
CITY OF CHICAGO

RULES



Chicago Minimum Wage and Paid Sick Leave Rules Supporting Chapter 1-24 of the Municipal Code of Chicago




Mayor Lori E. Lightfoot

Commissioner Rosa Escareño

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

By Order of the Commissioner:

Signed: 
Rosa Escareno,
Commissioner

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ARTICLE 1 – GENERAL RULES

SECTION I. DEFINITIONS

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

“Benefit Year” means the twelve month period that an Employer sets for an Employee to receive Paid Sick Leave benefits. The months must be consecutive. An Employer may set different dates for each Covered Employee or synchronize all of its Covered Employees to have benefits granted at the same time, or have other policies.

“Calendar Week” means seven consecutive days.

“Chapter” means Municipal Code of Chicago Chapter 1-24, 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 Covered Employee engaged in an Occupation in which the Covered Employee customarily and regularly receives more than \$30 a month in Gratuities.

SECTION II. GENERAL INFORMATION

Rule MW 1.01 Application of the Chapter

All functions and powers of the Department and the Chapter shall be exercised in cooperation with the functions and powers of the U.S. Department of Labor under the Fair Labor Standards Act of 1938, 29 U.S.C. 201 *et seq.*, as amended, and the Illinois Department of Labor and its Director.

Rule MW 1.02 Immigration Status

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

Rule MW 1.03 Domestic Workers and Day Laborers

A person or entity that employs one or more domestic workers or day laborers who qualify as Covered Employees qualifies as an Employer.

Rule MW 1.04 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 subject to the Chapter 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 subject to the Chapter 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 and any language(s) spoken by employees at the facility who are not proficient in English and in which the Department has provided non-English language notices.

Rule MW 1.05 Collective Bargaining Agreements

The requirements of the Chapter may be waived only if the waiver is explicitly set forth in a bona fide collective bargaining agreement in clear and unambiguous terms. If a collective bargaining agreement is silent as to the Chapter, the Chapter applies to those Covered Employees.

Rule MW 1.06 Contents of Records of Employers

- (a) Employers must maintain, at a minimum, the following records for Covered Employees, 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. Date each Covered Employee was eligible to use Paid Sick Leave;
 - 6. Number of hours of Paid Sick Leave accrued by or awarded to each Covered Employee;
 - 7. Dates and number of hours each Covered Employee used Paid Sick Leave;
 - 8. Rates of pay for each Covered Employee;

9. Hours worked each day and each workweek by each Covered Employee;
 10. 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;
 11. Additions and deductions from each Covered Employee's Wages for each pay period and an explanation of additions and deductions;
 12. 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, as provided by rule. 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 1.07 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 work day.
- (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 work day 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 work day in Occupations in which the Covered Employee received Gratuities and total daily or weekly straight time earnings for such hours.
- (e) Rule MW 1.06 (b) shall apply to this subsection.

ARTICLE 2 - MINIMUM WAGE RULES

Rule MW 2.01 Chicago Minimum Wage

- (a) As of July 1, 2020, the City minimum Wage for each hour of work performed for an Employer by a Covered Employee is as follows:
- (1) \$14.00 per hour for Employers who have 21 or more Employees.
 - (2) \$13.50 per hour for Employers who have more than 3, but fewer than 21 Employees, and Employers who have more than 0 but fewer than 21 Employees who are Domestic Workers.
 - (3) \$10.00 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, 2020, the City minimum Wage for each hour of work performed for an Employer by a Tipped Employee is as follows:
- (1) \$8.40 per hour for Employers who have 21 or more Employees
 - (2) \$8.10 per hour for Employers who have more than 3, but fewer than 21 Employees.
 - (3) \$6.00 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 2.03 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.
- (1) As of July 1, 2020, the City minimum Wage is \$14.00 per hour for Employers with greater than 21 Employees; therefore, the City minimum overtime Wage is \$14.00 per hour multiplied by 1.5, which equals \$21.00 per hour.
 - (2) As of July 1, 2020, the City minimum Wage is \$13.50 per hour for Employers with greater than 3 and less than 21 Employees; therefore, the City minimum overtime Wage is \$13.50 per hour multiplied by 1.5, which equals \$20.25 per hour.

