** Same hourly wage that employee would have earned during time PSST was taken.
- **Excludes lost tips and commissions** that employee might have received when PSST was taken.
- **No waivers:** Employees cannot waive their right to PSST (except collective bargaining agreements).
- **Separation from employment:** PSST reinstated if an employee is rehired within 7 months by the same employer.
- **Other laws:** Ordinance does not preempt or limit application of federal, state or other local laws.
- **Other laws:** PSST can be coordinated with other leave laws such as FMLA, Domestic Violence Leave, Workers Compensation etc.

How does an employee request use of PSST?

- **Foreseeable leave:** A written request at least 10 days in advance of leave (unless employer's policy requires less notice.)
- **Unforeseeable leave:** Give notice "as soon as practicable" (in compliance with the employer's policy for unforeseeable leave).
- **Paid safe time:** end of first day of for domestic violence, sexual assault or stalking.
- **Employer policies:** Employer can require employees to follow their rules about giving notice.

Employee documentation for use of PSST:

- 1-3 consecutive days: Employee **not** required to provide documentation.
- More than 3 consecutive days: Employer may require documentation (e.g. statement from healthcare professional that sick time was necessary).
- **Clear instance or pattern of abuse:** Employer may ask for documentation for absences that are shorter than 3 days.
- **Privacy:** Employer cannot require statement regarding the nature of the illness or other private medical information (but FMLA and ADA may apply and permit such inquiries).
- **Payment for documentation:**
 - **If employer does not offer health insurance:** Employer and employee each pay 50% of the cost to obtain documentation (services by health care professionals and facilities, prescribed testing and transportation service providers).
 - **If employee declined health insurance:** Employee is not entitled to reimbursement.
- **Paid SAFE time for domestic violence, sexual assault or stalking:**
 - Police report.

- Court order.
- Documentation that the employee or employee's family member is experiencing domestic violence, sexual assault, or stalking.
- Employee's written statement is acceptable documentation by itself.
- Confidential – no explanation required of the nature of the situation or reason for taking leave.

PSST and employer attendance policies:

- **Absence control policies:** PSST cannot be counted as an absence that may result in discipline.
- **Clear instance or pattern of abuse:** Employer can take reasonable action (e.g. discipline) for:
 - Repeated absences.
 - Absences that precede or follow regular days off, or some other pattern without valid reason.
 - Obtaining or using paid sick time improperly.

PSST notice and record-keeping requirements:

- **Notice:** employers are required to provide notice to all employees who work in Seattle, regardless of employer tier size or location. Notice must be:
 - Conspicuous and accessible.
 - Physical and/or electronic.
- **Notification:** Employers must provide notification of available PSST each time wages are paid:
 - By paystub and/or online.
- **Record keeping:** Employers must retain PSST records for two years that indicate:
 - Employee hours worked in Seattle.
 - Accrued PSST by employee.
 - Use of PSST by employee.

Retaliation protection

- **Retaliation is illegal.** Employers are prohibited from disciplining or discriminating against employees who have exercised their rights under the Ordinance.
- **Employee and third-party complaints are permitted.**
- **Broad protection against retaliation:** Anti-retaliation provision applies to **ALL** employers with one or more employees.

Collective Bargaining Agreements (CBA):

- **Waiver of rights is permitted:**
- In CBA or MOA (Memorandum of Agreement).
- Must be in clear and unambiguous language.
- Must include a specific reference to the Ordinance.

City of Seattle employees:

- **PSST Ordinance applies to City of Seattle employees:**
 - Most City employees already receive PSST benefit.
 - City policies regarding temporary employees have been changed to comply with the Ordinance.

City of Seattle PSST Ordinance Details and Business Survey Results

Assumptions about eligible FTEs (City of Seattle business survey)†	
Percent of employers offering sick leave/PTO to full time, part time, temp and occasional employees:	3.0%
Percent of employers offering sick leave/PTO to full time and part time employees only:	34.6%
Percent of employers offering sick leave/PTO to full time employees only:	35.3%
Percent of employers offering no sick leave/PTO to any employee:	27.1%
Total	100%
Percentage of FTEs that are part time (Seattle)	25%
Assumed percent of FTEs that would be eligible for paid sick leave/PTO under ordinance*:	35.9%

