



## Interpretive Notice & Formal Opinion (“INFO”) #19: Local Government Authority to Set Local Minimum Wages

### Overview

Any local government (“LG”) in Colorado may adopt a local minimum wage (“LMW”) for individuals performing work within its jurisdiction under Colorado [H.B. 19-1210](#), C.R.S. 29-1-1401(1). This INFO explains how an LMW works: where and how it can be adopted and implemented, whom it can cover, and what amounts it can be.

### WHERE Can a Local Minimum Wage Be Adopted? (C.R.S. 29-1-1401(2))

- An LMW can be adopted by an LG that is any one of the following:
  - **City** (including a **home rule** or **territorial charter** city); or
  - **County**<sup>1</sup> (including a **home rule** county); or
  - **Combined** city and county; or
  - **Town**.

### WHAT Can an LMW Be? (C.R.S. 8-6-101(3)(a)(I), (7))

- **Amount.** LMWs **may exceed** other applicable minimum wages, **federal** (as of this INFO, \$7.25) or **Colorado** (which was \$12.56 in 2022, then \$13.65 in 2023, and annually adjusted for inflation).
- **Annual increases** can’t be more than 15% of the prior year’s minimum wage. If an LG had no LMW the prior year, then the 15% is from the prior year’s applicable *Colorado* minimum wage.<sup>2</sup>

**Example 1:** In 2022 Gotham City, Colorado, enacts an LMW effective as soon, and rising as high, as possible. Its highest possible LMW is \$14.44 in 2023 (15% above the 2022 Colorado minimum, \$12.56), \$16.61 in 2024 (15% above its 2023 LMW, \$14.44), \$19.10 in 2025. If enacted in 2023, its highest possible LMW is \$15.70 in 2024 (15% above the 2023 Colorado minimum, \$13.65), \$18.06 in 2025.

- **Inflation adjustment.** The state minimum wage adjusts by the [Consumer Price Index \(“CPI”\) from the federal Bureau of Labor Statistics](#) for the Denver-Aurora-Lakewood region, except deflation can’t yield a decrease. To calculate the adjustment early enough for advance notice of the new minimum effective each January 1st, Colorado applies the CPI from July 1 through June 30. The most recent CPIs were 2.7% (through mid-2020, for the 2021 minimum), 1.9% (mid-2021, for the 2021 minimum), and 8.6% (mid-2022, for the 2023 minimum).<sup>3</sup> But an LG is free to choose whether and how to adjust its LMW.

**Example 2:** To limit employer and employee uncertainty, Gotham City requires adjustment by the CPI for Colorado, but with a minimum of 2% and maximum of 6%. For the three years leading up to this INFO, the adjustments would’ve been 2.7% for 2021, 2.0% for 2022 (up from the 1.9% CPI), and 6.0% for 2023 (down from the 8.6% CPI). That is permissible, given LG discretion on annual adjusting.

- **Overtime.** Any minimum wage becomes 50% higher for hours beyond 40 per week, or 12 per day, under state law overtime requirements, except for employers or employees who are exempt from overtime rules.<sup>4</sup>
- **Tip Offset or Credit.** An LMW **must** allow a tip offset — often called a tip credit — “equal to” what the Colorado Constitution requires for the statewide minimum wage, which is **\$3.02 per hour**, but:
  - only for an **employer** that “prepares and offers for sale **food or beverages for consumption**”; and
  - at such employers, only for “employees who **regularly receive tips**,” and
  - only in situations where **state law allows** a tip credit.<sup>5</sup>

<sup>1</sup> A county LMW covers only its unincorporated areas, unless the county reaches an intergovernmental agreement, with one or more municipalities within it, to apply the LMW in those municipalities as well. (C.R.S. 8-6-101(3)(c)(I).)

<sup>2</sup> State law allows the greater of a 15% or \$1.75 increase — but 15% is always higher, making that the relevant limit.

<sup>3</sup> For years before 2021, minimum wages rose by not CPI, but larger fixed increases yielding 8.1%-11.9% increases.

<sup>4</sup> See [INFO #1](#) (overtime and other rules in the Colorado Overtime & Minimum Pay Standards (“COMPS”) Order).

<sup>5</sup> See the [INFO #3](#) series (on different types of wages, with content on how and when tip credits apply).

**Example 3:** Gotham Pizza pays servers \$14.98 per hour in direct wages, \$3.02 below Gotham City's \$18.00 LMW. That is permissible *unless* the situation fails any state law tip offset requirement, such as: (a) servers receiving insufficient tips to raise total pay to the full LMW, or (b) part of servers' tips being diverted (e.g., in required tip sharing or pooling) to non-tipped employees, or to the employer itself.

