

Chapter 2337 – FREELANCE WORKERS

2337.01 – Definitions.

(A) As used in Chapter 2337 of the Columbus City Codes:

(1) “Commission” refers to the Wage Theft Commission, as defined in Chapter 377 of city code.

(2) “Freelance worker” means any individual or any organization composed of no more than one person, whether or not incorporated or employing a trade name, that is hired or retained as an independent contractor by a hiring party to provide goods or services in exchange for compensation. This does not include any of the following:

(a) An individual or organization who, pursuant to the contract at issue, is a sales representative as defined in Section 1335.11 of the Ohio Revised Code;

(b) An individual or organization who is in contract under a prepaid entertainment contract as defined in Section 1345.41 of the Ohio Revised Code;

(3) “Hiring party” means any person, including the City of Columbus, who retains a freelance worker to provide any service. “Hiring party” does not include the United States government, the state of Ohio, or any office, department, agency, authority, institution, association, society, or other body of the state, including the legislature and the judiciary, and any county or local government, other than the City of Columbus.

2337.02 – Written Contract.

(A) Whenever a hiring party retains the services of a freelance worker and the contract between them has a value of \$250 or more, either by itself or when aggregated with all contracts for services between the same hiring party and freelance worker during the immediately preceding 120 days, the contract shall be reduced to writing. The hiring party shall be responsible for reducing the contract to writing unless the parties mutually agree to the use a written contract provided by the freelance worker. The hiring party to the written contract shall retain, for a minimum of five years from the date of execution, a copy thereof.

(B) The written contract shall include all of the following:

(1) The name and mailing address of both the hiring party and the freelance worker;

(2) An itemization of all services to be provided by the freelance worker, the value of the services to be provided pursuant to the contract, and the rate and method of compensation; and

(3) The date on which the hiring party must pay the contracted compensation or, if not a specific date, no later than 30 days from when the contracted services are completed.

2337.03 – Payment Practices.

(A) Except as otherwise provided by law, the hiring party shall pay the freelance worker the contracted compensation either:

(1) On or before the date such compensation is due under the terms of the contract; or

(2) If the contract does not specify when the hiring party must pay the contracted compensation, no later than 30 days after the completion of the freelance worker’s work under the contract.

(B) No hiring party shall, as a condition of timely payment, require a freelance worker to accept less than the contracted compensation.

(C) Nothing in this section shall be construed as seeking to interfere with the operation of Chapter 1345 of Ohio Revised Code pertaining to unfair, deceptive or unconscionable sales practices.

2337.04 – Retaliation.

No hiring party shall threaten, intimidate, discipline, harass, deny a work opportunity, retaliate against or discriminate against a freelance worker, or take any other action that penalizes or is reasonably likely to deter a freelance worker from exercising or attempting to exercise any right guaranteed under this chapter.

2337.05 – Enforcement and Complaint Procedure.

Freelance workers may file a complaint alleging a violation of this Chapter with the Wage Theft Prevention and Enforcement Commission under Chapter 377 of the Columbus City Codes.

2337.06 – Waiver and Effects on Other Laws.

(A) Except as otherwise provided by law, any provision of a contract purporting to waive rights under this chapter is void.

(B) The provisions of this chapter are intended to supplement existing law, and do not diminish or replace, any other basis of liability or requirements established by state or federal law.

(C) Failure to comply with the provisions of this chapter does not render any existing contract between a hiring party and a freelance worker void or voidable or otherwise impair any obligation, claim, or right related to such contract or constitute a defense to any action or proceeding to enforce, or for breach of, such contract.

(D) No provision of this chapter shall be construed as providing a determination about the legal classification of any individual as an employee or independent contractor.

(E) The provisions of Chapter 2337 of the Columbus City Codes apply to any profession that is regulated pursuant to Chapter 4798 of the Ohio Revised Code only to the extent that they do not conflict with state law.

2337.07 – Severability.

