

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

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

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,  
AMENDING SECTION 3-351 OF THE FRESNO MUNICIPAL  
CODE TO AMEND THE ELIGIBLE ROLLOVER  
DISTRIBUTION PROVISIONS OF THE FIRE AND POLICE  
RETIREMENT SYSTEM TO BE CONSISTENT WITH  
ROLLOVER OPTIONS AVAILABLE UNDER FEDERAL LAW

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

SECTION 1. Section 3-351 of the Fresno Municipal Code is amended to read as follows:

SEC. 3-351. – DIRECT TRANSFERS OF ELIGIBLE ROLLOVER  
DISTRIBUTIONS.

- (a) If, under the provisions of this article or article 4, a distributee becomes entitled to an eligible rollover distribution, the distributee may elect to have the distribution or any portion thereof paid directly to an eligible retirement plan specified by the distributee.
- (b) The election made pursuant to this Section shall be in accordance with the terms and conditions established by the Board.
- (c) Upon the exercise of the election by a distributee pursuant to this Section, the distribution from the retirement fund of the amount designated by the distributee shall be made in the form of a direct transfer to the eligible retirement plan so specified.

1 of 6

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:  \_\_\_\_\_

Ordinance No.

- (d) For purposes of this Section, "distributee" means a member, a surviving spouse, or a former spouse under a domestic relations order which is treated as a qualified domestic relations order to the extent provided in Internal Revenue Code Section 414(p)(11), and such other persons as come within the meaning of the term as used in Section 401(a)(31)(A) of the Internal Revenue Code. Effective for plan years on or after January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.
- (e) For purposes of this Section, "eligible rollover distribution" means a distribution from the Retirement Fund which constitutes an eligible rollover distribution within the meaning of Section 401(a)(31)(C) of the Internal Revenue Code, i.e., any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

- (1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made (i) for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary or (ii) for a specified period of ten years or more;
- (2) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code;
- (3) The portion of any distribution that is not includable in gross income;  
or
- (4) Any distribution that is reasonably expected to total less than \$200 during the year.

Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to

an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code.

- (f) For purposes of this Section, "eligible retirement plan" means a plan which constitutes an eligible retirement plan within the meaning of Section 401(a)(31)(D) of the Internal Revenue Code, the terms of which permit the acceptance of rollover distributions and is limited to the following:
- (1) an individual retirement account described in Section 408(a) of the Internal Revenue Code,
  - (2) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code,
  - (3) an annuity plan described in Section 403(a) of the Internal Revenue Code,
  - (4) a qualified trust described in Section 401(a) of the Internal Revenue Code:[\[1\]](#)
  - (5) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code:[\[1\]](#)

- (6) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, ~~or~~
- (7) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code-, or
- (8) a SIMPLE IRA which has been in existence for at least two (2) years as of the date of the rollover.]
- (g) This section applies to distributions made on or after January 1, 1993.
- (h) If this Article in Section 3-327 (Refund of Contributions) or Section 3-328 (Deferred Benefits After Separation) provides for a mandatory refund of contributions which constitutes an eligible rollover distribution under this Section and if an individual while a member does not elect to have such refund paid either directly to the individual or to an eligible retirement plan in a direct rollover, the amount to be refunded shall be credited to the City of Fresno Fire and Police Retirement Fund, with the individual as a former member being entitled thereafter to claim the amount so credited but without interest.

SECTION 2. This ordinance shall become effective and 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 \_\_\_\_\_, 2024.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2024  
Mayor Approval/No Return: \_\_\_\_\_, 2024  
Mayor Veto: \_\_\_\_\_, 2024  
Council Override Vote: \_\_\_\_\_, 2024

TODD STERMER, CMC  
City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE  
ANDREW JANZ

BY: \_\_\_\_\_  
Deputy

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- (b) The election made pursuant to this Section shall be in accordance with the terms and conditions established by the Board.
- (c) Upon the exercise of the election by a distributee pursuant to this Section, the distribution from the retirement fund of the amount designated by the distributee shall be made in the form of a direct transfer to the eligible retirement plan so specified.

1 of 6

Date Adopted:  
Date Approved  
Effective Date:  
City Attorney Approval: \_\_\_\_\_

Ordinance No.

- (d) For purposes of this Section, "distributee" means a member, a surviving spouse, or a former spouse under a domestic relations order which is treated as a qualified domestic relations order to the extent provided in Internal Revenue Code Section 414(p)(11), and such other persons as come within the meaning of the term as used in Section 401(a)(31)(A) of the Internal Revenue Code. Effective for plan years on or after January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.
- (e) For purposes of this Section, "eligible rollover distribution" means a distribution from the Retirement Fund which constitutes an eligible rollover distribution within the meaning of Section 401(a)(31)(C) of the Internal Revenue Code, i.e., any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:



- (1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made (i) for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary or (ii) for a specified period of ten years or more;
- (2) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code;
- (3) The portion of any distribution that is not includable in gross income;  
or
- (4) Any distribution that is reasonably expected to total less than \$200 during the year.

Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to

an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code.

- (f) For purposes of this Section, "eligible retirement plan" means a plan which constitutes an eligible retirement plan within the meaning of Section 401(a)(31)(D) of the Internal Revenue Code, the terms of which permit the acceptance of rollover distributions and is limited to the following:
- (1) an individual retirement account described in Section 408(a) of the Internal Revenue Code,
  - (2) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code,
  - (3) an annuity plan described in Section 403(a) of the Internal Revenue Code,
  - (4) a qualified trust described in Section 401(a) of the Internal Revenue Code[,]
  - (5) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code[.]

