

**Ordinance Committee**  
**Tuesday, September 14, 2021 @ 6:30 PM**  
**City Council Chambers and via zoom**

**ITEM #1**

Chapter 64

See attached Wage Theft Ordinance attached hereto and incorporated herein

**WAGE THEFT ORDINANCE**

WHEREAS, the City Council for the City of Chicopee hereby finds and determines that wage theft in all its various forms, including the illegal misclassification of employees as independent contractors, has become an epidemic particularly in the construction industry; and

WHEREAS, the City Council for the City of Chicopee hereby further finds and determines that the problem is so pervasive that traditional law enforcement agencies lack the resources to address it effectively, and that, as a result, municipalities have the civic responsibility to do whatever is within their power and authority to prevent such illegal practices from taking place on their own construction projects and on projects receiving municipal tax relief; and

WHEREAS, the City Council for the City of Chicopee hereby further finds and determines that wage theft is often accompanied by employer tax and insurance fraud, with employers failing to pay their payroll taxes and workers compensation premiums, and that it will not tolerate spending tax dollars or providing tax relief for construction projects being built by contractors engaging in tax fraud; and

WHEREAS, the City Council for the City of Chicopee hereby further finds and determines that, in any event, taxpayer money is most efficiently and productively spent by awarding construction contracts to, and providing tax relief for construction projects built by, reputable, honest, law-abiding firms that include and enforce provisions requiring, with respect to their own employees and those of subcontractors at all tiers, compliance with state laws governing the payment of prevailing wages and other wage and hour laws, the provision of workers compensation coverage, and the proper classification of individuals as employees and not as independent contractors, as well as state law concerning health insurance coverage; and

WHEREAS, the City Council for the City of Chicopee hereby further finds and determines that, due to the pervasiveness of wage theft in the construction industry, 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

NOW, THEREFORE, BE IT ORDAINED by the City Council for the City of Chicopee that the Chicopee City Code Chapter 64 is hereby amended to include the following:

## **MUNICIPAL CONSTRUCTION CONTRACTS**

### **Section 1. DEFINITIONS**

"Chicopee resident" means any person for whom the principal place of residence is within the City of Chicopee during the entirety of time the person works on a Public Construction Project within the City of Chicopee. Proof of such residence may include, but is not limited to, the following: a valid Massachusetts Driver's License or Massachusetts Identification Card, utility bills, proof of voter registration, or such other proof acceptable to the City of Chicopee.

### **Section 2. MUNICIPAL CONSTRUCTION CONTRACTS**

Whenever the City of Chicopee is procuring construction services subject to the provisions of M.G.L. Chapter 149, Chapter 149A or Chapter 30, §39M, the following shall be incorporated into the procurement documents and made part of the specifications and contract. Any person, company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal.

- A. All bidders or proposers, contractors, and subcontractors and trade contractors, including subcontractors that are not subject to M.G.L. Chapter 149, §44F, (the "contractor") under the bidder for projects subject to M.G.L. Chapter 149, §44A(2), M.G.L. Chapter 30, §39M and, proposers under M.G.L. c Chapter 149A, shall as a condition for bidding or subcontracting verify under oath and in writing at the time of bidding or submittal in response to an RFP or in any event prior to entering into a contract or subcontract at any tier, that they comply with the following conditions for bidding, contracting or subcontracting and, for the duration of the project, shall comply with the following requirements and obligations:
1. The contractor shall not have 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 shall not have 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, earned sick time, prompt payment laws, or prevailing wage laws;

3. The contractor shall maintain appropriate industrial accident insurance sufficient to provide coverage for all the employees on the project in accordance with M.G.L. Chapter 152 and provide documentary proof of such coverage included with the contractor's submitted bid to the City of Chicopee to be maintained as a public record;
4. The contractor shall properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of prevailing wages and overtime, workers' compensation insurance coverage, unemployment taxes, social security taxes and state and federal income tax withholding. (M.G.L. Chapter 149, §148B on employee classification).
5. The contractor shall comply with M.G.L. Chapter 151, §1A and M.G.L. Chapter 149, § 148 with respect to the payment of wages;
6. The contractor shall not discriminate against citizens of states other than Massachusetts in hiring individuals for the project but, as between prospective employees who are residents of Massachusetts, however, shall give preference to residents of the City of Chicopee. The City of Chicopee shall provide the contractor with local instructions on the preferred means to publicize employment opportunities to Chicopee residents.
7. The contractor must make arrangements to ensure that each employee of every contractor and subcontractor of any tier entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; name of employee's employer and the time of each entry or exiting. The log shall contain a prominent notice that employees are entitled under state law to receive the prevailing wage rate for their work on the project. Such sign-in/out logs shall be provided to the City of Chicopee on a weekly basis with the certified payrolls and upon request shall be a public record.
8. The contractor, prior to bidding or, if not subject to bidding requirements, prior to performing any work on the project, shall sign under oath and provide to the City of Chicopee a certification that they are not debarred or otherwise prevented from bidding for or performing work on a public project in the Commonwealth of Massachusetts or in the City of Chicopee.
9. 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; and

