Attachment A
- Suggested changes are underlined

Chapter 2.121

LIVING WAGE ORDINANCE

Sections:

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2.121.010 Title and Purpose.

This Chapter shall be known as the "Cambridge Living Wage Ordinance". The purpose of this ordinance is to assure that employees of the City of Cambridge and employees of City contractors, subcontractors and beneficiaries of tax abatements, loans, grants, subsidies and other assistance provided by the City earn an hourly wage that is needed to support a family of four.

2.121.020 Definitions.

For the purposes of this ordinance, the term:

(a) **"Applicable Department"** means the Personnel Department for employees of the City of Cambridge, the Purchasing Department, with the advice and assistance of the appropriate department which receives the services, for Covered Employers who contract or subcontract with the City of Cambridge, the School Department for employees, contractors and subcontractors of the School Department, and the City Manager's Office for any other Person who is a Beneficiary of assistance other than a contract or subcontract.

(b) **"Assistance"** means:

(1) any grant, loan, tax incentive, bond financing, subsidy, or other form of assistance valued at least $10,000 that an employer receives by or through the authority or approval of the City of Cambridge, including, but not limited to, c. 121A tax abatements, industrial development bonds, Community Development Block Grant (CDBG) loans and grants, Enterprise Zone designations awarded after the effective date of this Chapter, and the lease of city owned land or buildings below market value; and

(2) any service contract, as defined herein, of at least $10,000 with the City of Cambridge that is made with an employer to provide services pursuant to G.L.C. 30B or other public procurement laws, awarded, renegotiated or renewed after the effective date of this Chapter.

(3) any service subcontract, as defined herein, of at least $10,000.

(c) **"Beneficiary"** means:

(1) any person who is a recipient of Assistance;

(2) any company or person that is a tenant or sub-tenant, leaseholder or sub-leaseholder of a recipient of Assistance, provided that said company or person employs at least 25 persons and occupies property or uses equipment or property that is improved or developed as a result of Assistance, after the effective date of this Chapter; and

(d) (i) **Covered Employer**" means the City of Cambridge or a Beneficiary of Assistance, but does not include a Covered Building Services Employer.
(ii) **"Covered Building Services Employer"** means a Beneficiary of Assistance or any entity employing building service employees directly or through a contract or subcontract on or around premises leased by the City.

(e) "**Covered Employee**" means:

(1) a person employed by the City of Cambridge except for persons in those positions listed in Section 2.121.040(j) of this ordinance; and

(2) a person, other than a covered building service employee, employed by a Covered Employer, or a person employed by an independent contractor doing business with a Covered Employer, who would directly expend any of his or her time on the activities funded by the contract or the activities for which the Beneficiary received the Assistance, except for persons in those positions listed in Section 2.121.040(j) of this ordinance.

"Covered Building Service Employee" means Any person performing building service work for a Covered Employer, either directly or through a contract or subcontract .

"Building Services" or "Building Service Work" means work performed in connection with the care or maintenance of a building or property, and includes but is not limited to work performed by a watchperson, armed or unarmed guard, concierge, doorperson, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner,.

"Covered Building Services Contractor" means an entity providing services, including by not limited to building services, on a building service contract or subcontract with the City or any of its departments or subdivisions or on a building services contract or subcontract for premises leased by the City.

(f) **"Living Wage"** has the meaning stated in Section 2.121.030.

"Standard Compensation" has the meaning stated in Section 2.121.0XX

(g) **"Person"** means one or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by the

Commonwealth of Massachusetts.

"Building Service Contract" means a contract or subcontract to provide services, including but not limited to building services to the City of Cambridge or any of its departments or subdivisions or on a building services contract or subcontract for premises leased by the City.

(h) **"Service Contract"** means a contract let to a contractor by the City of Cambridge for the furnishing of services, to or for the City, except contracts where services are incidental to the delivery of products, equipment or commodities. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a "service contract" for the purposes of this definition.

(i) **"Service Subcontract"** means a subcontract primarily for the furnishing of services, to or for a recipient of Assistance, except where services are incidental to the delivery of products, equipment or commodities. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a "service subcontract" for the purposes of this definition.

2.121.030 Living Wage.

(a) **Applicability.** Covered Employers shall pay no less than the Living Wage to their employees.

(b) **Amount of wage.** The Living Wage shall be calculated on an hourly basis and shall be no less than $10.00, subject to adjustment as provided herein. The Living Wage shall be upwardly adjusted each year no later than March first in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Annual Average Consumer Price Index for All Urban Consumers (CPI -U) Boston-Lawrence-Salem, MA - NH, as published by the Bureau of Labor Statistics, United States Department of Labor applied to $10.00.

(c) **No reduction in collective bargaining wage rates.** Nothing in this Chapter shall be read to require or authorize any beneficiary to reduce

wages set by a collective bargaining agreement.

(d) Cuts in non-wage benefits prohibited. No Beneficiary will fund wage increases required by this Chapter, or otherwise respond to the provisions of this Chapter, by reducing the health, insurance, pension, vacation, or other non-wage benefits of any of its employees.

2.121.0XX "Standard Compensation"

(a) Standard Compensation shall include i) the standard hourly rate of pay for the relevant classification, ii) standard paid leave and iii) standard benefits.

(d) Applicability. Covered Building Services Employers shall pay no less than the Standard Compensation to covered building service employees.

(a) Amount. (i)The "standard hourly rate of pay" for covered building service employees other than for armed guards and armed watchpersons shall be the greatest of the following: (1) The Living Wage rate as defined in 2.121.030; or (2) the hourly rate of pay for work performed within the City under the Collective Bargaining Agreement covering the largest number of hourly non-supervisory employees employed within Middlesex County in the relevant classification, provided the Collective Bargaining Agreement covers no less than two hundred (200) employees in the classification; or (3) the hourly rate paid to workers in the relevant classification under a preceding building service contract.

(ii)The "standard hourly rate of pay for armed guards and armed watchpersons" shall be the greatest of the following: (1) the rate established by the Federal Department of Labor for the Guard II classification in the Area Wage Determination applicable to work performed within the County of Middlesex under Federal Service Contract Act (41 U.S.C. 351, et seq.); or (2) the hourly rate of pay for work performed within the City under the Collective Bargaining Agreement covering the largest number of hourly non-supervisory employees employed within Middlesex County in the relevant classification, provided the Collective Bargaining Agreement covers no less than two hundred (200) employees in the classification; or (3) the hourly rate paid to workers in the relevant classification under a preceding building service contract.

