

City Clerk File No. _____ Ord. 18-051

Agenda No. _____ 3.A _____ 1st Reading

Agenda No. _____ 4.A _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 18-051

**TITLE: ORDINANCE SUPPLEMENTING CHAPTER 21 (CONTRACTS AND INVESTMENTS)
ARTICLE I (CONTRACTING AUTHORITY) OF THE JERSEY CITY MUNICIPAL CODE
REQUIRING THAT THE HIRING OF FREELANCE WORKERS FOR SERVICES OF \$500 OR
MORE BY PERSONS ENGAGED IN COMMERCIAL OR BUSINESS ACTIVITIES WITHIN
THE CITY OF JERSEY CITY BE BY WRITTEN CONTRACT SPECIFYING THE TIME AND
MANNER OF PAYMENT**

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY HEREBY ORDAINS:

A. The following amendments and supplements to Chapter 21 (Contracts and Investments), Article I (Contracting Authority), are hereby adopted:

**CHAPTER 21
Contract and Investments
ARTICLE I
Contracting Authority**

§21-1.- Through §21-2. - No Change.

§21-3.- Hiring of freelance workers for services of \$500 or more by persons regularly engaged in commercial or business activity requires written contract for services specifying date of payment; prohibition against coercive acts during course of services.

A. It shall be unlawful for any person engaged in any regular commercial or business activity in the City of Jersey City or for any person acting in behalf of such person to retain the services of a freelance worker, if the promised payment for such services is \$500 or more, either at the time of retention or within the prior 120 days, without a written contract in compliance with subsection B of this section; nor shall any such person:

1. fail or refuse to pay the agreed payment within thirty days after completion of the agreed services;
2. demand as a condition of timely payment after work has begun that the freelance worker accept less payment than the amount of the agreed compensation; or
3. deny or threaten to deny a work opportunity to, or discriminate against, a freelance worker, or take any other action that penalizes a freelance worker for, or is reasonably likely to deter a freelancer worker from, exercising or attempting to exercise any right guaranteed under this chapter, or from obtaining future work opportunity because the freelance worker has done so.

ORDINANCE FACT SHEET

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance/Resolution

ORDINANCE SUPPLEMENTING CHAPTER 21 (CONTRACTS AND INVESTMENTS) ARTICLE 1 (CONTRACTING AUTHORITY) OF THE JERSEY CITY MUNICIPAL CODE REQUIRING THAT THE HIRING OF FREELANCE WORKERS FOR SERVICES OF \$500 OR MORE BY PERSONS ENGAGED IN COMMERCIAL OR BUSINESS ACTIVITIES WITHIN THE CITY OF JERSEY CITY BE BY WRITTEN CONTRACT SPECIFYING THE TIME AND MANNER OF PAYMENT

Initiator

Department/Division	LAW	
Name/Title	PETER BAKER, Corporation Counsel	
Phone/email	(201) 547-4667	PBaker@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance Purpose

With the increase in commercial activity in Jersey City, many people now earn their livelihood by freelance contracting, performing small and large jobs for businesses in the City. Recently, some of these freelance workers have sought the assistance of the city on the ground that they are often hired through oral (unwritten) agreements and must often wait for payment after completing their services. Sometimes they are not paid at all. NYC recently enacted a law which sets up an office of mediation in NYC government to mediate disputes between freelance workers and the persons hiring them. In NJ, claims filed in the Small Claims Div. of Superior Court are often resolved through mediation.

The proposed ordinance attempts to give freelance workers two rights: the right to a written contract specifying, at a minimum, the time for payment and the right to be paid in a timely manner (no later than thirty days after the day specified for payment). It applies in business and commercial settings. It would not apply, e.g., to a homeowner who hires a contractor to do work or to the resident owner of a multiple dwelling with fewer than four rental units.

I certify that all the facts presented herein are accurate.


Signature of Department Director

5/15/18
Date

It shall be a defense to any violation charged under this ordinance that the freelance worker has not completed the agreed services unless the failure to complete the agreed services was caused by the hiring party's failure to cooperate in good faith with the freelance worker, provided, however, that timely payment for the value of completed services may not be withheld because of a disagreement over any additional payments claimed by the freelance worker.

B. The written contract shall include, at a minimum, the following information:

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 the mechanism by which such date will be determined.

C. For purpose of this law, a person regularly engages in commercial or business activity if he or she owns or operates any business or trade or commercial property within the city or holds himself or herself out as regularly engaging in any business or trade. The resident owner of residential real property with four or fewer units and no commercial unit is not considered to be engaged in commercial or business activity under this ordinance.

D. As used herein Freelance worker means any natural person or any organization composed of no more than one natural 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 services in exchange for compensation. This term does not include:

1. Any person who, pursuant to the contract at issue, is a sales representative as defined in Title 2A of the New Jersey Statutes;
2. Any licensed attorney; and
3. Any person who is a licensed medical professional.

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

C. This ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.

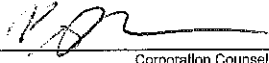
D. This ordinance shall take effect subject to the terms of this ordinance at the time and in the manner as provided by law.

E. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

Note: All material is new. Therefore, underlining has been omitted.

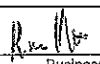
TF/he
5/09/18

APPROVED AS TO LEGAL FORM


Corporation Counsel

APPROVED: _____

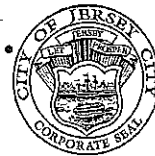
APPROVED: _____


Business Administrator

Certification Required ☐

Not Required ☐

Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 18-051
TITLE: 3.A MAY 23 2018 4.A

JUN 13 2018

Ordinance supplementing Chapter 21 (Contracts and Investments) Article I (Contracting Authority) of the Jersey City Municipal Code requiring that the hiring of freelance workers for services of \$500 or more by persons engaged in commercial or business activities within the City of Jersey City by written contract specifying the time and manner of payment.

RECORD OF COUNCIL VOTE ON INTRODUCTION MAY 23 2018 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING JUN 13 2018 9-0											
Councilperson <u>RIVERA</u> moved, seconded by Councilperson <u>ROBINSON</u> to close P.H.											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

SPEAKERS:

MIKE KULOWSKI

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson _____ moved to amend* Ordinance, seconded by Councilperson _____ & adopted											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY				YUN				RIVERA			
PRINZ-AREY				SOLOMON				WATTERMANN			
BOGGIANO				ROBINSON				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE JUN 13 2018 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on **MAY 23 2018**

Adopted on second and final reading after hearing on **JUN 13 2018**

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on **JUN 13 2018**

Robert Byrne
Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Rolando R. Lavarro, Jr.
Rolando R. Lavarro, Jr., Council President

Date **JUN 13 2018**

APPROVED:

Steven M. Fulop
Steven M. Fulop, Mayor

Date **JUN 15 2018**

Date to Mayor **JUN 14 2018**