



City of Columbus

Legislation Report File Number: 2401-2024

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

Attachments: Chapter 2337 - 2024 Revisions - Final, Chapter 377 -
2024 Revisions - Final, Code Change Fact Sheet
2401-2024

Related Files:

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	9/6/2024	ATTORNEY APPROVER	Approved	8/30/2024

Notes: Inb

History of Legislative File

Ver.	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Columbus City Council	09/09/2024	Read for the First Time				
1	Columbus City Council	09/16/2024	Approved				Pass
1	COUNCIL PRESIDENT	09/16/2024	Signed				
1	MAYOR	09/18/2024	Signed				
1	CITY CLERK	09/19/2024	Attest				

ODI: Following the review and approval, when required, the Office of Diversity and Inclusion certifies compliance with Title 39 as of date listed.

City Attorney: Following review and approval, when required, this ordinance has been reviewed by the City Attorney's Office as to its form and legality only.



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Explanation

Background: This ordinance repeals and replaces Columbus City Code Chapter 377 and Chapter 2337 with updated chapters that reflect corrected spelling, grammar, and formatting within the chapters. These changes also rename the Wage Theft Prevention and Enforcement Commission to the Labor Commission.

This ordinance authorizes changes to City Code Chapter 377 that would rename the Wage Theft Prevention and Enforcement Commission to the Labor Commission. This change is recommended due to the expanded role of the Commission as established by Ordinance 1016-2023 which created Chapter 2337, Freelance Workers, and updated Chapter 377. Renaming the Commission will provide clarity to the public and to Commission members on the full scope of the Commission's role.

Chapter 377 was created by Ordinance 1802-2020, passed on September 21, 2020. Since then, Commission staff has identified a number of typos, grammatical errors, and formatting inconsistencies within the Chapter. Some errors were found within Chapter 2337 as well, which was created by Ordinance 1016-2023 and passed on May 1, 2023. This ordinance corrects those errors, which appear throughout both chapters. For this reason, repealing and replacing the chapters in their entirety is the most appropriate legislative approach.

Fiscal Impact: No fiscal action is required at this time.

Title

To amend City Code Chapter 377, Wage Theft Prevention and Enforcement, by repealing and replacing the chapter in its entirety; and to amend City Code Chapter 2337, Freelance Workers, by repealing and replacing the chapter in its entirety.

Body

WHEREAS, it is necessary to amend City Code Chapter 377, Wage Theft Prevention and Enforcement,

by repealing the existing chapter and replacing it in its entirety; and

WHEREAS, this amendment will rename the Commission to the Labor Commission and correct issues of spelling, grammar, and formatting within the chapter; and

WHEREAS, it is necessary to amend City Code Chapter 2337, Freelance Workers, by repealing the



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existing chapter and replacing it in its entirety; and

WHEREAS, this amendment will align with the changes to Chapter 377 and correct issues of spelling, grammar, and formatting within the chapter; and

WHEREAS, it has become necessary in the usual daily operations of the City for the City Codes to be amended for all of the reasons provided in the background and incorporated fully herein; **NOW, THEREFORE**

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

SECTION 1. That City Code Chapter 377, Wage Theft Prevention and Enforcement, be replaced as provided for in the following attachment:

Chapter 377 - 2024 Revisions - Final

SECTION 2. That the current version of City Code Chapter 377 is hereby repealed.

SECTION 3. That City Code Chapter 2337, Freelance Workers, be replaced as provided for in the following attachment:

Chapter 2337 - 2024 Revisions - Final

SECTION 4. That the current version of City Code Chapter 2337 is hereby repealed.

SECTION 5. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Chapter 2337 FREELANCE WORKERS

2337.01 Definitions.

- (a) As used in Chapter 2337 of the Columbus City Codes:
- (1) "Commission" refers to the Labor Commission, as defined in Chapter 377 of city codes.
 - (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 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.

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- (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 Labor Commission under Chapter 377 of the 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 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.