(iii). "Standard paid leave" shall be equal to the greatest of the following: (1) annual paid leave required under applicable local, state, or federal law; or (2) the paid leave provided by the Collective Bargaining Agreement covering the largest number of hourly non-supervisory employees employed within Middlesex County in the relevant classification, provided the Collective Bargaining Agreement covers no less than two hundred (200) employees in the classification; or (3) the monetary value provided under a proceeding building service contract.

(iv) "Standard benefits" shall be an hourly supplement furnished by a Covered Building Service Employer to a Covered Building Service Employee in one of the following ways: 1) in the form

of health and other benefits (not including paid leave) that cost the Covered Building Service Employer the entire required hourly supplemental amount; 2) by providing a portion of the required hourly supplement in the form of health and other benefits (not including paid leave) and the balance in cash; or 3) by providing the entire supplement in cash. The required hourly supplemental rate shall be equal to the greatest of the following: (1) the monetary value of the health and other benefits (not including paid leave) provided by the Collective Bargaining Agreement covering the largest number of hourly, non-supervisory employees employed within the County of Middlesex in the relevant classification, provided the Collective Bargaining Agreement covers no less than two hundred (200) employees in the classification; or (2) health and other benefits (not including paid leave) provided by the Covered Building Service Employer for each Covered Building Service Employee or pay to the service worker of an hourly stipend equal to twenty percent (20%) of the standard hourly rate of pay (the "Hourly Benefit Supplement"); or (3) the monetary value of the benefits provided under a preceding building service contract. The cost to the Covered Building Service Employer of "standard benefits" shall be equal to or greater than the Hourly Benefit Supplement. In the event that the premium costs per Covered Building Service Employee are less than the Hourly Benefit Supplement then in addition to any other benefits or payments made to a Covered Building Service Employee the Covered Building Service Employer shall pay the Covered Building Service Employee on an hourly basis the difference between the Hourly Benefit Supplement and the amount and the amount paid for the benefits.

(v) For the purposes of this section, "benefits" shall not include workers compensation or other legally mandated insurance, nor shall it include the value of any benefit for which employee Covered Building Service Employee is eligible, but for which no payment is actually made by a Covered Building Service Employer to the Covered Building Service Employee or to any other party on the Covered Building Service Employee's behalf because the Covered Building Service Employee either does not actually utilize or does to elect to receive the benefit for any reason

(vi) Annual adjustments of the standard wage for building services other than for armed guards and armed watchpersons shall be annually adjusted to be no less than the greatest of the following: (1) the annually adjusted standard hourly rate of pay shall be the previous hourly rate of pay increased by the annual percentage difference between the current Boston-Lawrence-Salem, MA - NH Consumer Price Index (CPI) for all items for All Urban Consumers and the same CPI for the same month of the previous year, or (2) the hourly rate of pay for work performed within the City under the current Collective Bargaining Agreement covering the largest number of hourly non-supervisory employees employed within Middlesex County in the relevant classification, provided the Collective Bargaining Agreement covers no less than two hundred (200) employees in the classification.

(vii) Annual adjustments of the standard

compensation for armed guards and armed watchpersons shall be annually adjusted to be no less than the greatest of the following: (1) the annually adjusted standard hourly rate of pay shall be the previous hourly rate of pay increased by the annual percentage difference between the current Boston-Lawrence-Salem, MA - NH Consumer Price Index (CPI) for all items for All Urban Consumers and the same CPI for the same month of the previous year, or (2) the hourly rate of pay for work performed within the City under the current Collective Bargaining Agreement covering the largest number of hourly non-supervisory employees employed within Middlesex County in the relevant classification, provided the Collective Bargaining Agreement covers no less than two hundred (200) employees in the classification, or (3) the rate established by the Federal Department of Labor for the relevant classification in the Area Wage Determination applicable to work performed within the County of Middlesex under Federal Service Contract Act (41 U.S.C. 351, et seq.).

viii) viii) Standard benefits shall be adjusted annually to be no less that equal to the value of the greatest of the following: (1) the annually adjusted benefits shall be equal to the value of the previous standard benefits increased by the annual percentage difference between the current Boston-Lawrence-Salem, MA - NH Consumer Price Index (CPI) for all items for All Urban Consumers and the same CPI for the same month of the previous year, or (2) the value of the benefits provided for the hourly rate of pay for work performed within the City under the current Collective Bargaining Agreement covering the largest number of hourly non-supervisory employees employed within Middlesex County in the relevant classification, provided the Collective Bargaining Agreement covers no less than two hundred (200) employees in the classification. Standard paid leave shall be adjusted annually according to the same methodology.

2.121.040 Waivers and Exceptions.

(a) There shall be no waivers or exceptions made for building services.

(b) **Waivers.** A Covered Employer may request that the City Manager grant a partial or whole waiver to the requirements of this Chapter.

(c) **General Waivers.** Waivers may be granted where application of this Chapter to a particular form of Assistance is found by the City Solicitor to violate a specific state or federal statutory, regulatory or constitutional provision or provisions, and the City Manager approves the waiver on that basis.

(d) **Hardship Waivers for certain not-for-profit employers.** An employer, who has a contract with the City of Cambridge which is not subject to the provisions of G.L. c. 30B, may apply to the City Manager for a specific waiver where payment of the Living Wage by a not-for-profit Covered Employer would cause a substantial hardship to the Covered Employer.

(e) **Chapter 30B contract waivers.** Prior to issuing an invitation for bids for a procurement contract subject to the

provisions of G.L. c. 30B, any Applicable Department may apply to the City Manager for a waiver of the application of the Living Wage to the contract where payment of the Living Wage by a Covered Employer would make it inordinately expensive for the City to contract for the services or would result in a significant loss of services, because the contracted work cannot be segregated from the other work of the Covered Employer.

(e) General Waiver Request Contents. All General Waiver requests shall include the following:

(1) The nature of the Assistance to which this Chapter applies;

(2) The specific or official name of the Assistance and Assistance program, the statutory or regulatory authority for the granting of the Assistance, and a copy of that authority;

(3) The conflicting statutory, regulatory, or constitutional provision or provisions that makes compliance with this Chapter unlawful, and a copy of each such provision; and

(4) A factual explication and legal analysis of how compliance with this Chapter would violate the cited provision or provisions, and the legal consequences that would attach if the violation were to occur.

(f) Hardship Waiver Request Contents. All Hardship Waiver requests shall include the following:

(1) The nature of the Assistance to which this Chapter applies;

(2) A detailed explanation of why payment of the Living Wage would cause a substantial hardship to the Covered Employer; and

(3) A statement of proposed wages below the Living Wage.

