

ARTICLE XII. LIVING WAGE¹

Sec. 2-761. Purpose.

It is the purpose of this article to establish a living wage for all covered workers employed to perform work associated with covered contracts as defined herein and for development projects with the City.

Findings. The court of common council finds and declares that the purpose of this living wage ordinance, as well as the welfare of the City and its residents, require additional provisions to ensure that the anticipated economic benefits of such ordinance inure to the benefit of the City and its people and that the City is protected from potential loss due to labor unrest and conflict.

(Ord. No. 06-10, 3-22-10)

Sec. 2-762. Definitions.

As used in this article, the following terms have the meanings indicated unless the context clearly requires a different meaning:

Affordable housing means housing for families and individuals whose income does not exceed eighty (80) percent of area income as defined by the department of housing and urban development.

City means the municipality of the City of Hartford or any office, agency, board, commission, department, including Hartford Public Schools, or other entity thereof, or any successor thereto.

Development project means a project that is:

- (1) Subsidized or paid in whole or in part in excess of one hundred thousand dollars (\$100,000.00) from: the City's general fund, capital project funds, City loans, tax abatement agreements, a tax increment financing agreement, state or federal money funneled through or otherwise administered by the City, pension fund money, municipal trust funds or the sale of municipal bonds. Projects dealing with single-family residences, affordable housing or commercial real estate development with a total project cost less than five million dollars (\$5,000,000.00), shall not be considered development projects for purposes of this article.
- (2) A real estate development the cost of which exceeds twenty-five thousand dollars (\$25,000.00) on City-owned land.

Development project manager means a person or entity which/who owns a piece of real estate on a location where a development project is located under agreement, or a person or entity which/who has a leasehold interest of twenty (20) or more years in a property where a development project is located under agreement.

Covered employer means all covered contractors and development project managers, whether an individual, corporation, partnership, joint venture or other entity, except that covered employer does not mean a not for profit entity organized pursuant to the United States Internal Revenue Code, which employs twenty-five (25) or

¹Editor's note(s)—Ord. No. 06-10, adopted March 22, 2010, amended Art. XII in its entirety to read as herein set out. Former Art. XII, §§ 2-761Editor's note(s)—2-774, pertained to similar subject matter. See the Code Comparative Table for complete derivation.

fewer year-round employees in the City. All covered employers shall be equal opportunity employers within the meaning of the procurement ordinances of the Hartford Municipal Code.

Covered contract means any contract awarded by the city in excess of twenty thousand dollars (\$20,000.00) to a covered employer, except a vendor who provides goods to the city, provided, however, that if another federal or state statutory or contractual provision prescribes higher wages, than the provisions of this article (such as Davis Bacon or a State of Connecticut prevailing wage provision), then such shall supersede this article.

Covered contractor means any person or entity awarded a City contract and includes all subcontractors of such covered contractors who perform work within the boundaries of the City or on City-owned property.

Covered worker means any employee of a covered contractor or development project manager, or of any subcontractor thereof, who performs work governed by a covered contract, with the following exceptions:

- (i) An individual employee whose wage rate is subject to a federal or state statute or regulation mandating a prevailing or other wage rate.
- (ii) Any individual who is under eighteen (18) years of age or is in a youth employment program or is a student intern.

(Ord. No. 06-10, 3-22-10)

Sec. 2-763. Living wage required.

All covered employers and their subcontractors shall pay their covered workers no less than the living wage for work on covered contracts as defined in this article. Additionally, all development project managers and their subcontractors shall pay no less than the living wage to the employees working at the development project. No covered employer may use the living wage requirement of this article to reduce the compensation paid to any of its covered workers.

- (a) A living wage means an hourly wage rate which on an annual basis is equivalent to either of the following:
 - 1. One hundred twenty (120) percent of the federal poverty level for a family of four (4), if health benefits are provided to the covered worker or employee. Health benefits, for purposes of this article, mean paid comprehensive family medical coverage which does not require the covered worker or employee to contribute more than five (5) percent of their annual wages towards the payment of the health plan provided, the living wage rate shall not be reduced below the previous year's rate for covered workers with comprehensive family medical coverage; or
 - 2. If health benefits are not provided to the covered worker, the covered employer must pay wages in accordance with subsection (a)1. above, and in addition make payments to its covered workers in lieu of health benefits, as determined by the Director of Human Relations. The Director of Human Relations shall calculate and set forth the amount of these payments in lieu of health benefits on a yearly basis, based on the average cost of non-group comprehensive health insurance in the state provided, the living wage rate shall not be reduced below the previous year's rate for covered workers without comprehensive family medical coverage; or
- (b) All development project managers are responsible for ensuring that all of their subcontractors who perform work at the site of the development project pay their employees at the living wage rate.
- (c) The Director of the Office of Human Relations shall adjust the living wage as necessary to incorporate changes in the federal poverty level at least six (6) months prior to the beginning of the fiscal year. The Director of Human Relations shall publish a bulletin announcing any change in the amount of the living wage and shall inform each covered employer in writing, prior to such adjustment becoming effective.

