

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING ORDINANCE NO. 2004-88 OF THE FRESNO MUNICIPAL CODE AND RESTATEMENT OF ORDINANCES NO. 2004-88, 2006-14, AND 2017-10, RELATING TO CRITERIA ON THE USE OF PUBLIC RESOURCES AND REIMBURSEMENT OF EXPENSES FOR THE MAYOR AND COUNCILMEMBERS.

WHEREAS, the Mayor and Councilmembers incur expenses for meals, travel, lodging, and other necessary expenses in the performance of their official duties; and

WHEREAS, September 21, 2004, the Council of the City of Fresno (the "Council") established the criteria on the use of public resources and reimbursement of expenses for the Mayor and Councilmembers, by adopting Ordinance No. 2004-88, and the Council has amended the criteria on the use of public resources and reimbursement of expenses for the Mayor and Councilmembers by Ordinances No. 2006-14 and 2017-10; and

WHEREAS, Exhibit A to Ordinance No. 2004-88 establishing the amount for reimbursement of expenses needs to be updated to meet the changing economic circumstances; and

WHEREAS, as of January 1, 2012, Assembly Bill 1344 (AB 1344), applicable to charter law cities, permits increases in level of compensation for local agency executives by implementing ordinance in accordance with the Brown Act (California Government Code Section 54950 et seq.) process and as authorized by Charter; and

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Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: 

Ordinance No.

WHEREAS, local agency executives, defined by California Government Code Section 3511.1, include any person employed by a local agency who is not subject to the Meyers-Millias-Brown Act, and the person is either an executive officer, a deputy chief executive officer, or an assistant chief executive officer of the local agency; or the person is the head of a department of a local agency; or the person's position within the local agency is held by an employment contract between the local agency and that person; and;

WHEREAS, elected Charter officials have primary responsibility for the conduct of the City's governmental affairs as local agency executives as defined by California Government Code Section 3511.1, federal and common law; and

WHEREAS, compensation is defined by California Government Code Section 3511.1 as annual salary, stipend, or bonus, paid by a local agency employer to a local agency executive; and

WHEREAS, as of January 1, 2017, Senate Bill 1436 (AB 1436) requires an oral report of a summary of the recommendation for a final action on executive officers' salaries, salary schedules or compensation paid in the form of fringe benefits; and

WHEREAS, by this ordinance, Exhibit A to Ordinance No. 2004-88 shall be amended to increase the monthly stipend for vehicle and general and miscellaneous expense allowances for all elected officials;

WHEREAS, pursuant to Charter Section 308, compensation of an elective officer fixed by ordinance shall not be increased or decreased during the elective officer's term of office; and

WHEREAS, this ordinance restates Ordinances No. 2004-88, 2006-14, and 2017-10 in their entirety and reflects the amended increase of the monthly stipends in Exhibit A.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. AUTHORIZED EXPENSES.

City funds, equipment, supplies (including letterhead), titles, and staff time may only be used for authorized City business. The following types of expenses constitute authorized expenses as long as other requirements of this ordinance are met.

- (a) Communicating with representatives of local, regional, state, and national government on City adopted policy positions.
- (b) Attending educational seminars designed to improve the City elected officer's skill and information levels relating to his or her public office functions.
- (c) Participating in local, regional, state, and national organizations whose activities affect the City's interests.
- (d) Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost).
- (e) Attending City events.

- (f) Implementing a City approved strategy for attracting or retaining businesses to the City, which will typically involve at least one staff member.
- (g) Meetings such as those listed above that meet the requirements for car and travel allowance.
- (h) Expenses for meals of third parties necessary for the performance of official duties.

## SECTION 2. UNAUTHORIZED EXPENSES.

The City will not reimburse the Mayor or Councilmembers for personal expenses.

Personal expenses include, but are not limited to, the following:

- (a) The personal portion of any trip.
- (b) Political or charitable contributions or events.
- (c) Family expenses including spouse's expenses when accompanying the Mayor or Councilmember on City-related business as well as child(ren) or pet related expenses.
- (d) Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses) or other cultural events.
- (e) Non-mileage personal automobile expenses including repairs, traffic citations, insurance, or gasoline.
- (f) Personal losses incurred while on City business.

- (g) All other expenses not associated with carrying out official City business.

### SECTION 3. EXPENSES THAT REQUIRE COUNCIL APPROVAL.

The Mayor or Councilmember shall submit a request for Council approval of expenses that are not covered by this ordinance before the expenses are incurred. A request may be approved by Council if findings support a public purpose related to City Business.

SECTION 3.5 REPORT TO COUNCIL. Councilmembers shall provide brief reports on meetings attended at public expense at the next regular meeting of Council.

