



# Office of the City Clerk

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## Legislation Details (With Text)

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**Final action:**

**Title:** Amendment of Municipal Code Title 1 by adding new Chapter 1-25 entitled "Chicago Fair Workweek Ordinance"

**Sponsors:** Arena, John, Sadlowski Garza, Susan, Curtis, Derrick G., Waguespack, Scott, Osterman, Harry, Moore, David H., Silverstein, Debra L., Moore, Joseph, Mell, Deborah, Maldonado, Roberto, Hairston, Leslie A., Solis, Daniel, Mitts, Emma, Taliaferro, Chris, Cappleman, James, Sposato, Nicholas, Munoz, Ricardo, Ervin, Jason C., Foulkes, Toni, Moreno, Proco Joe, Quinn, Marty, King, Sophia D., Villegas, Gilbert, Ramirez-Rosa, Carlos, Pawar, Ameya, Tabares, Silvana, Dowell, Pat, Santiago, Milagros, Lopez, Raymond A., Sawyer, Roderick T.

**Indexes:** Ch. 25 Chicago Fair Workweek Ordinance

**Attachments:** 1. O2018-5089.pdf

Date	Ver.	Action By	Action	Result
5/29/2019	1	City Council	Failed to Pass	
6/27/2018	1	City Council	Referred	

Committee on Workforce Development  
June 27, 2018 City Council Meeting

### ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO SECTION 1. The Municipal Code of Chicago is amended by adding to Title 1 a new chapter, chapter 1-25, entitled the Chicago Fair Workweek Ordinance as follows:

#### CHAPTER 1-25 CHICAGO FAIR WORKWEEK ORDINANCE

##### 1-25-010 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; and (ii) to provide the working people of Chicago with protections that ensure employer scheduling practices to not unreasonable prevent workers from attending to their families, health, education and other personal and familial obligations.

## 1-25-020 Definitions

As used in this Ordinance, the following terms shall have the following meanings: "Calendar Week" shall mean a period of seven consecutive days starting on Sunday. "City" shall mean the City of Chicago.

"Commissioner" means the Commissioner of the Department of Business Affairs and Consumer Protection or his or her authorized representatives, or that of any succeeding office, agency or department.

"Construction industry" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating,

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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 any 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. An employee who is paid on a salary basis and whose rate of pay per week is greater than

the current 40<sup>th</sup> percentile of weekly earnings of full-time non-hourly workers in the Midwest Census Region, exclusive of board, lodging, or other facilities, as determined by the U.S. Department of Labor, but never less than \$50,000 per year, or \$962 per week, shall not be considered a Covered Employee for the purposes of this Chapter. An employee shall be considered to be paid on a "salary basis" if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not

subject to reduction because of variations in the quality or quantity of the work performed, and without regard to the number of days or hours worked. An Employee shall be a Covered Employee if the advance notice of his or her Work Schedule as required under Section 50(b) provides the Employee with the hours of work needed to be a Covered Employee, If there is any subsequent change in scheduled hours, a decrease in hours shall not cause an Employee to lose his or her status as a Covered Employee, and an increase in hours shall allow an Employee to be a Covered Employee, including those offered under Section 50. No other terms or conditions of employment, including the location of work performed, shall be required to determine who is a Covered Employee.

"Department" means the Department of Business Affairs and Consumer Protection or any succeeding office, agency or department.

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

"Employee" shall mean any individual suffered or permitted to work by an Employer. "Employee" does not include a person who the employer establishes: (i) has been and will continue to be free from control and direction over the performance of his or her work, both under a contract of service and in fact; (ii) is engaged in an independently established trade, occupation, profession or business; or (iii) is deemed a legitimate sole proprietor or partnership. A sole proprietor or partnership shall be deemed to be legitimate if the employer establishes that:

- (a) the sole proprietor or partnership is performing the service free from the direction or control over the means and manner of providing the service, subject only to the right of the employer for whom the service is provided to specify the desired result;
- (b) the sole proprietor or partnership is not subject to cancellation or destruction upon severance of the relationship with the employer;
- (c) the sole proprietor or partnership has a substantial investment of capital in the sole proprietorship or partnership beyond the ordinary tools and equipment and a personal vehicle;
- (d) the sole proprietor or partnership owns the capital goods and gains the profits and bears the losses of the sole proprietorship or partnership;
- (e) the sole proprietor or partnership makes its services, available to the general public on a continuing basis;

