

WAGE THEFT
ORDINANCE
PROPOSAL



Scope of the Problem

- Minimum-wage workers who are victims of wage theft lose an average of **\$64 per week** due to wage theft.
 - Economic Policy Institute
- Current law makes these cases are harder to prosecute than state-level wage theft cases.



CRIMINAL LAWS DRMC vs CRS

- DRMC Petty Theft
 - Intent to permanently deprive
 - Limited to under \$2,000
- CRS Wage Theft
 - No requirement of permanent deprivation
 - All \$ amounts



Enforcement Model



Prosecution



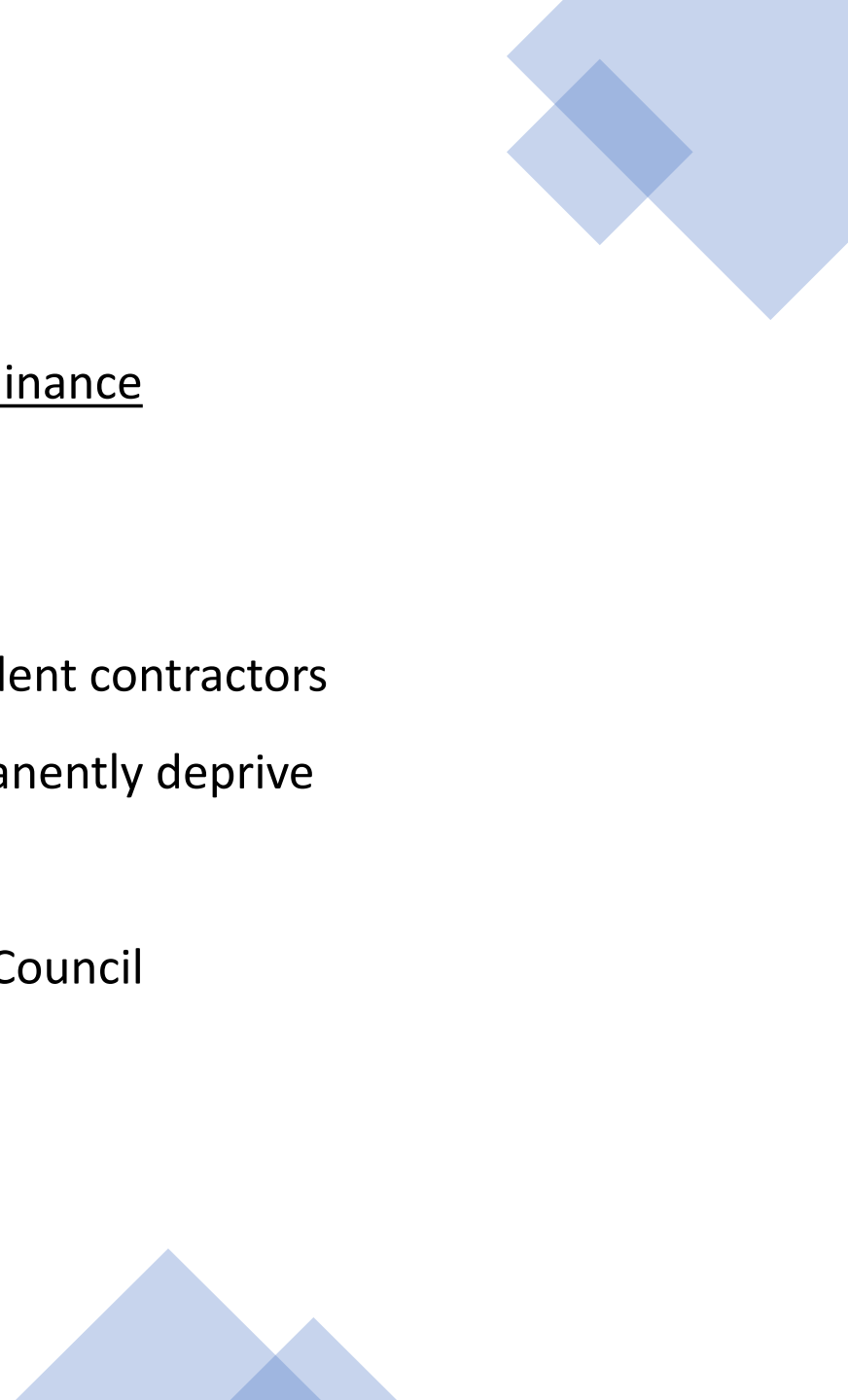
Collaboration



Outreach



Prosecution

- Proposed Wage Theft Ordinance
 - DRMC 38-51.9
 - Employees, not independent contractors
 - Eliminate intent to permanently deprive
 - Under \$2,000
 - Annual reporting to City Council
 - Anti-retaliation
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PROSECUTION

PROPOSED ORDINANCE



(a) It shall be unlawful for any employer or agent of an employer to **knowingly refuse to pay any wages or compensation owed to any worker** or falsely deny the amount of wages owed, the validity thereof, or that the same is due to any worker.

(b) *Definitions.*

(1) “Employer” shall have the meaning set forth in DRMC section 58-18.

(2) “Wages” shall have the same definition set forth in § 8-4-101, C.R.S., as amended.

(3) “Worker” shall have the meaning set forth in DRMC section 58-18. For purposes of this section, a person is a “worker” rather than an independent contractor when the person is economically dependent on the business to which he or she renders service, and a person is an “independent contractor” when the person is, **as a matter of economic fact**, in business for himself or herself. In making this determination, the trier of fact shall consider the totality of the circumstances, and it shall be **prima facie evidence** that a person is a worker when:

- a. The employer exerts a degree of control over the person at work, such as setting working hours, controlling break and lunch times, or directing the person when and where to work;
- b. The person earns a set wage or salary or commission;
- c. The person works exclusively for the employer, and does not provide similar services to other employers; or
- d. The person does not bring a level of skill and knowledge unique to the job, but rather the employer provides on-the-job training for the work to be done.