If any provision or section of this chapter or the enforcement of any such provision or section is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision or section of this chapter. To this end, each of the provisions and sections of this chapter are severable.

377.02 Wage Theft Prevention and Enforcement Commission.

- (a) There is hereby created the Wage Theft Prevention and Enforcement Commission, the duties and powers of which shall include hearing and determining whether an adverse determination should issue for a violation of section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, or 377.10 of the city code or for a breach of any contractual obligation to the City to assume the obligations of any provisions within this Chapter; recommending to the City Attorney penalties and remedies for a finding of non-compliance with section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, or 377.10 of the city code; approving settlement agreements to settle or compromise alleged violations of sections 377.03, 377.05, 377.06, 377.07, 377.08, 377.09, and 377.10 of the city code where the covered entity has taken reasonable action to cure, remedy, or correct the action which formed the basis for the alleged violation; approving staff resolutions alleging non-compliance with sections 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, or 377.10 of the city code; receiving complaints from residents, workers, and businesses regarding non-compliance with sections 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, and 377.10 of the city code; publishing and updating the adverse determination list; hearing and determining whether to grant a waiver or other relief pursuant to section 377.02(o)-(r) of the city code to a person with an adverse determination under section 377.01(a)(1)(A); hearing and determining whether there has been a violation of section 2337.02, 2337.03, or 2337.04 of the city code; approving remedies and settlements to violations of section 2337.02, 2337.03, or 2337.04 of the city code; hearing and determining whether a written decision should be issued for violations of section 2337.02, 2337.03, or 2337.04 of city code; collecting and reporting on data related to any complaints under 2337.02, 2337.03, or 2337.04 of city code; and participating in community education programs.

- (b) The Commission shall be composed of five (5) members. Upon appointment to the Commission, members shall serve for a term not exceeding three years, subject to 377.02(d) of this section. Members may be reappointed to a new three year terms at the conclusion of their term.
- (c) Of the five (5) members comprising the Commission, two (2) members shall be appointed by the Mayor, two (2) members shall be appointed by Council, and the fifth member shall be appointed by the Commission with the advice and consent of the Mayor and Council. All member appointments shall be subject to a vote by Council, with a majority in the affirmative required for appointment.
- (d) The initial appointments to the Wage Theft Prevention and Enforcement Commission shall occur no later than April 1, 2021, and the terms for the initial appointments shall vary to provide for staggered terms:
 - (1) Two (2) members shall be appointed for a term not exceeding two years;
 - (2) Three (3) members shall be appointed for a term not exceeding three years;
 - (3) As provided in section 377.02(b), upon expiration of their initial term, any member may be reappointed to a new term not to exceed three years.
- (e) The Commission shall hold public meetings, the intervals between which shall not exceed sixty (60) days. Records of all proceedings shall be maintained and open to the public.
- (f) The Commission shall receive staff support, to be provisioned by the Department of Finance, equivalent to no less than one (1) full-time employee.
- (g) Upon receipt of a complaint alleging that a covered entity has violated section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, or 377.10 of the city code, Commission staff shall conduct an investigation to determine if a violation has occurred.
 - (1) During the course of the investigation, Commission staff may work with a covered entity to attempt to cure or compromise any alleged violation of section 377.03, 377.05, 377.06, 377.07, 377.08, 377.09, or 377.10 of the city code so as to reach a settlement agreement to resolve the matter. If so reached, Commission staff shall present the proposed settlement agreement to the Commission for approval and, if approved by the Commission, no adverse determination shall be made based upon the allegation. Notwithstanding anything in this Chapter to the contrary, the Wage Theft Prevention and Enforcement Commission has the authority to settle any alleged violation of section 377.03, 377.05, 377.06, 377.07, 377.08, 377.09, 377.10 prior to a final determination by the Wage Theft Prevention and Enforcement Commission upon a hearing that a violation has occurred.
 - (2) Where there are reasonable grounds to believe that a violation has occurred and either a settlement agreement has not been reached or the allegation pertains to a violation of section 377.04, the matter shall be submitted to the Commission for a hearing to determine if a violation has occurred.
 - (3) The covered entity shall be notified by Commission staff of a pending investigation where it is determined that there are reasonable grounds to believe that a violation has occurred. Commission staff shall provide a covered entity with notice that it may submit information to the Commission staff relevant to whether the covered entity has violated this Chapter.
- (h) If the Commission staff determines, based upon its investigation and after reviewing any information provided by the covered entity, that there are reasonable grounds to believe that a violation of section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09 or 377.10 has occurred, a hearing on the alleged violation shall be conducted by the Commission at a meeting open to the public.

