

ORDINANCE NO. 2021-03-007

AMENDING CITY OF BELLINGHAM CODE TITLE 4, REQUIRING THAT PUBLIC FUNDS USED FOR CONSTRUCTION PROJECTS DO DOUBLE DUTY BY ALSO PROVIDING APPRENTICES WITH JOB TRAINING HOURS TO MEET THE REQUIREMENTS NECESSARY TO BECOME THE NEXT GENERATION OF SKILLED TRADES PERSONS

WHEREAS, a highly skilled workforce is essential for enhancing economic growth and the continued prosperity of all our citizens; and

WHEREAS, shortages of skilled construction workers limit job growth and affect our economy. This "skills gap" problem will continue to grow, due to the large numbers of skilled worker retirements and increased construction activity; and

WHEREAS, the Aspen Institute and others have identified that the number one reason over 50% of apprentices fail to complete their training is they don't get enough on the job training hours to meet the certification requirements in a reasonable time and recommends that it is good public policy to use public works contracts to provide apprentices with the job training hours necessary to graduate; and

WHEREAS, the responsibility to train the next generation of skilled workers rests with both the public and private sectors and must be done before too much of the knowledge and experience of existing skilled workers is lost due to retirements; and

WHEREAS, apprenticeship is a proven, highly-effective training model allowing entry-level workers to gain experience in a highly skilled occupation through a combination of on-the-job training and classroom instruction; and

WHEREAS, growing participation in apprenticeship programs today will ensure a viable workforce in the construction trade industry tomorrow; and

WHEREAS, growing participation and establishing robust apprenticeship programs will provide a clear pathway for a large segment of high school graduates seeking family wage careers and will create a greater pool of skilled workers for all contractors, organized or independent; and

WHEREAS, Washington's traditional sources of high-wage, low-skilled work (forests and factories) are declining due to automation and global trade. For there to

be an increase in wages, there needs to be both an increase in the use of technology and highly-skilled workers. If employers cannot find trained workers in Whatcom County, they will look to other places to locate their business facilities and create jobs; and

WHEREAS, apprenticeship programs can provide opportunity for individuals whose education has been disrupted to "learn and earn" their way to career path that offers the promise of a stable family wage future; and

WHEREAS, women and racial minorities have traditionally been under-represented within the skilled trades; and

WHEREAS, the City of Bellingham is committed to working in partnership with labor, business and the Washington State Apprenticeship and Training Council to create a skilled workforce that reflects the diversity of our population and promotes community development; and

WHEREAS, the need to provide more family-wage jobs is reflected in the City's Comprehensive Plan, and the City is seeking to encourage cooperative educational opportunities responsive to the changing needs of the workplace, both locally while increasing economic stability throughout Whatcom County; and

WHEREAS, since the 1990s, city, county, and port governments in Washington State have proven that apprenticeship utilization programs increase the number of people training as registered apprentices; and

WHEREAS, with RCW 39.04.320 the Washington State Legislature recognized in 2005 the importance of apprenticeship training programs and expanded requirements that state agencies require 15% of total labor hours be performed by approved apprentices for public works projects that cost \$1 million or more; and

WHEREAS, between 2006 and 2009, the number of registered apprentices actively training in Washington doubled after the state legislature expanded apprentice utilization in state public works contracting, with building and construction trades leading the way; and

WHEREAS, a joint study from Washington General Administration and the Washington Department of Labor and Industries concluded that the state's apprentice utilization program is successful; and

WHEREAS, the City of Bellingham currently imposes apprenticeship utilization requirements on federally-funded projects in accordance with federal grant requirements but does not impose apprenticeship utilization requirements on state and locally funded projects; and

WHEREAS, the City of Bellingham finds that it would be in the best interests of the public health, safety and welfare for the City to further encourage employment of apprentices by adopting apprenticeship utilization requirements for qualifying City public works projects funded by state and local dollars.

NOW, THEREFORE, BE IT RESOLVED, that a new chapter, entitled Construction Projects – Apprenticeship Requirements, shall be added to the Bellingham Municipal Code as follows:

City of Bellingham Municipal Code Chapter 4.94
CONSTRUCTION PROJECTS - APPRENTICE REQUIREMENTS

Sections:

4.94.010	Definitions
4.94.020	Use of apprentices required for public works
4.94.030	Administration
4.94.040	Exceptions and waivers
4.94.050	Monitoring
4.94.060	Reporting
4.94.070	Remedies
4.94.080	Emergencies

4.94.010 Definitions.

Where used in this chapter, unless the context clearly requires otherwise, the following terms shall have the meaning and construction set forth herein:

- 1) "Apprentice" means an apprentice registered in an Approved Apprenticeship Program.
- 2) "Approved Apprenticeship Program" means an apprenticeship training program which is approved or recognized by the Washington State Apprenticeship and Training Council.

