

MINNEAPOLIS DEPARTMENT OF CIVIL RIGHTS FREELANCE WORKER PROTECTIONS ORDINANCE FREQUENTLY ASKED QUESTIONS

This document is intended to provide the public with information about how the City of Minneapolis Department of Civil Rights may guide its personnel in processing and investigating reported violations and interpreting the Minneapolis Freelance Worker Protections Ordinance.

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Scope: This document provides general information and guidance on implementation and enforcement of the City's Freelance Worker Protections Ordinance, Minneapolis Code of Ordinances, [Title 2, Chapter 40, Article VI](#). Workers and hiring parties may have additional rights or obligations under other local, state or federal laws. This guidance does not address rights or obligations with respect to these other laws. Terminology used in this guidance is defined in Minneapolis Code of Ordinances [Title 2, Chapter 40, Article VI](#).

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General Information:

1.) Q: What is the Freelance Worker Protections ordinance?

A: The local economy increasingly relies on labor provided by self-employed workers and entrepreneurs who work as independent contractors. However, many laws governing the payment and treatment of workers do not protect independent contractors. Without bargaining leverage or written contracts, these workers may be exploited and find it difficult to protect their rights.

The Freelance Worker Protections Ordinance provides certain legal safeguards for independent contractors working in Minneapolis. It requires business entities hiring independent contractors to put a few basic contract terms in writing. It also provides an additional remedy for independent contractors who are not timely and fully paid. In doing so, unnecessary confusion and conflict may be avoided for everyone.

2.) Q: When does the ordinance take effect?

A: The ordinance is effective on January 1, 2021, and applies to contracts entered into on or after that date.

3.) Q: What is a freelancer?

A: In general, a freelancer is any single person who provides services for hire without becoming an employee. A freelancer must be one individual person. For purposes of the ordinance, this includes both entrepreneurs and businesses or legal entities comprised of only one person. Some freelancers are referred to as “1099 workers.” Employees are not freelancers, and persons who provide services on a volunteer basis are not freelancers. Certain salespersons, attorneys, and licensed medical professionals are also excluded from coverage.

4.) Q: I am a worker and I have not been paid, but I do not know if I am a “freelancer.” What should I do?

A: You may file a report of violation with the Department even if you are not sure whether you are a freelancer or an employee. The difference depends on the facts in each specific case. If you are not a freelancer, a different labor standards ordinance(s) might possibly apply to your situation. Please contact the Department for consultation at wagetheft@minneapolismn.gov (or dial 311) or report a violation online at minneapolismn.gov/laborenforcement.

5.) Q: What is a “commercial hiring party”?

A: “Commercial hiring party” is a term used here to identify individuals or entities engaged in commerce or business of any kind. Not-for-profit entities are included. For example, an event planner hiring a childcare professional to watch all the children of attendees at a corporate party is a “commercial hiring party.”

6.) Q: What is an “individual hiring party”?

A: “Individual hiring party” is a term used here to distinguish people acting in their personal (nonprofessional without any business or commercial interests), private capacity. For example, a parent hiring a babysitter to watch their child in their home is an “individual hiring party.” As noted below, written agreements in these situations are optional.

7.) Q: Are the requirements the same for all “hiring parties” and all contracts?

A: No. The ordinance categorizes business relationships with all freelancers performing work in the City based on the type of “hiring party,” and the ordinance requirements for each are different. If you are a commercial hiring party or a freelancer who works with commercial hiring parties, please review [FAQ’s #8 to #12](#). If you are an individual hiring party or a freelancer who works with individual hiring parties, please review [FAQ’s #13 and #14](#).

Commercial Hiring Parties and freelancers:

(For Individual Hiring Parties, skip to [FAQ # 13](#))

8.) Q: What does the ordinance require commercial hiring parties to do?

A: Commercial hiring parties must put certain terms of their agreements with their freelancers in writing. A failure to do so before work begins may result in fines or damages, especially if a dispute regarding payment later occurs. A formal document may be used (see e.g. sample contract at minneapolismn.gov/labaorenforcement), however, any writing containing the required terms is sufficient. See FAQ No. 9 for information on required terms. The commercial hiring party is responsible for providing the freelancer with a copy of the written contract.

9.) Q: What terms of the agreement must be put in writing?

A: When a commercial hiring party contracts with a freelancer, the written contract must include, at least:

- ✓ **name and address** of both the freelancer and the hiring party,
- ✓ an itemization of **labor and/or deliverables** to be provided by the freelancer,
- ✓ amount(s) or rate(s) of **compensation** (e.g., amount per hour or per task completed), or reasonably detailed description of how compensation will be calculated and by whom,
- ✓ the **date** on which the hiring party must pay the agreed-upon compensation or how that date will be determined, and
- ✓ a **signature** or writing that shows the agreement of the freelancer.

