



# City of Chicago



O2023-1332

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:** 3/15/2023

**Sponsor(s):** Rodriguez (22)

**Type:** Ordinance

**Title:** Amendment of Municipal Code Titles 2 and 6 by modifying various sections and adding new Chapter 6-130 entitled "Chicago Paid Leave Ordinance"

**Committee(s) Assignment:** Committee on Workforce Development

# Workforce

## ORDINANCE

### 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 Section 6-10-040(b), (c), (d), and (e); ~~the Chicago Minimum Wage and Paid Sick Leave Ordinance, Chapter 6-105~~ Article II of Title 6 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 6-105" means Chapter 6-105 of the Municipal Code of Chicago.

"Chapter 6-130" means Chapter 6-130 of the Municipal Code of Chicago.

"Chapter 6-110" means Chapter 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 6-105-010, ~~or 6-110-020,~~ or 6-130-010, as appropriate.

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

"Director" means the Director of the Office of Labor Standards or the Director's designee within the Office of Labor Standards.

"Office" means the Office of Labor Standards established pursuant to subsection (b) of this section.

(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)*

(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 6-105 or Chapter 6-130, 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 6-105 or Chapter 6-130, 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.

*(Omitted text is unaffected by this ordinance)*

(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 6-105, Chapter 6-130, and Section 4-4-320(a)(1), (a)(3), and (b)(1), and Chapter 6-110, though for Chapter 6-110 the first posting date shall be March 15, 2021:

(1) Number of complaints received by the Office alleging violations of Chapters 6-105 and 6-110, and 6-130;

(2) Number of investigations opened by the Office in connection with alleged violations of Chapters 6-105, and 6-110, and 6-130;

(3) Number of employers cited for violations of Chapters 6-105, and 6-110, and 6-130;

(4) Results of each enforcement action initiated under Chapters 6-105, and 6-110, and 6-130;

(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 Chapters 6-105 and 6-130, 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 Chapters 6-105 and 6-130, as applicable; and

(7) Such other information as may be necessary or appropriate, as determined by the Commissioner in consultation with the Director.

Nothing in this subsection (d) shall prohibit the Director from posting the information described in items (1) through (7) of this subsection (d) at more frequent intervals than required herein.

(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 6-105 or Chapter 6-130. 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 6-105 or Chapter 6-130, 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 6-105 or Chapter 6-130; (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 6-105-110 or 6-130-110 to recover the amount of any underpayment of wages or ~~unpaid sick time leave denied or lost resulting from a violation of Chapter 6-105 or Chapter 6-130.~~

(f) Notification to Chief Procurement Officer – Required. Upon a determination of liability for any violation of Chapter 6-105 or Chapter 6-130, 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.

(g) Annual report to City Council – Required. No later than June 1, 2020, and on or before June 1st of each year thereafter, the Director shall submit to the City Council Committee on Workforce Development, or to its successor committee, a written report describing the activities undertaken by the Office during the previous year to implement this section, along with recommendations for improving the efficient and effective enforcement of this section. The chairman of that committee may request the Commissioner or Director, or their respective designees, to appear at a hearing of the committee to explain and respond to questions about such annual report.

**SECTION 3.** Chapter 6-100-040 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, 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 6-10-040(b) and (d), 6-105-070, ~~and 6-110-090, and 6-130-070.~~

**SECTION 4.** Chapter 6-105 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**CHAPTER 6-105: CHICAGO MINIMUM WAGE AND PAID SICK LEAVE ORDINANCE**  
**6-105-010 Definitions.**

For purposes of this chapter, the following definitions apply:

*(Omitted text is unaffected by this ordinance)*

"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.

~~"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.~~

*(Omitted text is unaffected by this ordinance)*

"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.~~

"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.~~

*(Omitted text is unaffected by this ordinance)*

### ~~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.~~

*(Omitted text is unaffected by this ordinance)*

#### **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.~~

*(Omitted text is unaffected by this ordinance)*

**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.~~

*(Omitted text is unaffected by this ordinance)*

**SECTION 5.** Article II of Title 6 of the Municipal Code of Chicago is hereby amended by adding a new Chapter 6-130 as follows:

**CHAPTER 6-130: CHICAGO PAID LEAVE ORDINANCE**

**6-130-010 Definitions.**

For purposes of this chapter, the following definitions apply:

"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 also includes all Domestic workers.

"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. Domestic worker includes independent contractors, sole proprietors, and partnerships.

"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.

"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.

"Paid Leave" means time that is provided by an Employer to a Covered Employee that is eligible to be used for the purposes described in Section 6-130-045(b) of this chapter.

#### **6-130-045 Paid Leave.**

(a) *General provisions.*

(1) Any Covered Employee who works for an Employer shall be eligible for Paid Leave as provided under this section.

