SUBSTITUTE ORDINANCE

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

SECTION 1. Section 2-25-200 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

2-25-200 Office of Labor Standards.

(Omitted text is unaffected by this ordinance)

Director – Duties pertaining to Article II of Title 6. In connection with subsection (b)(6) of this section, the Director, consistent with the requirements of due process of law and in accordance with rules duly promulgated by the Commissioner, is authorized to: (i) receive complaints, which shall be filed by a worker or other person on behalf of a worker, of alleged violations, or initiate investigation to ascertain compliance with Article II of Title 6; (ii) mediate disputes in connection with such complaints, if appropriate; (iii) investigate such complaints, as appropriate, and make findings of fact in connection with such investigations; (iv) issue notices of violation, as appropriate, if, following an investigation, the Director determines that there is reasonable cause to believe that a violation has occurred; (v) provide for a hearing following the issuance of any such notice of violation; (vi) conduct hearings; (vii) administer oaths, take testimony, issue subpoenas, and receive evidence in connection with such investigations or hearings; and (viii) otherwise enforce Article II of Title 6. Any investigation conducted pursuant to this section shall be conducted in a fair and impartial manner. The name and other identifying information of the worker or person reporting a violation of Article II of Title 6 shall be kept confidential to the extent permitted by law unless such worker or person authorizes the Director in writing to disclose this information as the Director deems necessary or appropriate to enforce this section. The Director may investigate complaints in cases where the complainant is unknown or anonymous.

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 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.

- (a) 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, 6-110-090, and 6-130-050 Article II of Title 6.
- (b) If an employer has employment policies, and if the employer has workers whose regular work duties take place within the geographical boundaries of Chicago, then the employer shall provide those workers with its employment policies. Employers shall provide workers with a 14-day notice of changes to employment policies. An employer shall provide its employment policy to its workers in the primary language of each of its workers.

SECTION 3. Section 6-105-050 of the Municipal Code of Chicago is hereby amended by being renumbered, moved to Chapter 6-100, by adding the language underscored, and by deleting the language struck through, as follows:

6-105-050 6-100-050 Wage theft.

- (a) Any Employer employer who fails to timely pay a Covered Employee worker in accordance with this chapter Article II of Title 6, or in accordance with any wage agreement between the Employer employer and the Covered Employee worker above the threshold required by this chapter Article II, shall have committed wage theft.
- (1) Wage theft includes the non-payment of any wages required for work performed, and also includes <u>not granting or properly paying required</u> paid time off, whether legislatively or contractually required, and contractually required benefits to the Covered Employee worker.
- (2) The timely pay payment of wages shall be in accordance with 820 ILCS 115/4.
- (b) A <u>Covered Employee worker</u> may file a claim with the Office of Labor Standards or in a civil action, but not both. A <u>Covered Employee worker</u> who files a claim with the Illinois Department of Labor may not also file <u>a claim</u> with the Office of Labor Standards unless the Illinois Department of Labor has referred the case to the Office of Labor Standards.
- (c) The Employer An employer shall be liable to the Covered Employee a worker for the amount of any underpayments and shall also be liable for damages of either (i) 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid or (ii) the amount specified by the Illinois Wage Payment and Collection Act, 820 ILCS 115/14(a), if the amount in the state law is greater.

SECTION 4. Section 6-105-010 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

6-105-010 **Definitions.**

For purposes of this chapter, the following definitions apply:

(Omitted text is unaffected by this ordinance)

"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. Provided, however, that until July 1, 2024, for purposes of Section 6-105-045, any individual permitted to work by an Employer, regardless of the number of persons the Employer employs, shall be a Covered Employee.

(Omitted text is unaffected by this ordinance)

SECTION 5. Section 6-105-110 of the Municipal Code of Chicago is hereby amended by adding the language underscored and by deleting the language struck through, as follows:

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 in effect before December 31, 2023 July 1, 2024, 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. However, on and after December 31, 2023 July 1, 2024, an Employee's right to a private cause of action shall be subject to Section 6-130-100.

