



City of Chicago



O2022-665

Office of the City Clerk

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Meeting Date:	2/23/2022
Sponsor(s):	Lightfoot (Mayor)
Type:	Ordinance
Title:	Amendment of Municipal Code Titles 2, 4, 6 and 8 modifying and expanding sexual harassment prohibitions
Committee(s) Assignment:	Committee on Workforce Development

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OFFICE OF THE MAYOR
CITY OF CHICAGO

LORI E. LIGHTFOOT
MAYOR

February 23, 2022

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Human Relations, I transmit herewith an ordinance amending the Municipal Code to enhance the City's laws proscribing sexual harassment.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink that reads "Lori E. Lightfoot".

Mayor

ORDINANCE

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

SECTION 1. Section 2-92-612 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-92-612 Policy prohibiting sexual harassment.

(a) For purposes of this section, the following definitions shall apply:

"Contract" means any contract, purchase order, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the ~~city~~ City and whose cost is to be paid from funds belonging to or administered by the ~~city~~ City.

"Contractor" means the person to whom a contract is awarded.

"Sexual harassment" means any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; or (ii) requests for sexual favors or conduct of a sexual nature when (i) 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (ii) 2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (iii) 3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.

(Omitted text is unaffected by this ordinance)

(b) Any solicitation for a contract advertised or otherwise communicated ~~on or after June 30, 2018,~~ and any contract entered into as a result of such solicitation, shall include a specification that the contractor shall, as prescribed by the Chief Procurement Officer, attest by affidavit that the contractor has a written policy prohibiting sexual harassment ~~that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment; and (iii) the legal recourse available for victims of sexual harassment in compliance with Section 2-160-040.~~

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 2-120-510 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-120-510 Powers and duties.

The Commission shall have the following powers and duties, in addition to those assigned by other provisions of the Municipal Code:

(Omitted text is unaffected by this ordinance)

(e) ~~to initiate, receive, and investigate, and adjudicate~~ complaints of alleged violations of Chapters 2-160 and 5-8 of the Municipal Code. ~~A complaint must be filed no later than 300 days after the alleged violation. The person against whom a complaint is made shall be given a copy thereof within 10 days after it is filed, and shall be allowed to be present and offer a defense at any hearing thereon. Any person who files a complaint or against whom a complaint is made may be represented by counsel at any stage of conciliation, investigation or hearing on the complaint. The filing of a complaint pursuant to this section does not bar any person from seeking any other remedy that may be provided by law, except that in certain instances one or more intergovernmental agreements may specify before which governmental agency or court a person may pursue his or her complaint. If the commission concludes, based on objective facts, that a complaint filed pursuant to this section is clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment, the commission is authorized to impose a fine on the complainant of not less than \$250.00 and up to \$1,000.00 for each such filing;~~

(Omitted text is unaffected by this ordinance)

SECTION 3. Chapter 2-120 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-120-511, as follows:

2-120-511 Adjudicatorial proceedings.

(a) Except as otherwise set by subsection (b) below, a complaint must be filed no later than 365 days after the alleged violation. The person against whom a complaint is made shall be given a copy thereof within 10 days after it is filed, and shall be allowed to be present and offer a defense at any hearing thereon. Any person who files a complaint or against whom a complaint is made may be represented by counsel at any stage of conciliation, investigation, or hearing on the complaint. The filing of a complaint pursuant to this section does not bar any person from seeking any other remedy that may be provided by law, except that in certain instances one or more intergovernmental agreements may specify before which governmental agency or court a person may pursue the complaint. If the Commission concludes, based on objective facts, that a complaint filed pursuant to this section is clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment, the Commission is authorized to impose a fine on the complainant of not less than \$250.00 and up to \$1,000.00 for each such filing.

(b) In cases of sexual harassment, the Commission may delay the issuance of a complaint to the respondent up to 30 days after it is filed.

SECTION 4. Section 2-156-010 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-156-010 Definitions.

The following definitions shall apply for purposes of this chapter:

(Omitted text is unaffected by this ordinance)

(z) "Sexual harassment" means any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; or (ii) requests for sexual favors or conduct of a sexual nature when (i 1) submission to such conduct is made either explicitly or implicitly a term or condition of an

individual's employment; or (ii 2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (iii 3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.

SECTION 5. Section 2-156-145 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-156-145 Ethics and sexual harassment education.