Chapter 377 LABOR COMMISSION

377.01 Definitions.

- (a) (1) "Adverse determination" means the following
- (A) so long as it is not subject to appeal or contestation, a final adjudication by a court of competent jurisdiction, a final action by a state or federal governmental agency, or a final adjudication by arbitrator or arbitral body of competent jurisdiction that a covered entity has committed wage theft or payroll fraud, including, but not limited to, an administrative merit determination, arbitration award or decision, civil judgment, or criminal conviction; or
 - (B) so long as it is not subject to an appeal, a final determination by the Labor Commission 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 codes.
- (2) If the covered entity appeals or contests the final adjudication, final action, or final determination, the adverse determination becomes effective whenever that initial adjudication, action, or determination, in whole or part, is affirmed on appeal or after the contest, or the appeal or contest is denied.
- (3) A settlement agreement or other agreement entered into by a covered entity to cure or compromise any allegations of wage theft or payroll fraud so as to resolve the matter prior to the issuance of an adverse determination or while an appeal is pending shall not constitute an adverse determination.
- (4) A settlement agreement or other agreement entered into by a covered entity and the Labor Commission staff 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 codes so as to resolve the matter without a hearing on the merits before the Labor Commission shall not constitute an adverse determination so long as the settlement agreement is approved by the Commission.
- (5) Nothing in this Section shall be construed to permit a collateral attack on the jurisdiction of a court, state or federal governmental agency, or an arbitrator or arbitral body to avoid being placed on the adverse determination list.
- (6) No adverse determination shall issue under division (a)(1)(B) of this Section against a covered entity described in division (e)(2) or division (e)(3) of this Section if the covered entity proves that the contract or agreement that rendered it a covered entity failed to contain the information required by divisions (a) or (b) of Section 377.09 of the city codes.
- (7) For any covered entity that is a joint venture, "adverse determination" includes the adverse determinations of the covered entity as well as all persons comprising the joint venture.
- (b) "Adverse determination list" means the list, published by the Labor Commission and updated at least once every sixty (60) days, of persons that have received an adverse determination within the preceding three (3) years.
- (c) "Affiliate" of a covered entity means, for purposes of this Chapter, a person that directly or indirectly controls the covered entity, is controlled by the covered entity, or is under common control with the covered entity, and is engaged in business activities that are substantially similar to those of the covered entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of an entity.
- (d) "Construction contract" means an agreement entered into on or after the effective date of this Chapter pursuant to which a person promises to perform or performs any construction, improvement, renovation, remodeling, painting, alteration, erection, demolition, removal, digging, or drilling for a development or

project, and expressly includes any off-site fabrication or assembly of components or materials if those components or materials are specifically fabricated or assembled for the development or project.

- (e) "Covered entity" means:
- (1) A person that, on or after the effective date of this Chapter,
 - A. enters into a financial incentive agreement with the City;
 - B. enters into a City contract for goods or services, including a construction contract; or
 - C. registers or applies for renewal under the process described in City Codes Section 3905.01;
 - (2) A contractor of a covered entity as described in division (e)(1)(A), along with any subcontractor of the contractor, or a subcontractor of a higher-tiered subcontractor of the contractor that, any time on or after the effective date of this Chapter and during the term of the financial incentive agreement, enters into a construction contract pursuant to, related to, or in furtherance of the financial incentive agreement or enters into an agreement to provide janitorial, maintenance, repair, property management, or landscaping services at the development location covered by the financial incentive agreement.
 - (3) A contractor of a covered entity as described in division (e)(1)(B), a subcontractor of the contractor, or a subcontractor of a higher-tiered subcontractor of the contractor that, on or after the effective date of this Chapter, enters into an agreement to perform work or services pursuant to or in satisfaction of a City contract for services, including a construction contract.
 - (4) No person shall qualify as a covered entity solely because it contracts with a covered entity as described in division (e)(1)(A) to lease space at a development location covered by a financial incentive agreement.
- (f) "Employee" means an individual meeting the criteria for an employee under the parameters of the right to control test established by the United States Internal Revenue Service, or any successor test.
- (g) "Financial Incentive Agreement" means any contract or other agreement entered into on or after the effective date of this Chapter between the City and a covered entity by which the City provides a tax incentive, tax abatement, tax credit, or other financial incentive to the covered entity including, but not limited to, Community Reinvestment Act tax abatements, tax increment financing agreements, enterprise zone agreements, job incentive agreements, job creation and retention tax credits, downtown office incentive program payments, as well as any commercial loan, commercial grant, or conveyance of city-owned land for less than fair market value.
- (h) "Payroll fraud" means concealing an entity's true payroll tax liability or other financial liability to a government agency from government licensing, regulatory, or taxing agencies through misclassification of employees, failure to report or underreported payment of wages, or executing a cash transaction while failing to maintain proper records of reporting and withholding.
- (i) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, any other business entity, any alter ego of a person, or any successor of a person.
- (j) "Wage theft" means a violation of the Ohio Prompt Pay Statute, O.R.C. 4113.15; the Ohio Minimum Fair Wage Standards Act, O.R.C. Chapter 4111; Ohio's Minimum Wage Constitutional Amendment, Section 34a of Article II of the Ohio Constitution; O.R.C. Chapters 4109 or 4115; O.R.C. Sections 4113.17, 4113.18, 4113.52, or 4113.61; a violation of a law of another state or law of the United States that is substantially equivalent to any of the aforementioned Ohio statutes or the City wage requirement; or any successor to any of these laws.
- (k) "Independent contractor" means a person that meets the criteria for an independent contractor under the parameters of the right to control test established by the United States Internal Revenue Service, or any successor test.

