



ORDINANCE COMMITTEE

COMMITTEE MEETING

~ MINUTES ~

Wednesday, September 14, 2022

2:00 PM

Sullivan Chamber
795 Massachusetts Avenue
Cambridge, MA 02139

The Ordinance Committee will hold a public meeting to continue the discussion around Ordinance # 2022-3, Wage Theft Ordinance. The Public Hearing Notice was published on March 17, 2022. The Public Hearing took place on March 30, 2022. Additional Public Comment will be allowed at this meeting.

Attendee Name	Present	Absent	Late	Arrived
Burhan Azeem	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Dennis J. Carlone	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
Alanna Mallon	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
Marc C. McGovern	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
Patricia Nolan	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
E. Denise Simmons	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Paul F. Toner	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
Quinton Zondervan	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
Sumbul Siddiqui	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	

A public meeting of the Cambridge City Council’s Ordinance Committee was held on Wednesday, September 14, 2022. The meeting was Called to Order at 2:00 p.m. by the Chair, Councillor McGovern. Pursuant to Chapter 20 of the Acts of 2022 adopted by Massachusetts General Assembly and approved by the Governor, this public meeting was hybrid, allowing participation in person, in the Sullivan Chamber, 2nd Floor, City Hall, 795 Massachusetts Avenue, Cambridge, MA and by remote participation via zoom.

Chair McGovern called the meeting to order. The Chair noted that the purpose of the meeting was to continue the discussion around Ordinance # 2022-3, the Wage Theft Ordinance. The Public Hearing Notice was published on March 17, 2022. The Public Hearing took place on March 30, 2022.

City Clerk LeBlanc called the roll.

- Councillor Burhan Azeem – Absent
- Councillor Dennis J. Carlone – Present/Remote
- Vice Mayor Alanna M. Mallon – Present/Remote
- Councillor Marc C. McGovern – Present/Remote
- Councillor Patricia Nolan – Present/Remote
- Councillor E. Denise Simmons – Absent
- Councillor Paul Toner – Present/Remote
- Councillor Quinton Y. Zondervan – Present/Remote
- Mayor Sumbul Siddiqui – Present/Remote

Present-7, Absent-2. Quorum established.

Minutes Acceptance: Minutes of Sep 14, 2022 2:00 PM (Committee Reports)

The Chair called for public comment. No one was signed up to give public comment. The Chair noted that public comment would remain open until 2:30 p.m.

The Chair recognized Councillor Zondervan who spoke on the amendments to POR 2022 # 14, that he is putting forth and why they are needed.

The Chair offered remarks on the importance of this ordinance and acknowledged the work of Councillor Zondervan, Councillor Toner, and the previous work by Councillor Simmons.

The Chair recognized Paul Goodrich from the Laborers union who thanked the City Council for moving forward with this legislation and noted the reasons it is so important.

The Chair recognized Adam Lupino from the Laborers union who also thanked the Council and noted the reasons this legislation is needed.

The Chair asked if any representatives from the City wished to speak.

Iram Farooq, Assistant City Manager for Community Development stated that CDD had no input.

The Chair recognized City Solicitor Nancy Glowa who restated the concerns she had raised at the March meeting about preemption of state law and whether this is permissible.

The Chair acknowledged Councillor Zondervan who shared his amendments on screen and went over them. Councillor Zondervan asked the City Solicitor to restate her concerns. The Solicitor noted concern with enforcement and tying the legislation to certain permits. The Solicitor offered to provide additional detail if needed. Councillor Zondervan expressed a willingness to tighten up the language to limit it to permits that the City fully controls.

The Chair recognized Councillor Toner, a sponsor of the legislation, for remarks.

Councillor Zondervan made a motion to ask the City Manager to work with the City Solicitor to provide a legal review of the proposed amendments.

City Clerk LeBlanc called the roll.

Councillor Burhan Azeem – Absent

Councillor Dennis J. Carlone – Yes

Vice Mayor Alanna M. Mallon – Yes

Councillor Marc C. McGovern – Yes

Councillor Patricia Nolan – Absent

Councillor E. Denise Simmons – Absent

Councillor Paul Toner – Yes

Councillor Quinton Y. Zondervan – Yes

Mayor Sumbul Siddiqui – Yes

Yes-6, No-0, Absent-3. The motion passed.

