

[Administrative Code - Prevailing Wages for Commercial Vehicle Loading and Unloading on Park City Property]

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Ordinance amending the Administrative Code to require that prevailing wages be paid for work loading or unloading materials, goods, or products for special events and shows on City park property, and the driving of commercial vehicles for that purpose.

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. The Administrative Code is hereby amended by revising Section 21C.7 and adding Section 21C.10, to read as follows:

SEC. 21C.7. STANDARD PROVISIONS GOVERNING THE PREVAILING RATE OF WAGES, WORKER RETENTION, AND USE OF EMPLOYEES FOR WORK UNDER CITY CONTRACTS FOR CERTAIN SERVICES.

* * * *

(b) Definitions. For purposes of this Chapter 21C, the following definitions shall apply to the terms used herein.

* * * *

"Covered Contract" shall mean an agreement between the City and a Contractor for the following services: "Motor Bus Services" as defined in Section 21C.1, subject to the provisions of Section 21C.1; "Janitorial Services" as defined in Section 21C.2; "Public Off-Street Parking Lots, Garages, or Storage Facilities for Automobiles" as defined in Section

1 21C.3; "Theatrical Services" as defined in Section 21C.4; "Solid Waste Generated By The City
2 In Course of City Operations" as defined in Section 21C.5; "Moving Services" as defined in
3 Section 21C.6; ~~and~~ "Trade Show and Special Event Work" as defined in Section 21C.8;
4 "Broadcast Services" as defined in Section 21C.9; and "Loading, Unloading, and Driving of
5 Commercial Vehicles" under Section 21C.10.

6 * * * *

7 **SECTION 21C.10. PREVAILING RATE OF WAGES REQUIRED FOR LOADING,**
8 **UNLOADING, AND DRIVING COMMERCIAL VEHICLES AT SPECIAL EVENTS ON PARK**
9 **CITY PROPERTY.**

10 (a) Prevailing Wage Requirement. Every Contract, Lease, Franchise, Permit, or
11 Agreement awarded, let, issued, or granted Permit issued or granted by the City for the use of
12 property owned by the City for a Special Event as defined in subsection (b), below, must require
13 that (1) any Individual engaged in loading or unloading on City property of materials, goods, or
14 products into or from a Commercial Vehicle in connection with the presentation of a Show or for
15 the a Special Event be paid not less than the Prevailing Rate of Wages, including fringe benefits or the
16 matching equivalents thereof, paid in private employment for similar work in the area in which the
17 loading or unloading is being performed, and (2) any Individual driving a Commercial Vehicle from
18 which materials, goods, or products are loaded or unloaded on City property in connection with the
19 presentation of a Show or for such a Special Event shall be paid not less than the Prevailing Rate
20 of Wages for hours driven within the City limits. All Contracts, Leases, Franchises, Permits or
21 Agreements Permits subject to this Section 21C.10 shall include a provision in which require that
22 the permittee Contractor agrees to comply with, and to require sSubcontractors to comply with, the
23 obligations imposed by this Section.

24 (b) Definitions. For purposes of this Section 21C.10, the following definitions shall apply to
25 the terms used herein:

1 “Commercial Vehicle” shall mean a vehicle that (1) is used or maintained primarily for the
2 transportation of materials, goods, or products, (2) has six wheels or more, and (3) displays or is
3 required to display a California Department of Motor Vehicles weight decal as required by the
4 Commercial Vehicle Registration Act, California Vehicle Code Section 9400 et seq., as amended.
5 Notwithstanding the foregoing sentence, Commercial Vehicle shall not include a vehicle used
6 exclusively for food catering purposes, meaning its exclusive purpose on a particular trip is for the
7 transport of food and/or beverages to be served at a Show or Special Event, the transport of
8 equipment for the preparation and service of such food and/or beverages at a Show or Special Event,
9 or both.

10 “Contract, Lease, Franchise, Permit, or Agreement” shall have the meanings set forth
11 in Section 21C.4(b) of this Code with regard to Shows, and in Section 21C.8(b) of this Code
12 with regard to Special Events, including the exemptions stated therein.

13 “Mass Participation Sports Event” shall mean a participatory sporting event such as a
14 marathon, running race, or bicycle race or tour with anticipated participation by 150
15 participants or more.

16 “Show” shall have the meaning set forth in Section 21C.4 of this Code.

17 “Special Event” shall have the meaning set forth in Section 21C.8 of this Code, and
18 shall also include a Mass Participation Sports Event.

