

ORDINANCE NO. 186483

An ordinance adding Article 2 to Chapter XVIII of the Los Angeles Municipal Code to implement and enforce the labor standards for development projects subject to the "Build Better LA Initiative."

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 2 is added to Chapter XVIII of the Los Angeles Municipal Code to read as follows:

**ARTICLE 2**

**ADMINISTRATION AND ENFORCEMENT OF LABOR  
STANDARDS FOR PROJECTS UNDER THE  
BUILD BETTER LA INITIATIVE**

**SEC. 182.00. PURPOSE.**

On November 8, 2016, the voters of the City of Los Angeles approved the "Build Better LA Initiative," also known as "Measure JJJ." Measure JJJ added various code provisions codified at Sections 11.5.6, 11.5.8, and 11.5.11 of this Code, and Sections 5.522 and 12.22 of the Los Angeles Administrative Code, that establish affordable housing and labor standards for certain residential development projects seeking general plan amendments, zone or height-district changes, and other City planning approvals. Measure JJJ identified the Department of Public Works, Bureau of Contract Administration as the Designated Administrative Agency (DAA) responsible for administering its labor standards. Consistent with the voter-approved initiative, this article provides the DAA with the framework and authority to effectively administer and enforce Measure JJJ's labor standards.

**SEC. 182.01. DEFINITIONS.**

The following definitions shall apply to this article:

A. **"Apprentice"** means any worker who is indentured in a bona fide construction apprenticeship program, registered and approved by the State of California Department of Industrial (DIR) Division of Apprenticeship Standards (DAS) or, in the case of Covered Projects with federal funding, indentured in a bona fide construction apprenticeship program approved by the United States Department of Labor (DOL) and the California Division of Apprenticeship Standards.

B. **"Board"** means the Board of Public Works or its designee.

C. **"City"** means the City of Los Angeles.

D. **“Construction Contract”** means a contract to perform Construction Work on a Covered Project.

E. **“Construction Work”** means the actual physical labor performed at a Covered Project job site by building and construction trade workers. Construction Work does not include work performed by administrative, clerical, security, or technical personnel, material suppliers engaged in delivering materials or supplies, off-site fabrication, or any other worker not performing trade work.

F. **“Construction Worker”** means a worker that performs Construction Work.

G. **“Contractor”** means any individual firm, partnership, owner operator, or corporation, or combination thereof, including joint ventures, that is licensed by the State of California and that enters into a Construction Contract with a property owner or a Developer, with respect to a Covered Project.

H. **“Covered Project”** means a construction project subject to the labor standards of Measure JJJ contained in Sections 11.5.6.B.2, 11.5.11(i) of this Code, or Section 5.522(h) of the Los Angeles Administrative Code.

I. **“Department of Industrial Relations (DIR)”** means the State of California, Department of Industrial Relations.

J. **“Designated Administrative Agency (DAA)”** means the Department of Public Works, Bureau of Contract Administration.

K. **“Developer”** shall have the same meaning as defined in Section 11.5.11(j).

L. **“Labor Code”** means the California Labor Code, as amended from time to time.

M. **“Measure JJJ”** means the ballot initiative, otherwise known as “The Build Better LA Initiative,” that the City of Los Angeles voters approved in November 2016. Measure JJJ requires certain development projects to provide affordable housing and to meet local resident Transitional Worker and Apprenticeship hiring requirements, provide training and pay the Prevailing Wage rate. Measure JJJ is codified in Sections 11.5.6, 11.5.8, 11.5.11, 12.22 of this Code and Section 5.522 of the Los Angeles Administrative Code.

N. **“Policies and Procedures”** means the guidelines developed by the DAA to implement, administer, and enforce Measure JJJ and this article.

O. **“Prevailing Wage”** means the hourly wage rates and benefits the DIR or, if applicable, the DOL has determined must be paid to Construction Workers in a given craft or classification.

P. **“Subcontractor”** means any individual firm, partnership, owner operator, or corporation, or combination thereof, including joint ventures, which is licensed by the State of California and has entered into a Construction Contract with a prime Contractor or any of its subcontractors of any tier, with respect to a Covered Project.

Q. **“Transitional Worker”** shall have the same meaning as defined in Section 11.5.11(j).

#### **SEC. 182.02. APPLICABILITY.**

Where a Developer or Contractor of a project requests a general plan amendment pursuant to Section 11.5.6.B, or any zone or height-district change that results in increased allowable residential floor area, density, or height, or allows a residential use where previously not allowed for a project with ten or more residential dwelling units, the Department of City Planning shall determine if the project is a Covered Project.

