

**MINNEAPOLIS DEPARTMENT OF CIVIL RIGHTS
RULES IMPLEMENTING THE MINNEAPOLIS MUNICIPAL MINIMUM WAGE ORDINANCE**

Rule 1. Definitions.

- 1.1 *Ordinance* means the Minneapolis Code of Ordinances, Title 2, Chapter 40, Article IV
- 1.2 *City* means the City of Minneapolis.
- 1.3 *Reported Violation* means the alleged violation of Chapter 40, Article IV, reported on the Department’s “Report of Violation” form and submitted to the Department.
- 1.4 Unless defined above, the capitalized words used in these rules are defined in the Ordinance, section 40.330.

Rule 2. Covered Employees.

- 2.1 A covered employee is any individual:
- (a) who performs work for an employer for compensation, unless otherwise excluded by the Ordinance;
AND
 - (b) performs that work for two (2) or more hours in a week (defined as the 7 day period running from Monday through Sunday), within the City of Minneapolis.
- 2.2 Persons who are exempt from the state minimum wage under Minnesota Statute Section 177.23 (the state minimum wage law) are also exempt from the Minneapolis municipal minimum wage. Additionally, a) independent contractors and b) certain workers participating in a Minnesota Department of Employment and Economic Development program for persons with disabilities are exempt from the minimum wage ordinance.
- 2.3
- (a) If an employee works 2 or more hours within the City in a particular week (from Monday through Sunday), the employee must be paid at least the minimum wage established by the Ordinance for the time during that week that was worked within the City. Employees who work less than 2 hours within the City in a particular week (from Monday through Sunday) are not covered by the Ordinance.
 - (b) Only time worked within the geographic limits of the City is covered by the Ordinance. Time during which an employee performs work outside the geographical limits of the City is not covered by the Ordinance.
 - (c) Time during which an employee passes through the City without making any work-related stops is not covered by the Ordinance.

(d) Examples:

- i. Individuals who travel through the City do not earn the minimum wage rate established by this Ordinance if they make no stops for work purposes, or make only incidental stops not considered to be duties or functions of the job (e.g. purchasing gas, eating a meal, or changing a flat tire).
 - ii. Individuals who travel through the City, and stop in the City as a purpose of their work (e.g. to make pickups or deliveries or perform other job duties), are covered by the Ordinance for all hours worked in the City. However, the Ordinance and this rule apply only if the individual performs at least two hours of work within the City in a particular week.
 - iii. An individual who attends a convention, conference, training, educational class, or similar in the City, but performs no other work in the City for an Employer, is not covered by the Ordinance.
- 2.4 An employer may make a reasonable estimate of an employee's time spent working in the City for purposes of determining eligibility for the minimum wage rate established by this Ordinance. Documentation of how the reasonable estimate was derived may include, but is not limited to, dispatch logs, employee logs, delivery addresses and estimated travel times, or historical averages.
- 2.5 An employee, who is otherwise covered by the Ordinance, is covered regardless of immigration status.

Rule 3: Enforcement by the Department.

- 3.1 Any employee or person may report an alleged violation of the Ordinance, using the Department's "Report of Violation" form, to the Minneapolis Department of Civil Rights Labor Standards Enforcement Division in person, online, by U.S. Mail or by email.
- 3.2 The Department may investigate an anonymous report of a suspected violation pursuant to the requirements of Rule 4.1.
- 3.3 The Department shall provide a simple form for reports of violation.
- 3.4 Reported Violations must be filed within one year of an alleged violation.
- 3.5 A Reported Violation must include a description of the facts that form the basis of the alleged violation(s), and should, when possible, include approximate date(s) of the alleged violation(s), the names and contact information of person(s) with personal knowledge of the facts alleged, and documents or other evidentiary material.
- 3.6 The Department has sole discretion to decide whether to investigate, prioritize or pursue a violation of the Ordinance. The Department may not investigate a Reported Violation that is frivolous on its face, undefined or does not identify the alleged violator.
- 3.7 The Department may provide technical assistance or otherwise attempt to settle a dispute informally.
- 3.8 The Minnesota Government Data Practices Act governs the data provided to the Department.
- 3.9 If the Department decides not to investigate or otherwise pursue a Reported Violation, the Department must promptly provide a written notification to the reporter and include an explanation of its decision and the reporter's rights to appeal. The reporter may, within 21 calendar days of the date of the written notification,

file a request for reconsideration with the Director. The Director shall respond in writing to the request for reconsideration within 10 calendar days.

- 3.10 The Department shall not investigate any Reported Violation made by or on behalf of an employee if it knows that the employee has commenced a civil action arising from the same facts or circumstances, unless the civil action is first dismissed without prejudice. An employer may notify the Department in writing that a civil action has been commenced by providing a copy of the civil complaint.

Rule 4. Investigation process.

- 4.1 The Department may conduct an investigation on its own initiative or following receipt of a Reported Violation.
- 4.2 Upon Department decision to pursue an investigation, the Department shall send, by U.S. mail, a notice of investigation to the employer. The notice of investigation shall include pertinent facts, allegations, and jurisdictional authority.
- 4.3 A warning not to retaliate against Employees shall accompany the notice of investigation.
- 4.4 An employer shall submit all payroll and time records or other data requested by the Department in the format requested by the Department.
- 4.5 An employer may submit to the department any additional documentation, evidence, or written information it deems necessary.
- 4.6 Employer responses must be submitted within 21 calendar days of the date of the notice to the employer.
- 4.7 When deemed appropriate by the Director, the Department may hold fact finding or settlement conferences during the investigation of a Reported Violation to identify undisputed elements of a Reported Violation, define and resolve the disputed elements of the Reported Violation, or attempt to settle the dispute through negotiated agreement. The Director shall provide written notice of such a conference at least 10 calendar days in advance.
- 4.8 An Employer's failure to timely and fully respond to a request issued by the Department or to participate in a fact-finding or settlement conference creates a rebuttable presumption of a violation.
- 4.9 The Director may extend any of the time limits in this Rule for a reasonable period upon request or upon the Director's initiative to promote full and fair proceedings.

Rule 5. Disposition of Investigation.

- 5.1 The Department may agree to a settlement of the investigation prior to the issuance of a determination.
- 5.2 Except where the Department enters into a settlement of the matter prior to issuance of a determination or where the Department declines to pursue a Reported Violation, the Department shall issue a written determination and findings of fact resulting from its investigation and a statement of whether a violation

occurred based upon a preponderance of the evidence. Such a determination shall be issued in writing to the Employer and reporter and include explanation of rights to appeal.

- 5.3 The Department may order any appropriate relief as a result of its investigation and final determination including, but not limited to, administrative fines and remedies listed in section 40.410(b) of the Ordinance.

Rule 6. Appeals

- 6.1 A reporter or employer may appeal a determination by filing an appeal in writing to the Department within 21 calendar days from the date of service of the written determination.
- 6.2 In addition to procedures specified in section 40.130 of the Ordinance, appeals shall be governed by Minneapolis Code of Ordinances, Title 1, Chapter 2, Administrative Enforcement and Hearing Process, section 2.100.
- 6.3 The hearing officer shall consider the record submitted to it by the Department and any written position statements submitted by the parties. A party may not produce new information for the purpose of challenging the Department's findings or an administrative fine if the information was previously available yet not submitted. This rule shall not prevent the hearing officer from taking testimony in the discretion of the hearing officer.