

LOCAL LAW NO.: _____ - 2010

OF

JUNE 14, 2010

A LOCAL LAW ADDING NEW CHAPTER 60, ENTITLED “LOCAL AND FIRST SOURCE HIRING ORDINANCE” TO THE CODE OF THE CITY OF NEWBURGH

BE IT ENACTED, by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Adding New Chapter 60 entitled “Local and First Source Hiring Ordinance” of the Code of the City of Newburgh.

SECTION 2 - PURPOSE AND INTENT

The City Code of the City of Newburgh is hereby amended to add a Chapter 60, Local and First Source Hiring Ordinance, to read as follows:

CHAPTER 60: LOCAL AND FIRST SOURCE HIRING ORDINANCE

§ 60-1 - Findings

The City Council of the City of Newburgh ("City") finds that the following statistics indicate that unemployment levels for the citizens of the City of Newburgh are higher than for the remainder of Orange County. Statistics also indicate that the higher unemployment rate in the City correlates to a higher number of families living in poverty, eligible for or receiving public assistance and a higher crime rate:

(a) An analysis of income and poverty conditions suggests large and growing disparities between the City and surrounding areas. The Median Family income in Orange County was 60 percent higher than in the City in 2000; the disparity grew even further to 124 percent in 2007. In 2000, the per-capita income for residents of Orange County was 62 percent more than in the City. By 2007, the disparity between the County and the City had grown to 82 percent (Source: CDBG Five Year Consolidated Plan 2010-2014).

(b) Unemployment in the City is substantially higher than both the neighboring Towns of Newburgh and New Windsor, and Orange County as a whole (10.5% in April 2009, compared to 5.5% for Orange County). However, the majority of unemployed in

the City are not included in this official measure of unemployment because they are long-term unemployed and out of the system that is used to provide this statistic. Only 60% of the City's population age 16 and older is in the work force. Therefore, many families (11.8% in 2000) rely on public assistance. The number of families in the City living below the poverty line was 25% in 2007, having increased from 23% in 2000. One of the major root causes of crime is lack of economic opportunity. (Source: CDBG Five Year Consolidated Plan 2010-2014 and City of Newburgh Master Plan)

(c) Income disparities are also clearly drawn in regards to race and gender - with women and people of color having the least economic opportunities within the City. Census tracts 4 & 5 suffer from the highest levels of unemployment and poverty. These tracts also consist of the largest populations of Black and Hispanic residents - 80% and 74%, respectively. The City has a substantially higher rate of female-headed households (25%) than Orange County (11%). National data shows that female-headed households are far more likely to suffer from poverty and hunger. (Source: City of Newburgh Master Plan)

(d) According to the City's Master Plan, "even though the employment available locally has been increasing the beneficiaries are not among the city's poorest residents."

(e) A high number of City residents are long-term unemployed, public assistance recipients, and ex-offenders. Most of these individuals lack recent or substantial work experience, skills, and education and would benefit from training programs.

(f) Many of the largest employers in the City have workforces made up primarily of individuals who live outside the City.

(g) Due to a lack of local, living wage employment opportunities for adults and youth, many parents have to work two or three jobs and work long hours leaving children and teenagers alone and unsupervised until the parents return from work. Lack of after school employment opportunities for youth 14 to 18 further compounds this situation.

(h) Absentee parents and unsupervised youth can result in increased problems for families, communities and the City as a whole, including but not limited to increased crime, increased gang activity, increased violence, poor homework accomplishments, failing grades and decreased educational attainment (increased high school drop out rates).

(i) The City suffers from a declining tax base that would likely be bolstered by policies promoting local jobs and local hiring preference.

(j) According to the City's Master Plan, based on an analysis of the occupational breakdown, there is a need to increase jobs in the construction field. The Plan notes that one of the strategies to reduce unemployment is to encourage employment of City residents in construction projects, and give priority to applicants who live in the City. In

addition, in the current economic climate, the City could benefit by attracting new industries such as green technology, as well as careers associated with health care, institutions of higher learning and commercial or industrial ventures.

(k) The City's Master Plan includes a goal for the City to reduce the number of families living below the poverty level by 50% by 2020.

(l) The City's Master Plan promotes "A sustainable economic strategy will embrace development that is equitable, has strong local ties, and respect for environmental conditions. Components of this strategy include fostering the creation of new opportunities that support and utilize existing businesses and hiring locally."

§ 60-2 Declaration of Policy and Purpose

(a) It is the policy of the City to promote non-discrimination and Equal Employment Opportunity for construction contracts and land disposition and development agreements.

(b) It is the policy of the City to ensure full and equitable opportunity for City residents to participate in the employment opportunities that arise from construction contracts land disposition and development agreements to which the City is a party.

(c) It is also the policy of the City to increase the number of skilled workers and employed persons living in the City in an attempt to counteract the grave economic and social ills associated with the high unemployment levels that exist within the City.