- (l) "Payroll records" means payroll for each pay period exhibiting for each employee paid any wages, the employee's name, current address, the last four digits of the employee's social security number, number of hours worked each day during the pay period and the total for each week, the employee's hourly rate of pay, the employee's job classification, fringe payments, and deductions from the employee's wages.
- (m) "Successor" means any person that (i) acquires more than 50 percent of the assets of a predecessor, (ii) engages in substantially the same business as the predecessor; and (iii) has more than 50 percent of the same ownership as a predecessor.
- (n) "Predecessor" means any person that disposes of more than 50 percent of its assets to a successor that thereafter engages in the same business activity and has greater than 50 percent of the same ownership.

377.02 Labor Commission.

- (a) There is hereby created the Labor 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 codes 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 codes; approving settlement agreements to settle or compromise alleged violations of Section 377.03, 377.05, 377.06, 377.07, 377.08, 377.09, and 377.10 of the city codes 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 codes; 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 codes; 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 codes 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 codes; approving remedies and settlements to violations of Section 2337.02, 2337.03, or 2337.04 of the city codes; hearing and determining whether a written decision should be issued for violations of Section 2337.02, 2337.03, or 2337.04 of city codes; collecting and reporting on data related to any complaints under 2337.02, 2337.03, or 2337.04 of city codes; 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 Labor 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 codes, 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 codes 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 Labor 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 Labor 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 codes has occurred.
 - (A) A majority vote by the Commission finding a violation shall result in finding of an adverse determination.
 - (B) 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 codes, 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 codes 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 Labor 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 Labor Commission upon a hearing that a violation has occurred.

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- (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 codes.
 - (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 codes 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 codes.
- (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 of the city codes for investigation.
- (n) The Commission may contract with a qualified non-for-profit organization to assist with investigations, 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.
 - (t) A supermajority vote of the Commission shall be required to grant a waiver to a covered entity under 377.02(q)-(s).
 - (u) 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.
 - (v) 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.

377.03 Ineligibility of a covered entity.

- (a) A person that intends to or reasonably believes that it may become a covered entity under this Chapter shall, prior to entering into any agreement that would render the person a covered entity, disclose to the Labor Commission in a manner and form prescribed by the Commission any adverse determination against the person, a predecessor of the person, or an affiliate of the person during the preceding three (3) years. If the adverse determination is based on the conduct of an affiliate or predecessor, the Labor Commission or its staff may request additional information concerning the relationship between the prospective covered entity and the affiliate or predecessor.
- (b) Any person who discloses an adverse determination pursuant to Section 377.03(a) shall not enter into any agreement that would render the person a covered entity until after the next regularly scheduled meeting of the Labor Commission and thereafter only if the person is not disqualified pursuant to Section 377.03(e) and the Labor Commission has not ordered a hearing pursuant to Section 377.03(c).
- (c) Upon disclosure of an adverse determination against an affiliate or predecessor, the Labor Commission staff shall review the information supplied by the prospective covered entity, including any information concerning the relationship between the prospective covered entity and the affiliate or predecessor, and if the staff determines after such review that it is not probable that the prospective covered entity and affiliate

are part of a single, integrated enterprise for employment purposes under the standard set forth in Section 377.03(d) or alter egos, or that it is not probable that the prospective covered entity was created by a de facto merger of a predecessor under the laws of the State of Ohio then the staff shall recommend to the Labor Commission that the prospective covered entity not be placed on the adverse determination list. If the staff determines after such review that it is probable that the prospective covered entity and affiliate are part of a single, integrated enterprise for employment purposes or are alter egos, or if the staff determines it is probable that the prospective covered entity was created by a de facto merger of a predecessor under the laws of the State of Ohio, or if the staff is unable to make a determination due to the insufficiency of the information provided by the prospective covered entity, then it shall recommend to the Labor Commission that a hearing is necessary to determine if the prospective covered entity and affiliate are a single integrated enterprise for employment purposes pursuant to the standard set forth in Section 377.03(d) or are alter egos under Ohio law, or if the prospective covered entity was created by a de facto merger of a predecessor under the laws of the State of Ohio, as applicable.