(a) (1) Except as otherwise provided in subsection (a)(2), each official, member of an alderman's personal staff, ~~city council~~ City Council committee staff member, and each person holding a senior executive service position with the ~~city~~ City (all positions listed in Appendix A to Chapter 2-74 of the ~~code~~ Code) shall attend an ethics education seminar offered by the ~~board of ethics~~ Board of Ethics within 120 days of becoming an official, member of an alderman's personal staff, ~~city council~~ City Council committee staff member, or holding a senior executive service position with the ~~city~~ City; and ~~every four years~~ annually thereafter.

(2) Each ~~city~~ City employee and official not covered in subsection (a)(1) shall complete an ethics training program in a manner specified and offered by the ~~board of ethics~~ Board of Ethics within 60 days of employment with the ~~city~~ City or becoming a ~~city~~ City official and annually thereafter.

(3) The seminar offered in accordance with this subsection (a) shall educate persons required to take the seminar as to their duties and responsibilities under this chapter.

(Omitted text is unaffected by this ordinance)

SECTION 6. Section 2-156-465 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-156-465 Sanctions.

(Omitted text is unaffected by this ordinance)

(b) Fines. The following fines shall, as appropriate, apply to violations of this chapter:

(Omitted text is unaffected by this ordinance)

(7) *Violation of sexual harassment provisions.* Any person who violates Section 2-156-149 shall be subject to fine of not less than ~~\$1,000.00~~ \$5,000.00 and not more than ~~\$5,000.00~~ \$10,000.00 for each violation.

(Omitted text is unaffected by this ordinance)

SECTION 7. Section 2-160-020 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-160-020 Definitions.

Whenever used in this chapter:

(a) "Age" means chronological age of not less than 40 years.

(aa) "Applicant" means any person pursuing employment with an employer or with or through an employment agency.

(aaa) "Credit history" means a record of an individual's past borrowing and repaying, including information about late payments and bankruptcy.

(aaaa) "Credit report" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing, credit capacity, or credit history.

(b) "Credit transaction" means the grant, denial, extension, or termination of credit to an individual.

(c) "Disability" means:

(i) a determinable physical or mental characteristic which may result from disease, injury, congenital condition of birth or functional disorder including, but not limited to, a determinable physical characteristic which necessitates a person's use of a guide, hearing, or support dog; or

(ii) the history of such a characteristic; or

(iii) the perception of such a characteristic by the person complained against.

(d) "Employee" means an individual who is engaged to work in within the geographical boundaries of the City of Chicago for or under the direction and control of another for monetary or other valuable consideration.

(dd) "Employer" means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that provides employment for one or more employees in the current or preceding calendar year, and any agent of such an entity or person. To qualify as an employer for purposes of Section 2-160-054, such individual, group, or entity must: (1) be subject to one or more of the license requirements in Title 4 of this Code; ~~and/or~~ (2) maintain a business facility within the geographic boundaries of the City; or (3) both (1) and (2). The City of Chicago qualifies as an employer for purposes of this Section 2-160-054.

(ddd) "Employment" means any occupation or vocation.

(e) "Employment agency" means a person that undertakes to procure employees or opportunities to work for potential employees, either through interviews, referrals, advertising, or any combination thereof.

(f) "Gender identity" means the actual or perceived appearance, expression, identity, or behavior, of a person as being male or female, whether or not that appearance, expression, identity, or behavior is different from that traditionally associated with the person's designated sex at birth

(g) "Marital status" means the legal status of being single, married, divorced, separated, or widowed.

(h) "Military status" means (1) being on active duty in, or in any reserve component of, any branch of the armed forces of the United States, the State of Illinois, or any other state; (2) being a veteran of any such branch of the armed forces; or (3) the fact of discharge from any such branch of the armed forces and the reasons for such discharge.

(i) "Parental status" means the status of living with one or more dependent minor or disabled children.

(j) "Public accommodation" means a place, business establishment, or agency that sells, leases, provides, or offers any product, facility, or service to the general public, regardless of ownership or operation (i) by a public body or agency; (ii) for or without regard to profit; or (iii) for a fee or not for a fee. An institution, club, association, or other place of accommodation which has more than 400 members, and provides regular meal service and regularly receives payment for dues, fees, accommodations, facilities, or services from or on behalf of nonmembers for the furtherance of trade or business shall be considered a place of public accommodation for purposes of this chapter.

(k) "Religion" means all aspects of religious observance and practice, as well as belief, except that with respect to employers "religion" has the meaning ascribed to it in Section 2-160-050.

(l) ~~"Sexual orientation" means the actual or perceived state of heterosexuality, homosexuality or bisexuality.~~ a person's actual or perceived sexual and emotional attraction, or lack thereof, to another person.

(m) "Sexual harassment" means any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; or (ii) requests for sexual favors or conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.