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- (d) Covered employers shall inform covered workers or employees making less than twelve dollars (\$12.00) per hour of their possible eligibility for the federal Earned Income Credit ("EIC") pursuant to the Internal Revenue Code and shall make forms available to covered workers or employees informing them about the EIC and the forms required to secure advance EIC payments.

(Ord. No. 06-10, 3-22-10; Ord. No. 16-17, 6-26-17)

Sec. 2-764. Worker retention, local hiring, and training.

- (a) Covered employers shall report vacancies in positions related to covered contracts and development projects to local hiring agencies and to the Office of Human Relations for purposes of advertisement to the local community.
- (b) Any covered contract shall include language in the event the contract is transferred from one (1) covered employer to another, or if a new covered employer is awarded a covered contract that was previously performed by a prior covered employer, the new covered employer shall offer to employ and retain for a ninety-day period the covered workers who worked under the previous covered employer for at least twelve (12) months. New covered employers may not discharge the covered workers retained during the ninety-day period, except for cause.
- (c) The Director of the Office of Human Relations shall work with the Mayor, the Court of Common Council, other city departments and agencies to promote programs encouraging and facilitating active support for job training programs with covered employers that benefit residents of the City, on an equal opportunity basis, all as per the City's procurement ordinance and other applicable laws or regulations.

(Ord. No. 06-10, 3-22-10; Ord. No. 16-17, 6-26-17)

Sec. 2-765. Implementation.

All requests for bids and requests for proposals for covered contracts or development projects, whether advertised or informally solicited, shall include appropriate information about the living wage requirements.

(Ord. No. 06-10, 3-22-10)

Sec. 2-766. No strike agreement; labor peace required.

All development project managers shall sign a written agreement with a labor organization seeking to represent employees at the development project, which agreement provides a procedure for determining employee preference on the subject of whether to be represented by a labor organization for collective bargaining and further provides that the labor organization will not strike the development project in relation to the organizing campaign.

(Ord. No. 06-10, 3-22-10)

Sec. 2-767. Recording of covenant required.

The City must include a clause in all contracts, city loans, tax abatement agreements, tax increment financing agreements, or other documents providing financing for development projects covered by the terms of this article, requiring the development project manager to comply with living wage and labor peace provisions of this article. In addition, said clause shall state that all sums owed to the City from contracts, city loans, tax abatement agreements, tax increment financing agreements or other documents providing financing for development

projects will be due and payable in event of a violation of this article. Upon the granting of a development project that meets the terms of this article, the City shall record a covenant in the Hartford Land Records that provides that the development manager shall abide by the terms of the living wage and labor peace ordinance.

(Ord. No. 06-10, 3-22-10)

Sec. 2-768. Responsibility for effectuation and enforcement.

The Director of the Office of Human Relations shall investigate violations of this article and make recommendations to the Mayor for enforcement. The Mayor shall consider these recommendations and direct City departments to take enforcement actions, if needed, as provided below.

(Ord. No. 06-10, 3-22-10)

Sec. 2-769. Enforcement and reporting.

- (a) Monitoring of the provisions of this article shall be the responsibility, initially, of the Office of Human Relations. As appropriate or necessary, the Director of that division may require a covered employer to produce payroll records relevant to an audit or any inquiry into a claimed violation of this article. Every covered employer shall post copies of documents provided by the Director of the Office of Human Relations, stating the living wage applicable to covered workers. In addition, such posting shall include a form which may be used by covered workers to file a complaint with the Director of the Office of Human Relations for noncompliance with the provisions of this article. Such postings shall be made at the work site in a prominent place where all documents posted pursuant to this article may easily be seen and read by covered workers. A copy of such documents shall be given by the covered employer to any covered worker upon request no later than (i) the last hour of the said worker's next shift or (ii) the last hour of the next business day.
 - (1) *Failure to comply.* If the employer fails to comply with any component of subsection (a), the Director of Human Relations shall notify the employer to make immediate compliance to avoid the imposition of a fine of one hundred dollars (\$100.00) per day for each violation. If the employer fails to comply within twenty-four (24) hours, such fines shall commence and the Director of Human Relations shall notify Corporation Counsel to proceed with appropriate prosecution or cancellation of the contract.
- (b) In the event that the Director of Human Relations shall determine that a covered employer has paid a covered worker a sum less than the living wage the Director of Human Relations shall require the covered employer to make full restitution to the covered worker (i) in the said worker's next paycheck or (ii) within five (5) business days if the said worker is no longer employed by the covered employer.
 - (1) *Full restitution* means the difference between the sum paid by the covered employer to the covered worker and the living wage.
 - (2) *Failure to comply.* For each violation of subsection (b) of this section, the Director of Human Relations shall notify the employer and demand immediate compliance with this article or a fine of one hundred dollars (\$100.00) per day shall be imposed per violation. If full restitution is not met within five (5) business days, such fines shall commence and the Director of Human Relations shall notify Corporation Counsel to proceed with appropriate prosecution or cancellation of the contract.
- (c) *Certified payroll submission.* Every covered employer shall be required to maintain electronic certified payroll records and detailed information about the health care and benefits provided to its covered workers, including the number of such workers covered and the type of health care coverage or benefit received. Such records shall be in the format designated by the Office of Human Relations.

