

S U B S T I T U T E O R D I N A N C E

WHEREAS, The City of Chicago (“the City”) is a home rule unit of government under Section 6(A), Article VII of the 1970 Constitution of the State of Illinois, authorized to exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, The City is experiencing an increase in the frequency and intensity of heat waves and drought due to climate change; and

WHEREAS, Between 1985 and 2005, Chicagoans experienced an average of 7 days per year above 92.5 degrees Fahrenheit; and

WHEREAS, By 2050, it is projected that Chicago will experience an average of 36 days per year with temperatures above 92.5 degrees Fahrenheit; and

WHEREAS, Protection from extreme heat is a matter of life and death for many workers and their families; and

WHEREAS, It is estimated that heat exposure is responsible for as many as 2,000 worker deaths and 170,000 heat stress-related injuries in the U.S. each year; and

WHEREAS, Low-income workers suffer five times as many heat-related injuries as high-income workers; and

WHEREAS, Heat waves compound pre-existing health conditions and lead to increased hospitalizations for cardiovascular, kidney, and respiratory disorders; and

WHEREAS, Employers’ failure to implement heat safety measures costs the U.S. economy approximately \$100,000,000,000 every year due to lost work time and reduced worker capacity; and

WHEREAS, medical costs increase 41.6% per degree Celsius when the temperature exceeds 33°C (91.4°F); and

WHEREAS, In response to increasing temperatures, California, Minnesota, Oregon, and Washington have proactively codified statewide heat rules to protect workers from extreme heat; and

WHEREAS, In order to attempt to protect the health, safety, and welfare of outdoor workers; now, therefore

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

SECTION 1. Article II of Title 6 of the Municipal Code of Chicago is hereby amended by inserting a new Chapter 6-140, as follows:

**CHAPTER 6-140 HEAT-RELATED ILLNESS PREVENTION
IN OUTDOOR PLACES OF EMPLOYMENT**

6-140-010 Purpose.

This chapter shall be known and may be cited as the “Heat-Related Illness Prevention in Outdoor Places of Employment Ordinance.” It is the purpose of this chapter to protect the health, safety, and welfare of Outdoor Workers from the ill effects of high heat.

6-140-015 Scope and application.

(a) This chapter applies to all employers with workers performing work in an outdoor environment where the Outdoor Heat Index exceeds 80 degrees Fahrenheit.

(b) This chapter does not apply to:

- (1) Heat exposures where a worker is not required to perform outdoor work activities for more than fifteen consecutive minutes in any sixty-minute period.
- (2) Workers engaged in Emergency Operations and Essential Services.
- (3) Any Employee working in the construction industry who is covered by a bona fide collective bargaining agreement.

(c) When another applicable temperature-standard addresses other hazards that may be present, Employers must comply with requirements of both that standard and this standard. Where the requirements of one standard are more protective than another for the same hazard, Employers must follow the requirements that provide the higher level of worker protection.

(d) Nothing in this chapter shall apply to the extent compliance with this chapter would conflict with federal law or regulations, including but not limited to those promulgated by the Occupational Safety and Health Administration, Federal Aviation Administration, or Transportation Security Administration.

6-140-020 Definitions.

As used in this chapter, the following terms shall have the following meanings:

“Acclimatization” means the body’s temporary adaptation to work in heat that occurs as a person is exposed over time.

“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 snow plowing, snow removal, and refuse collection.

“Employer” means any person that directly or indirectly employs or exercises control over at least one Outdoor Worker. This chapter shall not apply to volunteers or to a private homeowner having work performed upon their primary place of residence. “Employer” includes a contractor and anyone the contractor employs who works at the residence.

“Emergency Operations and Essential Services” means work in connection with (i) an emergency that requires law enforcement, emergency medical services, firefighting, rescue and evacuation operations, or emergency restoration of essential utilities or telecommunications or (ii) employees of the City working in the Departments Fire, Police and the Office of Emergency Management and Communications.

“Heat-related illness” means a serious medical condition resulting from the body’s inability to cope with a particular heat load and includes, but is not limited to, heat cramps, heat exhaustion, heat syncope, and heat stroke.

“Outdoor Heat Index” means the Outdoor Temperature as it is perceived by the human body when humidity is combined with the Outdoor Temperature. The heat index is measured using the heat index calculator or heat index chart from the National Oceanic and Atmospheric Administration (NOAA).