If the project is determined to be a Covered Project, the Developer, Contractor, and all Subcontractors on the project shall comply with the labor standards of Measure JJJ, the Policies and Procedures, and this article.

#### **SEC. 182.03. PREVAILING WAGE.**

A. A Construction Worker performing Construction Work on a Covered Project shall be classified in accordance with the work performed and paid the Prevailing Wage rate for that classification, as determined by the DIR or, if any federal funds are used for the Covered Project, as established by the DOL.

B. The Prevailing Wage rate paid to a Construction Worker on a Covered Project shall be based on the prevailing wage determination that is in effect on the date a Developer or Contractor files a master land use application seeking:

1. a general plan amendment pursuant to Section 11.5.6.B; or
2. any zone change or height-district change that results in increased allowable residential floor area, density or height, or allows a residential use where previously not allowed.

#### **SEC. 182.04. ADMINISTRATION.**

A. The DAA shall promulgate Policies and Procedures to administer and enforce Measure JJJ and this article. The Policies and Procedures may be amended

from time to time by the DAA as necessary to effectively administer and enforce this article.

B. Any Policy and Procedure promulgated by the DAA shall have the force and effect of law and may be relied upon by a Developer, Contractor or Subcontractor to determine its rights and responsibilities under Measure JJJ and this article.

**SEC. 182.05. ENFORCEMENT.**

The DAA shall have authority to enforce the Prevailing Wage laws codified in California Labor Code Sections 1720-1815, as amended from time to time for each Covered Project. To the extent that a Labor Code provision conflicts with the labor standards of Measure JJJ, the latter shall apply to the extent allowed by law. The Developer, Contractor, or Subcontractor of a Covered Project shall cooperate fully in any investigation by the DAA. The DAA shall have access to a Covered Project's business and work site(s) to inspect books and records (including, but not limited to, work and payroll records), interview Construction Workers and any other relevant witnesses, and to investigate such matters necessary or appropriate to ensure compliance with Measure JJJ, the Policies and Procedures, and this article.

**SEC. 182.06. NOTICE OF VIOLATION.**

A. **Issuance of Notice of Violation.** After an investigation, if the DAA makes a determination that a Developer, Contractor, or Subcontractor has violated Measure JJJ, the Policies and Procedures, or this article, the DAA shall issue a written Notice of Violation to the Developer, Contractor, or Subcontractor.

B. **Service of Notice.** Service of a Notice of Violation shall be accomplished as follows:

1. The DAA may personally serve the Developer, Contractor, or Subcontractor.

2. The DAA may accomplish substitute service by mailing the Notice of Violation by certified mail to the address of the Developer, Contractor, or Subcontractor.

3. The DAA may use a service method specified in the Policies and Procedures; or

4. The DAA may use a service method agreed to between the DAA and the Developer, Contractor, or Subcontractor.

C. **Notice of Violation and Opportunity to Cure Violation.** The Notice of Violation shall require the Developer, Contractor, or Subcontractor to take corrective action by the date specified and shall include all the following:

1. A description of each violation;
2. The date and location of each violation;
3. A description of the corrective action required;
4. A statement explaining that each day a violation continues or remains uncorrected shall constitute a new and separate violation;
5. The amount of wages and benefits owed, if any, to each Construction Worker for Prevailing Wage violations and the amount of administrative fines imposed for the violation(s);
6. A statement informing the Developer, Contractor, or Subcontractor that the administrative fines, if any, shall be paid to the DAA within 30 days from the date on the Notice of Violation, the procedure for payment, and the consequences for failure to pay;
7. A description of the process for appealing the Notice of Violation, including the deadline for filing such an appeal; and
8. The name and signature of the head of the DAA or his or her designee.

D. **Settlement.** The head of the DAA or his or her designee may convene an informal meeting with the Developer, Contractor, or Subcontractor to resolve the corrective action sought in the Notice of Violation. The compliance period in Section 182.06.C and the accrual of fines may be temporarily suspended during settlement discussions. If after meeting the corrective actions are not resolved, the DAA may issue a new compliance date to the Developer, Contractor, or Subcontractor and reinstate the accrual of fines.

#### **SEC. 182.07. ADMINISTRATIVE FINES AND PENALTIES.**

A. An administrative fine may be assessed for a violation of any provision of this article, Measure JJJ, and the Policies and Procedures as specified below. The administrative fine may be assessed by means of a Notice of Violation issued to the Developer, Contractor, or Subcontractor by the DAA, in accordance with the procedures set forth in Section 182.06.

