

CITY OF SOMERVILLE
ORDINANCE NO. 2024-
IN CITY COUNCIL: _____, 2024

Be it ordained by the City Council, in session assembled, that Chapter 9, Article III, Division 2 of the code of ordinances of the City of Somerville is amended as follows by deleting the ~~struckthrough~~ text and adding the underlined text.

Sec. 9-31. – Wage theft.

- (a) The city, ~~by and through its officials, boards and commissions,~~ may deny an application for any a 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~~M.G.L. c. 149, Section 148, ~~and any and all or~~ other state or federal laws regulating the payment of wages, including ~~;~~ but not limited to, ~~M.G.L. c. Chapter~~ 149, ~~Sections §§~~ 27, 27G, 27H, 52D, 148A, 148B, 150C, 152, 152A, 159C, ~~and Chapter c.~~ 151, ~~sections §§~~ 1, 1A, 1B, 15, 19, ~~and 20 of the General Laws, and 29 U.S.C. § 201 et seq;~~ and or
 - (2) The Fair Debt Collection Practices Act, 15 U.S.C. § 1692, or ~~any other federal or~~ state or federal law regulating the collection of debt, as to the employees of the applicant or others who had performed work for ~~said the~~ applicant.
- (b) Any license or permit issued by the city ~~City of Somerville, 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, or responsible,~~ in any judicial or administrative proceeding, of committing a violation of any of the laws set forth in subsection (a) above § 9-31(a).
- ~~(c) Any license or permit issued by the City of Somerville, 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.~~
- ~~(c)~~ The city may not issue a license or permit to a licensee, permittee, or person who is the principal of a license or permit for one year after being denied an application for any license or permit, or after revocation or non-renewal of a license or permit, pursuant to § 9-31(a) or (b). 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.
- ~~(d)~~ Within 14 fourteen calendar days from after the date that the notice of refusal to issue, ~~revocation or~~ refusal to renew, or revocation notice is mailed to ~~the an~~ applicant, ~~or licensee,~~ or permittee, the applicant, licensee, or permittee may appeal the refusal to issue, refusal to renew, or revocation such decision by filing a written notice of appeal setting forth the grounds ~~therefor~~ for appeal. ~~Said The applicant, licensee, or permittee shall send the notice of appeal shall be sent~~ by certified mail, return receipt requested. ~~The The body or individual who made the decision not to issue, not to renew, or to revoke, shall hold a 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 after~~ receipt of such a notice of appeal.

~~(f)(e)~~ An applicant for a business certificate, license, or permit shall be provided with a copy of the wage theft ordinance ~~from which this section derived~~ and shall certify that ~~he has~~they have not been found guilty, liable, or responsible, in any a judicial or administrative proceeding, of committing ~~or attempting to commit~~ a violation of ~~any of~~ the laws set forth in ~~subsection (a) § 9-31(a) above~~.

~~(g)~~ 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 July 1, 2013, with the exception of judgments that remain unsatisfied as set forth in subsection (e) above.

~~(h)(f)~~ Application of this section is subject to applicable relevant state or federal laws.

Secs. 9-32, 9-33. Reserved.

Sec. 9-34. – Definitions.

For the purpose of this division, the following definitions apply, except where the context clearly indicates a different meaning:

Administrative citation— means A a civil citation issued by the attorney general pursuant to M.G.L. c. 149 § 27C, a civil citation issued by the Department of Labor pursuant to 29 U.S.C. § 201 et seq., ~~and/or~~ 29 C.F.R. § 578, or ~~any~~ other civil citation for violation of M.G.L. c. 149, ~~or~~ c. 151 ~~and/or~~, 29 U.S.C. § 201 et seq., issued by ~~any other a~~ federal, state, or local administrative agency.

Application— means An an initial application for, or renewal of, a license or permit.

City contractor— means An an employer who holds or seeks to hold a contract for goods, services, or labor with the city.

Debarment means— A a determination by a appropriate state or federal authority that the vendor or business can no longer bid or otherwise participate in public contracts, ~~These determinations are~~ made pursuant to ~~statutes including but not limited to~~, M.G.L. c. 29, § 29F, ~~M.G.L.~~ c. 30, § 39R, ~~M.G.L.~~ c. 149, §§ 27C, 44C, 148B ~~M.G.L.~~ c. 149, § 44C, ~~M.G.L.~~ c. 149, § 148B, ~~M.G.L.~~ c. 152, § 25C, 29 U.S.C. ~~§§~~ § 201 et seq., ~~and~~ 29 C.F.R. § 578, ~~or other state or federal statute~~.

