

CITY OF MINNEAPOLIS

# Proposed Freelance Worker Protection Ordinance

POGO Committee  
July 23, 2020

# Wage theft affects all workers, including entrepreneurs

- Wage Theft Ordinance provides an avenue to recovery of unpaid wages for **employees**.
- However, that law did NOT cover individuals properly classified as independent contractors.
- Approximately one out of every three freelance workers report losing income to wage theft in the past year.

Source: Alan B. Krueger, Independent Workers: What Role for Public Policy, Princeton University (<https://dataspace.princeton.edu/jspui/handle/88435/dsp01tt44pq514>).

# The nature of work is changing

- Self-employment is rising (~30% during the last twenty years in U.S.)
- One in three income earners affected in U.S.
- In MN, one in five jobs is now classified as self-employment
- The City's Workplace Advisory Committee has identified particular industries suddenly reliant on self-employed workers

Sources: Upwork and Freelancers Union, Freelancing in America 2019,  
<https://www.upwork.com/press/economics/freelancing-and-the-economy-in-2019/>

Tu-Uye Tran, A COVID-19 effect: Lost gigs can now be insured, Federal Reserve Bank of Minneapolis (<https://www.minneapolisfed.org/article/2020/lost-gigs-can-now-be-insured>)

# Proposed Ordinance: Scope

| <b>Freelance Worker</b>   | <b>Hiring Party</b>   | <b>Location</b>   |
|---|---|---|
| <ul style="list-style-type: none"><li>• An individual who provides services as an independent contractor</li><li>• Includes single-person business entities</li><li>• Excludes certain salespersons, attorneys, licensed health professionals</li></ul> | <ul style="list-style-type: none"><li>• Person or entity who contracts with a freelancer to provide services</li><li>• Includes both commercial (business) and individual (personal capacity) hiring parties</li><li>• Different requirements depending on type of hiring party</li></ul> | <ul style="list-style-type: none"><li>• Applies when a freelance worker is hired to perform services within the City boundaries</li></ul> |

# Commercial Hiring Parties: Requirements

Contract must be in writing if contract(s) between the parties are for:

- \$600 or more within a year  
-or-
- \$200 or more in a 7-day period  
-or-
- Reasonably expected to exceed either threshold

# Individual Hiring Parties

- Any person hiring a freelancer in a personal (non business) capacity
- Written contract optional
- Written contracts for \$600 or more (or reasonably expected to meet threshold) will be enforced by the City

# Contract Requirements

Contract must include:

- Name and address of parties
- List of services
- Compensation amount (or method of determining)
- When payment is due (or how this will be determined)



# Ordinance Violation

It is an ordinance violation for a hiring party to:

- Fail to pay a freelancer the agreed-upon amount at the time stated in the contract
  - or -
- Demand that a freelancer accept less than the agreed amount as a condition of timely payment.
- Hiring party defense: services were not completed as agreed



# Retaliation Prohibited

- It shall be unlawful for any hiring party to discriminate against a freelance worker for exercising rights protected under the Ordinance.
- Retaliation may result in damages of up to \$1000 to the worker + fine of up to \$3000.

# Enforcement & Remedies

- Enforced by Civil Rights Department
- Suspected violations must be reported within 2 years, or within 3 years for willful violations
- Enforcement process similar to Sick and Safe Time, Minimum Wage, and Wage Theft Ordinances
- Workers recover amount owed under contract and liquidated damages; City may also impose Civil fines
- Penalties increase for repeated violations

# Enforcement & Remedies

## Remedies include:

- Amount unpaid under the contract + liquidated damages to worker
- Up to \$250 if commercial hiring party fails to put contract in writing
  - If this is the only violation, freelancer must show that a contract was requested
- Civil fines to the City (repeated violations)
- Reimbursement of investigation costs
- Up to a \$2,000 civil fine for failure to cooperate with investigation

Thank you!

Questions?



# Ordinance Applicability

| Type of Hiring Party | Is a written contract required?  | Will a written contract be enforced by City?   | Will an oral contract be enforced by City?   |
|----------------------|--|--|--|
| <b>Commercial</b>    | <p>Yes, if the contract is, or is reasonably expected to be, for \$600 or more in a calendar year*</p> <p>-OR-</p> <p>Yes, if the contract is, or is reasonably expected to be, for \$200 or more of work to be performed in a 7 day period*</p> | <p>Yes, if the contract is, or is reasonably expected to be, for \$600 or more in a calendar year*</p> <p>-OR-</p> <p>Yes, if the contract is, or is reasonably expected to be, for \$200 or more of work to be performed in a 7 day period*</p> | <p>Yes, if the contract is, or is reasonably expected to be, for \$600 or more in a calendar year*</p> |
| <b>Individual</b>    | No (optional)  | Yes, if the contract is, or is reasonably expected to be, for \$600 or more in a calendar year*  | No   |

\*Amounts are determined by adding all contracts between same hiring party and same freelance worker over the relevant time period.