

CHICAGO FAIR WORKWEEK ORDINANCE RULES
SUPPORTING CHAPTER 1-25 OF THE MUNICIPAL CODE OF CHICAGO

DRAFT FOR PUBLIC COMMENT

Chicago’s landmark worker protections embodied in the Fair Workweek Ordinance aim to ensure fair and equitable scheduling practices. These Rules clarify the Ordinance and make sure that employees and employers know their rights and responsibilities.

SECTION 1. DEFINITIONS

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

“Calendar Week” means seven consecutive days.

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

“Office” means the Office of Labor Standards.

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

“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 2. GENERAL RULES

Rule FWW 2.01 Immigration Status

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

Rule FWW 2.02 Complaints

A complainant who alleges a violation of the Ordinance by one or more of the following, may file a Complaint with the Office:

- (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 2.03 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.

Rule FWW 2.04 Advance Notice of Work Schedule

- (a) A posted 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.

Rule FWW 2.05 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) 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.
- (c) 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.
- (d) If an Employer changes the date or time of a work shift with no loss of hours, the Covered Employee shall be paid one hour of Predictability Pay for every impacted shift.
- (e) When an Employer cancels or subtracts hours from a regular or on-call shift with:

1. More than 24 hours' notice, the Employer must pay one hour of Predictability Pay for each shift.
 2. Less than 24 hours' notice, 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.
- (f) The paying of Predictability Pay does not exempt the Employer from any overtime pay due the Covered Employee.

Rule FWW 2.06 Offer of Additional Work Hours to Existing Employees

If additional offered shifts are not accepted by Covered Employees or temporary or seasonal workers who have worked on behalf of the Employer for two or more weeks, the Employer may offer the additional shifts to any other employee.

Rule FWW 2.07 Right to Rest

- (a) A Covered Employee has the right to decline Work Schedule hours that begin less than 10 hours after the end of the Covered Employee's previously worked shift.
- (b) 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 that Covered Employee's previously worked shift. However, for hours worked that would otherwise fall in this category for a workweek of more than 40 hours, those hours shall be paid at the regular overtime rate of 1 ½ times the regular rate at which the Covered Employee is paid.

Rule FWW 2.08 Notice and Posting

- (a) The notice Employers post advising the Covered Employees of their rights under the Ordinance 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.
- (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.
- (d) All notices shall be posted in English and any language(s) spoken by employees at the facility who are not proficient in English.

Rule FWW 2.09 Retention of Records

- (a) Employers must maintain, at a minimum, the following records for Covered Employees, for a period of not less than 3 years, and shall make such records available for inspection upon request by BACP.
 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 that show history of Predictability Pay to employees
 7. Records showing the location of shifts where the Covered Employee works
 8. Written consent of workers that work a shift that begins less than 10 hours after the end of the previously worked shift, or consented to schedule changes, agreements, modifications or changes to Work Schedules
 9. The number of employees employed by the Employer i) in the City of Chicago and ii) globally.
 10. Dates and documents related to Initial Notice and Advance Notice of Work Schedule of Covered Employees
 11. All postings related to Work Schedules including but not limited to electronic communications sent to Covered Employees
 12. Dates and documents related to Schedule Changes of covered employees
 13. If applicable, documents related to Offer of Additional Work Hours to Existing Employees
 14. If applicable, documents related to the Right to Rest of Covered Employees
 15. If applicable, documents related to the Right to Request a Flexible Working Arrangement for Covered Employees
 16. Policy handbook, employee manual, or other such documentation specifying Employer policies and rules
 17. As applicable, documents related to the exercise of any other rights and exemptions under Chapter 1-25 that tend to prove or disprove claims of retaliation
- (b) 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 related to: policies, employee handbooks, employee manuals of the company, that tend to show information regarding scheduling, agreements regarding scheduling, shifts, right to rest, and requirements or duties of the Employer and employee related to this Ordinance.
- (c) An Employer's failure to maintain, retain or produce a record or other information required to be maintained by the Ordinance or Rules and requested by the Office of Labor Standards in furtherance of an investigation conducted pursuant to the Ordinance that is relevant to a material fact alleged by the Office in a notice of violation issued pursuant to the Ordinance creates a rebuttable presumption that such fact is true.

Article 3 – Investigations

Rule FWW 3.01 Filing a Complaint

- a) A Covered Employee who has been denied any of the rights, responsibilities, or duties due from the Employer under the Ordinance may file a complaint with the Office of Labor Standards.
 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 shall substitute documents and information upon request.

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