“Outdoor Temperature” is measured based on the forecast or reported temperature by the National Weather Service for Chicago, Illinois.

“Outdoor Worker” means a worker whose primary job duties require working outdoors for at least 15 consecutive minutes in any given hour. “Outdoor Worker” includes employees of the

City and its Sister Agencies. "Outdoor Worker" does not include any employee of any other governmental entity.

"Shade" means blockage of direct sunlight.

"Shaded Area" means an area that is shaded or otherwise blocked from direct sunlight where Outdoor Workers are permitted to rest, recover, or otherwise lower the Outdoor Workers' body temperature in accordance with this chapter. A "Shaded Area" may include indoor spaces that are cooler than 80 degrees Fahrenheit or vehicles with air conditioning or other means of ventilation that can adequately provide relief from extreme Outdoor Temperature conditions.

"Signs and symptoms of a heat-related illness" means the physiological manifestations of a heat-related illness that requires emergency response and includes loss of consciousness (i.e., fainting, collapse) with excessive body temperature, which may or may not be accompanied by vertigo, nausea, headache, cerebral dysfunction, or bizarre behavior. This could also include staggering, vomiting, acting irrationally or disoriented, having convulsions, and (even after resting) having an elevated heart rate.

"Water" means water that is safe for human consumption in accordance with federal and state standards.

6-140-025 Access to Shaded Areas.

(a) In accordance with the minimum standards of subsection (b) of this section, an Employer shall provide its Outdoor Workers with access to Shaded Areas during daylight hours when the Outdoor Temperature is forecast to be or the Outdoor Heat Index is calculated to exceed 80 degrees Fahrenheit.

(b) Shaded Areas shall meet the following requirements:

(1) Shaded Areas shall be located as close as practicable to the area where Outdoor Workers are working. Employers shall not locate a Shaded Area in such a way that its access and use is discouraged.

(2) The minimum amount of shade provided by a worksite's Shaded Area or areas shall be at least enough to accommodate the number of Outdoor Workers on recovery or rest periods so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other, and the amount of shade provided during meal periods shall be enough to accommodate the number of Outdoor Workers on the meal period who remain onsite so that they can sit and eat in a normal posture fully in the shade without having to be in physical contact with each other.

(3) *Outdoor Shaded Areas.*

(A) The shade may be provided by any natural or artificial means.

(B) Outdoor Shaded Areas shall be open to the air. For example, an outdoor Shaded Area may be created via a canopy. A tent may not be sufficiently open to the

air if it does not allow for the free flowing of breezes that would cool those within the tent or would otherwise defeat the purpose of the shade.

(C) The shade must be sufficient. One indicator that shade is sufficient is when objects do not cast a shadow within the shade. However, a leafy tree may be able to provide sufficient shade.

(D) A Shaded Area may not be next to a heat generating object such as a vehicle in direct sun or an electric generator.

(c) In lieu of shade, an Employer may use other means to reduce body temperature, such as an indoor space or an air-conditioned vehicle, if it can demonstrate that such means provide equivalent protection.

(d) An Employer shall permit its Outdoor Workers access to Shaded Areas for cool-down periods at all times.

6-140-030 Access to water.

(a) No Employer shall prevent an Outdoor Worker from drinking water as the Outdoor Worker needs.

(b) Regardless of Outdoor Temperature or Outdoor Heat Index, an Employer shall provide cool water or access to cool water at the start of each shift. An Employer shall ensure that water is readily available and accessible to Outdoor Workers for the duration of their shift.

(c) *Location.* An Employer shall provide water, or access to water, to its Outdoor Workers, such that:

- (1) the water is as close to the work area as practicable.
- (2) if a worksite is expansive, an Employer shall provide multiple water stations so that a worker does not have to walk more than 0.25 miles from where they are working to access water.
- (3) the water is at no cost to its Outdoor Workers.
- (4) for lone or remote Outdoor Workers, an Employer shall grant the time and Employer-provided resources to acquire water along the lone or remote Outdoor Worker's route.

6-140-033 Preventative Cool-Down Rests and Mandatory Cool-Down Periods.