- (d) The Labor Commission shall have the authority to conduct an administrative hearing to determine by a preponderance of the evidence if the prospective covered entity and affiliate are a single integrated enterprise for employment purposes, taking into consideration the following factors: (1) interrelation of operations, (2) centralized control of labor relations, (3) common management, and (4) common ownership or financial control; if the covered entity is an alter ego of the affiliate under the laws of the State of Ohio; or the covered entity was created by a de facto merger of a predecessor under the laws of the State of Ohio.
- (1) The Commission shall provide to the person or prospective covered entity notice of the hearing date, time, and location at least thirty (30) days prior to the hearing.
 - (2) If a majority of the Commission finds by a preponderance of the evidence that the prospective covered entity and affiliate are a single, integrated enterprise for employment purposes, that the prospective covered entity and affiliate are alter egos under the law of the State of Ohio, that the prospective covered entity was created by a de facto merger of a predecessor under the laws of the State of Ohio, or that the prospective covered entity failed to provide sufficient information responsive to specific requests by the Commission staff to allow the Commission to determine whether the prospective covered entity and affiliate are a single, integrated enterprise for employment purposes or alter egos, or if the prospective covered entity was created by a de facto merger of a predecessor, then the Commission shall create a written report setting forth its findings of fact and conclusions of law and ordering that the prospective covered entity be placed on the adverse determination list.
 - (3) If the Commission finds that the evidence presented failed to establish by a preponderance of the evidence that the prospective covered entity and affiliate are a single, integrated enterprise for employment purposes or alter egos, or that the prospective covered entity was created by a de facto merger of a predecessor, as applicable, then the Commission shall create a written report setting forth its findings of fact and conclusions of law and indicating that the prospective covered entity is qualified to enter into an agreement that would render it a covered entity.
 - (4) The final decision of the Commission may be appealed pursuant to the provisions of R.C. Chapter 2506 and any successors thereto.
 - (5) The prospective covered entity may at any time opt out of or otherwise discontinue the investigation and hearing provided for under this Section, but shall not be permitted to enter into any contract that would render it a covered entity pursuant to this chapter until at least three years following the adverse determination against the affiliate that triggered the hearing.
- (e) A covered entity that is listed by the Commission on the adverse determination list is ineligible to enter into any financial incentive agreement with the City, to enter into a City contract for goods or services, including a construction contract, to enter into a construction contract pursuant to, related to, or in furtherance of a financial incentive agreement or an agreement to provide janitorial, maintenance, repair, property management, or landscaping services at the development location covered by a financial incentive agreement, or to enter into an agreement with a covered entity to perform work or services pursuant to or

in satisfaction of a City contract for services, including a construction contract, for three (3) years from the date of the most recent adverse determination against the covered entity.

377.04 Covered entity prohibited contracting.

- (a) No covered entity shall enter into a construction contract pursuant to, related to, or in furtherance of a financial incentive agreement, an agreement for janitorial, maintenance, repair, property management, or landscaping services for the development location covered by a financial incentive agreement, or an agreement pursuant to or in satisfaction of a City contract for services, including construction contracts, with a person on the adverse determination list.
- (b) For purposes of determining whether a covered entity has violated this Section, the date of the final execution of an agreement or a contract between a covered entity and a person on the adverse determination list shall be used to make such a determination by the Commission.
- (c) A final determination by the Commission that a covered entity has violated division (a) of this Section shall constitute an adverse determination and shall result in the covered entity being placed upon the adverse determination list.
- (d) Nothing contained in this Section shall limit the reporting or disclosure obligations of a covered entity under this Chapter.
- (e) Nothing contained in this Section shall affect the applicability of other provisions of this Chapter that result in ineligibility and penalties.

