

Amendment B to CB 120775 - App-Based Worker Minimum Payment Revisions Ordinance

Sponsor: Councilmember Nelson

Minimum network company payment & transparency

Effect: This amendment would modify the App-Based Worker Minimum Payment Ordinance, Seattle Municipal Code (SMC) Chapter 8.37, as follows:

1. Minimum network company payment

- a. Increase the minimum per-hour amount for an app-based worker's engaged time (i.e., active performance of the offer) to 110 percent of Seattle's hourly minimum wage to account for additional expenses of performing app-based work.
- b. Amend the definition of engaged time to include time spent performing offers cancelled with cause if the item weighs more than 50 pounds or is longer than 63 linear inches, and that information was not disclosed by the network company in the offer. The minimum network company payment requirements would apply until the time of cancellation of such offers.
- c. Create a definition for "bonus" and exclude such payments from the minimum network company payment calculation.
- d. Amend the definition of "incentive" to remove examples that would meet the new definition of "bonus." Incentives could still count toward the minimum network company payment calculation.
- e. Clarify that the network company cannot reduce network company payments, bonuses, or other compensation if the app-based worker's earnings are more than the minimum pay requirements for the network company earnings period. The clarification would be consistent with existing language that prohibits reducing payment to "true down" the minimum network company payment at the end of the network company earnings period.

2. Transparency

- a. Increase time for app-based workers to review offers from 45 seconds to one minute.
- b. Amend receipt requirements to correspond with the new definitions of "bonus" and "incentive" to maintain existing requirement to itemize bonuses and incentives.

As a result of this amendment, the minimum network company payment for app-based workers in 2024 would be \$21.97 per hour (i.e., 110% of Seattle’s minimum wage) for engaged time plus \$0.35 per engaged mile. App-based workers would be paid for cancelling orders with cause for undisclosed heavy or oversized items; bonus payments would not count toward the minimum network company payment calculation; and app-based workers would have more time (i.e., one minute) to review each offer.

Under Council Bill 120775, the ABWMP Revisions Ordinance, the minimum network company payment for 2024 would be \$19.97 per hour (i.e., 100 percent of Seattle’s minimum wage) for engaged time plus \$0.35 per engaged mile. App-based workers would not be paid for cancelling orders with undisclosed heavy or oversized items; both incentives and bonuses would count toward the minimum network company payment calculation; and app-based workers would have less time (i.e., 45 seconds instead of one minute) to review each offer.

Note: a double underline indicates material that this amendment would add to CB 120775; a ~~double strikethrough~~ indicates material that is in the current version of CB 120775, but this amendment would remove from CB 120775.

Amend Section 1 of CB 120775 as follows:

8.37.020 Definitions

For purposes of this Chapter 8.37:

* * *

“Bonus” means a sum of money paid to an app-based worker in addition to the guaranteed minimum network company payment for an offer, that is not dependent on the app-based worker performing services in furtherance of an offer or group of offers, including but not limited to making oneself available to accept offers in a particular geographic location during a specified period of time, or recruiting new app-based workers.

* * *

“Engaged time” means the period of time in which an app-based worker performs services in furtherance of an offer facilitated or presented by a network company (~~or participates in any training program required by a network company~~). Engaged time shall apply as described below:

1. If an offer is being facilitated or presented by an on-demand network company, or is an on-demand offer, “engaged time” begins upon the app-based worker’s acceptance of the offer or, if the app-based worker is not expected to begin performance of the offer upon acceptance, upon receipt of information by the network company that the app-based worker is en route to fulfill the offer. Engaged time ~~((and))~~ ends upon: the app-based worker’s completing performance of the offer, cancellation of the offer by the network company or customer, or cancellation with cause of the app-based worker’s acceptance of the offer ~~((pursuant to))~~ when the conditions required in subsections 8.37.080.C.1, 8.37.080.C.5, or 8.37.080.C.6 are met.

2. In all other circumstances, “engaged time” begins when the app-based worker begins performance of the offer or when the app-based worker reports to a location designated in the offer. Engaged time ends upon: the app-based worker’s completing performance of the offer, cancellation of the offer by the network company or customer, or cancellation with cause of the app-based worker’s acceptance of the offer ~~((pursuant to))~~ when the conditions required in subsections 8.37.080.C.1, 8.37.080.C.5, or 8.37.080.C.6 are met.

~~((4-))~~ 3. Offers ending in a cancellation ~~((without cause))~~ by an app-based worker shall not incur any engaged time, except for cancellation with cause of the app-based worker’s acceptance of the offer when the conditions required in subsections 8.37.080.C.1, 8.37.080.C.5, or 8.37.080.C.6 are met.

~~((The Director may issue rules on “engaged time” for (a) offers with non-compensable time, such as sleep time or other periods of off-duty time; or (b) offers with periods of time when the worker is not completely relieved of the duty to perform services and cannot use the time effectively for their own purposes.~~

* * *

“Incentive” means a sum of money paid to an app-based worker ~~((in addition to the guaranteed minimum network company payment for an offer,))~~ upon completion of specific tasks presented by the network companies, including but not limited to completing performance of a certain number of offers, completing performance of a certain number of consecutive offers, or completing performance of an offer subject to a price multiplier or variable pricing policy. ~~making oneself available to accept offers in a particular geographic location during a specified period of time, or recruiting new app-based workers.~~

* * *

“Network company payment” means the amount owed to an app-based worker by the network company by reason of performing services in furtherance of ~~((an offer))~~ offers facilitated or presented by the network company, including but not limited to payment for providing services and/or commissions ~~((, or participating in any training program required by a network company))~~. For the purposes of satisfying the minimum network company payment requirements of Section 8.37.050, “network company payment” includes incentives and bonuses.