(a) When the Outdoor Heat Index is greater than 80 degrees Fahrenheit, an Employer shall:

- (1) allow and encourage Outdoor Workers to take rest breaks in areas that conform to the requirements of Section 6-140-025 if needed to prevent heat-related illness and until all signs or symptoms of heat-related illness have abated;

(2) monitor an Outdoor Worker who takes a preventative cool-down period and ask whether the Outdoor Worker is experiencing signs or symptoms of heat-related illness. Designated workers who monitor other Outdoor Workers may use electronic devices, such as a cell phone or radio, to check on remote or lone Outdoor Workers throughout the duration of their preventative cool-down rest;

(3) adjust job quotas as necessary to accommodate for preventative cool-down rests; and

(4) not interfere with, shorten, or count against an Outdoor Worker's meal break or any other mandated break when an Outdoor Worker takes a preventative cool-down rest to protect themselves from heat-related illness.

(b) When the Outdoor Heat Index is at or exceeds 90 degrees Fahrenheit, an Employer shall provide Outdoor Workers with a mandatory 15-minute cool-down period every two hours in a Shaded Area in accordance with Section 6-140-025. The mandatory 15-minute cool-down periods may occur in conjunction with any meal or other legally mandated worker breaks. An Outdoor Worker initiated preventative cool-down rest may be used to fulfill the mandatory 15-minute cool-down period.

(c) If an Outdoor Worker exhibits or reports signs or symptoms of heat-related illness while taking a preventative cool-down rest or during a mandatory cool-down period, the Employer shall provide appropriate first aid or emergency response in accordance with Section 6-140-055.

6-140-035 High-heat procedures.

An Employer shall implement high-heat procedures when the Outdoor Heat Index equals or exceeds 90 degrees Fahrenheit or the Outdoor Temperature is forecast by the National Weather Service to rise to equal or exceed 90 degrees Fahrenheit. These procedures shall, at minimum, include that the Employer shall:

(a) Ensure effective communication by voice, monitoring, or electronic means so that Outdoor Workers at the work site can contact an Outdoor Worker designated by the Employer to monitor Outdoor Workers for signs and symptoms of heat-related illness ("designated workers") when necessary. An electronic device, such as a cell phone or text messaging device, may be used for communication between Outdoor Workers and designated workers only if reception in the area is reliable.

(b) Ensure effective Outdoor Worker monitoring for alertness and signs or symptoms of heat-related illness by implementing one or more of the following:

(1) assigning a designee to monitor up to 20 Outdoor Workers; or

(2) requiring a buddy system, in which Outdoor Workers are paired with one another to ensure each other's safety; or

- (3) maintaining regular communication with solo or remote Outdoor Workers, such as by radio or cellular phone; or
- (4) through another effective means of observation.

(c) Designate one or more Outdoor Workers on each worksite to call for emergency medical services and allow other Outdoor Workers to call for emergency services when no designated Outdoor Worker is available. Despite this designation, anybody who observes an emergency may call for emergency services.

(d) Remind Outdoor Workers throughout the work shift of the availability of water at the worksite.

(e) Provide Outdoor Workers with a mandatory 15-minute cool-down period every two hours in accordance with Section 6-140-033(b).

(f) At the start of every shift where the Outdoor Heat Index equals or exceeds 90 degrees Fahrenheit or is forecast by the National Weather Service to rise to equal or exceed 90 degrees Fahrenheit during the shift,

- (1) provide instructions to Outdoor Workers on high heat procedures and inform Outdoor Workers of the Employer's obligations under Chapter 6-140, unless they received training within the previous 90 days,
- (2) encourage Outdoor Workers to drink water, and
- (3) remind Outdoor Workers of their right to rest, recover, or otherwise lower their body temperatures when necessary.

6-140-040 Emergency Response Procedures.

An Employer shall implement emergency response procedures when an Outdoor Worker exhibits one or more signs or symptoms of a heat-related illness. The emergency response procedure shall, at minimum, include that the Employer shall:

(a) Provide first aid measures and, when necessary, contact emergency medical services.

(b) If an Employer observes, or any worker reports to the Employer, any sign or symptom of heat-related illness in any Outdoor Worker, the Employer shall take immediate action commensurate with the signs and symptoms of a heat-related illness to ensure the Outdoor Worker's health and safety.

(c) Monitor and not leave an Outdoor Worker exhibiting any sign or symptom of a heat-related illness alone, nor shall the Employer send the Outdoor Worker home without being offered on-site first aid or being provided with emergency medical services commensurate with the signs and symptoms of a heat-related illness to ensure the Outdoor Worker's health and

safety. This subsection (c) does not apply to Employers of workers who are working alone at a worksite.

