



## Legislation Text

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**File #:** Ord 25-55, **Version:** 1

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Amending Chapter 224 of the Legislative Code to align with State law changes.

### SECTION 1

WHEREAS, the City of Saint Paul (the "City") passed the City's minimum wage ordinance, Saint Paul Legislative Code, Chapter 224 (the "Ordinance"), on November 11, 2018, to promote the general welfare, economic security, and stability of people who work in the City and their families; and

WHEREAS, in 2024, the State of Minnesota (the "State") amended minimum wage protections for employees across the State pursuant to Minnesota Statutes, Sections 177.23-.24; and

WHEREAS, the City wishes to align the Ordinance with the State's protections to ensure uniform compliance procedures for employers and maximum protections for employees; and

WHEREAS, the City further wishes to align the Ordinance with certain standards and requirements in the City's earned sick and safe time and wage theft ordinances to reduce confusion and ensure uniform trainings, investigations, and enforcement; and

WHEREAS, when the City originally passed the Ordinance in 2018, the Ordinance divided Employers into four different size classifications; macro, large, small, and micro, and varied the minimum wage amounts and compliance dates by business size to give businesses appropriate time to adjust to minimum wage increases, and each business size will eventually be required to pay a minimum hourly wage no less than the hourly rate set forth in Section 224.04(b) of the Ordinance (the "City Wage"); and

WHEREAS, as of this date, both macro and large businesses are required to pay the City Wage and there is no longer a need to distinguish between the two types of businesses in the Ordinance, and so the definition of macro businesses will be removed from the Ordinance and incorporated into the definition of large businesses; and

WHEREAS, there is a desire to clarify and revise the minimum wage amounts and compliance dates for various business sizes to ensure adequate adjustment time; and

WHEREAS, the City's Human Rights and Equal Economic Opportunity Department (the "Department") investigates and enforces the Ordinance and to strengthen those investigations and enforcement, the City wishes to amend the Ordinance to incorporate the process for the Department to petition the court for an administrative search warrant to obtain documents when necessary; and now therefore, be it

RESOLVED, the City of Saint Paul does hereby ordain:

### SECTION 2

Chapter 224 of the Saint Paul Legislative Code is hereby amended to read as follows:

## Chapter 224. City Minimum Wage

### Sec. 224.01. Declaration of policy

The City desires to promote the general welfare, economic security and stability of people who work in the City and their families by requiring Employers to pay a minimum wage greater than that established by the state of Minnesota's minimum wage law.

### Sec. 224.02. Definitions.

For purposes of this chapter, the following definitions apply:

*City* means the City of Saint Paul.

*Department* means the City's department of human rights and equal economic opportunity or any department or office that by ordinance is designated the successor to the department.

*Director* means the director of the ~~department of human rights and equal economic opportunity~~ Department or his or her their designee.

*Employee* has the meaning given in Minn. Stat., § 177.23. For purposes of this article, "~~employee~~ chapter, "Employee" does not include the following:

- (a) ~~Employees classified as Individuals participating in the extended employment program workers as defined in Minnesota Rules part 3300.2005, subpart 18 and participating in the~~ under Minn. Stat., § 268A.15 extended employment program.
- (b) Persons with disabilities receiving home and community-based services identified in Minn. Stat. § 245D.03, subdivision 1, paragraph (c), clauses (4), (5), (6) and (7).
- (c) Independent contractors.

*Employer* means any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an ~~employer~~ Employer in relation to an ~~employee~~ Employee. For purposes of this article, "~~employer~~ chapter, "Employer" does not include any of the following:

- (a) The United States government.
- (b) The State of Minnesota, including any office, department, agency, authority, institution, association, society or other body of the state, including the legislature and the judiciary.
- (c) Any county or local government, except the ~~city~~ City.
- (d) Providers with certificates issued by the United States Department of Labor or the Minnesota Department of Labor and Industry for purposes of subminimum wage payments pursuant to Minn. Stat., § 177.28, subdivision 5, and Minnesota Rules, part 5200.0030, but only to the extent of the workers specifically covered by the subminimum wage ~~certificate~~ permit.

*Gratuities* means monetary contributions received directly or indirectly by an ~~employee~~ Employee from a guest, patron, or customer for services rendered and includes an obligatory charge assessed to customers, guests, or patrons which might reasonably be construed by the guest, customer, or patron as being a payment for personal services rendered by an ~~employee~~ Employee and for which no clear and conspicuous notice is given by the ~~employer~~ Employer to the customer, guest, or patron that the charge ~~will~~ is not be given to the ~~employee as wages or gratuity~~ property of the Employee.

*Hourly wage* means the rate following:

- (a) for Employees paid on an employer is required to pay an employee hourly basis, the wage received per hour worked of work;
- (b) for Employees paid on a salary basis, their annual wage divided by the total number of hours worked in a year;  
and
- (c) for Employees paid solely on a commission, piece rate, or any basis other than hourly or salary, a wage per hour no less than the City, state, or federal minimum wage, whichever is greater.