377.05 Covered entity continuing reporting obligations

- (a) Continuing obligations - financial incentive agreements
 - (1) A covered entity that is party to a financial incentive agreement with the City shall have a continuing obligation to provide the City with a sworn statement describing any adverse determination against the covered entity related to the development covered by the financial incentive agreement no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of the financial incentive agreement.
 - (2) A covered entity that is a party to a financial incentive agreement with the City shall have a continuing obligation to report any adverse determination known to the covered entity against any other covered entity that performs work or services pursuant to a construction contract pursuant to, related to, or in furtherance of the financial incentive agreement or an agreement to provide janitorial, maintenance, repair, property management, or landscaping services at the development location covered by a financial incentive agreement only if the adverse determination is related to the development covered by the financial incentive agreement no later than thirty (30) days after learning of the adverse determination. The reporting obligation remains in effect for the duration of the agreement between the covered entity that is a party to the financial incentive agreement and the contractor, or for the duration of the financial incentive agreement, whichever is earlier.
 - (3) A covered entity that is a contractor of a covered entity that is a party to a financial incentive agreement with the City shall provide the City with a sworn statement detailing any adverse determination known to the contractor against the contractor, any subcontractor of the contractor, or any subcontractor of a higher-tiered subcontractor that performs work or services pursuant to a construction contract pursuant to, related to, or in furtherance of the financial incentive agreement or an agreement to provide janitorial, maintenance, repair, property management, or landscaping services at the development location covered by the financial incentive agreement only if the adverse determination is related to the development covered by the financial incentive agreement no later than thirty (30) days after learning of the adverse determination. The reporting obligation remains in effect for the duration of the agreement between the covered entity that is a party to the financial

incentive agreement and the contractor, or for the duration of the financial incentive agreement, whichever is earlier.

- (4) A covered entity that is a subcontractor of a contractor of a covered entity that is a party to a financial incentive agreement with the City or a subcontractor of a higher-tiered subcontractor shall provide the City with a sworn statement detailing any adverse determination known to the subcontractor against the subcontractor or any subcontractors that perform work or services pursuant to a construction contract pursuant to, related to, or in furtherance of a financial incentive agreement or an agreement to provide janitorial, maintenance, repair, property management, or landscaping services at the development location covered by the financial incentive agreement only if the adverse determination is related to the development covered by the financial incentive agreement no later than thirty (30) days after learning of the adverse determination. The reporting obligation remains in effect for the duration of the agreement between the contractor of the covered entity that is a party to the financial incentive agreement with the City and the subcontractor, or the subcontractor and the higher-tiered subcontractor of the contractor, as the case may be, or for the duration of the financial incentive agreement, whichever is earlier.
- (b) Continuing obligations - City contracts
- (1) A covered entity that enters into a City contract for goods or services, including a construction contract, shall have a continuing obligation to provide the City with a sworn statement describing any adverse determination known to the covered entity against the covered entity relating to the City contract for goods or services no later than thirty (30) days after learning of the adverse determination. The reporting obligation remains in effect for the duration of the contract for goods or services.
 - (2) A covered entity that enters into a City contract for services, including a construction contract, shall have a continuing obligation to report any adverse determinations known to the covered entity against other covered entities that perform work or services pursuant to or in satisfaction of the contract for services no later than thirty (30) days after learning of the adverse determination only if the adverse determination is related to the work or services performed pursuant to or in satisfaction of the City contract for services. The reporting obligation remains in effect for the duration of the City contract for services or for the duration of any agreement between the covered entity that enters into the City contract for services and the contractor, whichever is earlier.
 - (3) A covered entity that is a contractor of a covered entity that enters into a City contract for services shall provide the City with a sworn statement detailing any adverse determination known to the contractor against the contractor, any subcontractor of the contractor, and any subcontractor of a higher-tiered subcontractor of the contractor that performs work or services pursuant to or in satisfaction of the City contract for services no later than thirty (30) days after learning of the adverse determination only if the adverse determination is related to the work or services performed pursuant to in satisfaction of the City contract for services. The reporting obligation remains in effect for the duration of any agreement between the covered entity that enters into the City contract for goods or services and the contractor, or the City contract for services, whichever is earlier.
 - (4) A covered entity that is a subcontractor of a contractor of a covered entity that enters into a City contract for services, or a subcontractor that contracts with a higher-tiered subcontractor that performs work or services pursuant to or in satisfaction of a City contract for services shall provide the City with a sworn statement detailing any adverse determination known to the subcontractor against the subcontractor or any subcontractors no later than thirty (30) days after learning of the adverse determination only if the adverse determination is related to the work or services performed pursuant to in satisfaction of the City contract for services. The reporting obligation remains in effect for the duration of any agreement between the contractor of a covered entity that receives the City contract for and services and the subcontractor, or a subcontractor and a higher-tiered or other subcontractor of the contractor, or the City contract for services, whichever is earlier.