10.) Q: What if a commercial hiring party and freelance worker do not know the exact amount of compensation at the beginning of the contract?

A: Sometimes a commercial hiring party will agree to pay a freelancer a specific dollar amount (e.g., \$2,500.00) to complete the agreed-upon work. In other situations, the parties may agree to compensation on a per hour, per task, or other similar basis and therefore may not know the total amount of compensation at the beginning of the contract. In this case, the written contract must explain how the compensation will be calculated and who will keep track of the necessary information.

If the freelancer is responsible for tracking information needed to determine the total compensation, the freelancer must provide the commercial hiring party with an invoice detailing the total compensation due and how it was determined.

If the commercial hiring party is responsible for tracking the information needed to determine the total compensation, that information must be provided to the freelancer on an earnings statement at the time of payment.

For example, hourly is a common way to quantify the amount of work performed. Some freelancers work independently (e.g. graphic design) and must track their own hours. Those freelancers must provide invoices to hiring parties identifying the number of hours worked at the applicable rate(s). In other cases, work must occur at a specific location (e.g. a particular theater or construction site) and the hiring party tracks the hours worked. Those hiring parties must provide the freelancer an earnings statement identifying the number of hours worked and the applicable rate(s).

11.) Q: Are small contracts exempt?

A: Yes, however the dollar value of one or more contracts between the same commercial hiring party and the same freelancer must be added together to determine whether they are exempt. If all compensation is reasonably expected to be less than \$600 in a calendar year and also less than \$200 for work completed within any seven consecutive days, then the contract(s) is exempt.

In other words, if you answer "yes" to *any* of the following questions, the ordinance applies.

1. Is the contract reasonably expected to be for \$600 or more?
2. Is the total amount of all the contracts between the same commercial hiring party and the same freelancer added together in the calendar year (compensation due from January through December) \$600 or more (or reasonably expected to be \$600 or more)?
3. Is the contract for \$200 or more *and* the work is to be performed within seven consecutive days?

12.) Q: Under what circumstances could a commercial hiring party be penalized?

A: A commercial hiring party may owe monetary damages or fines because of its:

- Failure to fully compensate a freelancer no later than the time agreed upon by the parties. If the contract does not include this information, payment is due within 30 days following notice that the work is complete. A freelancer may use any reasonable method to provide notice that the work is complete; *
- Attempt to reduce agreed-upon compensation after a freelancer has already begun performing work for that compensation, as a condition of timely payment; * or
- Failure to provide a written contract, unless otherwise exempt (see FAQ's # 8 to 11).

* In these situations, an *individual* hiring party is also subject to damages and fines if a written contract exists for over \$600. See FAQ # 13 for more information.

Individual Hiring Party and freelancers:
(For Commercial Hiring Parties, skip to [FAQ # 8](#))

13.) Q. Does the ordinance require written contracts for individual hiring parties?

A: No. If a hiring party is acting in their private, personal capacity, not on behalf of a business, then the use of a written agreement is *optional*.

14.) Q. Since a written contract is not required, why should individual hiring parties and freelancers write down their agreements?

A: Putting agreements in writing is a good business practice! It helps the parties avoid misunderstandings. In addition, the ordinance gives some protections to freelancers who put their contracts with individual hiring parties in writing. If a freelancer enters into a written contract before beginning work for an individual hiring party and the contract(s) is reasonably expected to be for \$600 or more in a calendar year, the City may be able to help the freelancer enforce the written agreement. Independent hiring parties who fail to timely and fully pay their freelancers may be subject to City investigation and damages and fines.

Freelancers may contact the Department at wagetheft@minneapolismn.gov with any questions about how to ensure their rights are protected. Individual hiring parties who would like more information about their responsibilities are also encouraged to contact the Department for a consultation.

Additional Information for all covered contracts:

15.) Q: Does the written contract have to be in a single, paper document?

A: No. A contract “in writing” means that a written record of any kind was created. It may be hand-written, typed, or printed; paper or electronic; and may be contained in a single document or a series of messages, including emails.

16.) Q: What happens if the parties cannot reach agreement on written contract terms?

A: If the parties are unable or unwilling to negotiate and reach agreement before work begins, or if one party refuses a written contract, then both parties should probably consider working with someone else! If a commercial hiring party requires work to begin without a written agreement, an ordinance violation has occurred.

17.) Q. Has there been a violation if the date for payment passes but the freelancer has not completed the services?