- (1) The Commission shall provide the covered entity with notice of the hearing and a description of the subject(s) of the investigation at least thirty (30) days in advance of the public hearing.
 - (2) The Commission shall provide the covered entity with an opportunity to submit documents, present information, call, examine, and cross examine witnesses, and be heard by the Commission during the public hearing and prior to a vote.
 - (3) The Commission shall determine, based on all of the information presented, if a violation of section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09 or 377.10 of the city code has occurred.
 - (1) A majority vote by the Commission finding a violation shall result in finding of an adverse determination.
 - (2) A covered entity may appeal to the Franklin County Court of Common Pleas pursuant to the procedures and requirements set forth in Ohio Revised Code Chapter 2506 or any successor thereto.
- (i) Upon receipt of a complaint alleging that a hiring party, as defined in Chapter 2337, has violated section 2337.02, 2337.03, or 2337.04 of the city code, Commission staff shall conduct an investigation to determine if a violation has occurred.
- (1) During the course of the investigation, Commission staff may work with a hiring party to attempt to settle and remedy any alleged violation of section 2337.02, 2337.03, or 2337.04 of the city code so as to reach a settlement agreement to resolve the matter. If so reached, Commission staff shall present the proposed settlement agreement to the Commission for approval and, if approved by the Commission, no written decision of a violation of Chapter 2337 shall be made based upon the allegation. Notwithstanding anything in this Chapter to the contrary, the Wage Theft Prevention and Enforcement Commission has the authority to settle any alleged violation of section 2337.02, 2337.03, or 2337.04 prior to a final determination by the Wage Theft Prevention and Enforcement Commission upon a hearing that a violation has occurred.
 - (2) The hiring party shall be notified by Commission staff of a pending investigation where it is determined that there are reasonable grounds to believe that a violation has occurred. Commission staff shall provide a hiring party with notice that it may submit information to the Commission staff relevant to whether the hiring party has violated Chapter 2337 of the city code.
 - (3) Where there are reasonable grounds to believe that a violation has occurred and a settlement agreement has not been reached, the matter shall be submitted to the Commission for a hearing to determine if a violation has occurred.
- (j) If the Commission staff determines, based upon its investigation and after reviewing any information provided by the hiring party, that there are reasonable grounds to believe that a violation of section 2337.02, 2337.03, or 2337.04 has occurred, a hearing on the alleged violation shall be conducted by the Commission at a meeting open to the public.
- (1) The Commission shall provide the hiring party with notice of the hearing and a description of the subject(s) of the investigation at least thirty (30) days in advance of the public hearing.
 - (2) The Commission shall provide the hiring party with an opportunity to submit documents, present information, call, examine, and cross examine witnesses, and be heard by the Commission during the public hearing and prior to a vote.

