

1 [Administrative Code - Employee Regional Disaster Support Program]

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3 **Ordinance amending the Administrative Code to establish a program by which the City**  
 4 **would provide up to 80 hours of paid release time from work to employees directly and**  
 5 **significantly harmed by a regional disaster, where the Mayor declares a regional**  
 6 **disaster affecting City employees, subject to eligibility criteria established by the**  
 7 **Human Resources Director and program terms and conditions.**

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

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

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15 Section 1. The Administrative Code is hereby amended by adding Section 16.8, to  
 16 read as follows:

17 **SEC. 16.8. EMPLOYEE REGIONAL DISASTER SUPPORT PROGRAM.**

18 (a) **Findings.**

19 (1) Beginning Sunday, October 8, 2017, devastating and deadly fires swept through  
 20 Sonoma, Napa, Solano, and other counties in the North Bay (the “North Bay Fires”), burning for days  
 21 and sometimes weeks, forcing the evacuation of approximately 90,000 people, destroying over 7,200  
 22 homes and commercial buildings, including in some cases entire communities, and resulting in the  
 23 deaths of at least 42 people. The City and County of San Francisco (“City”) dispatched firefighters and  
 24 other first responders to provide mutual aid and support for the communities and people affected by the  
 25 North Bay Fires.

1           (2) While the North Bay Fires did not directly affect the City, other than presenting  
2 smoke and air quality concerns, many City employees live in the affected areas. Some City employees  
3 were evacuated for days or lost their homes, cars, and most other possessions. While the City provides  
4 high-quality benefits to its employees, including generous paid time off, health coverage, and an  
5 Employee Assistance Program, additional support for these employees is needed in times of dire  
6 emergency resulting in extraordinary loss and harm.

7           (3) While the region encompassing the City and Bay Area is a wonderful, thriving,  
8 and diverse place to live, it is vulnerable to natural disasters such as earthquakes, flooding, and fires.  
9 The Bay Area recently marked the 28th anniversary of the devastating Loma Prieta earthquake, with  
10 over 50 deaths, the catastrophic failure of several of the region’s major transportation structures,  
11 including the Bay Bridge, and severe damage throughout the Bay Area. And there is the always the  
12 potential for a disaster resulting from a terrorist attack. Tragedy can strike at any moment and render  
13 unthinkable consequences.

14           (4) The Board of Supervisors finds and hereby declares that it is in the public  
15 interest to provide a program to support City employees directly and significantly harmed by a regional  
16 disaster, through paid time off from work not to exceed 80 hours. Just as the City provided mutual aid  
17 and support to areas ravaged by the North Bay Fires, the City must support its employees suffering  
18 trauma and tragedy because of the direct and significant adverse effects of those fires, and be prepared  
19 to support employees in the event of future regional disasters. Such a program provides vital time and  
20 support to City employees directly and significantly harmed by a disaster, allowing them needed  
21 resources to focus on their recovery efforts, so they can return to work as soon as possible and function  
22 at full capacity in the service of the City and its residents. In addition, such a program is an important  
23 benefit for employees, and results in a more loyal, committed, and stable workforce.

24           (b) **Purpose.** The City hereby establishes an Employee Regional Disaster Support Program  
25 (“Program”). The purpose of the Program is to provide City employees directly and significantly

1 harmed by a Regional Disaster with Paid Release Time from work so they may focus their time, energy,  
2 and effort on recovering from the Regional Disaster, to facilitate their returning to work as soon as  
3 possible and functioning at full capacity in the service of the City and its residents.

4 (c) **Definitions.** For purposes of this Section 16.8, the following definitions apply:

5 “Employee” shall mean a full or part-time employee of the City appointed to a position with a  
6 regular work schedule.