(d) In furtherance of this policy, the City hereby establishes a Local and First Source Hiring program to encourage the training, hiring, and retention of City residents for the work to be performed under construction contracts and land disposition and development agreements to which the City is a party.

§ 60-3 Definitions

"APPRENTICESHIP PROGRAM" shall mean a training program sponsored by a union that accepts trainees and designed to enable a trainee to become a skilled union member.

"CONTRACT OR AGREEMENT" shall mean any Construction Contract with a face value of Fifty Thousand (\$50,000) Dollars or more or any Land Disposition or Development Agreement to which the City is a party, not including the rehabilitation of a one or two-family owner-occupied residential dwelling.

"CONTRACTOR " shall mean a for-profit or not-for-profit entity which contracts with the City through a Construction Contract or Land Disposition and Development Agreement.

“CITY” shall mean the City of Newburgh.

"CONSTRUCTION CONTRACT" shall mean any contract for construction work to which the City is a party.

“ECONOMICALLY DISADVANTAGED PERSON” shall mean any person with annual income in the preceding calendar year below Two Hundred (200%) Percent of the Federal Poverty Level.

"LAND DISPOSITION AND DEVELOPMENT AGREEMENT" shall mean any memorandum of understanding, option agreement, contract of sale, or other agreement by which the City agrees to sell or lease real property owned by the City with conditions for development of such property.

“RESIDENT” shall mean a person who has resided within the boundaries of the City of Newburgh for at least six (6) months immediately preceding the date of City Council approval of the Contract or Agreement and who can verify his or her residence by producing appropriate documentation.

§ 60-4 Scope and Goals

§ 60-5 Local and Targeted Hiring Goals

§ 60-5.1.1 Non-State and/or Non-Federally Funded Contracts and Agreements For any Contract or Agreement which does not include any State and/or Federal funding, there are hereby established the following hiring goals for employment:

a. Employment During Construction:

A minimum of Fifty (50%) Percent of the total paid construction work hours under the Contract or Agreement shall be performed by Residents. A minimum of Twenty-Five (25%) Percent of the total construction work hours under the Contract or Agreement shall be performed by Economically Disadvantaged Persons at the time of their hiring. Best efforts shall be undertaken to include a substantial number of Resident women in the workforce during construction under the Contract or Agreement. In addition, Contractors shall comply with Article 23-A of the New York Correction Law entitled "Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses".

b. Employment Following Construction:

For any Contract or Agreement resulting in permanent employment, a minimum of Forty (40%) Percent of the total permanent paid workforce shall be Residents. A minimum of Twenty (20%) Percent of the total permanent workforce shall be Economically Disadvantaged Persons at the time of their hiring. Best efforts shall be undertaken to include a substantial number of Resident women in the workforce following construction under the Contract or Agreement. In addition, Contractors shall comply with Article 23-A of the New York Correction Law entitled "Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses".

c. Apprenticeship Agreements In order to promote apprenticeship training as authorized by Section 816-b of New York Labor Law, the following goals shall apply:

1) Each Contractor, its successors, assigns, and subcontractors shall employ in its regular work force Residents who are enrolled and participating in an Apprenticeship Program.

2) Each Contractor, its successors, assigns, and subcontractors shall have an apprenticeship agreement, appropriate for the type and scope of work to be performed, which has been registered with, and approved by, the New York State Commissioner of Labor in accordance with Article 23 of the New York Labor Law, notwithstanding anything in Section 103 of the New York General Municipal Law to the contrary.

§ 60-5.1.2 State and/or Federally Funded Contracts and Agreements

For any Contract or Agreement which includes State and/or Federal funding, there are hereby established the following hiring goals for employment:

a. Hiring Requirements:

A minimum of Fifty (50%) Percent of the total paid work hours during and following construction under the Contract or Agreement shall be performed by Economically Disadvantaged Persons at the time of their hiring. Best efforts shall be undertaken to include a substantial number of Residents and Resident women during and following construction under the Contract or Agreement. In addition, Contractors shall comply with Article 23-A of the New York Correction Law entitled "Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses".

b. Apprenticeship Agreements

In order to promote apprenticeship training as authorized by Section 816-b of New York Labor Law, all projects receiving Federal and/or State funding will be required to follow requirements for apprenticeship agreements as set forth in Section 60-5.1.1.c herein, and for Construction Contracts involving transportation improvements, will be required to follow Special Training Provision requirements as outlined in Appendix 12, Page 12-12.A.67 of the Procedures for Locally Administered Federal Aid Projects, Department of Transportation.

§ 60-6 Powers and Duties

§ 60-6.1 Powers and Duties of the City

§ 60-6.1.1. The City shall include notice of the requirements of this Ordinance in Bid documents, Requests for Proposals (RFP), and Requests for Qualifications (RFQ) for Contracts and Agreements. The requirements of this Ordinance shall be incorporated into Contracts and Agreements.

