



Sunnyvale

Responsible Construction Ordinance Study Issue

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OCM—Responsible Construction Ordinance Study Issue

- Proposed by member of the public
- Purpose of Ordinances is to:
 - ◆ Prevent wage theft in Construction Industry
 - ◆ Ensure contractors meet employment, insurance, tax, and safety obligations
- City reviewed two proposed Ordinances:
 - 1st Ordinance applies to Projects above \$500,000
 - 2nd Ordinance applies to Projects over 5,000 SF

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Both Ordinances include following provisions:

- ◆ Withholding of building permits or certificates of occupancy
- ◆ Documentation requirements for contractors and subcontractors with \$50,000 of work
- ◆ Removal of contractors/sub-contractors from jobs
- ◆ Appeals Board
- ◆ Civil fines

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Developers, contractors/subcontractors must disclose:

- Project information
 - Final wage theft judgments, insurance judgements, payroll taxes, etc.
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- Wage Theft and Wage Related Actions Already taken by the City:
 - ◆ Wage theft policy/ordinance for City's contracts (public works, goods and services)
 - ◆ Higher minimum wage for all employers in City
 - ◆ Prevailing Wage requirements for public works projects

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- No jurisdiction has adopted proposed ordinances
 - ◆ Milpitas adopted Responsible Construction Ordinance
 - ✓ Applies to projects 15,000 SF
 - ✓ Withholds Certificate of Occupancy for non-compliance with Ordinance
 - ◆ Morgan Hill requires contractors to certify they comply with certain provisions of Labor Code prior to issuing certificate occupancy of new construction

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- Proposed ordinances have serious legal issues:
 - ◆ Revocation of building permit
 - ◆ Withholding of certificate of occupancy
 - ◆ High likelihood of litigation
- Proposed ordinances pose unintended consequences to others not involved in wage theft:
 - ◆ Workers would lose wages if project stops
 - ◆ Tenants not able to occupy buildings
 - ◆ Homeowners/renters able to move in

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- Requires substantial staff resources to implement
 - ◆ ~4,000 projects per year subject to ordinance
 - ◆ Large projects may have dozens of subcontractors
- Successful program would require:
 - ◆ Ability to collect/track thousands of disclosure forms
 - ◆ Ability to perform investigation to verify complaints
 - ◆ Notice and appeal process (administrative hearings)
 - ◆ Other legal enforcement actions may be necessary to address noncompliance or disregard of City orders

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Next Steps:

- ◆ Staff will return to Council for formal direction on study issue findings with alternatives:
 1. Do not adopt proposed ordinance
 2. Continue working on draft ordinance and funding needs for implementation