

1 [Police Code - Paid Parental Leave Ordinance]

2  
3 **Ordinance amending the Police Code to make technical amendments to the Paid**  
4 **Parental Leave Ordinance consistent with its original intent.**

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

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

13 Section 1. The Police Code is hereby amended by revising Sections 3300H.2,  
14 3300H.3, and 3300H.4 of Article 33H, to read as follows:

15 **SEC. 3300H.2. FINDINGS.**

16 \* \* \* \*

17 (b) As of January 2016, workers eligible for California Paid Family Leave can take up  
18 to six weeks of paid time off at 55% of their weekly wages up to a maximum weekly benefit  
19 amount to bond with a new child or care for a seriously ill family member. The weekly benefit  
20 amount is determined by using the employee's highest-earning calendar quarter during an  
21 approximately 12-month base period. As of January 2016, the maximum weekly benefit  
22 amount is \$1,129. To qualify for this maximum weekly benefit amount, an individual must  
23 earn at least \$26,070.92 in a calendar quarter during the base period. ~~In April 2016, the State~~  
24 ~~Legislature is considering enacted legislation that will that would extend the number of weeks of paid~~  
25 ~~time off and increase the weekly benefit amount wage replacement rate to 70% for lower-income~~  
~~workers and 60% for higher-income workers, for periods of leave commencing after January 1, 2018~~

1 *but before January 1, 2022., but as of the enactment of this Article 33H, the state legislation had not*  
2 *been passed.*

3 \* \* \* \*

4 (i) This Article 33H is intended to supplement the California Paid Family Leave partial  
5 wage replacement by providing compensation that, in combination with the California Paid  
6 Family Leave payment, will total 100% of an employee’s weekly salary, subject to a weekly  
7 maximum benefit amount, *during the six-week leave period,* to help ensure that concern over  
8 loss of income does not preclude parents in San Francisco from bonding with their new child.

9  
10 **SEC. 3300H.3. DEFINITIONS.**

11 \* \* \* \*

12 “Covered Employee” means any person, including but not limited to part-time and  
13 temporary employees, who is employed by a Covered Employer (1) who commenced  
14 employment with the Covered Employer at least 180 days prior to the start of the leave period,  
15 (2) who performs at least eight hours of work per week for the employer within the geographic  
16 boundaries of the City, (3) at least 40% of whose total weekly hours worked for the employer  
17 are within the geographic boundaries of the City, and (4) who is eligible to receive paid family  
18 leave compensation from the State of California under the California Paid Family Leave law  
19 for the purpose of bonding with a new child. Where a person’s weekly work hours fluctuate  
20 from week to week, the Agency shall determine whether the person meets the eight-hour  
21 and/or 40% threshold requirements in the preceding sentence by using an average of the  
22 person’s weekly hours worked for the Covered Employer during the three monthly pay  
23 periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay periods immediately  
24 preceding the start of the person’s California Paid Family Leave period. If the person was on  
25 *unpaid* leave during any of the aforementioned pay periods, such pay period(s) shall not be

1 counted towards the average referenced in the preceding sentence; rather, the Agency shall  
2 consider additional earlier corresponding pay periods for that person in order to satisfy the  
3 above designated number of pay periods, but in no case shall the Agency, in calculating the  
4 average, consider pay periods earlier than 26 weeks prior to the California Paid Family Leave  
5 period.

6 \* \* \* \*

7 **SEC. 3300H.4. SUPPLEMENTAL PAID PARENTAL LEAVE.**

8 (a) Applicability. This Article 33H applies to Covered Employees who ~~are-receiveing~~  
9 California Paid Family Leave benefits for the purpose of New Child Bonding.

10 (b) Supplemental Compensation.

11 (1) General.

12 (A) Except as stated in subsection (b)(2), when a Covered Employee  
13 receives California Paid Family Leave compensation for the purpose of New Child Bonding, a  
14 Covered Employer shall, ~~during the leave period,~~ supplement the California Paid Family Leave  
15 weekly benefit amount that the employee ~~is-receiveing~~ by paying the employee Supplemental  
16 Compensation in an amount such that the total of the California Paid Family Leave  
17 compensation the employee ~~is-receiveing~~ and the Supplemental Compensation provides, but  
18 does not exceed, 100% of the employee's current normal gross weekly wage.

19 (B) If the Covered Employee's weekly wage fluctuates, the employee's  
20 normal gross weekly wage shall be calculated based on an average of the employee's weekly  
21 earnings from the Covered Employer during the three monthly pay periods, six bi-weekly or  
22 semi-monthly pay periods, or 12 weekly pay periods immediately preceding the start of the  
23 employee's California Paid Family Leave period. If the employee was on unpaid or partially  
24 paid leave during any of the aforementioned pay periods, such pay period(s) shall not be  
25 counted towards the average referenced in the preceding sentence; rather, the average shall

1 be calculated using additional earlier corresponding pay periods in order to satisfy the above  
2 designated number of pay periods, but in no case shall pay periods earlier than 26 weeks  
3 prior to the California Paid Family Leave period be considered. *Notwithstanding the preceding*  
4 *sentence, if the Covered Employee's weekly wage fluctuates and the employee has worked for the*  
5 *Covered Employer for less than 26 weeks, the weekly wage shall be calculated based on an average of*  
6 *the employee's weekly earnings for the entire period of employment to date.*

7 (C) If the California Paid Family Leave weekly benefit amount that the  
8 Covered Employee is receiving from the State is based on earnings from a calendar quarter  
9 during which the employee did not work for the Covered Employer, or during which the  
10 employee earned a higher weekly wage from the Covered Employer than the employee is  
11 receiving at the time of his or her leave, the Supplemental Compensation amount shall be  
12 calculated to provide 100% of the employee's normal gross weekly wage in his or her current  
13 position; provided, however, that reducing a Covered Employee's wages during the leave  
14 period or within 90 days of the employee's having notified the Covered Employer of his or her  
15 intent to apply for and/or use ~~made a request or application for~~ California Paid Family Leave shall  
16 raise a rebuttable presumption that such wage reduction was made to reduce the Covered  
17 Employer's Supplemental Compensation obligations under this Section 3300H.4. Unless the  
18 Covered Employer rebuts the presumption with clear and convincing evidence that the  
19 reduction was solely for a reason other than reducing its obligation to pay Supplemental  
20 Compensation, the employer shall be obligated to pay Supplemental Compensation during  
21 the leave period based on the employee's prior wage rate.

