



# City of Chicago



SO2021-2182

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:**

5/26/2021

**Sponsor(s):**

Lightfoot (Mayor)  
Sadlowski Garza (10)  
Cardenas (12)  
Cardona, Jr. (31)  
Ervin (28)  
Rodriguez (22)

**Type:**

Ordinance

**Title:**

Amendment of Municipal Code by adding new Title 6 regarding employer duties and worker protections or rights with associated modification of Chapters 1-24, 1-25 and 2-172, and extending policy study time period of 2020 Management Ordinance regarding tipped wages

**Committee(s) Assignment:**

Committee on Workforce Development

SUBSTITUTE  
ORDINANCE

**WHEREAS**, The City of Chicago has worked tirelessly for over a year to help businesses and workers survive the most devastating pandemic in a century; and

**WHEREAS**, Chicago's businesses and workers persevered through the unprecedented COVID-19 crisis to provide critical services to City residents and to keep Chicagoans safe; and

**WHEREAS**, The City executed an array of robust emergency relief measures to provide businesses with much-needed financial support and regulatory relief during this uniquely challenging time in its history; and

**WHEREAS**, The City's emergency relief measures and other significant worker protection ordinances include the COVID-19 Anti-Retaliation Ordinance prohibiting employers from retaliating against employees for obeying a health order to quarantine or isolate; the Vaccine Anti-Retaliation Ordinance prohibiting employers from retaliating against workers for taking time off to receive the COVID-19 vaccine; the Chicago Minimum Wage and Paid Sick Leave Ordinance putting the minimum wage on a path to \$15-an-hour for some workers in 2021 and ensuring that workers have access to paid sick leave; and the Chicago Fair Workweek Ordinance requiring fair, equitable and predictable employer scheduling practices and mandating extra pay for last minute work schedule changes; and

**WHEREAS**, The Office of Labor Standards received 728 complaints, opened 214 investigations, cited 50 employers, and levied \$170,500 in fines in 2020 for non-compliance with the City's worker protection laws; and

**WHEREAS**, With a robust COVID-19 vaccination program now underway, the City's focus must now shift from economic survival to economic recovery; and

**WHEREAS**, The Chi Biz Strong Initiative ("Initiative") is a bold plan to jumpstart business growth, protect workers, and set the marketplace on a path towards a strong, rapid, equitable, and long-lasting economic recovery; and

**WHEREAS**, This Initiative will establish the City's first-ever Wage Theft Ordinance to help recoup the nearly \$400 million in wages stolen from Chicagoland workers every year; put all domestic workers, also known as care workers, on the path to a \$15-an-hour minimum wage in 2021, generating a combined \$28 million in additional wealth for 8,000 domestic workers over the next two years, or \$3,500 per worker over the same period; mandate that domestic workers receive a contract for their work to ensure the accountability, transparency and predictability that they need to plan for themselves and their families; rename "Paid Sick Leave" as "Paid Sick Leave" to highlight workers' new ability to take time off for both physical and mental ailments, and when the care infrastructure that workers rely on – including schools and day care – is shuttered by forces outside of the worker's control; and also ensure that workers have access to Paid Sick Leave when they or a family member is a survivor of human trafficking or need time off to follow health orders requiring quarantine and isolation during future health crises; and

**WHEREAS**, This initiative is only the beginning; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** Section 2-25-050 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**2-25-050 Powers and duties of the department.**

*(Omitted text is unaffected by this ordinance)*

(b) Powers and duties of the Commissioner and the department. The powers and duties of the Commissioner and department shall be as follows:

*(Omitted text is unaffected by this ordinance)*

(19) To supervise the investigation, execution and enforcement of the Chicago Minimum Wage and Paid Sick Leave Ordinance, Chapter ~~4-24~~ 6-105 of this Code, the Toy Safety Ordinance, Chapter 7-36 of this Code, the Condominium Ordinance, Chapter 13-72 of this Code, and any other ordinance administered or enforced by the department, including all rules pertaining thereto or promulgated thereunder;

*(Omitted text is unaffected by this ordinance)*

**SECTION 2.** Section 2-25-200 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**2-25-200 Office of Labor Standards.**

(a) Definitions. As used in this section:

"Chapter ~~4-24~~ 6-105" means Chapter ~~4-24~~ 6-105 of the Municipal Code of Chicago.

"Chapter ~~4-25~~ 6-110" means Chapter ~~4-25~~ 6-110 of the Municipal Code of Chicago.

"Commissioner" means the Commissioner of Business Affairs and Consumer Protection or the Commissioner's designee.

"Covered employee" has the meaning ascribed to that term in Section ~~4-24-010~~ 6-105-010 or ~~4-25-020~~ 6-110-020, as appropriate.

*(Omitted text is unaffected by this ordinance)*

(b) Office of Labor Standards – Establishment – Powers and duties. There is hereby established within the Department of Business Affairs and Consumer Protection an office of the municipal government, which shall be known as the Office of Labor Standards. Such Office shall include a Director, who shall be appointed by the Commissioner, and such other assistants and employees as provided for in the annual appropriation ordinance. The duties of the Office of Labor Standards, and of its Director, shall be to:

*(Omitted text is unaffected by this ordinance)*

(6) Administer and enforce Chapters 4-24 6-105 and 4-25 6-110 of this Code;

(7) Receive and assemble information identifying: (i) license applicants and licensees under Title 4 of this Code who, within the last five years, have admitted guilt or liability, or who have been found guilty or liable in judicial or administrative proceedings, of willful or repeated violations of the Illinois Wage Payment and Collection Act or of Chapter 4-24 6-105, for referral to the Commissioner for appropriate action under Section 4-4-320(a)(1), (a)(3) or (b)(1), as applicable; or (ii) persons or business entities that are ineligible to participate in city transactions under Section 2-92-320(a)(6) due to repeated violations of Chapter 4-24 6-105, for referral to the Chief Procurement Officer or other applicable department head for appropriate action under Section 2-92-320; and

(8) Perform any other duties or exercise any other powers that the Commissioner may reasonably require to implement this article.

(c) *Director – Duties pertaining to Chapters 4-24 6-105 and 4-25 6-110.* In connection with subsection (b)(6) of this section, the Director, consistent with the requirements of due process of law and in accordance with rules duly promulgated by the Commissioner, is authorized to: (i) receive complaints, which shall be filed by an employee or other person on behalf of an employee, of alleged violations; (ii) mediate disputes in connection with such complaints, if appropriate; (iii) investigate such complaints, as appropriate, and make findings of fact in connection with such investigations; (iv) issue notices of violation, as appropriate, if, following an investigation, the Director determines that there is reasonable cause to believe that a violation has occurred; (v) provide for a hearing following the issuance of any such notice of violation; (vi) conduct hearings; (vii) administer oaths, take testimony, issue subpoenas, and receive evidence in connection with such investigations or hearings; and (viii) otherwise enforce Chapters 4-24 6-105 and 4-25 6-110. Any investigation conducted pursuant to this section shall be conducted in a fair and impartial manner. The name and other identifying information of the employee or person reporting a violation of Chapters 4-24 6-105 and 4-25 6-110 shall be kept confidential to the extent permitted by law unless such employee or person authorizes the Director in writing to disclose this information as the Director deems necessary or appropriate to enforce this section. The Director may investigate complaints in cases where the complainant is unknown or anonymous.

