

1 [Police, Building Codes - Wage Theft Bonds]

2
3 **Ordinance amending the Police and Building Codes to require owners of certain**
4 **residential construction projects to maintain a labor compliance bond at the time of**
5 **issuance of the first construction document; and clarifying that the bonding**
6 **requirement applies to projects that submitted an application for a building permit or a**
7 **complete preliminary permit application pursuant to California Government Code,**
8 **Section 65941.1, on or after June 6, 2022.**

9
10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. Findings.

19 (a) On March 15, 2023, the Building Inspection Commission considered this
20 ordinance at a duly noticed public hearing pursuant to Charter Section D3.750-5.

21 (b) No local findings are required under California Health and Safety Code Section
22 17958.7 because the amendments to the Building Code contained in this ordinance do not
23 regulate materials or manner of construction or repair, and instead relate in their entirety to
24 administrative procedures for implementing the code and remedies available for enforcing
25 code violations, which are expressly excluded from the definition of a "building standard" by
California Health and Safety Code Section 18909(c).

1 Section 2. Article 330 of the Police Code is hereby amended by revising Sections
2 3300O.3 and 3300O.5, to read as follows:

3 **SEC. 3300O.3. DEFINITIONS.**

4 For purposes of this Article 330, the following definitions apply.

5 * * * *

6 "Employee" means any person providing labor or services for remuneration for a
7 Covered Contractor on a Project within the geographic boundaries of the City, who is an
8 employee under California Labor Code Section 2775, as may be amended from time to time,
9 including a part-time or temporary employee.

10 "First Construction Document" means the first building permit issued for a Project or, in the
11 case of a site permit, the first building permit addendum issued or other document that authorizes
12 construction of the Project. "Construction Document" shall not include permits or addenda for
13 demolition, grading, shoring, or site preparation work.

14 "Owner" means the person or persons, firm, corporation, partnership, or other legal
15 entity that owns, individually or jointly with another Owner, a Project.

16 "Project" means a development in Residential Group R, as defined in Building Code
17 Section 310.1, ~~issued a permit under Building Code Section 106A~~ requiring a Bond under Building
18 Code Section 106A.1.18 that submits an application for a building permit or a complete Preliminary
19 Permit Application pursuant to California Government Code Section 65941.1 on or after the effective
20 date of this Article 330, to construct, enlarge, alter, repair, improve, or convert a building or a
21 portion thereof that results in the creation or addition of 10 or more residential or sleeping
22 units within the geographic boundaries of the City. Notwithstanding the foregoing definition,
23 "Project" does not include a residential development that is subject to local, state, or federal
24 prevailing wage requirements or a valid Project Labor Agreement or Community Workforce
25 Agreement.

1 **SEC. 3300O.5. BOND.**

2 (a) **Filing and maintenance of Bond.** Prior to obtaining *a First Construction*
3 *Document a permit under Building Code Section 106A*, an Owner or Owners of a Project shall file
4 with the Controller a Bond naming the City as exclusive beneficiary, or other acceptable
5 security as determined by the Controller. The Bond shall contain conditions that require the
6 Owner holding the Bond to comply fully with all provisions of this Article 33O and to
7 acknowledge that the Bond or portions thereof may become payable to the City, to be used to
8 satisfy a determination of violation of a City labor protection for work on the Project, under the
9 conditions set forth in Police Code Section 3300O.5(d). Subject to subsection (d), the Bond
10 shall be filed and maintained in not less than the following amounts:

Estimated Project Cost	Bond Amount
Less than \$5,000,000	\$500,000
\$5,000,000 to \$7,500,000	\$750,000
\$7,500,000.01 to \$10,000,000	\$1,000,000
More than \$10,000,000	\$1,250,000

16 The Controller shall notify the Agency and the Department of Building Inspection when
17 an Owner files such Bond and the amount thereof.

18 * * * *

19 Section 3. The Building Code is hereby amended by revising Section 106A.1.18 to
20 read as follows.

21 **106A.1.18. Labor Compliance Bonds for Certain Residential Projects.**

22 *As the terms "Project" and "First Construction Document" are defined in Police Code Section*
23 *3300O.3, and may be amended from time to time, a First Construction Document shall not be issued*
24 *With respect to a building or structure that is a Project as defined by Police Code Section 3300O.3, as*
25 *may be amended from time to time, a permit shall not be issued under Section 106A to a Project that*

1 filed an application for a building permit or a complete Preliminary Permit Application pursuant to
2 California Government Code Section 65941.1 on or after the effective date of Police Code Article
3 330 ~~until~~ unless the Department has received written confirmation from the Controller that the
4 surety bond required under Police Code Section 33000.5(a) has been filed.

5
6 Section 4. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor's veto of the ordinance.

10
11 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the "Note" that appears under
16 the official title of the ordinance.

17
18 Section 6. Preemption.

19 Nothing in this ordinance shall be interpreted or applied so as to create any right,
20 requirement, power, or duty in conflict with Federal or State law. The term "conflict," as used
21 in this Section 2, means a conflict that is preemptive under Federal or State law.

22
23 Section 7. Undertaking for the General Welfare.

24 In undertaking the adoption and enforcement of this ordinance, the City is undertaking
25 only to promote the general welfare. The City is not assuming, nor is it imposing on its officers

1 and employees, an obligation for breach of which it is liable in money damages to any person
2 who claims that such breach proximately caused injury. This ordinance does not create a
3 legally enforceable right by any member of the public against the City.
4

5 Section 8. Severability.

6 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
7 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
8 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
9 remaining portions or applications of this ordinance. The Board of Supervisors hereby
10 declares that it would have passed this ordinance and every section, subsection, sentence,
11 clause, phrase, and word not declared invalid and unconstitutional without regard to whether
12 any other portion of this ordinance or application thereof would be subsequently declared
13 invalid or unconstitutional.
14

15 APPROVED AS TO FORM:
16 DAVID CHIU, City Attorney

17 By: /s/ _____
18 AUSTIN M. YANG
19 Deputy City Attorney

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City and County of San Francisco

Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 230134

Date Passed: April 12, 2023

Ordinance amending the Police and Building Codes to require owners of certain residential construction projects to maintain a labor compliance bond at the time of issuance of the first construction document; and clarifying that the bonding requirement applies to projects that submitted an application for a building permit or a complete preliminary permit application pursuant to California Government Code, Section 65941.1, on or after June 6, 2022.

March 20, 2023 Land Use and Transportation Committee - RECOMMENDED

April 04, 2023 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

April 12, 2023 Board of Supervisors - FINALLY PASSED

Ayes: 8 - Chan, Dorsey, Engardio, Mandelman, Peskin, Preston, Safai and Walton
Excused: 3 - Melgar, Ronen and Stefani

File No. 230134

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
4/12/2023 by the Board of Supervisors of the
City and County of San Francisco.

London N. Breed
Mayor

f Angela Calvillo
Clerk of the Board

4/21/23

Date Approved