EACC— means the Economic Assistance Coordinating Council, as ~~defined by M.G.L. c. 23A, § 3A and~~ established by M.G.L. c. 23A, § 3B.

Employ— ~~including as used in the term "employment"~~, means to suffer or permit to work.

Employer— means Any a natural person or business, ~~whether or not~~ incorporated or unincorporated, who suffers or permits another to work ~~(1)~~ in the city, ~~(2)~~ under contract to which the city or one of its departments is signatory, or ~~(3)~~ who otherwise maintains a commercial presence in the city. This definition excludes the United States as a corporation wholly owned by the government of the United States, ~~and~~ the Commonwealth of Massachusetts, its subdivisions, and corporate bodies.

Employee— A means a natural person who performs work for an ~~E~~ employer ~~operating within the geographic boundaries of Somerville~~.

Minimum wage— means a minimum hourly pay rate As as defined in M.G.L. c. 151, § 1, as well as any other state or federal statute or regulation establishing a minimum fair wage for particular occupations or classes of ~~E~~ employees.

Overtime— means time worked in excess of forty hours per week as As defined ~~in by~~ M.G.L. c. 151, § 1A, ~~and~~ 29 U.S.C. § 201 et seq.

Prevailing wage— means a special minimum hourly pay rate for certain professions As as defined ~~in by~~ M.G.L. c. 149, §§ 26-27H.

Stop work order— means an order to cease work due to failure to provide for payment of compensation As as defined in required by M.G.L. c. 152, § 25A ~~and~~ 25C, and 452 C.M.R. § 8.01 et seq. ~~2~~.

~~TIF~~ agreement— means ~~A~~ tax increment financing agreement, as ~~such term is~~ defined by M.G.L. c. 23A, § 3A, c. 40, § 59, and 760 C.M.R. 22.00 et seq.

~~tiff~~ TIF plan— A means a tax increment financing plan, as ~~such term is~~ defined by 760 C.M.R. 22.00 et seq.

Timely payment of wages—As defined by M.G.L. c. 149, § 148.

Wage—as defined by M.G.L. c. 149, § 148.

Wage theft—An action by an employer, ~~his or her~~their officers, agents, or employees causing an employer not to make a timely ~~and/~~or complete payment of wages, not to pay the minimum wage or prevailing wage, or not to pay overtime earned and owing to an employee.

Sec. 9-35. – Wage theft advisory committee.

(a) There shall be established a wage theft advisory committee (“the committee”) charged with informing the city council on the status of wage theft enforcement in the city, coordinating with the attorney general to combat wage theft in the city, reviewing wage theft complaints, and conducting education and outreach to employers and employees regarding wage theft.

(1) ~~Structure.~~There shall be established a wage theft advisory committee~~The committee shall consist of nine members. The city council president or their designee and the mayor or their designee shall serve by virtue of their office. Four members shall be representatives of unions, two members shall be representatives of local non-profit or advocacy organizations, and one member shall be a representative of a local business organization. Members shall be nominated by the city council president and approved by the city council,~~ comprised of 11 total designees, one designee submitted by the city council, one designee submitted by the mayor, and one designee from each of the following identified organizations, chosen by the city council, from a list provided respectively by each of the following identified organizations: the Greater Boston Labor Council, The Welcome Project, the Brazilian Workers Center, the Massachusetts Coalition for Occupational Safety and Health, the Somerville Chamber of Commerce, the New England Regional Council of Carpenters, the Metro Building Trades Council, Our Revolution Somerville and the Somerville Community Corporation.

(2) Initial appointments to the committee, except for the city council president and the mayor or their designees, shall be staggered, with three members appointed for a term of one year, two members appointed for a term of two years, and two members appointed for a term of three years. Subsequent members of the committee shall be appointed for a term of three years.~~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 meeting of the new year. In order to stagger the terms of the designees, the initial appointments of the designee from the city council, the mayor, and Greater Boston Labor Council shall be for one year; the initial appointments for the designee from the Brazilian Workers Center, the Massachusetts Coalition for Occupational Safety and Health, the Somerville Chamber of Commerce and the New England Regional Council of Carpenters shall be for two years. The remaining initial appointments (the designees from the Metro Building Trades Council, Our Revolution Somerville, the Somerville Community Corporation, and the Welcome Project) shall be for three years.~~

(3) The committee shall annually elect a chair from among its members.

~~(b)–~~

~~(e)(b)~~ Committee Duties.

