
CITY OF CHICAGO

RULES



CHICAGO MINIMUM WAGE AND WAGE THEFT RULES
SUPPORTING ARTICLE II OF TITLE 6



Mayor Brandon Johnson

Commissioner Kenneth Meyer

BY AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF BUSINESS AFFAIRS AND CONSUMER PROTECTION PURSUANT TO CHAPTERS 2-25, 4-276, AND 6-105 OF THE MUNICIPAL CODE OF CHICAGO, THE FOLLOWING RULES REGARDING MINIMUM WAGE AND WAGE THEFT ARE HEREBY ADOPTED.

By Order of the Commissioner:

Signed: _____

Date:

Kenneth J. Meyer
Commissioner

Published:

Effective:

DRAFT OF PROPOSED RULES

ARTICLE 1 – GENERAL RULES

SECTION I. DEFINITIONS

As used in these Rules, the following definitions shall apply:

“**Calendar Week**” means seven consecutive 24-hour periods. It may begin on any day of the week and any hour of the day.

“**Chapter**” means Municipal Code of Chicago Chapter 6-105, as currently in force and hereafter amended.

“**Department**” means the Department of Business Affairs and Consumer Protection.

“**Gratuities**” means voluntary monetary contributions to an employee from a guest, patron, or customer in connection with services rendered.

“**Occupation**” means an industry, trade, business, or class of work in which Employees are gainfully employed.

“**Tip Allowance**” means the difference between the tipped wage and the non-tipped minimum wage.

“**Tipped Employee**” means any employee engaged in an occupation in which employee customarily and regularly receives more than \$30 a month in Gratuities.

SECTION II. GENERAL PROVISIONS AND INFORMATION

Rule MW 1.01 Immigration Status

Immigration status does not affect an individual’s status as a Covered Employee.

Rule MW 1.02 Day Laborers

Day laborers are considered Employees. Therefore, day laborers who perform at least two hours of work for an employer while physically present within the geographic boundaries of the City are Covered Employees.

Rule MW 1.03 Notice and Posting

a. Employers shall post the notice prepared by the Department through the Employers’ usual methods of communication for such notices, whether by paper posting or by electronic dissemination through the Employers’ internal communication channels. When posting a paper notice, the notice shall be printed on and scaled to fill a sheet of paper that measures eleven inches by seventeen inches.

b. The notice Employers provide with the first paycheck advising the Covered Employee of their rights under the Chapter shall be printed on and scaled to fit a sheet of paper that measures eight and a half inches by eleven inches. However, where Covered Employees are enrolled in direct deposit and do not receive a “paycheck” but have the option to review their pay stubs electronically, Employers may provide the notice to Covered Employees through the Employers’ usual methods of electronic communication, including, but not limited to, electronic mail and dissemination through internal communication channels.

c. The notice Employers provide with the first paycheck shall be provided yearly with the first paycheck on or following July 1, whether by paper or electronic means as stated above.

d. All notices shall be posted in English. An Employer shall request and post notices in other languages if a significant portion of its workers are not literate in English.

Rule MW 1.05 Contents of Records of Employers

(a) Employers must maintain, at a minimum, the following records for a period of not less than five years, and shall make such records available for inspection upon request by the Department:

1. Name of each Covered Employee.
2. Mailing address, telephone number, and email address of each Covered Employee.
3. Occupations and job titles of Covered Employees and whether they are tipped, non-tipped or perform duties of both tipped and non-tipped positions.
4. Hire date of each Covered Employee.
5. Rates of pay for each Covered Employee.
6. Hours worked each day and each workweek by each Covered Employee.
7. Type of payment (hourly rate, salary, commission, etc.), straight-time and overtime pay, and total Wages paid to each Covered Employee in each pay period.
8. Additions and deductions from each Covered Employee's Wages for each pay period and an explanation of additions and deductions.
9. Dates of payment of each pay period covered by each Wage payment to each Covered Employee.

(b) If the Commissioner reasonably determines that an Employer is operating in violation of the Chapter or any other applicable provision of the Municipal Code of Chicago, the Commissioner may issue an order, in the form of a subpoena, directing the Employer to provide the information, including, but not limited to, the name of the business, the address of the business, the details of the information being sought pursuant to the Chapter, and any information necessary to demonstrate compliance with the Chapter within the control or possession of the Employer. The Employer shall, within 30 calendar days of the date on which such order is issued, either provide the information or file a legal objection to such order in writing with the Commissioner. If the Employer files a legal objection, the Commissioner shall provide a hearing on the objection within ten business days. The Commissioner's determination shall be final and may be appealed in the manner provided by law. Nothing in this Rule shall be considered a limitation or restriction on the Commissioner's powers and duties under Chapter 2-25 of the Municipal Code of Chicago.