**Example 4:** Gotham City adopts a \$4.00 tip offset to its \$18.00 LMW, allowing \$14.00 in direct wages for tipped employees. That is *not* permissible: while \$14.00 direct wages exceed the state minimum wage, state law requires that LGs "*shall* provide a tip offset ... *equal to* the tip offset ... [in] the state constitution": \$3.02.

### **WHO Is Subject to an LMW?** (C.R.S. 8-6-101(3)(a), 29-1-1401(1))

- **Employees covered:** An LMW "shall" cover "**all adult employees and emancipated minors**, whether employed on an hourly, piecework, commission, time, task, or other basis" — as long as they work (or are expected to work) at least **four hours in a week** in the jurisdiction.
- **Time covered:** LMWs cover time "while **physically within**" an LG's jurisdiction, but *not* time in jurisdictions "**solely for ... traveling through ...** from a point of origin ... [and] to a destination outside" the jurisdiction, without work-related stops in it (refueling, meals, or personal errands don't count as such stops).
- **Unemancipated minors** are covered by the state minimum wage, with permission for a 15% reduction, and hours limits. LGs have discretion on what if any rate to apply to unemancipated minors. For example, the 15% minimum wage reduction for minors doesn't apply in Denver (with one exception<sup>6</sup>) or Edgewater.

### **HOW Is an LMW Adopted, Enforced, and Reported?**

- **Adoption** (C.R.S. 8-6-101(3), (6), (10)):
  - Before enactment, an LG **must consult** surrounding LGs and stakeholders as state law requires.<sup>7</sup>
  - An LG then can adopt an LMW through its **governing body**, or by **initiative** or **referendum**.
  - **New LMWs** must take effect **January 1st**, the day of each year's state minimum wage adjustment.
  - Once **10% of LGs** enact an LMW, others require Colorado General Assembly authorization.<sup>8</sup>
- **Enforcement** (C.R.S. 8-6-101(3)(b)):
  - **An LG may enforce its LMW** (but *does not need to*, as noted below) in various ways, such as:
    - writing into the LMW a **private right to sue** to enforce the minimum wage;
    - writing into the LMW a list of, or permitted categories of, **remedies for violations**;<sup>9</sup> or
    - authorizing LG officials to **investigate and issue orders** to remedy violations.
  - **An LG is not required to enforce its LMW.** It can **just set an LMW, without other provisions** that — like enforcement or remedies — are **already covered by state law**.
    - **Enforcement:** Colorado allows "**state law complaints by employees who claim entitlement to ... local minimum ... wages**" — because state law covers failure to pay *any* amount required by *any* source. For example, if an agreement, state law, or local law requires a \$15 rate, then paying less violates state wage payment law, so a state law wage complaint can be filed, in court or this Division.<sup>10</sup>
    - **Remedies:** The [Colorado Wage Act](#), Article 4 of C.R.S. Title 8, details remedies for wage violations.<sup>11</sup>

<sup>6</sup> Denver allows the 15% reduction for only unemancipated minors in "city-certified youth employment programs."

<sup>7</sup> Specifically: chambers of commerce; businesses — small, large, and with tipped workers; workers; unions; and community groups. By way of example: the Division consults stakeholders by inviting all known key stakeholders, and selected individual businesses and workers, to a public meeting (which may be combined with another regularly scheduled public meeting), leaving enough time for comments or questions from all interested in participating.

<sup>8</sup> **In applying the 10% requirement:** (1) An LG enacting an LMW *before* 10% of LGs do so *can* amend it without this authorization. (2) The 10% limit counts it as only *one* LMW if: (a) a county *and* any other LG(s) within it enact LMWs ("only the county's ... counts toward" the 10%); or (b) LGs enter an intergovernmental agreement on "enforcement or administration of local minimum wage policies," such as to adopt and identically adjust joint LMWs.

<sup>9</sup> Wage law remedies may include, but are not limited to: unpaid wage awards; liquidated damages (a percentage, or multiple, of the unpaid wages); fines and penalties; interest; and costs and attorney fees for prevailing employees.

<sup>10</sup> [Colorado Overtime and Minimum Pay Standards \("COMPS"\) Order](#), 7 CCR 1103-1 (such complaints allowed because "the 'unpaid wages' recoverable in a state-law claim include '[a]ll amounts for labor or service performed' that is 'earned, vested, and determinable'") (quoting the [Colorado Wage Act](#), C.R.S. 8-4-101(14)).