*Large business* means all ~~employers~~Employers that employ more than one- hundred (100) persons, calculated pursuant to section 224.05. 06.

*Macro business* means all ~~employers~~ that employ more than ten thousand (10,000) persons, calculated pursuant to section 224.05.

*Micro business* means all ~~employers~~Employers that employ five (5) or fewer persons, calculated pursuant to section 224.05. 06.

*Piece rate* means a form of compensation where Employees are paid per unit of work completed.

*Small business* means all ~~employers~~Employers that employ one hundred (100) or fewer persons, calculated pursuant to section 224.05. 06.

*Wage* means compensation due to an ~~employee~~Employee by reason of employment, payable in-legal:

- (a) Legal tender of the United States, checks;
- (b) Checks on banks, or convertible into cash on demand at full face value;
- (c) Except for instances of written objection to the Employer by the Employee, direct deposit to the employee's Employee's choice of demand deposit account convertible into cash on demand at full face value; or
- (d) an electronic fund transfer to a payroll card account that meets all of the requirements of Minn. Stat., § 177.255 <<https://www.revisor.mn.gov/statutes/cite/177.255>>, subject to allowances permitted by rules of the Department of Labor and Industry under Minn. Stat., § 177.28 <<https://www.revisor.mn.gov/statutes/cite/177.28>>.

### **Sec. 224.03. Employment in Saint Paul.**

- (a) Subject to paragraph (b) below, ~~employees~~Employees are covered by this ~~article~~chapter for all time worked within the geographic boundaries of the ~~city~~. City.
- (b) An ~~employee~~Employee who is typically based outside the ~~city and~~geographic boundaries of the City and performs work in the ~~city~~City on an occasional basis is covered by this ~~article~~chapter for the hours worked within the geographic boundaries of the City if the ~~employee~~Employee over the course of one week performs at least two hours of work for an ~~employer~~Employer within the geographic boundaries of the ~~city~~. City.

### **Sec. 224.04. City minimum wage.**

- (a) An ~~employer shall~~Employer must pay an ~~employee~~Employee a wage of no less than the ~~city minimum wage which is the hourly rates set forth in this section, or the state minimum wage, whichever is greater.~~
- (b) The minimum wage for the City of Saint Paul as an Employer and macro~~large~~ businesses shall pay a city minimum wage of no less than the hourly rates set forth herein:
  - (1)~~On January 1, 2020, the hourly wage shall~~is be twelve dollars and fifty cents (\$12.50).
  - (2)~~On July 1, 2022, the hourly wage shall~~adjusted each year. The annually adjusted minimum wage isbe fifteen dollars (\$15.00).
- (3) ~~No later than announced by the Director on September 1 of each year, beginning in 2022, the director shall and takes effect on January 1 of the subsequent year. The Director determines the increase in the minimum wage rates to be paid by the City of Saint Paul and macro~~large businesses based on the percentage increase calculated by the commissioner of the department of labor and industry pursuant to Minn. Stat. § 177.24, subdivision 1(f) and applicable to the State of Minnesota minimum wage divided by two (2) in 2022 and based on the full percentage increase in each subsequent year rounded to the nearest cent. ~~The director shall announce the adjusted minimum wage rates on September 1 of each year and the new minimum wage rates for City of Saint Paul employees and macro businesses determined under this subsection take effect on January 1 of each subsequent year, beginning in 2023.~~

