

CITY OF MINNEAPOLIS

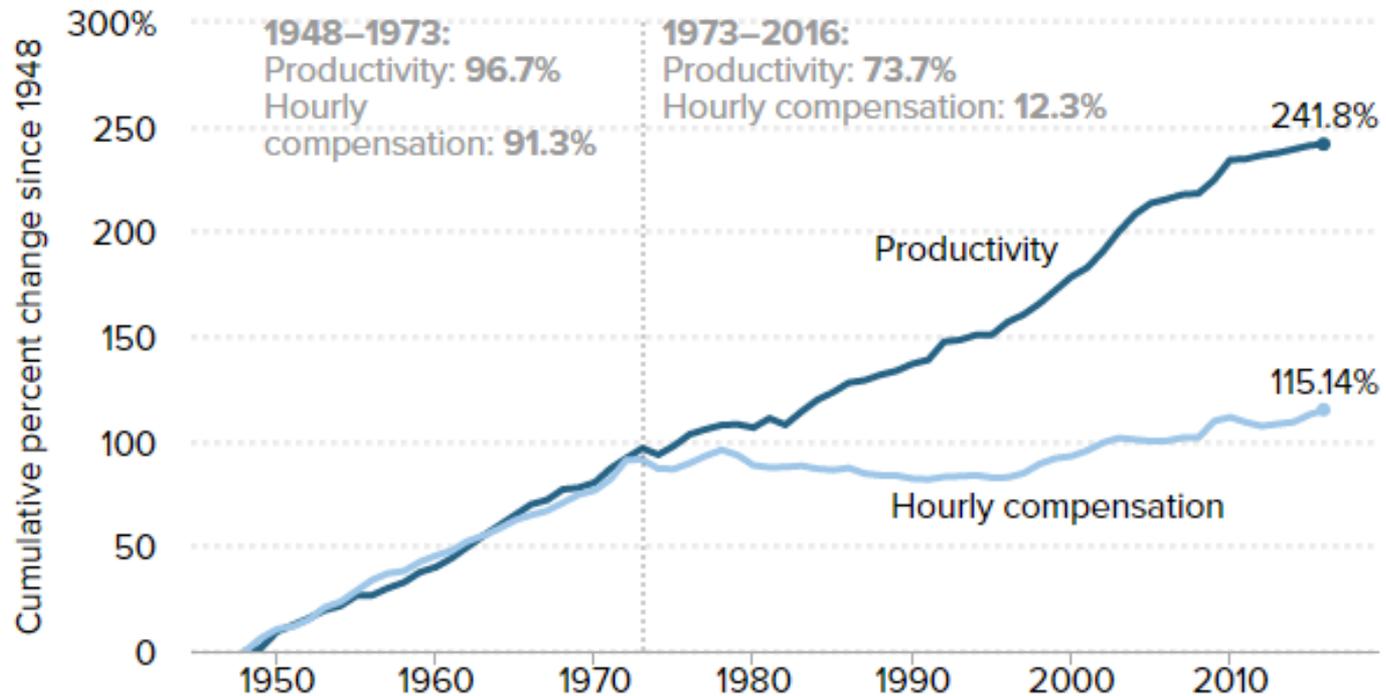
Proposed Wage Theft Ordinance

PECE Committee
July 29, 2019

Background

The gap between productivity and a typical worker's compensation has increased dramatically since 1973

Productivity growth and hourly compensation growth, 1948–2016



Source: Economic Policy Institute (2018) (<https://www.epi.org/productivity-pay-gap/>)

Workplace Advisory Committee

- Chelsie Glaubitz Gabiou, **Minneapolis Regional Labor Federation**
- Jim Rowader, **Target Corporation**
- Molly Glasgow, **Metro Independent Business Alliance**
- Wintana Melekin, **Main Street Alliance**
- Veronica Mendez Moore, **Centro de Trabajadores Unidos en Lucha (CTUL)**
- Dayna Frank, **First Avenue & 7th St Entry**
- Brian Elliott, **Service Employees International Union (SEIU)**
- Kate Davenport, **Eureka Recycling**
- Mae Brooks, **Minneapolis Parks & Recreation Board**
- Ben Schweigert, **Public employee (and licensed attorney)**
- Natalie Martin, **Small business accountant and bookkeeper**
- Tristan Jimerson, **Taco Cat Restaurant**
- Wade Luneberg, **UNITE Here**
- Ginger Jentzen, **15 Now**
- Madeline Lohman, **The Advocates For Human Rights**
- Joanne Hager, **Laborers Local 563 Signatory Contractors**

Minneapolis Labor Standards

	100 or Fewer Employees Small Business	More than 100 Employees Large Business
July 1, 2019	\$11.00	\$12.25
July 1, 2020	\$11.75	\$13.25
July 1, 2021	\$12.50	\$14.25
July 1, 2022	\$13.50	\$15.00*
July 1, 2023	\$14.50	
July 1, 2024	Equal to Large* Business	

*Increases to account for inflation, every subsequent January 1st.