7 “Paid Release Time” shall mean up to 80 hours of paid time off work. Not every Regional  
8 Disaster will warrant 80 hours of Paid Release Time, and eligible employees will not all receive the  
9 same amount of Paid Release Time. The criteria set by the Human Resources Director or designee  
10 under subsection (e)(1) will determine which employees are eligible for Paid Release Time and the  
11 amount of Paid Release Time they may receive under the Program, subject to approval by their  
12 Appointing Officer or designee.

13 “Regional Disaster” is an event that meets all of the following criteria: it (1) occurs in one or  
14 more of the nine Bay Area counties (Alameda, Contra Costa, Marin, Napa, San Francisco, San  
15 Mateo, Santa Clara, Solano, and Sonoma); (2) involves a natural disaster such as an earthquake,  
16 flood, or fire, or a man-made disaster such as a terrorist attack; and (3) temporarily or permanently  
17 displaces City employees from their primary residences or otherwise directly and significantly affects  
18 their ability to report to work or perform their duties as City employees.

19 (d) **Declaration of Regional Disaster.** The Mayor may trigger the Program by declaring a  
20 Regional Disaster, which declaration may be retroactive to the start date of the Regional Disaster for  
21 purposes of the Program and an employee’s eligibility for Paid Release Time. The declaration shall  
22 establish an end date for the Program under the declared Regional Disaster, based on relevant factors  
23 including, but not limited to, the nature and scale of the Regional Disaster, the anticipated recovery  
24 period for City employees, the number of City employees affected by that Regional Disaster, and its  
25

1 effect on those City employees. If additional time is needed to effectuate the purpose of the Program,  
2 the Mayor may extend the declaration of Regional Disaster.

3 **(e) Criteria for Paid Release Time under the Program; Notice to Employees.**

4 (1) If the Mayor declares a Regional Disaster under subsection (d), the Human  
5 Resources Director or designee shall promptly issue an order establishing criteria for eligibility under  
6 the Program for the declared Regional Disaster. The criteria may include the conditions that warrant  
7 Paid Release Time and the amount of Paid Release Time that may be provided for those conditions.

8 (2) The Human Resources Director or designee shall arrange for notice to City  
9 employees about the declaration of the Regional Disaster, the criteria for eligibility for the Program,  
10 and the end date for the Program for that declared Regional Disaster. The Human Resources Director  
11 or designee shall seek to identify employees who may have been directly and significantly harmed by  
12 the Regional Disaster using available information, and to provide targeted notice to those employees.  
13 Both the general notice and the targeted notice shall include information about the procedures and  
14 deadlines to apply for the Program, and such other information as the Human Resources Director  
15 deems appropriate. In addition, the Human Resources Director shall make any forms that employees  
16 must complete to apply for the Program readily available to employees.

17 (3) If the Mayor extends the declaration of a Regional Disaster, the Human  
18 Resources Director or designee shall arrange for an additional general notice and an additional  
19 targeted notice to City employees about the extended declaration of the Regional Disaster.

20 **(f) Paid Release Time.**

21 (1) Employees who are eligible for the Program for a declared Regional Disaster,  
22 based on the criteria established by the Human Resources Director under subsection (e)(1), may  
23 receive Paid Release Time in accordance with those criteria and as other otherwise provided in  
24 subsections (f) and (g).

1                   (2) To receive Paid Release Time, the employee's Appointing Officer or designee  
2 must approve the Paid Release Time. The Appointing Office shall have discretion to grant or deny the  
3 Paid Release Time, and employees meeting the eligibility criteria are not automatically entitled to Paid  
4 Release Time, as further provided in subsection (g)(4).

5                   (3) Employees must use the Paid Release Time before the end date for the Program  
6 for the declared Regional Disaster, as established by the Mayor in the declaration of Regional  
7 Disaster. If the Mayor extends the declaration of Regional Disaster, then that will extend the end date  
8 to use Paid Release Time under the Program for that declared Regional Disaster.

9                   (4) Employees may not bank or accrue Paid Release Time under the Program. Paid  
10 Release Time under the Program may not be cashed out, upon separation from employment or  
11 otherwise.

