



City of Columbus

Office of City Clerk
90 West Broad Street
Columbus OH 43215-9015
columbuscitycouncil.org

Legislation Text

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This ordinance establishes new Chapter 377, Wage Theft Prevention and Enforcement, within Columbus City Codes. This ordinance also amends specific existing chapters of Columbus City Codes to align with the financial incentive and benefit revocation and recovery principles contained in new Chapter 377.

To create Chapter 377, Wage Theft Prevention and Enforcement, within Columbus City Codes; and to amend Chapters 329, 4105, 4113, and 4562 of Columbus City Codes.

WHEREAS, the City has an interest in ensuring that workers in the City, particularly those working on City-supported projects, contracts, and for tax-abated entities, are paid in compliance with all federal, state, and local laws; and,

WHEREAS, the Ohio Attorney General's Office has previously estimated that more than 90,000 Ohio workers were illegally misclassified as independent contractors when they actually were employees, resulting in a cost to Ohio state and local government of hundreds of millions of dollars in lost unemployment compensation, workers' compensations premiums, and state and local income taxes; and,

WHEREAS, when employers in the City of Columbus commit this type of wage theft or payroll fraud, their unlawful activity costs the City income tax revenue, negatively impacting the City's ability to pay for basic services; and,

WHEREAS, wage theft and payroll fraud puts law abiding businesses at a competitive disadvantage and it is in the City's interest to protect and support the majority of businesses that are following the law; and,

WHEREAS, the City reaffirms its commitment to protecting workers and law abiding businesses from wage theft and payroll fraud in contracts into which the City enters, in tax abatement, tax incentive, and tax credit agreements, and in issuing City building permits, commercial licenses, and business permits; and,

WHEREAS, payroll fraud refers to a business concealing its true tax liability or other financial liability to a government agency, by misclassifying employees or paying for business transactions in cash without keeping appropriate records; and,

WHEREAS, wage theft means not properly paying workers for all work performed, paying less than the minimum wage, paying less than the prevailing wage, not paying for all hours worked, or failing to pay overtime compensation, in violation of federal, state, or local law; and,

WHEREAS, Council wants to protect workers and law-abiding businesses from employers that misclassify employees who perform work or services at a location development site covered by a financial incentive agreement, or pursuant to or in satisfaction of a contract for goods and services, as independent contractors;

WHEREAS, Council wants the City to take all possible action to recover any benefit or incentive, including foregone tax revenue, provided to entities if those entities, their contractors, subcontractors, lessees, tenants or occupants are found to have committed wage theft or payroll fraud; and,

WHEREAS, Council believes that establishing a Wage Theft Prevention Commission dedicated to investigating violations of this Ordinance and related rules and regulations, recommending penalties and remedies for violations and

receiving wage theft and payroll fraud complaints will serve the interests of workers, law abiding businesses, residents and the City; and,

WHEREAS, Council also reaffirms by ordinance that commission of wage theft or payroll fraud may be grounds for debarment from future contracts with the City, stop work orders, denial, suspension or revocation of building permits, commercial licenses and business permits, forfeiture or reduction of tax abatements, tax incentives, tax credit agreements and other incentives and referral to local, state and federal authorities for investigation, further legal action and possible prosecution; and,

WHEREAS, this Ordinance is in furtherance of the City's express goals of valuing the dignity of work, promoting broad-based economic prosperity, attracting workers, and aggressively assisting business and employers who follow the law and invest in our communities to grow; **NOW THEREFORE**,

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

SECTION 1. That Section 329.16 of Columbus City Codes is hereby amended as follows:

329.16 - Authority to debar or suspend

After consulting with the city attorney, the director of finance and management or designee is authorized to suspend an individual or entity from consideration for the award of city contracts if there is probable cause to believe that the individual or entity has engaged in any activity, as identified in this section, or in Section 377.01, which might lead to debarment. The suspension shall be for a period not to exceed three (3) months.

SECTION 2. That the Columbus City Codes are amended with new Chapter 377 - Wage Theft Prevention and Enforcement as contained in the attachment to this ordinance.

SECTION 3. That Section 4105.04 of Columbus City Codes is hereby amended as follows:

4105.04 - Stop orders.

(A) Whenever any building work is being done contrary to the provisions of this Building Code, the building official shall order the work stopped by posting at the work site a printed notice to "stop work" signed by the building official or by a notice in writing served on any persons engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work.

(B) Following a rendering of an adverse determination for a violation of the provisions of Chapter 377, and subject to a recommendation by the Wage Enforcement Commission, the building official shall issue a stop work order until the permit holder achieves full compliance with the provisions of Chapter 377.

(~~B~~C) Whenever any building work is being done on an existing one-, two- or three-family dwelling by an unlicensed contractor or without a properly issued permit, the building official shall issue a notice to stop work or authorize a code enforcement officer to issue a notice in writing to be served on any person engaged in doing or causing such work to be done and any such person shall forthwith stop such work until authorized by the building official to proceed with the work.

(~~E~~D) Any persons affected by an order of the building official stopping work may appeal to the building commission as provided in C.C. 4107.05.

(~~E~~E) Any "stop work order" issued for any building work regulated under the Ohio Basic Building Code shall be appealed to the Ohio Board of Building Appeals unless such appeal is related to the more restrictive regulations enacted by city ordinances.

SECTION 4. That Section 4113.05 of Columbus City Codes is hereby amended as follows:

4113.05 - Permits-Revocation.

Each and every permit issued by the building official shall be subject to revocation by the building official whenever it appears that such building, structure, or mechanical equipment governed by this code, is being constructed so that the same, or any part thereof, encroaches upon any street, alley or other public place, or is being so constructed as to violate any of the terms or conditions of this Building Code or any other ordinance of the city or any statute of the state, relating to the location, erection, alteration or repair of buildings, or mechanical equipment governed by this code.

Following a rendering of an adverse determination for a violation of the provisions of Chapter 377, and subject to a recommendation by the Wage Enforcement Commission, any or all current permits shall be revoked by the building official.

Any permit shall be revoked if the check tendered therefor is dishonored by the payor's bank.

The revocation of the permit shall be in writing and shall be served upon the owner or upon the superintendent or contractor in charge of the work and posted upon the building or structure for which such permit was granted, and from and after such revocation of such permit and the posting of such notice all work of every kind and character on such building or structure, or mechanical equipment shall be discontinued.

SECTION 5. That the Columbus City Codes are hereby amended with new Section 4565.12 as follows:

4565.12 Revocation and recapture of incentives

Recipients or beneficiaries of financial incentives defined in this chapter are subject to the provisions of Chapter 377 of Columbus City Codes. Following a rendering of an adverse determination for a violation of provisions of Chapter 377, and subject to a recommendation of the Wage Enforcement Commission, financial incentives may be revoked and any foregone revenue as a function of said financial incentive may be subject to recapture.

SECTION 6. That this ordinance shall take effect at the earliest date allowable under law.