- (3) As of July 1, 2020, the City minimum Wage is \$10.00 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; therefore, the City minimum overtime Wage is \$10.00 per hour times 1.5, which equals \$15.00 per hour.
- (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.
- (1) As of July 1, 2020, the maximum Tip Allowance is \$5.60 per hour for Tipped Employees who work for an Employer with 21 or more Employees (calculated by subtracting the City tipped straight-time minimum Wage of \$8.40 per hour from the general City minimum Wage of \$14.000 per hour). The corresponding minimum tipped overtime Wage is \$15.40 per hour (calculated by subtracting the maximum Tip Allowance of \$5.60 per hour from the general City minimum overtime Wage of \$21.00 per hour).
 - (2) As of July 1, 2020, the maximum Tip Allowance is \$5.40 per hour for Tipped Employees who work for an Employer with greater than 3 and less than 21 Employees (calculated by subtracting the City tipped straight-time minimum Wage of \$8.10 per hour from the general City minimum Wage of \$14.85 per hour). The corresponding minimum tipped overtime Wage is \$15.15 per hour (calculated by subtracting the maximum Tip Allowance of \$5.40 per hour from the general City minimum overtime Wage of \$20.25 per hour).
 - (3) As of July 1, 2020, the maximum Tip Allowance is \$4.00 per hour for Tipped Employees in Subsidized Temporary Youth Employment Programs, Subsidized Transitional Employment Programs, tipped Covered Employees who are under 18 years of age, and those subject to Section 6 of the Minimum Wage Law (calculated by subtracting the City tipped straight-time minimum Wage of \$6.00 per hour from the general City minimum Wage of \$10.00 per hour.) The corresponding minimum tipped overtime Wage is \$11.00 per hour (calculated by subtracting the maximum Tip Allowance of \$4.00 per hour from the general minimum overtime Wage of \$15.00 per hour).
- (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.

ARTICLE 3 – PAID SICK LEAVE RULES

Rule MW 3.01 General

- (a) The Chapter articulates three main Paid Sick Leave requirements: (i) accrual / grant of hours of Paid Sick Leave; (ii) carryover of Paid Sick Leave from one Benefit Year to the next; and (iii) usage of Paid Sick Leave. Grant of sufficient hours may exempt an Employer from carryover as explained below. The Chapter establishes minimum standards, and Employers are at liberty to go above those standards. Those Employers whose paid time off policies meet or exceed the three main requirements of the Chapter enumerated above are not required to provide additional leave or records beyond what is required to demonstrate compliance with the Chapter. However, other requirements of the Chapter, such as when a Covered Employee must be allowed to begin using Paid Sick Leave, must still be followed.
- (b) It is a violation of the Chapter to change Paid Sick Leave policies to avoid application or use of the Chapter.

Rule MW 3.02 Collective Bargaining Agreements

With regard to Paid Sick Leave, the Chapter does not change the terms of collective bargaining agreements entered into before July 1, 2017.

Rule MW 3.03 Eligibility

Any Covered Employee who works at least 80 hours for an Employer within any 120-day period is eligible to use accrued Paid Sick Leave by the 180th calendar day following the commencement of employment, regardless of the number of Employees the Employer employs.

Rule MW 3.04 Accrual

- (a) A Covered Employee shall begin accruing Paid Sick Leave on the first calendar day after the first day of employment.
- (b) Only hours worked within the City of Chicago count toward accrual of Paid Sick Leave.
- (c) A Covered Employee who receives a salary and is exempt from overtime shall accrue one hour of Paid Sick Leave for each week of employment unless the salaried position is for an amount different from 40 hours worked per week, in which case the rate of accrual shall be 1 hour for every 40 hours of salaried work.
- (d) A Covered Employee who works on commission and whose hours are not tracked shall accrue Paid Sick Leave as a salaried Covered Employee would.
- (e) Employers are not required to allow accrual of Paid Sick Leave during a Covered Employee's use of any paid or unpaid leave.