- (c) A final determination by the Commission that a covered entity has violated a provision of this Section shall constitute an adverse determination and shall result in the covered entity being placed upon the adverse determination list.

377.06 Vendor registration.

- (a) A covered entity registering or applying for renewal under the process described in Section 3905.01 of the city codes shall disclose at the time of registration or application for renewal any adverse determination during the three years prior to the time of registration or application for renewal.
- (b) A final determination by the Commission that a covered entity has violated division (a) of this Section shall constitute an adverse determination and shall result in the covered entity being placed upon the adverse determination list.

377.07 Payroll inspection.

- (a) A covered entity that has entered into a financial incentive agreement with the City, or is a contractor or subcontractor pursuant to a construction contract pursuant to, related to, or in furtherance of a financial incentive agreement or an agreement to provide janitorial, maintenance, repair, property management, or landscaping services at the development location covered by a financial incentive agreement must maintain payroll records for employees who perform work and services related to the development covered by the financial incentive agreement, and shall provide any such records to the Commission staff upon request within fourteen (14) business days of the request. A covered entity that has entered into a City contract for goods or services or an agreement to perform work or services in furtherance of a City contract for services must maintain payroll records for work and services performed by the covered entity's employees related to the City contract for goods or services or pursuant to or in satisfaction of the City contract for services and shall provide any such records to the Commission staff upon request within fourteen (14) business days of the request. The Commission staff may grant an extension to a covered entity based on a good faith demonstration of a hardship in providing said records in the prescribed time period. If a covered entity is performing work or services covered by O.R.C. § 4115.03 the Commission staff shall request payroll records from the City's prevailing wage coordinator.
- (b) A final determination by the Commission that a covered entity has violated division (a) of this Section by failing to provide requested records in a timely manner shall constitute an adverse determination and shall result in the covered entity being placed upon the adverse determination list.

377.08 Outside Investigations.

- (a) A covered entity is required to authorize any agency or other investigative body investigating a complaint of wage theft or payroll fraud to release to the Commission any and all related evidence, findings, complaints and determinations that are not privileged or confidential and that are subject to public disclosure under the laws pertaining to that investigation, and to authorize the City to inquire into the status of the investigation and the final determination to the extent the investigation and final determination are not privileged or confidential and are subject to public disclosure under the laws pertaining to that investigation.
- (b) A final determination by the Commission that a covered entity has violated division (a) of this Section shall constitute an adverse determination and shall result in the covered entity being placed upon the adverse determination list.

377.09 Declaration of reporting obligations.

- (a) A covered entity that has entered into a financial incentive agreement with the City or a construction contract pursuant to, related to, or in furtherance of a financial incentive agreement or an agreement to provide janitorial, maintenance, repair, property management, or landscaping services at the development

location covered by a financial incentive agreement shall include in solicitations, agreements, contracts, and subcontracts pertaining to the financial incentive agreement, construction contract pursuant to, related to, or in furtherance of the financial incentive agreement, or the agreement to provide janitorial, maintenance, repair, property management, or landscaping services at the development location covered by a financial incentive agreement a notice setting forth that any entity entering into the contract will be a covered entity pursuant to this Chapter and setting forth the reporting requirements, obligations to review the Commission list of contractors and subcontractors that received an adverse determination prior to entering into a contract or agreement, and penalties for non-compliance as set forth in this Chapter.