## VIOLATION AND FINE AMOUNT

Violation	Fine
Non-Payment or Under Payment of Prevailing Wage.	Up to \$200 for each Construction Worker paid less than the Prevailing Wage rate.
Non-Payment or Under Payment of Overtime.	\$25 for each Construction Worker paid less than the Overtime rate. (This amount is in addition to any fine or penalty for Non-Payment or Under Payment of Prevailing Wage.)
Failure to submit certified payroll records in a timely manner as required by Section 1776 of the Labor Code or when requested by the DAA.	\$100 for each Construction Worker whose certified payroll records were not provided by the due date.
Failure to employ Apprentices in the proper ratio as required by Measure JJJ.	Up to \$100 for a first time violation. Up to \$300 for a second or subsequent violation within two years from the date of the first violation.
Failure to demonstrate <i>good-faith</i> efforts to meet the local resident or Transitional Worker Hire Requirements of Measure JJJ.	Up to \$500.
Failure to comply with any other labor requirement of Measure JJJ, this article or the Policies and Procedures.	Up to \$500.

A. Each and every day that a violation exists or remains uncorrected constitutes a separate and distinct violation.

B. **Restitution Owed.** Any wage or benefit owed to a Construction Worker for non-payment or underpayment of the Prevailing Wage rate, as identified in Section 182.06.C.5, shall be forwarded to the DAA for payment to the affected Construction Workers.

C. **Payment of Fines; Due Date; Assessment of Late Payment Penalties.** Administrative fines shall be payable to the City of Los Angeles and due within 30 days from the date of the Notice of Violation. The failure of any Developer, Contractor, or Subcontractor to pay an administrative fine or restitution of wages and benefits within 30 days may result in the assessment of a late fee penalty. The amount of the late payment penalty shall be 10 percent of the total amount of the fine assessed or restitution owed for each month the amounts are unpaid, compounded to include already accrued late fines and penalties that remain unpaid.

**SEC. 182.08. ADDITIONAL REMEDIES.**

In addition to the fines and penalties in Section 182.07, the DAA shall have the authority to request the Los Angeles Department of Building and Safety to withhold issuance of a Certificate of Occupancy for a Covered Project until:

A. The DAA determines that the Developer, Contractor, or Subcontractor has satisfied the labor standards of Measure JJJ, the Policies and Procedures, and this article, including the payment of all restitution amounts, fines, and penalties; or

B. The Developer, Contractor, or Subcontractor has created and funded an escrow account, in an amount to be determined by the DAA, that is sufficient for the payment of potential wage restitution, fines, and penalties. The DAA shall establish the requirements and procedures in the Policies and Procedures for the disbursement of the escrow account funds.

**SEC. 182.09. ADMINISTRATIVE APPEAL.**

A. **Deadline for Appeal.** A Developer, Contractor, or Subcontractor who receives a Notice of Violation may file with the Public Works Board a notice of appeal within ten calendar days of service of the Notice of Violation. The notice of appeal must be in writing and must indicate a return address. The notice of appeal must also specify in detail the basis for the appeal.

B. **Appeal Procedures.** The appeal procedures shall be specified in the Policies and Procedures.

**SEC. 182.10. RESERVED.**

**SEC. 182.11. NO WAIVER OF RIGHTS.**

Any waiver by a Construction Worker of labor standards required by Measure JJJ or of the right to receive the Prevailing Wage rate shall be deemed contrary to public policy and shall be void and unenforceable.

**SEC. 182.12. COEXISTENCE WITH OTHER AVAILABLE RELIEF.**

The administrative enforcement procedures established in this article shall be in addition to any other criminal, civil, or other remedy established by law which may be pursued to address violations of Measure JJJ and this article. A Notice of Violation issued pursuant to this article or the Policies and Procedures shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to prosecute or abate a violation or to seek compensation for damages suffered.

**SEC. 182.13. CONFLICTS.**

Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

**SEC. 182.14. SEVERABILITY.**

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without the invalid provisions, and to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted this article and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.



Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By   
DANIA MINASSIAN  
Deputy City Attorney

Date 8/28/19

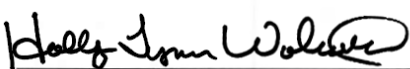
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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

  
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Ordinance Passed 12/11/2019

Approved 12/13/2019

Ordinance Effective Date: 01/28/2020  
Council File No.: 16-0684

# DECLARATION OF POSTING ORDINANCE

I, Ottavia Smith state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

**Ordinance No.** 186483 - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on 12/11/2019, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, I conspicuously posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records beginning on 12/18/2019 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.



Deputy Clerk

Date: 12/18/2019

Ordinance Effective Date: 01/28/2020

Council File No.: 16-0684