SECTION 6. Section 6-130-010 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

6-130-010 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 works at least 80 hours for an Employer within any 120-day period while physically present within the geographic boundaries of the City. Once the threshold is reached, the Employee will remain a Covered Employee for the remainder of the time that the Employee works for the Employer. 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. The term "Covered Employee" includes all Domestic Workers regardless of whether they work as employees, independent contractors, sole proprietors, or partnerships. "Covered Employee" includes any Employee of the City and its Sister Agencies, but does not include any individual permitted to work for any other governmental entity.

"Employee" means an individual that who performs work for an employer in the capacity of an employee, as distinguished from a contractor, determined pursuant to Internal Revenue Service guidelines. Elected officials are not Employees. "Employee" does not include an employee as defined in the federal Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

(Omitted text is unaffected by this ordinance)

SECTION 7. Section 6-130-020 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through as follows:

6-130-020 Requirement to Provide Paid Leave and Paid Sick Leave.

(a) General provisions.

(Omitted text is unaffected by this ordinance)

Unless otherwise provided in a collective bargaining agreement, upon a Covered Employee's termination, resignation, retirement, or other separation from employment, or whenever a Covered Employee ceases to meet the definition of Covered Employee as a result of transferal outside of the geographic boundaries of the City to be considered a Covered Employee, the Employer shall pay the monetary equivalent of all unused, accrued Paid Leave as part of the Covered Employee's final compensation at the Covered Employee's final rate of pay and no employment contract or employment policy shall provide for forfeiture of earned Paid Leave upon separation from employment. However, a Small Employer shall not be required to pay out unused Paid Leave upon termination, resignation, retirement, or other separation from employment, or whenever a Covered Employee ceases to meet the definition of Covered Employee as a result of transferal outside of the geographic boundaries of the City to be considered a Covered Employee. For Medium Employers, the payout of unused Paid Leave required under this section shall be limited to a maximum of 16 hours of Paid Leave until December 31, 2024 July 1, 2025, unless the Medium Employer sets a higher limit. On and after January 1 July 1, 2025, Medium Employers shall be required to pay the monetary equivalent of all unused, accrued Paid Leave as part of the Covered Employee's final compensation at the Covered Employee's final rate of pay. A Covered Employee may request payout of their unused Paid Leave after not receiving a work assignment for 60 days. Nothing in this section shall be construed to waive or otherwise limit a Covered Employee's right to final compensation for promised and earned vacation time or paid time off, as provided under the Illinois Wage Payment and Collection Act and rules promulgated thereunder. Other than as part of a collective bargaining agreement, no employment contract or employment policy shall provide for forfeiture of earned Paid Leave or Paid Sick Leave when the Employer is no longer subject to the requirements of this chapter and the Covered Employee no longer works in the City. 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.

(Omitted text is unaffected by this ordinance)

(b) If a Covered Employee accrued Paid Sick Leave prior to January July 1, 2024, and the Employer's existing paid time off policy does not comply with the requirements of this chapter, on January July 1, 2024, any Paid Sick Leave that the Covered Employee is entitled to roll over from one 12-month period to the next shall be transferred to Paid Sick Leave under Section 6-130-030.

(Omitted text is unaffected by this ordinance)

SECTION 8. Section 6-130-030 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

6-130-030 Paid Sick Leave and Paid Leave.

(Omitted text is unaffected by this ordinance)

- (b) Accrual.
- (1) Starting on January July 1, 2024, or on the first calendar day of a Covered Employee's employment, whichever is later, a Covered Employee's Paid Leave and Paid Sick Leave shall begin to accrue.

(Omitted text is unaffected by this ordinance)

SECTION 9. Section 6-130-040 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

6-130-040 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 different from the applicable minimum standards of the provisions 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.

Nothing in this chapter shall be deemed to affect the validity or change the terms of bona fide collective bargaining agreements in force on January July 1, 2024. After that date, 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.

(Omitted text is unaffected by this ordinance)

SECTION 10. Section 6-130-050 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

6-130-050 Notice and posting.

(Omitted text is unaffected by this ordinance)

- (d) Employers shall provide Covered Employees with written notice of the Employer's paid time off policy, including the Employer's paid time off notification requirements, at the commencement of employment and within five calendar days before any change to the Employer's paid time off policy requirements.
- (1) Employers shall provide Employees with a 14-day written notice of changes to the Employer's paid time off policies that affect a Covered Employee's right to final compensation for such leave.
- (2) Whenever a Covered Employee has not been offered a work assignment for 60 days, their the Covered Employee's Employer must notify the Covered Employee in writing that they the Covered Employee may request payout of their accrued, unused Paid Leave time.
- (3) An Employer shall provide its written paid time off policy to each of its Covered Employees in their primary language.