### SECTION 4. OUT OF TOWN TRAVEL REIMBURSEMENT.

The Mayor and Councilmembers are entitled to receive reimbursement for traveling and other necessary expenses when on official duty in accordance with Exhibit A which is attached and incorporated herein.

### SECTION 4.5. REIMBURSEMENT FROM THE REDEVELOPMENT AGENCY.

Councilmembers may receive reimbursement from the Redevelopment Agency of the City of Fresno (Agency) for expenses incurred while acting in their official capacity as Agency Board Members consistent with the Agency's written policy.

### SECTION 5. MONTHLY ALLOWANCE.

- (a) The Mayor and Councilmembers are entitled to a monthly car and travel allowance in accordance with Exhibit A which is attached.

- (b) The Mayor and Councilmembers are entitled to a monthly general and miscellaneous expense allowance in accordance with Exhibit A which is attached.

#### SECTION 6. AUDITS OF EXPENSE REPORTS.

All expenses are subject to verification of compliance with this ordinance.

#### SECTION 7. COMPLIANCE WITH LAWS.

Some expenditures may be subject to reporting and other limitations under the Political Reform Act and other laws. (Gov Code §§ 8100 et seq.) All City expenditures are public records subject to disclosure under the Public Records Act. (Gov Code §§ 6250 et seq.)

#### SECTION 8. VIOLATION OF THIS ORDINANCE.

Use of public resources or falsifying expense reports in violation of this ordinance may result in any or all of the following:

- (a) Loss of reimbursement privileges.
- (b) A demand for restitution to the City.
- (c) The City reporting the expenses as income to the elected official to state and federal tax authorities.
- (d) Prosecution for misuse of public resources.

SECTION 9. Ordinances No. 2004-88, 2006-14, 2017-10, and all previously enacted resolutions and ordinances in conflict with the subject matter addressed in this ordinance are hereby repealed.

SECTION 10. This ordinance shall become effective in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2022  
Mayor Approval/No Return: \_\_\_\_\_, 2022  
Mayor Veto: \_\_\_\_\_, 2022  
Council Override Vote: \_\_\_\_\_, 2022

TODD STERMER, CMC  
City Clerk

By: \_\_\_\_\_  
Deputy Date

APPROVED AS TO FORM:  
RINA M. GONZALES  
Interim City Attorney

By: \_\_\_\_\_  
Mao Lee Date  
Deputy City Attorney III

Attachments:

- Exhibit A (Criteria and Policies for Reimbursement)
- Exhibit A-1
- Exhibit A-2

## EXHIBIT A

The following criteria and policies shall be utilized in regulating the reimbursement to the Mayor and Councilmembers for expenses incurred on City business. References to specific provisions of the Administrative Order shall include its amendments.

### I. OUT-OF-TOWN TRAVEL REIMBURSEMENT

- A. Criteria.** The Mayor and Councilmembers are entitled to receive reimbursement for traveling and other necessary expenses when on official duty. Reimbursement is effected in accordance with the following criteria.
1. **Meals.** The Mayor and Councilmembers shall be reimbursed for meals pursuant to the provisions of Administrative Order 1-4 applicable to City employees.
  2. **Lodging.** The Mayor and Councilmembers shall be reimbursed for lodging pursuant to the provisions of Administrative Order 1-4 applicable to City employees.
  3. **Taxi, Limousine and Bus Fares.** The Mayor and Councilmember shall be reimbursed for taxi, limousine and bus fares pursuant to the provisions of Administrative Order 1-4 applicable to City employees.
  4. **Tips, Gratuities and Service Fees.** The Mayor and Councilmembers shall be reimbursed for tips, gratuities and service fees pursuant to the provisions of administrative Order 1-4 applicable to City employees.
  5. **Registration Fees.** The Mayor and Councilmembers shall be reimbursed for registration fees pursuant to the provisions of Administrative Order 1-4 applicable to City employees.
  6. **Communications.** The Mayor and Councilmembers shall be reimbursed for communications pursuant to the provisions of Administrative Order 1-4 applicable to City employees.
  7. **Parking, Garage and Toll Charges.** The Mayor and Councilmembers shall be reimbursed for parking, garage and toll charges pursuant to the provisions of Administrative Order 1-4 applicable to City employees.
  8. **Laundry and Dry Cleaning.** The Mayor and Councilmembers shall be reimbursed for laundry and dry cleaning pursuant to the provisions of Administrative Order 1-4 applicable to City employees.
  9. **Other.** The Mayor and Councilmembers shall be reimbursed for other expenses pursuant to the provisions of Administrative Order 1-4 applicable to City employees.

If the Mayor or a Councilmember stays with a friend or a relative while attending a professional conference or other out-of-town meeting, which has a host hotel with stated rates, the Mayor or

Councilmember may be reimbursed for taking their host to dinner in lieu of lodging cost. The total amount to be reimbursed may not exceed one night's lodging, at the stated hotel rate, per trip. A copy of the conference brochure or page stating the host hotel's rate must be attached to the expense report with a receipt for dinner expenses.