22 (D) Multiple Employers.

23 (i) Where the Covered Employee works for more than one  
24 employer, the Supplemental Compensation amount shall be apportioned between or among  
25 the Covered Employers based on the percentage of the Employee's total gross weekly wages

1 received from each employer. For example, if the Employee earns \$800 per week from  
2 Covered Employer A, and \$200 per week from Covered Employer B for a combined total of  
3 \$1,000, Employer A shall pay 80% of the Supplemental Compensation amount and Employer  
4 B shall pay 20% of the Supplemental Compensation amount. If the Employee's weekly wage  
5 for a given Employer fluctuates, the percentage referenced in this subsection shall be  
6 calculated by averaging the employee's weekly wages earned from the Employer during the  
7 three monthly pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay  
8 periods immediately preceding the leave period. If the employee was on unpaid *or partially*  
9 *paid* leave during any of the aforementioned pay periods, such pay period(s) shall not be  
10 counted towards the average referenced in the preceding sentence; rather, the average shall  
11 be calculated using additional earlier corresponding pay periods in order to satisfy the above  
12 designated number of pay periods, but in no case shall pay periods earlier than 26 weeks  
13 prior to the California Paid Family Leave period be considered.

14 \* \* \* \*

15 (iii) In cases of multiple employers, the Covered Employee shall, as a  
16 precondition of receiving Supplemental Compensation, provide the Covered Employer(s) with  
17 *both (1) a copy of the employee's Notice of Computation of California Paid Family Leave Benefits from*  
18 *the State or other legally authorized statement, and (2)* information pertaining to wages received  
19 from all employers during the 90 days prior to the leave period on a form prepared by the  
20 Agency and signed by the employee under penalty of perjury. A Covered Employee's failure  
21 to comply with this requirement shall relieve the Covered Employer(s) of their obligation to  
22 provide the employee with Supplemental Compensation.

23 (3) **Termination During Leave Period.** A Covered Employer's obligation to  
24 provide Supplemental Compensation under this Section 3300H.4 applies only *during the period*  
25 *when* the Covered Employee *is eligible for and* is receiving California Paid Family Leave

1 benefits for New Child Bonding; provided, however, that if a Covered Employer terminates a  
2 Covered Employee during the leave period, the employer's obligation to pay Supplemental  
3 Compensation shall continue for the remainder of the *California Paid Family Leave* period the  
4 Covered Employee is receiving California Paid Family Leave benefits.

5 (4) **Termination Prior to Leave Period.** Terminating a Covered Employee  
6 prior to the employee's leave period but within 90 days of the employee's having notified the  
7 Covered Employer of his or her intent to apply for and/or use ~~made a request or application for~~  
8 California Paid Family Leave shall raise a rebuttable presumption that such termination was  
9 taken to avoid the Covered Employer's Supplemental Compensation obligations under this  
10 Section 3300H.4. Unless the Covered Employer rebuts the presumption with clear and  
11 convincing evidence that the termination was solely for a reason other than avoidance of its  
12 obligation to pay Supplemental Compensation, the employer shall be obligated to pay the  
13 terminated employee Supplemental Compensation *during the leave period.*

14 \* \* \* \*

15 (c) **Integration/Coordination of Benefits.** In accordance with California  
16 Unemployment Insurance Code Section 2656, a Covered Employee who is receiving  
17 California Paid Family Leave benefits may not receive Supplemental Compensation under this  
18 Article 33H which would result in the employee's receiving total compensation while on paid  
19 parental leave that is greater than the employee's normal gross weekly wages. As a  
20 precondition of receiving Supplemental Compensation, a Covered Employee must either (1)  
21 provide the Covered Employer with a copy of the employee's Notice of Computation of  
22 California Paid Family Leave Benefits from the State or other legally authorized statement, or  
23 (2) at the time of applying for California Paid Family Leave, provide the State with written  
24 authorization to disclose the weekly benefit amount to the employer so that the Covered  
25 Employer may request and obtain that information from the State. A Covered Employee's failure to

1 comply with this requirement shall relieve the Covered Employer of its obligation to provide  
2 the employee with Supplemental Compensation.

3  
4 Section 2. Effective Date. This ordinance shall become effective 30 days after  
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
7 of Supervisors overrides the Mayor's veto of the ordinance.

8  
9 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
11 numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the Police  
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
13 additions, and Board amendment deletions in accordance with the "Note" that appears under the  
14 official title of the ordinance.

15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18 By:

  
19 **FRANCESCA GESSNER**  
Deputy City Attorney

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**City and County of San Francisco**  
**Tails**  
**Ordinance**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 160719

**Date Passed:** September 06, 2016

Ordinance amending the Police Code to make technical amendments to the Paid Parental Leave Ordinance consistent with its original intent.

July 27, 2016 Budget and Finance Sub-Committee - RECOMMENDED

August 02, 2016 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

September 06, 2016 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

File No. 160719

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/6/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

Mayor

9/14/2016

Date Approved