- f) the sole proprietor or partnership includes services rendered on a Federal Income Tax Schedule as an independent business or profession;
- g) the sole proprietor or partnership performs services for the contractor under the sole proprietorship's or partnership's name;
- h) when the services being provided require a license or permit, the sole proprietor or partnership obtains and pays for the license or permit in the sole proprietorship's or partnership's name;

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- (i) the sole proprietor or partnership furnishes the tools and equipment necessary to provide the service;
- (j) if necessary, the sole proprietor or partnership hires its own employees without approval of the employer, pays the employees without reimbursement from the employer and reports the employees' income to the Internal Revenue Service;
- (k) the employer does not represent the sole proprietorship or partnership as an employee of the employer to the public; and
- (l) the sole proprietor or partnership has the right to perform similar services for others on whatever basis and whenever it chooses.

"Employer" means any individual, natural person, corporation, nonprofit corporation, general partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, any other legal or commercial entity, whether domestic or foreign, or any person or group or persons who directly or indirectly (including through the services of a temporary services or staffing agency or similar entity) employs or exercises control over the wages, hours or working conditions of one or more Employees. To qualify as an Employer, such individual, group, or entity must: (i) maintain a business facility within the geographic boundaries of the City or (ii) be subject to one or more of the license requirements in Title 4 of this Code and (iii) employ fifty or more individuals in the aggregate within a dwelling unit, residence, or any other location.

"Family or household member" means a spouse, party to a civil union, parent, child, any other individual related by blood or current or former marriage or civil union, other person who shares a relationship through a child, persons whose close relationship with the employee is the equivalent of a family relationship, or persons jointly residing in the same household.

"Predictability Pay" means wages paid to an Employee, calculated on an hourly basis at the Employee's regular rate of pay as that term is used in 29 U.S.C. § 207(e), as compensation for schedule changes made by an Employer to an Employee's schedule pursuant to this Chapter, in addition to any wages earned for work performed by that Employee.

"Sexual Violence" means any conduct proscribed by the Criminal Code of 2012, 720 ILCS 5/, in Article 11 and Sections 12-7.3, 12-7.4, and 12-7.5

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

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

**1-25-030 - Application to Collective Bargaining Agreements**

- a) To the extent permitted by law, all or any portion of the applicable requirements of this Chapter may be waived in a bona fide collective bargaining agreement; provided, that such waiver is explicitly set forth in such agreement in unambiguous terms and that the parties thereto intend to and do thereby waive all of or a specific portion(s) of this Chapter. In no event shall this Chapter apply to any Employee working in the construction industry who is covered by a bona fide collective bargaining agreement.
- b) An Employee subject to the Hours of Service requirements of 49 U.S.C. Chapter 211 of the United States Code and 49 CFR Part 228 of the Code of Federal Regulations shall not be considered an Employee for purposes of this Chapter.

**1-25-040 - Exclusions**

This Chapter shall not apply to any governmental entity other than the City, a category that, for purposes of this Chapter includes, but is not limited to, any Sister Agency, any unit of local government, the Illinois state government, and the government of the United States, as well as any other federal, state, or local governmental agency or department.

**1-25-050 - Advance Notice of Work Schedules**

(a) Initial Estimate of Work Schedule

- (i) Prior to or on commencement of employment, an Employer shall provide every Employee with a good faith estimate in writing of the Employee's work schedule, including

1. The median number of weekly work hours the employee can expect to work each week;
2. Whether the Employee can expect to work any on-call shifts;

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3. A subset of days and a subset of times or shifts that the Employee can expect to work, or days of the week and times or shifts on which the Employee will not be scheduled to work.

(ii) Prior to or on commencement of employment, the Employee may request that the Employer modify the estimated work schedule provided under subsection (a) (i) 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 Employee of Employer's determination in writing prior to commencement of employment.

