

HOLDING CORPORATIONS ACCOUNTABLE THROUGH ADMINISTRATIVE OVERSIGHT

**USING THE CITY'S LICENSING AND PERMITTING
AUTHORITY TO IMPROVE LABOR COMPLIANCE AND
WORKER PROTECTION**

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Wage theft is widespread in New York City, including in industries that need City licenses to operate, and consequences are generally too uncertain and too modest to deter and address violations.

Too many New York City workers experience wage theft: they're paid subminimum wages, not paid overtime, not paid for all hours worked, their tips are stolen, or they're otherwise denied the full wages owed to them. While City-specific statistics are not readily available, ProPublica reported more than 13,000 cases of reported wage theft in New York State from 2017 to 2021, involving over \$203 million stolen from around 127,000 workers¹—statistics that are most likely a significant undercount, given obstacles workers face in reporting wage theft, including fear of retaliation. Additional reporting found that the New York State Department of Labor (NYS DOL) had not recovered 63 percent of the wages it found were owed to workers, a total of \$79 million.² NYS DOL is not unique in this respect; labor enforcers nationwide face challenges in collecting wages owed.³

Economists have observed that unethical employers “will not comply with the law if the expected penalties are small either because it is easy to escape detection or because assessed penalties are small.”⁴ Currently, both situations are true: it is easy for New York City employers to escape detection because of inadequate federal and state staffing for wage theft enforcement. And the “assessed penalties”—better understood as the consequences for violations if detected—are often modest indeed, considering that nearly two-thirds of employers do not pay what the New York State Labor Department has found they owe.

Wage theft deprives hardworking New Yorkers of funds needed to pay for everyday expenses: rent, food, health care, clothing, and the like. When workers are systematically, week after week, denied wages they have rightfully earned, the cumulative violations make a high-cost city even more unaffordable. More importantly, it is unfair and unacceptable, a violation of law and of the social contract, for low-road employers not to pay workers all of the wages they earned and that they deserve.

NYC can fight wage theft among City-issued license and permit holders by creating compliance pre-requisites for license/permit issuance and renewal, and by creating consequences for license or permit holders that have unresolved final determinations of violations.

New York City should create wage compliance pre-requisites and consequences for obtaining or renewing a license or permit.

The City can start with a pilot program focusing on restaurants.

The restaurant industry is an ideal place to begin a pilot program. ProPublica reporting found that restaurants had the highest violation rate among industries, “accounting for more than 25 percent of all reported wage theft.”⁵ Restaurants in New York City are required to have a Food Service Establishment Permit from the Department of Health and Mental Hygiene (DOHMH).⁶ Perhaps most convincing, there is precedent for this proposal: two California Counties, San Diego and Santa Clara, both successfully operate programs similar to this proposal.

The City can learn from existing models elsewhere.

San Diego County’s Office of Labor Standards and Enforcement operates a “Good Faith Restaurant Program.”⁷ From the website: the program “helps workers in the retail food industry collect outstanding unpaid wage theft judgments stemming from an Order, Decision, or Award...issued by the California Labor Commissioner....[The Program] was developed to encourage businesses to satisfy their outstanding judgments for owed workers’ wages in order to comply with the requirements of their San Diego County food permit.” When the San Diego County Office of Labor Standards and Enforcement learns of an unpaid state wage theft judgment, the office reaches out to the permit holder via a series of letters and direct contact, informing the business that failure to comply with the judgment may result in suspension of the employer’s food facility permit. After four attempts to contact the permit holder and seventy-five days, the permit will be indefinitely suspended and ultimately potentially revoked.

Santa Clara County’s Office of Labor Standards Enforcement operates a similar Food Permit Enforcement Program.⁸ While San Diego County initially rolled out the program with letters to every permit-holder with

outstanding wage violations in the county, Santa Clara County began with a narrower pilot focused on one specific zip code, with the potential consequence of a temporary (five day) permit suspension. Santa Clara County has since expanded the program county-wide,⁹ and has a shorter time frame than San Diego County from the initial contact to potential suspension (forty-five days).¹⁰

Both programs have common elements instructive for New York City. First, they do not require health inspectors to assess wage violations, a task that would be both burdensome and outside of such inspectors' expertise. Rather, the programs are entirely administered by the county labor agencies, until the final point at which the permit is to be suspended. Second, these programs do not create permitting consequences based on wage theft allegations, which might raise due process concerns. Rather, these programs focus specifically on unsatisfied *final orders* by the state labor commissioner's office.

Current law provides a sufficient legal basis.