(1) ~~The wage theft advisory committee (“WTAC”) will~~ shall meet at least once every two months to review wage theft complaints, produce educational materials for employers and employees, and discuss the state of, and means to combat or mitigate, wage theft, and provide advice to the 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 WTAC. Said secretary and/or designees of the committee shall coordinate any response to such complaint that is required by the ordinance.~~

~~(A)~~

~~(3)(2) The committee shall coordinate with the office of the attorney general regarding issues of wage theft in the city and complaints involving employers in the city. Required communication with attorney general. On a biannual basis, a representative from the WTAC 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.~~

~~(4)(3) Annual report. The city shall publish an annual report, through the wage theft advisory committee shall provide an annual report to the city council 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.~~

~~(5)(4) The committee In addition, members of the WTAC may shall offer education, guidance, and referrals to employees affected by wage theft in Somerville the city.~~

~~(d)(c) Conflict of interest: For purposes of this division no A member of the wage theft advisory committee shall may not participate in any proceeding concerning a party in which beneficiary, a covered vendor, or a covered employee, if the member or any member of his or her their 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.~~

Sec. 9-36. – Wage theft complaint process.

~~(a) A city department shall immediately forward to the committee a complaint alleging violation of the laws set forth in § 9-31(a) of which the department is notified.~~

~~(b) Whenever the committee receives a complaint alleging violation of the laws set forth in § 9-31(a) by city contractor or a licensee or permittee within the city, the committee shall:~~

~~(1) assist the complainant with submitting a complaint to the Office of the Attorney General, the Department of Labor, or other appropriate agency;~~

~~(2) maintain a record of the complaint for inclusion in the committee's annual report; and,~~

~~(3) coordinate with the Office of the Attorney General, the Department of Labor, or other agency to receive notice of final action on the complaint.~~

~~(c) Whenever the committee receives notice of final action on a complaint where the city contractor or licensee or permittee admitted guilt or liability, or has been found guilty or liable, in a judicial or administrative proceeding of committing a violation of the laws set forth in § 9-31(a), the committee shall notify the city purchasing agent, the Licensing Commission, the Inspectional Services Department, and the City Council.~~

~~(1) For a complaint pertaining to work performed at a property subject to a tax increment financing agreement, the committee shall also notify the Economic Assistance Coordinating Council.~~

~~Filing of complaints. Any city department upon notification of a wage theft complaint shall forward said complaint immediately to the WTAC. The WTAC shall notify the city purchasing agent, the licensing commission, the city council, and the attorney general's office of the complaint. If the complaint pertains to work performed at any property subject to a TIF agreement, the WTAC shall also send a copy to the EACC.~~

~~(1) The committee shall receive wage theft complaints from the attorney general's office or a city department and shall notify the city purchasing agent, the licensing commission, the city council, and the attorney general's office of the complaint.~~

~~(A) If a complaint pertains to work performed at any property subject to a TIF agreement, the committee shall also send a copy of the complaint to the EACC.~~

Sec. 9-37. – Requirements for city contractors.

(a) RFP, bid and successful bidder requirements:

(1) ~~Every~~ A request for proposals (“RFP”) or bid solicited by the purchasing agent shall include the certification and disclosure requirements imposed by this ~~division~~ section.

(2) ~~Every~~ An RFP or bid solicited by the purchasing agent shall include a notification that:

~~(A) notify~~ A bidders ~~that they have~~ has an affirmative duty to report and provide a copy to the purchasing department of any criminal or civil judgment, administrative citation, or final administrative determination ~~for wage theft resulting from a violation of the laws set forth in § 9-31(a)~~ against the bidder or ~~any of~~ its subcontractors entered within the five years prior to bid submission, ~~as well as~~

~~(B) A bidder has an affirmative duty to report and provide a copy to the purchasing department of~~ any debarments against the bidder or ~~any of~~ its subcontractors in effect while its bid is pending to the city, ~~and shall further notify bidders that~~

~~(C) if they are the successful bidder~~ a bidder is successful that; they and ~~any of~~ their subcontractors have an affirmative duty to report to the purchasing department any criminal or civil judgement, administrative citation, final administrative determination, order, or debarment against the bidder or ~~any~~ its subcontractors while their contract with the city is in effect, within five business days of receipt.