- (3) The Commission shall determine, based on all of the information presented, if a violation of section 2337.02, 2337.03, or 2337.04 of the city code has occurred.
- (a) A majority vote by the Commission finding a violation shall result in a written decision finding a violation of Chapter 2337.
- (b) A hiring party may appeal pursuant to Ohio Revised Code Chapter 2506 or any successor thereto.
- (~~k~~) The Commission shall provide written notice of its findings of facts and conclusions of law and any recommended penalties and remedies for any adverse determination based on a violation of section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09 or 377.10, or for any written decision finding a violation of Chapter 2337 of the city code.
- (~~l~~) The Commission shall publish and update the adverse determination list at least once every sixty days.
- (~~m~~) The Commission may receive complaints from residents, workers and businesses regarding non-compliance with sections 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, 377.10, 2337.02, 2337.03, and 2337.04 and 377.10 of the city code for investigation.
- (~~n~~) The Commission may contract with a qualified non-for-profit organization to assist with investigations, ~~and~~ education programs, and providing consultation and resources to freelance workers impacted by a violation of Chapter 2337.
- (~~o~~) The Commission shall issue a report annually to Council on its activities and whether it recommends the reduction or revocation of any financial incentives defined in this chapter due to violations of Chapter 377.
- (~~p~~) A member of the Commission may be removed by a majority vote of the rest of the members for inefficiency, neglect of duty, or malfeasance in office. Such a vote shall only be taken after the member is provided a copy of the charges and an opportunity to be heard in person or by defense counsel.
- (~~q~~) A covered entity, or any person that reasonably believes it may become a covered entity, may request a waiver from the Commission for an adverse determination which would result in its placement on the adverse determination list. A covered entity shall submit any such waiver request in writing in a manner and form prescribed by the Commission and shall include one or more of the following bases for the grant of said waiver:
- (1) There has been a bona fide change in ownership of the covered entity or an affiliate since the adverse determination occurred;
 - (2) The covered entity or an affiliate of the covered entity has taken significant and verifiable remedial actions to prevent any future adverse determinations from occurring and has complied with the requirements of the determination forming the basis of the adverse determination, including, as applicable satisfaction of the reporting obligation under this Chapter, providing the Commission with documents and information required by this Chapter, and the payment of required back pay, interest, penalties, and fines; and
 - (3) Other factors that the covered entity believes is relevant to the granting of a waiver.
- (~~r~~) The Commission shall consider all information submitted by a covered entity or person under 377.02(~~q~~)(1)-(3) and may request additional information from a covered entity or person to determine whether to grant a waiver.
- (~~s~~) The Commission may grant a waiver to a covered entity or person under 377.02 (~~q~~)-(~~r~~) by removing a covered entity or person from the 377.02 (~~l~~) list, reducing the time period a covered

entity or person is on the adverse determination list, or allowing a covered entity or person a one-time waiver to enter into a financial incentive agreement with the City, receive a financial incentive provided by the City, enter into a City contract for goods or services, enter into a construction contract pursuant to, related to, or in furtherance of a financial incentive agreement, enter into an agreement to provide janitorial, maintenance, repair, property management, or landscaping services at a development location covered by a financial incentive agreement, or enter into an agreement with a covered entity to perform work or services pursuant to or in satisfaction of a City contract for services.

- (~~tf~~) A supermajority vote of the Commission shall be required to grant a waiver to a covered entity under 377.02 (~~q~~)-(~~sq~~).
 - (~~us~~) If the Commission, in the course of performing its duties, discovers evidence or receives a complaint that a person has committed wage theft or payroll fraud, the Commission may refer the matter to the United States Department of Labor, the Ohio Department of Commerce, or any other appropriate entity for further investigation.
 - (~~y~~) A City Department may request a waiver from the Commission on behalf of a covered entity that has an adverse determination which would result in its placement on the adverse determination list. The Commission may grant the waiver if the City Department demonstrates that the inability of the City Department to contract with said covered entity would result in serious disruption to the efficient and orderly operations of the City or the covered entity is a sole source provider of goods or services that are necessary for the efficient and orderly operations of the City.
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377.11 Rules and regulations.