Rule MW 1.06 Record Requirements for Tipped Employees

Employers must maintain, at a minimum, the following records for Tipped Employees for a period of not less than five years, and shall make such records available for inspection upon request by the Department:

- a. The report received from the Covered Employee setting forth Gratuities received during each workday.
- b. The amount by which the Wage of each such Covered Employee has been deemed to be increased by Gratuities as determined by the Employer.
- c. Hours worked each workday in any Occupation in which the Covered Employee does not receive Gratuities, and total daily or weekly straight-time payment made by the Employer for such hours.
- d. Hours worked each workday in Occupations in which the Covered Employee received Gratuities and total daily or weekly straight time earnings for such hours.

ARTICLE 2 - MINIMUM WAGE AND WAGE THEFT RULES

Rule MW 2.01 Chicago Minimum Wage

- (a) As of July 1, 2023, the City minimum Wage for each hour of work performed for an Employer by a Covered Employee is as follows:
1. \$15.80 per hour for Employers who have 21 or more Employees.
 2. \$15.00 per hour for Employers who have 4 or more, but fewer than 21 Employees, and Employers who have 1 or more but fewer than 21 Employees who are Domestic Workers.
 3. \$13.50 per hour for Subsidized Temporary Youth Employment Programs, for Subsidized Transitional Employment Programs, for Covered Employees who are under 18 years of age, and those subject to Section 6 of the Minimum Wage Law.

(b) Updates to the City minimum Wage will be posted to the website of the Department of Business Affairs and Consumer Protection.

Rule MW 2.02 Tipped Employees

- (a) As of July 1, 2023, the allowance for gratuities that an Employer may pay its Tipped Employees allows the minimum Wage for each hour of work performed for an Employer by a Tipped Employee is as follows:
1. \$9.48 per hour for Employers who have 21 or more Employees.
 2. \$9.00 per hour for Employers who have 4 or more, but fewer than 21 Employees.
 3. \$8.10 per hour for Subsidized Temporary Youth Employment Programs, for Subsidized Transitional Employment Programs, for Covered Employees

who are under 18 years of age, and those subject to Section 6 of the Minimum Wage Law.

- (b) If a Tipped Employee does not succeed in making up the difference between the allowance rate and the Chicago minimum Wage, the Employer must pay the difference to the Tipped Employee.
- (c) Updates to the City minimum Wage will be posted to the website of the Department of Business Affairs and Consumer Protection.

Rule MW 2.03 Overtime

- a. A Covered Employee is entitled to at least 1.5 times the City minimum Wage for each hour in excess of 40 hours worked in any particular Calendar Week.
- b. Tipped Employees are entitled to an overtime Wage of at least 1.5 times the City minimum Wage, minus no more than the current maximum Tip Allowance.
- c. If a Covered Employee's Wages plus tips do not equal at least the number of hours worked times the applicable City minimum Wage, the Employer must make up the difference as soon as is practicable, no later than the next regularly-scheduled pay period.
- d. Updates to the City minimum Wage will be posted to the website of the Department.

Rule 2.04 Wage Theft

- a. Any Employer who fails to pay a Covered Employee in accordance with this Chapter, or in accordance with Chapters 6-110 and 6-130, or in accordance with any wage agreement between the Employer and the Covered Employer above the threshold required by Chapters 6-105, 6-110, and 6-130, shall have committed wage theft.
- b. Wage theft includes the non-payment of any wages required for work performed, and also includes paid time off, whether legislatively or contractually required, and contractually required benefits to the Covered Employee.

Examples include:

- i. Failure to pay minimum wage
- ii. Failure to pay overtime
- iii. Failure to pay for all hours worked
- iv. Failure to pay the amount promised
- v. Failure to distribute all tips
- vi. Failure to provide Paid Leave and Paid Sick and Safe Time Leave

- vii. Failure to pay for off-the-clock work
- viii. Misclassifying a Covered Employee as an independent contractor and failing to pay all compensation due

ARTICLE 3 – COMPLAINT PROCEDURE AND CITY INVESTIGATION

Rule MW 3.01 Filing a Complaint

a) A Covered Employee who has been denied requirements under the Chapter may file a complaint with the Department.

1. A complaint may be submitted through any one of the following methods:

- a. Call 311
- b. Use the CHI 311 mobile application
- c. Download and mail a complaint form to the Office of Labor Standards, Department of Business Affairs and Consumer Protection, 2350 W. Ogden Avenue, 1st Floor, Chicago, IL 60608. The complaint form can be found online at: <http://www.chicago.gov/laborstandards>.
- d. Download and email the complaint to the Office of Labor Standards at bacplaborstandards@cityofchicago.org.

2. Information on the complaint form should adequately state the basis of the complaint. The complainant shall provide documents supporting their claim to the Department, and supplemental documents and information upon request. Employees are not required to provide, and the City will not request, information regarding the immigration status of any person filing a complaint. The Department shall conduct investigation and enforcement actions in full compliance with due process.

Rule MW 3.02 Severability

These rules are declared to be separate and severable. If any clause, sentence, paragraphs, subdivision, section, subsection, or portion of these rules or the application thereof to any Employer, Employee, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of these rules, or the validity of the application of the rules to other persons or circumstances.