† Data from City of Seattle Paid Sick and Safe Time Ordinance Evaluation Project study by Jennifer Romich of UW

* $0.271 + (0.353 * 0.25) = 0.359$

Seattle PSST ordinance's applicability to major industries†:	
	% of employers subject to the ordinance
All employers:	37.6%
By industry:	
Accommodation and Food Service	63.4%
Administration and Waste management	34.9%
Arts, Entertainment and Recreation	15.6%
Construction	36.1%
Everything Else	46.3%
Health Care and Social Assistance	38.1%
Manufacturing	55.6%
Other Services	27.1%
Professional, Scientific and Technical Services	31.6%
Retail Trade	33.0%
Transportation, Warehousing	37.5%

†Data from City of Seattle Paid Sick and Safe Time Ordinance Evaluation Project study by Jennifer Romich of UW

Average hourly earnings for Seattle-Bellevue-Everett Metro Area (BLS, 2013)	\$33.15
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MEMORANDUM

To: Kurt Triplett
From: Ellen Miller-Wolfe, Economic Development Manager
Date: February 6, 2014
Subject: Totem Lake Accomplishments

BACKGROUND:

Snapshot of Totem Lake

The Totem Lake Neighborhood and Urban Center is a vital employment, retail and service area for the City of Kirkland and the surrounding region. It is the City of Kirkland's largest employment center and the highest revenue generator of all Kirkland business districts with 29.3% of sales tax collected in the city.

Totem Lake Sales Tax Revenue				
	Annual Total	\$ Increase over previous yr.	% Growth over previous yr.	% of City Sale's Tax
2010*	\$ 3,957,271	\$ 160,560	4.2%	30.9%
2011*	\$ 3,969,493	\$ 12,222	0.3%	29.6%
2012	\$ 4,413,300	\$ 443,807	11.2%	29.8%
2013	\$ 4,857,068	\$ 443,768	10.1%	29.3%

*Pre-Annexation (June 1, 2011)

*Citywide sales tax revenue is \$14.81M

Designated an urban center by the State Growth Management Planning Council in 2003, the Totem Lake district is anticipated to double in population and triple in employment by 2031, but thus far, has not met its targets. As the city's only *urban center*, the district is the focus of regional growth, and in that regard is expected to incorporate high density housing (15 households per gross acre) and employment (15,000 jobs within a half mile of a transit center or 50 employees per gross acre). Current plans call for 2902 new households and 8600 new jobs in Totem Lake.

	Totem Lake	Totem Lake Percentage of City	City Wide	Planned for
Business Licenses	869	17.5%	4970	
FTE Count	10701	36.6%	29235	
Employee Count	11793	36.1%	32691	8,600 new jobs

CHALLENGES

An inadequate infrastructure, the weakest aspects being storm drainage, traffic and bicycle/pedestrian circulation and access to and from the region's major interstate highway, I-405, are challenges to Totem Lake's success. A moribund mall whose ultimate disposition has been in play for the last several years given the recession and continuing litigation among its owners, has cast a shadow on surrounding redevelopment. Property values are substantially lower than downtown and other neighboring business districts. On the one hand, low values allow businesses to pick up properties cheaply and retrofit them, but the same low values do not attract major investment. Moreover, fierce competition for office high tech development by amenity-rich areas with future HCT in Redmond and Bellevue, as well as Kirkland's own Parkplace development, make substantial additional office space in Totem Lake a distant reality.

TOTEM LAKE ACCOMPLISHMENTS:

Public Improvements and Incentives Pre-2010

In 2003 when Totem Lake was designated an urban center, areas were zoned to accommodate the projected growth in housing and employment. A transit center, serving Kirkland's largest employer, Evergreen Hospital, and an anticipated revitalized mall (mixed use center), was one of the first improvements to be developed following the designation, along with a Sound Transit flyer stop (HOV access from I-405), and the redevelopment of NE 128th Street, a portal to the hospital and other health care businesses.

In 2009, the southwest quadrant of Totem Lake (Parmac) was rezoned to accommodate tall buildings with the hope that the new classification would incentivize high technology industries to move to Totem Lake.

