ARTICLE XVII. LIVING WAGE

Sec. 2-221. Purpose.
It is the purpose of this article to establish a living wage for all service workers employed for work performed in execution of service contracts with the City of New Haven. (Ord. of 4-24-97)

Sec. 2-222. Definitions.
As used in this article, the following terms have the meanings indicated unless the context clearly requires a different meaning:
(a) City means the government of the City of New Haven or any agency, board, commission, department, or other entity thereof, or any successor thereto.
(b) City property means land and buildings owned or leased by the city, which property is used to house city programs or offices, and public streets, parks, and spaces owned by the city; however, city property does not mean such property leased by the city to non-city persons, or such property obtained by the city for eventual lease or sale to non-city persons.
(c) Person means any individual, corporation, partnership, joint venture, or other entity; however, person does not mean a private corporation organized under section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. section 501(c)(3), whose chief executive officer earns a salary which when calculated on a hourly basis is less than eight (8) times the lowest wage paid by the corporation.
(d) Service contract means a contract that is:
(1) Paid in whole or in part from one (1) or more of the city's general fund, capital project funds, or special revenue funds, as such funds are defined in section 2-176 of this chapter; and
(2) Awarded by the city to a service contractor to provide one (1) or more of the following services on a weekly or more frequent basis:
(i) Food preparation and/or distribution on an ongoing basis on or to city property for programs of the city, except occasional meetings, receptions, or similar functions; or
(ii) Security services on city property; or
(iii) Custodial, cleaning, and/or routine, non-technical maintenance services on city property; or
(iv) Clerical and other non-supervisory office work; or
(v) Transportation to, from, or among city facilities; or
(vi) Management or supervision or other oversight, study, or review of one (1) or more of the services specified hereinbefore in subsection (d)(2).
All contracts satisfying the criteria specified hereinbefore in subsection (d) shall be designated as service contracts by the city purchasing agent.
(e) Service contractor means the person awarded a city service contract and includes all subcontractors of service contractors.
(f) Service worker means any employee of a service contractor who performs one (1) or more of the services specified in subsection (d) hereinbefore pursuant to a service contract.
However:

1. **Service worker** does not mean:
   a. An individual person whose *wage* rate is subject to a United States or State of Connecticut statute mandating a prevailing *wage* or other *wage* rate imposed by such statute or any regulation duly promulgated pursuant to such statute by the United States or State of Connecticut or any official, department, agency, or other entity thereof; or
   b. An individual person the majority of whose employment duties constitute work as a carpenter, electrician, glazier, painter, roofer, or any other trade as defined by the Department of Labor of the United States or of the State of Connecticut.
   c. Any individual person employed directly by the city.

2. Service contractors and service workers may by collective bargaining agreement provide that such agreement shall supersede the requirements of this article.

3. **Living wage** means the minimum hourly *wage* rate, before taxes and all other employee deductions, that may be paid to a service worker for work performed on a service contract. Payment of *living wages* shall be made either weekly or bi-weekly.

   1. "Work performed on a service contract" means all employment hours spent performing duties required to fulfill an employee's responsibilities pursuant to a service contract as defined by this ordinance.

   2. Example: A service worker is employed by a firm which has a service contract with the city. The employee works forty (40) hours per week for the firm. Pursuant to the service contract with the city, the employee works on-site in a city building twenty-five (25) hours per week, works five (5) hours per week at the offices of the service contractor ordering supplies used in the city building, and meets for one (1) hour each week at the offices of the firm to review service contract performance with the owner of the firm. In total, the employee works thirty-one (31) hours per week on the service contract, and nine (9) hours per week on other duties assigned by the employer.