- 3) "Contractor" means a person, corporation, partnership, limited liability company, or joint venture entering into a contract with the City to construct a public work.
- 4) "Labor hours" refers to the total number of hours worked by workers receiving an hourly wage who are employed directly and by subcontractors upon the public works project and who are subject to state or federal prevailing wage requirements, and shall include additional hours worked as a result of a contract or project adjustment or pursuant to an agreed-upon change order.
- 5) "Minimum Apprentice Labor Hours" refers to labor hours actually worked on a public works project by apprentices expressed as a percentage of total labor hours. The minimum percentage of apprentice labor hours by project shall be:
 - a) For contracts advertised for bid before January 1, 2023 there shall be no requirement;
 - b) For contracts advertised for bid on or after January 1, 2023, estimated to cost one million dollars or more with a time for completion greater than 70 working days, no less than fifteen percent of the labor hours shall be performed by Apprentices.
- 6) "Employee apprenticeship program (EAP)" refers to the requirements of this chapter and any administrative regulations applicable thereto.
- 7) "Estimated cost" shall mean the anticipated cost of a public work, as determined by the City, based upon the expected costs of materials, supplies, equipment, and labor, but excluding taxes and contingency funds.
- 8) "Notice to proceed" refers to the written authorization to the contractor under the public work contract to commence work
- 9) "Public work" refers to all City-owned construction projects that constitute a public work pursuant to RCW 39.04.010 as now or hereafter amended, excluding projects funded in whole or in part with federal funds that are subject to federally-mandated apprenticeship utilization requirements.
- 10) "Subcontractor" means a person, corporation, partnership, limited liability company, or joint venture that has contracted with the contractor to perform all or part of the work to construct a public work by a contractor.

4.94.020 Use of apprentices required for public works.

Apprentices shall be utilized on the construction of all public work projects in accordance with this chapter.

4.94.030 Administration.

- 1) Contract Requirements. Contracts for public work projects that are subject to apprenticeship utilization requirements under this chapter shall include provisions detailing the apprentice labor requirements. The Public Works Director or his designee shall develop the necessary contract specification language to implement the requirements of this chapter.

4.94.040 Exceptions and waivers.

During the term of a construction contract subject to this chapter, the City may reduce or waive the apprentice labor hour goals upon determination that:

- 1) The contractor has demonstrated that it has utilized best efforts to meet the established percentage requirement but remains unable to fulfill the goal;
- 2) The contractor has demonstrated that insufficient apprentices are available to meet the EAP utilization goals;
- 3) The reasonable and necessary requirements of the contract render apprentice utilization infeasible at the required levels;
- 4) There exists a disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum level of apprentice participation;
- 5) There are no evening classes within 30 miles, day classes within 100 miles of the job site, or suitable online courses, that the Apprentice can attend to meet the school requirements of their apprenticeship; or
- 6) To the extent that apprentice labor hour goals are in conflict with funding agreements in place in connection with the public work; or
- 7) For reasons deemed appropriate by the Mayor and not inconsistent with the purpose and goals of this chapter.

4.94.050 Monitoring.

The City shall implement a system for monitoring the actual use of apprentices in construction projects subject to this chapter.

4.94.060 Reporting.

The City shall publish on its website annually the use of apprentices for public work projects. The report shall include, to the extent it is available:

- (1) The total number of labor hours actually worked by apprentices on City-owned public works projects;
- (2) The number of apprentices broken down by trade and craft category;
- (3) The number and percentage of minorities and women utilized as apprentices;

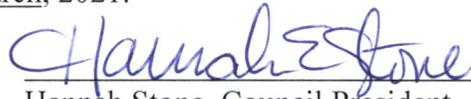
4.94.070 Remedies.

The public works director may suspend a contractor's qualification to bid future public works projects for a period of one-year based upon a written finding that the contractor has failed, without reasonable justification, to comply with applicable apprenticeship utilization requirements on two or more projects. The suspension shall apply to all City-owned public works projects, including projects funded with federal, state, and/or local funds.

4.94.080 Emergencies.

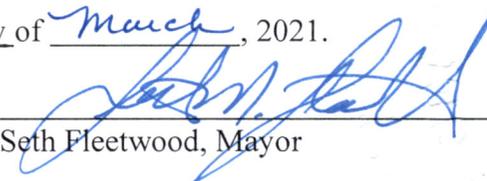
This chapter shall not apply to contracts awarded due to an emergency in accordance with Bellingham Municipal Code 4.80.010.

PASSED by the Council this 8th day of March, 2021.

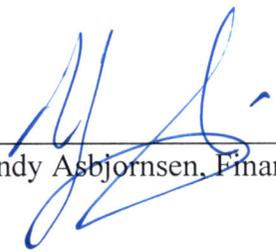


Hannah Stone, Council President

APPROVED by me this 15th day of March, 2021.



Seth Fleetwood, Mayor

ATTEST: 

Andy Asbjornsen, Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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