- (b) A covered entity that has entered into City contract for services, including a construction contract, or an agreement to perform work or provide services pursuant to or in satisfaction of a City contract for services, shall include in solicitations, agreements, contracts, and subcontracts pertaining to the City contract for services a notice setting forth that any entity entering into the contract will be a covered entity pursuant to this Chapter and setting forth the reporting requirements, obligations to review the Commission list of contractors and subcontractors that received an adverse determination prior to entering into a contract or agreement, and penalties for non-compliance as set forth in this Chapter.
- (c) The City shall include in financial incentive agreements a provision specifying that the party entering into the financial incentive agreement is a covered entity subject to this Chapter.
- (d) The City shall include in requests for proposals, requests for qualifications, bidding documents, and contracts for goods and services a notice provision setting forth that the party that enters into the applicable City contract or registers or applies for renewal under the process described in City Code Section 3905.01 is a covered entity subject to this Chapter.
- (e) Covered entities must post a conspicuous notice at all covered locations and development sites indicating that the location or development site is subject to this Chapter as administered by the Commission for the duration of any construction at the covered location or development site if the covered entity is performing work or services pursuant to, related to, or in furtherance of a financial incentive agreement or a City construction contract. The notice shall include contact information for the Commission. After the construction is complete, covered entities shall be required to post a conspicuous notice only if required pursuant to another law to maintain a conspicuous notice and only if there are any outstanding contract(s) pursuant to which the contract counterparty is a covered entity subject to this Chapter.
- (f) The City shall produce a posting and make it available to all covered entities which shall satisfy the notification requirements of division (c) of this Section.
- (g) A final determination by the Commission that a covered entity has violated division (a), (b), or (c) of this Section shall constitute an adverse determination and shall result in the covered entity being placed upon the adverse determination list.

377.10 Use of Independent Contractors.

- (a) If a covered entity utilizes independent contractors to perform work or services on behalf of the covered entity pursuant to, related to, or in furtherance of a financial incentive agreement, including pursuant to a construction contract or any agreement for janitorial, maintenance, repair, property management, or landscaping services at the development location covered by the financial incentive agreement, or under, pursuant to, or in satisfaction of a City contract for services, including a City construction contract, the covered entity shall provide the following information to the Commission:
 - (1) The total number of employees and the total number of independent contractors that are covered entities and the total number of independent contractors that are individuals utilized by the covered entity to perform work or services pursuant to, related to, or in furtherance of the financial incentive agreement, including pursuant to a construction contract or any agreement for janitorial, maintenance,

repair, property management, or landscaping services at the development location covered by the financial incentive agreement, or pursuant to or in satisfaction of a City contract for services, as applicable; provided, however, that in the case of a covered entity that is party to a financial incentive agreement with the City, or that enters into a construction contract or any agreement for janitorial, maintenance, repair, property management, or landscaping services at the development location covered by the financial incentive agreement, this requirement shall apply only with respect to employees and independent contractors that perform construction, janitorial, maintenance, repair, property management, or landscaping services at or for the development location covered by the financial services agreement;

- (2) For all independent contractors who are individuals identified by the covered entity pursuant to division (a) of this Section, the covered entity shall provide
 - (A) A description of the work or services to be performed;
 - (B) The rate and frequency of pay;
 - (C) The duration of the work or services;
 - (D) A description of benefits provided to the independent contractor(s), if any, and the costs paid for the benefits by the covered entity and/or the worker(s);
 - (E) A written description and any supporting documents or records indicating the following:
 - (i) the nature and degree of the covered entity's control;
 - (ii) the permanency of the worker's relationship with the covered entity;
 - (iii) the amount of the worker's investment in facilities, equipment or helpers;
 - (iv) the amount of skill, initiative, judgement or foresight required for the worker's services;
 - (v) the worker's opportunity for profit and loss;
 - (vi) the extent of integration of the worker's services into the covered entity's business;
 - (vii) other information the covered entity considers relevant to whether the worker is properly classified as an independent contractor.
- (b) In circumstances under which independent contractors subcontract to other independent contractors, independent contractors of covered entities shall provide to covered entities the same information with regard to said subcontractors as defined in Section 377.10(a). A covered entity receiving such a report shall provide a copy to the Commission within seven (7) days of receipt.
- (c) All reports required under this Section shall be provided to the Commission no later than twenty one (21) days following the date on which the independent contractor commences work on behalf of the covered entity.
- (d) The Commission may contact employees and independent contractors and/or a covered entity for additional information, including payroll records, necessary or relevant to making the determination in division (e) of this Section. Upon request, a covered entity shall provide additional information requested by the Commission within fourteen (14) days.
- (e) If the Commission, or Commission staff reasonably determines that any worker(s) that a covered entity is required to provide reporting on pursuant to division (a)(1) of this Section may have been misclassified as an independent contractor, the Commission, or staff, may refer the worker(s) and/or the matter to the United States Department of Labor, the Ohio Department of Commerce, or any other appropriate entity for further investigation.
- (f) The Commission shall make forms available for providing information and reports related to the use of purported independent contractors.

