

#0214

Sponsor:

Council
Member
Darby

AN ORDINANCE TO AMEND CHAPTER 8 OF THE CITY CODE TO PROTECT THE EXPLOITED CONSTRUCTION WORKFORCE, PROMOTE LOCAL HIRE OF WILMINGTON RESIDENTS, AND INCREASE SKILLED LABOR IN RESIDENTIAL CONSTRUCTION PROJECTS.

WHEREAS, the City of Wilmington has a compelling interest to ensure that construction projects located in the City are completed with a high degree of quality and fairness; and

WHEREAS, a 2021 study of residential construction projects found that a majority of builders engage in exploitation of their workers with under-the-table payments, wage theft, tax fraud, employment of undocumented immigrants and general poor treatment of workers; and

WHEREAS, exploited workers who are paid in cash are not covered by workers' compensation and have little recourse if they are injured on the job; and

WHEREAS, City incentivized development projects should benefit local, minority owned enterprises and develop a highly skilled workforce to ensure the efficient, economical and safe completion of these projects; and

WHEREAS, Council wants to ensure that local residents are benefited by City incentivized residential construction projects by ensuring that city residents are hired and are eligible to receive professional training, fair wages, workers' compensation protections, health insurance, unemployment insurance, social security benefits, and more; and

WHEREAS, when Wilmington residents gain invaluable skills in the construction trades, those residents are building where they live and can afford the residences they are building; and

WHEREAS, and.

WHEREAS the City of Wilmington has a compelling governmental interest in reducing this high rate of unemployment;

WHEREAS, the City has the authority to grant economic incentives for businesses to remain in or relocate to Wilmington, and the City periodically grants such incentives to developers of projects.

WHEREAS,

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 8 of the City Code is hereby amended by adding a new Section 8-7 thereto as with the addition of the underlined language as follows:

Section 8-6. Developer and Contractor Requirements Regarding Craft Training.

- a. Definitions.
 - i. “Craft” means any skilled labor trade or occupation for which the Delaware Department of Labor maintains a list of approved craft training programs pursuant to 19 Del. C. § 204(b)(2).
 - ii. “Craft training program” means an apprenticeship program approved by and

registered with any state apprenticeship agency or the United States Department of Labor.

- iii. “Apprentice” means any worker who is indentured in an apprenticeship program that maintains current registration with a Federal or State approved apprenticeship program.
- iv. Local Resident. An individual who is domiciled within the municipal limits of City of Wilmington, for at least seven days immediately prior to commencing work on the project.
- b. Craft training requirements. Any residential construction project located in the City of Wilmington, either partially or wholly funded by the City of Wilmington, including subsidies in the form of tax abatements, donation of property or tax credits, shall require participation in a Federal or State approved craft training program, that is currently registered with and approved by the U.S. Department of Labor or a state apprenticeship agency.
- c. Contractors or subcontractors must certify compliance with the craft training requirements before any permits or authorization will be granted to begin work on such project.
 - i. Contractors must submit the following to certify compliance :
 - 1. The number of total positions needed for the project and how many positions will be filled by Local Residents,
 - 2. The necessary level of job skills required for Local Residents to plan and implement the work to be done on the job
 - 3. Outreach plan for recruiting Wilmington residents, if needed
 - 4. Plan for having an apprentices on the project
- d. A contractor or subcontractor may satisfy the craft training requirement of this section

by compliance with one of the following for each craft utilized in the completion of the project:

- i. Employing at least one active apprentice in a Federal or State approved craft training program for the craft.
- ii. Employing at least one active apprentice who completed a Federal or State approved craft training program for the craft within the 6-month period preceding the date the funds are disbursed or other incentive agreement is executed, or
- iii. Being a member of a consortium that provides a Federal or State approved craft training programs for the craft and all of the following apply to the craft training program for the craft:
 1. The consortium requires a regular financial contribution.
 2. The contractor or subcontractor has access to the craft training program.
 3. There is at least 1 active apprentice in the craft training program.