(d) *Director – Recordkeeping and reporting – Required.* No later than March 15, 2020, and on or before each March 15 thereafter, the Director shall post on the City of Chicago Office of Labor Standards website the following information pertaining to enforcement of Chapter 4-24 6-105 and Section 4-4-320(a)(1), (a)(3), and (b)(1), and Chapter 4-25 6-110, though for Chapter 4-25 6-110 the first posting date shall be March 15, 2021:

(1) Number of complaints received by the Office alleging violations of Chapters 4-24 6-105 and 4-25 6-110;

(2) Number of investigations opened by the Office in connection with alleged violations of Chapters 4-24 6-105 and 4-25 6-110;

(3) Number of employers cited for violations of Chapters 4-24 6-105 and 4-25 6-110;

(4) Results of each enforcement action initiated under Chapters 4-24 6-105 and 4-25 6-110;

(5) Number of license applications denied by the Commissioner pursuant to Section 4-4-320(a)(1) and (a)(3) for violations of the Illinois Wage Payment and Collection Act or Chapter 4-24 6-105, as applicable;

(6) Number of licenses suspended or revoked by the Commissioner pursuant to Section 4-4-320(b)(1) for violations of the Illinois Wage Payment and Collection Act or Chapter 4-24 6-105, as applicable; and

*(Omitted text is unaffected by this ordinance)*

(e) *Commencement of action.* Except as otherwise provided herein, any investigation conducted by the Office pursuant to this section shall commence within three years of the alleged violation of Chapter ~~4-24 6-105~~. Provided, however, that: (1) if evidence exists that the applicable employer concealed such violation or in any way misled employees as to the employer's or employee's rights or responsibilities under Chapter ~~4-24 6-105~~, such investigation shall commence within three years of the date on which the employee or Office discovered, or reasonably should have discovered, the alleged violation of Chapter ~~4-24 6-105~~; (2) in the case of a continuing violation, the investigation shall commence within three years of the date of the last occurrence or discovery of the violation; and (3) the running of the applicable period for commencing an action under this section shall be tolled during the duration of any civil action brought by a covered employee pursuant to Section ~~4-24 6-105-110~~ to recover the amount of any underpayment of wages or unpaid sick time resulting from a violation of Chapter ~~4-24 6-105~~.

(f) *Notification to Chief Procurement Officer – Required.* Upon a determination of liability for any violation of Chapter ~~4-24 6-105~~, the Director shall report such fact to the Chief Procurement Officer for appropriate action under Section 2-92-320(a)(6), including but not limited to suspension or cancellation of the employer's current transactions with the City or debarment from doing business with the City.

*(Omitted text is unaffected by this ordinance)*

**SECTION 3.** Section 2-92-320 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**2-92-320 Ineligibility for city transactions – Other offenses.**

(a) No person or business entity shall participate in a transaction as defined herein, and may have its current transactions permanently or temporarily suspended or canceled, if that person or business entity:

*(Omitted text is unaffected by this ordinance)*

(6) has committed, within a 24-month period, three or more violations of Chapter ~~4-24 6-105~~ of this Code; or

*(Omitted text is unaffected by this ordinance)*

**SECTION 4.** Section 4-4-320 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**4-4-320 License denial, revocation or suspension for certain offenses.**

(a) The commissioner, for good and sufficient cause, may deny an application for any license issued under this Title 4 if:

*(Omitted text is unaffected by this ordinance)*

(3) during the 24-month period prior to the date of the application, the applicant admitted guilt or liability or was found guilty or liable in judicial or administrative proceedings of committing three or more violations of Chapter ~~4-24 6-105~~ of this Code; or

*(Omitted text is unaffected by this ordinance)*

**SECTION 5.** The Municipal Code of Chicago is hereby amended by adding a new Title 6, as follows:

## **TITLE 6: WORKER PROTECTIONS**

### **Chapter 6-100: General Employment Requirements**

#### **6-100-010 Procedures for payment of wages.**

No person engaged in any business within the city shall issue, in payment of or as evidence of indebtedness for wages due an employee for labor, any acknowledgement of indebtedness, including but not limited to scrip, time checks or store orders, unless such evidence of indebtedness is payable or redeemable upon demand, without discount and for face value in lawful money of the United States at the office or place of business of such person.

#### **6-100-020 Contracts for Domestic Workers**

All employers of Domestic Workers, as that term is defined in Section 6-105-010, shall provide a written contract to the Domestic Worker, setting forth the wage and the Work Schedule, as those terms are defined in Section 6-110-020, agreed upon between the employer and the Domestic Worker. The employer shall provide the written contract to the Domestic Worker in the Domestic Worker's primary language, upon that Domestic Worker's request.

#### **6-100-020 Violation – Penalty.**

Any violation of this chapter shall be punishable by a fine of \$500.00. Each violation of this chapter shall constitute a separate offense.

### **Chapter 6-105: Chicago Minimum Wage and Paid Sick Leave Ordinance**

#### **6-105-010 Definitions.**

For purposes of this chapter, the following definitions apply:

“Commissioner” means the Commissioner of Business Affairs and Consumer Protection.

“Construction industry” means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, waterworks, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material

or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site, snow plowing, snow removal, and refuse collection.

"Covered Employee" means an Employee who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of the City. For purposes of this definition, time spent traveling in the City that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within the City, shall constitute work while physically present within the geographic boundaries of the City; however, time spent traveling in the City that is uncompensated commuting time shall not constitute work while physically present within the geographic boundaries of the City. "Covered Employee" does not include any individual permitted to work: (a) as a camp counselor employed at a day camp if the camp counselor is paid a stipend on a one time or periodic basis and, if the camp counselor is a minor, the minor's parent, guardian or other custodian has consented in writing to the terms of payment before the commencement of such employment; (b) while subject to subsection 4(a)(2) of the Minimum Wage Law, with the exception of the categories of Employees described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Minimum Wage Law, who shall be entitled to the Wages that their Employer shall otherwise pay under Section 6-105-020(b) and 6-105-030 above, whichever applies, as well as the overtime compensation described in Section 6-105-040; and (c) for any governmental entity other than the City and its Sister Agencies.

(d) (i) All Domestic Workers, including Domestic Workers employed by Employers with fewer than four Employees, shall be Covered Employees.