- (a) The Commission shall develop rules and regulations for the following:
 - (1) Review of financial incentive agreements and City contracts to ensure that provisions required by this Chapter are included.
 - (2) Monitoring of financial incentive agreements and City contracts and the submission of required statements to ensure compliance with this Chapter, including reviewing complaints, referring complaints to an appropriate federal or state agency for investigation, and monitoring the outcome of complaints against covered entities for purposes of this Chapter.
 - (3) Pursuing remedies, imposing sanctions and levying penalties for failing to timely submit reports and sworn statements required by this chapter, and setting fees for filing disclosures and statements required by this Chapter.
 - (4) Protecting victims of wage theft and payroll fraud from retaliation or adverse action resulting from reports made pursuant to or required under this Chapter.
 - (5) Publication and updates to the Commission list of persons that have received adverse determinations.
 - (6) The processing and investigation by Commission staff of complaints made against covered entities for failure to comply with the provisions of Chapter 377.
 - (7) The processing and investigation by Commission staff of complaints made against hiring parties of violations of Chapter 2337 of the city code.
 - (~~78~~) Permissible settlement authority and Commission approval process for staff resolution of allegations of violations of section 377.03, 377.05, 377.06, 377.07, 377.08, 377.09, 377.10, 2337.02, 2337.03, or 2337.04 ~~or 377.10~~ of the city code.
- (b) The adoption and promulgation of any rules or regulations by the Commission shall comply with the provisions of CCC 121.05.

(c) The Commission shall adopt bylaws governing the conducting of Commission business.

377.12 Remedies.

- (a) Whenever the Wage Theft Prevention and Enforcement Commission renders any adverse determination against a covered entity for any violation(s) of section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09 or 377.10, or a written decision finding a violation of Chapter 2337 of the city code, or if a covered entity or hiring party appeals any such adverse determination or written decision, whenever the final decision on appeal confirms the adverse determination or written decision, in whole or in part, the City may pursue any available legal, contractual or equitable remedies.
- (b) Upon rendering an adverse determination for any violation of sections 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09 and 377.10 of the city code, the Wage Theft Prevention and Enforcement Commission may, where applicable, recommend to the City Attorney that the City pursue any of the following:
 - (1) In the case of financial incentive agreements under the Community Reinvestment Area Act and Enterprise Zone Act, unilateral termination or modification of the financial incentive agreement, including unilateral reduction of the tax abatement by up to 100 percent of the future benefit of the financial incentive agreement, as recommended by the Tax Incentive Review Council to Council following receipt of a report and recommendation from the Wage Theft Prevention and Enforcement Commission; provided, however, that no tax abatement shall be terminated or modified to the extent that the tax abatement benefit is recaptured by a payment in lieu of tax, special assessment, community development charge or similar charge levied by the State, the City or another political subdivision to service bond or other debt to finance the design or construction of public infrastructure improvements or any other permissible improvements under the Ohio Revised Code.
 - (2) In the case of financial incentive agreements under the Community Reinvestment Area Act and Enterprise Zone Act, recapture of subsidy and abatement benefits by up to 100 percent of accrued value agreement as recommended by the Tax Incentive Review Council to Council following receipt of a report and recommendation from the Wage Theft Prevention and Enforcement Commission; provided, however, that no tax abatement shall be recaptured to the extent that the tax abatement benefit is recaptured by a payment in lieu of tax, special assessment, community development charge or similar charge levied by the State, the City or another political subdivision to service bond or other debt to finance the design or construction of public infrastructure improvements or any other permissible improvements under the Ohio Revised Code.
 - (3) Loss of low-interest rate commercial loan benefits;
 - (4) Suspension or revocation of grants; provided, however, that no grant agreement shall be suspended or revoked if the grant funds the design or construction of public infrastructure improvements;
 - (5) For any covered entity that has violated city code and has an adverse determination under 377.01(a)(1)(A) arising from wage theft or payroll fraud either at a development location covered by a financial incentive agreement or relating to a City contract for goods or services, the City may deem the covered entity ineligible for future contracts or financial incentive

agreements with the City until all victims of wage theft and payroll fraud have been paid in full;

