

1 [Administrative Code - Minimum Compensation Ordinance]

2

3 **Ordinance amending the Administrative Code to revise the wage rate requirement for**  
4 **employees of nonprofit corporations and public entities that have contracts covered by**  
5 **the Minimum Compensation Ordinance and to prohibit the use of a waiver from the**  
6 **wage rate requirement currently available to nonprofit corporations.**

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

11

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

13

14 Section 1. The Administrative Code is hereby amended by revising Section 12P.2 and  
15 12P.3, to read as follows:

16 **SEC. 12P.2. DEFINITIONS.**

17 As used in this Chapter the following capitalized terms shall have the following  
18 meanings:

19 \* \* \* \*

20 (k) "Effective Date of the Amendment" shall mean the date thirty (30) days after  
21 ~~enactment adoption~~ of the amendment to Administrative Code Chapter 12P adopted in this  
22 Ordinance No. 212-0 introduced on June 19, 2007.

23 "Effective Date of the 2014 Amendment" shall mean the effective date of the amendment to  
24 Administrative Code Chapter 12P adopted in Ordinance No. \_\_\_\_\_.

25 \* \* \* \*

1           **SEC. 12P.3. MINIMUM COMPENSATION COMPONENTS.**

2           (a) Minimum Compensation shall consist of each of the following:

3           (1) (A) (i) Hourly gross compensation in the amount of nine dollars (\$9.00) per  
4 hour.

5           (ii) In no less than twelve (12) nor more than eighteen (18) months from the  
6 Effective Date, the City shall increase the hourly gross compensation to ten dollars (\$10.00)  
7 per hour; provided, however, *except as provided in Section 12P.3(a)(1)(C), ~~that~~* in the case of  
8 Nonprofit Corporations and public entities, this adjustment shall only be made if the Joint  
9 Report issued by the Controller, Mayor's Budget Office, and Budget Analyst, pursuant to San  
10 Francisco Administrative Code Section 3.6, finds that the City has sufficient funds to pay the  
11 anticipated costs of the adjustment. A finding of "sufficient funds" shall mean that the City will  
12 not be required to reduce services in order to pay the anticipated costs of the adjustment.

13           (iii) For each of the next three (3) years after the adjustment provided in  
14 Subsection (a)(ii) is made, at annual intervals, the City shall make an additional adjustment of  
15 two and one-half (2.5) percent.

16           (B) For Contracts and Contract Amendments with parties other than Nonprofit  
17 Corporations or public entities entered into on or after the Effective Date of the Amendment,  
18 hourly gross compensation in the amount of ten dollars and seventy-seven cents (\$10.77). In  
19 order to prevent inflation from eroding the value of this rate, on January 1, 2008, the ten  
20 dollars and seventy-seven cent (\$10.77) rate shall increase by an amount corresponding to  
21 the prior year's increase, if any, in the CPI. Annually thereafter on the first of January, the  
22 hourly gross compensation in effect for the prior calendar year shall increase by an amount  
23 corresponding to any prior year's increase in the CPI.

24           (C) *For Contracts and Contract Amendments with Nonprofit Corporations and public*  
25 *entities entered into on or after the Effective Date of the 2014 Amendment, hourly gross compensation*

1 in the same amount provided under Section 12P.3(a)(1)(B), including the annual increases  
2 corresponding to the prior year's increase, if any, in the CPI.

3 ~~(D)~~ (i) For Contracts and Contract Amendments with Nonprofit Corporations and  
4 public entities entered into on or after the Effective Date of the Amendment but before the  
5 Effective Date of the 2014 Amendment, hourly gross compensation in the amount of ten dollars  
6 and seventy-seven cents (\$10.77). It shall be the policy of the City to endeavor to maintain the  
7 hourly gross compensation for Contracts with Nonprofit Corporations and public entities equal  
8 to the rate that applies to for-profit Contractors. As such, this ten dollars and seventy-seven  
9 cent (\$10.77) rate shall increase by an amount corresponding to the prior year's increase, if  
10 any, in the CPI. These CPI adjustments shall be made on January 1, 2008 and every January  
11 1 thereafter. Notwithstanding the provisions of this Subsection, when the Joint Report shows a  
12 projected shortfall, there shall be no automatic CPI increase in hourly gross compensation for  
13 Nonprofit Corporations and public entities as otherwise provided in this Subsection and the  
14 Mayor and the Board of Supervisors shall follow the procedures set forth in Subsections  
15 ~~(C)~~ (D) (ii) and (iii).