(ii) in any of the following categories, though, Employees who work in the following categories shall be Covered Employees under Section 6-105-045: (A) as an outside salesman; (B) as a member of a religious corporation or organization; (C) at, and employed by, an accredited Illinois college or university at which the individual is a student who is covered under the Fair Labor Standards Act, as amended; (D) for a motor carrier and with respect to whom the U.S. Secretary of Transportation has the power to establish qualifications and maximum hours of service under the provisions of Title 49 U.S.C. or the State of Illinois under Section 18b-105 (Title 92 of the Illinois Administrative Code, Part 395 - Hours of Service of Drivers) of the Illinois Vehicle Code.

Except as provided in (d)(i) and (d)(ii), "Covered Employee" does not include any individual permitted to work for an Employer who has fewer than four Employees.

"CPI" means the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor.

"Domestic partner" means any person who has a registered domestic partnership, or qualifies as a domestic partner under Section 2-152-072 of this Code or as a party to a civil union under the Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1, *et seq.*, as currently in force and hereafter amended.

"Domestic worker" means a person whose primary duties include housekeeping; house cleaning; home management; nanny services, including childcare and child monitoring; caregiving, personal care or home health services for elderly persons or persons with illnesses, injuries, or disabilities who require assistance in caring for themselves; laundering; cooking; companion services; chauffeuring; and other household services to members of households or their guests in or about a private home or residence, or any other location where the domestic work is performed.

"Employee" means an individual that performs work for an employer in the capacity of an employee, as distinguished from a contractor, determined pursuant to Internal Revenue Service guidelines.

"Employer" means a person who gainfully employs at least one Employee. For the purpose of counting Covered Employees for Section 6-105-020, numbers of Covered Employees will be aggregated if they are employed by members of a single unitary business group as defined for Illinois income tax purposes.

"Fair Labor Standards Act" means the United States Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.*, as currently in force and hereafter amended.

"Family and Medical Leave Act" means the United States Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.*, as currently in force and hereafter amended.

"Family member" means a Covered Employee's child, ward, legal guardian, parent, spouse under the laws of any state, domestic partner, spouse or domestic partner's parent, sibling, grandparent, grandchild, or any other individual related by blood or whose close association with the Employee is the equivalent of a family relationship. A child includes not only a biological relationship, but also a relationship resulting from an adoption, step-relationship, and/or foster care relationship, or a child to whom the Employee stands in loco parentis. A parent includes a biological, foster, stepparent or adoptive parent or legal guardian of an Employee, or a person who stood in loco parentis when the Employee was a minor child.

"Gratuities" and "Occupation" have the meanings ascribed to those terms in the Minimum Wage Law.

"Health care provider" means any person licensed to provide medical or emergency services, including, but not limited to, doctors, nurses, and emergency room personnel.

"Minimum Wage Law" means the Illinois Minimum Wage Law, 820 ILCS 105/1, *et seq.*

"Outside salesman" means an Employee regularly engaged in making sales or obtaining orders or contracts for services where most of such duties are performed away from his employer's place of business.

"Paid Sick Leave" means time that is provided by an Employer to a Covered Employee that is eligible to be used for the purposes described in subsection 6-105-045(b) of this chapter, and is compensated at the same rate and with the same benefits, including health care benefits, that the Covered Employee regularly earns during hours worked.

"Sister Agency" means the Chicago Public Schools, the Chicago Park District, the Chicago Transit Authority, the City Colleges of Chicago, the Chicago Housing Authority, and the Public Building Commission.

"Subsidized Temporary Youth Employment Program" means any publicly subsidized summer or other temporary youth employment program through which persons aged 24 or younger are employed by, or engaged in employment coordinated by, a nonprofit organization or governmental entity.



“Subsidized Transitional Employment Program” means any publicly subsidized temporary employment program through which persons with unsuccessful employment histories and/or members of statistically hard-to-employ populations (such as formerly homeless persons, the long-term unemployed, and formerly incarcerated persons) are provided temporary paid employment and case-managed services under a program administered by a nonprofit organization or governmental entity, with the goal of transitioning program participants into unsubsidized employment.

“Tipped Employee” has the meaning ascribed that term in the Fair Labor Standards Act.

“Wage” means compensation due an Employee by reason of employment.

**6-105-020 Minimum hourly wage.**

(a) Except as provided in Sections 2-92-610 and 6-105-030 of this Code, every Employer shall pay to each Covered Employee for each hour of work performed for that Employer, no less than the greater of (1) the minimum hourly Wage set by the Minimum Wage Law; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) the City's minimum hourly Wage.

(b) The City minimum hourly Wage shall be as follows:

(1) For Employers who have 21 or more Employees, or is a Domestic Worker:

(A) Beginning on July 1, 2020, \$14.00 per hour.

(B) Beginning on July 1, 2021, \$15.00 per hour.

(C) Beginning on July 1, 2022, and on every July 1 thereafter, the City's minimum hourly Wage from the previous year, increased in proportion to the increase, if any, in the CPI, provided, however, that if the CPI increases by more than 2.5 percent in any year, the City minimum Wage increase shall be capped at 2.5 percent, and that there shall be no City minimum Wage increase in any year when the unemployment rate in Chicago for the preceding year, as calculated by the Illinois Department of Employment Security, was equal to or greater than 8.5 percent. Any increase pursuant to this subsection shall be rounded up to the nearest multiple of \$0.05. Any increase pursuant to subsection 6-105-020(b) shall remain in effect until any subsequent adjustment is made.

(2) For Employers who have more than 3, but fewer than 21 Employees:

(A) Beginning on July 1, 2020, \$13.50 per hour.

(B) Beginning on July 1, 2021, \$14.00 per hour.

(C) Beginning on July 1, 2022, \$14.50 per hour.

(D) Beginning on July 1, 2023, \$15.00 per hour.

(E) Beginning on July 1, 2024, the Wage will be the same as for subsection (b)(1)(C) Covered Employees.

(3) 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:

(A) Beginning on July 1, 2020, \$10.00 per hour.

(B) Beginning on July 1, 2021, \$11.00 per hour.

(C) Beginning on July 1, 2022, \$12.00 per hour.

(D) Beginning on July 1, 2023, \$13.50 per hour.

(E) Beginning on July 1, 2024, \$15.00 per hour.

(F) Beginning on July 1, 2025, the Wage shall rise by the lesser of \$1.50 or the Wage set by subsection (b)(1)(C). This increase shall occur every year until the Wage is the same as the Wage set by subsection (b)(1)(C), after which the Wage will continue being the same as for subsection (b)(1)(C) Covered Employees.

(4) Sister Agencies shall be subject to the Wage requirements in subsection (b)(1) beginning on July 1, 2021.