~~(D) A bidder may not contract with the city if they have been either voluntarily or involuntarily debarred by the federal government, an agency of the Commonwealth of Massachusetts, or other state for the entire term of the debarment.~~

~~(E) A bidder may not use a subcontractor who has been debarred by the federal government, an agency of the Commonwealth of Massachusetts, or other state for the entire term of the debarment.~~

~~(2) The RFP or bid will identify the purchasing department as the department to whom this must be reported.~~

~~(3) Every RFP or bid solicited by the purchasing agent shall notify bidders that they may not contract with the city if they have been either voluntarily or involuntarily debarred by the federal government, any agency of the Commonwealth of Massachusetts or any other state for the entire term of the debarment. Such RFPs or bids shall also notify bidders that they may not use any subcontractor who has been debarred by the federal government or any state government during the period of that subcontractor's debarment.~~

~~(4)~~ (3) A Bidders ~~that are~~ is subject to ~~state, or federal~~ debarment for violation of the laws set forth in § 9-31(a) M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq. or ~~any~~ other state or federal laws regulating the payment of wages, either voluntarily or involuntarily, or that ~~have~~ has been prohibited from contracting with the Commonwealth of Massachusetts or ~~any of~~ its agencies or subdivisions ~~will~~ shall be deemed not responsible and their bids or proposals shall be rejected. ~~Such bidders~~ They shall be deemed not responsible for the entire term of debarment or other stated time period. During the term of a contract, upon a finding or order of ~~such~~ debarment or prohibition, the city may terminate the contract.

~~(5)~~(4) A ~~S~~successful bidder~~s~~ must agree to post notices in accordance with M.G.L. c. 151 § 16 in a conspicuous location accessible to all of their employees in English and the primary language of the employee~~(s)~~s at the particular workplace. If not all employees would have reasonable access to the notice if posted in a single location by the successful bidder, then the successful bidder must inform the purchasing agent or other city department of the number and location of postings in order to ensure that the successful bidder provides reasonable notice to all of their employees. The successful bidder must also agree to make those additional postings.

~~(6)~~(b) Certification and disclosures:- The purchasing agent entering into contracts on behalf of the city shall adopt certification and disclosure requirements for all bidders providing:~~F~~ that a bidder certify to the city that neither the bidder nor any of the bidder's subcontractors have been subject to a criminal or civil judgment, administrative citation, final administrative determination, order, or debarment resulting from a violation of ~~M.G.L. c. 149, M.G.L. c. 151, or 29 U.S.C. § 201 et seq.~~the laws set forth in ~~§ 9-31(a)~~ within five years of their application.

(A) In the alternative, the bidder shall disclose to the purchasing agent any ~~such~~ criminal or civil judgment, administrative citation, administrative determination, or debarment and include a copy of the same in their application. ~~To the extent~~If a judgment, citation or final administrative order has been issued against a bidder within five years prior to its bid, the bidder must provide a copy of the same, in addition to documentation demonstrating that all damages, fines, costs, and fees have been paid. In addition, the city may, ~~upon recommendation of the WTAC,~~ require the bidder to post a bond, to be maintained for the life of the contract, as specified by ~~subsection~~ ~~(d)~~§ 9-37(d).

The purchasing department, when issuing an RFP or bids, shall notify bidders that they have an affirmative duty to report any criminal or civil judgment, administrative citation, final administrative determination, order, or debarment against them or any of their subcontractors ~~related to wage theft~~resulting from a violation of the laws set forth in ~~§ 9-31(a)~~ and occurring while the contract is in effect to the department within five business days of receipt.

~~(b)~~(c) Reporting and notice requirements:-

- (1) If not already stipulated in the contract terms or otherwise required by law, upon request by the purchasing agent, ~~all a~~ city contractor~~s~~s shall furnish their monthly certified payrolls to the city official requesting such payroll reports for all employees working on ~~a~~ city contract~~s~~.
- (2) ~~All~~ city contractor~~s~~s ~~will~~shall furnish to the purchasing agent any criminal or civil judgment, administrative citation, final administrative determination, order, or debarment related to wage theft and issued during the term of their contract~~(s)~~ with the city against the city contractor or its subcontractors within five business days of receipt.
- (3) To the extent required as set forth at subsection (d) below, ~~all a~~ city contractor~~s~~s shall maintain a wage bond for the term of the contract~~(s)~~ with the city.

~~(e)~~(d) Wage bond:-

- (1) ~~Any~~ recipient of a city contract within the scope of ~~section~~§ 9-37 that has disclosed a criminal or civil judgment, administrative citation, final administrative determination, order, or debarment resulting from a violation of ~~M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq.~~the laws set forth in ~~§ 9-31(a)~~ or ~~any~~ other state or federal laws regulating the payment of wages within five years prior to the date they submit their application~~s~~, or city contractor~~s~~s granted a contract who become~~s~~ subject to a federal or state criminal or civil judgment, administrative citation, final administrative determination, order, or debarment resulting from a violation of ~~M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq.~~the laws set forth in ~~§ 9-31(a)~~ above or ~~any~~ other state or federal laws regulating the payment of wages during the term of the contract, shall be required by the city to obtain a wage bond or other form of suitable insurance in an amount of no less than \$25,000.00 and up to a maximum aggregate of one year's gross wages for all employees employed on a specific city project,

based on an average of its total labor costs for the past two years. Such bond must be maintained for the terms or extensions of any contract, and proof of such bond must be provided upon request by the city. Failure to comply with this subsection may constitute grounds for modification, suspension, and/or revocation of the contract pursuant to subsection (a).