- (c) Large businesses shall pay a city minimum wage of no less than the hourly rate set forth herein:
- (1) On July 1, 2020, the hourly wage shall be eleven dollars and fifty cents (\$11.50).
  - (2) On July 1, 2021, the hourly wage shall be twelve dollars and fifty cents (\$12.50).
  - (3) On July 1, 2022, the hourly wage shall be thirteen dollars and fifty cents (\$13.50).
  - (4) On July 1, 2023, the hourly wage shall be fifteen dollars (\$15.00).
  - (5) Beginning on July 1, 2024, the city minimum wage rate that applies to the City of Saint Paul shall apply to large businesses.
- (d) Small businesses shall must pay to Employees a city minimum wage of no less than the hourly rates set forth herein:
- (1) On July 1, 2020, the hourly wage shall be ten dollars (\$10.00).
  - (2) On July 1, 2021, the hourly wage shall be eleven dollars (\$11.00).
  - (3) On July 1, 2022, the hourly wage shall be twelve dollars (\$12.00).
  - (4) On July 1, 2023, the hourly wage shall be thirteen dollars (\$13.00).
  - (5) On July 1, 2024, the hourly wage shall be fourteen dollars (\$14.00).
  - (6) On July 1, 2025, the hourly wage shall be fifteen dollars (\$15.00).
  - (7) On July 1 and through June 30, 2026, the city minimum hourly wage that applies to the City of Saint Paul shall apply to is fifteen dollars (\$15.00).
  - (2) On July 1, 2026, and through June 30, 2027, the minimum hourly wage is no less than the hourly rate as set forth in section 224.04(b) for 2026.
  - (e3) On July 1, 2027, and through December 31, 2027, the minimum hourly wage is no less than the hourly rate as set forth in section 224.04(b) for 2027.
  - (4) Beginning on January 1, 2028, the minimum hourly wage is no less than the hourly rate as set forth in section 224.04(b) for each corresponding year.
- (ed) Micro businesses shall must pay a city minimum wage of no less than the hourly rates set forth herein:
- (1) On July 1, 2020, the hourly wage shall be nine dollars and twenty-five cents (\$9.25).
  - (2) On July 1, 2021, the hourly wage shall be ten dollars (\$10.00).
  - (3) On July 1, 2022, the hourly wage shall be ten dollars 2025, and seventy-five cents (\$10.75).
  - (4) On July 1, 2023 through June 30, 2026, the minimum hourly wage shall be is eleven dollars and fifty cents (\$11.50).
  - (5) On July 1, 2024, the hourly wage shall be twelve thirteen dollars and twenty-five cents (\$12 13.25).
  - (6) On July 1, 2025, the hourly wage shall be thirteen dollars and twenty-five cents (\$13.25).
  - (72) On July 1, 2026, and through June 30, 2027, the minimum hourly wage shall be is fourteen dollars and twenty-five cents (\$14.25).
  - (83) On July 1, 2027, the hourly wage shall be fifteen dollars (\$15.00).
  - (9) On July 1 and through June 30, 2028, the city minimum wage that applies to the City of Saint Paul shall apply to hourly wage is fifteen dollars (\$15.00).
  - (4) On July 1, 2028, and through June 30, 2029, the minimum hourly wage is no less than the hourly rate as set forth in section 224.04(b) for 2028.
  - (5) On July 1, 2029, and through December 31, 2029, the minimum hourly wage is no less than the hourly rate as set forth in section 224.04(b) for 2029.
  - (6) Beginning on January 1, 2030, the minimum hourly wage is no less than the hourly rate as set forth in section 224.04(b) for each corresponding year.

**Sec. 224.04. Adjustments to city 05. Exceptions and adjustments to minimum wage.**

- (a) ~~No employer may~~ An Employer must not directly or indirectly credit, apply, or utilize gratuities towards payment of

the minimum wage set by this chapter.

- (b) *City-approved youth-focused training or apprenticeship program.* Notwithstanding 224.0304 subsections (b)-(e), an ~~employer~~Employer may pay an ~~employee~~Employee under the age of twenty (20) years who is employed in a city-approved youth-focused training or apprenticeship program not less than eighty-five (85) percent of the city minimum wage for small ~~employers~~Employers rounded up to the nearest nickel, provided that any percentage of the hourly rate established by rule ~~shall~~is not be lower than the percentage applicable under state statutes and regulations. The minimum training or apprentice wage ~~shall~~must be published annually by the ~~department~~as provided by rule: ~~Department~~. Criteria for city-approved youth-focused training or apprenticeship programs ~~shall~~must be developed by the ~~department~~Department with input from current service providers and published by rule. No ~~employer~~Employer may take action to displace an ~~employee~~Employee, including a partial displacement through a reduction in hours, wages, or employment benefits, in order to hire an ~~employee~~Employee at the wage authorized in this subsection.
- (c) *90 day Youth wage.* Employees who are fourteen (14)-seventeen (17) years of age shall be paid not less than eighty-five (85) percent of the city minimum wage for small employers and rounded to the nearest nickel during their first ninety (90) days after the date of hire. After more than ninety (90) days after the date of hire, employees who are fourteen (14)-seventeen (17) years of age shall be paid the applicable city minimum wage. The minimum youth wage shall be published annually by the department as provided by rule.
- (d) *Athletic exemption.* An ~~employer~~Employer is not required to pay ~~city~~City minimum wage to an ~~employee~~Employee to play baseball as part of an independent baseball league provided that the ~~employee~~Employee is compensated pursuant to a negotiated contract and appears on the roster of the baseball team.

#### **Sec. 224.0506. Determination of business size.**

- (a) An ~~employer's~~Employer's business size for the current calendar year is based upon the average number ~~employees~~Employees per week during the previous calendar year.
- (b) For a new business, the ~~employer's~~Employer's business size for the current calendar year is based upon the average number ~~employees~~Employees per week during the first ninety (90) days after the first person working for compensation began work.
- (c) In determining the number of ~~employees~~Employees, all ~~employees~~Employees working on a full-time, part-time, joint, or temporary basis ~~shall~~must be counted, whether or not the persons work in the ~~city~~City.
- (d) Determination of business size for any establishment operated pursuant to a franchise as defined in Minn. Stat. § 80C.01, ~~shall be~~is classified based on the total number of ~~employees~~Employees at all franchise locations owned and operated by a single franchisee.
- (e) Except as in [subsection] (d), each full-service restaurant location within the geographic boundaries of the ~~city~~City and with fewer than ten (10) locations nationally, ~~shall be~~is treated as a unique ~~employer~~Employer solely for the purposes of determining business size.