(g) Chapter 30B Contract Waiver Request Contents. A Chapter 30B contract waiver request shall include the following:

(1) The nature of the Assistance to which this Chapter applies;

(2) A detailed explanation of why the contracted work cannot be segregated from the other work of the bidding Covered Employers thereby making the cost of the contract with the payment of the Living Wage inordinately expensive or would result in a significant loss of services;

(h) Community Advisory Board review and recommendation regarding waiver requests. The Community Advisory Board, as described in Section 2.121.070 of this ordinance, shall consider waiver requests along with their supporting documentation and analysis, and may hold a public hearing to consider the views of the public before making a recommendation to the City Manager regarding the waiver request. For a hardship waiver, the Community Advisory Board shall offer an opportunity to be heard to employees of the Covered Employer. After reviewing the recommendation of the Community Advisory Board, the City Manager may approve and grant or deny all or part of a request. The City Manager may in his or her discretion grant a temporary hardship waiver pending the hearing before the Community Advisory Board. For Chapter 30B contract waivers, the Community Advisory Board shall make its recommendation to the City Manager no more than thirty days after it is notified of the request for a Chapter 30B contract waiver.

(i) Terms of exceptions. If an employer is subject to this Chapter as a result of its receipt of more than one kind of Assistance covered by this Chapter, and if the City Manager grants a waiver with respect to one form of Assistance, the City Manager need not find that this Chapter is inapplicable to the employer with respect to another form of Assistance received by the employer.

(j) Exceptions. The following positions will be excepted from the requirement of the payment of the Living Wage upon certification in an affidavit in a form approved by the Applicable Department and signed by a principal officer of the Covered Employer that the positions are as follows:

(1) youth hired pursuant to a city, state, or federally funded program which employs youth as defined by city, state, or federal guidelines, during the summer, or as part of a school to work program, or in other related seasonal or part-time program;

(2) work-study or cooperative educational programs;

(3) trainees who are given a stipend or wage as part of a job training program that provides the trainees with additional services, which may include, but are not limited to, room and board, case management, or job readiness services.

(4) persons working in a recognized supported employment program that provides workers with additional services, which may include, but are not limited to, room and board, case management, counseling, or job coaching;

(5) positions where housing is provided by the employer;

(6) employees who are exempt from federal or state minimum wage requirements; and

(7) individuals employed by the City of Cambridge where the employment of such individuals is intended primarily to provide a benefit or subsidy to such individuals, although the City is compensating them for work performed.

2.121.050 Notification Requirements.

All Applicable Departments shall provide in writing an explanation of the requirements of this ordinance in all requests for bids for service contracts and to all persons applying for Assistance as defined by this ordinance. All persons who have signed a service contract with the City of Cambridge or a contract for Assistance shall forward a copy of such requirements to any person submitting a bid for a subcontract on the Assistance contract.

All building service contracts hereafter made by or on behalf of the City of Cambridge or any of its departments or subdivisions with any Covered Building Service Contractor, shall contain a provision indicating the number of hours or work required and stating the standard compensation for the relevant classification that is applicable to the covered building service employees and shall contain a stipulation that the covered building service employees shall be paid not less than the standard compensation for the relevant classifications. The violation of the foregoing provision shall constitute a breach of contract, and such provision shall be considered to be a contract for the benefit of the covered building services employees which such covered building service employees shall have the right to maintain action for the difference between the standard compensation and the rate of pay, benefits and paid leave actually received by them. The covered building service employees may be awarded appropriate remedies including, but not limited to, back pay, benefits, attorney's fees, and costs.

Competitive Sealed Proposals shall be used for all contracts to furnish building services. All requests for proposals or other solicitations and all specifications for building service work, shall include specific reference to this section, shall state the required number of hours, and shall require prospective building service contractors to submit pricing on a standard worksheet furnished by the City that specifies the components of hourly pricing for the duration of the contract.

2.121.060 Duties of Covered Employers.

(a) **Notification Requirements.** Covered employers shall provide each Covered employee with a fact sheet about this ordinance and shall post a notice about the ordinance in a conspicuous location visible to all employees. The fact sheet and poster shall be provided to the Covered

Employer by the Applicable Department and shall include:

(1) notice of the Living Wage amount and notice of the Standard Compensation amount;

(2) a summary of the provisions of this ordinance;

(3) a description of the enforcement provisions of the ordinance;

(4) the name, address, and phone number of a person designated by the Applicable Department to whom complaints of noncompliance with this ordinance should be directed.

(b) Contract for Assistance. At the time of signing a contract for assistance with the City of Cambridge or with a Beneficiary, the contract must include the following:

(1) the name of the program or project under which the contract or subcontract is being awarded;

(2) a local contact name, address, and phone number for the Beneficiary;

(3) a written commitment by the Beneficiary to pay all Covered Employees not less than the Living Wage or Standard Wage if applicable, as subject to adjustment under this ordinance and to comply with the provisions of this ordinance, including by requiring compliance with the provisions of this ordinance of all contractors, subcontractors, tenants and lessees;

(4) a list of Covered Employees and Covered Building Service Employees under the contract with the employees' job titles;

(5) a list of all subcontracts either awarded or that will be awarded to Beneficiaries with funds from the Assistance. Upon signing any subcontracts, the Covered Employer shall forward a copy of the subcontract to the Applicable Department.

(c) Maintenance of payroll records. Each Covered Employer shall maintain payrolls for all Covered Employees and

basic records relating thereto and shall preserve them for a period of three years. The records shall contain the name and address of each employee, the job title and classification, the number of hours

worked each day, the gross wages, deductions made, actual wages paid, and copies of social security wage and withholding reports, and evidence of payment thereof and such other data as may be required by the Applicable Department from time to time.

(d) Applicable Department duties. The Applicable Department shall cause investigations to be made as may be necessary to determine whether there has been compliance with this Ordinance. The Applicable Department shall report the findings of all such investigations to the Community Advisory Board.

(e) Covered Employer to cooperate. The Covered Employer shall submit payroll records on request to the Applicable Department. The Covered Employer shall permit City representatives to observe work being performed upon the work site, to interview employees and to examine the books and records relating to the payrolls being investigated to determine payment of wages.

(f) City Assistance Reports. Each Applicable Department shall file a City Assistance Report with the City Manager and the Community Advisory Board by July 31 of each year The report shall include, for each Assistance package or contract approved during the preceding fiscal year:

(1) the name of the Applicable Department (awarding agency), the name of the specific program under which the Assistance was awarded, and the origin of funds for Assistance;

(2) a description of the purpose or project for which the Assistance was awarded;

(3) the name, address, and phone number of a local contact person for the Covered Employer;

(4) the total cost to the City of Assistance provided to each Beneficiary, including both face-value of Assistance, as well as revenue not collected as a result of the Assistance.