The City also focused on master planning in cooperation with the two largest land owners, Evergreen Hospital and Totem Lake Malls. The City entered into master plans with both. In the case of the hospital, construction has proceeded with a new campus, populated by 3000 employees. In the case of the malls, the City also adopted a development agreement to allow for added density, goods and services. Unfortunately the recession and private party litigation has prevented the redevelopment of the Totem Lake Malls.

2010 and Beyond – The Totem Lake Action Plan

In 2010 the City hosted a symposium on Totem Lake that brought together the City Council and private stakeholders and citizens to understand why Totem Lake had not met its potential. Many ideas were generated and the symposium participants challenged the City to take action and make investments. The City Council responded by recommitting to Totem Lake and on December 7, 2010, unanimously approved Resolution 4856

(www.kirklandwa.gov/totemlakebusinessdistrictupdates) adopting the Totem Lake Action Plan, a work plan to address the major impediments to Totem Lake's optimum performance. The Action Plan directed all departments to reprioritize work programs, budgets and capital dollars to improve Totem Lake. A copy of the spreadsheet listing the major initiatives from the Action Plan may be found by following the link below.

<http://www.kirklandwa.gov/Assets/CMO/CMO+PDFs/Totem+Lake+Action+Plan.pdf>.

Included in the Action Plan was the requirement for a quarterly newsletter to keep the stakeholders and public informed, and the result was “Totem Lake On Track”. The first Totem Lake link above also connects to the complete list of Totem Lake On Track bulletins. The City has also reported out periodically on Totem Lake accomplishments in other venues such as the Kirkland Reporter, Totem Lake Conversations and the Chamber of Commerce Luncheons.

Totem Lake Investments

In the last three years, the City has invested tens of millions of dollars in public improvements in Totem Lake. Some are completed, others are still underway. Highlights include:

\$43M for the purchase and renovation of the Costco Home building into the new Public Safety Building near Fred Meyer (scheduled completion, 2014)
\$7.4M to improve circulation by adding the NE 120 th St. connector, a missing piece of the TL grid (projected completion, 2014)
\$5M to purchase the Cross Kirkland Corridor (CKC), an abandoned railroad ROW connecting Kirkland through Totem Lake, with the goal of converting it for multi-modal use for bikes, pedestrians and transit (completed, 2012)
\$4.5M for stormwater infrastructure improvements to mitigate flood events in Totem Lake (Completed 2013)
\$3.6M design and construction of a gravel Interim Trail on CKC through Totem Lake (Scheduled completion, 2014)
\$500K for CKC Master Plan (Scheduled completion, 2014)
\$82K Totem Lake Park Master Plan (Completed, 2013)
\$2.34M purchase of the Yuppie Pawn Shop to help implement the TLP Master Plan (2014)

In addition, the City has provided more zoning flexibility – increasing height in certain areas, decoupling some development from infrastructure fees, and liberalizing uses on the first floor of commercial developments. Interim zoning put in place in 2013 allows for entertainment and dining uses along the CKC and curtails expansion of less activating uses like storage areas.

The City continues to focus on Totem Lake with studies aimed at incentivizing development including a recent study of Transfer of Development Rights (TDR) and TDR’s potential to catalyze redevelopment. Currently the City is studying the commercial and light industrial areas to determine whether zoning is appropriate for the realities of the TL market both now and into the future. Results of that study will be presented to the Council in March, but the initial finding is that high end office use in Parmac is not likely to happen until saturation occurs in Redmond, Bellevue and downtown Kirkland. This may highlight the need for the City to rethink Parmac as part of the Comprehensive Plan update.

The City also is pursuing further implementation of Totem Lake Park, CKC corridor development, and looking at where broadband investment might benefit areas of Totem Lake that are underserved or whose value would increase with the addition of fiber.

Investments are Working

The results of the recommitment have been promising, with new investment in Totem Lake by over 100 businesses that range from cutting edge aerospace, to new testing facilities, new wineries, art galleries, indoor recreation and other fitness facilities – family-wage employment coupled with the amenities that make business districts attractive. Trending now are several

breweries that are interested in the traffic that a refurbished Cross Kirkland Corridor will bring. Sales tax generated by the addition of one auto dealer, Rairdon, and the expansion of two existing dealerships, Ford/Hyundai and Toyota/Volkswagon has helped Kirkland recoup sales tax since recession lows. The future looks bright, but the City will continue to need to build out infrastructure and incentivize development to attain it.