#### **Sec. 224.07. Employee wage notice.**

- (a) At the start of employment, an Employer must provide each Employee a written notice containing the following information:
- (1) The information required by Minn. Stat. § 181.032(d) and any amendments thereto, including:
- (i) the rate or rates of pay and basis thereof, including whether the Employee is paid by the hour, shift, day, week, salary, piece, commission, or other method, and the specific application of any additional rates;
- (ii) allowances, if any, claimed pursuant to permitted meals and lodging; (c) paid vacation, sick time, or other paid time-off accruals and terms of use, in compliance with Sec.233 (d) the



- Employee's employment status and whether the Employee is exempt from minimum wage, overtime, and other provisions of Minnesota Statutes, Chapter 177, and on what basis;
  - (iii) a list of deductions that may be made from the Employee's pay;
  - (iv) the number of days in the pay period, the regularly scheduled pay day, and the pay day on which the Employee will receive the first payment of wages earned;
  - (v) the legal name of the Employer and the operating name of the Employer if different from the legal name;
  - (vi) the physical address of the Employer's main office or principal place of business, and a mailing address if different; and
  - (vii) the telephone number of the Employer;
- (2) The date on which the employment is to begin;
- (3) Notice of city minimum wage rates and their entitlement to such rates;
- (4) A statement that the sharing of gratuities is voluntary, in accordance with Minn. Stat. § 177.24 Subd. 3, and any amendments thereto, if applicable to the position; and,
- (5) The overtime policy applicable to the Employee's position, if any, including when overtime will be paid and the applicable rate or rates of pay.
- (b) The written notice may provide the information required in this section by explicit reference to an Employee handbook, collective bargaining agreement, or similar document if Employees are directed to the specific sections of the handbook in which such information is provided.
- (c) The Employer must keep a copy of the notice under subsection (a) signed by each Employee acknowledging receipt of the notice, along with the date the notice was received by the Employee.
- (d) An Employer must provide the Employee any written changes to the information contained in the notice under subsection (a) prior to the date the changes take effect. The Employer must keep a copy of the written changes, along with the date the notice was received by the Employee.
- (e) The Employer must provide to the Employee a copy of any notices required pursuant to section 224.10 of this chapter. The Employer may provide the notice in English unless the Employer has previously communicated with the Employee in another language or been made aware that the Employee prefers another language, in which case the notice will be provided in that language if published by the Department.
- (f) This Employee wage notice requirement is in addition to any Employee wage or recruitment notices that may be required by other applicable City, state, or federal laws.
- (g) If all the information contained in the Employee wage notice has not already been provided to the Employee as of the effective date of this chapter, an Employer must provide the Employee wage notice to all current Employees.

#### **Sec. 224.08. Required statement of earnings.**

- (a) At the end of each pay period, the Employer must provide each Employee an earnings statement, either in writing or by electronic means, covering that pay period. An Employer who chooses to provide an earnings statement by electronic means must provide an Employee access to an Employer-owned computer during an Employee's regular working hours to review and print earnings statements and must make statements available for review or printing for a period of three (3) years.
- (b) The earnings statement may be in any form determined by the Employer but must include the information required by Minn. Stat. § 181.032(b), and any amendments thereto, including:
  - (1) the name of the Employee;
  - (2) the rate or rates of pay and basis thereof, including whether the Employee is paid by hour, shift, day, week, salary, piece, commission, or other method;
  - (3) allowances, if any, claimed pursuant to permitted meals and lodging;
  - (4) the total number of hours worked by the Employee unless exempt;
  - (5) the total amount of gross pay earned by the Employee during that period;
  - (6) a list of deductions made from the Employee's pay;
  - (7) any amount deducted by the Employer;

- (8) the net amount of pay after all deductions are made;
  - (9) the date on which the pay period ends;
  - (10) the legal name of the Employer and the operating name of the Employer if different from the legal name;
  - (11) the physical address of the Employer's main office or principal place of business, and a mailing address if different; and
  - (12) the telephone number of the Employer.
- (c) An Employer must provide earnings statements to an Employee in writing, rather than by electronic means, if the Employer has received at least twenty-four (24) hours' notice from an Employee that the Employee would like to receive earnings statements in written form. Once an Employer has received notice from an Employee that the Employee would like to receive earnings statements in written form, the Employer must comply with that request on an ongoing basis.