10. The contractor must submit weekly to the City of Chicopee certified payrolls for all employees. A certified payroll format will be provided by the City of Chicopee that includes the employees full name, address, identifying number, gender and race, and which tabulates hours worked for females, people of color and residents of the City of Chicopee. Each contractor shall provide a copy of the OSHA 10 card for every employee attached to the first certified payroll they submit on which the employee appears.
  11. The applicant and contractor agrees to attend all regularly scheduled and/or special meetings convened by the City of Chicopee for the purpose of reviewing workforce hiring commitments in part 6.
- B. A proposal or bid submitted by any general bidder or by any trade contractor or subcontractor under the general bidder or proposer that does not comply with any of the foregoing conditions for bidding shall be rejected, and no subcontract for work outside the scope of M.G.L. Chapter 149, §44F shall be awarded to a subcontractor of any tier that does not comply with the forgoing conditions.
  - C. All bidders or proposers and all trade contractors and subcontractors under the bidder or proposer who are awarded or who otherwise obtain contracts on projects subject to M.G.L. c.149, §44A(2), c 149A, or c.30, §39M shall comply with each of the obligations set forth in paragraph A above for the entire duration of their work on the project, and an officer of each bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.
  - D. Any proposer, bidder, trade contractor or subcontractor under the bidder or proposer that fails to comply with any one of obligations set forth in Paragraph A above for any period of time shall be, at the sole discretion of the City of Chicopee, subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the City of Chicopee in the amount of 5% of the dollar value of the contract.
  - E. In addition to the sanctions outlined in Paragraph D above, a proposer, general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to M.G.L. c.149, §44F. Any contractor or subcontractor that has been determined by the City/Town or by any court or agency to have violated any of the obligations set forth in Paragraphs A and C above shall be barred from performing any work on any future projects for six

months for a first violation, three years for a second violation and permanently for a third violation.

**Section 3. TAX INCREMENT FINANCING AND HOUSING DEVELOPMENT EXEMPTION AGREEMENTS**

Minimum Mandatory Conditions. In addition to any other conditions that may be required in connection with tax increment financing or housing development exemption relief granted by the City, each Tax Increment Financing Agreement and each Housing Development Exemption Agreement entered into between the City and the recipient of such relief shall be subject to and shall include the following set of mandatory conditions:

- A. It shall be a special and material condition of this Agreement 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 that is engaged to perform the construction work during the term of this Agreement on the property that is the subject of this Agreement (hereinafter, collectively and individually, the “contractor”) shall comply with the following qualifications and conditions at all times during their performance of work on the property:
  - (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, earned sick time, 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 as part of the application process, or prior to commencing any work to the City of Chicopee 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. (G.L. c.149, §148B on employee classification);
  - (5) The contractor must comply with G.L. c. 151, §1A and G.L. c. 149, § 148 with respect to the payment of wages;

- (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; and
- (7) The contractor must pay its employees working on the project the prevailing rates of pay that would be applicable if the project were subject to M.G.L. ch. 149, Section 26.
- (8) The contractor shall not discriminate against citizens of states other than Massachusetts in hiring individuals for the project but, as between prospective employees who are residents of Massachusetts, however, shall give preference to residents of the City of Chicopee.
- (9) The applicant shall submit a list to the City of Chicopee of all the expected contractors to work on the project as part of the applicant's request for tax relief. The list shall include the name of the primary contact, the Contractor's address and either a phone number or email address. The applicant will provide a final all inclusive list to the City of Chicopee within 30 days of the conclusion of the project.
- (10) The applicant and/or the contractor must submit monthly to the City of Chicopee certified payrolls for all contractors. A certified payroll format will be provided by the City of Chicopee that includes the employees full name, address, identifying number, gender and race, and which tabulates hours worked for females, people of color and residents of the City/Town. Each contractor shall provide a copy of the OSHA 10 card for every employee attached to the first certified payroll they submit on which the employee appears.
- (11) The contractor must make arrangements to ensure that each employee of every contractor and subcontractor of any tier entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; name of employee's employer and the time of each entry or exiting. Such sign-in/out logs shall be provided to the City of Chicopee on a weekly basis with the certified payrolls and upon request shall be a public record.
- (12) The contractor agrees to attend all regularly scheduled and/or special meetings convened by the City of Chicopee for the purpose of reviewing workforce hiring commitments in part 6.