The programs in San Diego and Santa Clara Counties are based not specifically on state or local labor laws, but rather, on a provision of the California health and safety code requiring that any "operation of a food facility shall be approved by the enforcement agency and shall be in accordance with all applicable local, state, and federal statutes, regulations, and ordinances."¹¹ New York City's Health Code has similar language: "An operator of a food service establishment or non-retail food processing establishment shall construct, equip, furnish, maintain and operate such establishment in compliance with this Article and all other applicable federal, state and city laws, rules and regulations."¹² In addition, Article 5 of New York City's Health Code states that a permit may be ordered suspended or revoked not only for willful or continued code violations, but also "for such other reason as the Commissioner or Board determines is sufficient grounds for suspension or revocation,"¹³ language which could support suspension on the grounds of continued nonpayment of wages determined to be owing in a final order by NYS DOL.

Notably, neither San Diego nor Santa Clara Counties have faced lawsuits challenging their programs or significant employer opposition. Both county agencies conducted outreach to the restaurant employer community before implementation. Further, the restaurants targeted—those with final wage theft orders that they had ignored, and not even tried to negotiate a payment plan—is a particularly unsympathetic subset of the industry.

Implementation in New York City

For applicants to obtain or renew restaurant permits, the City should (1) require sworn disclosure of any past final violation orders by courts, the state labor department, or the Department of Consumer and Worker

Protection (DCWP); and (2) conduct its own rapid research using readily available public sources, primary among them, the New York City Comptroller's Employer Violations Dashboard¹⁴ and the NYS DOL Wage Theft Investigation Dashboard.¹⁵ If applicants have such outstanding unsatisfied final orders, the City should require payment of wages owed as a condition of granting or renewing the license or permit. The City could determine guidelines to allow for short-term payment plans where appropriate.

Importantly, the City should include an additional element: DCWP should develop and require measures to ensure future compliance by any restaurant with past unsatisfied violations. These could include requiring training for all managers and workers on workplace laws, submission of sworn payroll record samplings by the employer, visible postings with QR codes for workers to report violations, or other measures.

For existing restaurants, the Mayor should require DCWP and DOHMH to collaborate in developing a program similar to those in San Diego and Santa Clara Counties. DCWP would develop and regularly update a list of all permit holders with unsatisfied final orders from its own investigations and from those of the state labor department. DCWP would do the work of reaching out to restaurants and seeking payment, alerting restaurants of potential suspension by its sister agency DOHMH if wages are not paid. DOHMH would have little to no involvement in the vast majority of cases. To date, no restaurant permits have been suspended in San Diego or Santa Clara Counties pursuant to these programs; the threat alone has been enough to motivate payment of monies owed. NYC Department of Small Business Services could also assist in spreading the word to restaurants throughout the City.

The budgetary impact would largely involve DCWP staff time, most likely less than one full-time employee. Much of the work would involve initial start-up efforts: developing the program, building cooperative relationships between the relevant agencies (DCWP, DOHMH, NYS DOL), developing the original list of all permit-holders with outstanding unsatisfied final orders, and developing new questions and protocols for permit applications, among other things. After this initial investment, ongoing case handling would be more limited, and if restaurants learn that unaddressed wage theft can lead to permit suspension, ideally, the case flow will be lessened further because violations will be deterred.

Limitations and Potential

One significant limitation of this proposal is the time lag between workers experiencing wage theft and the potential suspension of the license. Limited enforcement resources mean that it can take considerable time for the state labor department to reach a final order, which is the necessary precondition for triggering potential NYC permitting consequences. To address this, DCWP could seek to coordinate with the NYS DOL so that

cases are transmitted to DCWP immediately when orders are final. In addition, if DCWP started with a pilot program focused on a smaller sample (such as the ten New York City zip codes with the highest rates of past violations among restaurants),¹⁶ perhaps NYSDOL could fast-track investigations in those locations, augmenting the program's impact.

However, the proposal also has additional potential. It could be expanded, so that all businesses that need City-issued licenses and permits understand that they have to comply with basic wage payment laws in order to do business in New York City. In other industries, of course, the relevant permit or license issuer might be another agency, not DOHMH.

Related Models Leveraging Licensing and Permitting

In addition to this model, several other existing programs demonstrate the potential of incorporating workplace concerns in local licensing and permitting programs, and could be considered for, or inform program design in, New York City.