Sick Time

- Illness
- Injury
- Medical rest
- Recuperation
- Appointment



Safe Time

Time off for an appointment to address domestic violence or sexual assault



Sick or Safe Time Care of a Family Member



Family Member Place-of-care Closure
Due to inclement weather or unexpected emergency

Is Wage Theft Common? YES.

- National studies suggest wage theft is vastly under-reported to authorities, translating to tens of millions annually in Minneapolis only.
- The dollar value of all wage theft is estimated three times greater than all robberies.
- Black and Latinx workers are, respectively, greater than three and four times more likely than whites to be victimized.
- 100% of workers (everyone) pays higher payroll taxes due to fraud, and downward pressure on wages is imposed across entire industries.

Source: Economic Policy Institute (<https://www.epi.org/publication/epidemic-wage-theft-costing-workers-hundreds/> and <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year-survey-data-show-millions-of-workers-are-paid-less-than-the-minimum-wage-at-significant-cost-to-taxpayers-and-state-economies/>)

What is wage theft?

Underpayment or failure to pay all wages earned, including:

- Working off-the-clock
- Not receiving time and a half for overtime
- Working far more hours than promised for a flat rate
- Misclassification as an independent contractor
- Unlawful deductions from paychecks
- No payment at all
- Not receiving paid breaks
- Not being paid sick & safe time
- Having hours shaved off of paychecks

Draft Ordinance: Scope

Covered Employers	Covered Employees
<p>Includes all employers with employees working in the City</p> <p>Excludes:</p> <ul style="list-style-type: none">• US Government• MN State departments and agencies• Other county or local governments	<p>Must work at least 80 hours/year in the City</p> <p>Includes:</p> <ul style="list-style-type: none">• Full time• Part time• Temporary <p>Excludes:</p> <ul style="list-style-type: none">• Participants in state extended employment program• Casual babysitters

Wage Theft Prohibition

- Employers shall pay all wages earned by an employee
 - Wages include all types of earnings, salaries, tips, and commissions
- Work must have been performed in the City
- Employers must establish and adhere to a regularly scheduled payday

Prehire Notice

- At the start of employment, employers must provide a notice including:
 - Information required by state wage theft law
 - Date on which employment is to begin
 - Notice of rights under Sick and Safe Ordinance
 - A statement that tip sharing, if any, is voluntary
 - Overtime policy, if applicable
- Employers must also provide employees with a copy of notice of rights provided by the City

Prehire Notice, Continued

- Prehire notices must be signed by employee
- Employer must provide written notice of changes before they take effect
 - Employee must sign notice of changes before they take effect
- Current employees must receive prehire notices unless all of the information contained in the notice has already been provided

Earnings Statements

Employers must:

- Provide earnings statements at the end of each pay period
- Statements must include all information required by state wage theft law
- Must also include Sick and Safe Time hours accrued and unused

Notice and Record Keeping

Notice Poster	Employer Records
<ul style="list-style-type: none">• City will publish notices of rights under this Ordinance in all languages spoken by more than 5% of workforce• Employers must post notices provided by City in the workplace• Notice must be posted in all languages spoken by at least 5% of workers	<p>Employers must maintain records demonstrating compliance including:</p> <ul style="list-style-type: none">• Prehire notice and changes• Earnings statements, together with information required to demonstrate how gross pay was calculated• List of personnel policies provided• Records must be retained for 3 years

Overtime and Breaks

- Addition to the Minimum Wage Ordinance, Chapter 40, Article IV
- Incorporates state law requirements
 - Employers must pay overtime at rates required by state law
 - Requires meal and rest breaks
- Authority for City to enforce these requirements

Retaliation Prohibited

- Unlawful to interfere with, restrain, or deny the exercise of, any right protected under the Ordinance
- Retaliation may be established if employee shows that the exercise of rights was a motivating factor in the adverse employment action, even if other factors also motivated the action
- Rebuttable presumption of retaliation if employer, within 90 days of employee's exercise of rights, materially changes terms or conditions of employment
 - Employer may rebut presumption with clear and convincing evidence

Enforcement & Remedies

- Enforced by Civil Rights Department
- Suspected violations must be reported within 2 years, or within 3 years if the violation was willful
- Enforcement process similar to Sick and Safe Time and Minimum Wage Ordinances
- Employees recover unpaid wages and liquidated damages; payment of Civil fines to the City
- Penalties increase for repeated violations

Enforcement & Remedies

Remedies include:

- Compensatory damages (unpaid wages) to employee
- Liquidated damages to employee
- Civil fines to the City (repeated violations)
- Reimbursement of investigation costs
- Up to \$1,000 civil fine for record keeping violations
- Up to \$200 civil fine for failure to provide prehire notices, earnings statements, or post required notices in workplace
- Up to a \$2,000 civil fine for failure to cooperate with investigations
- Retaliation: Civil fine of \$700 to \$3,000 to the City, along with payment to employee of compensatory damages up to \$1,000

Thank you!

Questions?