16 (ii) YEARS WITH PROJECTED BUDGET SHORTFALL. When submitting the  
17 annual proposed budget to the Board of Supervisors for any upcoming fiscal year in which  
18 there is a projected shortfall, the Mayor shall transmit a written report to the Clerk and to each  
19 member of the Board of Supervisors stating whether the proposed budget contains funding to  
20 pay all of the costs of the projected CPI increase for Nonprofit Corporations and public entities  
21 governed by Section 12P.3(a)(1)(D)(i) for the upcoming fiscal year, as well as for any prior fiscal  
22 years for which the Agency has granted a waiver. If the proposed budget does not contain  
23 sufficient funding for all of such costs, the report shall state the extent to which any portion of  
24 the CPI increase has been funded in the proposed budget and, in addition, shall set forth the  
25 basis for the Mayor's determination that no alternative funding sources or prudent reductions

1 in City expenses were available to enable the City to pay the additional costs of the CPI  
2 increase for the upcoming fiscal year, and for any prior fiscal years for which the Agency has  
3 granted a waiver, without jeopardizing City operations.

4 (iii) When the Mayor has transmitted a report to the Clerk and members of the  
5 Board of Supervisors providing notice that the proposed budget does not contain sufficient  
6 funding to pay the additional costs of the CPI increase for the upcoming fiscal year for  
7 Nonprofit Corporations and public entities governed by Section 12P.3(a)(1)(D)(i) and for any prior  
8 fiscal years for which the Agency has granted a waiver, the Budget and Finance Committee of  
9 the Board (or any successor committee as determined by the President of the Board) shall  
10 hold a hearing before adoption of the budget to consider the report and whether there are  
11 alternative funding sources or prudent reductions in City expenses available to enable the City  
12 to pay the additional costs of the CPI increase for the upcoming fiscal year, and for any prior  
13 fiscal year for which the Agency has granted a waiver, without jeopardizing City operations.  
14 The Board may amend the budget to provide full or partial funding for the CPI increase(s).

15 (iv) The hourly gross compensation for Nonprofit Corporations and public  
16 entities governed by Section 12P.3(a)(1)(D)(i) for the upcoming calendar year following the  
17 adoption of the budget shall be the rate required in the current calendar year, plus the amount  
18 of any CPI increase provided for in the budget. This rate shall apply notwithstanding the  
19 failure of the Mayor to make the report or the Board to conduct the hearing required by  
20 Subsections (D)(ii) and (iii) ~~Subsection (C)(ii) and (iii)~~. The Agency shall provide notice of the  
21 amount of hourly gross compensation for Nonprofit Corporations and public entities on the  
22 Agency's website. Except for those years in which the budget has sufficient funds to bring the  
23 rate for Nonprofit Corporations and public entities into parity with the rate for for-profits, the  
24 Agency shall grant a blanket waiver applicable to all contracts with Nonprofit Corporations and  
25 public entities, which waiver shall authorize payment under such contract of hourly gross

1 compensation that reflects either no CPI increase or only such increase as is covered by the  
2 budget. The Controller's Office shall provide notice to all City departments of the hourly gross  
3 compensation for Nonprofit Corporations and public entities as determined by the Agency.

4 (v) YEARS WITH NO PROJECTED BUDGET SHORTFALL. ~~Years with no one (1)~~  
5 ~~percent projected budget shortfall.~~ As provided in ~~Subsection (a)(1)(C)(i)~~ subsection (a)(1)(D)(i), the  
6 hourly gross compensation for Nonprofit Corporations and public entities governed by Section  
7 12P.3(a)(1)(D)(i) shall be adjusted in any year in which there is no projected budget shortfall  
8 by an amount corresponding to the prior year's increase, if any, in the CPI. When submitting  
9 the annual proposed budget to the Board of Supervisors for any upcoming fiscal year in which  
10 there is no projected shortfall but there is disparity between the rate for for-profit entities and  
11 for Nonprofit Corporations and public entities governed by Section 12P.3(a)(1)(D)(i), the Mayor  
12 shall transmit a written report to the Clerk and to each member of the Board of Supervisors  
13 stating whether the proposed budget contains sufficient funding to bring the hourly gross  
14 compensation for Nonprofit Corporations and public entities into parity with the amount  
15 applicable to for-profit entities under ~~Section~~ subsection (a)(1)(B).

16 (vi) When the Mayor has transmitted a report to the members of the Board  
17 providing notice that the proposed budget does not contain sufficient funding to bring the  
18 hourly gross compensation for Nonprofit Corporations and public entities governed by Section  
19 12P.3(a)(1)(D)(i) into parity with the amount applicable to for-profit entities, the Budget and  
20 Finance Committee of the Board (or any successor committee as determined by the President  
21 of the Board) shall hold a hearing before adoption of the budget to consider the report. The  
22 Board may amend the budget to provide full or partial funding toward such parity. If additional  
23 funds are provided in the budget to obtain such parity or to bring Nonprofit Corporation and  
24 public entities closer to such parity, the hourly gross compensation for such entities shall  
25

1 increase to the extent provided in the budget and the Agency shall provide notice of the  
2 amount of hourly gross compensation on the Agency's website.