- A Boston, Massachusetts, ordinance takes a preventive approach: it creates various workplace safety preconditions for construction contractors seeking building permits for demolition projects and for construction projects above a certain size. Among other things, it requires a site-specific safety plan affidavit, site-specific worker safety trainings, and a designated site safety coordinator. The Inspectional Services Department, which already routinely visits building sites, has enforcement authority, and the assigned building inspector can issue violations, stop work orders, and revoke permits. This approach uses existing inspectors, who are already going to building sites, to help prevent safety and health violations in one of the most dangerous industries.¹⁷
- King County, Washington, home to Seattle, enacted an ordinance requiring increased food inspections for food establishments that have been found to have violated labor laws and have failed to pay or remedy the labor violation. In addition, when state or local labor agencies have found violations, public health inspectors will post a placard next to the public food rating sign noting that the establishment is undergoing increased health inspection because of a labor violation. (The placard will be removed if labor violations are remedied.) This approach also engages consumers, alerting them to labor violations in the restaurants they patronize.¹⁸
- Austin, Texas, uses a carrot, not a stick, in its Better Builder program, which creates incentives for higher labor standards. Specifically, construction contractors willing to commit to certain protections

for workers on commercial projects may receive expedited handling of their permit applications and processing. The program is a collaboration with the nonprofit Workers Defense Project.¹⁹

Measuring Impact

The most important impact would, ideally, be a decrease in wage theft in the restaurant industry in New York City. Returning to our economists' equation: unethical employers underpay workers because they believe they're unlikely to be caught and because the penalties are too small. This proposal will significantly increase the consequences of unremedied violations. Suspension of a restaurant permit, even for only five days, has a significant financial and reputational impact, far beyond what typically happens for wage theft violations. However, measuring the decrease in wage theft may be difficult, since many obstacles prevent workers from reporting wage theft, particularly in the current moment of heightened immigration enforcement. Reduced reports of wage theft in the restaurant industry may—but do not necessarily—indicate reduced violations. This is why this program should incorporate specific measures focused on future compliance by prior violators.

A more readily measurable impact of this program would include wages recovered for workers who have been underpaid and a reduction in the number of New York City restaurants that, when caught committing wage theft, thumb their nose at their workers and at rule of law.

Conclusion

Businesses that receive licenses and permits to operate in New York City should be expected to comply with the most basic workplace laws related to payment of wages and other core protections. At a bare minimum, businesses should be required, as a condition for receiving or keeping a license or permit, to pay wages determined to be owed in a final wage theft or similar order by New York City or State. Successful programs in other localities provide proof of concept and potential models for this proposal. Participation in the economic life of the City should require legal compliance in relation to paying workers' wages, as well as financial responsibility and respect for rule of law in relation to complying with final legal orders. A program incorporating labor compliance considerations into the City's licensing and permitting processes would help fight wage theft and create fairer conditions for workers and for law-abiding businesses, and would create an overall environment of greater legal compliance. Not least of all, it would help return money to the pockets of hard-working New Yorkers.

Good Faith Restaurant Owners Program Infographic



STEP
01
DAY 1



NOTICE OF EXISTING JUDGMENT & NOTICE TO COMPLY

When OLSE learns of an unpaid wage theft judgment stemming from the Labor Commissioner's Office* against a permitted food facility, OLSE will send a thirty-day Notice of Existing Judgment and Notice to Comply via certified mail to the permit holder.

This notice will identify the unpaid Wage Theft Judgment, explain the failure to comply with the judgment may result in suspension of the employer's food facility permit and demand that the permit holder respond within 30 days to (1) prove that the permit holder is in full compliance with the judgment, (2) prove that the judgment is not final or does not apply to the permit holder, or (3) request assistance or information on a payment plan time to come into compliance with the judgment.

STEP
02
DAY 30



SECOND NOTICE OF EXISTING JUDGMENT & NOTICE TO COMPLY

If the permit holder does not substantively respond to the initial notice within 30 days, OLSE will send the permit holder a second Notice of Existing Judgment and Notice to Comply requiring a response within 15 days.

STEP
03
DAY 45



DIRECT CONTACT WITH PERMIT HOLDER

If OLSE has not received a response from the permit holder after the first two notices are sent, OLSE will follow up by directly contacting the permit holder to establish a contact and answer any questions the permit holder may have.

STEP
04
DAY 60



NOTICE OF VIOLATION

If the permit holder still has not addressed the unpaid wage judgment, then OLSE will send the permit holder a Notice of Violation. The Notice of Violation will inform the permit holder that an informal Administrative Hearing will be scheduled, within 15 days of the Notice of Violation issuance, to discuss the continued non-compliance with the outstanding wage theft judgment and establish a timeline for the facility to comply. If the facility fails to comply with the direction and timeline established at the informal Administrative Hearing, then a permit suspension hearing will be scheduled.