(b) Two Weeks' Advance Notice of Work Schedule.

i) An Employer shall provide its Employees with written notice of work hours no later than 14 days before the first day of the workweek by posting the Work Schedule in a conspicuous place at the workplace that is readily accessible and visible to all Employees. The written work schedule shall include the shifts of all current Employees at that worksite, whether or not they are scheduled to work or be on-call that week. Additionally, upon written or oral request of an Employee, Employer shall transmit the Work Schedule by electronic means of the Employee's choosing. Employers shall provide each new Employee prior to or on the new Employee's first day of employment with an initial Work Schedule that runs through the date that the next work schedule for existing Employees is scheduled to be posted.

ii) Thereafter, the Employer shall include the new Employee in an existing Schedule with other Employees. If the Employer changes an Employee's Work Schedule after it is posted and/or transmitted, such changes shall be subject to the notice and compensation requirements set forth in this Chapter. This notice requirement shall not apply to any schedule changes the Employee initiates, such as Employee-requested sick leave, time off, shift trades, or additional shifts.

iii) An Employee who is a victim of domestic or sexual violence or who has a family or household member who is a victim may request that his or her schedule not be posted or transmitted to other Employees and that the schedule be submitted only to him or her in the

method of delivery determined by the Employee make the request to ensure his or her privacy and safety. An oral request shall be sufficient and implemented immediately. An Employer may request a written statement from the Employee that states that he or she is a victim or has a family or household member who is a victim. The statement shall

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satisfy any documentation or evidence 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 Employee for this purpose. The Employee shall have up to four weeks to submit the written statement. Compliance with this subsection (b)(iii) shall not in any manner abrogate the Employer's duty to comply with this Section 50 or any part of this Chapter.

### **1-25-060 - Notice, Right to Decline, and Compensation for Schedule Changes**

- a) Subject to the exceptions in subsection (d) of this Section, an Employee has the right to decline any previously unscheduled hours that the Employer adds to the Employee's schedule, and for which the Employee has been provided advance notice of less than 14 days.
- b) Subject to the exceptions in subsection (d) of this Section, an Employer shall provide a Covered Employee with compensation as defined below, and in addition to compensation for hours worked by the employee, per Shift for each previously scheduled Shift after which the Employer makes one or more of these changes:
  - (i) One hour of predictability pay when the Employer:
    - 1. adds hours of work
    - 2. changes the date or time of a work shift with no loss of hours
    - 3. With more than 24 hours' notice, cancels or subtracts hours from a regular or on-call shift.
  - (ii) No less than one-half times the Employee's regular rate of pay per hour for any scheduled hours the Employee does not work because the Employer, with less than 24 hours' notice:
    - 1. Subtracts hours from a regular or on-call shift;
    - 2. Cancels a regular or on-call shift.
- c) The Employer shall transmit electronically the changed work schedule in writing as promptly as possible and prior to the change taking effect, in the manner preferred by the Employee including, but not limited to, email, text, or Facebook messaging as used by the Employer. The Employer shall ask the Employee his or her preferred manner of electronic transmission of the work schedule prior to the day the work schedule is changed. If the Employer does not have access to the preferred mode of electronic transmission, the Employee's second choice of preferred

transmission shall be used. If no electronic transmission is received by the Employee,

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the Employer shall pay the Employee for all hours that had been scheduled at the Employee's regular rate of pay. The Employer must revise the written work schedule to reflect any changes within 24 hours of making the change.

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

- i) Operations cannot begin or continue due to threats to Employers, Employees, or property, or when civil authorities recommend that work not begin or continue;
- ii) Operations cannot begin or continue because public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities or sewer system;
- iii) Operations cannot begin or continue due to: acts of nature (including but not limited to flood, fire, explosion, earthquake, tidal wave, drought), war, civil unrest, strikes, or a similar cause not within the Employer's control;
- iv) A schedule change is the result of a mutually agreed upon shift trade or coverage arrangement between Employees, subject to any existing Employer policy regarding required conditions for Employees to exchange shifts;
- v) An Employee requests a shift change in writing, including but limited to use of sick leave, vacation leave, or other policies offered by the Employer.

(e) Nothing in this section shall be construed to prohibit an Employer from:

- i) Providing greater advance notice of Employee's work schedules and/or changes in schedules than that required by this section;
- ii) Changing a previously scheduled shift provided the shift is mutually agreed upon in writing by the Employee and Employer. The Employer shall transmit electronically the changed work schedule in writing in the manner preferred by the Employee including, but not limited to, email, text, or Facebook messaging as used by the Employer. The Employer shall ask the Employee of his or her preferred manner of electronic transmission of the work prior to the day the work schedule is changed. If the Employer does not have access to the preferred mode of electronic transmission, the Employee's second choice of preferred transmission shall be used.