(n) "Source of income" means the lawful manner by which ~~an individual supports himself and his or her~~ individuals support themselves and their dependents.

SECTION 8. Section 2-160-040 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

2-160-040 Sexual harassment

(a) No employer, employee, agent of an employer, employment agency, or labor organization shall engage in sexual harassment. An employer shall be liable for sexual harassment by nonemployees or nonmanagerial and nonsupervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

(b) Every employer shall have a written policy document prohibiting sexual harassment.

(1) The written policy document shall include at least the following

- (A) A statement that sexual harassment is illegal in Chicago.
- (B) The definition of sexual harassment as defined in Section 2-160-
- (C) A requirement that all employees participate in:
 - (i) sexual harassment prevention training annually.
 - (a) Employees shall participate in a minimum of one hour of sexual harassment prevention training annually.
 - (b) Anyone who supervises or manages employees shall participate in a minimum of two hours of sexual harassment prevention training annually.
 - (ii) one hour of bystander training annually.
- (D) Examples of prohibited conduct that constitute sexual harassment.
- (E) Details on:
 - (i) how an individual can report an allegation of sexual harassment, including, as appropriate, instructions on how to make a confidential report, with an internal complaint form, to a manager, employer's corporate headquarters or human resources department, or other internal reporting mechanism; and
 - (ii) legal services, including governmental, available to employees who may be victims of sexual harassment.
- (F) A statement that retaliation for reporting sexual harassment is illegal in Chicago.

(2) The written policy document shall be provided in an employee's primary language within the first calendar week of that employee's employment.

(c) Every employer shall require its employees to participate in the trainings and time requirements required by Section 2-160-040(b)(1)(C). For the annual required sexual harassment prevention training, an employer may use the model sexual harassment prevention training program prepared by the State of Illinois required under 775 ILCS 5/2-109, or may establish its own sexual harassment prevention training program that equals or exceeds the minimum standards set in 775 ILCS 5/2-109(B).

(d) Every employer shall conspicuously display in at least one location where employees commonly gather posters designed by the Commission about the prohibitions on sexual harassment. The employer shall display at least one poster in English and one poster in Spanish.

(e) Any person who violates subsections (b), (c), or (d) of this section shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. Every day that a violation shall continue shall constitute a separate and distinct offense.

SECTION 9. Section 2-160-100 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-160-100 Retaliation prohibited.

No person shall retaliate against any individual because such individual has:

- (1) ~~opposed what he or she~~ an individual reasonably and in good faith believes to be an incident of unlawful discrimination or sexual harassment;

(Omitted text is unaffected by this ordinance)

SECTION 10. Section 2-160-120 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

2-160-120 Violation – Penalty.

Unless another fine or penalty is specifically provided in this Code, any person who violates ~~any provision of this ordinance as determined by this commission~~ Commission shall be fined not less than ~~\$100.00~~ \$5,000.00 and not more than ~~\$1,000.00~~ \$10,000.00 for each offense. In addition, any City licensee who violates ~~any provision of this chapter or any rule or regulation promulgated thereunder~~ may be subject to license discipline pursuant to Section 4-4-280 of this Code. Every day that a violation shall continue shall constitute a separate and distinct offense.

SECTION 11. Section 4-6-180 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

4-6-180 Hotel.

(a) Definitions. As used in this section:

(Omitted text is unaffected by this ordinance)

“Sexual harassment” means any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; or (ii) request for sexual favors, or other verbal or physical conduct of a sexual nature, when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.

(Omitted text is unaffected by this ordinance)

(d) Departmental duties.

(1) ~~The department of buildings~~ Department of Buildings shall inspect each licensed hotel at least twice every year. Such inspection shall verify that the premises comply in all respects with the ventilation, sanitary, fire prevention and building provisions of this Code and the laws of the State of Illinois pertaining to such establishments. If, within the 12-month period prior to the date of any such bi-annual inspection, the hotel was inspected by the ~~department of buildings~~ Department of Buildings in connection with a periodic inspection, code compliance inspection or certificate of occupancy, such inspection shall be deemed to meet the inspection requirement set forth herein. The ~~department of health~~ Department of Health, ~~fire department~~ Fire Department, and ~~department of buildings~~ Department of Buildings are authorized to conduct such additional inspections as they deem necessary to maintain health and safety.

