

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

**OAKLAND CITY COUNCIL**

**ORDINANCE NO. \_\_\_\_\_ C.M.S.**

**INTRODUCED BY COUNCILMEMBER JENKINS**

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**AN ORDINANCE ADDING CHAPTER 15.80 TO THE OAKLAND MUNICIPAL CODE TO ESTABLISH CONSTRUCTION WORKFORCE-RELATED REPORTING REQUIREMENTS FOR DEVELOPMENTS WITH AT LEAST 100 RESIDENTIAL UNITS OR 100,000 SQUARE FEET OF NEW FLOOR AREA; AND MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the City of Oakland recognizes that housing in the City has become increasingly scarce and expensive, such that it is out-of-reach for low and middle income residents and vulnerable populations, and the City has determined there is a need for affordable housing for low and middle income residents, vulnerable populations, and others throughout the City; and

**WHEREAS**, the City Council adopted Resolution No. 89565 C.M.S., adopting the 2023-2031 Housing Element as a General Plan Amendment to the Oakland General Plan; and

**WHEREAS**, the adopted 2023-2031 Housing Element anticipates approximately 41,458 new housing units will be developed requiring several thousand additional construction jobs; and

**WHEREAS**, the adopted 2023-2031 Housing Element will result in the zoning of opportunity sites for commercial and industrial development whose build out will require several thousand additional construction jobs; and

**WHEREAS**, low wage employment is endemic to the construction market with Alameda County construction workers falling into Extremely Low Income, Very Low Income or Low Income categories, as defined in Table 1-1 of the 2023-2031 Housing Element; and

**WHEREAS**, income disparity in the construction trades disproportionately impacts workers of color, with African-American workers being paid 38% less than white workers, Latino workers being paid 38% less than white workers and Asian workers being paid 52% less than white workers; and

**WHEREAS**, apprenticeship opportunities in construction will increase the opportunity for communities of color to pursue and obtain middle class jobs; and

**WHEREAS**, construction workers who live in Alameda County are medically uninsured at rates 3-4 times higher than the rates of non-construction workers living in Alameda County; and

**WHEREAS**, on September 12, 2023, the Community and Economic Development (“CED”) Committee of the City Council held a duly noticed public hearing to consider and recommend certain amendments to the Housing Element, including an Environmental Justice Element and a directive that for developments of at least 100 residential units or 100,000 sq. ft. of industrial/commercial space, the developer must report workforce-related community benefits as enumerated by the CED Committee; and

**WHEREAS**, on September 26, 2023, the City Council held a duly noticed public hearing to consider the foregoing recommendations of the Community and Economic Development Committee, all of which were passed on the first reading; and

**WHEREAS**, on October 3, 2023, the City Council held a duly noticed public hearing to again consider the foregoing recommendations of the Community and Economic Development Committee, all of which were passed on the second reading and became final; and

**WHEREAS**, the Environmental Justice Element’s Goal EJ-9 calls upon the City to expand economic development, address income equality, and create opportunity for all Oaklanders, and Policy EJ-9.7 calls for the elimination of barriers to workforce participation and access to training; and

**WHEREAS**, these new City policies will create thousands of new construction jobs, and the City wishes to incentivize high construction workforce standards, including but not limited to utilizing a skilled construction workforce, providing high-quality health care benefits, investing in apprenticeship training, recruiting from the local workforce, and paying an area standard wage; and

**WHEREAS**, the City also wishes to incentivize the use of construction contractors that are based locally and/or have historically faced barriers or disadvantages in contracting for projects in the local area, to avoid perpetuating economic inequality; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council finds and determines the foregoing recitals to be true and correct and an integral part of the City Council’s decision, and hereby adopts such recitals as findings.

**SECTION 2. Adoption of Oakland Municipal Code Chapter 15.80.** Oakland Municipal Code Chapter 15.80 is hereby added to read as follows:

## Chapter 15.80

### CONSTRUCTION WORKFORCE REPORTING REQUIREMENTS

#### 15.80.010 Applicability.

The requirements of this Chapter shall apply at the time of building permit application to all newly constructed buildings having at least one hundred (100) residential dwelling units or one hundred thousand (100,000) square feet of new non-residential floor area.

#### 15.80.020 Definitions.

- A. "Applicant" shall mean any individual, person, firm, partnership, association, joint venture, corporation, limited liability company, entity, combination of entities or authorized representative thereof, who undertakes, proposes or applies to the City for any development project with at least one hundred (100) residential dwelling units or one hundred thousand (100,000) square feet of new non-residential floor area.
- B. "Apprentice" shall mean a person enrolled in an apprenticeship program approved by the Chief of the California Division of Apprenticeship Standards.
- C. "Area Standard Wages" shall mean the general prevailing wage determinations for Alameda County as made by the State of California Director of the Department of Industrial Relations.
- D. "Craftspersons" shall mean a person employed in a construction craft position working on the construction site for the Newly Constructed Building.
- E. "Development-Related Permit" shall mean a building permit, grading permit, or demolition permit.
- F. "Newly Constructed Buildings" shall mean any building that is part of at least a one hundred (100) residential dwelling unit project or non-residential project of at least one hundred thousand (100,000) square feet, unless either of the following applies: (i) the building has previously been used or occupied for any purpose; or (ii) the project received all land use entitlements from the City prior to the effective date of this Chapter and filed for a Development-Related Permit within one year after the effective date of this Chapter.
- G. "Tool(s)" shall mean hand tools and equipment customarily required by the particular trade or craft that are necessary for the performance of a job, in accordance with California Department of Industrial Relations Wage Order No. 16.
- H. "Trade" shall mean the area of specialization that categorizes a group of Craftspersons, including but not limited to carpenter, electrician, pipefitter, sheet metal worker, and similar trades.