(5) An Employer in possession of a special license issued by the Director of Labor described by Section 5 of the Minimum Wage Law, or in possession of a federal certificate that the United States Department of Labor issues to a work activities center or other sheltered workshop to allow the work activities center or sheltered workshop to pay an individual less than the wage otherwise required for that individual under the Fair Labor Standards Act, shall be subject to the Wage requirements in subsection (b)(1) as to those Covered Employees beginning on July 1, 2024.

(c) On or before June 1, 2022, and on or before every June 1 thereafter, the Commissioner shall make available to Employers a bulletin announcing the adjusted minimum hourly Wage for the upcoming year.

**6-105-030 Minimum hourly wage in occupations receiving gratuities.**

(a) Every Employer of a Covered Employee engaged in an Occupation in which Gratuities have customarily constituted part of the remuneration is entitled to an allowance for gratuities as part of the hourly wage rate provided in Section 6-105-020(b) in an amount not to exceed 40% of the applicable minimum wage rate.

(b) Every Employer that pays a Covered Employee the Wage described in subsection (a) shall transmit to the Commissioner, in a manner provided by rule, substantial evidence establishing: (1) the amount the Covered Employee received as Gratuities during the relevant pay period; and (2) that no part of that amount was returned to the Employer. If an Employer is required by the Minimum Wage Law to provide substantially similar data to the Illinois Department of Labor, the Commissioner may allow the Employer to comply with this subsection (b) by filing a copy of the state documentation.

(c) The Commissioner shall make available to Employers a bulletin announcing the City's minimum hourly Wage for the upcoming year for workers who receive Gratuities.

**6-105-040 Overtime compensation.**

The Wages set out in Sections 6-105-020 and 6-105-030 are subject to the overtime compensation provisions in the Minimum Wage Law, with the exception that the definitions of "Employer" and "Employee" in this chapter shall apply.

**6-105-045 Paid sick leave.**

(a) General Provisions.

(1) Any Covered Employee who works at least 80 hours for an Employer within any 120-day period shall be eligible for Paid Sick Leave as provided under this section.

(2) Where a Covered Employee is engaged in an Occupation in which Gratuities have customarily and usually constituted part of the remuneration, the Covered Employee's Employer shall pay at least the full Chicago minimum wage, as provided in Section 6-105-020, for Paid Sick Leave.

(3) Unless an applicable collective bargaining agreement provides otherwise, upon a Covered Employee's termination, resignation, retirement, or other separation from employment, the Covered Employee's Employer is not required to provide financial or other reimbursement for unused Paid Sick Leave.

(b) Accrual of Paid Sick Leave.

(1) Paid Sick Leave shall begin to accrue either on the 1st calendar day after the commencement of a Covered Employee's employment or July 1, 2017, whichever is later.

(2) For every 40 hours worked after a Covered Employee's Paid Sick Leave begins to accrue, the Covered Employee shall accrue one hour of Paid Sick Leave. Paid Sick Leave shall accrue only in hourly increments; there shall be no fractional accruals.

(3) A Covered Employee who is exempt from overtime requirements under this chapter shall be assumed to work 40 hours in each work week for purposes of Paid Sick Leave accrual, unless the Covered Employee's normal work week is less than 40 hours, in which case Paid Sick Leave shall accrue based upon that normal work week.

(4) For each Covered Employee, there shall be a cap of 40 hours Paid Sick Leave accrued per 12-month period, unless the Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date the Covered Employee began to accrue Paid Sick Leave.

(5) At the end of a Covered Employee's 12-month accrual period, the Covered Employee shall be allowed to carry over to the following 12-month period half of the Covered Employee's unused accrued Paid Sick Leave, up to a maximum of 20 hours.

(6) If an Employer is subject to the Family and Medical Leave Act, each of the Employer's Covered Employees shall be allowed, at the end of the Covered Employee's 12-month Paid Sick Leave accrual period, to carry over up to 40 hours of the Covered Employee's unused accrued Paid Sick Leave, in addition to the carryover allowed under subsection 6-105-045(b)(5), to use exclusively for Family and Medical Leave Act eligible purposes.

(7) If an Employer has a policy that grants Covered Employees paid time off in an amount and a manner that meets the requirements for Paid Sick Leave under this section, the Employer is not required to provide additional paid leave. If such Employer's policy awards the full complement of paid time off immediately upon date of eligibility, rather than using an accrual model, the Employer must award each Covered Employee 40 hours paid time off within one calendar year of the Covered Employee's date of eligibility.

(8) 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.

(c) Use of Paid Sick Leave.

(1) An Employer shall allow a Covered Employee to begin using Paid Sick Leave no later than on the 180th calendar day following the commencement of the Covered Employee's employment. A Covered Employee is entitled to use no more than 40 hours of Paid Sick Leave per 12-month period, unless the Covered Employee's Employer sets a higher limit. The 12-month period for a Covered Employee shall be calculated from the date the Covered Employee began to accrue Paid Sick Leave. If a Covered Employee carries over 40 hours of Family and Medical Leave Act leave pursuant to subsection 6-105-045(b)(6) and uses that leave, the Covered Employee is entitled to use no more than an additional 20 hours of accrued Paid Sick Leave in the same 12-month period, unless the Employer sets a higher limit. Within these limitations, Covered Employee shall be allowed to determine how much accrued Paid Sick Leave the Covered Employee needs to use, provided that the Covered Employee's Employer may set a reasonable minimum increment requirement not to exceed four hours per day.

(2) A Covered Employee may use Paid Sick Leave when:

(A) the Covered Employee is ill or injured, or for the purpose of receiving professional care, including preventive care, diagnosis, or treatment, for medical, mental, or behavioral issues, including substance use disorders;

(B) a member of the Covered Employee's family is ill, injured, or ordered to quarantine, or to care for a family member receiving professional care, including

preventive care, diagnosis, or treatment, for medical, mental, or behavioral issues, including substance use disorders;

(C) the Covered Employee, or a member of the Covered Employee's family, is the victim of domestic violence, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, or a sex offense, defined here as any conduct proscribed in Article 11 and Sections 12-7.3, 12-7.4, and 12-7.5 of the Illinois Criminal Code of 2012, or trafficking in persons as defined in Section 10-9 of the Illinois Criminal Code of 2012 (720 ILCS 5/10-9); or

(D) the Covered Employee's place of business is closed by order of a public official due to a public health emergency, or the Covered Employee needs to care for a family member whose school, class, or place of care has been closed.

(E) a Covered Employee obeys an order issued by the Mayor, the Governor of Illinois, the Chicago Department of Public Health, or a treating healthcare provider, requiring the Covered Employee to:

(i) stay at home to minimize the transmission of a communicable disease;

(ii) remain at home while experiencing symptoms or sick with a communicable disease;

(iii) obey a quarantine order issued to the Covered Employee;

(iv) obey an isolation order issued to the Covered Employee.