3 (2) Compensated time off (at the compensation rates specified in subsections  
4 (a)(1) of this Section) in an hourly amount that, on an annualized basis for a full-time  
5 employee, equals twelve (12) days per year. Such time off shall vest with the Covered  
6 Employee at the end of the applicable Pay Period and may be used, for sick leave, vacation  
7 or personal necessity. Notwithstanding the foregoing, if a Contractor reasonably determines,  
8 in good faith, that the Contractor cannot comply with this requirement for compensated time  
9 off, the Contractor shall provide the Covered Employee with a cash equivalent of such  
10 compensated time off.

11 (3) Uncompensated time off in an hourly amount that, on an annualized basis for a  
12 full-time employee, equals ten (10) days per year. Such time off shall vest with the Covered  
13 Employee at the end of the applicable Pay Period and may be used, at the option of the  
14 Covered Employee, for sick leave for the illness of the Covered Employee or such Covered  
15 Employee's spouse, domestic partner, child, parent, sibling, grandparent or grandchild.

16 (b) By December 1 of each year, the Agency shall make available at its office and  
17 on its website the hourly rates required by this Section.

18 (c) When preparing proposed budgets and requests for supplemental appropriations  
19 for contract services, City departments that regularly enter into agreements for the provision of  
20 services by nonprofit corporations shall transmit with their proposal a written confirmation that  
21 the department has considered in its calculations the costs that the nonprofit corporations  
22 calculate that they will incur in complying with the Minimum Compensation Ordinance.

23 (d) Subject to the budgetary and fiscal provisions of the Charter, it shall be the  
24 policy of the City to ensure sufficient funding to prevent a reduction in the services to the  
25 community provided by Nonprofit Corporations and public entities.

1 Section 2. The Administrative Code is hereby amended by deleting Section 12P.8:

2 ~~SEC. 12P.8. ADDITIONAL WAIVERS BY THE AGENCY CORPORATIONS.~~

3 ~~—(a) A Nonprofit Corporation may seek a waiver from the requirements of Section 12P.3(a)(1)~~  
4 ~~if the highest paid managerial position in the organization earns a salary which, when calculated on an~~  
5 ~~hourly basis, is not more than six (6) times the lowest wage paid by the organization to a Covered~~  
6 ~~Employee. The Nonprofit Corporation shall provide to the Contracting Department a written statement,~~  
7 ~~prepared and signed by the Nonprofit Corporation, setting forth an explanation of the economic~~  
8 ~~hardship to the Nonprofit Corporation or the negative impact on services that would result from~~  
9 ~~compliance with this Chapter. If the Contracting Department determines that the written explanation is~~  
10 ~~adequate to justify the waiver and that substantial evidence supports the written explanation, it shall~~  
11 ~~recommend the requested waiver to the Agency. The Agency shall grant the requested waiver. Each~~  
12 ~~waiver shall be effective for a period of up to one (1) year, and subsequent waivers may be requested~~  
13 ~~and granted.~~

14 ~~—(b) If City's budget contains funding for all or a portion of a CPI increase for Nonprofit~~  
15 ~~Corporations for the fiscal year, but a Nonprofit Corporation does not receive an adequate increase in~~  
16 ~~its contract allocation to pay for the CPI increase for the fiscal year, the Nonprofit Corporation may~~  
17 ~~seek a one-year waiver from the CPI increase or from that portion of the CPI increase that is unfunded.~~  
18 ~~The Nonprofit Corporation shall provide to the Contracting Department a written statement, prepared~~  
19 ~~and signed by the Nonprofit Corporation, demonstrating that it has not received adequate funding. The~~  
20 ~~Contracting Department shall report to the Agency whether the Nonprofit Corporation received from~~  
21 ~~the Contracting Department an increase in its contract allocation to pay for the CPI increase and, if it~~  
22 ~~received funding to pay only a portion of the CPI increase, what portion of the increase was funded. If~~  
23 ~~the Department has not provided adequate funding to the Nonprofit Corporation for the full CPI~~  
24 ~~increase, it shall explain the reason in its statement to the Agency. If the Department certifies that the~~  
25 ~~Nonprofit Corporation did not receive an adequate increase in its contract allocation to pay for the~~

1 ~~CPI increase, the Agency shall grant a one-year waiver from the CPI increase or the unfunded portion~~  
2 ~~of the increase as reported by the Contracting Department. Each waiver shall be effective for a period~~  
3 ~~of up to one (1) year, and subsequent waivers may be requested and granted.~~

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5 Section 3. Effective Date. This ordinance shall become effective 30 days after  
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
8 of Supervisors overrides the Mayor’s veto of the ordinance.

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10 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
14 additions, and Board amendment deletions in accordance with the “Note” that appears under  
15 the official title of the ordinance.

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18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By: \_\_\_\_\_  
21 PAULA JESSON  
22 Deputy City Attorney

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