- B. Documentation.** A claim for reimbursement must be submitted on Form 57, "Travel Advance and Expense Reimbursement Request" attached hereto as Exhibit A-1.

## II. CAR AND TRAVEL ALLOWANCE

- A. Authorized Expenses.** The Mayor and Councilmembers may be reimbursed for mileage, parking, car rental, and related transportation expenses incurred in traveling to and from Council meetings or other official business in the Fresno Metropolitan Area (that area within a 50-mile radius of Fresno City Hall). Such authorized expenses are reimbursable in addition to but not in duplication of those described under "Out-of-Town Travel Reimbursement" above. Travel outside a 50-mile radius shall be reimbursed in the same amount as provided in Administrative Order 2-2 for employees receiving Category 2 vehicle allowance.

- B. Monthly Allowance.** A monthly allowance of up to \$500 for the Mayor and \$450 for Councilmembers may be claimed. The Mayor and Councilmembers may either elect to take the allowance as a flat monthly stipend, which may be taxed as ordinary income, or to submit a monthly mileage log and claim for reimbursement of expenses actually incurred, not to exceed \$500 for the Mayor and \$450 for Councilmembers, on the "Mayor/Councilmembers Monthly Expense Reimbursement Form" attached hereto as Exhibit A-2. The Mayor or Councilmember may change their election upon thirty days' notice to the Finance Department. The Mayor and Councilmembers are also cautioned that to the extent allowance payments are not supported by receipts or mileage logs acceptable to the IRS, such payments will be taxed as ordinary income. It is recommended that each official obtain their own tax advice from a qualified tax professional.

## III. GENERAL AND MISCELLANEOUS EXPENSE ALLOWANCE

- A. Authorized Expenses.** Necessary expenses incurred by the Mayor and Councilmembers which are solely for the benefit of the City that are incurred when on official duty.

- B. Monthly Allowance.** The Mayor may be reimbursed up to \$850 per month. The Council President is authorized up to \$843.75 per month, and all other Councilmembers are authorized up to \$750 per month each. Such authorized reimbursements are in addition to those expenses described under "Out-of-Town Travel Reimbursement", and "Car and Travel Allowance", above. The Mayor and Councilmembers may either elect to take the allowance as a flat monthly stipend, which may be taxed as ordinary income, or to submit receipts and a claim for reimbursement of expenses actually incurred, not to exceed the amounts set forth above, on the "Mayor/Councilmembers Monthly Expense Reimbursement Form" attached hereto as Exhibit A-2. The Mayor or Councilmember may change their election upon thirty days' notice to the Finance Department. The

Mayor and Councilmembers are cautioned that to the extent allowance payments are not supported by receipts or mileage logs acceptable to the IRS, such payments may be taxed as ordinary income. It is recommended that each official obtain their own tax advice from a qualified tax professional.

**C. Expenses Covered.**

1. Meal expenses. No per-meal limitation, (per diem or actual cost option as set forth in Administrative Order 1-4, Expenses on City Business).
2. Postage, only as supported by receipts.
3. Telephone, Communications, only as supported by receipts.
4. Publications, only as supported by receipts.
5. Other incidental expenses, only as supported by receipts.

**IV. NON-REIMBURSABLE EXPENSES**

Reimbursement will not be allowed for expenses not associated with carrying out official City business. For example, expenses associated with the use of a personal computer to compile lists of constituents, record the results of public opinion research, etc., would likely be reimbursable as expenses incident to the Mayor's or Councilmember's official function. By analogy, expenses associated with the use of personal computers by the Mayor or a Councilmember in their campaign endeavors (e.g., preparing precinct list, voter polls, etc.) would be classified personal, non-reimbursable expenses, i.e., those not associated with carrying out official City Business

TY:sz[30485(A)sz/ty] 7/2704



**MAYOR/COUNCILMEMBERS MONTHLY EXPENSE REIMBURSEMENTS FORM**

Name \_\_\_\_\_, Month of: \_\_\_\_\_,

Date																				Total
Breakfast																				
Lunch																				
Dinner																				
Postage																				
Telephone																				
Publications																				
Selective Service																				
Other**																				
Total Expenses (MAXIMUM: Councilmembers \$750; Council President \$843.75; Mayor \$850)																			Account 55802	\$
Transportation Reimbursement (MAXIMUM: Councilmembers \$450; Mayor \$500)																			Account 52901	\$
<b>GRAND TOTAL</b>																				\$

\*\*Explanation:

I certify that the foregoing is a correct statement of expenses incurred by me on official business.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Print Name \_\_\_\_\_