#### 15.80.030 Construction Workforce Affidavits

- A. The Applicant for any Newly Constructed Building shall submit at the time of building permit application for their project a "Pre-Construction Workforce Affidavit" certifying the following information to the City:
  - (1) The estimated number of Craftspersons from each Trade to be used on the project, including entry and apprentice level workers.

- (2) Whether (sub)contractors will participate in an apprenticeship program approved by the State of California’s Department of Industrial Relations.
  - (3) Anticipated wages and health care benefits for all Craftspersons, including whether or not the developer/(sub)contractors will pay Prevailing Wages and provide partially or entirely employer-paid health care benefits.
  - (4) Whether Craftspersons will be required to provide their own Tools.
  - (5) The estimated number of local residents to be hired.
  - (6) If known, the names and addresses of any (sub)contractors that will be used on the project.
- B. The Applicant’s permit application will be rejected and considered incomplete without the submission of a fully completed Pre-Construction Workforce Affidavit, as determined by the City.
- C. Within ninety (90) days after receipt of a Temporary or Final Certificate of Occupancy, whichever is earlier, the Applicant shall submit a “Post-Construction Workforce Affidavit” certifying the following information to the City:
- (1) The number of Craftspersons from each Trade that worked on the project, including entry and apprentice level workers.
  - (2) Whether (sub)contractors participated in an apprenticeship program approved by the State of California’s Department of Industrial Relations.
  - (3) Wages and health care benefits for all Craftspersons, including whether or not the developer/(sub)contractors paid Prevailing Wages and provided partially or entirely employer-paid health care benefits.
  - (4) Whether Craftspersons were required to provide their own Tools, and if so, which Trade(s).
  - (5) The number of local residents hired.
  - (6) The names and addresses of any (sub)contractors used on the project.
- D. An Applicant that fails to provide reporting information pursuant to subsection C within (90) days after receipt of a Temporary or Final Certificate of Occupancy, whichever is earlier, shall be subject to a civil penalty of ten thousand dollars (\$10,000).

#### 15.80.040 Construction Workforce Reporting Requirement

- A. This Section 15.80.040 shall go into effect on October 1, 2025 if and only if there is included in the Fiscal Year 2025-2027 Budget one full-time equivalent Data Analyst position added to the Department of Workforce and Employment Standards, without deletions, for purposes of implementing this provision. Else, this section shall be null and void.
- B. The Applicant shall certify the following information to the City, on an ongoing basis through the life of the construction project on a schedule to be established by the City, and will submit adequate supporting documentation, such as payroll records and benefit reports, as determined by the City:

- (1) The percentage of Craftpersons who are City of Oakland residents, with allocations by zip code.
  - (2) The number of Apprentices that were employed as Craftpersons for the Newly Constructed Building, with allocations by Trade.
  - (3) The percentage of Craftpersons that consisted of Apprentices.
  - (4) The number of Craftpersons that were paid Prevailing Wages and received partially or entirely employer-paid health care benefits.
  - (5) The number of Craftpersons who were required to provide their own Tools, with allocations by Trade.
  - (6) The demographics of the Craftpersons, without personal identifying information, including race/ethnicity and gender/gender identity, if disclosed.
  - (7) The percentage of contractors that were certified by the City under the City of Oakland Local and Small Local Business Enterprise Program.
  - (8) The demographics of contractor ownership, including race/ethnicity and gender/gender identity, if disclosed.
- C. Upon completion of the Newly Constructed Building, the Applicant shall submit a final certified report to the Department of Workplace and Employment Standards containing the information described in subsection B above as it pertains to the entire project.
- D. An Applicant that fails to provide reporting information pursuant to subsection B by the fifteenth (15<sup>th</sup>) of the subsequent month shall be subject to a civil penalty for each month for which complete reporting information is not provided, in an amount of ten percent (10%) of the dollar value of construction labor performed on the project in the month in question, but not to exceed ten thousand dollars (\$10,000) for that month.

**SECTION 3. California Environmental Quality Act.** The City Council finds and determines that the adoption of this Ordinance is (1) not a Project under the California Environmental Quality Act (“CEQA”); (2) exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) (general rule, no significant effect on the environment); and (3) exempt under CEQA Guidelines Section 15306 (information collection). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

**SECTION 4. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

**Section 5. Effective Date.** The Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California

Date of Attestation: \_\_\_\_\_

## NOTICE AND DIGEST

### **AN ORDINANCE ADDING CHAPTER 15.80 TO THE OAKLAND MUNICIPAL CODE TO ESTABLISH CONSTRUCTION WORKFORCE-RELATED REPORTING REQUIREMENTS FOR DEVELOPMENTS WITH AT LEAST 100 RESIDENTIAL UNITS OR 100,000 SQUARE FEET OF NEW FLOOR AREA; AND MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

This Ordinance amends the Oakland Municipal Code to establish requirements that the developer of development projects with at least 100 residential units or 100,000 square feet of new floor area submit a pre- and post-construction workforce affidavit and, effective October 1, 2025 if specified staffing conditions are met, report to the City on information regarding the construction workforce employed or contracted for the project. The reporting information includes, not exclusively, the percentage of the workforce who are Oakland residents, the use of apprentices, whether the workforce receives area standard wages and health care benefits, whether the workforce is required to provide their own tools, demographic information, and whether contractors are qualified under the City of Oakland Local and Small Local Business Enterprise Program. The City may also adopt appropriate California Environmental Quality Act (CEQA) findings in support of these amendments.