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- (g) A final determination by the Commission that a covered entity has violated any of the reporting provisions of this Section shall constitute an adverse determination and shall result in the covered entity being placed upon the adverse determination list.

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 codes.
 - (8) 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 of the city codes.
- (b) The adoption and promulgation of any rules or regulations by the Commission shall comply with the provisions of Chapter 121.05 of city codes.
- (c) The Commission shall adopt bylaws governing the conducting of Commission business.

377.12 Remedies.

- (a) Whenever the Labor 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 codes, 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 codes, the Labor 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 Labor 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 Labor 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 codes 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 codes 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 codes, the Labor Commission may provide the impacted freelance worker with contact information for community legal services for consultation and review.

377.13 Effective Date.

- (a) The provisions of this Chapter will be effective January 1, 2021.
- (b) Notwithstanding anything to the contrary in this Chapter, this Chapter does not apply to (1) financial incentive agreements that are amendments to agreements entered into before the effective date of this

Chapter unless those amendments expand the financial incentive provided, (2) construction contracts that are entered into pursuant to, related to, or in furtherance of agreements entered into before the effective date of this Chapter, or (3) financial incentive agreements or construction contracts that are entered into pursuant to, related to, or in furtherance of economic development agreements entered into by the City before the effective date of this Chapter.

377.14 Incorporation in City contracts and financial incentive agreements.

All City contracts and financial incentive agreements entered into on or after January 1, 2021 shall incorporate and require all parties to comply with Chapter 377 as a term of said City contract or financial incentive agreement.

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 codes, 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 codes 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.

377.17 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.

377.18 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.

Department Requesting Code Change:

City Council/Department of Finance

Drafter:

Kirsten Estose

Email and Phone:

kmestose@columbus.gov; 614-645-2728

Columbus City Code Title Being Amended/Created/Repealed:

Chapters 377, Wage Theft Prevention and Enforcement and Chapter 2337, Freelance Workers

What is the overall purpose of this code change? Summarize the general themes of the code change(s) and the need for these changes. Please utilize language and descriptors that would be easily understandable by the general public.

This code change updates the name of the Wage Theft Prevention and Enforcement Commission to the Labor Commission to clarify the roles and responsibilities of the Commission. This code change also corrects typos and drafting errors.

Why is this code change needed? Examples: Correcting a drafting error; bringing code into alignment with changes to state law. For other policy changes, it may be necessary to provide a much more in-depth rationale in the section.

This ordinance authorizes changes to City Code Chapter 377 that would rename the Wage Theft Prevention and Enforcement Commission to the Labor Commission. This change is recommended due to the expanded role of the Commission as established by Ordinance 1016-2023 which created Chapter 2337, Freelance Workers, and updated Chapter 377. Renaming the Commission will provide clarity to the public and to Commission members on the full scope of the Commission’s role.

Chapter 377 was created by Ordinance 1802-2020, passed on September 21, 2020. Since then, Commission staff has identified a number of typos, grammatical errors, and formatting inconsistencies within the Chapter. Some errors were found within Chapter 2337 as well, which was created by Ordinance 1016-2023 and passed on May 1, 2023. This ordinance corrects those errors, which appear throughout both chapters. For this reason, repealing and replacing the chapters in their entirety is the most appropriate legislative approach.

What would be the impact of not adopting this code change?

Typos and formatting errors would remain in Chapters 377 and 2337 of city codes. Additionally, the name of the Commission would not accurately represent the full scope of the Commission’s work and responsibilities.

Are there any operating or capital budget cost/savings implications for this code change?

These may be direct or in-direct, and please also consider long-term impact.

There are no financial implications resulting from this change.

Describe the community engagement process regarding this code change. What residents, impacted parties, and constituents may be affected? Have they been engaged, and how so? How was their feedback incorporated (or not incorporated) into this code change?

No community engagement process was undertaken due to the type of change this represents.

Will this code change take effect with the ordinance, or is there a delayed effective date?

The change will go into effect on the normal timetable for 30-day legislation.



**SHANNON G. HARDIN, PRESIDENT | ROB DORANS, PRESIDENT PRO TEMPORE
NICHOLAS J. BANKSTON | LOURDES BARROSO de PADILLA | NANCY DAY-ACHAUER | SHAYLA D. FAVOR
MELISSA GREEN | EMMANUEL V. REMY | CHRISTOPHER L. WYCHE**

CITY CLERK | ANDREA BLEVINS, CMC

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