



CAMBRIDGE CITY COUNCIL

Quinton Y. Zondervan
City Councillor

To the Honorable, the City Council:

I write with an update on the Wage Theft Ordinance.

The March 10 hearing of the Ordinance Committee was rescheduled after it was discovered that part of the language intended for consideration was omitted due to a submission error, which I take full responsibility for. Though the omitted language had previously been included in the September 2021 version of the ordinance, in consultation with the Law Department and various union stakeholders I arrived at the decision that it would be best to postpone and give all parties ample time to process the complete language ahead of our discussion.

I have included the complete Wage Theft Ordinance language below, including 2.66.090 which had been previously omitted (in red). The hearing has been rescheduled to **Wednesday, March 30, at 5:30 PM** at which time the committee can reconcile the language as it sees appropriate.

I sincerely apologize for any confusion that this might have caused, and I look forward to seeing you all on March 30.

In service,

Quinton Zondervan
Cambridge City Councillor

2.66.090 MUNICIPAL BUILDING PERMITS

- A. **Minimum Mandatory Conditions.** In addition to any other conditions that may be required in connection with the issuance of building permits, each building permit issued in connection with the construction, reconstruction, installation, demolition, maintenance or repair of any commercial building estimated to cost not less than \$1,000,000 or in

connection with a residential building with 4 or more units shall be subject to and shall include the following set of mandatory permit conditions:

“It shall be a material condition of this Permit that any construction manager, general contractor or other lead or prime contractor, or any entity functioning in any such capacity, and any other contractor or subcontractor of any tier or other person or entity that is engaged to perform the construction work on the property that is the subject of this Permit (hereinafter, collectively and individually, the “contractor”) shall comply with the following qualifications and conditions at all times during their performance of work on the project:

- (1) The contractor has not been debarred or suspended from performing construction work by any federal, state or local government agency or authority in the past five years;
- (2) The contractor has not been found within the past five years by a court or governmental agency in violation of any law relating to providing workers compensation insurance coverage, misclassification of employees as independent contractors, payment of employer payroll taxes, employee income tax withholding, wage and hour laws, prompt payment laws, or prevailing wage laws;
- (3) The contractor must maintain appropriate industrial accident insurance sufficient to provide coverage for all the employees on the project in accordance with G.L. c.152 and provide documentary proof of such coverage to the Inspectional Services Department to be maintained as a public record;
- (4) The contractor must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of minimum wages and overtime, workers’ compensation insurance coverage, unemployment taxes, social security taxes and state and federal income tax withholding, in accordance with G.L. c.149, §148B on employee classification and any other relevant statutes, laws and ordinances;
- (5) The contractor must comply with G.L. c. 151, §1A and G.L. c. 149, § 148 and any other relevant statutes, laws and ordinances with respect to the payment of wages; and
- (6) The contractor must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority.

If any person or entity that is subject to the foregoing fails to comply with any of the qualifications and conditions with respect to work on the project, this Permit shall be deemed temporarily suspended and all construction work on the entire project shall cease immediately upon issuance of a stop work order by the City Manager or designee until further notice.

B. Remedies. In the event the permit is granted, the applicant for the permit shall be responsible for ensuring that all contractors performing construction work on the property comply with the Minimum Mandatory Conditions required by Section 2.66.90 for the duration of work on the project. If any person or entity that is subject to those Minimum Mandatory Conditions fails to comply with any of the qualifications and conditions with respect to work on the project, and in addition to any other penalties or consequences provided by law, the City Manager or designee shall issue a stop work order with respect to all construction work on the entire project until the violation is remedied. Once the City Manager or designee determines that the violation has been remedied, the City Manager or designee shall withdraw the stop work order and construction on the project may proceed.

C. Appeals. Any person aggrieved by a stop work order issued by the City Manager or designee shall have the appeal rights set forth in Section 8.60.070 - Appeals of fines.

2.66.100 WAGE THEFT

2.66.110 – Purpose

The purpose of this chapter is to reinforce existing laws against wage theft in the City of Cambridge, and expand on them to provide the city’s workers with stronger and more easily enforceable wage and benefits protections.

2.66.120 – Powers Regarding Wage Theft

(a) The city, by and through its officials, boards and commissions, may deny an application for any license or permit issued by it, if, during the three-year period prior to the date of the application, the applicant admitted guilt or liability or has been found guilty, liable or responsible, in any judicial or administrative proceeding, of committing or attempting to commit a violation of:

- 1) Commonwealth of Massachusetts Payment of Wages Law, General Laws Chapter 149, Section 148, and any and all other state or federal laws regulating the payment of wages, including, but not limited to, Chapter 149, Sections 27, 27G, 27H, 52D, 148A, 148B, 150C, 152, 152A, 159C; and Chapter 151, sections 1, 1A, 1B, 15, 19 and 20 of the General Laws; and
- 2) The Fair Debt Collection Practices Act, 15 U.S.C. §1692, or any other federal or state law regulating the collection of debt, as to the employees of the applicant or others who had performed work for said applicant.