- (2) ~~The purchasing agent shall communicate to the City Council when a wage bond is required for the recipient of a city contract, and the City Council may review and reject the award of a contract to a contractor required to obtain a wage bond by a vote of eight city councilors. city shall solicit a recommendation from the WTAC on the amount of the wage bond to be required for city contractors, for whom a wage bond is required per this division. If the city modifies the amount proposed by the WTAC it shall inform the WTAC in writing its reason for such modification.~~
- (3) The bond shall be held by the city and shall be conditioned that the contract recipient shall fulfill the payment to its employees of any final judgment, settlement agreement, or other decision ordering the payment of wages. If, within ~~14~~ fourteen days after demand for the bond, the contract recipient fails to deposit the bond, the city may suspend, revoke, or deny ~~such the~~ contract until the bond has been properly deposited with the city.

~~(d) Sanctions for violations:~~ If a city contractor is found to be in violation of ~~M.G.L. c. 149, M.G.L. c. 151, or 29 U.S.C. § 201 et seq., the laws set forth in § 9-31(a)~~, or this division, and therefore, in breach of its contract with the city, the city may ~~revoke or suspend the contract, or impose conditions on future contracts with the contractor, including the posting of a wage bond and other reasonable requirements.~~ ~~take one or more of the following actions:~~

- ~~(1) Revocation of city contractor's contract with the city;~~
- ~~(2) Suspension of city contractor's contract with the city;~~
- ~~(3)(c) Imposing conditions on any future contracts with the city, including, but not limited to, the posting of a wage bond and other reasonable requirements.~~

Sec. 9-38. – Requirements for licenses and prospective licensees.

- (a) ~~Requirements for applicants:~~ ~~Any An~~ application ~~filed by an employer~~ to the ~~licensing-Licensing~~ ~~commission-Commission~~ for ~~any a~~ license issued pursuant to M.G.L. c. 138 or M.G.L. c. 140 may be denied if, during the five year period prior to the date of the application, the applicant ~~employer~~ has been subject to a federal or state criminal or civil judgment, administrative citation, order, debarment, or final determination resulting from a violation of ~~M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq., the laws set forth in § 9-31(a)~~ -or ~~any~~ other state or federal laws regulating the payment of wages. ~~Each An such~~ applicant shall certify that ~~he or she has they have~~ not been found guilty, liable, or responsible, in the past five years, in ~~any a~~ judicial or administrative proceeding, for ~~any a~~ violation ~~of any of the laws set forth above.~~
- (b) ~~Requirements for licensees:~~ ~~Any A~~ license ~~or permit~~ issued by the ~~licensing-Licensing~~ ~~commission-Commission~~ under M.G.L. c. 138 or M.G.L. c. 140 to an employer may be modified, suspended or revoked if, during the term of the license, the licensee employer has been subject to a criminal or civil judgment, administrative citation, final administrative determination, order, or debarment resulting from a violation of ~~M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq., the laws set forth in § 9-31(a)~~ -or ~~any~~ other state or federal laws regulating the payment of wages. ~~Upon notice of a violation as described herein, the WTAC shall request that the matter be placed on the next licensing commission agenda.~~
- (c) ~~Posting notices of violations:~~ ~~Any A~~ employer ~~for whom the licensee who~~ has been ~~subject to a federal or state criminal or civil judgment, administrative citation, order, debarment, or final determination resulting from a final determination that the employer is in~~ violation of M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq., ~~the laws set forth in § 9-31(a)~~ -or ~~any~~ other state or federal laws regulating the payment of wages shall post ~~a~~ notice of ~~such a~~ violation, ~~U~~ using a form provided by the city, and displaying it ~~on-site,~~ in a conspicuous and accessible location, ~~and~~ in English and the primary language of

the employees~~(s)~~ at the particular workplace. The posting shall remain in place until ~~any the determination or terms of the criminal or civil judgment, administrative citation, order, debarment, or final determination of wage theft is~~ are paid-satisfied in full, including ~~all~~ related fees and penalties. An ~~employer licensee who fails-found in violation of an order~~ to post notice required under-by this division subsection shall be liable-subject to a fine of not more than up to \$300.00. Each day ~~during which that~~ a violation exists shall constitute a separate offense.