**Sec. 224.09. Employer records.**

- (a) An Employer must create and maintain the following records demonstrating compliance with this chapter:
  - (1) The name, address, phone number, email, and position of each Employee;
  - (2) The rate of pay, and the amount paid each pay period to each Employee;
  - (3) The hours worked each day and each workweek for Employees paid on an hourly basis; the number of pieces completed for Employees paid at a piece rate; and the method of calculating commissions for Employees paid on a commission basis;
  - (4) The statements of earnings required by Sec. 224.08;
  - (5) The Employee wage notice(s) and changes thereto required by Sec. 224.07;
  - (6) A copy of all personnel policies provided to the Employee, including the date the policies were given to the Employee and a brief description of the policies.
- (b) Records required by this chapter must be retained while the Employee is employed by the Employer and for at least three (3) years after the termination of the employment, except for the required statement of earnings, which must be retained for at least three (3) years after the date upon which the statement was provided to the Employee.
- (c) If requested, an Employer must allow an Employee to inspect records required by this chapter relating to the Employee at a reasonable time and in a reasonable manner.
- (d) The Department may request access to such records to investigate potential violations and to monitor compliance with the requirements of this chapter. If an Employer refuses to provide such records within a reasonable time, the Department may petition Ramsey County district court for an administrative search warrant for such records.
- (e) Social security numbers and Employees' personal addresses must not become a matter of public record.
- (f) In addition to such records listed in paragraph (a) of this section, the Department may request or seek an administrative search warrant for any other information, documents, or evidence the Department finds necessary and reasonably related to an investigation of an alleged violation of this chapter.
- (g) It is presumed that the Employer has violated this chapter, absent clear and convincing evidence otherwise, if:
  - (1) The Employer does not maintain or retain adequate records, as shown following the execution of an administrative search warrant for said records; or
  - (2) The Employer does not produce adequate records following the execution of an administrative search warrant for said records.
- (h) If the records maintained by the Employer do not provide sufficient information to determine the exact amount of wages due an Employee, the Department may make a determination of wages due based on available evidence.
- (i) Records and documents relating to medical certifications, re-certifications, or medical histories of

Employees or Employees' family members created for purposes of this chapter must be maintained as confidential medical records separate from the usual personnel files. If the Americans with Disabilities Act (ADA) applies, then these records must comply with the ADA's confidentiality requirements.

**Sec. 224.10. Notice and posting.**

- (a) The Department must publish and make available to Employers notices suitable for posting by Employers in the workplace informing Employees of their rights under this chapter. The Department may create combined notice information from other chapters of the Saint Paul Legislative Code that are also enforced by the Department.
- (b) Every Employer must post, in a conspicuous place at any workplace or job site in the City where any Employee works, where they can be readily observed and easily reviewed by Employees, the city-provided notices required by subsection (a). Every Employer must post the city-provided notices in English, and in any language spoken by Employees at the workplace or job site. If the Employees do not perform work at a workplace or job site in which the city-provided notices may be posted, this requirement may be satisfied by providing physical or electronic copies of the notices to each Employee or posting in a web-based or app-based platform through which an Employee performs work.
- (c) On an annual basis, Employers must give notice to Employees of their rights under this chapter, including, but not limited to the right to report a violation, and notice that retaliation by an Employer against an Employee is prohibited.
- (d) An Employer that provides an Employee handbook to its Employees must include in the handbook notice of Employee rights under this chapter.

**Sec. 224.11. Employer succession.**

- (a) When a different Employer succeeds or takes the place of an existing Employer, the original Employer must ensure that all wages in compliance with this chapter have been paid at the time of transfer of the business.
- (b) If there is an open and ongoing investigation between the Department and the original Employer at the time of transfer of the business, the original Employer must provide notice of the transfer to the Department at least 30 days prior to the transfer.
- (c) The successor Employer must be required to meet all requirements under this chapter at the time of transfer of the business.

**Sec. 224.12. Implementation.**

- (a) The department shall be
- (a) The Director is authorized to implement, administer, and enforce this chapter.
- (b) The Department is authorized to coordinate implementation and enforcement of this chapter and shall must promulgate appropriate guidelines and regulationsrules for such purposes. Any guidelines or rules promulgated by the departmentDepartment have the force and effect of law and may be relied on by employers, employeesEmployers, Employees, and other persons to determine their rights and responsibilities under this chapter. Such guidelines or rules will: must:
  - (1) Be consistent with this chapter;
  - (2) Establish procedures for fair, efficient, and cost-effective implementation and enforcement of this chapter; and, including rules governing procedures for administrative hearings and appeals; and
  - (3) Establish procedures for informing employersEmployers of their duties and employeesEmployees of their rights under this chapter and monitoring employerEmployer compliance.
- (bc) The director shallDirector must publish, maintain, and make available to the public any such initial rules at least ninety (90) days prior to their effective date. Any revisions to published rules shallmust be published, maintained, and made available to the public at least thirty (30) days prior to their effective date.
- (d) The Director must develop and implement a multilingual and culturally specific outreach program to



educate Employees and Employers about their rights and obligations under this chapter. This outreach program must include media, trainings, and materials accessible to the diversity of Employees and Employers in the City.

