

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER JENKINS

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 Oakland General Plan update process 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, African-American workers being paid 38% less than white workers with 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 three to four 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 square feet 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 CED 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 CED 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 that is part of a development project with at least one hundred (100) residential dwelling units or at least one hundred thousand (100,000) square feet of new non-residential floor area.
- 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 and that: (1) has obtained a valid land use entitlement from the City on or after the effective date of this Chapter and has never before been used or occupied for any purpose, or (2) has obtained a valid land use entitlement from the City before the effective date of this Chapter but has failed to file for a Development-Related Permit within one (1) year from the effective date of this Chapter and has never been used or occupied for any purpose.
- G. "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 Reporting Requirements

- A. The Applicant for any Newly Constructed Building shall certify at the time of Development-Related Permit application for their project that at the conclusion of the project, they will provide the following information to the City, with adequate supporting documentation such as payroll records and benefit reports, as determined by the City:
- (1) The percentage of the workforce who are City of Oakland residents, with allocations by zip code.
 - (2) The number of Apprentices that were employed as Craftspersons for the Newly Constructed Building, with allocations by Trade.
 - (3) The percentage of the workforce that consisted of Apprentices.
 - (4) Those Trades whose Craftspersons were paid area standard wages.
 - (5) Those Trades whose Craftspersons received health care benefits.
 - (6) The percentage of the workforce that received health care benefits fully paid by their employer.
 - (7) The number of Craftspersons who were required to provide their own tools, with allocations by Trade.
 - (8) The demographics of the workforce, without personal identifying information, including ethnicity and gender/gender identity, if disclosed.
 - (9) The percentage of contractors that were certified by the City as a “Local Business”, “Small Local Business”, or “Very Small Local Business Enterprise” under the City of Oakland Local and Small Local Business Enterprise Program.
- B. During construction of the Newly Constructed Building, the Applicant shall submit quarterly reports to the Planning and Building Department containing the information described in paragraph A above for the duration of construction of the project, on a cumulative basis.
- C. Upon completion of the Newly Constructed Building, the Applicant shall submit a final report to the Planning and Building Department containing the information described in paragraph A above as it pertains to the entire project. No temporary certificate of occupancy or certificate of occupancy, whichever occurs first, may be issued for any Newly Constructed Building subject to this Chapter unless the final report is submitted to the Planning and Building Department.

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 from CEQA pursuant to 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: _____

3355379v1/MCB

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 report to the City 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. Reporting information must be provided prior to a certificate of occupancy being issued to the project. The City may also adopt appropriate California Environmental Quality Act (CEQA) findings in support of these amendments.