12                   (5) Paid Release Time shall not be considered hours worked for purposes of  
13 calculating overtime.

14                   (6) If an employee's Appointing Officer or designee has approved Paid Release  
15 Time for a declared Regional Disaster, and the employee had already used his or her paid time off  
16 balances to take approved time off work in response to the Regional Disaster, then, at the request of the  
17 employee, the City shall substitute the approved Paid Release Time for an equivalent amount of the  
18 previously taken paid time off and the City shall restore that amount of paid time off to the employee's  
19 time off balances.

20                   (7) If an employee's Appointing Officer or designee has approved Paid Release  
21 Time for a declared Regional Disaster, and the employee took approved unpaid leave from work in  
22 response to the Regional Disaster, then, at the request of the employee, the City shall redesignate a  
23 portion of the unpaid time that is equivalent to the approved Paid Release Time as Paid Release Time  
24 and shall provide the employee with back pay for that time.

1           (g) Procedures to Apply for the Program.

2           (1) Employees may apply for the Program using the procedures set and forms  
3 provided by the Human Resources Director or designee under subsection (e)(2). Employees shall  
4 submit their application to their Appointing Officer or designee. Along with the application forms, the  
5 employee shall provide any supporting documentation required by the application form or the  
6 Appointing Officer.

7           (2) To receive Paid Release Time, an employee must execute a certificate of  
8 eligibility under penalty of perjury. The Department of Human Resources shall develop the certificate  
9 form.

10           (3) The Appointing Officer or designee shall review the application and  
11 documentation supporting the application, and may ask the employee to submit further documentation.

12           (4) The Appointing Officer or designee shall grant or deny the application and notify  
13 the employee of the determination. If the Appointing Officer grants the application, the notice shall  
14 specify the amount of Paid Release Time granted. The Appointing Officer or designee shall deny the  
15 application if the employee does not meet the criteria for eligibility established by the Human  
16 Resources Director or designee, does not provide the certificate required under subsection (g)(2), or  
17 fails to provide requested documentation, absent exceptional circumstances. The Appointing Officer or  
18 designee may deny the application based on the operational needs of the department. The decision of  
19 the Appointing Officer or designee is final.

20           (h) Administration and Rule-Making Authority. The Human Resources Director or  
21 designee has the authority to establish rules and guidelines not inconsistent with this Section 16.8 to  
22 implement the Program. The Department of Human Resources has the authority to administer the  
23 Program and enforce its requirements.

24           (i) Ineligibility for Workers' Compensation. Similar to vacation or other forms of paid  
25 time off work, Paid Release Time under the Program is not considered City employment or service for

1 purposes of workers' compensation laws and benefits, and employees injured or becoming ill while on  
2 Paid Release Time shall not be eligible for workers' compensation benefits simply by virtue of their  
3 paid status.

4 (j) **Promotion of General Welfare.** In undertaking the adoption and enforcement of this  
5 Section 16.8, the City is assuming an undertaking only to promote the general welfare and the welfare  
6 of its employees. It is not assuming, nor is it imposing on its officers and employees, an obligation for  
7 breach of which it is liable in money damages to any person, including any employee, who claims that  
8 such breach proximately caused injury.

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10 Section 2. North Bay Fires. City employees directly and significantly harmed by the  
11 North Bay Fires, as defined in Administrative Code Section 16.8(a)(1), may be eligible for Paid  
12 Release Time under the Program established in Administrative Code Section 16.8 if the  
13 Mayor declares the North Bay Fires a Regional Disaster. If the Mayor makes such a  
14 declaration, the Human Resources Director or designee shall take the steps required by  
15 subsection (e) of that Section, and employees may apply for the Program as provided in that  
16 Section, subject to the Program terms and conditions as set forth therein.

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

1 APPROVED AS TO FORM:  
2 DENNIS J. HERRERA, City Attorney

3 By: \_\_\_\_\_  
4 KATHARINE HOBIN PORTER  
5 Chief Labor Attorney

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