(3) An Employer shall not require, as a condition of a Covered Employee taking Paid Sick Leave, that the Covered Employee search for or find a replacement worker to cover the hours during which the Covered Employee is on Paid Sick Leave.

(4) If a Covered Employee's need for Paid Sick Leave is reasonably foreseeable, an Employer may require up to seven days' notice before leave is taken. If the need for Paid Sick Leave is not reasonably foreseeable, an Employer may require a Covered Employee to give notice as soon as is practicable on the day the Covered Employee intends to take Paid Sick Leave by notifying the Employer through via phone, e-mail, or text message. For purposes of this subsection, needs that are "reasonably foreseeable" include, but are not limited to, prescheduled appointments with health care providers for the Covered Employee or for a family member, and court dates in domestic violence cases. Any notice requirement imposed by an Employer pursuant to this subsection shall be waived in the event a Covered Employee is unable to give notice because the Covered Employee is unconscious, or otherwise medically incapacitated.

(5) Where a Covered Employee is absent for more than three consecutive work days, the Covered Employee's Employer may require certification that the use of Paid Sick Leave was authorized under subsection 6-105-045(c)(2). For time used pursuant to subsections 6-105-045(c)(2)(A) or (B), documentation signed by a licensed health care provider shall satisfy this requirement. An Employer shall not require that such documentation specify the nature of the Covered Employee's or the Covered Employee's family member's injury, illness, or condition, except as required by law. For Paid Sick Leave used pursuant to subsection 6-105-045(c)(2)(C), a police report, court document, a signed statement from an attorney, a member of the clergy, or a victim services advocate, or any other evidence that supports the Covered Employee's claim, including a written statement from the Covered Employee or any other person who has knowledge of the circumstances, shall satisfy this requirement. The Covered Employee may choose which document to submit, and no more than one document shall be required if the Paid Sick Leave is related to the same incident of violence or the same perpetrator. The Employer shall not delay the commencement of Paid Sick Leave taken for one of the purposes in subsection 6-105-045(c)(2), nor delay payment of Wages, on the basis that the Employer has not yet received the required certification.

(6) Nothing in this section shall be construed to prohibit an Employer from taking disciplinary action, up to and including termination, against a Covered Employee who

uses Paid Sick Leave for purposes other than those described in this subsection 6-105-045(c)(2).

(d) This Section 6-105-045 provides minimum Paid Sick Leave requirements; it shall not be construed to affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater Paid Sick Leave benefits.

#### **6-105-050 Wage Theft.**

(a) Any Employer who fails to timely pay a Covered Employee in accordance with this chapter, or in accordance with any wage agreement between the Employer and the Covered Employee above the threshold required by this chapter, shall have committed wage theft.

(1) Wage theft includes the non-payment of any wages required for work performed, and also includes paid time off, whether legislatively or contractually required, and contractually required benefits to the Covered Employee.

(2) The timely pay of wages shall be in accordance with 820 ILCS 115/4.

(b) A Covered Employee may file a claim with the Office of Labor Standards or in a civil action, but not both. A Covered Employee who files a claim with the Illinois Department of Labor may not also file with the Office of Labor Standards unless the Illinois Department of Labor has referred the case to the Office of Labor Standards.

(c) The Employer shall be liable to the Covered Employee for the amount of any underpayments and shall also be liable for damages of either (i) 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid or (ii) the amount specified by the Illinois Wage Payment and Collection Act, 820 ILCS 115/14(a), if the amount in the state law is greater.

#### **6-105-060 Application to collective bargaining agreements.**

Nothing in this chapter shall be deemed to interfere with, impede, or in any way diminish the right of Employees to bargain collectively with their Employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this chapter. The minimum wage requirements of this chapter may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. Nothing in Section 6-105-045 shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in force on July 1, 2017. After that date, requirements of Section 6-105-045 may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms. In no event shall Section 6-105-045 apply to any Employee working in the construction industry who is covered by a bona fide collective bargaining agreement.

#### **6-105-070 Notice and posting.**

(a) Every Employer shall post in a conspicuous place at each facility where any Covered Employee works that is located within the geographic boundaries of the City a notice advising the Covered Employee of the current minimum Wages under this chapter, and of a Covered Employee's rights under this chapter, including the Covered Employee's right to Paid Sick Leave and ability to seek redress for wage theft. The notice shall also contain information about human trafficking and resources to help combat it. The Commissioner shall prepare and make available a form notice that satisfies the requirements of this subsection 6-105-070(a).

Employers that do not maintain a business facility within the geographic boundaries of the City and households that serve as the worksites for Domestic Workers are exempt from this subsection 6-105-070(a).

(b) With the first paycheck issued to a Covered Employee, and annually with a paycheck issued within 30 days of July 1st, every Employer shall provide a notice advising the Covered Employee of the current minimum Wages under this chapter, the Covered Employee's right to Paid Sick Leave, and information about human trafficking and resources to help combat it. The Commissioner shall prepare and make available a form notice that satisfies the requirements of this subsection 6-105-070(b).

#### **6-105-080 Retaliation prohibited.**

It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising any right under this chapter, including, but not limited to, disclosing, reporting, or testifying about any violation of this chapter or regulations promulgated thereunder. For purposes of this Section, prohibited adverse actions include, but are not limited to, unjustified termination, unjustified denial of promotion, unjustified negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment shown to be linked to such exercise of rights. An Employer shall not use its absence-control policy to count Paid Sick Leave as an absence that triggers discipline, discharge, demotion, suspension, or any other adverse activity.

#### **6-105-085 Investigations as a result of settlements.**

If the City learns that after being charged with wage rate violations an Employer has entered into two or more settlements within a year with the United States Department of Labor or the Illinois Department of Labor, the Commissioner of Business Affairs and Consumer Protection, in conjunction with the Chief Procurement Officer, is authorized to conduct an investigation to determine whether the person's conduct that resulted in those settlements evinces culpability that merits ineligibility under Section 1-23-020 or revocation under Section 4-4-280.

#### **6-105-090 Enforcement – Regulations.**

The Department of Business Affairs and Consumer Protection shall enforce this chapter, and the Commissioner is authorized to adopt rules for its proper administration and enforcement.

#### **6-105-100 Violation – Penalty.**

Any Employer who violates this chapter or any rule promulgated thereunder shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

#### **6-105-110 Private cause of action.**

If any Covered Employee is paid by the Covered Employee's Employer less than the Wage to which the Covered Employee is entitled under this chapter, the Covered Employee may recover in a civil action three times the amount of any such underpayment, together with

costs and such reasonable attorney's fees as the court allows. An agreement by the Covered Employee to work for less than the Wage required under this chapter is no defense to such action. If an Employer violates any of the Paid Sick Leave provisions in this chapter, the affected Covered Employee may recover in a civil action damages equal to three times the full amount of any unpaid sick time denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney's fees as the court allows.

