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.

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

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

Section 1. Findings.

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

(b) No local findings are required under California Health and Safety Code Section 17958.7 because the amendments to the Building Code contained in this ordinance do not regulate materials or manner of construction or repair, and instead relate in their entirety to administrative procedures for implementing the code and remedies available for enforcing code violations, which are expressly excluded from the definition of a “building standard” by California Health and Safety Code Section 18909(c).
Section 2. Article 33O of the Police Code is hereby amended by revising Sections 33000.3 and 33000.5, to read as follows:

SEC. 33000.3. DEFINITIONS.

For purposes of this Article 33O, the following definitions apply.

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

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

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

"Project" means a development in Residential Group R, as defined in Building Code Section 310.1, issued a permit under Building Code Section 106A requiring a Bond under Building Code Section 106A.1.18 that submits an application for a building permit or a complete Preliminary Permit Application pursuant to California Government Code Section 65941.1 on or after the effective date of this Article 33O, to construct, enlarge, alter, repair, improve, or convert a building or a portion thereof that results in the creation or addition of 10 or more residential or sleeping units within the geographic boundaries of the City. Notwithstanding the foregoing definition, "Project" does not include a residential development that is subject to local, state, or federal prevailing wage requirements or a valid Project Labor Agreement or Community Workforce Agreement.

Supervisors Mandelman; Chan
BOARD OF SUPERVISORS
SEC. 3300O.5. BOND.

(a) Filing and maintenance of Bond. Prior to obtaining a First Construction Document a permit under Building Code Section 106A, an Owner or Owners of a Project shall file with the Controller a Bond naming the City as exclusive beneficiary, or other acceptable security as determined by the Controller. The Bond shall contain conditions that require the Owner holding the Bond to comply fully with all provisions of this Article 330 and to acknowledge that the Bond or portions thereof may become payable to the City, to be used to satisfy a determination of violation of a City labor protection for work on the Project, under the conditions set forth in Police Code Section 3300O.5(d). Subject to subsection (d), the Bond shall be filed and maintained in not less than the following amounts:

<table>
<thead>
<tr>
<th>Estimated Project Cost</th>
<th>Bond Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $5,000,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>$5,000,000 to $7,500,000</td>
<td>$750,000</td>
</tr>
<tr>
<td>$7,500,000.01 to $10,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>More than $10,000,000</td>
<td>$1,250,000</td>
</tr>
</tbody>
</table>

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

* * * *

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


As the terms “Project” and “First Construction Document” are defined in Police Code Section 3300O.3, and may be amended from time to time, a First Construction Document shall not be issued with respect to a building or structure that is a Project as defined by Police Code Section 3300O.3, as may be amended from time to time; a permit shall not be issued under Section 106A to a Project that
filed an application for a building permit or a complete Preliminary Permit Application pursuant to California Government Code Section 65941.1 on or after the effective date of Police Code Article 330 until unless the Department has received written confirmation from the Controller that the surety bond required under Police Code Section 33000.5(a) has been filed.

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

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

Section 6. Preemption.

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

Section 7. Undertaking for the General Welfare.

In undertaking the adoption and enforcement of this ordinance, the City is undertaking only to promote the general welfare. The City is not assuming, nor is it imposing on its officers
and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This ordinance does not create a legally enforceable right by any member of the public against the City.

Section 8. Severability.

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

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ AUSTIN M. YANG
Deputy City Attorney
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

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.

Angela Saldivar
Clerk of the Board

London N. Breed
Mayor

Date Approved
4/21/23