**Sec. 224.07. Enforcement. 13 Investigation and enforcement.**

- (a) *Report of violations.* An ~~employee~~Employee or other person may report to the ~~department~~Department any suspected violation of this chapter. Such reports may be filed only if the matter complained of occurred after the effective date of this chapter and within ~~two~~ (three (3)) years prior to filing the report.
- (b) *Investigation process.* The ~~department shall have~~Department has the authority to investigate possible violations of this chapter whenever it has ~~cause~~reason to believe that any violation of this chapter has occurred, including but not limited to: ~~on, when the basis of~~Department has received a report of a suspected violation, on the basis of any other credible information including violations found during the course of an investigation, or when circumstances show that violations are likely to occur within a class of businesses because the workforce contains a significant number of workersEmployees who are vulnerable to violations of this chapter or the workforce is unlikely to volunteer information regarding such violations.
- (1) *Notice of investigation.* To pursue a violation of this chapter, the ~~director~~Director must serve upon an ~~employer~~Employer via U.S. mail a notice of investigation setting forth the allegations ~~and pertinent facts~~. The notice of investigation ~~shall~~must be accompanied by a request for a written position statement and may include a request for records or other information. The notice ~~shall~~must also inform the ~~employer~~Employer that retaliation for claiming rights under this chapter is a violation of this chapter and a basis for ~~additional~~imposing monetary damages on an Employer. Within seven (7) days of the notice of investigation, an ~~employer~~Employer must post or otherwise notify its ~~employees~~Employees that the ~~department~~Department is conducting an investigation, using a form provided by the ~~department~~Department and displaying it on-site, in a conspicuous and accessible location, ~~and~~. The notice must be in English and in the primary language of the employeeEmployee (s) at the particular workplace. If display of the form is not feasible, including situations when the ~~employee~~Employee works remotely or does not have a regular workplace, ~~employers~~Employers may provide the form on an individual basis in the ~~employee's~~Employee's primary language in a physical or electronic format that is reasonably conspicuous and accessible.
- (2) An ~~employer's~~Employer's position and response to any request for records must be provided to the ~~department~~Department as provided in the ~~department's~~Department's rules. An ~~employer's~~Employer's failure to provide a position statement or to provide a full response to a request for records following the issuance of an administrative search warrant for such records, or any other reasonable request issued by the department pursuant to an investigation, within thirty (30) days of such requestthe issuance of the administrative search warrant creates a rebuttable presumption of a violation of this chapter. An ~~employer~~Employer that fails to respond to a request for records following the issuance of an administrative search warrant for such records may not ~~use such records or any records not provided to the department~~Department at any hearing held under this chapter, unless the Employer can show they had good cause to withhold the records.
- (3) Investigations ~~shall~~must be conducted in an objective and impartial manner.
- (4) The ~~department shall~~Department may consider any statement of position or evidence with respect to the alleged violation which the complainant or ~~employer~~Employer wishes to submit.
- (5) The Department may interview Employees in private regarding a matter under investigation.
- (6) In order to define the issues, determine which elements are undisputed, resolve those issues that can be resolved, and afford an opportunity to discuss or negotiate settlement during investigation the ~~department~~Department may require a fact-finding conference or participation in another process, including but not limited to an investigative interview with the employer and the complainant, witnesses, or the Employer and any of their agents.
- (c) *Director notice of violation/determination of no violation.* Except when there is an agreed upon

settlement, the director must issue either a written notice of determination of violation or a written notice of determination of no violation. In the case of a ~~notice of a~~ determination of no violation, the ~~department~~ Department must state the reason for ~~declining-determining~~ that no violation exists. Every notice must be issued to the ~~employer~~ Employer and the complainant who filed the suspected violation report. The complainant may, within twenty-one (21) days, file a request for reconsideration of a ~~notice of~~ determination of no violation with the director. The director must provide a written response on the reconsideration within ten (10) days- of receiving the request from the complainant.

- (d) An ~~employee~~ Employee or other person who has reported a violation of this chapter may:
- (1) Bring a civil action in district court within forty-five (45) days after receipt of a notice of determination of no violation of this chapter.
  - (2) Bring a civil action in district court within forty-five (45) days upon notice that the director has reaffirmed a determination of no violation of this chapter if the complainant requested reconsideration.
  - (3) For purposes of this clauses (1) and (2), notice is presumed to be five (5) days from the date of service by mail of the written notice.
- (e) *Contents of notice of determination of violation.* If the ~~department~~ Department determines that cause exists to believe that an ~~employer~~ Employer has failed to pay ~~city~~ the City minimum wage, the ~~city attorney's office on behalf of the department shall~~ Department may issue a notice of determination of violation for failure to pay ~~city~~ the City minimum wage to the ~~employer~~ Employer. The notice ~~shall~~ must advise the ~~employer~~ Employer of the following:
- (1) That the ~~city~~ City believes the ~~employer~~ Employer has failed to pay ~~city~~ the City minimum wage;
  - (2) The basis for the ~~city's~~ City's belief;
  - (3) The amount of restitution owed and penalty ~~sought~~ imposed;
  - (4) That the ~~employer~~ Employer is entitled to a hearing before any restitution or penalty is imposed; and
  - (5) That the ~~employer~~ Employer can choose to admit or deny the allegations.
    - (i) If the ~~employer~~ Employer wishes to admit the allegations but contest the proposed restitution or ~~sanction~~ penalty, the ~~employer~~ Employer may request a hearing before the city council regarding the proposed restitution or, if applicable, penalty.
    - (ii) If the ~~employer~~ Employer wishes to deny the allegations, then the ~~employer~~ Employer must request a hearing before a hearing examiner.
    - (iii) Failure to respond in writing within fifteen (15) working days of the notice of determination of violation ~~shall be~~ is deemed an admission of the allegations and acceptance of the proposed restitution and, if applicable, penalty.
- (f) *Hearing before hearing examiner when Employer denies allegations.*
- (1) The hearing examiner ~~shall~~ is responsible for ~~hear~~ hearing all evidence as may be presented on behalf of the ~~city~~ City and the ~~employer~~ Employer. Both parties ~~shall~~ must be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in ~~his/her~~ their discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing. Following the hearing, the hearing examiner ~~shall~~ must present to the city council written findings of fact and conclusions of law together with a recommendation regarding the appropriate ~~sanction~~ penalty, including restitution.
  - (2) Record; evidence. The hearing examiner ~~shall~~ is responsible for ~~receive and keep~~ receiving and keeping record of such proceedings, including testimony and exhibits, and ~~shall~~ may receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
  - (3) The ~~city~~ City must prove that the ~~employer~~ Employer failed to pay ~~city~~ the City minimum wage by a preponderance of the evidence.
- (g) *City Council determination.*
- (1) The city council ~~shall~~ must consider the evidence contained in the record, the hearing examiner's