- (6) As a condition of continuing an active or future contract with the City, requiring the posting of a bond or other form of insurance equal to one year of gross wages and a certified monthly payroll report for the duration of the City contract if the covered entity has previously received an adverse determination; provided, however, that this remedy shall not apply to financial incentive agreements;
 - (7) For any covered entity that has violated city code and has an adverse determination under 377.01(a)(1)(A) arising from wage theft or payroll fraud either at a development location covered by a financial incentive agreement or relating to a City contract for goods or services, the City may impose a stop work order until all victims of wage theft and payroll fraud have been paid in full and there is full compliance with the terms of this Chapter; provided, that a party to a financial incentive agreement may pay the victims of wage theft and payroll fraud on behalf of a covered entity performing work or services pursuant to, related to, or in furtherance of the financial incentive agreement, in which case the stop work order with respect to such work or services shall be rescinded; provided further, that in case of such payment on behalf of the covered entity, the covered entity shall remain ineligible for future contracts or financial incentive agreements until the party making the payment certifies to the City that it has been repaid by the covered entity for all payments made on behalf of the covered entity;
 - (8) Permanent debarment for City contracts.
- (c) Upon rendering a written decision finding a violation of sections 2337.02, 2337.03, or 2337.04 of the city code, the Wage Theft Prevention and Enforcement Commission may provide the impacted freelance worker with contact information for community legal services for consultation and review.
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377.15 Community education and know your rights program.

(a) The City and Commission shall partner with employers, labor organizations, and community organizations for the purpose of informing residents of their workplace rights under federal, state, and local law and to communicate the benefits of the Columbus Wage Theft Prevention and Enforcement provisions to businesses, employees, and communities.

(b) The City and Commission shall also provide information regarding the protections for freelance workers as set forth in Chapter 2337 of city code, including general information about the requirements of the chapter, complaint forms, and any other information or resources as determined relevant by Commission staff.

377.16 – Data Collection and Reporting

The Commission staff shall collect and report on data regarding Chapter 2337 of City Code and the complaints filed under that section, including but not limited to the following data collection and reporting requirements:

(A) No later than six months after receiving a complaint against a hiring party, the Commission staff shall send the freelance worker a survey requesting additional information about the resolution of the freelance worker's claims. Such survey shall ask whether or not the hiring party ultimately paid any or all of the

compensation the freelance worker alleged was due or if the matter was resolved in a different manner.
Such survey shall clearly state that response to the survey is voluntary.

(B) Commission staff shall collect and track information about complaints alleging violations of Chapter 2337. The information collected shall include, at minimum:

- (1) The hiring party alleged to have violated this chapter;
- (2) The freelance worker's occupation;
- (3) The section of this chapter that was alleged to have been violated;
- (4) The monetary value of the contract;
- (5) The response or non-response from the hiring party to the Commission staff's inquiry; and
- (6) Information from a completed survey.

(C) On an annual basis, Commission staff shall submit to the Office of the Mayor and City Council a report detailing all of the following regarding freelance worker protections:

- (1) The number of complaints received pursuant to this chapter;
 - (2) The monetary value of the contracts referenced in the complaints;
 - (3) The number of settlements and the average term of the settlements; and
 - (4) Any other relevant information, as determined by the Commission staff.
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377.17~~6~~ Just Pay fund.

- (a) There is hereby created the Columbus Just Pay Fund. The Fund shall be used solely for the purpose of paying expenses related to the administration of this chapter, expanding enforcement of wage and hour laws, and supporting community education on the rights of workers under wage and hour laws.
 - (b) The Just Pay fund shall receive deposits transferred from the various funds of the city in an amount necessary to provide resources adequate to support the enforcement of the Columbus Wage Theft Prevention and Enforcement provisions. The amounts transferred from the various funds of the city into the Just Pay fund shall be calculated upon the number of purchase orders and purchase requisitions originating within each fund of the city, multiplied by a fixed dollar amount as determined by the Director of Finance and Management.
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377.18~~7~~ Severability.

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.