(Ord. No. 06-10, 3-22-10)

Sec. 2-770. Termination of contract.

In addition to other provisions of law or contract which may constitute grounds for termination by the City of a covered contract, tax abatement agreement, grant or tax increment financing agreement, such contracts, agreements or grants may be terminated following a determination that a covered employer:

- (a) Failed to fully rectify or correct any violation of any provision of this article within thirty (30) calendar days of receipt by the covered employer or its agents of the Director of Human Relations' notice of such violation.
- (b) Failed to make full restitution to a covered worker within thirty (30) days of receipt of the Director of Human Relations' notice of a violation of such subsections.
- (c) Failed to pay part or all of any fine levied by the City pursuant to any provision of Section 2-769 of this article within sixty (60) days of receipt of the City's notice of such levy.
- (d) Failed to provide to the Office of Human Relations, verification of wages paid to covered employees; as required.
- (e) Failed to cooperate with the City's audit of the covered employer's payroll records.

(Ord. No. 06-10, 3-22-10)

Sec. 2-771. Appeal process.

The Director of Office of Human Relations or designee shall investigate violations of this article and make recommendations to the Mayor. The Mayor shall consider the recommendations and direct the Office of Human Relations and Corporation Counsel to take enforcement actions, if needed. An enforcement action shall be appealable by written notice from the covered employer to the Labor and Workforce Development Committee of the Court of Common Council within five (5) days after receipt of said enforcement action. The Council may reverse the determination of enforcement action by a majority vote.

(Ord. No. 06-10, 3-22-10)

Sec. 2-772. Ineligibility of covered contractor to contract with or obtain city loans, other subsidies and covered contracts.

The purchasing agent is authorized to declare a covered contractor ineligible to obtain covered contracts as follows:

- (1) The purchasing agent shall declare any covered contractor whose covered contract with the City was terminated pursuant to this article to be ineligible to contract with the City.
- (2) The purchasing agent may declare any covered contractor who has committed three (3) or more violations of the provisions of this article to be ineligible to contract with the City.
- (3) Ineligible to contract with the City means that such covered contractor, and any parent or subsidiary or related entity of such covered contractor, shall be ineligible to submit bids or proposals for any contract or other agreement with the City and shall be ineligible to enter into any contract or agreement, with the City.

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- (4) Such period of ineligibility shall be for at least one (1) but not more than three (3) calendar years. After the first year of ineligibility has been completed, the purchasing agent, with the consent of the Director of Human Relations, may declare that the period of such ineligibility is terminated.
 - (5) Declarations made pursuant to this section shall be issued in writing to the covered contractor, and the City purchasing agent shall furnish copies of all such declarations promptly upon issuance to the Director of the Office of Human Relations and to the heads of all City offices, authorities, boards, bureaus, commissions, departments, and other entities.

(Ord. No. 06-10, 3-22-10)

Sec. 2-773. Annual report.

- (a) Each January, the Director of the Office of Human Relations shall submit to the Mayor, the Court of Common Council and the Commission on Workplace Rights an annual report for the preceding fiscal year regarding implementation of this article, including its fiscal impact and its impact on hiring of Hartford residents. Included in this report shall be the following information: (1) the number of monitored contracts and development projects; (2) the number of reported complaints, violations and their resolutions; (3) a summary of certified payroll, health care and benefit information provided.
- (b) Each January, the Commission on Workplace Rights shall submit to the Court of Common Council a report for the preceding fiscal year regarding evaluation of the economic and racial impact of this article, including recommendations concerning the benefits of this article's provisions for Hartford residents.

(Ord. No. 06-10, 3-22-10)

Sec. 2-774. Other requirements.

- (a) Covered employers who maintain payroll information in the Greater Hartford Area shall make such information available for onsite audit by the Director of the Office of Human Relations or designee.
- (b) Covered employers who do not maintain payroll information in a Greater Hartford area office shall be required to submit their payroll records to the Office of Human Relations within one (1) week of the payroll period in accordance with section 2-769 of this article.

(Ord. No. 06-10, 3-22-10)

Secs. 2-775—2-784. Reserved.