(2) The ~~superintendent of police~~ Superintendent of Police shall, when making a report relative to criminal activity on or immediately adjacent to the licensed establishment (1) conduct an investigation to determine whether a public nuisance within the meaning of subsection (e)(f)(2) of this section occurred at the establishment or on immediately adjacent property; and (2) prepare a written investigative report summarizing the findings of such investigation and recommending appropriate legal and administrative action which may be taken in response to such public nuisance, including, but not limited to, license suspension or revocation, and (3) transmit the investigative report, within 48 hours of the incident identified in the police report, to the ~~commissioner of business affairs and consumer protection~~

Commissioner of Business Affairs and Consumer Protection and ~~corporation counsel~~ Corporation Counsel for further action as warranted. Upon request by any alderman or city council ~~City Council~~ committee, the ~~corporation counsel~~ Corporation Counsel shall make the report submitted pursuant to this subsection available to such alderman or city council City Council committee for review.

(e) *Legal duties.* Each licensee engaged in the business of hotel shall have a duty to:

(Omitted text is unaffected by this ordinance)

(2) develop, maintain and comply with a written anti-sexual harassment policy to protect employees against sexual assault and sexual harassment by guests. Such policy shall: (a) encourage employees ("complaining employee") to immediately report to the licensee instances of alleged sexual assault and sexual harassment by guests ("offending guest"); (b) describe the procedures that the complaining employee and licensee shall follow in such cases; (c) instruct the complaining employee to cease work and to leave the immediate area where danger is perceived until hotel security personnel or members of the Police Department arrive to provide assistance; (d) offer temporary work assignments to the complaining employee during the duration of the offending guest's stay at the hotel, which may include assigning the employee to work on a different floor or at a different station or work area away from the offending guest; (e) provide the complaining employee with necessary paid time off to: (i) sign a complaint with the Police Department against the offending guest, and (ii) testify as a witness at any legal proceeding that may ensue as a result of such complaint, if the complaining employee is still in the licensee's employ at the time such legal proceeding occurs; (f) inform the employee that the Illinois Human Rights Act, Chicago Human Rights Ordinance and Title VII of the Civil Rights Act of 1964 provide additional protections against sexual harassment in the workplace; and (g) inform the employee that subsection (f)(3) of this section makes it illegal for an employer to retaliate against any employee who reasonably uses a panic button or notification device, or in good faith avails himself or herself of the requirements set forth in subsection (e)(2)(c), (e)(2)(d), (e)(2)(e) of this subsection, or discloses, reports or testifies about any violation of this section or rules promulgated thereunder. Nothing in this subsection (e)(2) shall be construed to relieve the licensee from compliance with Section 4-4-306; and

(3) provide all employees with a current copy in English, Spanish, and Polish of the hotel's anti-sexual harassment policy required by subsection (e)(2), and post such policy in English, Spanish, and Polish in conspicuous places in areas of the hotel, such as supply rooms or employee lunch rooms, where employees can reasonably be expected to see it. This policy shall be in addition to the written policy document prohibiting sexual harassment required by Section 2-160-040.

(Omitted text is unaffected by this ordinance)

(f) *Prohibited acts.* It shall be unlawful for any licensee engaged in the business of hotel to:

(Omitted text is unaffected by this ordinance)

(2) knowingly permit prostitution, pimping, gambling or illegal possession or delivery of, or trafficking in, controlled substances or other drugs, including cannabis, to occur on or immediately adjacent to the licensed establishment; or to fail to discover such illegal acts on or immediately adjacent to the licensed establishment under circumstances in which a

reasonable person, exercising ordinary care and diligence, would infer that such activity is taking place; or to fail to report to the police in a timely manner any criminal activity occurring on or immediately adjacent to the licensed establishment, if such criminal activity is observed by or reported to the licensee. Provided, however, that it shall be an affirmative defense to any prosecution under this subsection if the licensee immediately notified the police of the public nuisance occurring on or immediately adjacent to the licensed establishment. For purposes of this subsection, the term "licensee" also includes employees and agents of the licensee.

(Omitted text is unaffected by this ordinance)

SECTION 12. Chapter 6-100 of the Municipal Code of Chicago is hereby amended by adding a new Section 6-100-040, as follows:

6-100-040 Notice and posting inspections.

The Commissioner has the duty and authority to enforce the notice and posting requirements imposed by Sections 2-160-040(b) and (d), 6-105-070, and 6-110-090.

SECTION 13. Chapter 8-4-085 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

8-4-085 Hate crimes.

(Omitted text is unaffected by this ordinance)

(d) As used in this section, "sexual orientation" means ~~heterosexuality, homosexuality or bisexuality~~ a person's actual or perceived sexual and emotional attraction, or lack thereof, to another person.

(Omitted text is unaffected by this ordinance)

SECTION 14. This ordinance shall be in full force and effect 10 days following passage and publication, except for Section 8, which shall take effect on July 1, 2022.