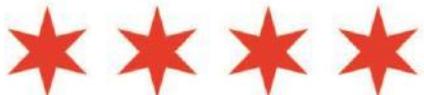


CITY OF CHICAGO

RULES



**Chicago Fair Workweek Rules Supporting Chapter 1-25 of
the Municipal Code of Chicago**



Mayor Lori E. Lightfoot

Commissioner Rosa Escareño

BY AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF
BUSINESS AFFAIRS AND CONSUMER PROTECTION PURSUANT TO CHAPTERS 2-25
AND 4-276 OF THE MUNICIPAL CODE OF CHICAGO, THE FOLLOWING RULES
REGARDING FAIR WORKWEEK ARE HEREBY ADOPTED.

By Order of the Commissioner:

Signed :



Rosa Escareno,
Commissioner

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Effective: July 1, 2020

ARTICLE 1 – GENERAL RULES

SECTION I. DEFINITIONS

As used in these Rules, the following definitions shall apply:

“Calendar Week” means seven consecutive days.

“Franchise” means any agreement by which a person is granted the right to engage in the business of offering, selling, or distributing goods under a marketing plan prescribed or suggested in substantial part by the grantor or its affiliate. The operation of the business is substantially associated with a trademark, service mark, trade name, advertising or other commercial symbol designated, owned by or licensed by the grantor or its affiliate. The person pays, agrees to pay, or is required to pay, directly or indirectly, a franchise fee.

“Investigation” means the proceedings before the Office of Labor Standards regarding potential violations of the Ordinance.

“Ordinance” means the Chicago Fair Workweek Ordinance, Municipal Code of Chicago Chapter 1-25.

“Salary” means actual salary, and not total compensation.

“Temporary and Seasonal Employee” means a natural person who contracts for employment with a day and temporary labor service agency, as defined in the Day and Temporary Labor Services Act (820 ILCS 175).

“Unitary business group” means a group of persons related through common ownership or control, whose business activities are in the same general line (such as within a Covered Industry), and whose members are functionally integrated through the exercise of centralized management (where, for example, authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing, and/or capital investment is not left to each member). Common ownership in the case of corporations is the direct or indirect control or ownership of more than 50% of the outstanding voting stock of the persons carrying on unitary business activity.

SECTION II. FAIR WORKWEEK RULES

Rule FWW 1.01 Immigration Status

Immigration status does not affect an individual’s status as a Covered Employee.

Rule FWW 1.02 Initial Estimate of Work Schedule

- (a) The good faith estimate of the Covered Employee’s Work Schedule at the time of hire is a reasonable prediction; Employers may choose to base it on forecasts, prior hours

worked by employees in the same or similar positions to that of the Covered Employee, or other relevant information.

- (b) The good faith estimate of the Covered Employee's Work Schedule at the time of hire shall identify by address the location(s) at which the Covered Employee will work, and specify what proportion of time and on which workdays the Covered Employee will work at the work location(s) identified in the initial estimate of Work Schedule.
- (c) In instances where a Covered Employee is hired to work at a particular healthcare facility or campus of a healthcare facility but the Covered Employee's work assignments may be among buildings within the facility or campus, the healthcare facility may identify the location of work by the name of the healthcare facility or campus rather than by a street address of a particular building.

Rule FWW 1.03 Advance Notice of Work Schedule

- (a) A posted or transmitted Work Schedule shall span a Calendar Week. An Employer may post Work Schedules that list the work shifts for multiple weeks.
- (b) When changes to a Covered Employee's Work Schedule are made after it is posted or transmitted, the Employer shall repost the updated Work Schedule.
- (c) Employers shall maintain the confidentiality of those Covered Employees identified in Municipal Code of Chicago section 1-25-040 (b)(4).