SECTION 2. Chapter 8 of the City Code is hereby amended by adding a new Section 8-8 thereto as with the addition of the underlined language as follows:

- a. **Living wage, Local hire, Recent graduates.** All contractors or subcontractors employing workers in the City of Wilmington on any residential construction project that is partially or wholly funded by the City of Wilmington, including subsidies in the form of tax abatements, donation of property and tax credits, shall be required to meet the following requirements:
 - i. Pay a wage of at least \$18.00 per hour to all employees working within the City,
 - ii. Ensure that at least 20% of work hours on the project by will be performed by Local Residents as defined in Section 8-7.

1. The proportion of work hours to be completed by Local Residents shall increase by 5% annually until the requirement for work hours by Local Residents reaches 50%. The first increase shall be implemented beginning after the first complete fiscal year following the passage of this Ordinance.
- iii. Ensure that at least 20% of work hours performed is completed by Local Residents that graduated from a craft training program currently registered with and approved by the U.S. Department of Labor or a state apprenticeship agency in the preceding two years.
- iv. Certify in writing that neither the developer, contractor or subcontractors or any principal thereof, has been suspended or debarred by any federal, state or local agency within the past five years.
- b. Contractors and subcontractors may use one or more of the following pipeline and retention compliance mechanisms to receive a conditional waiver from the Local hire, Recent Graduate requirements imposed by this section on a project specific basis
 - i. Sponsoring Apprentices. A contractor or subcontractor may avoid the assessment of penalties for failing to meet applicable hiring requirements by agreeing to sponsor a specified number of new Apprentices in trades which noncompliance is likely and retaining the Apprentices for the entire period of the contractor or subcontractor's work.
 - ii. Referral Sources. Where a contractor's or subcontractor's preferred hiring or staffing procedures for a covered project do not enable that contractor or subcontractor to satisfy the local hiring requirements of this policy, the contractor

or subcontractor shall use other procedures to identify and retain Local Residents. These procedures shall include requesting workers from registered pre-apprenticeship programs and considering Local Residents who are referred within three business days of the request and who meet the qualifications described in the request.

1. If a contractor claims they could not identify Local Residents they must submit the following:
 - a. Copies of all advertisements for training and employment.
 - b. A list of Local Residents who applied or otherwise expressed interest in training positions or employment including applicants name, phone number, email address, and zip code listed
 - c. Copies of letters to community organizations announcing employment opportunities.
 - d. Copies of all communication to approved pre-apprenticeship and apprenticeship programs
- c. All contractors and subcontractors shall report work hours utilized for purposes of monitoring compliance with and effectiveness of this Policy. Upon the City's request, the contractor or subcontractor shall make all relevant records available to the City or its designee in order for the City to determine whether the contractor or subcontractor is in compliance with said requirements.
 - i. The following Documentation will be required to receive incentive at the end of the project.
 1. the number of total workers and the total number of Local Residents (list zip codes for each worker) hired for the project

2. the number of total workers and the total number of Wilmington residents (list zip codes for each worker) currently employed for the project
 3. the number of total work hours for the project and the number of worked hours for Local Residents on the project
 4. the number of total apprenticeships on the project and the program used
- d. Consequences of Noncompliance. Compliance with this section shall be required in all City of Wilmington contracts to which it applies, and such contracts shall provide that violation of this section shall entitle the City of Wilmington to terminate the contract. In addition, failure to comply with these requirements may ban the contractor from holding contracts with the City of Wilmington for a period of four years.
- e. The City or any of its departments for Bids Request For Proposals or other specifications in pursuance of any law requiring the advertisements for commercial or residential bids shall include specific reference to this legislation.

SECTION 2. This Ordinance shall be effective upon its passage by City Council and approval by the Mayor.

First ReadingAugust 25, 2022
 Second ReadingAugust 25, 2022
 Third Reading

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2022.

Mayor

SYNOPSIS: This ordinance requires developers and contractors working on residential construction projects within the City to participate in craft training programs, pay a minimum wage of \$18, and certify non-debarment if the project is wholly or partially funded by an incentive from the City including subsidies in the form of tax abatements, donation of property or tax credits.

FISCAL IMPACT STATEMENT:

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