   3. Using the example in subsection (g)(2) hereinbefore, for thirty-one (31) of the forty (40) hours per week during which the employee works for the firm, the employee is a service worker who must be paid no less than the *living wage*.

   h. **Community-based hiring hall** means any organized job registry and referral service operated by the New Haven Jobs Center, the Regional Workforce Development Board, a Community Development Corporation incorporated under the laws of the State of Connecticut, or other nonprofit or governmental entity; however, as a prerequisite for designation as a community-based hiring hall within the meaning of this article, any entity must meet the following requirements:

   1. The entity must be approved and designated as a community-based hiring hall by the city controller; and
   2. The entity must have an established community membership base in New Haven and a record of conducting outreach in low-and moderate-income communities, as well as underserved minority neighborhoods; and
   3. The entity must have an established process whereby a service contractor can post job openings, and where referrals from the hiring hall to the city can begin within forty-eight (48) hours of such posting; and
   4. The entity must be located in New Haven or be an agency of the State of Connecticut.
(i) *Fine* means a penalty, as authorized by section 7-148(c)(10)(A) of the statutes, section 54 of the Charter of the city, and section 1-8 of the ordinances, of one hundred dollars ($100.00) as specified elsewhere within this article for violation of a provision of this article.
(Ord. of 4-24-97; Ord. No. 1348, 3-15-04)

**Sec. 2-223. Living wage required.**
All service contractors shall pay their service workers no less than the *living wage*. No service contractor may use the *living wage* requirement of this article to reduce the compensation paid to any of its service workers.
(Ord. of 4-24-97)

**Sec. 2-224. Phase-in and determination of living wage; review committee.**
The *living wage* shall be phased-in and determined by the city controller as follows:
(a) For the twelve-month year commencing on July 1, 1997, the *living wage* shall equal one hundred (100) percent of the poverty threshold, as published by the Bureau of the Census in "Table 1. Poverty Thresholds by Size and Family and Number of Related Children: 1995: in the publication entitled Poverty in the United States: 1995, for a family of four (4) which family includes two children under eighteen (18) years of age within the household.
(b) By December 15, 1997, the city controller shall notify the board of aldermen, the office of management and budget, the city purchasing agent, and all current service contractors of the *living wage* for the twelve-month year commencing on July 1, 1998. The *living wage* for that year shall equal one hundred five (105) percent of the most recent poverty threshold, as published by the Bureau of the Census in the previous year, for a family of four (4) which family includes two (2) children under eighteen (18) years of age within the household.
(c) By December 15, 1998, the city controller shall notify the board of aldermen, the office of management and budget, the city purchasing agent, and all current service contractors of the *living wage* for the twelve-month year commencing on July 1, 1999. The *living wage* for that year shall equal one hundred ten (110) percent of the most recent poverty threshold, as published by the Bureau of the Census in the previous year, for a family of four (4) which family includes two (2) children under eighteen (18) years of age within the household.
(d) By December 15, 1999, the city controller shall notify the board of aldermen, the office of management and budget, the city purchasing agent, and all current service contractors of the *living wage* for the twelve-month year commencing on July 1, 2000. The *living wage* for that year shall equal one hundred fifteen (115) percent of the recent poverty threshold, as published by the Bureau of the Census in the previous year, for a family of four (4) which family includes two (2) children under eighteen (18) years of age within the household.
(e) By December 15, 2000, the city controller shall notify the board of aldermen, the office of management and budget, the city purchasing agent, and all current service contractors of the *living wage* for the twelve-month year commencing on July 1, 2001. The *living wage* for that year shall equal one hundred twenty (120) percent of the most recent poverty threshold, as published by the Bureau of the Census in the previous year,
for a family of four (4) which family includes two (2) children under eighteen (18) years of age within the household.

(f) On May 1, 2001, and at least every five (5) years thereafter, the mayor of the city and the president of the board of aldermen shall convene an ad hoc committee to determine an appropriate living wage for the twelve-month year commencing on July 1, 2002 and subsequent years.

1) Such determination shall be based upon the impact of this article, the state of poverty and unemployment within New Haven, the costs of medical benefit plans to employers and employees in New Haven, and the exclusions or other limitations of such plans.