Payroll reporting. Every six (6) months, a covered Building Service Employer, shall file with the City a complete certified payroll showing the Covered Building Service Employer's payroll records for each Covered Building Service Employee. Upon request, the Covered Building Service Employer shall produce for inspection and copying its payroll records for any or all of its Covered Building Service Employees for the prior three (3) year period.

Quarterly Reporting. At the time the contracts for Assistance is awarded and on a quarterly basis thereafter (January 15th, May 15th, August 15th, and November 15th) the Covered Building Service Employer shall supply the names of Covered Building Service Employees; the hourly wage paid to the Covered Building Service Employees; the number of paid leave days provided to those Covered Building Service Employees or the hourly paid leave benefit paid to those Covered Building Service employees. The reporting shall be on forms supplied by the City at the time the contract for Assistance is awarded.

Transitional Employment Period. The City shall give advance notice to a Covered Building Service Contractor and any collective bargaining representative

of the Covered Building Service Contractor that a building service contract will be terminated, and the City shall also provide the name, address, and telephone number of the successor Covered Building Service Contractor or contractors where known. The terminated Covered Building Service Contractor shall, within five (5) days after receipt of such notice, provide to the successor Covered Building Service Contractor , the name, address, date of hire, and employment occupation classification of each employee employed at the site or sites covered by the building service contract at the time of receiving said notice. If a successor Covered Building Service Contractor has not been identified by the City be the end of the five (5) day pay period, the terminated Covered Building Service Contractor shall provide the information to the City, at the same time that the terminated contractor shall provide each affected employee with notice of his/her right to obtain employment with the successor Covered Building Service Contractor .

A successor Covered Building Service Contractor or subcontractor where applicable shall retain for a 90-day transitional employment period all employees who were employed by the terminated Covered Building Service Contractor and its subcontractors at the building(s) covered by the terminated contract.

If at any time the successor Covered Building Service Contractor determines that fewer employees are required to perform the new service contract than had been performing such services under the terminated contract, the successor Covered Building Service Contractor shall retain the employees by seniority within job classification. Except for such layoffs, during the 90-day transition period, the successor Covered Building Service Contractor shall not discharge without cause an employee pursuant to this section. During the 90-day transition period, the successor Covered Building Service Contractor shall maintain a preferential hiring list of those employees not retained from which the successor contractor or its subcontractors shall hire additional employees from.

2.121.070 Community Advisory Board.

(a) **Purpose.** The purpose of the Community Advisory Board shall be to review the effectiveness of this Ordinance at creating and retaining Living Wage jobs, to make recommendations to the City Manager regarding the granting of Waivers to Covered Employers, to review the implementation and enforcement of this ordinance, and to make recommendations from time to time in connection therewith.

(b) **Composition.** The Community Advisory Board shall be composed of nine members and shall include representatives of labor unions, community organizations and the business community. All members will be appointed by the City Manager. Members of the Board shall serve a three-year term. Whenever a vacancy shall occur the City Manager shall appoint a replacement within thirty days of said vacancy.

(c) **Meetings.** The Community Advisory

Board shall meet quarterly and in special session as required. All meetings of the Board shall be open to the public and will allow for public testimony on the uses of the City Assistance generally, and on specific instances of Assistance or proposed Assistance as received or sought by individual enterprises.

(d) Conflict of Interest. No member of the Community Advisory Board shall participate in any proceeding concerning a Beneficiary, a Covered Employer or a Covered Employee, or applicant for waiver or exemption, if the member or any member of his or her immediate family has a direct or indirect financial interest in the outcome of said proceeding.

2.121.080 Enforcement.

(a) Enforcement powers. In order to enforce this Chapter, the Applicable Department may, with the approval and assistance of the City Solicitor, issue subpoenas, compel the attendance and testimony of witnesses and production of books,. papers, records, and documents relating to payroll records necessary for hearing, investigations, and proceedings. In case of failure to comply with a subpoena, the City may apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and the productions of books, papers, records, and documents. Said court, in the case of a refusal to comply with any such subpoena, after notice to the person subpoenaed, and upon finding that the attendance or testimony of such witnesses or the production of such books, papers, records, and documents, as the case may be, is relevant or necessary for such hearings, investigation, or proceedings, may issue an order requiring the attendance or testimony of such witnesses or the production of such documents and any violation of the court's order may be punishable by the court as contempt thereof.

(b) Complaint procedures. An employee who believes that he or she is a Covered Employee <u>or Covered Building Service Employee</u> or an applicant for a position to be filled by a Covered Employee <u>or Covered Building Service Employee</u> who believes that his or her employer is not complying with requirements of this Chapter applicable to the employer may file a complaint with the Applicable Department or with the Community Advisory Board. Complaints of alleged violations may also be filed by concerned citizens or by the City Council. Complaints of alleged violations may be made at any time, but in no event more than three years after the last date of alleged violation, and shall be investigated promptly by the Applicable Department. Statements written or oral, made by an employee, shall be treated as confidential and shall not be disclosed to the Covered Employer <u>or Covered Building Service Employer</u> without the consent of the employee.

(c) Investigations and hearings. The Applicable Department shall investigate the complaint, and may, in conjunction with the City Solicitor, and in accordance with the powers herein granted, require the production by the employer of such evidence as required to determine compliance. Prior to ordering any penalty the applicable Department shall give notice to the employer and conduct a hearing. If at any time during these proceedings, the employer voluntarily makes restitution of the wages not paid to the employee making the complaint and to any similarly situated employees, by paying all back

wages owed plus interest at the average prior year Massachusetts passbook savings bank rate, or otherwise remedies

the violation alleged if the violation involves matters other than wages, then the Applicable Department shall thereafter dismiss the complaint against the employer.

(d) Remedies. In the event that the Applicable Department, after notice and hearing, determines that any Covered Employer has failed to pay the Living Wage rate or any Covered Building Service Employer has failed to pay the Standard Wage or has otherwise violated the provisions of this Chapter, the Applicable Department may order any or all of the following penalties and relief:

(1) Fines up to the amount of $300 for each Covered Employee or Covered Building Service Employee for each day that the Covered Employer or Covered Building Service Employer is in violation of this Ordinance, except if the violation was not knowing and willful, then the total fine shall not exceed the amount of back wages and the monetary value of benefits and paid leave plus interest owed;

(2) Suspension of ongoing contract and subcontract payments;

(3) Ineligibility for future City Assistance for up to three years beginning when all penalties and restitution have been paid in full. In addition, all Covered Employers or Covered Building Service Employers having any principal officers who were principal officers of a barred beneficiary shall be ineligible under this section; and

(4) Restitution to the Covered Employee for violation of this Chapter, including but not limited to back wages and the monetary value of benefits and paid leave, plus interest owed.