Councillor Zondervan made a motion to amend the language in Policy Order 2022 # 14 by substitution. Redlined version showing amendments attached.

City Clerk LeBlanc called the roll.

Councillor Burhan Azeem – Absent

Councillor Dennis J. Carlone – Yes

Vice Mayor Alanna M. Mallon – Yes

Councillor Marc C. McGovern – Yes

Councillor Patricia Nolan – Absent

Councillor E. Denise Simmons – Absent

Councillor Paul Toner – Yes

Councillor Quinton Y. Zondervan – Yes

Mayor Sumbul Siddiqui – Yes

Yes-6, No-0, Absent-3. The motion passed.

Councillor Zondervan made a motion to send Policy Order 2022 # 14, as amended, out to the Full City Council with a favorable recommendation to pass to a second reading. A clean copy of Policy Order 2022 # 14 as amended is attached.

City Clerk LeBlanc called the roll.

Councillor Burhan Azeem – Absent

Councillor Dennis J. Carlone – Yes

Vice Mayor Alanna M. Mallon – Yes

Councillor Marc C. McGovern – Yes

Councillor Patricia Nolan – Absent

Councillor E. Denise Simmons – Absent

Councillor Paul Toner – Yes

Councillor Quinton Y. Zondervan – Yes

Mayor Sumbul Siddiqui – Yes

Yes-6, No-0, Absent-3. The motion passed.

The Chair made a motion to close public comment.

City Clerk LeBlanc called the roll.

Councillor Burhan Azeem – Absent

Councillor Dennis J. Carlone – Yes

Vice Mayor Alanna M. Mallon – Yes

Councillor Marc C. McGovern – Yes

Councillor Patricia Nolan – Absent

Councillor E. Denise Simmons – Absent

Councillor Paul Toner – Yes

Councillor Quinton Y. Zondervan – Yes

Mayor Sumbul Siddiqui – Yes

Yes-6, No-0, Absent-3. Public comment was closed at approximately 2:36 p.m.

Councillor Zondervan made a motion to adjourn.

City Clerk LeBlanc called the roll.

Councillor Burhan Azeem – Absent

Councillor Dennis J. Carlone – Yes

Vice Mayor Alanna M. Mallon – Yes

Councillor Marc C. McGovern – Yes

Councillor Patricia Nolan – Absent

Councillor E. Denise Simmons – Absent

Councillor Paul Toner – Yes

Councillor Quinton Y. Zondervan – Yes

Mayor Sumbul Siddiqui – Yes

Yes-6, No-0, Absent-3. The motion passed.

The Ordinance Committee adjourned at approximately 2:38 p.m.

Attachments: Redlined version showing amendments.

Policy Order # 14, as amended.

Clerk’s Note: The City of Cambridge/22 City View records every City Council meeting and every City Council Committee meeting. This is a permanent record.

All meetings are “closed captioned”. After each meeting the “closed captioned transcripts” are available online at: <https://app.box.com/s/9qormcahynjt4pzpt1n5opixogl3q7k5>

Please note that there is no editing of these “closed captioned transcripts” and they do not constitute a verbatim transcript prepared by a certified transcriber.

Wage Theft Ordinance (Ordinance #2022-3).

A communication was received from Councillor Zondervan, transmitting amendments to the Cambridge Wage Theft Ordinance received on August 24, 2022

A communication was received from Councillor Zondervan, transmitting amendments to Cambridge Wage Theft Ordinance. received on September 6, 2022



City of Cambridge

O-
FIRST IN COUNCIL
September 14, 2022

COUNCILLOR ZONDERVAN
COUNCILLOR MCGOVERN
MAYOR SIDDIQUI
COUNCILLOR TONER

WHEREAS: The Cambridge Wage Theft Ordinance was [previously introduced](#) on September 20, 2021; and

WHEREAS: Wage theft is a pervasive issue across many industries in Cambridge and traditional law enforcement agencies lack the resources to address it effectively; and

WHEREAS: Wage theft takes on many forms including the illegal misclassification of employees as independent contractors, and is often accompanied by employer tax and insurance fraud, with employers failing to pay their payroll taxes and workers compensation premiums; and