**1-25-070 - Offer of Additional Work Hours to Existing Employees**

- a) Subject to the limitations herein, before hiring new Employees or contract Employees, including hiring through the use of temporary services or staffing agencies, an Employer shall first offer additional hours of work to existing Employee(s) if the Employee(s) are qualified to do the additional work, as reasonably and in good faith determined by the Employer.
- b) An Employer shall distribute shifts, in accordance with the criteria contained in the notice required by this section, provided that:
- i) 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, marital or familial status,
    - . nor on the basis of family caregiving responsibilities or status as a student;
  - ii) the Employer may not distribute hours in a manner intended to avoid application of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001, or any succeeding law under the United States Code;
  - iii) An Employer shall distribute shifts to employees whose regular workplace is the location where the shifts described in the notice will be worked; or, if no such employee accepts the shifts within the time defined in this section, to employees whose regular workplace is a covered location other than the location where such shifts will be worked; or, if no such employee accepts the shifts described in the notice within the time defined in this section, to temporary or seasonal workers who have been continuously assigned for at least two weeks to the location where the shift described in the notice will be worked.
- c) An Employee may, but is not required to, accept the Employer's offer of additional work under this section. An Employee who wishes to accept the additional hours must do so in writing.
- d) When this section requires an Employer to offer additional hours to existing Employees, the Employer shall post written notice of available work shifts for at least three consecutive calendar days, unless a shorter posting period is necessary in order for the work to be timely performed. The Employer shall make the offer by posting the offer in a conspicuous location in the workplace where notices to Employees are customarily posted. Employers may also post the notice electronically on an internal website in a conspicuous location and which website is readily accessible to all Employees. The notice shall include the total hours of work being offered, the schedule

of available shifts, whether those shifts will occur at the same time each week, and the length of time the Employer anticipates requiring coverage of the additional hours, the process by which Employees

may notify the Employer of their desire to work the offered hours, an advisement that an employee may accept a subset of the shifts offered, and the criteria the employer will use for the distribution of the shifts. The employer may post the notice concurrently at the location where the shifts described in the notice will be worked, locations other than the location where the work is to be performed, and to external candidates.

- e) The Employer shall retain each written offer no less than five years as required under this Chapter.
- f) The Employer may hire individuals from an external applicant pool or subcontractors to perform the work described in, and in accordance with the criteria set forth in, the notice posted pursuant to this section if the Employer provides notice of available work shifts to all Employees and:
  - i. No Employee responds to the written notice of available work shifts by the end of the three day posting period;
  - ii. The Employer receives written confirmation from eligible Employees that they are not interested in accepting the available work shifts; or
  - iii. Existing Employees have accepted a subset of the offered work shifts, in which case the existing Employees must be awarded that subset of work shifts.
- g) This Section shall not be construed to require any Employer to offer Employees work hours paid at a premium rate as required by law nor to prohibit any Employer from offering such work hours.

**1-25-080-Right to Rest**

An Employee has the right to decline work hours that occur during the 11 hours that are scheduled or otherwise occur: (a) less than 11 hours after the end of the previous day's shift, or (b) during the 11 hours following the end of a shift that spanned two days. An Employee who agrees in writing to work hours described in this section shall be compensated one-and-a-half times the Employee's regular rate of pay for any hours worked less than 11 hours following the end of a previous shift.

**1-25-090 - Right to Request a Flexible Working Arrangement**

An Employee has the right to request a modified work schedule, including but not limited to additional shifts or hours; changes in days of work or start and/or end times for the shift; 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. An Employer shall not retaliate against an Employee for exercising his or her rights under this Section. All responses to requests shall be made in writing by the Employer.

### **1-25-100 - Notice and Posting**

(a) The Department shall publish and make available to Employers, in English and other languages as provided in any implementing regulations, a notice suitable for posting by Employers in the workplace informing Employees of their rights under this Chapter.

(b) Each Employer shall give written notification to each current Employee and to each new Employee at time of hire, of his or her rights under this Chapter. The notification shall be in English and other languages as provided in any implementing regulations, and shall also be posted prominently in areas at the work site where it will be seen by all Employees. Every Employer shall also provide each Employee at the time of hire with the Employer's name, address, and telephone number in writing. Failure to post such notice shall render the Employer subject to administrative citation, pursuant to the provisions of this chapter. The Department is authorized to prepare sample notices and Employer use of such notices shall constitute compliance with this subsection.

(c) All notices and postings that name individual employees shall comply with Section 1-25-50(b)(iii).

### **1-25-110 - Implementation, Authority and Investigation**

(a) Regulations. The City shall coordinate implementation and enforcement of this Chapter and shall promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the City shall have the force and effect of law and may be relied on by Employers, Employees and other parties to determine their rights and responsibilities under this chapter.

Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this ordinance, including supplementary procedures for helping to inform Employees of their rights under this Chapter, for monitoring Employer compliance with this chapter, and for providing administrative hearings to determine

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whether an Employer has violated the requirements of this chapter.

- b) Reporting Violations. An aggrieved Employee may report to the Department, in writing any suspected violation of this Chapter. The Department shall keep confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee reporting the violation. Provided, however, that with the authorization of such Employee, the Department may disclose his or her name and identifying information as necessary to enforce this Chapter or other Employee protection laws. An Employee may report to the City that his or her Employer has committed any violation of this ordinance and may file a complaint with the City within three years of the violation. Where such violation is continuing, the complaint must be filed within three years of the last occurrence of the alleged violation.
  
- c) Investigation. The City may investigate any possible violations of this Chapter by an Employer. The Department shall have the authority to inspect workplaces, interview persons, and subpoena records or other items relevant to the enforcement of this Chapter. All complaints filed with the City shall be investigated, unless the complaint is not timely, the City lacks jurisdiction over the complaint, or if the complaint does not state facts that, if true, would constitute a violation of this chapter.
  
- d) Informal Resolution. If the Department investigates a complaint, the Department shall make every effort to resolve complaints informally and in a timely manner. The Department's investigation and pursuit of informal resolution does not limit or act as a prerequisite for an Employee's right to bring a private action against an Employer as provided in this Chapter.
  
- (e) Enforcement. Where compliance with the provisions of this Ordinance is not forthcoming, the Department may, by and through the Commissioner take any appropriate enforcement action to ensure compliance, including but not limited to the following:
  - (i) Ineligibility for City Transactions. The City may pursue any remedy available to it under 2-92-320 of the City of Chicago Municipal Code defining offenses that render businesses ineligible for City Transactions.

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(ii) Administrative Fine. The City may issue an administrative citation to the Employer pursuant to provisions of the Municipal Code of the City of Chicago. The amount of this fine shall vary based on the provision of this Chapter violated, as specified below: A fine may be assessed for retaliation by an Employer against an Employee for exercising rights protected under this Chapter. The fine shall be \$1,000 for each Covered Employee retaliated against.

1. A fine of \$500.00 for each Employee affected in each pay period may be assessed for any of the following violations of this Chapter:

- 1) Failure to provide notice of Employee rights under this Chapter.
- 2) Failure to timely provide an initial work schedule or to timely update work schedules following changes.
- 3) Failure to provide required and appropriate predictability pay for schedule changes.
- 4) Failure to offer additional work hours to existing Employees before hiring new Employees or temporary staff or to award work to a qualified Covered Employee.
- 5) Failure to comply with those provisions regarding Right to Rest.
- 6) Failure to comply with those provisions regarding Employer's duty to respond to Covered Employees under the section regarding Right to Request.
- 7) Failure to comply with those provisions regarding Notice and Posting.
- 8) Failure to maintain payroll records for the minimum period of time as provided in this Ordinance.
- 9) Failure to allow the City access to payroll records.
- (10) Failure to provide a good faith estimate of work schedule at the time of hire.

The Employee may recover in a civil action any and all penalties and remedies provided for in this Chapter. Such action shall be brought within three years from the date of the violation. Where such violation is

continuing, the action must be brought within three years of the last occurrence of the alleged violation.

Any agreement between the Employee and Employer that would violate this Ordinance is no defense to any administrative or civil action.

(f) The civil fines specified in this section may be recovered through a civil action brought by an Employee on behalf of himself or herself and other current or former Employees pursuant to the following procedures:

i) The Employee shall give written notice to the Department of the specific provisions of this Chapter alleged to have been violated, including the facts and theories to support the alleged violation.

ii) The Department shall notify the Employee by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to subsection (f)(i). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice, the aggrieved Employee may commence a civil action under this subsection.

iii) If the Department intends to investigate the alleged violation, it shall notify the Employee or representative by certified mail of its decision within 65 calendar days of the postmark date of the notice pursuant to subsection (f)(i). Within 120 calendar days of that decision, the Department may investigate the alleged violation and issue any appropriate citation. If the Department, during the course of its investigation, determines that additional time is necessary to complete the investigation, it may extend the time by not more than 60 additional calendar days and shall issue a notice of the extension. If the Department determines that no citation will be issued, it shall notify the Employee of that decision within five business days thereof by certified mail. Upon receipt of that notice or if no citation is issued by the Department within the time limits prescribed by this subsection, or if the Department fails to provide timely or any notification, the Employee may commence a civil action.

iv) No action may be brought under this subsection by an aggrieved Employee if the Department, on the same facts and theories, cites a person within the timeframes set forth in subsection (f)(iii) for a violation of the same section or sections of this Chapter under which the Employee is attempting to recover a civil penalty on behalf of himself or herself or others.