(5) Any other action deemed appropriate and within the discretion and authority of the city.

Remedies in this section shall also apply to the party or parties aiding and abetting in any violation of this chapter.

(e) Private right of action. Any Covered Employee, Covered Building Service Employee or any person who was formerly employed by a Beneficiary or Covered Building Service Employer, may bring an action to enforce the provisions of this Chapter to recover back pay and benefits, attorneys fees and costs, and any other equitable relief as deemed appropriate by the court, by filing suit against a Beneficiary or Covered Building Service Employer in any court of competent jurisdiction.

(f) Remedies herein non-exclusive. No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce the right granted under this Chapter in a court of law. This Chapter shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

(g) Retaliation and discrimination barred. A Covered Employer shall not discharge, reduce the compensation or otherwise retaliate against any employee for making a complaint to the City, otherwise asserting his or her rights under this Chapter, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the Chapter. The City shall investigate allegations of retaliation or discrimination and shall, if found to be true, after notice and a hearing, order

appropriate relief as set out in paragraphs (c) and (d) herein

2.121.090 Severability.

In the event any provision of this ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

2.121.100 Effective Date.

This law shall be effective sixty (60) after final passage.

The Living Wage Ordinance (2.121) provides, at 1.121.030(b) that the wage shall be upwardly adjusted each year no later than March 1st in proportion to the increase in the Annual Average Consumer Price Index for the prior calendar year for All Urban Consumers (CPI-U) in the Boston area, as published by the federal Bureau of Labor Statistics.

For calendar year 1999, the CPI-U increased by 2.5%. Therefore the new living wage, as of March 1, 2000 is $10.25.

For calendar year 2000, the CPI-U increased by 4.3%. Therefore the new living wage, as of March 1, 2001 is $ 10.68.

For calendar year 2001, the CPI-U increased by 4.3%. Therefore the new living wage, as of March 1, 2002 is $11.11.

For calendar year 2002, the CPI-U increased by 2.6% . Therefore the new living wage, as of March 1, 2003 is $11.37.

The City Council has voted to amend the section of the Living Wage Ordinance (1.121.030 (b) that provides the method for calculating cost of living increases each year. As a result of this change, the living wage as of March 30, 2003 is $11.44.

For calendar year 2003, the CPI-U increased by 3.76%. Therefore the new living wage, as of March 1, 2004 is $11.87.

For calendar year 2004, the CPI-U increased by 2.7%. Therefore the new living wage, as of March 1, 2005 is $12.19.

For calendar year 2005, the CPI-U increased by 3.3%. Therefore the new living wage, as of March 1, 2006 is $12.59.

For calendar year 2006 the CPI-U increased by 3.1 %. Therefore the new living wage, as of March 1, 2007 is $12.98.

For calendar year 2007 the CPI-U increased by 1.9 %. Therefore the new living wage, as of March 1, 2008 is $13.23.

For calendar year 2008 the CPI-U increased by 3.5 %. Therefore the new living wage, as of March 1, 2009 is $13.69.

For calendar year 2009 the CPI-U decreased by .67 %. Therefore the new living wage, as of March 1, 2010 will remain at $13.69.

For calendar year 2010 the CPI-U increased by 1.57%. Therefore the new living wage, as of March 1, 2011 is $13.90.

Attachment B

Chapter 2.121

—LIVING WAGE ORDINANCE Sections:

2.121.010 –Title and Purpose
2.121.020 Definitions
2.121.030 Living Wage
2.121.040 Waivers and Exceptions
2.121.050 Notification Requirements 2.121.060 Duties of covered Employers
2.121.070 Community Advisory Board
2.121.080 Enforcement
2.121.090 Severability
2.121.100 Effective Date

2.121.010 Title and Purpose.

This Chapter shall be known as the "Cambridge Living Wage Ordinance". The purpose of this ordinance is to assure that employees of the City of Cambridge and employees of City contractors, subcontractors and beneficiaries of tax abatements, loans, grants, subsidies and other assistance provided by the City earn an hourly wage ~~this~~that is needed to support a family of four.

2.121.020 —Definitions.

For the purposes of this ordinance, the term:

(a) "Applicable Department" means the Personnel Department for employees of the City of Cambridge, the Purchasing Department, with the ~~advise~~advice and assistance of the appropriate department which receives the services, for Covered Employers who contract or subcontract with the City of Cambridge, the School Department for employees, contractors and subcontractors of the School Department, and the City Manager's Office for any other Person who is a Beneficiary of assistance other than a contract or subcontract.

(b) "Assistance" means:

(1) any grant, loan, tax incentive, bond financing, subsidy, or other form of assistance valued at least $10,000 that an employer receives by or through the authority or approval of the City of Cambridge, including, but not limited to, c. 121A tax abatements, industrial development bonds, Community Development Block Grant (CDBG) loans and grants, Enterprise Zone designations awarded after the effective date of this Chapter, and the lease of City owned land or buildings below market value; and

(2) any service contract, as defined herein, of at least $10,000 with the City of Cambridge that is made with an employer to provide services pursuant to G.L.~~c~~C. 30B or other public procurement laws, awarded, renegotiated or renewed after the

effective date of this Chapter.

(3) any service subcontract, as defined herein, of at least $10,000.

(c) "Beneficiary" means:

(1) ~~(1)~~any person who is a recipient of Assistance;

(2) ~~(2)~~any company or person that is a tenant or sub-tenant, leaseholder or sub-leaseholder of a recipient of Assistance, provided that said company or person ~~employes~~employs at least 25 persons and occupies property or uses equipment or property that is improved or developed as a result of Assistance, after the effective date of this Chapter; and

(d) ~~"~~**Covered Employer"** means the City of Cambridge or a Beneficiary of Assistance~~.~~, but does not include a Covered Building Services Employer.

(e) "Covered Employee" means:

(1) ~~(1)~~ a person employed by the City of Cambridge except for persons in those positions listed in Section 2.121.040(j) of this ordinance; and

(2) ~~(2)~~ a person, other than a Covered Building Service Employee, employed by a Covered Employer, or a person employed by an independent contractor doing business with a Covered Employer, who would directly expend any of his or her time on the activities funded by the contract or the activities for which the Beneficiary received the Assistance, except for persons in those positions listed in Section 2.121.040(j) of this ordinance.

(f) "Living Wage" has the meaning stated in Section 2.121.030.