STEP
05
DAY 75



SUSPENSION OF FOOD PERMIT

If the permit holder has not addressed the unpaid wage judgment, a suspension hearing will be held within 15 days after the informal administrative hearing. Pending determination of the hearing officer, DEHQ will suspend the permit holder's Food Facility Permit on the date specified in the Hearing Decision Letter. A permit holder can halt enforcement at any time by paying the existing judgment in full or entering into a payment plan that ensures full payment of the judgment by a specific date agreed upon by all parties. If the facility fails to comply with the direction and timeline established in the Suspension Hearing, then a permit revocation hearing will be scheduled.

*Cal. Lab. Code § 98.2 & Cal. Health & Saf. Code § 113715

Endnotes

1 Max Siegelbaum, *127,000 New York Workers Have Been Victims of Wage Theft*, ProPublica and Documented (Aug. 22, 2023), <https://www.propublica.org/article/thousands-of-new-york-workers-have-been-victims-of-wage-theft>.

2 Marcus Baram, *New York Workers Are Waiting on \$79 Million in Back Wages*, ProPublica and Documented (Aug. 21, 2023), <https://www.propublica.org/article/new-york-workers-are-waiting-on-79-million-in-back-wages>.

3 See, e.g., Jeanne Kuang and Alejandro Lazo, *Wage theft whack-a-mole: California workers win judgments against bosses but still don't get paid*, CalMatters (Sept. 15, 2022, updated May 2, 2023), <https://calmatters.org/california-divide/2022/09/california-wage-theft-cases/>; Elizabeth Castillo, *Oregon fails to collect unpaid wages*, OPB (Dec. 12, 2023), <https://www.opb.org/article/2023/12/12/unpaid-wages-collect-oregon/>; Juliana Feliciano Reyes, *Some Workers Wait Years to Resolve Wage Theft Cases*, Governing (Feb. 8, 2023), <https://www.governing.com/work/some-workers-wait-years-to-resolve-wage-theft-cases>.

4 Orley Ashenfelter and Robert S. Smith, *Compliance with the Minimum Wage Law*, *Journal of Political Economy*, 87, No. 2. (Apr. 1979), <https://www.journals.uchicago.edu/doi/epdf/10.1086/260759>.

5 Siegelbaum, *supra* n. 1.

6 *Food Service Establishment Permit*, Official Website of the City of New York, <https://nyc-business.nyc.gov/nycbusiness/description/food-service-establishment-permit> (last visited May 8, 2026).

7 *Good Faith Restaurant Program*, Office of Labor Standards and Enforcement, San Diego County, <https://www.sandiegocounty.gov/content/sdc/OLSE/good-faith-restaurant-owners-program.html> (last visited May 7, 2026).

8 *Food Permit Enforcement Program*, Division of Equity and Social Justice, County of Santa Clara, <https://desj.santaclaracounty.gov/olse/initiatives/food-permit-enforcement-program> (last visited May 7, 2026).

9 Jhabvala Romero Farida, *In California, one county is forcing restaurants to pay wage theft claims or risk losing their permits*, Marketplace (Sept. 7, 2023), <https://www.marketplace.org/story/2023/09/07/wage-theft-santa-clara-california>.

10 *Food Permit Enforcement Brochure*, Office of Labor Standards Enforcement, Santa Clara County, <https://files.santaclaracounty.gov/migrated/Enforcement%20ENG%20%281%29.pdf>.

11 Cal. Health and Safety Code § 113715.

12 New York City Health Code § 81.05 (b).

13 New York City Health Code § 5.17.

14 *Employer Violations Dashboard*, New York City Comptroller, <https://comptroller.nyc.gov/services/for-the-public/employer-violations-dashboard/violations/wage-theft/> (last visited May 7, 2026).

15 *Wage Theft Investigation Dashboard*, NYS Department of Labor, <https://dol.ny.gov/wage-theft-dashboard> (last visited May 7, 2026).

16 If DCWP were to start a pilot with a subset of zip codes, instead of City-wide, it would be advisable to have an objective basis for choosing the zip codes selected, to avoid allegations of proceeding in an arbitrary or unfair manner.

17 Boston, Massachusetts, Municipal Code § 16-65.

18 Press Release, King County, Washington, *Board of Health Chair Mosqueda leads passage of food safety through new rule to better enforce labor standards* (Sept. 18, 2025), <https://kingcounty.gov/en/dept/council/governance-leadership/county-council/newsroom/2025/09-18-mosqueda-board-of-health-food-safety-rule>.

19 Syeda Carillo, *Austin's Faster Permitting Program Will Include Construction Worker Protections*, KUT News (Feb. 8, 2017), <https://www.kut.org/austin/2017-02-08/austins-faster-permitting-program-will-include-construction-worker-protections>; *About, Better Builder Program*, <https://www.betterbuildertx.org/en/> (last visited May 8, 2026).