WHEREAS: Wage theft disproportionately impacts people of color and undocumented immigrants who already face significant economic disparities in [Cambridge](#) and [regionally](#); and

WHEREAS: Wage theft is so prevalent in Cambridge's construction industry that significant financial incentives are necessary to motivate property owners and their general contractors to take steps sufficient to ensure that wage theft does not occur on their projects; and

WHEREAS: The City Council is resolved to ensure that wage theft is prevented by ensuring that all employers including subcontractors comply with state laws governing the payment of prevailing wages and other wage and hour laws, the provision of workers compensation coverage, the proper classification of individuals as employees versus independent contractors, as well as state law concerning health insurance coverage; and

WHEREAS: Establishing a Wage Theft Complaint Process, a representative Wage Theft Enforcement Committee, and a required annual report will improve enforcement of wage theft across a wide range of industries, enhance communication with the Attorney General's Office, and ensure transparency and accountability; now therefore be it

ORDERED: That the City Council schedule a hearing of the Ordinance Committee for the purposes of amending the Ordinance of the City of Cambridge to insert the language below:

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.

History:

01/31/22 City Council
03/30/22 Ordinance Committee

REFERRED TO COMMITTEE



City of Cambridge

COF 2022 #97
IN CITY COUNCIL
September 14, 2022

Minutes Acceptance: Minutes of Sep 14, 2022 2:00 PM (Committee Reports)

CAMBRIDGE WAGE THEFT ORDINANCE

WHEREAS: The Cambridge Wage Theft Ordinance was [previously introduced](#) on September 20, 2021; and

WHEREAS: Wage theft is a pervasive issue across many industries in Cambridge and traditional law enforcement agencies lack the resources to address it effectively; and

WHEREAS: Wage theft takes on many forms including the illegal misclassification of employees as independent contractors, and is often accompanied by employer tax and insurance fraud, with employers failing to pay their payroll taxes and workers compensation premiums; and

WHEREAS: Wage theft disproportionately impacts people of color and undocumented immigrants who already face significant economic disparities in [Cambridge](#) and [regionally](#); and

WHEREAS: Wage theft is so prevalent in Cambridge’s construction industry that significant financial incentives are necessary to motivate property owners and their general contractors to take steps sufficient to ensure that wage theft does not occur on their projects; and

WHEREAS: The City Council is resolved to ensure that wage theft is prevented by ensuring that all employers including subcontractors comply with state laws governing the payment of prevailing wages and other wage and hour laws, the provision of workers compensation coverage, the proper classification of individuals as employees versus independent contractors, as well as state law concerning health insurance coverage; and

WHEREAS: Establishing a Wage Theft Complaint Process, a representative Wage Theft Enforcement Committee, and a required annual report will improve enforcement of wage theft across a wide range of industries, enhance communication with the Attorney General’s Office, and ensure transparency and accountability; now therefore be it

ORDERED: That the City Council schedule a hearing of the Ordinance Committee for the purposes of amending the Ordinance of the City of Cambridge to insert the language below:

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, [excavation permits, dewatering permits, or any other permits issued to public utility companies or their contractors](#), 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, [and any permit issued to a public utility company or its contractors](#), 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:

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- (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.



City of Cambridge

COF 2022 #98
IN CITY COUNCIL
September 14, 2022

Minutes Acceptance: Minutes of Sep 14, 2022 2:00 PM (Committee Reports)

CAMBRIDGE WAGE THEFT ORDINANCE

WHEREAS: The Cambridge Wage Theft Ordinance was [previously introduced](#) on September 20, 2021; and

WHEREAS: Wage theft is a pervasive issue across many industries in Cambridge and traditional law enforcement agencies lack the resources to address it effectively; and

WHEREAS: Wage theft takes on many forms including the illegal misclassification of employees as independent contractors, and is often accompanied by employer tax and insurance fraud, with employers failing to pay their payroll taxes and workers compensation premiums; and

WHEREAS: Wage theft disproportionately impacts people of color and undocumented immigrants who already face significant economic disparities in [Cambridge](#) and [regionally](#); and

WHEREAS: Wage theft is so prevalent in Cambridge’s construction industry that significant financial incentives are necessary to motivate property owners and their general contractors to take steps sufficient to ensure that wage theft does not occur on their projects; and