(d) For remote or lone Outdoor Workers, an Employer shall maintain communication by electronic means, such as through a cell phone or radio, until emergency medical services arrive on-site or the Outdoor Worker is transferred to medical care.

(e) Cooperate and coordinate with emergency medical services so that an Outdoor Worker that is exhibiting any sign or symptom of a heat-related illness may receive medical attention in as timely a manner as possible.

6-140-045 Observation of Outdoor Workers for Acclimatization.

The intention of this section is to ensure that Outdoor Workers are properly acclimatized to heat at the start of each hot season and whenever a new worker begins outdoor employment.

(a) At the beginning of each calendar year, an Employer shall designate workers responsible for observing the acclimatization and signs and symptoms of heat-related illness of each Outdoor Worker on the first day when the Outdoor Temperature is predicted to reach 80 degrees Fahrenheit.

(1) Workers designated to monitor Outdoor Workers for signs and symptoms of heat-related illness shall be trained in accordance with Section 6-140-050(d).

(2) No designated worker shall be assigned to observe more than 20 Outdoor Workers. If a worksite has more than 20 Outdoor Workers, additional designated workers shall be assigned so that the ratio remains one designated worker for every 20 Outdoor Workers.

(3) If a designated worker is unavailable, the Employer shall be permitted to assign a different worker who has completed the same level of training as a designated worker.

(4) For lone or remote Outdoor Workers, designated Workers may use reasonable means of electronic communication to check in with the Outdoor Workers throughout the first day when the Outdoor Temperature is predicted to reach 80 degrees Fahrenheit to ensure that the Outdoor Worker is not experiencing any signs or symptoms of a heat-related illness.

(b) For each new Outdoor Worker, an Employer shall designate workers to observe the new Outdoor Worker's acclimatization to heat during the first 14 days of employment during the months of May 1 through October 15, or after the first date of employment when the daytime Outdoor Temperature exceeds 75 degrees Fahrenheit, whichever occurs first.

(1) No designated worker shall be assigned to observe more than 20 new Outdoor Workers. If a worksite has more than 20 new Outdoor Workers, additional designated workers shall be assigned so that the ratio remains one designated worker for every 20 new Outdoor Workers.

(2) If a designated worker is unavailable during any or all of the 14 days of

acclimatization for new Outdoor Workers—for reasons of illness, approved time off, or otherwise—the Employer shall assign a different designated worker.

6-140-050 Training Requirements.

(a) Before providing any training to Outdoor Workers or designated workers required under this section, an Employer shall first complete an annual training approved by the Office of Labor Standards. Such training shall cover all topics required to be provided to Outdoor Workers and designated workers under subsections (c) and (d), as well as the Employer's responsibilities under this chapter.

(b) The Office of Labor Standards shall maintain and publish on its website a list of approved Employer training programs.

(c) An Employer shall provide training on the following topics to Outdoor Workers before the Outdoor Workers begin a job function that requires working outdoors for at least 15 consecutive minutes in any given hour in conditions where the Outdoor Heat Index is forecast by the National Weather Service to exceed 80 degrees Fahrenheit:

(1) The working conditions that create the possibility that heat-related illness could occur, including air temperature, relative humidity, radiant heat from the sun and other sources, conductive heat sources such as the ground, air movement, workload severity and duration, protective clothing, and personal clothing, and personal protective equipment worn by Outdoor Workers.

(2) Factors that affect a body's response to heat, such as an individual's age, acclimatization, health, water consumption, alcohol consumption, caffeine consumption, and the use of prescription medications that affect the body's water retention or other physiological responses to heat.

(3) The Employer's heat-related illness prevention plan.

(d) In addition to the training required under subsection (c) of this section, an Employer shall provide annual training on the following topics to each worker designated to monitor Outdoor Workers for the signs and symptoms of heat-related illness before that worker is designated to monitor Outdoor Workers regarding:

(1) All procedures the designated worker must follow to implement this chapter.

(2) Methods of monitoring weather reports, including how to respond to hot weather advisories and the frequency the monitor is obligated to monitor weather reports throughout the workday or shift, as applicable.

(e) An Employer shall provide its designated worker training in the designated worker's preferred language.

(f) An Outdoor Worker need be trained only one time in any calendar year.

(g) Training of Outdoor Workers shall be in the preferred language of the Outdoor Workers and provide Outdoor Workers with the opportunity to ask questions, provide feedback, and request additional instruction or clarification.

6-140-055 Heat-related Illness Prevention Plan.