- (d) Conciliation process:- ~~In order to facilitate compliance, the~~ The licensing-Licensing commission Commission may provide a conciliation process for a licensee who has been subject to a federal or state criminal or civil judgment, administrative citation, order, debarment, or final determination resulting from a employers who have been found in violation of M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq.the laws set forth in § 9-31(a) -or any other state or federal laws regulating the payment of wages. At the request of the licensee and their employees, the Licensing Commission shall, as an alternative to suspension or revocation of a license pursuant to § 9-38(b), accept a compliance plan to satisfy a penalty imposed by a criminal or civil judgment, administrative citation, order, debarment, or final determination. Upon notice that a licensee has failed to adhere to a compliance plan, the Licensing Commission may suspend or revoke the license pursuant to § 9-38(b).In lieu of license revocation pursuant to subsection (b), the city will arrange a meeting within 30 days at the request of the parties and during this period any revocation or suspension of a license pursuant to subsection (b) shall be held in abeyance. During the course of any conciliation process, the employer will follow the posting requirements in subsection (c). If the employer can demonstrate a compliance plan to satisfy any related penalty imposed by the attorney general's office, or a civil judgement, the licensing commission shall hold any action pursuant to subsection (b) in abeyance.
- (e) Wage Bonds:-
- (1) ~~Employers-An applicant granted a license or permit that have~~ who has disclosed a federal or state criminal or civil judgment, administrative citation, order, debarment, or final determination criminal or civil judgment, administrative citation, final administrative determination, order, or debarment resulting from a violation of M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq.the laws set forth in § 9-31(a) -or any other state or federal laws regulating the payment of wages within five years prior to the date they submit their applications, or employers-a licensee granted a license or permit who become subject to a federal or state criminal or civil judgment, administrative citation, order, debarment, or final determinationfinal administrative determination, order, or debarment resulting from a violation of M.G.L. c. 149, M.G.L. c. 151, 29 U.S.C. § 201 et seq.,the laws set forth in § 9-31(a) or any other state or federal laws regulating the payment of wages during the term of the license or permit, shall may be required by the city to obtain a wage bond or other form of suitable insurance in an amount of no less than of at least \$25,000.00, and up to a maximum aggregate of one year's gross wages for all employees, based on an average of its-the licensee's total labor costs for the past prior two years. Such bond must shall be maintained for the terms of any-the license-or permit, and proof of such-the bond must shall be provided upon request by the city. If a licensee fails to obtain a bond as required by Failure to comply with this subsection, the Licensing Commission may constitute grounds for modification, suspension, and/or revocation of the license or permit pursuant to subsection (b)modify, suspend, or revoke the license pursuant to § 9-38(b).
- (2) ~~The Somerville Licensing Commission shall solicit a recommendation from the WTAC on the amount of the wage bond to be required for license or permit holders, for whom a wage bond is required per this section. If the Licensing Commission modifies the amount proposed by the WTAC it shall inform the WTAC in writing its reason for such modification.~~
- (3)(2) The bond shall be held by the city and shall be conditioned that the contract recipientlicensee or applicant shall fulfill the payment to its employees of any final judgment, settlement agreement, or other decision ordering the payment of wages. If, within 14-fourteen days after demand for the bond, the licensee or applicant fails to deposit the bond, the city may suspend,

revoke, or deny ~~such the~~ license ~~or application~~ until the bond has been properly deposited with the city.

Sec. 9-39. – Requirements for tax increment financing agreements.

- (a) ~~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 language to effect~~ require the following that:
- (1) ~~A property owner shall submit to the city a list to the city of all the expected contractors expected to work on the project as part of its 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 property owner will shall provide to the city a final all-inclusive list of contractors engaged to work on the to the city within 30 days of after the conclusion of the project.~~
 - (2) ~~Qualifications and conditions- 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, or other entity operating in a similar capacity of any tier or other person that is engaged to perform the construction work during the term of the an agreement on the property that is the subject of the 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: The contractor~~
 - (A) ~~h~~ Has not been subject to a federal or state criminal or civil judgment, administrative citation, order, debarment or suspension from performing construction work, or final determination resulting from a debarred or suspended from performing construction work violation of the laws set forth in 9-31(a) or other state or federal laws regulating the payment of wages by any federal, state or local government agency or authority in the past five years prior to entering into the agreement.
 - (B) ~~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, earned sick time, wage and hour laws, prompt payment laws; or prevailing wage laws.~~
 - (C) ~~The contractor must~~ Shall maintain appropriate industrial accident insurance sufficient to provide coverage for all ~~the~~ employees on the project in accordance with M.G.L. c. 152 and provide ~~documentary~~ proof of such coverage as part of the application process, ~~or to the Inspectional Services Department prior to commencing any work to the inspectional services department to be maintained as a public record.~~
 - (D) ~~The contractor must properly classify employees as statutory employees rather than independent contractors and treat them accordingly for purposes of minimum wages and overtime, workers compensation insurance coverage, social security taxes and state and federal income tax withholding. (M.G.L. c. 149, § 148B on employee classification).~~
 - (E) ~~The contractor must comply with M.G.L. c. 151, § 1A and M.G.L. c. 149, § 148 with respect to the payment of wages.~~
 - (F) ~~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.~~