#### **6-105-120 Retention of records.**

Each Employer shall maintain for at least five years, or for the duration of any claim, civil action, or investigation pending pursuant to this chapter, whichever is longer, a record of each Covered Employee's name and addresses, hours worked, pay rate, wage agreement, and records necessary to demonstrate compliance with this chapter. Failure to maintain these records shall create a presumption, rebuttable by clear and convincing evidence, that the Employer violated this Chapter 6-105 for the periods for which records were not retained for each Covered Employee. Each Employer shall provide each Covered Employee a copy of the records relating to such Covered Employee upon the Covered Employee's reasonable request.

### **Chapter 6-110: Chicago Fair Workweek Ordinance**

#### **6-110-010 Purpose and intent.**

This chapter shall be known and may be cited as the "Chicago Fair Workweek Ordinance". It is the purpose of this chapter and the policy of the City: (i) to enact and enforce fair and equitable employment scheduling practices in the City of Chicago; (ii) to provide the working people of Chicago with protections that ensure employer scheduling practices do not unreasonably prevent workers from attending to their families, health, education, and other obligations; and (iii) to require Employers needing additional hours, whether temporary or permanent, to first offer those hours to current part-time Covered Employees.

#### **6-110-020 Definitions.**

As used in this chapter, the following terms shall have the following meanings:

"Banquet Event" means a catered event staffed by employees dedicated to the event and held at a hotel. A banquet event is scheduled at the time that the customer provides a deposit in connection with a specific date.

"Building Services" means the care and maintenance of property, including, but not limited to, janitorial services, building maintenance services, and security services. This definition does not include on-duty police officers or other government officials performing their official duties.

"Commissioner" means the Commissioner of Business Affairs and Consumer Protection or the Commissioner's designee.

"Covered Employee" means an individual who meets all of the following (a) through (d):  
(a) performs work for an employer in the capacity of (i) an employee, as distinguished from a

contractor, determined pursuant to Internal Revenue Service guidelines, or (ii) a worker for a day and temporary labor service agency, as defined in the Day and Temporary Labor Services Act, 820 ILCS 175/5, who has been on assignment to the employer for 420 hours within an 18-month period; (b) spends the majority of their time at work for that employer while physically present within the City of Chicago; (c) performs the majority of their work in a Covered Industry for that employer; and (d) earns less than or equal to \$50,000 per year as a salaried employee, or less than or equal to \$26.00 per hour as an hourly employee, from that employer. For Hotels, set service fees that an employee earns are included in the calculation of the stated hourly wage threshold. An employee who staffs a Banquet Event and receives a set gratuity for that work shall not be deemed to be a Covered Employee for purposes of that Banquet Event. The stated wage amounts in this definition shall be increased yearly from the previous year in proportion to an increase in the CPI. Any increase shall be rounded up to the nearest multiple of \$0.05. Any increase shall remain in effect until any subsequent adjustment is made. On or before June 1, 2021, and on or before every June 1 thereafter, the Department shall make available to Employers a bulletin announcing the adjusted amount for the upcoming year.

"Covered Industry" means:

- (1) Building Services;
- (2) Healthcare;
- (3) Hotels;
- (4) Manufacturing;
- (5) Restaurants;
- (6) Retail; and
- (7) Warehouse Services.

"CPI" means the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor.

"Department" means the Department of Business Affairs and Consumer Protection.

"Dialysis Facility" means a facility that provides outpatient maintenance dialysis.

"Domestic Violence" means abuse, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, 750 ILCS 60/101, et seq.

"Employer" means a person who meets all of the following: (a) employs, (i) globally, 100 or more employees, or in the case of not-for-profit corporations, 250 or more employees, (ii) 50 of whom are Covered Employees; and (b) is primarily engaged in a Covered Industry. Numbers of Covered Employees will be aggregated if they are employed by members of a single unitary business group. For purposes of this subsection, the term "unitary business group" is as defined for Illinois income tax purposes.

"Family member" shall have the definition applied to that term in Section 6-105-010.

"Healthcare" means: (i) health care services or long-term care services that require licensure under one of the following Illinois licensing acts: the Hospital Licensing Act, the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Facilities Act, the Assisted Living and Shared Housing Act, the Life Care Facilities Act, the Ambulatory Surgical Treatment Center Act, or licensure as a Freestanding Emergency Center under the Emergency Medical Services Systems Act, or (ii) dialysis services provided by a Dialysis Facility.



"Hotel" shall have the definition applied to that term in Section 4-6-180.

"Manufacturing" means the production of tangible goods for use from raw or prepared materials by giving the materials new forms, qualities, properties, or combinations, whether by hand-labor or machines.

"Person" shall have the definition applied to that term in Section 1-4-090(e).

"Predictability Pay" means wages paid to a Covered Employee, calculated on an hourly basis at the Employee's regular rate as compensation for schedule changes made by an Employer to a Covered Employee's schedule pursuant to this chapter, in addition to any wages earned for work performed by that Employee.

"Regular rate" shall have the definition applied to that term in 29 U.S.C. § 207(e).

"Restaurant" means any business licensed to serve food in the City of Chicago which also has, globally, at least 30 locations and at least 250 employees in the aggregate. The term "Restaurant" shall not include businesses limited to three or fewer locations in the City that are owned by one Employer and operating under a sole franchise.

"Retail" means the sale to end users of tangible products that are primarily for personal, household, or family purposes, including, but not limited to, appliances, clothing, electronics, groceries, and household items.

"Self-schedule" means the practice of an employee to self-select work shifts without employer pre-approval pursuant to a mutually acceptable agreement.

"Sexual Violence" means any conduct proscribed by Article 11 of the Criminal Code of 2012, as well as the provisions in Article 12 related to stalking, 720 ILCS 5/12-7.3, 12-7.4, and 12-7.5.

"Shift" means the consecutive hours an Employer schedules a Covered Employee to work, including Employer-approved meal periods and rest periods.

"Ticketed Event" means a sporting, entertainment, civic, charitable or other event held at a venue with a capacity of at least 5,000 people and that requires a ticket for admission. The form of the ticket may be electronic, physical, or as a name on a list held by the event's ticket auditor.

"Warehouse Services" means the storage of goods, wares, or commodities for hire or compensation, and, in connection with this operation, may include the loading, packing, sorting, stacking, wrapping, distribution, and delivery of those goods.

"Work Schedule" means all of a Covered Employee's shifts, including specific start and end times for each shift, during a calendar week.

"Writing" or "written" means a printed or printable communication in physical or electronic format including a communication that is transmitted through electronic mail, text message or a computer system or is otherwise sent and stored electronically.