§ 60-6.1.2. The City shall conduct an information session for each Bid, RFP or RFQ subject to this Ordinance to inform potential bidders of the requirements of the Ordinance. The City shall review the requirements of this Ordinance with each Contractor before awarding any Contract or Agreement.

§ 60-6.1.3. The City shall require Contractors to abide by the provisions of this Ordinance.

§ 60-6.1.4. The City shall require Contractors to cause their subcontractors, successors, and assigns to abide by the provisions of this Ordinance.

§ 60-6.1.5. The City shall monitor compliance with this Ordinance and will submit a Quarterly report to the City Council on the status of the implementation of this Ordinance on active Contracts and Agreements.

§ 60-6.2 Powers and Duties of the Local and First Source Hiring Advisory Committee ("LFSHAC")

§ 60-6.2.1. The City Council shall appoint a Local and First Source Hiring Advisory Committee led by the City Director of Planning and Development and consisting of representatives from the City, Orange County Department of Social Services (DSS), Employment Training Administration (ETA), City CDBG Advisory

Committee, Area Labor Federation, Contractors Association, Community Members and Professionals with Relevant Experience.

§ 60-6.2.2. The LFSHAC shall be responsible for oversight of this Ordinance.

§ 60-6.2.3. The LFSHAC shall assist the City and Contractors in developing and implementing a hiring plan to meet the goals of this Ordinance.

§ 60-6.2.4 The LFSHAC shall plan and coordinate the establishment of a "Newburgh Builds Newburgh Hiring and Training Center" to serve as a conduit between Contractors who are subject to this Chapter and prospective employees who are Residents including Resident women; to facilitate the screening, interview, and referral of potential employee candidates to Contractors; to form partnerships with other existing employment services; and to facilitate the training and other preparation of prospective employees.

§ 60-6.2.5 Based on quarterly reports prepared by the City, with the assistance of the LFSHAC, the compliance of each Contractor shall be evaluated against the goals set forth in this Ordinance. For Contractors found to be in violation of such goals, the City shall enforce penalties as outlined in Section VI herein.

§ 60-6.3 Powers and Duties of Contractors

§ 60-6.3.1. In addition to incorporating the requirements of this Ordinance in each Contract and Agreement, each Contractor shall enter into a Local and First Source Hiring Rider as part of its Contract or Agreement. The Local and First Source Hiring Rider shall establish the hiring process to be followed by the Contractor to achieve the goals of this Ordinance.

§ 60-6.3.2. Each Contractor shall attend any pre-bid meeting conducted by the City for any Contract or Agreement subject to this Ordinance.

§ 60-6.3.3. Each Contractor shall make employment records available to the City which are relevant to monitoring and enforcing this Ordinance, including contracts with other entities. The City shall not use such employment records for any purpose other than monitoring or enforcing this Ordinance. Each Contractor shall cooperate fully and promptly with any inquiry or investigation the City deems necessary in order to monitor compliance with this Ordinance, including allowing access to construction and employment sites and employees. Contractors may remove names and social security numbers from employment records to protect the privacy of individual employees; however, the City may require the Contractor to

provide addresses of individual employees to determine if they are Residents if their actual place of residence is at issue.

§ 60-7 Non-Compliance

§ 60-7.1 Each Contract or Agreement shall contain additionally contain a provision in which the Contractor agrees to be liable to the City for liquidated damages as provided in this Ordinance.

§ 60-7.2 The City, with the assistance of the Local and First Source Hiring Advisory Committee may investigate possible violations of this Ordinance. Where the City determines that a Contractor has failed to abide by the provisions in this Ordinance, the following steps shall be taken:

§ 60-7.2.1. The City shall inform the Contractor of the alleged violation by written notice and shall provide the Contractor the opportunity to respond to the alleged violation and to request a hearing before the City Manager within ten (10) days of such notice. In such response, the Contractor may submit documentation as to the reasons, if any, for noncompliance which shall be taken into account in the determination by the City Manager.

§ 60-7.2.2. If the City Manager decides the violation stands, the City Manager shall provide written notice to the Contractor, including the factual basis for the determination and the corrective action that the Contractor must take to remedy the violation. The Contractor will then have Fifteen (15) days from the date of such written notice to perform the corrective action.

§ 60-7.2.3. If the Contractor does not correct the violation within such Fifteen (15) days, it will be subject to liquidated damages of not less than \$1,000 and not more than Five (5%) Percent of the face value of the Contract or Agreement, to be determined by the City Manager based on the gravity of the violation and the Contractor's history of prior violations, if any.

§ 60-7.2.4. If the violation is still not corrected within thirty (30) days from the City Manager's assessment of liquidated damages, the City may pursue all available remedies including breach of contract and, where applicable, filing a civil action to recover such liquidated damages.

SECTION 3. This Local Law shall take effect on its date of filing with the Secretary of State, according to and as provided in the Municipal Home Rule Law. This Local Law shall not apply to Contracts or Agreements, as defined herein, which have been fully executed prior to such effective date.