2) Said ad hoc committee shall have eleven (11) members, including three (3) city administrators appointed by the mayor, three (3) aldermen elected by the board of aldermen of which no more than two (2) shall be of the same political party, and five (5) community representatives appointed by the mayor and the president of the board of aldermen with the approval of the board of aldermen. In appointing the community representatives, consideration shall be given to representatives from such groups as clergy associations, including Elm City Congregations Organized and the Greater New Haven Black Clergy Association; labor unions; community health agencies; representatives of small businesses, including the Greater New Haven Business and Professional Association; and the National Association for the Advancement of Colored People. All members of said committee shall be resident electors of New Haven.

(g) The city controller shall calculate the living wage on the basis of a forty-hour work week and fifty-two-week year (2,080 hours per year).

(h) Every two (2) years, unless the ad hoc commission meets, the annual living wage shall be increased by the Northeast CPI-W, as published by the federal government.

(Ord. of 4-24-97; Ord. of 2-17-99; Ord. No. 1348, 3-15-04)

Sec. 2-225. Other requirements.
In addition to other requirements established elsewhere in this article or elsewhere by any other law or regulation, every service contract shall be subject to each of the following requirements unless, in a particular contract, such requirement would be contrary to an applicable statute or regulation duly promulgated pursuant to such statute by the United States or State of Connecticut or any official, department, agency, or other entity thereof:

(a) Every service contract and every service contractor shall be subject to the requirements of sections 28-15 and 28-16 of the ordinances.

(b) Every service contract, regardless of whether such contract shall be initiated through or result from requests for competitive bids, requests for proposals, or some other form of solicitation, or from negotiation or agreement or other decision to enter into a contract, shall be subject to the preferences granted to city-based businesses under section 2-153 of this chapter.

(c) Every service contract shall include language, approved by the city's corporation counsel as to form and correctness, stating the agreement of the city and of the service contractor.

1) To require the service contractor to adhere to all applicable federal, state, and local laws or regulations which require or encourage employers to adopt and implement affirmative action plans; and
(2) To require the service contractor to adhere to all applicable federal, state, and local laws or regulations pertaining to the employment of persons with disabilities; and
(3) To require the service contractor to give priority in hiring to employees of the service contractor who previously had the contract for such service and to laid-off city employees for service work if those employees would have had rights to such work if the work were being performed by city employees rather than service workers; and
(4) To encourage the service contractor to hire and train current or former welfare recipients for service work.

(d) Pursuant to section 2-37 of this chapter, the city controller shall withhold the order for payment of any invoice, loan, grant, or other claim due from the city to a service contractor until any and all indebtedness of such service contractor to the city (including but not limited to fines levied pursuant to any provision of this article, property taxes, judgments, permits, parking tickets, and loan repayments) shall have been satisfied.
(e) Service contractors shall provide information to service workers whose gross hourly pay is less than twelve dollars ($12.00) per hour of their possible right to the federal Earned Income Credit ("E.I.C.") under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. Section 32, and shall make available to such service workers forms informing them about the E.I.C. and forms required to secure advance E.I.C. payments from the service contractor.

Sec. 2-226. Implementation.
(a) The **living wage** shall be required in:
(1) All service contracts for which bids or proposals shall be solicited on or after the date upon which this article shall become operative and in effect; and
(2) All service contracts which shall become effective on or after July 1, 1997; and
(3) All extensions or renewals of service contracts, which extensions or renewals shall be executed on or subsequent to the date upon which this article shall become operative and in effect.

(i) Exception: If the discretion to extend or renew such a service contract lies solely with the city, then the city must either grant such discretion to the service contractor or solicit bids or proposals for a new service contract.
(b) All requests for bids and requests for proposals for service contracts, whether advertised or informally solicited, shall include appropriate information about the requirements of this article.
(c) All service contracts shall include language, approved by the city's corporation counsel as to form and correctness, incorporating the provisions of this article as those provisions apply to the service contract.