### **6-110-030 Application to collective bargaining agreements.**

Nothing in this chapter shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards of the provisions of this chapter. Nothing in this chapter shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in force on July 1, 2020. After July 1, 2020, the requirements of this chapter may be waived in a bona fide collective bargaining agreement, but only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms.

### **6-110-040 Advance notice of work schedules.**

#### **(a) Initial Estimate of Work Schedule.**

(1) Prior to or on commencement of employment, an Employer shall provide every Covered Employee with a good faith estimate in writing of the Covered Employee's projected days and hours of work for the first ninety days of employment, including:

(A) The average number of weekly work hours the Covered Employee can expect to work each week;

(B) Whether the Covered Employee can expect to work any on-call shifts;

(C) A subset of days and a subset of times or shifts that the Covered Employee can expect to work, or days of the week and times or shifts on which the Covered Employee will not be scheduled to work. The good faith estimate is not a contractual offer binding the Employer, but an estimate made without a good faith basis is a violation of this section.

(2) Prior to or on commencement of employment, the Covered Employee may request that the Employer modify the projected days and hours of work provided under subsection (a)(1) of this section. The Employer shall consider any such request, and in its sole discretion may accept or reject the request, provided that the Employer shall notify the Covered Employee of Employer's determination in writing within three days of the request.

#### **(b) Advance Notice of Work Schedule.**

(1) An Employer shall provide its Covered Employees with written notice of work hours by posting the Work Schedule no later than 10 days before the first day of any new schedule from July 1, 2020, to June 30, 2022, and shall post the Work Schedule no later than 14 days before the first day of any new Work Schedule beginning July 1, 2022, by posting the Work Schedule within the unit or department or workgroup either in a conspicuous place at the workplace that is readily accessible and visible to all Covered Employees or using the usual methods of communication, or both. The written Work Schedule shall include the shifts and on-call status of all current Covered Employees at that worksite. Additionally, upon written request of a Covered Employee, an Employer shall transmit the Work Schedule by electronic means.

(2) An Employer may change a Covered Employee's Work Schedule after it is posted and/or transmitted, up to the deadline articulated in subsection (b)(1) without penalty. After that deadline, such changes shall be subject to the notice and compensation requirements set forth in this chapter.

(3) Covered Employees who Self-schedule or work in a venue that regularly hosts Ticketed Events shall not be bound by this subsection (b), nor shall their Employers to the extent that the Covered Employee Self-schedules or works in a venue that regularly hosts Ticketed Events.

(4) A Covered Employee who is a victim of Domestic Violence or Sexual Violence or who has a family or household member who is a victim may request that the Covered Employee's Work Schedule not be posted or transmitted to other employees. An oral

or written request shall be sufficient and implemented immediately and is sufficient until the Covered Employee gives written permission to post the Covered Employee's schedule. An Employer may request a written statement from the Covered Employee that states that the Covered Employee is, or has a family or household member who is, a victim of Domestic Violence or Sexual Violence. The written statement shall constitute the documentation needed for the Employer to implement the request. The Employer may not require a written statement more than once in a calendar year from any Covered Employee for this purpose.

**6-110-050 Schedule changes.**

(a) *Right to Decline.* Subject to the exceptions in subsection (d) of this section, a Covered Employee has the right to decline any previously unscheduled hours that the Employer adds to the Covered Employee's schedule, and for which the Covered Employee has been provided advance notice of less than 10 days before the first day of any new schedule from July 1, 2020, to June 30, 2022, and less than 14 days before the first day of any new schedule beginning July 1, 2022.

(b) *Alterations.* Subject to the exceptions in subsection (d) of this section, if an Employer alters a Covered Employee's Work Schedule after the deadline articulated in Section 6-110-040(b)(1), in addition to the regular rate of pay, the Covered Employee shall receive:

(1) One hour of Predictability Pay for each shift in which the Employer:

(A) adds hours of work.

(B) changes the date or time of a work shift with no loss of hours.

(C) with more than 24 hours' notice, cancels or subtracts hours from a regular or on-call shift.

(2) No less than 50 percent of the Covered Employee's regular rate of pay for any scheduled hours the Covered Employee does not work because the Employer, with less than 24 hours' notice subtracts hours from a regular or on-call shift or cancels a regular or on-call shift, including while the Covered Employee is working on a shift.

(c) The Employer shall amend the posted Work Schedule and transmit it to the Covered Employee in writing within 24 hours of a schedule change.

(d) *Exceptions.* The requirements of this section shall not apply in the following circumstances:

(1) A Work Schedule change because:

(A) of threats to Employers, Covered Employees, or property, or when civil authorities recommend that work not begin or continue;

(B) public utilities fail to supply electricity, water, or gas, or the sewer system fails to serve the location of work;

(C) of acts of nature (including, but not limited to, flood, earthquake, tornado, or blizzard);

(D) war, civil unrest, strikes, threats to public safety, or pandemics.

(2) A Work Schedule change that is the result of a mutually agreed upon shift trade or coverage arrangement between Covered Employees, subject to any existing Employer policy regarding required conditions for Covered Employees to exchange shifts.

(3) A Work Schedule change that is mutually agreed to by the Covered Employee and Employer and is confirmed in writing.

(4) A Covered Employee requests a shift change, that is confirmed in writing, including but not limited to use of sick leave, vacation leave, or other policies offered by the Employer.

(5) An Employer subtracts hours from a Work Schedule for disciplinary reasons for just cause, provided the Employer documents the incident leading to the Covered Employee's discipline in writing.

(6) A Banquet Event is scheduled or rescheduled under circumstances that are outside the Employer's control, the attendee counts increase by more than 20%, or a new banquet event is scheduled within 48 hours of the event occurring, after the Employer provides the posted Work Schedule.

(7) When, in Manufacturing, events outside of the control of the manufacturer result in a change in the need for Covered Employees, including, but not limited to, when a customer requests the manufacturer to delay production or there is a delay in the receipt of raw materials or component parts needed for production.

(8) With regard to Healthcare Employers, in (i) any declared national, State, or municipal disaster or other catastrophic event, or any implementation of an Employer's disaster plan, or incident causing a hospital to activate its Emergency Operations Plan, that will substantially affect or increase the need for healthcare services; (ii) any circumstance in which patient care needs require specialized skills through the completion of a procedure; or (iii) any unexpected substantial increase in demand for healthcare due to large public events, severe weather, violence, or other circumstances beyond the Employer's control.

(9) A Ticketed Event is cancelled, scheduled, rescheduled, postponed, delayed, increases in expected attendance by 20% or more, or increases in duration, due to circumstances that are outside the Employer's control. Additional hours due to a change in a Ticketed Event's duration that fall within this exemption will also be fully exempt from this section.

(10) When Covered Employees Self-schedule.