(a) An Employer that has Outdoor Workers shall establish, implement, and maintain an effective heat-related illness prevention plan. A heat-related illness prevention plan shall, at minimum, outline how such Employer will comply with its obligations under this chapter.

(b) An Employer shall give each Outdoor Worker a copy of its heat-related illness prevention plan at the start of an Outdoor Worker's employment and every time the Employer makes a change to the plan. The Employer shall make available copies of the plan to its Outdoor Workers at the worksite.

(c) An Employer shall provide the heat-related illness prevention plan in writing. Additionally, an Employer shall:

(1) make its heat-related illness prevention plan available to its Outdoor Workers in both English and the language understood by the majority of its Outdoor Workers.

(2) translate its heat-related illness prevention plan and all changes to such plan into any of its Outdoor Workers' primary languages upon request.

(3) notify its Outdoor Workers in their primary language that they may request oral interpretation of such plan provided by the Employer.

6-140-060 Record keeping and data collection.

(a) The Office of Labor Standards shall publish and make available on its website a standardized data collection form for Employers.

(b) Every Employer shall collect and maintain data and records as required by the Office of Labor Standards on all heat-related illnesses and fatalities which occur at an outdoor worksite.

(c) Employers shall be required to retain records of heat-related illnesses and fatalities for no less than five years from the date of the incident.

(d) Upon request, every Employer shall turn over data and records on all heat-related illnesses and fatalities which occurred at an outdoor worksite to the Office of Labor Standards.

(e) Failure to maintain or turn over data and records upon request shall be considered a violation subject to penalties under section 6-140-080.

6-140-065 Notice and posting.

An Employer shall post notices in a conspicuous place advising its Outdoor Workers of their rights under this chapter. The Commissioner shall prepare and make available a form notice that satisfies the requirements of this section. Such form notice shall ensure that Outdoor Workers who have limited proficiency in the English language have meaningful notice of their rights under this chapter in accordance with Chapter 2-40 of the Code.

6-140-070 Enforcement.

The Commissioner of Business Affairs and Consumer Protection is authorized to adopt rules for the proper administration and enforcement of this chapter. The Departments of Buildings, Business Affairs and Consumer Protection, and Environment are authorized to issue citations for alleged violations of the chapter. The Commissioner of Business Affairs and Consumer Protection is authorized to act as the prosecuting party for all citations issued by the various departments.

6-140-075 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 this chapter. In no event shall this chapter apply to any employee working in the construction industry who is covered by a bona fide collective bargaining agreement.

(b) 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.

(c) Other than a collective bargaining agreement, any agreement to waive rights granted under this chapter is void as against public policy.

6-140-080 Violation - Penalty.

(a) Any Employer found in violation of this chapter or any rule promulgated hereunder shall be subject to a fine of not less than \$500 nor more than \$1,000 for each offense. Every day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

(b) In addition to any other penalty provided by law, an Employer who has been found liable for three or more violations of this chapter or any rule promulgated thereunder on three different days within any 12-month period may, as a result, be found ineligible under Section 1-23-020 or Section 2-92-320, or suffer license revocation under Section 4-4-280.

6-140-085 Private cause of action.

(a) If an Employer violates any provision of this chapter, the affected Outdoor Worker may recover in civil action damages equal to three times the amount of any lost wages due to heat-related illness, costs of incurred and ongoing medical expenses, 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) Such right to a private cause of action shall not be available until January 1, 2028.

(c) An Outdoor Worker may initiate a civil action pursuant to this chapter only after: (1) an alleged violation occurs; and (2) seven days after the alleged violation occurred passes. This Section 6-140-085(c) shall sunset of its own accord without further action of the City Council on December 31, 2028.

6-140-090 Non-exclusive remedy.

The remedies, fines, and procedures provided under this chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties, and procedures established by law which may be pursued to address violations of this chapter.

6-140-095 Investigations as a result of settlements.

If the City learns that after being charged with a violation of this chapter 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 Director, in conjunction with the Chief Procurement Officer, is authorized to conduct an investigation to determine whether the Employer's conduct that resulted in those settlements evinces culpability that merits ineligibility under Section 1-23-020 or Section 2-92-320, or license revocation under Section 4-4-280.

SECTION 2. The Office of Labor Standards shall work with the Department of Technology and Innovation to create and implement a complaint-based system integrated with the City's existing 311 system.

SECTION 3. This Ordinance shall be in full force and effect on January 1, 2027.