* * *

Amend Section 2 of CB 120775 as follows:

8.37.050 Minimum network company payment

A. Requirement

* * *

2. For each network company earnings period, a network company shall compare the total amount of network company payments, including incentive ~~and bonus~~ payments, earned by the app-based worker during the network company earnings period against the minimum network company payment calculation under subsection 8.37.050.B for all engaged time and engaged miles that occurred during that network company earnings period. If the total amount of network company payments earned by that app-based worker is less than the total calculated under subsection 8.37.050.B for that network company earnings period, the network company shall include an additional sum accounting for the difference in the app-based worker's earnings when the network company processes payment for that earnings period.

3. A network company shall not reduce the total amount of network company payments, including incentive ~~and bonus~~ payments; ~~bonuses; or other compensation~~ paid to an app-based worker for the network company earnings period if, upon completing the comparison in subsection 8.37.050.A.2, the total amount of network company payments earned by the app-based worker is more than the total calculated under subsection 8.37.050.B for that network company earnings period.

* * *

B. ((~~Minimum network company payment calculation~~)) Calculation

1. ((~~Per-minute~~)) Per-hour amount. For each ((~~minute~~)) hour of engaged time, or portion thereof rounded to the nearest minute, a network company shall compensate app-based workers, and/or ensure that app-based workers receive, at least the equivalent of the total of 110

percent of the hourly minimum wage (~~((equivalent rate multiplied by the associated cost factor multiplied by the associated time factor))~~). In (~~((2022))~~) 2024, the (~~((per-minute))~~) per-hour amount is (~~((\$0.38))~~) ~~\$19.97~~ \$21.97. On (~~((January 13, 2024, and on))~~) January 1 of each year thereafter, the (~~((per-minute))~~) per-hour amount shall be increased to reflect any adjustment(s) to 110 percent of the hourly minimum wage (~~((equivalent rate, associated cost factor, or associated time factor.))~~)
The Agency shall determine the (~~((per-minute))~~) per-hour amount and file a schedule of such amount with the City Clerk.

~~((a. Associated cost factor. The associated cost factor is 1.12.~~

~~b. Associated time factor. The associated time factor is 1.17.))~~

* * *

Amend Section 3 of CB 120775 as follows:

8.37.060 Tip and incentive compensation

* * *

~~((B))~~ C. Incentives ~~and bonuses~~ paid to an app-based worker (~~((are in addition to, and may not))~~) may count towards(~~((~~)) the app-based worker's minimum network company payment under Section 8.37.050.

D. Bonuses paid to an app-based worker are in addition to, and may not count towards, the app-based worker's minimum network company payment under Section 8.37.050.

Amend Section 4 of CB 120775 as follows and reletter subsequent subsections as appropriate:

8.37.070 Network company transparency

A. Right to up-front information regarding offers

* * *

3. An on-demand offer shall be made available for at least ~~((two minutes))~~ 45 seconds one minute after the app-based worker has been provided the information described in subsection 8.37.070.A.1.

* * *

B. Within ~~((24))~~ 48 hours of each offer's performance ~~((or within 72 hours after a cancellation by an app-based worker,))~~ that incurs engaged time, a network company shall ~~((transmit))~~ provide an electronic receipt to the app-based worker that contains the following information for each unique offer covered by this Chapter 8.37:

1. The app-based worker's total amount of engaged time;
2. The app-based worker's total amount of engaged miles;
3. The app-based worker's compensation, itemized by:
 - a. Gross network company payment, ~~((as well as the method used to calculate payment, including but not limited to amount per minute or amount per mile;~~
 - b. ~~Total incentive(s) and the basis for calculating the incentive(s), if applicable;))~~ including itemized incentive and bonus payments, if applicable;
 - ~~((e))~~ b. Total amount of compensation from tips;
 - c. Total amount of compensation from bonuses;

~~((d))~~ ~~e~~ Total amount of any deductions, itemized by deduction type; and

~~((e))~~ ~~f~~ Net compensation~~((-))~~ ;

4. Itemized fees collected from the app-based worker to access the network company's online-enabled application or platform; and

5. The approximate geographic location or locations of the app-based worker's engaged time and engaged miles~~((, including pick-up and drop-off locations for offers involving deliveries; and~~

~~6. Pursuant to rules that the Director may issue, other information that is material and necessary to effectuate the terms of this Chapter 8.37)).~~

C. ~~((On a weekly basis))~~ For each network company earnings period, the network company shall provide written notice to the app-based worker that contains the following information for offers covered by this Chapter 8.37 and that incurred engaged time, ~~((which were performed or cancelled with cause, as well as other engagement with the worker platform,))~~ during the prior week:

1. The app-based worker's total amount of engaged time;
2. The app-based worker's total amount of engaged miles;
3. The app-based worker's compensation, itemized by:

a. Gross network company payment, ~~((as well as the method used to calculate payment, including but not limited to amount per minute or amount per mile))~~
including:

~~((b. Total incentives and the basis for calculating the incentives, if applicable;))~~

i. Itemized incentive ~~and bonus~~ payments, if applicable; and

ii. Payment of an additional sum pursuant to subsection

8.37.050.A.2, if applicable;

~~((e))~~ b. Total amount of compensation from tips;

c. Total amount of compensation from bonuses;

~~((d))~~ ~~e~~ Total amount of any deductions, itemized by deduction type; and

~~((e))~~ ~~e~~ Net compensation; and

4. Total amount of itemized fees collected from the app-based worker to access the network company's online-enabled application or platform(~~(;~~

~~5. Pursuant to rules that the Director may issue, other information that is material and necessary to effectuate the terms of this Chapter 8.37)).~~