(Ord. of 4-24-97)

Sec. 2-227. Community-based hiring halls; revocation.
(a) The city controller shall maintain a current list of community-based hiring halls. A copy of said current list shall be provided to a service contractor with the award of the service contract. The city controller shall establish procedures to ensure the proper functioning and use of the community-based hiring halls, which procedures shall include the following provisions among others:
Upon receipt of a service contract award, and as vacancies may occur subsequently, a service contractor shall promptly post all vacant service work positions with the community-based hiring halls.

Any person, regardless of race, color, religion, national origin, sex, age, marital status, handicap, or other characteristic, regardless of residence, may register with any community-based hiring hall, and no request from such person to be referred for posted positions may be denied.

Beginning July 1, 1998, service contractors shall give first consideration for vacant service worker positions to persons referred by the community-based hiring halls.

When a posted position has been filled, or eliminated, by the service contractor, the service contractor immediately shall give written notice of the change in status of the position to the community-based hiring halls.

In the event that the city controller shall determine, after issuance of a written warning, that a community-based hiring hall has failed to satisfy one (1) or more of the requirements of this section or is no longer in compliance with all of the requirements of section 2-222(h) of this chapter, said controller may revoke his approval and designation of the entity as a community-based hiring hall.

Sec. 2-228. Responsibility for effectuation and enforcement.

(a) The city controller shall be responsible for effectuation and enforcement of this article. The city controller shall establish such written procedures, require such record keeping and/or reporting, and provide for the monitoring or other review of the service contractor's records or reports, as the controller shall deem necessary for the faithful effectuation and enforcement of this article. The city controller shall consult with the city's commission on equal opportunities regarding procedures which might be used to ensure compliance with provisions of law pertaining to equal opportunities.

(b) The city controller shall include in the written procedures provisions, based upon sections 2-229 to 2-231 of this article, for the possibility of noncompliance by service contractors and for appropriate responses, up to and including service contract termination, by the city. No penalty authorized in sections 2-229 to 2-231 of this article, shall be imposed by the city controller prior to issuance of a written warning as required by section 7-148(c)(10)(A) of the statutes.

Sec. 2-229. Enforcement.

(a) Every service contractor shall post copies of documents, provided by the city controller, stating the living wage applicable to service workers. In addition, such posting shall include a form which may be used by service workers to file a complaint with the city controller for noncompliance with the provisions of this article. Such postings shall be made at the work site in a prominent place where all documents posted pursuant to this article may easily be seen and read by service workers. A copy of each such document shall be given by the service contractor to any service worker upon request of that service worker no later than (i) the last hour of the service worker's next shift or (ii) the last hour of the next business day.
(1) Fine. For each violation of subsection (a) of this section, the city controller shall levy upon and collect from the service contractor a fine, due and payable to the city, of one hundred dollars ($100.00) per day for such violation.

(i) For example, if one (1) or more of the documents required to be posted had not been posted for three (3) business days, the fine would be three hundred dollars ($300.00).

(b) In the event that the city controller shall determine that a service contractor has paid a service worker a sum less than the living wage for service work, the city controller shall require the service contractor to make full restitution to the service worker (i) in the service worker's next paycheck or (ii) within five (5) business days if the service worker is no longer employed by the service contractor.

(1) "Full restitution" means:

(i) The difference between the sum paid by the service contractor to the service worker and the living wage.

(ii) Plus, if payment of such difference shall occur more than thirty (30) days after the work week during which the pay shortage occurred, interest on such difference, which interest shall be calculated at the statutory rate of ten (10) percent per annum.

(2) Fine. For each violation of subsection (b) of this section, the city controller shall levy upon and collect from the service contractor, a fine, due and payable to the city within five (5) business days, of one hundred dollars ($100.00) per day for such violation.

(i) For example, if a service contractor paid two (2) service workers less than the living wage on three (3) days, the fine would be six hundred dollars ($600.00).

