



## **City of Petaluma**

### **Expense Reimbursement and AB 1234 Policy for City Councilmembers**

#### **1. Purpose and Scope of Expense Reimbursement Policy.**

**1.1.** The purpose of this Expense Reimbursement Policy (“Policy”) is to establish clear guidelines for reimbursing the Mayor and City Councilmembers (hereinafter referred to jointly as the Council or separately as Councilmember) for their actual and necessary expenses incurred in the performance of official City duties and comply with Cal. Gov. Code § 53232 through § 53232.4.

**1.2.** This Policy applies to each member of the City Council. Additionally, this Policy applies to each member of a “Legislative Body” as defined by Government Code Section 54952, only to the extent that prior approval for a particular expense reimbursement has been separately approved by the City Council.

**1.3.** City Manager, City Attorney, and Finance Director referred to herein are the City Manager, City Attorney, and Finance Director for the City of Petaluma or their designee(s).

**2. Statement of General Rule:** The Council is entitled to reimbursement for any “Actual and Necessary Expenses”, as defined in section 4 of this Policy, incurred in the performance of “Official Duties”, as defined in Section 3 of this Policy, of the Councilmember, provided that the amount of the expenses does not exceed the reasonable reimbursement rates set forth in this Policy, and provided that the amount of the expenses does not exceed the amount budgeted for such expenses.

**2.1. Elements of the General Rule:** Each Section of the Policy is described in the following sections of this Policy:

- 2.1.1.** Section 3: “Official Duties”
- 2.1.2.** Section 4: “Actual and Necessary Expenses”
- 2.1.3.** Section 5: “Reasonable Reimbursement Rates”
- 2.1.4.** Section 6: “Documentation of Actual Costs”
- 2.1.5.** Section 7: “Policy Violations”
- 2.1.6.** Section 8: “Ethics Training”

#### **2.2. Procedures:**

**2.2.1.** Each Councilmember is encouraged to contact the City Manager, the City Attorney, or the Finance Director if there are any questions regarding the implementation of this Policy. In particular, it is important to know whether a

particular cost is reimbursable before the cost is incurred to best safeguard City monies.

- 2.2.2.** The City Council shall as part of the annual budget approve amounts available for reimbursements in accordance with this Policy.
- 2.2.3.** The Finance Director, in coordination with the City Manager and the City Attorney, will develop standard Expense Report Forms (“Form(s)”) and may develop guidelines to implement this Policy. Each Councilmember will be notified regarding any changes to the Form and guidelines.
- 2.2.4.** Councilmembers will submit reimbursement requests to the Finance Director on Expense Report Forms, along with the documentation described in Section 6 (Documentation of Actual Costs).
  - (a)** If the Finance Director determines that the request is made in accordance with this Policy, then reimbursement will be made accordingly.
  - (b)** If the Finance Director determines that all or some portion of the request does not comply with this Policy, the Finance Director shall notify the Councilmember with the basis for the determination, and
    - 1.** If the Councilmember is able to provide additional information or documentation such that the Finance Director determines that the request is made in accordance with this Policy, then reimbursement will be made accordingly.
    - 2.** If the Finance Director does not determine that the request is made in accordance with this Policy, per Subsection 2.2.4.b.1., then the Councilmember may request a meeting with the City Manager, the City Attorney, and the Finance Director to determine if the request has been made in accordance with this policy.
    - 3.** If a meeting requested under Subsection 2.2.4.b.2 does not result in a determination satisfactory to the Councilmember, the Councilmember may submit the request to the City Council to determine whether the reimbursement will be made to the Councilmember at the next scheduled regular City Council meeting.

- 2.2.5.** If a Councilmember or City Manager has any proposed change to this Policy, the proposed change may be submitted to the City Council for their consideration at a regularly scheduled City Council meeting.

**3. Official Duties:** A Councilmember is entitled to reimbursements only for costs incurred in the performance of “Official Duties.” Official Duties include, but are not limited to, the following:

- 3.1.** Attending educational seminars designed to improve Councilmembers’ skill and information levels, like specific subject matter trainings.
- 3.3.** Communicating with representatives of local, regional, state, and national government and their various agencies and entities on policies that may impact the City of Petaluma.
- 3.4.** Communicating with representatives of business or community interests at the local, regional, state, and national level on policies which may impact the City of Petaluma.
- 3.5.** Participating in local, regional, state, and national organizations whose activities affect the City’s interests. Such organizations include, but are not limited to, California League of Cities, California Redevelopment Association, or Sierra Club.
- 3.6.** Attending events for which the City is a sponsor or participant.
- 3.7.** Attending a meeting designed to implement a City-approved strategy for attracting or retaining business to the City.

**4. Actual and Necessary Expenses:** A Councilmember is entitled to reimbursements only for “actual and necessary” expenses incurred in the performance of official duties, including the following:

**4.1. General Rule:** “Actual and necessary” expenses are those expenses for which there is a “practical need” based on costs normally incurred in prevailing business practices to conduct the “Official Duties.” Actual and necessary expenses include, but are not limited to those costs listed in Section 5 of this Policy.