- (13) Complaints concerning compliance with the qualifications and conditions set forth above shall be directed to the City of Chicopee responsible for project compliance, who shall investigate the complaint and make a determination as soon as administratively feasible and notify the complaining party and the contractor and applicant or its designee. Such complaints must be submitted in writing no later than 270 days following the completion of the construction project.
- B. If any person or entity subject to the foregoing qualifications and conditions fails to comply with any of them with respect to work on the property, the parties agree that such an event materially frustrates the public purpose for which this Agreement and any certification by the state was intended to advance. In such an event, the City of Chicopee shall petition the appropriate state agency or body for revocation of the certification and, upon such revocation, the tax relief provided by this Agreement shall be terminated and the property owner shall pay to the City an amount equal to the value of the tax relief already received under this Agreement.
- C. The applicant certifies as part of the application process that any contractor or subcontractor previously determined by the City/Town or by any court or agency to have violated any of the obligations set forth in Paragraphs A for the previous five years shall not be hired to perform work on the project.
- D. In the event the owner of the property challenges the termination of the tax relief provided by this Agreement and/or the revocation by the state of any certification, the owner shall set aside in an escrow account an amount equal to the full amount of the tax savings that previously would have accrued under this Agreement while any such challenge remains pending. The owner of the property shall have a continuing obligation to contribute to the escrow account amounts equal to the additional tax savings that accrue under this Agreement while its challenge remains pending. The owner shall promptly provide to the City of Chicopee with documentation of its compliance with this obligation. The conditions of the escrow account shall provide that, in the event the owner is unsuccessful in its challenge, the funds in the account shall be paid to the City of Chicopee. The owner's obligations under this subsection shall be judicially enforceable. It is the intent of the parties that the residents of this municipality are third party beneficiaries of this Agreement, and that it may be enforced in a civil proceeding brought by not less than 10 taxable inhabitants.

#### **Section 4. SEPARABILITY**

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

**ITEM #2**

Chapter 243-28 Obstruction of streets and sidewalks prohibited.

Add to Chapter 243-28 A1

A1 Any such obstruction shall be tagged by the DPW or their designee for a period of 48 hours and if said obstruction is not so removed, the DPW shall remove said obstruction and hold for a period of 45 days during which time the owner may retrieve said obstruction. If the obstruction is not retrieved by the owner within the 45 day period, said obstruction shall be discarded and/or disposed of by the DPW.

**ITEM #3**

Chapter 16-119 Charter Review Commission

Delete E

And insert in place thereof

E. The Commission shall be convened no later than thirty (30) days after the approval of its members by the City Council. The Commission shall hold meetings as determined by the Open Meeting Law and shall file a report of the final recommendations for changes to the Charter to the City Clerk no later than one (1) year after the organizational meeting of said commission.

**ITEM #4**

Chapter 7 Ordinance Revisions

Group 2

P	Human Resources		
	b. Benefits Coordinator	49,193.28	58,443.12
	c. Senior Generalist	53,264.88	50,696.64

Prior Year

New Rate 8/16/2021

**ITEM #5**

Striking From – Taylor Street – Both sides – From Sheridan Street to a point 510 feet southeast of Sheridan Street – Parking Prohibited

**ITEM #6**

Taylor Street – North side – From Sheridan Street to a point 25 feet southeast of Sheridan Street – Parking Prohibited Here to Corner

**ITEM #7**

Taylor Street – South side – entire length – Parking Prohibited

**ITEM #8**

Springfield Street – For a distance of 30 feet from the intersection of Magnolia Terrace – Parking Prohibited Here to Corner

**ITEM #9**

Moore Street - In front of 23 Moore Street for a distance of 50 feet from property line to property line (no parking between signs) - PARKING PROHIBITED

**ITEM #10**

Tourtlotte Avenue - South side – Parking Prohibited



**ITEM #11**

Benefit Street – Both sides – Residents Parking Only

**ITEM #12**

Striking From - Center Street and Springfield Street - West side – 170 feet from Exchange Street  
PARKING PROHIBITED (*Note: Center Street becomes Springfield Street at the angle point of the Starzyk Building, for the final 60 feet of this proposed ordinance*). - Effective immediately

**ITEM #13**

Striking From - Center Street - East side – 1,190 feet from Ash Street through Union Street,  
Nonotuck Avenue and School Street to Springfield Street - PARKING PROHIBITED - Effective  
immediately

**ITEM #14**

Striking From - Exchange Street - North and west side – 1,120 feet from Cabot Street through  
Perkins Street and Dwight  
Street to (across from) Chestnut Street - PARKING PROHIBITED - Effective immediately

**ITEM #15**

Minutes – July 6, 2021