<sup>11</sup> See the [INFO #2](#) series (on how wage claims are filed, decided, and enforced).

➤ **Reporting by the Division** (C.R.S. 8-6-101(8)). By each July 1st, if any LG adopted an LMW in the past year, the Division will update Colorado’s [Local Minimum Wage Report \(“Report”\)](#), with two types of data:

(1) **“The location, nature, and scope of enacted local minimum wage laws”**.<sup>12</sup>

Year	Colorado <i>if no LMW applies</i>	Denver <i>since 1/1/2020</i>	Edgewater <i>as of 1/1/2024</i>
<b>2024</b>	<b>\$14.42</b> <i>(\$11.40 w/ tip credit)<sup>13</sup></i>	<b>\$18.29</b> <i>(\$15.27 w/ tip credit)</i>	<b>\$15.02</b> <i>(\$12.00 w/ tip credit)<sup>14</sup></i>
<b>2023</b>	<b>\$13.65</b> <i>(\$10.63)</i>	<b>\$17.29</b> <i>(\$14.27)</i>	<i>n/a</i>
<b>2022</b>	<b>\$12.56</b> <i>(\$9.54)</i>	<b>\$15.87</b> <i>(\$12.85)</i>	
<b>2021</b>	<b>\$12.32</b> <i>(\$9.30)</i>	<b>\$14.77</b> <i>(\$11.75)</i>	
<b>2020</b>	<b>\$12.00</b> <i>(\$8.98)</i>	<b>\$12.85</b> <i>(\$9.83)</i>	
<b>2019</b>	<b>\$11.10</b> <i>(\$8.08)</i>	<i>n/a</i>	

(2) **“Economic data**, including jobs, earnings, and sales tax revenue” in jurisdictions enacting an LMW and “neighboring jurisdictions, relevant regions, and the state,” as feasible. Per the [2023 Report](#), below are data from 2019 (the year before Denver’s LMW took effect January 1, 2020) through 2022 on (A) wages, (B) unemployment rates, and (C) sales tax revenues — in Denver itself, and compared to other localities in Colorado.<sup>15</sup>

(A) **Wages**: “Each of the first three years since its local minimum wage took effect (2020-2022), Denver maintained ... **stronger wage growth** than Colorado and comparator jurisdictions .... Denver **wages rose**, and also rose more than those of all Comparator Jurisdictions and the state,” starting in the first quarter of 2020, when, for example, Denver wages “increased compared to the state, from \$302.00 higher than the state average to \$339.00 higher, a 12.3% increase.”

Weekly Wages <i>in Denver &amp; other areas</i>	2019		2020		2021		2022	
	➤ Weekly Wages:		➤ Weekly Wages:	➤ Denver Comparison:	➤ Weekly Wages:	➤ Denver Comparison:	➤ Weekly Wages:	➤ Denver Comparison:
<b>Denver</b>	<b>\$1425</b> <i>Before LMW</i>		<b>\$1574</b>	<b>+10.5%</b> <i>from 2019</i>	<b>\$1693</b>	<b>+7.6%</b> <i>above 2020</i>	<b>\$1783</b>	<b>+5.3%</b> <i>above 2021</i>
<b>Neighboring Localities</b>	<b>\$1210</b> <i>Denver: \$215 higher</i>		<b>\$1301</b>	<i>Denver rose \$58 (\$273 higher)</i>	<b>\$1366</b>	<i>Denver rose \$54 (\$327 higher)</i>	<b>\$1438</b>	<i>Denver rose \$18 (\$345 higher)</i>
<b>Colorado Overall</b>	<b>\$1189</b> <i>Denver: \$236 higher</i>		<b>\$1281</b>	<i>Denver rose \$57 (\$293 higher)</i>	<b>\$1356</b>	<i>Denver rose \$44 (\$337 higher)</i>	<b>\$1430</b>	<i>Denver rose \$16 (\$353 higher)</i>

<sup>12</sup> For each LMW, the minimum wage *with the tip credit* follows the full LMW.

<sup>13</sup> Each upcoming year’s new Colorado minimum wage is calculated in late summer, then incorporated into Colorado law only after the completion of annual fall rulemaking by the Division. See the Division’s [Labor Rules](#) page.

<sup>14</sup> The Edgewater LMW will rise annually by 10% through 2028, then by inflation or (if greater) to match the Denver LMW.