SECTION 11. Section 6-130-100 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

6-130-100 Private cause of action.

- (a) 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.
- (b) For Paid Sick Leave provisions under this chapter, such right to private cause of action shall be available on December 31, 2023 July 1, 2024.
 - (c) For Paid Leave provisions under this chapter,:
 - (1) such right to a private cause of action shall not be available until January July 1, 2025.
 - (2) A Covered Employee may initiate a civil action pursuant to this chapter only after: (A) an alleged violation occurs; and (B) the payday for the next regular payroll period or 16 days after the alleged violation occurred passes, whichever is the shorter period. This Section 6-130-100(c)(2) shall sunset of its own accord without further action of the City Council on July 1, 2026.

SECTION 12. Section 6-130-110 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

6-130-110 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, number of paid time off hours earned for each year and the dates on which paid time off hours were taken and paid, and records necessary to demonstrate compliance with this chapter. Each

Employer who has an Employee whose regular work duties take place within the geographical boundaries of Chicago shall maintain this same information. 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 13. By May 1, 2026, the Office of Labor Standards shall issue a report that studies the impacts of the "cure" period outlined in Section 6-130-100(c)(2).

SECTION 14. Section 10 of the ordinance bearing City Clerk reference number SO2023-0002980, passed by the Chicago City Council on November 9, 2023, is hereby amended by adding the language underscored, and by deleting the language struck through as follows:

SECTION 10. The Office of Labor Standards shall present to the Committee on Workforce Development a report with recommendations for a portable Paid Leave and Paid Sick Leave policy for Domestic Workers, as that term is defined by Section 6-100-010, by no later than January July 1, 2025. The portable paid time off policy shall allow Domestic Workers to accrue Paid Leave and Paid Sick Leave across multiple jobs and employers. Such policy shall provide all Domestic Workers, including employees and independent contractors, with meaningful access to Paid Leave and Paid Sick Leave as defined in Chapter 6-130. The Office of Labor Standards shall evaluate the feasibility of different models and consider the cost of on-going operations. The recommendations shall reference or identify sources of funding for implementation and enforcement. The By July 1, 2024, the Office of Labor Standards within 30 days after the effective date of this ordinance shall convene a working group to inform the policy recommendations. The working group shall consist of relevant stakeholders, including domestic workers, workers centers, policy organizations, worker advocates, and domestic employers.

SECTION 15. Section 11 of the ordinance bearing City Clerk reference number SO2023-0002980, passed by the Chicago City Council on November 9, 2023, is hereby amended by adding the language underscored, and by deleting the language struck through as follows:

SECTION 11. On or before December 1, 2025 May 1, 2026, the Commissioner of Business Affairs and Consumer Protection shall work with community stakeholders to commission or conduct a one-year study that examines the economic impact of the Small Employer exemption to the pay-out of unused Paid Leave in Section 6-130-020(a)(4) and the impact it has on the ability for Covered Employees working for Small Employers to

meaningfully use their Paid Leave benefits under Chapter 6-130. The Office of Labor Standards shall present to a joint Committee of the Committee on Workforce Development and the Committee on Economic, Capital and Technology Development.

SECTION 16. Section 12 of the ordinance bearing City Clerk reference number SO2023-0002980, passed by the Chicago City Council on November 9, 2023, is hereby amended by adding the language underscored, and by deleting the language struck through as follows:

SECTION 12. This ordinance shall be in full force and effect on December 31, 2023, with the exception of Sections 7, 8, and 9, which shall take effect on July 1, 2024. However, with regards to Chicago Public Schools, the ordinance shall not be implemented until July 1, 2024.

SECTION 17. This ordinance shall be in full force and effect on December 31, 2023, with the exception of Sections 6, 7, 8, 9, 10, 11, and 12, which shall take effect July 1, 2024.

SECTION 18. The amendment made to Section 6-105-010 in Section 4 of this amendatory ordinance shall be repealed of its own accord and without further action of the City Council on July 1, 2024.