Rule FWW 1.04 Schedule Changes

- (a) An Employer may change a previously scheduled regular shift as posted by 15 minutes or less without being obligated to pay Covered Employees Predictability Pay. If the total changes made to the shift exceed 15 minutes, then the Employer shall pay the Covered Employee Predictability Pay.
- (b) An Employer may, but is not required to, add a Covered Employee to a Work Schedule with less than the 10-day or 14-day notice as stated in subsection (d) of this Rule when the Covered Employee is returning to work from a leave of absence that was agreed to by the parties.
- (c) When a Covered Employee's written consent is required for a Work Schedule change, such written consent must be provided for each schedule change; general or ongoing consent is insufficient to meet such requirements. The written consent shall be time and date stamped.
- (d) If an Employer adds hours of work to a Covered Employee's Work Schedule after the deadline articulated in the Ordinance, the Covered Employee shall be paid one hour of Predictability Pay for every shift to which hours are added. The deadline is 10 days before the first day of any new Work Schedule from July 1, 2020, to June 30, 2022, and 14 days before the first day of any new Work Schedule beginning July 1, 2022.

- (e) If an Employer changes the date or time of a work shift with no loss of hours after the deadline articulated in subsection (d) of this Rule, the Covered Employee shall be paid one hour of Predictability Pay for every impacted shift.
- (f) When an Employer cancels or subtracts hours from a regular or on-call shift after the deadline articulated in subsection (d) of this Rule and with:
 - 1. More than 24 hours' notice from the start of the impacted shift, the Employer must pay one hour of Predictability Pay for each shift.
 - 2. Less than 24 hours' notice from the start of the impacted shift, the Employer must pay no less than 50% of the Covered Employee's regular rate of pay for any scheduled hours that they do not work on that shift as a result of the change.
- (g) The 24 hours' notice articulated in subsection (f) of this Rule is determined in relation to the start time of the scheduled shift.
- (h) The payment of Predictability Pay does not exempt the Employer from any overtime pay due the Covered Employee.
- (i) Predictability Pay shall be calculated on an hourly basis for salaried Covered Employees by dividing the Covered Employee's salary by the period of the salary, generally a 52-week year, and then by a 40-hour workweek, or the number of hours reflective of their employment status (e.g. full or part time).

Rule FWW 1.05 Offer of Additional Work Hours to Existing Employees

- (a) If the additional work hours offered are not accepted by Covered Employees or Temporary and Seasonal Employees who have worked on behalf of the Employer for two or more weeks, the Employer may offer the additional shifts to any other employee, according to the requirements of Municipal Code of Chicago section 1-25-060.
- (b) Covered Employees at the workplace where the additional hours are made available must be given priority in distributing additional hours provided that they are qualified to perform the work. If it is the Employer's regular practice to schedule Covered Employees across multiple locations, and no qualified Covered Employee at the workplace where the additional hours are made available accepts the hours, then Covered Employees at the Employer's other locations must be given priority before any outside hiring commences.

Rule FWW 1.06 Right to Rest

- (a) A Covered Employee may voluntarily consent to work a shift that commences sooner than 10 hours after the end of the previous day's shift, but an Employer may not accept that consent unless it is in writing.
- (b) For the purposes of Right to Rest, a shift takes place on the calendar day on which it starts.

- (c) A Covered Employee shall receive at least 1.25 times their regular rate of pay for any shift that begins less than 10 hours after the end of the previous day's shift. However, hours in such a shift that exceed a workweek of 40 hours shall be paid at the regular overtime rate of 1.5 times the regular rate at which the Covered Employee is paid.
- (d) The exceptions articulated in Municipal Code of Chicago section 1-25-050(d) do not apply to the Right to Rest.

Rule FWW 1.07 Notice and Posting

- (a) Employers shall post the notice provided by the Department through the Employers' usual methods of communication for such notices, whether by paper posting or by electronic dissemination through the Employers' internal communication channels. When posting a paper notice, the notice shall be printed on and scaled to fill a sheet of paper that measures eleven inches by seventeen inches.
- (b) The notice Employers provide with the first paycheck subject to the Ordinance advising the Covered Employee of their rights under the Ordinance shall be printed on and scaled to fit a sheet of paper that measures eight and a half inches by eleven inches. However, where Covered Employees are enrolled in direct deposit and do not receive a "paycheck" but have the option to review their pay stubs electronically, Employers may provide the notice to Covered Employees through the Employers' usual methods of electronic communication including but not limited to electronic mail and dissemination through internal communication channels.
- (c) The notice Employers provide with the first paycheck subject to the Ordinance shall be provided yearly with the first paycheck on or following July 1, whether by paper or electronic means as stated above.
- (d) All notices shall be posted in English and any language(s) spoken by employees at the facility who are not proficient in English and in which the Department has provided non-English language notices.