#### **6-110-060 Offer of additional work hours to existing employees.**

(a) Subject to the limitations in this chapter, when an Employer needs to fill additional shifts of work, the Employer shall first offer additional shifts of work to existing Covered Employees if the Covered Employees are qualified to do the additional work, as determined by the Employer. If offered shifts are not accepted by Covered Employees, the shifts shall be offered to temporary or seasonal workers who have worked on behalf of the Employer for two or more weeks.

(b) An Employer shall distribute additional shifts in compliance with subsection (a), provided that:

(1) the Employer's system for distribution of hours must not discriminate on the basis of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity or expression, disability, age, or marital or familial status;

(2) whenever practicable, the Employer shall first offer those hours to part-time Covered Employees.

(c) This section shall not be construed to require any employer to schedule employees to work hours required to be paid at a premium rate.

#### **6-110-070 Right to rest.**

(a) A Covered Employee has the right to decline Work Schedule hours that are less than 10 hours after the end of the previous day's shift.

(b) When a Covered Employee works a shift that begins less than 10 hours after the end of the previous day's shift, the Employer shall pay the Covered Employee at a rate of 1.25 times the Covered Employee's regular rate of pay for that shift.

**6-110-080 Right to request a flexible working arrangement.**

A Covered Employee has the right to request a modified Work Schedule, including, but not limited, to additional shifts or hours; changes in days of work; changes in shift start and end times; permission to exchange shifts with other employees; limitations on availability; part-time employment; job sharing arrangements; reduction or change in work duties; or part-year employment.

**6-110-090 Notice and posting.**

(a) Every Employer shall post in a conspicuous place in each facility where any Covered Employee works that is located within the geographic boundaries of the City a notice advising the Covered Employees of their rights under this chapter. The Commissioner shall prepare and make available a form notice that satisfies the requirements of this subsection (a).

(b) Every Employer shall provide with the first paycheck subject to this chapter a notice advising the Covered Employee of their rights under this chapter. The Commissioner shall prepare and make available a form notice that satisfies the requirements of this subsection (b).

(c) All notices and postings that name individual Covered Employees shall comply with Section 6-110-040.

**6-110-100 Retaliation prohibited.**

(a) It shall be unlawful for any Employer to discriminate in any manner or take any adverse action against any Covered Employee in retaliation for exercising any right under this chapter, including, but not limited to, disclosing, reporting, or testifying about any violation of this chapter or rules promulgated thereunder. For purposes of this section, prohibited adverse actions include, but are not limited to, termination, denial of promotion, negative evaluations, punitive schedule changes, punitive decreases in the desirability of work assignments, and other acts of harassment shown to be linked to such exercise of rights.

(b) A violation of this section shall subject the Employer to a \$1,000.00 fine.

**6-110-110 Avoidance of application.**

It shall be unlawful for an Employer to engage in any of the following to avoid coverage under this chapter: (i) change a regular rate of pay, (ii) interfere with, restrain, deny, or change scheduled work days or hours, or (iii) hire, rehire, terminate, or suspend, even temporarily.

**6-110-120 Enforcement – Rules.**

The Department shall administer and enforce this chapter and is authorized to adopt rules to effectuate that administration and enforcement.

**6-110-130 Violation – Penalty.**

Any Employer who violates this chapter or any rule promulgated thereunder shall be subject to a fine of not less than \$300.00 nor more than \$500.00 for each offense. Each Covered Employee whose rights are affected shall constitute a separate and distinct offense to which a separate fine shall apply. Each day that a violation occurs shall constitute a separate and distinct offense to which a separate fine shall apply. Any agreement between the Employee and Employer that would violate this chapter is no defense to an enforcement action.

**6-110-140 Private cause of action.**

(a) An employee may initiate a civil action asserting that they were subjected to a violation of this chapter after the following sequence of events occurs: (i) the employee submits to the Department a factually supported written complaint describing the violation, and (ii) the Department forwards to the Employer the complaint and provides the Employer with an opportunity to either contest the alleged violation, in which case the Employer shall provide to the Department factual support for its position, or cure the alleged violation, in which case the Employer shall provide the Department with detail as to actions it has taken and will take to make the affected employee(s) whole and eliminate the basis for future similar complaints, and (iii) the Department has notified the complaining employee and the Employer in writing that the Department considers the complaint to be closed. The Department may consider a complaint closed because: the complaint has been cured by the Employer, or the Department has deemed the complaint justified and supported and has enforced it against the Employer to conclusion, or the Department has deemed the complaint unjustified or unsupported.

(b) Any claim or action filed under this chapter must be made within two years of the alleged conduct resulting in the complaint.

(c) A Covered Employee who prevails in a civil action pursuant to this section shall be entitled to an award of compensation for any damages sustained, including the payment of Predictability Pay unlawfully withheld, as a result of the violation, including litigation costs, expert witness fees, and reasonable attorney's fees.

**6-110-150 Non-exclusive remedy.**

The remedies, fines, and procedures provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties, and procedures established by law which may be pursued to address violations of this chapter.

**6-110-160 Retention of records.**

Each Employer shall maintain for at least three years, or for the duration of any claim, civil action, or investigation pending pursuant to this chapter, whichever is longer, a record of each Covered Employee's name, hours worked, pay rate, and records necessary to demonstrate compliance with this chapter, including but not limited to good faith estimates of Work Schedules, initial posted schedule and all subsequent changes to that schedule, consent to work hours where such consent is required by this chapter, and documentation of offers of hours of work to existing staff and responses to such offers. Each Employer shall provide each Covered Employee a copy of the records relating to such Covered Employee upon the Covered Employee's reasonable request.

**6-110-170 Access to work site.**

Each Employer shall permit access to work sites and relevant records for authorized City representatives for the purpose of monitoring compliance with this chapter and investigating Employee complaints of noncompliance, including production for inspection and copying of its employment records.

**SECTION 6.** Solely in order to effectuate reorganization, Chapter 1-24, Chapter 1-25, and Chapter 2-172 are repealed in their entirety. This action does not in any way impair their

ongoing viability as renumbered. Any action that had been commenced under any of the chapters here mentioned shall continue under its equivalent provision as it appears in this ordinance.

**SECTION 7.** The 2020 Management Ordinance, passed November 26, 2019, and published on pages 11390 through 11433 of the Journal of Proceedings of the City Council for that date, with the pertinent section being found on page 11425, is hereby amended by deleting the language stricken and adding the language underscored as follows:

SECTION 3. The Commissioner of Business Affairs and Consumer Protection shall conduct a one-year study, covering the period from calendar year 2020 July 1, 2021, to July 1, 2022, that examines the economic impact of tipped wages and the effectiveness of current enforcement.

**SECTION 8.** Following passage and approval, this ordinance shall take effect on August 1, 2021, except for Section 6-100-020, which will take effect on January 1, 2022, and Section 6-105-050, which shall take effect ten days after passage and publication.