(2) Paid Leave is compensated at the same rate and with the same benefits, including health care benefits, that the Covered Employee regularly earns during hours worked. 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 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 Leave under this chapter. Paid Leave under this section shall not be charged or otherwise credited to a Covered Employee's paid Leave bank or employee account unless the Employer's policy permits such a credit. If the paid leave under this Act is credited to a Covered Employee's Paid Leave bank or employee vacation account then any unused Paid Leave shall be paid to the Covered Employee upon the Covered Employee's termination, resignation, retirement, or other separation to the same extent as vacation time under existing Illinois law or rule. Nothing in this section shall be construed to waive or otherwise limit a Covered Employee's right to final compensation for promised and earned, but unpaid vacation time or paid time off, as provided under the Illinois Wage Payment and Collection Act and rules. Employers shall provide Covered Employees with written notice of changes to the Employer's vacation time, Paid Leave, or other Paid Leave policies that affect a Covered Employee's right to final compensation for such leave.

(b) *Accrual of Paid Leave.*

(1) Paid Leave shall begin to accrue either on the first calendar day after the commencement of a Covered Employee's employment or January 1, 2024, whichever is later. If a Covered Employee accrued Paid Sick Leave prior to January 1, 2024, that time shall be transferred to Paid Leave on January 1, 2024.

(2) For every 40 hours worked after a Covered Employee's Paid Leave begins to accrue, the Covered Employee shall accrue one hour of Paid Leave.

(3) A Covered Employee who is exempt from the overtime requirements of the federal Fair Labor Standards Act (29 U.S.C. 213(a)(1)) shall be deemed to work 40 hours in each work week for purposes of Paid Leave accrual, unless the Covered Employee's normal work week is less than 40 hours, in which case Paid Leave shall, accrue based upon that normal work week.

(4) For each Covered Employee, there shall be a cap of 40 hours Paid 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 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 the Covered Employee's unused accrued Paid Leave.

(6) If an Employer has a policy that grants Covered Employees Paid Leave in an amount and a manner that meets the requirements for Paid Leave under this section, the Employer is not required to provide additional Paid Leave. Employers that provide the minimum number of hours of Paid Leave to a Covered Employee on the first day of employment or the first day of the 12-month period are not required to carryover Paid Leave from 12-month period to 12-month period and may require employees to use all Paid Leave prior to the end of the benefit period or forfeit the unused Paid Leave. However, under no circumstances shall an employee be credited with Paid Leave that is less than what the employee would have accrued under subsections (b)(1) through (b)(4) of this section. An Employer subject to the Family and Medical Leave Act that provides the minimum number of hours of Paid Leave to a Covered Employee at the beginning of the 12-month period shall make available an additional 20 hours of Paid Leave to be used for purposes covered by the Family and Medical Leave Act after the Covered Employee's first year of employment.

The 12-month period may be any consecutive 12-month period designated by the Employer in writing at the time of hire. Changes to the 12-month period may be made by the

Employer if notice is given to Covered Employees in writing prior to the change and the change does not reduce the eligible accrual rate and Paid Leave available to the Covered Employee. If the Employer changes the designated 12-month period, the Employer shall provide the Covered Employee with documentation of the balance of hours worked, Paid Leave accrued and taken, and the remaining Paid Leave balance.

(7) Unused Paid 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 Leave.*

(1) An Employer shall allow a Covered Employee to begin using Paid Leave no later than on the 90th 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 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 Leave. However, if the Employer is subject to the Family and Medical Leave Act, a Covered Employee may use an additional 20 hours of accrued Paid Leave for Family and Medical Leave Act purposes, unless the Employer sets a higher limit. Within these limitations, Covered Employees shall be allowed to determine how much accrued Paid Leave the Covered Employee needs to use, provided that the Covered Employee's Employer may set a reasonable minimum increment requirement not to exceed two hours per day. If a Covered Employee's scheduled workday is less than two hours, the Covered Employee's scheduled workday shall be used to determine the amount of Paid Leave.

(2) A Covered Employee may use Paid Leave for any reason of the Covered Employee's choosing. A Covered Employee is not required to provide an Employer a reason for the leave and may not be required to provide documentation or certification as proof or in support of the leave. A Covered Employee may choose whether to use Paid Leave prior to using any other leave provided by the Employer.

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

(4) Paid Leave under this chapter shall be provided upon the oral or written request, including via phone, e-mail, or text message, of an Employee. If a Covered Employee's need for Paid Leave is foreseeable, an Employer may require up to seven days' notice before leave is taken. If Paid Leave is not foreseeable, the employee shall provide such notice as soon as is practicable after the employee is aware of the necessity of the leave by notifying the Employer through an oral or written request, including via phone, e-mail, or text message. Employers shall provide Covered Employees with written notice of the Paid Leave policy notification requirements for notice and posting and within five calendar days of any change to the Employer's Paid Leave policy notification requirements.