- (f) Accrual of Paid Sick Leave shall be in hourly increments. Employers shall keep track of hours worked by non-salaried Covered Employees in order to ensure proper accrual.

Rule MW 3.05 Accrual Versus Immediate Grant/ Frontloading

- (a) Instead of following an accrual model, Employers may choose to immediately grant Covered Employees Paid Sick Leave at the beginning of employment or Benefit Year, a practice sometimes known as frontloading. Frontloading done in the manner explained in MW 3.05 (b) and (c) relieves the Employer from having to follow the requirements of accrual and carryover.
- (b) If an Employer grants Covered Employees 40 hours of Paid Sick Leave no later than 180 days after the Covered Employee began working for the Employer, and the Employer is not subject to the Family and Medical Leave Act, then the Employer is not required to provide additional paid leave.
- (c) An Employer subject to the Family and Medical Leave Act is not required to provide additional paid leave if the Employer:
 - 1. Grants Covered Employees 40 hours of Paid Sick Leave no later than 180 days after the Covered Employee began working for the Employer, and
 - 2. Makes available an additional 20 hours of Paid Sick Leave at the beginning of each subsequent Benefit Year to be used for purposes covered by the Family and Medical Leave Act. An Employer that does this must still grant 40 hours of regular Paid Sick Leave to Covered Employees at the beginning of the Benefit Year, where 20 of those hours may be taken for Family and Medical Leave Act purposes. Thus, a Covered Employee would be able to use 40 hours of regular Paid Sick Leave in a Benefit Year and up to 20 hours of time for Family and Medical Leave Act purposes if the Covered Employee qualifies to take time under the Family and Medical Leave Act. Or, a Covered Employee could take 40 hours of time under the Family and Medical Leave Act, if qualified, and 20 hours of regular Paid Sick Leave. If a Covered Employee does not have a condition for which the Family and Medical Leave Act applies, the Covered Employee would be able to take a maximum of 40 hours of Paid Sick Leave.

Rule MW 3.06 Carryover

- (a) An Employer subject to the Family and Medical Leave Act must allow the Covered Employee to carry over up to 40 hours of unused Paid Sick Leave into the next Benefit Year to be used exclusively for purposes covered by the Family and Medical Leave Act.
- (b) If a Covered Employee's Benefit Year begins after that Covered Employee's employment start date, up to 20 hours of any accrued Paid Sick Leave shall be carried over to the next Benefit Year. Unlike normal carryover according to which only half of unused hours may

be carried over, a Covered Employee whose Benefit Year begins after they commenced employment may carry all unused Paid Sick Leave, up to 20 hours.

- (c) If a Covered Employee has an odd number of hours of Paid Sick Leave at the end of their Benefit Year, the number shall be rounded up to the next even number for calculating the number of hours for carryover of regular Paid Sick Leave (as opposed to Paid Sick Leave for purposes of the Family and Medical Leave Act). If a Covered Employee has 17 hours of Paid Sick Leave remaining at the end of the Benefit Year, that number is rounded up to 18 hours. The Covered Employee may carry over half of that to the next year, and so may carry over 9 hours of Paid Sick Leave.

Rule MW 3.07 Family and Medical Leave Act

- (a) A Covered Employee who works for an Employer that is subject to the Family and Medical Leave Act may carry over up to 40 hours of accrued and unused Paid Sick Leave between Benefit Years to be used exclusively for Family and Medical Leave Act purposes.
- (b) A maximum of 20 hours of regular Paid Sick Leave and 40 hours of Paid Sick Leave for Family and Medical Leave Act purposes may be carried over from one year to the next if a Covered Employee works for an Employer that is subject to the Family and Medical Leave Act. Thus, if a Covered Employee who accrues 40 hours of Paid Sick Leave each Benefit Year does not use any Paid Sick Leave for three Benefit Years, the Covered Employee can still only carry over a maximum of 40 hours of Paid Sick Leave that may be used for Family and Medical Leave Act purposes and 20 hours for regular Paid Sick Leave even though the Covered Employee accrued a total of 120 hours of Paid Sick Leave over that three-year period.