<sup>15</sup> Available “neighboring” data: for earnings, neighboring counties; for unemployment and sales tax revenue, neighboring cities. For methodology details, fuller discussion, and all 2019-2022 data, see the [2023 Report](#).

(B) **Unemployment:** In January-February 2020, before COVID-19 but after Denver’s minimum wage took effect, Denver’s “unemployment rate remained lower than ... Comparator Jurisdictions, ... with only Rural Counties ... lower,” and Denver’s “rise in unemployment ... was smaller than the statewide rise.” Denver had “**worse unemployment ... not after adopting a local minimum wage**, but months later after ... greater **impact from COVID-19**” than Colorado overall, given the “strong correlation between unemployment and higher COVID-19.” In 2021-2022, Denver **unemployment dropped as its LMW rose while COVID-19 declined** (e.g., the shutdowns that increased unemployment were mainly in 2020), including relative to other localities and Colorado overall.

Unemployment in Denver & other areas	2019	2020	2021	2022
	➤ Unemp. Rates:	➤ Unemp. Rates: ➤ Denver Comparison:	➤ Unemp. Rates: ➤ Denver Comparison:	➤ Unemp. Rates: ➤ Denver Comparison:
Denver	2.58% <i>Before LMW</i>	7.64% <b>+5.06%</b> <i>from 2019</i>	5.90% <b>-1.74%</b> <i>from 2020</i>	3.08% <b>-2.82%</b> <i>from 2021</i>
Neighboring Localities	2.70% <i>Denver: 0.12% lower</i>	7.46% <i>Denver rose 0.30% (0.18% higher)</i>	5.86% <i>Denver dropped 0.14% (0.04% higher)</i>	3.13% <i>Denver dropped 0.09% (0.05% lower)</i>
Colorado Overall	2.67% <i>Denver: 0.09% lower</i>	6.79% <i>Denver rose 0.94% (0.85% higher)</i>	5.45% <i>Denver dropped 0.40% (0.45% higher)</i>	3.04% <i>Denver dropped 0.41% (0.04% higher)</i>

(C) **Sales Taxes:** In 2020, “Denver’s **sales tax revenues did not suffer** relative to other parts of the state ... after it adopted its **minimum wage**,” but instead dropped “only after the **impact of COVID-19**.... Most Comparator Jurisdictions experienced a larger sales tax decrease than Denver in January-February 2020.” Then, in 2021-2022, “as Denver’s **local minimum wage grew** increasingly higher ... its **sales tax revenues continued growing** more than Colorado’s and ... all Comparator Jurisdictions’.”

State Sales Tax Revenue in Denver & other areas	2019	2020	2021	2022
	➤ Sales Tax:	➤ Sales Tax: ➤ Denver Comparison:	➤ Sales Tax: ➤ Denver Comparison:	➤ Sales Tax: ➤ Denver Comparison:
Denver	\$60.82 <i>Before LMW</i>	\$49.88 <b>-18.0%</b> <i>from 2019</i>	\$61.90 <b>+24.1%</b> <i>from 2020</i>	\$72.52 <b>+17.2%</b> <i>from 2021</i>
Neighboring Localities	\$47.78 <i>Denver: \$13.04 higher</i>	\$48.95 <i>Denver dropped \$12.11 (\$0.93 higher)</i>	\$55.45 <i>Denver rose \$5.52 (\$6.45 higher)</i>	\$61.11 <i>Denver rose \$4.96 (\$11.41 higher)</i>
Colorado Overall	\$46.94 <i>Denver: \$13.88 higher</i>	\$46.14 <i>Denver dropped \$10.14 (\$3.74 higher)</i>	\$54.51 <i>Denver rose \$3.65 (\$7.39 higher)</i>	\$60.72 <i>Denver rose \$4.41 (\$11.80 higher)</i>

- **Outreach:** The Division will **update its website and published guidance**, at least annually with **each year’s minimum wages** (state and local), and whenever LGs **enact or materially amend LMWs**.
- **Localities communicating upcoming LMWs.** To ensure accurate, compliant reporting, LGs should:
  - **consult** the Division before or while drafting an LMW, to avoid inconsistencies with state or federal law, or for guidance from Division subject-matter experts; and
  - **inform** the Division after an LMW is enacted or amended.

**For More Information:** Visit the Division [website](#), call 303-318-8441, or email [cdle\\_labor\\_standards@state.co.us](mailto:cdle_labor_standards@state.co.us).