(d) If a Covered Employee is transferred to a separate division, entity, or location, but remains employed by the same Employer, the Covered Employee is entitled to all Paid Leave accrued at the prior division, entity, or location and is entitled to use all Paid Leave as provided in this section. If there is a separation from employment and the Covered Employee is rehired within 12 months of separation by the same Employer, previously accrued Paid Leave that had not been used by the Covered Employee shall be reinstated. The Covered Employee shall be entitled to use accrued Paid Leave at the commencement of employment following a separation from employment of 12 months or less.

(e) During any period a Covered Employee takes leave under this section, the Employer shall maintain coverage for the Covered Employee and any family member under any group health plan for the duration of such leave at no less than the level and conditions of coverage that would have been provided if the Covered Employee had not taken the leave. The Employer shall notify the Covered Employee that the Covered Employee is still responsible for paying the Covered Employee's share of the cost of the health care coverage, if any.

(f) This Section 6-130-045 provides minimum Paid 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 Leave benefits.

(g) No Employer shall interfere with, deny, or change a Covered Employee's work days or hours to avoid providing eligible Paid Leave time to a Covered Employee.

#### **6-130-060 Application to collective bargaining agreements.**

(a) 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 Paid Leave 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 6-130-045 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 6-130-045 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 6-130-045 apply to any Employee working in the construction industry who is covered by a bona fide collective bargaining agreement.

(b) Outside of a collective bargaining agreement, an agreement by a Covered Employee to waive rights granted under this chapter is void as against public policy.

#### **6-130-070 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 Covered Employee's right to Paid Leave. The Commissioner shall prepare and make available a form notice that satisfies the requirements of this Section 6-130-070(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 Section 6-130-070(a). If an Employer's workforce is comprised of a significant portion of workers who are not literate in English, the Employer shall notify the Commissioner and a notice in the appropriate language shall be prepared by the Commissioner. Covered Employees may also request that the Commissioner provide a notice in languages other than English, which the Employer must post in accordance with this subsection.

(b) With the first paycheck issued to a Covered Employee, and annually with a paycheck issued within 30 days of July 1, every Employer shall provide a notice advising the Covered Employee of the Covered Employee's right to Paid Leave. The Commissioner shall prepare and make available a form notice that satisfies the requirements of this Section 6-130-070(b).

(c) An Employer shall provide notice of the amount of Paid Leave accrued or used by a Covered Employee upon request by the Covered Employee.

**6-130-080 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 Leave as an absence that triggers discipline, discharge, demotion, suspension, or any other adverse activity.

**6-130-085 Investigations as a result of settlements.**

If the City learns that after being charged with wage rate or paid leave 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.

**6-130-090 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.

**6-130-100 Violation – Penalty.**

Any Employer who violates this chapter or any rule promulgated thereunder shall be fined \$2,500.00 for each separate offense, except that an Employer who violates Section 6-130-070(a) or (b) shall be fined \$500 for the first violation and \$1,000 for any subsequent violation. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

**6-130-105 Violation – Damages.**

Any Employer who violates this chapter or any rule promulgated thereunder shall be liable to the affected Covered Employee damages equal to three times the full amount of any leave denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate; together with costs and reasonable attorney's fees, which shall be paid by the Employer to the Covered Employee.

**6-130-110 Private cause of action.**

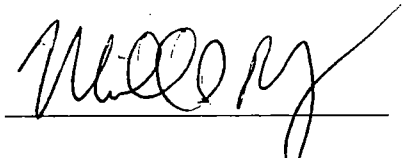
If any Covered Employee is not allowed a benefit to which the Covered Employee is entitled under this chapter, the Covered Employee may recover in a civil action damages equal to three times the full amount of any leave denied or lost by reason of the violation, and the interest on that amount calculated at the prevailing rate; together with costs and such reasonable attorney's fees as the court allows.

**6-130-120 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 6-130 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 request.

**SECTION 6.** This ordinance continues the benefits granted by Section 6-105-045, and transitions them to the more flexible benefits granted by Chapter 6-130. An Employer that does not transition benefits accrued or front loaded under Section 6-105-045 to benefits accrued or front-loaded under Section 6-130-045 shall be in violation of this ordinance and subject to the penalty and damages provided in Section 6-130-100, 6-130-105, and 6-130-110.

**SECTION 7.** This Ordinance shall be in full force and effect January 1, 2024.



MICHAEL D. RODRIGUEZ

Alderman, 22nd Ward