A: A failure-to-pay violation has not occurred if the freelancer has not completed the agreed-upon services. If there is a genuine disagreement regarding whether the services have been properly completed, where necessary, the Department may recommend that the parties seek a more formal court process for adjudication of the dispute.

18.) Q. How will the Freelance Worker Protections ordinance be enforced?

A: A freelancer may contact the Department to report an alleged violation. The Department will gather information from both parties before making any decision regarding the facts. An ordinance violation may result in compensatory damages and penalties under the Freelance Worker Protections ordinance or, if applicable instead, another Minneapolis labor standards ordinance such as the Wage Theft Prevention ordinance.

19.) Q. If a worker requests a contract or reports a violation of the Freelance Worker Protections Ordinance, does that mean that the worker is agreeing that they are not an employee?

A: No. Nothing in the Ordinance affects a worker's classification or misclassification under any other law. A worker may request a contract or file a report of violation without losing or changing any other rights that the worker has under any other law, including the right to claim that they have been misclassified and should be considered an employee.

20.) Q: What if a hiring party or a freelancer prefers to resolve a dispute in Court?

A: Any agreement that was previously enforceable in court is still enforceable in court. The ordinance does not change or take away any person's rights to enforce a contract in court.

If either party chooses to file a court action regarding the same dispute during the Department's investigation, the Department will close its investigation so that the matter can be resolved in court instead.

21.) Q: What happens in the case of a technical violation of the ordinance that has not resulted in any compensable harm to any freelancer?

A: Technical violations that have been resolved without measurable harm to anyone are not normally prioritized by the Department. Education and information are often more appropriate than fines or penalties in such situations.

In determining the amount of a fine (if any), the size of the hiring party, the gravity of the violation, the hiring party's good faith efforts to comply with the ordinance, and whether a violation was intentional are factors considered as a matter of course by the Department in any investigation.

22.) Q: I want to report a violation, but I'm afraid of retaliation. What should I do?

A: Retaliation against a freelancer for exercising or attempting to exercise any rights available under the Freelance Worker Protections Ordinance is strictly prohibited. Examples of exercising protected rights include inquiring, disclosing, reporting, or testifying about any reasonably suspected violation of the ordinance.

Examples of potentially retaliatory acts include terminating a contract or attempting to negatively affect a freelancer's future career prospects because the freelancer has exercised rights under the ordinance. Where necessary, aggressive enforcement to protect freelancers' rights will be pursued by the City.

23.) Q: Does the ordinance apply regardless of the worker's immigration status?

A: The ordinance applies without consideration of a worker's immigration status. The Department will process a report of violation without regard to the worker's immigration status and will not question a worker about immigration status. Additionally, if a hiring party were to threaten to report a worker to immigration authorities if the worker files a report of violation, this would be considered retaliation, which is also an ordinance violation.

24.) Q: Does the ordinance apply to a hiring party that isn't located in Minneapolis but retains a freelancer to perform work in Minneapolis?

A: The ordinance applies when there is a contract for work to be performed in the City. It does not matter where the hiring party is located.

Regardless of where a hiring party is located, the ordinance applies if the work required by the contract must be performed within the City of Minneapolis. The ordinance also applies if the freelancer is based in Minneapolis and regularly performs work within the City of Minneapolis, and the hiring party knows of the freelancer's location. If the written contract includes a business

address within the City for the freelance worker, the freelancer is presumed to be protected by the ordinance. However, the ordinance is only enforceable as to services actually performed by the freelancer within the geographical boundaries of the City of Minneapolis.

The ordinance also does not apply if a freelancer incidentally performs some work within Minneapolis when doing so is not necessary to or part of the contract. For example, a freelancer is not covered by the ordinance if their office location, disclosed on the written contract, is outside the City, even if the freelancer occasionally chooses to work at a coffee shop or co-working space within the City for the freelancer's benefit.

Find the City of Minneapolis geographical boundaries here:

<http://cityoflakes.maps.arcgis.com/apps/PublicGallery/map.html?appid=4172cd1ed97749a6a4623dd7aa5a246f&webmap=0e9be43abc834e85bc6ad003d9358c76>

Find out if an address is inside or outside of Minneapolis here:

<https://gis.hennepin.us/Property/Map/Default.aspx>

25.) Q: What if a freelancer passes through the City while doing the contracted work?

A: The ordinance does not apply to freelancers who merely pass through Minneapolis without making any work-related stops.

26.) Q: Where can I ask more questions?

A: Labor Standards Enforcement Division staff in the Minneapolis Department of Civil Rights provide technical clarification and answer questions from hiring parties or freelancers. Contact (612) 673-3000 (**311**) or (612) 673-2157 (TTY) or wagetheft@minneapolismn.gov for more information.