(b) Any license or permit issued by the City of Cambridge, its boards or commissions, may be revoked or suspended if, during the three years prior to the issuance of the license or permit, the licensee or permittee admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of committing a violation of any of the laws set forth in subsection (a) above.

(c) Any license or permit issued by the City of Cambridge, its boards or commissions, may be revoked or suspended if the applicant, licensee or permittee is a person who was subject to a final judgment or other decision for violation of any of the laws set forth in subsection (a) above within three years prior to the effective date

of this section, and the judgment was not satisfied within the lawful period for doing same, or the expiration of the period for filing an appeal; or if an appeal is made, the date of the final resolution of that appeal and any subsequent appeal resulting in a final administrative or judicial affirmation of violation of any of the laws set forth in subsection (a) above.

(d) The period of non-issuance, revocation or non-renewal shall be one year, and the licensee or permittee or the person who is the principal of a license or permit shall not again be licensed or permitted in any other manner during such period.

(e) Within 14 calendar days from the date that the notice of refusal to issue, revocation or refusal to renew notice is mailed to the applicant or licensee or permittee, the applicant, licensee or permittee may appeal such decision by filing a written notice of appeal setting forth the grounds therefor. Said notice shall be sent by certified mail, return receipt requested. The hearing shall be conducted by the board, commission or individual who made the decision not to issue, not to renew, or to revoke within 30 days of receipt of such notice of appeal.

(f) This law shall apply to any person or entity whose final administrative decision or adjudication or judicial judgment or conviction was entered on or after 3 years before implementation], with the exception of judgments that remain unsatisfied as set forth in subsection (c) above.

(g) Application of this section is subject to applicable state or federal laws.

2.66.130 – Wage Theft Enforcement Committee

(a) *Structure*

1) There shall be established a Wage Theft Enforcement Committee (WTEC), comprised of no less than 11 total designees, appointed by the City Manager and approved by the City Council, with designees from relevant organizations including the building trades, service workers, other labor unions, trade organizations, nonprofits and other organizations representing labor. No less than half the committee members shall be Cambridge residents, and no less than half shall be union/labor representatives.

2) Designees of the wage theft advisory committee shall be appointed for a term of three years, notwithstanding initial appointments, and must be appointed no later than the second City Council meeting of the new year. In order to stagger the terms of the designees, the initial appointments shall be randomly divided into 3 equal cohorts with 1 year, 2 year and 3 year terms respectively. No appointee shall serve more than 2 consecutive terms in a row, regardless of term length..

(b) *Duties*

1) The WTEC will meet at least once every two months to review wage theft complaints and provide advice to the City Manager and City Council on the implementation and effectiveness of the wage theft ordinance.

2) In addition, each year the committee shall elect from among its members a volunteer secretary who shall receive wage theft complaints from the attorney general's office; or received by the city solicitor's office; or received by any member of the WTEC. Said secretary and/or designees of the committee shall coordinate any response to such complaint that is required by the ordinance.

In addition, members of the WTEC may offer education, guidance, and referrals to employees affected by wage theft in Cambridge.

(c) *Annual report.* The city shall publish an annual report, through the WTEC detailing all wage theft complaints received and action taken in response to such complaints, including specifically the status or final disposition of each complaint, where available. The report shall also include civil and criminal judgments issued by the state and federal courts, administrative citations, and final administrative orders, including but not limited to debarments, against employers pursuant to M.G.L. c. 149 and M.G.L. c. 151, if known. The report shall be presented to the City Council via the City Manager's agenda at a regular City Council meeting soon after its publication.

(d) *Conflict of interest.* For purposes of this division no member of the WTEC shall participate in any proceeding concerning a beneficiary, a covered vendor, or a covered employee, if the member or any member of his or her immediate family has a direct or indirect financial interest in said individual or in the award of a service contract, subcontract or assistance or the granting of relief to said individual.

2.66.140 – Wage Theft Complaint Process

(a) *Filing of complaints.* Anyone may file a complaint by notifying the City Manager of a violation. The City Manager, upon notification of a wage theft complaint, shall immediately notify the WTEC, the city purchasing agent, the Licensing Commission, the City Council, and the Attorney General's office of the complaint.

(b) *Required communication with attorney general.* On a biannual basis, a representative from the WTEC will request to meet with the office of the Attorney General to discuss complaints involving employers in the city and to better coordinate on issues of wage theft in the city.

2.66.150 – Successors in Interest

The requirements of this division, including any sanctions imposed herein, that are applicable to any employer shall also be applicable to, and effective against, any successor employer that (i) has at least one of the same principals or officers as the prior employer; and (ii) is engaged in the same or equivalent trade or activity as the prior employer.

2.66.160 – Severability

If any provision of this division, or the application of such provision to any person or circumstances, shall be enjoined or held to be invalid, the remaining provisions of this division, or the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid shall be not affected thereby.

2.66.170 – Effective Date

This ordinance shall become effective upon ordination.