Rule FWW 1.08 Retention of Records

- (a) Employers must maintain, at a minimum, the following records for Covered Employees, for a period of not less than three years, and shall make such records available for inspection upon request by the Department.
 1. Name of each Covered Employee
 2. Mailing address, telephone number, and email address of each Covered Employee
 3. Occupation and job title of each Covered Employee
 4. Hire date of each Covered Employee
 5. Paystubs, wage records, and/or documents that show amounts paid and scheduled of hours worked per week
 6. Documents, records, or information to demonstrate compliance with Predictability Pay requirements

7. Records necessary to demonstrate the location of shifts where the Covered Employee works
8. Written consent of Covered Employees that work a shift that begins less than 10 hours after the end of the previous day's shift, or consent to schedule changes, agreements, modifications or changes to Work Schedules
9. The number of employees employed by the Employer globally
10. All information to demonstrate compliance with proper posting of Work Schedules, including but not limited to electronic communications sent to Covered Employees
11. Documents and dates necessary to demonstrate compliance with:
 - i. Initial Estimate of Work Schedule
 - ii. Advance Notice of Work Schedule
 - iii. Schedule Changes
 - iv. Offer of Additional Work Hours to Existing Employees
 - v. Right to Rest
 - vi. Right to Request a Flexible Working Arrangement
12. Policy handbook, employee manual, or other such documentation specifying Employer policies and rules

- (b) Any of the above mentioned documents may be created, maintained, and stored electronically.
- (c) In addition to the specific types of documents listed in the Ordinance and in this Rule, the Employer shall maintain and provide upon request copies of any and all documents to demonstrate compliance with the Ordinance.
- (d) If the Commissioner reasonably determines that an Employer is operating in violation of the Ordinance or any other applicable provision of the Municipal Code of Chicago, the Commissioner may issue an order, in the form of a subpoena, directing the Employer to provide the information, including, but not limited to, the name of the business, the address of the business, the details of the information being sought pursuant to the Ordinance, and any information necessary to demonstrate compliance with the Ordinance within the control or possession of the Employer. The Employer shall, within 30 calendar days of the date on which such order is issued, either provide the information or file a legal objection to such order in writing with the Commissioner. If the Employer files a legal objection, the Commissioner shall provide a hearing on the objection within 10 business days, as provided by rule. The Commissioner's determination shall be final and may be appealed in the manner provided by law. Nothing in this Rule shall be considered a limitation or restriction on the Commissioner's powers and duties under Chapter 2-25 of the Municipal Code of Chicago.

ARTICLE 2 – COMPLAINTS AND INVESTIGATIONS

Rule FWW 2.01 Complaints

A complainant who alleges a violation of the Ordinance's provisions on the following subjects, may file a Complaint with the Department:

- (a) Initial Estimate of Work Schedule,
- (b) Advance Notice of Work Schedule,
- (c) Schedule Changes,
- (d) Offer of Additional Work Hours to Existing Employees,
- (e) Right to Rest,
- (f) Right to Request a Flexible Working Arrangement,
- (g) Notice and Posting of the Ordinance, or
- (h) Retaliation.

Rule FWW 2.02 Filing a Complaint

- a) A Covered Employee who has been denied requirements under the Ordinance may file a complaint with the Department.
 - 1. A complaint may be submitted through any one of the following methods:
 - a) Call 311
 - b) Use the CHI 311 mobile application
 - c) Download and mail a complaint form to the Office of Labor Standards, Department of Business Affairs and Consumer Protection, 121 North LaSalle Street, City Hall, Room 805, Chicago, IL 60602. The complaint form can be found online at: <http://www.chicago.gov/laborstandards>.
 - d) Download and email the complaint to the Office of Labor Standards at bacplaborstandards@cityofchicago.org.
 - 2. Information on the complaint form should adequately state the basis of the complaint.
- b) The complainant shall provide documents supporting their claim to the Department, and supplemental documents and information upon request. Employees are not required to provide, and the City will not request, information regarding the immigration status of any person filing a complaint.
- c) The Department shall conduct investigation and enforcement actions in full compliance of due process.