19 ~~“Permit” shall mean a permit to use property under the jurisdiction of the Recreation~~
20 ~~and Park Commission, but shall not include a permit:~~

21 ~~—— (1) For celebration of a marriage, domestic partnership, or similar civil union;~~

22 ~~—— (2) Which involves engaging in film production pursuant to Chapter 57 of this~~
23 ~~Code or under the circumstances set forth in Section 57.7 of this Code;~~

24 ~~—— (3) For which the payment of prevailing wage rates applicable to public works~~
25 ~~projects is required;~~

1 ~~————— (4) For a Special Event that is a street fair, block party, parade, festival, or any~~
2 ~~celebration directly associated with such street fair, block party, parade, festival, or any other~~
3 ~~expressive activity such as a protest, demonstration, or similar public assembly, that is free~~
4 ~~and open to the public and does not advertise or promote a commercial product or service;~~
5 ~~provided, however, that a commercial entity’s sponsorship of such an event shall not, by itself,~~
6 ~~constitute advertising or promotion for purposes of this exclusion so long as the entity does~~
7 ~~not engage in the sale of products or services at the event;~~

8 ~~————— (5) For which the permit fee to be paid to the City is \$1,000 or less;~~

9 ~~———— (6) For a concert in a public park to which the public has free access, provided~~
10 ~~that this exception shall not apply to a permit for an otherwise private or ticketed Special~~
11 ~~Event that includes a free public concert as an ancillary aspect of the event and such concert~~
12 ~~is not the primary purpose of the event;~~

13 ~~———— (7) For a Special Event that is sponsored by a non-profit entity where the~~
14 ~~primary purpose of the event is fundraising for that non-profit entity and/or other non-profit~~
15 ~~entities; or~~

16 ~~———— (8) For a Special Event that is sponsored by a primary or secondary educational~~
17 ~~institution or by a youth athletic league.~~

18 ~~“Special Event” shall mean a temporary event on property under the jurisdiction of the~~
19 ~~Recreation and Park Commission with anticipated attendance of 150 or more persons.~~
20 ~~Examples of Special Events include concerts, fairs, festivals, community events, mass~~
21 ~~participation sports (such as marathons and other running events, bicycle races, or tours), or~~
22 ~~spectator sports. “Special Event” shall include an event that is funded in whole or in part by~~
23 ~~City funds.~~

24 ~~*(c) **Preemption.** Nothing in this Section 21C.10 shall be interpreted or applied so as to create*~~
25 ~~*any right, power, or duty in conflict with any federal or state law.*~~

1 (d) Conflict with Other Sections. In the event of a conflict between this Section 21C.10 and
2 any other sections of this Chapter 21C, the other section(s) shall prevail.

3 (e) Operative Date and Application.

4 (1) This Section 21C.10 shall become operative upon the initial setting by the Board of
5 Supervisors of a Prevailing Rate of Wages for loading, unloading, and driving of Commercial Vehicles
6 at Special Events on City property. This initial Prevailing Rate of Wages shall be set in accordance
7 with the process established in Section 21C.7(c)(1), except the Civil Service Commission shall submit
8 to the Board of Supervisors data as to the Prevailing Rate of Wages no later than 120 days after the
9 effective date of this Section 21C.10. Thereafter, the Commission shall submit data as to the Prevailing
10 Rate of Wages for loading, unloading, and driving of Commercial Vehicles at Special Events on City
11 property, on or before the first Monday in November each year in accordance with Section 21C.7(c)(1).

12 (2) This Section 21C.10 is intended to have prospective effect only, and shall not be
13 interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or
14 Agreement Permit issued or entered into by the City. This Section shall only apply to Contracts,
15 Leases, Franchises, Permits, or Agreements Permits entered into on or after the operative date of
16 this Section.

17 (f) Exemptions. In addition to the exemptions set forth in Section 21C.4(b) of this Code
18 for certain Shows and set forth in Section 21C.8(b) of this Code for certain Special Events,
19 This Section 21C.10 shall not apply to the following:

20 (1) any Individual engaged in the loading or unloading of portable toilets, temporary
21 fencing, ~~or~~ temporary barricades, or temporary tents or canopies of less than 700 square feet
22 when erected, or any Individual driving a Commercial Vehicle from which portable toilets, temporary
23 fencing, ~~or~~ temporary barricades, or temporary tents or canopies of less than 700 square feet
24 when erected, are loaded or unloaded;

1 (2) individual vendors at a flea market or farmers market conducted on City property;
2 provided, however, that this Section shall apply to loading, unloading, or driving of Commercial
3 Vehicles for such events if these events would otherwise be covered by this Section 21C.10 and the
4 loading, unloading or driving is performed by the operator or management of the flea market or
5 farmers market;

6 (3) work that is covered under a collective bargaining agreement; ~~or~~

7 (4) work that is performed by a City employee; ~~or~~

8 (5) a Mass Participation Sports Event that is sponsored by a non-profit entity
9 where the primary purpose of the Event is fundraising for that non-profit entity and/or other
10 non-profit entities.

11 (g) Severability. If any provision or provisions of this Section 21C.10 or any application
12 thereof is held invalid, such invalidity shall not affect any other provisions or applications of the
13 Section.

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15 Section 2. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor's veto of the ordinance. However, as indicated in
19 Administrative Code Section 21C.10(e), Section 21C.10 shall become operative only upon the
20 initial setting of a Prevailing Rate of Wages for the categories of work covered by that section.

21
22 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3 APPROVED AS TO FORM:
4 DENNIS J. HERRERA, City Attorney

5 By: _____
6 FRANCESCA GESSNER
7 Deputy City Attorney

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