- (6) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system,
  - (7) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code[, or
  - (8) a SIMPLE IRA which has been in existence for at least two (2) years as of the date of the rollover.]
- (g) This section applies to distributions made on or after January 1, 1993.
- (h) If this Article in Section 3-327 (Refund of Contributions) or Section 3-328 (Deferred Benefits After Separation) provides for a mandatory refund of contributions which constitutes an eligible rollover distribution under this Section and if an individual while a member does not elect to have such refund paid either directly to the individual or to an eligible retirement plan in a direct rollover, the amount to be refunded shall be credited to the City of Fresno Fire and Police Retirement Fund, with the individual as a former member being entitled thereafter to claim the amount so credited but without interest.

SECTION 2. This ordinance shall become effective and 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 \_\_\_\_\_, 2024.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :  
Mayor Approval: \_\_\_\_\_, 2024  
Mayor Approval/No Return: \_\_\_\_\_, 2024  
Mayor Veto: \_\_\_\_\_, 2024  
Council Override Vote: \_\_\_\_\_, 2024

TODD STERMER, CMC  
City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE  
ANDREW JANZ

BY: \_\_\_\_\_  
Deputy

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

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

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,  
AMENDING SECTION 3-564 OF THE FRESNO MUNICIPAL  
CODE TO AMEND THE ELIGIBLE ROLLOVER  
DISTRIBUTION PROVISIONS OF THE EMPLOYEES'  
RETIREMENT SYSTEM TO BE CONSISTENT WITH  
ROLLOVER OPTIONS AVAILABLE UNDER FEDERAL LAW

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

SECTION 1. Section 3-564 of the Fresno Municipal Code is amended to read as follows:

SEC. 3-564. – DIRECT TRANSFERS OF ELIGIBLE ROLLOVER  
DISTRIBUTIONS.

- (a) If, under the provisions of this Article, a distributee becomes entitled to an eligible rollover distribution, the distributee may elect to have the distribution or any portion thereof paid directly to an eligible retirement plan specified by the distributee.
- (b) The election made pursuant to this Section shall be in accordance with the terms and conditions established by the Board.
- (c) Upon the exercise of the election by a distributee pursuant to this Section, the distribution from the retirement fund of the amount designated by the distributee shall be made in the form of a direct transfer to the eligible retirement plan so specified.

1 of 6

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:  \_\_\_\_\_

Ordinance No.

- (d) For purposes of this Section, "distributee" means a member, a surviving spouse, or a former spouse under a domestic relations order which is treated as a qualified domestic relations order to the extent provided in Internal Revenue Code Section 414(p)(11), and such other persons as come within the meaning of the term as used in Section 401(a)(31)(A) of the Internal Revenue Code. Effective for plan years on or after January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.
- (e) For purposes of this Section, "eligible rollover distribution" means a distribution from the retirement fund which constitutes an eligible rollover distribution within the meaning of Section 401(a)(31)(C) of the Internal Revenue Code, i.e., any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
- (1) Any distribution that is one of a series of substantially equal periodic payments (not less than frequently than annually) made (i) for the life (or expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated

- beneficiary or (ii) for a specified period of ten years or more;
- (2) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code;
  - (3) The portion of any distribution that is not includable in gross income;  
or
  - (4) Any distribution that is reasonably expected to total less than \$200 during the year. Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable; or (iii) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code.

(f) For purposes of this Section, "eligible retirement plan" means a plan which constitutes an eligible retirement plan within the meaning of Section 401(a)(31)(D) of the Internal Revenue Code, the terms of which permit the acceptance of rollover distributions and is limited to the following:

- (1) an individual retirement account described in Section 408(a) of the Internal Revenue Code,
- (2) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code,
- (3) an annuity plan described in Section 403(a) of the Internal Revenue Code, ~~or~~
- (4) a qualified trust described in Section 401(a) of the Internal Revenue Code ~~;~~ ]
- (5) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code,
- (6) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, ~~or~~
- (7) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code ~~;~~ ] ~~or~~
- (8) a SIMPLE IRA which has been in existence for at least two (2) years as of the date of the rollover.]



- (g) This Section applies to distributions made on or after January 1, 1993.
- (h) If this Article in Section 3-534 (Refund of Contributions) or Section 3-535 (Deferred Benefits After Separation) provides for a mandatory refund of contributions which constitutes an eligible rollover distribution under this Section and if an individual while a member does not elect to have such refund paid either directly to the individual or to an eligible retirement plan in a direct rollover, the amount to be refunded shall be credited to the Retirement Fund, with the individual as a former member being entitled thereafter to claim the amount so credited but without interest.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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

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AYES :  
NOES :  
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ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2024  
Mayor Approval/No Return: \_\_\_\_\_, 2024  
Mayor Veto: \_\_\_\_\_, 2024  
Council Override Vote: \_\_\_\_\_, 2024

TODD STERMER, CMC  
City Clerk

BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE  
ANDREW JANZ

BY: \_\_\_\_\_  
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- (b) The election made pursuant to this Section shall be in accordance with the terms and conditions established by the Board.
- (c) Upon the exercise of the election by a distributee pursuant to this Section, the distribution from the retirement fund of the amount designated by the distributee shall be made in the form of a direct transfer to the eligible retirement plan so specified.

1 of 6

Date Adopted:  
Date Approved  
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- (d) For purposes of this Section, "distributee" means a member, a surviving spouse, or a former spouse under a domestic relations order which is treated as a qualified domestic relations order to the extent provided in Internal Revenue Code Section 414(p)(11), and such other persons as come within the meaning of the term as used in Section 401(a)(31)(A) of the Internal Revenue Code. Effective for plan years on or after January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.
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AYES :  
NOES :  
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ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2024  
Mayor Approval/No Return: \_\_\_\_\_, 2024  
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TODD STERMER, CMC  
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Deputy

APPROVED AS TO FORM:  
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