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v) Any Employee who prevails in any action under this subsection (f) shall be entitled to an award of reasonable attorney's fees and costs.

vi) Civil penalties recovered by pursuant to this subsection (f) shall be distributed as follows: 70 percent to the Department for enforcement of this Chapter, and for education of Employers and Employees about their rights and responsibilities under this Chapter, to be continuously appropriated to supplement and not supplant the funding to the Department for those

purposes, and to support community-based enforcement partnerships; and 30 percent to the aggrieved Employees.

### **1-25-120 - Remedies.**

a) The remedies for violation of this Ordinance include but are not limited to:

(i) The payment of Predictability Pay unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of \$500 to each Covered Employee whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this ordinance or state law.

ii) Reimbursement of the City's administrative costs of enforcement and reasonable attorney's fees.

iii) If a repeated violation of this ordinance has been finally determined in the following year, the City may require the Employer to pay an additional sum as a civil penalty in the amount of \$500 to the City for each Covered Employee or person whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this chapter or state law.

b) 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 ordinance. Actions taken pursuant to this ordinance shall not prejudice or adversely affect any other action, administrative or judicial, that may be brought to abate a violation or to seek compensation for damages suffered.

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The Employee may also recover any damages incurred, punitive damages, injunctive relief as may be appropriate, and costs and reasonable attorney's fees as may be allowed by the City or the court and as necessary to make the Employee whole. Any sums recovered by the City on behalf of an Employee under this ordinance shall be paid to the Employee or Employees affected.

c) No criminal penalties shall attach for any violation of this Chapter, nor shall this Chapter give rise to any cause of action for damages against the City.

d) Retaliation Barred. An Employer shall not discharge, reduce the compensation of, discriminate against, or take any adverse employment action against an Employee, including discipline, suspension, transfer or assignment to a lesser position in terms of job classification, job security, or other condition of employment, reduction or hours or denial of additional hours, informing another Employer that the person has engaged in activities protected by this Chapter or rules promulgated thereunder, or reporting or threatening to report the actual or suspected citizenship or immigration status of an Employee, former Employee or family member of an Employee to a federal, state or local agency, for making a complaint to the City, participating in any of the City's proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this Chapter. It shall be unlawful for the Employer to discharge any Employee who has initiated a complaint unless the Employer has clear and convincing evidence of just cause for such discharge. An Employer shall not use its absence-control policy, scheduling policy, or any other policy of the Employer to count any request for or refusal of a change in schedule as an absence or other reason that triggers discipline, discharge, demotion, suspension, punitive schedule changes, decreases in the desirability of work assignments, and other acts of harassment or any other adverse activity.

It shall be unlawful for an Employer to interfere with, restrain, deny, change work days or hours scheduled, or hire, rehire, terminate, or suspend, even temporarily, an Employee to avoid coverage under this Chapter.

e) Retention of Records. Each Employer shall maintain for at least five years for each Employee a record of his or her 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.

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Each Employer shall provide each Employee a copy of the records relating to such Employee upon the Employee's reasonable request.

(f) City Access. 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, but without allowing Social Security numbers to become a matter of public record.

### 1-25-130 - No Preemption of Higher Standards



The purpose of this Chapter is to ensure minimum labor standards. This Chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by law, ordinance, resolution, contract, or any other action of the City or the State of Illinois. No part of this Chapter shall be construed to limit a discharged Employee's right to bring a common law cause of action for wrongful termination or to seek any other available remedy at law or otherwise. Nothing in this Chapter shall be construed to interfere with any private right of action. Any claim or action filed under this Chapter must be made within three (3) years of the alleged conduct resulting in the complaint.

### **1-25-140-Severability**

If any provision or application of this Chapter is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid or inoperative shall remain in full force or effect. Nothing herein may be construed to impair any contractual obligations of the City.

Section 2. This ordinance shall be in full force and effect after January 1, 2019.