~~(G)(C)~~ Shall submit certified payrolls to the city monthly, on a form provided by the city to include the full name, address, identifying number, gender, and race of each employee, and which tabulates hours worked for women, people of color, and residents of the city. The property owner shall submit a list to the city of all the expected contractors to work on the project as part of its 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 property owner will provide a final all-inclusive list to the city within 30 days of the conclusion of the project.

~~(H)~~ The property owner and/or the contractor must submit certified payrolls monthly to the city for all contractors. A certified payroll format will be provided by the city that includes the employees' full name, address, identifying number, gender, race and which tabulates hours worked for females, people of color and residents of the city. 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.

~~(I)(D)~~ The contractor must make arrangements to ~~Shall~~ 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 and provide the log to the city on a monthly basis. 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 on a weekly basis with the certified payrolls and shall be a public record.

(b) Revocation of Certification:- In the event of failure to adhere to the above requirements, the city may 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 the agreement and any certification by the state was intended to advance. In such an event, the city shall petition the appropriate state agency or body for revocation of the tax increment financing or housing development exemption certification, and, upon such revocation, of certification, the tax relief provided by this the 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 the agreement.

(c) Appeal of revocation:- In the event the owner of the property owner challenges the termination of the tax relief provided by the an 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 the agreement while any such challenge remains pending. The owner of the property owner shall have a continuing obligation to contribute to the escrow account amounts equal to the additional tax savings that accrue under the agreement while its the challenge remains pending. The owner shall promptly provide to the city with documentation of its compliance with this obligation. The conditions of the escrow account shall provide that, in the event the property owner is unsuccessful in its challenge, the funds in the account shall be paid to the city. The owner's obligations under this subsection shall be judicially enforceable. It will be established that the r Residents of this municipality city shall be considered third party beneficiaries of the agreement for the purposes of enforcing the above provisions in a civil proceeding brought by not less than ten or more taxable inhabitants residents.

Sec. 9-40. – Municipal construction contracts.

Whenever the city is procuring procures construction services subject to the provisions of M.G.L. c. 149, c. 149A, or c. 30, § 39M, the provisions of section § 9-37 of this division shall apply be in effect. In addition, 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 these requirements with their bid or proposal.

- (1) Conditions for bidders:- All A bidders, proposers, contractors, and subcontractors and trade contractors shall, as a condition for bidding, contracting, or subcontracting, verify under oath and in

writing at the time of bidding, responding to an RFP, or in any event prior to entering into a contract or subcontract ~~at any tier~~, that they ~~shall comply with the following conditions~~:

- (A) ~~The contractor shall not have~~ Have not been subject to a federal or state criminal or civil judgment, administrative citation, order, debarment or suspension from performing construction work, or final determination resulting from a violation of the laws set forth in 9-31(a) or other state or federal laws regulating the payment of wages in the five years prior to the submission of the bid 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, earned sick time, wage and hour laws, prompt payment laws, or prevailing wage laws;
 - (B) ~~The contractor s~~ shall maintain appropriate industrial accident insurance sufficient to provide coverage for ~~all~~ the employees on the project in accordance with M.G.L. c. 152 and provide ~~documentary proof of such coverage accompanying their bid;~~ included with the contractor's submitted bid to the inspectional services department to be maintained as a public record.
 - ~~(C) 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, social security taxes and state and federal income tax withholding. (M.G.L. c. 149, § 148B on employee classification).~~
 - ~~(D) The contractor shall comply with M.G.L. c. 151, § 1A and M.G.L. c. 149, § 148 with respect to the payment of wages.~~
 - ~~(C) Shall submit weekly certified payrolls to the city on a form provided by the city to include the full name, address, identifying number, gender, and race of each employee, and which tabulates hours worked for women, people of color, and residents of the city; and,~~
 - ~~(E)(D) Shall ensure that each employee entering or leaving the project completes a daily sign-in/out log and provide the log to the city on a weekly basis. The log shall include: the location of the project; current date; printed employee name; signed employee name; name of employer; and, the time of each entry or exiting. The city 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 on a weekly basis with the certified payrolls and shall be a public record.~~
 - ~~(F) Each contractor of any tier, prior to performing any work on the project, shall sign under oath and provide to the city contractor 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.~~
 - ~~(G) The contractor must comply with state and, where applicable, federal prevailing wage laws. Contractor shall submit weekly certified payrolls to the city for all employees working on the contract including subcontracted workers at all tiers. Contractor shall use the current standard Massachusetts weekly certified payroll report form. 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.~~
- (2) Conditions for contractors: All bidders, ~~or proposers, contractors, and all trade contractors~~ and subcontractors ~~under the bidder or proposer~~ who are awarded or who otherwise obtain contracts on a 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 ~~subsection this section (a) above~~ for the ~~entire~~ duration of their work on the project. All contracts ~~and or~~ agreements between ~~and among city~~ contractors and their subcontractors ~~at all tiers~~ shall require compliance with ~~each of~~ the obligations set forth in ~~paragraph A above this section~~. An officer of ~~the a city~~ contractor shall certify under oath and in writing at each payment requisition submission that they are in compliance ~~with such obligations~~.

- (3) Sanctions for violations: ~~Any proposer, bidder, proposer, trade contractor, or subcontractor under the bidder or proposer that who~~ fails to comply with ~~any one of the~~ obligations set forth in ~~subsection (a) this section~~ or any other requirements in bid or contract documents ~~above for any period of time shall be, at the sole discretion of the city, may, at the discretion of the city, be~~ subject to ~~one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained a stop work order pending compliance, (2) withholding of payment due under any contract or subcontract until compliance is obtained pending compliance, (3), permanent removal from any further work on the project, (4), or~~ liquidated damages payable to the city in the amount of five percent of the dollar value of the contract. ~~A bidder, proposer, contractor, or subcontractor~~ Further sanctions for violations. In addition to the sanctions outlined in subsection (c) above, a proposer, ~~general bidder or contractor~~ shall be ~~equally~~ liable for the violations of its subcontractor with the exception of ~~a~~ violations arising from work performed pursuant to ~~a~~ subcontracts that ~~are is~~ subject to M.G.L. c. 149, § 44F. ~~Any~~ contractor or subcontractor that has been determined by the city to ~~the extent permitted by law or by any court or agency to~~ have violated ~~any of~~ the obligations set forth in ~~this section subsections (a) and (b) above~~ shall ~~not~~ be ~~considered deemed "not~~ responsible" with respect to bids for ~~any~~ work on ~~any~~ future projects for six months ~~for following~~ a first violation, three years ~~for following~~ a second violation, and permanently ~~for following~~ a third violation.

Sec. 9-41. — Major building permits.

- ~~(a) Conditions. In addition to any other conditions that may be required in connection with the issuance of building permits under M.G.L. c. 40A 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 \$10,000,000 or in connection with a residential building with 75 or more units shall be subject to and include the following set of mandatory 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 M.G.L. c. 152 and provide documentary proof of such coverage to the inspection 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, social security taxes and state and federal income tax withholding. (M.G.L. c. 149, § 148B on employee classification);~~

~~(5) The contractor must comply with M.G.L. c. 151, § 1A and M.G.L. c. 149, § 148 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 director of the inspectional services department or his or her designee until further notice by him or her."~~

~~(b) Sanctions for violations. 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 subsection (a) 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 director of the inspectional services department or his or her designee shall issue a stop work order with respect to all construction work on the entire project until the violation is remedied. Once the director of the inspectional services department or his or her designee determines that the violation has been remedied, he or she shall withdraw the stop work order and construction on the project may proceed.~~

~~(c) Appeal of stop work orders. Any person aggrieved by a stop work order issued by the director of the inspectional services department or his or her designee shall have the appeal rights set forth in Article VIII Section 1 of the Somerville City Charter Appendix.~~

Sec. 9-412. – Successors in interest.

~~(a) 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:~~

~~(1) (i) has at least one of the same principals or officers as the prior employer one principal or officer in common with the prior employer; and~~

~~(2) (ii) is engaged in the same or equivalent trade or activity as the prior employer.~~

Sec. 9-423. – 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.

Sec. 9-44. – Effective date.

~~This ordinance shall become effective on June 1, 2020.~~

Approved:

President

Approved:

Mayor