(c) Additional fines. The city controller shall levy upon and collect from a service contractor additional fines, due and payable to the city, as follows:

(1) For failure to make restitution to a service worker pursuant to subsections (b) and (b)(1) of this section, one hundred dollars ($100.00) per day for every calendar day subsequent to the last day upon which such service contractor paid such service worker a sum less than the living wage for service work.

(2) For failure to rectify a violation of subsection (a) of this section before the end of the business day following the day such service contractor received notice of such violation from the city controller, one hundred dollars ($100.00) per day for every business day subsequent to the last day of such violation so noticed.

(3) For failure to make proper, timely payment in full of any fine levied pursuant to this section, one hundred dollars ($100.00) per day from the day payment of such fine was due.

(4) For failure to submit payroll records within one (1) week of the payroll period, ten dollars ($10.00) per day for each day after such week shall expire.

(Ord. of 4-24-97)

Sec. 2-230. Termination of contract.
In addition to other provisions of law or contract which may constitute grounds for termination by the city of a service contract, such contract may be terminated following a determination that a service contractor:

(a) Fired a service worker, or caused (wholly or partly) an involuntary resignation or an involuntary retirement by the service worker, in retaliation for any action by or on behalf of the service worker to obtain or exercise any or all rights, privileges, or entitlements conferred upon such service worker by this article.
(b) Failed to fully rectify or correct any violation of any provision of this article within thirty (30) calendar days of receipt by the service contractor or the service contractor's agent of the city controller's notice of such violation.

(c) Failed to make full restitution to a service worker pursuant to subsections (b) and (b)(1) of section 2-229 of this article within thirty (30) days of receipt by the service contractor or the service contractor's agent of the city controller's notice of a violation of such subsections.

(d) Failed to pay part or all of any fine levied by the city controller pursuant to any provision of section 2-228 of this article within sixty (60) days of receipt by the service contractor or the service contractor's agent of the city controller's notice of such levy.

(e) Failed to provide the city controller, in a timely manner and on a regular basis, verification of wages paid to service employees.

(f) Failed to cooperate in the city's audit of the service contractor's payroll records.

(Ord. of 4-24-97)

Sec. 2-231. Ineligibility to contract.

(a) The city controller shall declare any service contractor whose service contract with the city was terminated pursuant to section 2-230 of this article to be ineligible to contract with the city.

(b) The city controller may declare any service contractor who has committed three (3) or more violations of the provisions of this article to be ineligible to contract with the city.

(c) "Ineligible to contract with the city" means that such service contractor, and any parent or subsidiary or related entity of such service contractor, shall be ineligible to submit bids or proposals for any contract or other agreement with the city, and to be ineligible to enter into any contract or agreement (including a new contract or other agreement, or a renewal or extension or amendment of an existing contract or other agreement) with the city.

(d) Such period of ineligibility shall be for at least one (1) but not more than three (3) calendar years. At any time after the first year of ineligibility has been completed, the city controller may declare that the period of such ineligibility is terminated.

(e) Declarations made pursuant to this section shall be issued in writing to the service contractor, and the city controller shall furnish copies of all such declarations promptly upon issuance to the city purchasing agent and the heads of all city authorities, boards, bureaus, commissions, departments, and other entities.

(Ord. of 4-27-97)

Sec. 2-232. Private cause of action.

An employee claiming violation of this article may bring an action in the Superior Court of the State of Connecticut against a service contractor and may be awarded full restitution. The court shall award reasonable attorney's fees and costs to an employee who prevails in such an enforcement action. There shall be no duty to exhaust any other remedies before bringing such an action. However, no such enforcement action may be brought in said court if the city controller has already initiated enforcement proceedings concerning the alleged violations.

(Ord. of 4-27-97)
Sec. 2-233. Annual report.
Each January, the city controller shall submit to the board of aldermen an annual report for the preceding fiscal year regarding implementation of this article, including fiscal impact and impact on hiring of New Haven residents.
(Ord. of 4-27-97)

Sec. 2-234. Severability.
If any provision of this article shall be declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.
(Ord. of 4-24-97)

Sec. 2-235--2-240. Reserved.