(g) "Person" means one or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, ~~corporation~~corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by the Commonwealth of Massachusetts.

(h) ~~"~~ **"Service Contract~~"~~"** means a contract let to a contractor by the City of Cambridge for the furnishing of services, to or for the City, except contracts where services are incidental to the delivery of products, equipment or commodities. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a ~~"~~"service contract~~"~~" for the purposes of this definition.

(i) ~~"~~ **"Service Subcontract~~"~~"** means a subcontract primarily for the furnishing of services, to or for a recipient of Assistance, except where services are incidental to the delivery of products, equipment or commodities. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a ~~"~~"service ~~contract"~~subcontract" for the purposes of this definition.

(j) "Covered Building Service Employee" means any person performing building service work for a Covered Building Service Employer, either directly or through a contract or subcontract.

(k) "Building Services" or "Building Service Work" means work performed in connection with the cleaning of buildings and security guard services.

(l) "Covered Building Service Contract" means a contract or subcontract to provide Building Services to the City of Cambridge or any of its departments or subdivisions.

(m) "Covered Building Service Contractor" or "Covered Building Service Employer" means an entity providing Building Services on a Covered Building Service Contract or subcontract with the City or any of its departments or subdivisions.

(n) "Standard Compensation" has the meaning stated in Section 2.121.040.

2.121.030 –Living Wage.

(a) ~~(a)~~**Applicability.** Covered Employers shall pay no less than the Living Wage to their ~~employees~~employees.

(b) ~~(b)~~**Amount of wage.** The Living Wage shall be calculated on an hourly basis and shall be no less than $10.00, subject to adjustment as provided ~~therein~~herein. The Living Wage shall be upwardly adjusted each year no later than March first in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Annual Average Consumer Price Index for All Urban Consumers (CPI -U) ~~Boston-Lawrence~~BostonLawrence-Salem, MA - NH, as published by the Bureau of Labor Statistics, United States Department of Labor applied to ~~the then existent living wage. Effective March 30, 2003, the Living Wage shall be calculated to reflect the compounded increase in the above-referenced CPI since the inception of the ordinance. (Ord. 1262, 2003)~~ $10.00.

(c) ~~(c)~~ **No reduction in collective bargaining wage rates.** Nothing in this Chapter shall be read to require or authorize any beneficiary to reducewages set by a collective bargaining agreement.

(d) Cuts in non-wage benefits prohibited. No Beneficiary will fund wage increases required by this Chapter, or otherwise respond to the provisions of this Chapter, by reducing the health, insurance, pension, vacation, or other non-wage benefits of any of its employees.

~~(Ord 1262, Amended, 03/31/2003)~~

2.121.040 -"Standard Compensation"

(a) **Applicability.** Covered Building Services Employers shall pay no less than the Standard Compensation to Covered Building Service Employees.

(b) **Standard Compensation** shall include the standard hourly rate of pay for the relevant classification.

(c) **Amount.** (i)The "Standard Hourly Rate of Pay" for Covered Building Service Employees other than for security guards shall be the greatest of the following:

(1) The Living Wage rate as defined in 2.121.030; or

(2) the prescribed rate of wages as determined by the director of the department of labor standards pursuant to section 27H of chapter 149 of the General Laws of Massachusetts;

(ii)The "Standard Hourly Rate of Pay for security guards" shall be the greatest of the following:

(1) The Living Wage rate as defined in 2.121.030; or

(2) the prescribed rate of wages as determined by the director of the department of labor standards pursuant to section 3 of chapter 195 of the Massachusetts Acts of 2014; or

(3) the hourly rate paid to workers in the relevant classification under a preceding Building Service Contract.

(iii) The Standard Hourly Rate of Pay for Covered Building Service Employees other than for security guards shall be annually adjusted to be no less than the greatest of the following:

(1) the previous hourly rate of pay increased by the annual percentage difference between the current Boston-Lawrence-Salem, MA - NH Consumer Price Index (CPI) for all items for All Urban Consumers and the same CPI for the same month of the previous year, or

(2) the current prescribed rate of wages as determined by the director of the department of labor standards pursuant to section 27H of chapter 149 of the General Laws of Massachusetts.

(iv) The Standard Hourly Rate of Pay for security guards shall be annually adjusted to be no less than the greatest of the following:

(1) the previous hourly rate of pay increased by the annual percentage difference between the current Boston-Lawrence-Salem, MA - NH Consumer Price Index (CPI) for all

items for All Urban Consumers and the same CPI for the same month of the previous year. or

(2) the current prescribed rate of wages as determined by the director of the department of labor standards pursuant to section 3 of chapter 195 of the Massachusetts Acts of 2014.

2.121.050 Waivers and Exceptions.

(a) ~~(a)~~ **Waivers.** A Covered Employer may request that the City Manager grant a partial or whole waiver to the requirements of this Chapter. There shall be no waivers or exceptions made with respect to the Standard Compensation for Covered Building Service Employees.

(b) ~~(b)~~ **General Waivers.** Waivers may be granted where application of this Chapter to a particular form of Assistance is found by the ~~city~~City Solicitor to violate a specific state or federal statutory, regulatory or constitutional provision or provisions, and the City Manager approves the waiver on that basis.

(c) ~~(c)~~ **Hardship Waivers for certain not- for-profit employers.** An employer, who has a contract with the City of Cambridge which is not subject to the provisions of G.L. c. 30B, may apply to the City Manager for a specific waiver where payment of the Living Wage by a not-for-profit Covered Employer would cause a substantial hardship to the Covered Employer.

~~(c)~~(d) ~~(d)~~ **Chapter 30B contract waivers.** Prior to issuing an invitation for bids for a procurement contract subject to the provisions of G.L. c. 30B, any Applicable Department may apply to the City Manager for a waiver of the application of the Living Wage to the contract where payment of the Living Wage by a Covered Employer would make it inordinately expensive for the City to contract for the services or would result in a significant loss of services, because the contracted work cannot be segregated from the other work of the Covered Employer.

(e) General Waiver Request Contents. All General Waiver requests shall include the following:

(1) ~~(1)~~The nature of the Assistance to which this Chapter applies;

(2) ~~(2)~~The specific or official name of the Assistance and Assistance program, the statutory or regulatory authority for the granting of the Assistance, and a copy of that authority;

(3) ~~(3)~~ The conflicting statutory, regulatory, or constitutional provision or provisions that ~~make~~makes compliance with this Chapter unlawful, and a copy of each such provision; and

(4) ~~(4)~~A factual explication and legal analysis of how compliance with this Chapter would violate the cited provision or provisions, and the legal consequences that would attach if the violation were to occur.