Rule MW 3.08 Usage

- (a) A Covered Employee must be allowed to use Paid Sick Leave no later than 180 days after the Covered Employee began working for an Employer if the Covered Employee worked at least 80 hours for an Employer within any 120-day period. This Rule applies whether the Employer uses the accrual method or immediately grants Paid Sick Leave at the beginning of a Benefit Year.
- (b) A Covered Employee may use Paid Sick Leave in hourly increments unless the Employer establishes a written minimum use policy that has been made available to all Employees.
- (c) A Covered Employee may use a maximum of 40 hours of accrued regular Paid Sick Leave during a Benefit Year.
- (d) A Covered Employee who works for an Employer subject to the Family and Medical Leave Act may use up to 60 hours of accrued Paid Sick Leave during a Benefit Year if the Covered Employee has to take leave protected by the Family and Medical Leave Act. At least 20 of the 60 hours must be hours that had been carried over for, or granted for Family and Medical Leave Act purposes.

- (e) An Employer that grants its Covered Employees greater Paid Sick Leave hours than the Chapter requires may limit the Chapter-required usage parameters to the number of hours guaranteed by the Chapter.
- (f) For Covered Employees who are paid on a commission basis, whether base Wage plus commission or commission only, the Employer must pay the Paid Sick Leave to the Covered Employee at the hourly rate of pay based on the base Wage or the applicable minimum hourly Wage, whichever is greater.

Rule MW 3.09 Disciplinary Leave

An Employer is not required to allow the use of Paid Sick Leave when a Covered Employee has been suspended or otherwise placed on leave for disciplinary reasons.

Rule MW 3.10 Breaks in Service / Seasonal workers

When a Covered Employee is separated from employment and rehired by the same Employer, previously accrued unused Paid Sick Leave shall be available for use and/or carry over by the Covered Employee only at the discretion of the Employer. An Employer shall not terminate a Covered Employee to avoid providing Paid Sick Leave.

Rule MW 3.11 Payment of Paid Sick Leave

- (a) Paid Sick Leave must be paid no later than the next regular payroll period beginning after the Paid Sick Leave was used by the Employee.
- (b) An Employer may not request a Covered Employee to waive the right to use Paid Sick Leave in exchange for receiving payment for unused Paid Sick Leave.
- (c) An Employer is not required to pay out any accrued and unused Paid Sick Leave upon a Covered Employee's termination, resignation, retirement, or other separation from employment.

Rule MW 3.12 Notification Policy

An Employer may establish reasonable methods for the Covered Employee to notify the Employer of the Covered Employee's need to use Paid Sick Leave.

Rule MW 3.13 Successor Employer

Unused Paid Sick Leave shall be retained by the Covered Employee if the Employer sells, transfers, or otherwise assigns the business to another Employer and the Covered Employee continues to work in the City.

Rule MW 3.14 Certification

Section 1-24-045(c)(5) provides that an Employer may require certification for the use of Paid Sick Leave if a Covered Employee is absent for more than three consecutive work days. In light of the potentially significant impact on interstate commerce caused by

unexpected absences during peak travel periods, a common carrier regulated under subchapter II of the Railway Labor Act, 45 U.S.C. §§ 181-188, may require certification for the use of Paid Sick Leave for an absence of one or more work days during travel periods associated with Federal holidays and from October 29 through November 1. Such a certification requirement, and any action taken in accordance with the Employer's paid sick leave policy in conjunction with the Covered Employee's failure to provide such certification, shall not in and of itself be deemed to contravene Section 1-24-080 of the Chapter.

ARTICLE 4 – COMPLAINT PROCEDURE AND CITY INVESTIGATION

Rule MW 4.01 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, 121 North LaSalle Street, City Hall, Room 805, Chicago, IL 60602. 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.

- b) 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.
- c) The Department shall conduct investigation and enforcement actions in full compliance of due process.