PROSECUTION

PROPOSED ORDINANCE



(c) This section shall apply only where the value of loss involved is **less than two thousand dollars (\$2,000.00)** per violation.

(d) It shall be unlawful for any employer or agent of an employer to **interfere with, restrain, deny, or attempt to deny**, or assist another person in interfering with, restraining, denying or attempting to deny, the exercise of the right to report a crime under this section or assist in the enforcement or investigation of such crime.

(e) The city attorney's office shall provide **annual reports** to the city council on the first of April outlining the number of cases prosecuted under this section and the disposition of each case for the previous calendar year beginning in January and ending in December, subject to any laws governing the release of criminal justice records.

PROSECUTION

CONTEXT



D.R.M.C. 1-13

(b) *General penalty.* If no definite fine or penalty is provided for a violation and except as otherwise provided in section 1-14, any person who shall be convicted of a violation of any such section may, for each offense, be fined in a sum not more than nine hundred ninety-nine dollars (\$999.00) or jailed not to exceed three hundred (300) days, or both so fined and jailed.

(1) Nothing in this section shall be construed to limit sentencing options that are otherwise available to the court.

(2) Nothing in this section shall be construed to limit the length of probation provided in section 14-61 of this Code.


(c) *Separate violations.* Unless distinct and separate violations can be otherwise established, each day an offense and violation continues shall constitute a separate offense and violation.




COLLABORATION

- Auditor
 - Prevailing Wage
 - Living Wage
 - Minimum Wage

- City Council
 - Victim Outreach
 - DRMC

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- OFEP
 - Victim Outreach
 - Financial Navigation

- Non-City Agencies
 - DA's Office
 - CDLE
 - DORA
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CONTINUAL OUTREACH

- Employers
 - Professional associations
 - Direct contact
 - Employment Bar
 - Workers
 - Advocacy and immigration groups
 - Grassroot efforts
 - Unions
 - Employment Bar
 - Towards Justice
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QUESTIONS?