(f) Hardship Waiver Request Contents. All Hardship Waiver requests shall include the following:

(1) ~~(1)~~The nature of the Assistance to which this Chapter applies;

(2) ~~(2)~~A detailed explanation of why payment of the Living Wage would cause a substantial hardship to the Covered Employer; and

(3) ~~(3)~~ A statement of proposed wages below the Living Wage.

(g) Chapter 30B Contract Waiver Request Contents. A Chapter 30B contract waiver request shall include the following:

(1) ~~(1)~~ The nature of the Assistance to which this Chapter applies;

(2) ~~(2)~~ A detailed explanation of why the contracted work cannot be segregated from the other work of the bidding Covered Employers thereby making the cost of the contract with the payment of the Living Wage inordinately expensive or would result in a significant loss of services~~.~~;

(h) Community Advisory Board review and recommendation regarding waiver requests. The Community Advisory Board, as described in Section 2.121.070 of this ordinance, shall consider waiver requests along with their supporting documentation and analysis, and may hold a public hearing to consider the views of the public before making a recommendation to the City Manager regarding the waiver request. For a hardship waiver, the Community Advisory Board shall offer an opportunity to be heard to employees of the Covered Employer. After reviewing the recommendation of the Community Advisory Board, the City Manager may approve and grant or deny all or part of a request. The City Manager may in his or her discretion grant a temporary hardship waiver pending the hearing before the Community Advisory Board. For Chapter 30B contract waivers, the Community Advisory Board shall make its recommendation to the City Manager no more than thirty days after it is notified of the request for a Chapter 30B contract waiver.

~~(i)~~ (i) **Terms of exceptions.** If an employer is subject to this Chapter as a result of its receipt of more than one kind of Assistance covered by this Chapter, and if the City Manager grants a waiver with respect to one form of Assistance, the City Manager need not find that this Chapter is inapplicable to the employer with respect to another form of Assistance received by the employer.

(j) **Exceptions.** The following positions will be excepted from the requirement of the payment of the Living Wage upon certification in an affidavit in a form approved by the Applicable Department and signed by a principal officer of the Covered Employer that the positions are as follows:

(1) ~~(1)~~ youth hired pursuant to a city, state, or federally funded program which employs youth as defined by city, state, or federal guidelines, during the summer, or as part of a school to work program, or in other related seasonal or part-time program;

(2) ~~(2)~~ work-study or cooperative educational programs;

(3) ~~(3)~~ trainees who are given a stipend or wage as part of a job training program that provides the trainees with additional services, which may include, but are

not limited to, room and board, case management, or job readiness services~~;~~.

(4) ~~(4)~~persons working in a recognized supported employment program that provides workers with additional services, which may include, but are not limited to, room and board, case management, counseling, or job coaching~~;~~;

(5) ~~(5)~~ positions where housing is provided by the employer;

(6) ~~(6)~~ employees who are exempt from federal or state minimum wage requirements; and

(7) ~~(7)~~ individuals employed by the City of Cambridge where the employment of such individuals is intended primarily to provide a benefit or subsidy to such individuals, although the City is compensating them for work performed.

2.121.~~050~~ ~~060~~Notification Requirements.

All Applicable Departments shall provide in writing an explanation of the requirements of this ordinance in all requests for bids for service contracts and to all persons applying for Assistance as defined by this ordinance. All persons who have signed a service contract with the City of Cambridge or a contract for Assistance shall forward a copy of such requirements to any person submitting a bid for a subcontract on the Assistance contract.

All Covered Building Service Contracts and all solicitations for Building Services issued by the City of Cambridge or any of its departments or subdivisions, shall contain a provision indicating the number of hours or work required and stating the Standard Compensation for the relevant classification that is applicable to the Covered Building Service Employees and shall contain a stipulation that the Covered building Service employees shall be paid not less than the Standard Compensation for the relevant classifications.

All requests for proposals or other solicitations and all specifications for Building Service Work, shall include specific reference to this chapter, shall state the required number of hours, and shall require prospective building service contractors to submit pricing on a standard worksheet furnished by the City that specifies the components of hourly pricing for the duration of the contract.

2.121.~~060~~ ~~070~~Duties of Covered Employers.

(a) Notification Requirements.

Covered employers and Covered Building Service Employers shall provide each Covered employee with a fact sheet about this ordinance and shall post a notice about the ordinance in a conspicuous location visible to all ~~employes~~employees. The fact sheet and poster shall be provided ~~tot he~~to the Covered Employer by the

Applicable Department and shall include:

(1) notice of the Living Wage amount~~;~~ and notice of the Standard Compensation amount;

(2) a summary of the provisions of this ordinance;

(3) a description of the enforcement provisions of the ordinance;

(4)the name, address, and phone number of a person designated by the Applicable Department to whom complaints of noncompliance with this ordinance should be directed.

(b) Contract for Assistance. At the time of signing a contract for assistance with the City of Cambridge or with a Beneficiary, or a Covered Building Service Contract, the contract must include the following:

(1) ~~(1)~~the name of the program or project under which the contract or subcontract is being awarded;

(2) ~~(2)~~a local contact name, address, and phone number for the Beneficiary;

(3) ~~(3)~~a written commitment by the Beneficiary to pay all Covered Employees not less than the Living Wage or Standard Wage if applicable, as subject to adjustment under this ordinance and to comply with the provisions of this ordinance;

(4) ~~(4)~~a list of Covered Employees and Covered Building Service Employees under the contract with the ~~employees'~~employees' job titles;

(5) ~~(5)~~ a list of all subcontracts either awarded or that will be awarded to Beneficiaries with funds from the Assistance. Upon signing any subcontracts, the Covered Employer shall forward a copy of the subcontract to the Applicable Department.

(c) Maintenance of payroll records. Each Covered Employer shall maintain payrolls for all Covered Employees and basic records relating thereto and shall preserve them for a period of three years. The records shall contain the name and address of each employee, the job title and classification, the number of hours worked each day, the gross wages, deductions made, actual wages paid, and copies of social security wage and withholding reports, and evidence of payment thereof and such other data as may be required by the Applicable Department from time to time.

(d) ~~(d)~~ Applicable Department duties. The Applicable Department shall cause investigations to be made as may be necessary to determine whether there has been compliance with this Ordinance. The Applicable Department shall report the findings of all such investigations to the Community Advisory Board.

(e) ~~(e)~~ Covered Employer to cooperate. The Covered Employer shall submit payroll records on request to the Applicable Department. The Covered Employer shall permit City representatives to observe work being performed upon the work site, to interview employees and to examine the books and records relating to the payrolls being investigated to determine payment of wages.