WHEREAS: The City Council is resolved to ensure that wage theft is prevented by ensuring that all employers including subcontractors comply with state laws governing the payment of prevailing wages and other wage and hour laws, the provision of workers compensation coverage, the proper classification of individuals as employees versus independent contractors, as well as state law concerning health insurance coverage; and

WHEREAS: Establishing a Wage Theft Complaint Process, a representative Wage Theft Enforcement Committee, and a required annual report will improve enforcement of wage theft across a wide range of industries, enhance communication with the Attorney General’s Office, and ensure transparency and accountability; now therefore be it

ORDERED: That the City Council schedule a hearing of the Ordinance Committee for the purposes of amending the Ordinance of the City of Cambridge to insert the language below:

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, [excavation permits, dewatering permits, or any other permits issued to public utility companies or their contractors](#), 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, [and any permit issued to a public utility company or its contractors](#), 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:

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- (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. No less than 5 days before the commencement of a stop work order under this section, the City Manager shall notify the violating person or entity and the lead contractor, if any, of the intended action and give the person or entity an opportunity to confer with the City Manager or their designee in person or through counsel or other representative as to the proposed action.

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Commented [1]: Cribbing this from the state bill address Nancy's concern: <https://malegislature.gov/Bills/192/H46>

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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.



City of Cambridge

O-
FIRST IN COUNCIL
September 19, 2022

COUNCILLOR ZONDERVAN

ORDERED: That the City Manager be and hereby is requested to direct the City Solicitor to provide a legal review of Policy Order #14 as amended in the Ordinance Committee on September 14, 2022.



City of Cambridge

O-
FIRST IN COUNCIL
September 19, 2022

COUNCILLOR ZONDERVAN

ORDERED: That the Ordinance Committee forward Policy Order 2022 #14 to the full City Council with a favorable recommendation to Pass to a Second Reading.



City of Cambridge

O-
FIRST IN COUNCIL
September 19, 2022

COUNCILLOR ZONDERVAN

WHEREAS: The Cambridge Wage Theft Ordinance was [previously introduced](#) on September 20, 2021; and

WHEREAS: Wage theft is a pervasive issue across many industries in Cambridge and traditional law enforcement agencies lack the resources to address it effectively; and

WHEREAS: Wage theft takes on many forms including the illegal misclassification of employees as independent contractors, and is often accompanied by employer tax and insurance fraud, with employers failing to pay their payroll taxes and workers compensation premiums; and

WHEREAS: Wage theft disproportionately impacts people of color and undocumented immigrants who already face significant economic disparities in [Cambridge](#) and [regionally](#); and

WHEREAS: Wage theft is so prevalent in Cambridge's construction industry that significant financial incentives are necessary to motivate property owners and their general contractors to take steps sufficient to ensure that wage theft does not occur on their projects; and

WHEREAS: The City Council is resolved to ensure that wage theft is prevented by ensuring that all employers including subcontractors comply with state laws governing the payment of prevailing wages and other wage and hour laws, the provision of workers compensation coverage, the proper classification of individuals as employees versus independent contractors, as well as state law concerning health insurance coverage; and

WHEREAS: Establishing a Wage Theft Complaint Process, a representative Wage Theft Enforcement Committee, and a required annual report will improve enforcement of wage theft across a wide range of industries, enhance communication with the Attorney General's Office, and ensure transparency and accountability; now therefore be it

ORDERED: That the City Council schedule a hearing of the Ordinance Committee for the purposes of amending the Ordinance of the City of Cambridge to insert the language below:

2.66.090 MUNICIPAL PERMITS

- A. Minimum Mandatory Conditions. In addition to any other conditions that may be required in connection with the issuance of building permits, excavation permits, dewatering permits, or any other permits issued to public utility companies or their contractors, 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, and any permit issued to a public utility company or its contractors, 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. No less than 5 days before the commencement of a stop work order under this section, the City Manager shall notify the violating person or entity and the lead contractor, if any, of the intended action and give the person or entity an opportunity to confer with the City Manager or their designee in person or through counsel or other representative as to the proposed action.

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.

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- 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.

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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.

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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.



City of Cambridge

COF 2022 #110
IN CITY COUNCIL
September 19, 2022