recommended findings of fact and conclusions, and ~~shall~~must not consider any factual testimony not previously submitted to and considered by the hearing examiner. The city council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (2) City council action. The city council ~~shall~~must determine whether the ~~employer~~Employer has failed to ~~pay city minimum wage, violated this chapter~~ and shall by resolution determine whether to adopt all or part of the findings, conclusions and recommendations of the hearing examiner.
- (3) Imposition of costs. The city council may impose upon any ~~respondent~~Employer some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the costs of the hearing examiner, stenographic and recording costs, copying costs, ~~city~~City staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The city council may impose all or part of such costs in any given case if the position, claim or defense of the ~~employer~~Employer was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment.
- (h) Failure to exhaust administrative remedies. If there is no appeal of the Director's determination of a violation or no violation, that determination must constitute the City's final decision. The failure to appeal the Director's determination by either the Employer or complainant must constitute a failure to exhaust administrative remedies, which must serve as a complete defense to any petition or claim regarding the Director's determination.
- (i) Relief and administrative fines. ~~The penalty recommended by the director or imposed by the council may include any appropriate relief, including but not limited to.~~ If an employer is found to have violated this chapter, the Director may order the employer to cease and desist from engaging in the violative practice and may order any appropriate relief, including, but not limited to:
  - (1) Reinstatement and back pay, for any violation.
  - (2) For the first violation, an administrative fine of five hundred dollars (\$500.00).
  - (3) For the second and subsequent violations, an administrative fine of one thousand dollars (\$1,000.00).
  - (4) In addition to any administrative fine, for the first violation, the payment of any wages unlawfully withheld, and the payment of an additional sum as liquidated damages to each employee whose rights under this chapter were violated. The dollar amount of wages withheld from the employee, or two hundred fifty dollars (\$250.00), whichever amount is greater, may be included as liquidated damages to be paid to the employee.
  - (5) In addition to any administrative fine, for a second violation by an employer against the same employee, in addition to the payment of any wages unlawfully withheld, the director shall assess liquidated damages in an additional amount and order the employer to pay to the employee the dollar value of the wages unlawfully withheld multiplied by two (2), or two hundred fifty dollars (\$250.00), whichever amount is greater. In addition thereto, for any second violation by an employer, the director shall assess an administrative fine, payable to the city, up to one thousand dollars (\$1,000.00).
  - (6) In addition to the above, for a third or any subsequent violations against the same employee, the director shall assess liquidated damages, payable to the employee, up to one thousand dollars (\$1,000.00), or an amount equal to ten (10) percent of the total amount of unpaid wages, whichever is greater.
  - (7) An administrative fine of up to one thousand dollars (\$1,000.00), payable to the employee, for each violation of section 224.104 of this chapter.
  - (8) An administrative fine of up to one thousand dollars (\$1,000.00), payable to the city, for each violation of sections 224.089, and 224.109, 224.104 of this chapter.

**Sec. 224.08. Notice and posting.**

- (a) ~~Employers shall give notice on an annual basis that employees:~~
  - (1) ~~Are entitled payment of minimum wage under this chapter; and~~

- (2) That each employee has the right to report a violation of this chapter if:
  - a. ~~Payment of minimum wage as required by this section is denied by the employer; or~~
  - b. ~~The employee is retaliated against for requesting payment of minimum wage; or~~
  - c. ~~The employee is retaliated against for reporting a violation of this chapter.~~
- (b) ~~The department shall create and make available to employers a poster and a model notice, hereinafter referred to as the "notice," which contains the information required under subsection (a) of this section for their use in complying with that subsection. The poster shall be printed in English and any other languages that the department determines are needed to notify employees of their rights under this chapter.~~
- (c) ~~Employers may comply with this section by displaying the poster in a conspicuous and accessible place in each establishment where such employees are employed.~~
- (d) ~~An employer that provides an employee handbook to its employees must include in the handbook notice of employee rights and remedies under this chapter.~~