(f) ~~(f)~~ **City Assistance Reports.** Each Applicable Department shall file a City Assistance Report with the City Manager and the Community Advisory Board by July 31 of each year~~.~~ The report shall include, for each Assistance package or contract approved during the preceding fiscal year:

(1) ~~(1)~~the name of the Applicable Department (awarding agency), the name of the specific program under which the Assistance was awarded, and the origin of funds for Assistance;

(2) ~~(2)~~a description of the purpose or project for which the Assistance was awarded;

(3) ~~(3)~~the name, address, and phone number of a local contact person for the Covered Employer;

(4) ~~(4)Thethe~~ total cost to the City of Assistance provided to each Beneficiary, including both face-value of Assistance, as well as revenue not collected as a result of the Assistance.

(g) **Payroll reporting.** Every six (6) months, a Covered Building Service Employer, shall file with the City a complete certified payroll showing the Covered Building Service Employer's payroll records for each Covered Building Service Employee. Upon request, the Covered Building Service Employer shall produce for inspection and copying the payroll records for any or all applicable Covered Building Service Employees for the prior three (3) year period.

2.121.~~070~~ 080 Community Advisory Board.

(a) ~~(a)~~ **Purpose.** The purpose of the Community Advisory Board shall be to review the effectiveness of this Ordinance at creating and retaining Living Wage jobs, to make recommendations to the City Manager regarding the granting of Waivers to Covered Employers, to review the implementation and enforcement of this ordinance, and to make recommendations from time to time in connection therewith.

(b) ~~(b)~~ **Composition.** The Community Advisory Board shall be composed of nine members and shall include representatives of labor unions, community organizations and the business community. All members will be appointed by the City Manager. Members of the Board shall serve a three-year term. Whenever a vacancy shall occur the City Manager shall appoint a replacement within thirty days of said vacancy.

(c) ~~(c)~~ **Meetings.** The Community Advisory Board shall meet quarterly and in special session as required. All meetings of the Board shall be open to the public and will allow for public testimony on the uses of the City Assistance generally, and on specific instances of Assistance or proposed Assistance as received or sought by individual enterprises.

~~(c)~~(d) **(d) Conflict of Interest.** No member of the Community Advisory Board shall participate in any proceeding concerning a Beneficiary, a Covered Employer or a Covered Employee, or applicant for waiver or exemption, if the member or any member of his or her immediate family has a direct or indirect financial interest in the outcome of said proceeding.

2.121.~~080~~ ~~090~~Enforcement.

(a) Enforcement powers. In order to enforce this Chapter, the Applicable Department may, with the approval and assistance of the City Solicitor, issue subpoenas, compel the attendance and testimony of witnesses and production of books, papers, records, and documents relating to payroll records necessary for hearing, investigations, and proceedings. In case of failure to comply with a subpoena, the City may apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and the productions of books, papers, records, and documents. Said court, in the case of a refusal to comply with any such subpoena, after notice to the person subpoenaed, and upon finding that the attendance or testimony of such witnesses or the production of such books, papers, records, and documents, as the case may be, is relevant or necessary for such hearings, investigation, or proceedings, may issue an order requiring the attendance or testimony of such witnesses or the production of such documents and any violation of the ~~court's~~court's order may be punishable by the court as contempt thereof.

(b) **Complaint procedures.** An employee who believes that he or she is a Covered Employee or an applicant for a position to be filled by a Covered Employee who believes that his or her employer is not complying with requirements of this Chapter applicable to the employer may file a complaint with the Applicable Department or with the Community Advisory Board. Complaints of alleged violations may also be filed by concerned citizens or by the City Council. Complaints of alleged violations may be made at any time, but in no event more than three years after the last date of alleged violation, and shall be investigated promptly by the Applicable Department. Statements written or oral, made by an employee, shall be treated as confidential and shall not be disclosed to the Covered Employer without the consent of the employee.

(c)——**Investigations and hearings.** The Applicable Department shall investigate the complaint, and may, in conjunction with the City Solicitor, and in accordance with the powers herein granted, require the production by the employer of such evidence as required to determine compliance. Prior to ordering any penalty the applicable Department shall give notice to the employer and conduct a hearing. If at any time during these proceedings, the employer voluntarily makes restitution of the wages not paid to the employee making the complaint and to any similarly situated employees, by paying all back wages owed plus interest at the average prior year Massachusetts passbook savings bank rate, or otherwise remedies the violation alleged if the violation involves matters other than wages, then the

Applicable Department shall thereafter dismiss the complaint against the employer.

(d) Remedies. In the event that the Applicable Department, after notice and hearing, determines that any Covered Employer has failed to pay the Living Wage rate or has otherwise violated the provisions of this Chapter, the Applicable Department may order any or all of the following penalties and relief:

(1) ~~(1)~~ Fines up to the amount of $300 for each Covered Employee for each day that the Covered Employer is in violation of this Ordinance, except if the violation was not knowing and willful, then the total fine shall not exceed the amount of back wages plus interest owed;

(2) ~~(2)~~ Suspension of ongoing contract and subcontract payments;

(3) ~~(3)~~ Ineligibility for future City Assistance for up to three years beginning when all penalties and restitution have been paid in full. In addition, all Covered Employers having any principal officers who were principal officers of a barred beneficiary shall be ineligible under this section; and

~~(1)~~(4) ~~(4)~~ Any other action deemed appropriate and within the discretion and authority of the city.

Remedies in this section shall also apply to the party or parties aiding and abetting in any violation of this chapter.

(e) Private right of action. Any Covered Employee, or any person who was formerly employed by a Beneficiary, may bring an action to enforce the provisions of this Chapter to recover back pay and benefits, attorneys fees and costs, by filing suit against a Beneficiary in any court of competent jurisdiction.

(f) ~~(f)~~ **Remedies herein non-exclusive.** No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce the right granted under this Chapter in a court of law. This Chapter shall not be construed to limit an ~~employee's~~employee's right to bring a common law cause of action for wrongful termination.

(g) ~~(g)~~ **Retaliation and discrimination barred.** A Covered Employer shall not discharge, reduce the compensation or otherwise retaliate against any employee for making a complaint to the City, otherwise asserting his or her rights under this Chapter, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the Chapter. The City shall investigate allegations of retaliation or discrimination and shall, if found to be true, after notice and a hearing, order appropriate relief as set out in paragraphs (c) and (d) herein.

2.121.~~090~~ 100 Severability.

In the event any provision of this ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

2.121.~~100~~ 110 Effective Date.
This law shall be effective sixty (60) ~~days~~ after final passage.

~~(1222, Added, 05/03/1999)~~