**Sec. 224.09. Employer records.**

- (a) ~~An employer shall create and retain records documenting wages paid to each employee. Such records shall be retained for a period of not less than three (3) years from the date such hours were worked.~~
- (b) ~~Employers shall allow the department access to such records, with appropriate notice and at a mutually agreeable time, to investigate potential violations and to monitor compliance with the requirements of this chapter even if the department is not investigating a potential violation. The employer shall allow the department to copy, as needed, only those records which document the hours worked by employees and the amount paid to employees for that work. To the extent permitted by law, social security numbers and employees' personal addresses shall not become a matter of public record. At the employee's request the employer shall provide a copy of these records to the employee.~~
- (c) ~~If an employer fails to create and retain adequate records or does not allow the department reasonable access to the records and an issue arises as to an alleged violation of an employee's rights under this chapter, it shall be presumed that the employer has violated this chapter, absent clear and convincing evidence otherwise.~~

**~~Sec. 224.10.~~Sec. 224.14. Exercise of rights; retaliation prohibited.**

- (a) ~~It shall be unlawful~~is unlawful, and a violation of this chapter for an ~~employer~~Employer or any other person to interfere with, restrain, or deny the exercise of, or the attempted exercise of, any right protected under this chapter.
  - (1) Such rights include but are not limited to the right to earn minimum wage pursuant to this chapter; the right to make inquiries about the rights protected under this chapter; the right to inform others about their rights; the right to inform the person's ~~employer~~Employer, union, or similar organization, and/or the person's legal counsel or any other person about an alleged violation; the right to file an oral or written complaint with the ~~department~~Department or bring a civil action for an alleged violation; the right to cooperate with the ~~department~~Department in its investigations; the right to testify in a proceeding under or related to this; the right to refuse to participate in an activity that would result in a violation of city, state, or federal law; and the right to oppose any policy, practice, or act that is unlawful under this chapter.
  - (2) ~~No employer~~It is unlawful for an Employer or any other person shall communicate to a person exercising rights protected under this section, directly or indirectly, the willingness to inform a government employee that the person is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness or threaten to report, the actual or suspected citizenship or immigration status of an ~~employee~~a person or ~~at their~~their family member of the employee to a federal, state, or local agency because the employee has exercised a for exercising or attempting to exercise any right protected under this chapter. Chapter.

- (b) An ~~employer shall~~ Employer must not take any adverse employment action or in any other manner discriminate against an ~~employee~~ Employee because the ~~employee~~ Employee has exercised in good faith the rights protected under this chapter.
- (c) A person injured by a violation of this section may bring a civil action in the district court to recover any and all damages recoverable at law, together with costs and disbursements, including reasonable attorney's fees, and may receive injunctive and other equitable relief as determined by the court.
- (d) ~~It shall be~~ is a rebuttable presumption of retaliation if an ~~employer~~ Employer or any other person ~~takes an adverse action~~ disciplines, discharges, penalizes, interferes with, threatens, restrains, coerces, or otherwise retaliates or discriminates against a person ~~within an Employee within~~ an Employee within ninety (90) days of the person's exercise of rights protected in this ~~section~~ chapter. However, in the case of seasonal work that ends before the close of the 90-day period, the presumption also applies if the ~~employer~~ Employer fails to rehire a former ~~employee~~ Employee at the next opportunity for work in the same position. The ~~employer~~ Employer may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.
- (e) *Standard of proof.* ~~Proof~~ It is sufficient proof of retaliation ~~shall be sufficient upon a showing to show~~ that an ~~employer~~ Employer or any other person has taken an adverse action against a person and the person's exercise of rights protected was a motivating factor in the adverse action, unless the ~~employer~~ Employer can prove that the action would have been taken in the absence of such protected activity.
- (f) The protections afforded ~~shall~~ under this section apply to any person who mistakenly but in good faith alleges violations.
- (g) A complaint or other communication by any person triggers the protections of this section regardless of whether the complaint or communication is in writing or makes explicit reference to this chapter.

#### **Sec. 224.1116. Remedies cumulative.**

The remedies, penalties, and procedures provided under this chapter are cumulative.

#### **Sec. 224.1217. Preemption.**

Nothing in this ~~article~~ chapter may be interpreted or applied so as to create any power or duty in conflict with federal or state law.

#### **Sec. 224.1318. No assumption of liability.**

In undertaking the adoption and enforcement of this ~~article~~ chapter, the ~~city~~ City is undertaking only to preserve and protect safety, health, and general welfare. The ~~city~~ City is not assuming liability, nor is it imposing on its officers and ~~employees~~ Employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This ~~article~~ chapter does not create a legally enforceable right against the ~~city~~ City.

#### **Sec. 224.1419. Severability.**

If any of the parts or provisions of this ~~article~~ chapter or the application thereof to any person or circumstance is held invalid or unconstitutional by a decision of a court of competent jurisdiction, the remainder of this ~~article~~ chapter, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, ~~shall~~ are not be affected thereby and ~~shall~~ continue in full force and effect. To this end, the provisions of this ~~article~~ chapter are severable.



SECTION 3

This ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.