**4.1.1.** Actual and necessary expenses may include miscellaneous expenses not specifically identified in Section 5 of this Policy; provided, however, a Councilmember requesting reimbursement for miscellaneous expenses not specifically identified in Section 5 shall have the burden of establishing the “practical need” for incurring the expense in order to conduct “Official Duties.” An example of an “actual and necessary” miscellaneous expense could be business cards.

**4.2** “Actual and necessary” expenses shall not include any costs related to the personal portion of any City-business trip, entertainment or recreation (including but not limited to theater, movies, sporting events, gym, or massage), alcohol, tobacco, gifts to any third-party, political campaign activities, charitable contributions.

**4.3.** All other expenditures that are not deemed “Actual and necessary” require prior approval by the City Council and are subject to reasonable reimbursement rates as described in section 5.4.

**5. Reasonable Reimbursement Rates:** In determining whether a Councilmember’s Actual and Necessary Expenses are “reasonable,” the Councilmember may rely on this Policy or rates established by the Internal Revenue Service Publication 463.<sup>1</sup>

### **5.1. Transportation:**

#### **5.1.1. General.**

**(a)** The Councilmember shall make reasonable efforts to ensure that the most economical (cost-effective and time-efficient) mode and class of transportation is used, considering the possibility of carpooling and ride sharing, particularly for car rentals or taxis, compared to other forms of transit.

**(b)** The Councilmember shall make reasonable efforts to inquire into the availability of government and group rates (such as those available through the League of California Cities Enhanced Local Government Airfare Program, the California State Association of Counties, and the State of California). The Finance Director and/or City Manager can assist Councilmembers in finding suitable transportation. The Councilmember shall be entitled to reimbursement for expenses to the extent equal to or less than any reasonably available government or group rate. In any event, a Councilmember shall not be entitled to reimbursement for any expenses to the extent they exceed the cost generally available to the public.

**5.1.2. Personal Vehicle.** Each Councilmember shall maximize the use of personal automobiles for travel to official duties within a 50-mile radius of Petaluma. The Councilmember shall be entitled to reimbursement in an amount equal to the lesser of: (1) the Internal Revenue Service rate for mileage reimbursement based on the number of round-trip miles to and from the official duties, less 100 miles; or (2) the amount of roundtrip airfare pursuant to Section 5.1.3.

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<sup>1</sup> <https://www.irs.gov/forms-pubs/about-publication-463> Link to IRS Publication 463.

- (a) Use of a privately owned vehicle on City business requires the driver to possess a valid California driver's license and to carry automobile insurance consistent with the City's requirements. Any damage to the vehicle or service repairs are of a personal nature, and are not reimbursable by the City, and the City shall assume no liability.

**5.1.3. Airfare.** In the event that airfare is determined to be the most economical mode of transportation for official duties, the Councilmember shall make reasonable efforts to obtain the most economical airfares. When traveling by air, reimbursement shall be authorized for reasonable and actual costs and/or reasonable gratuities for baggage handling.

**5.1.4. Car Rental.** In the event that car rental is determined to be the most economical mode of transportation for official duties, the Councilmember shall make reasonable efforts to obtain the best price for a reasonable rental car. When using a rental car, reimbursement shall be authorized for reasonable actual costs of gasoline, parking, and tolls.

**5.1.5. Taxis / Shuttles / Transit.** In the event that transit (taxis, shuttles, or other transit) is determined to be the most economical mode of transportation for official duties, the Councilmember shall make reasonable efforts to obtain the most economical rates for the transit. When using taxis or shuttles, reimbursement shall be authorized for reasonable actual costs of gratuities, not to exceed 15 percent per fare.

## **5.2. Lodging:**

### **5.2.1. General.**

- (a) The Councilmember shall make reasonable efforts to ensure that the most economical (cost-effective and time-efficient based on location) mode and class of lodging is used. The City Manager's Office may assist Councilmembers in finding suitable accommodations.
- (b) The Councilmember shall make reasonable efforts to inquire into the availability of government and group rates (such as those available through the League of California Cities). The Councilmember shall be entitled to reimbursement for expenses to the extent equal to or less than any reasonably available government or group rate. In any extent, a Councilmember shall not be entitled to reimbursement for any expenses to the extent they exceed the cost generally available to the public.

- (c) Councilmembers must cancel any reservation that will not be used. Any extension of time for personal use is not covered and must be paid for directly by the Councilmember.
- (d) An elected official may stay with a friend or relative while attending official business, however the City will not reimburse for any payment to the friend or relative for lodging, meals or transportation.

**5.2.2.** The actual and reasonable costs of lodging for out of town “official duty” events are reimbursable from the night preceding the beginning of the event, through the night preceding the close of the event. The Councilmember shall be entitled to reimbursement for meals, pursuant to Section 5.3, from the beginning of travel through the end of travel.

**5.3 Meals:** Meals and associated gratuities will be reimbursed based on actual costs, in an amount not to exceed the “U.S. General Services Administration Meals and Incidentals Breakdown at the location of the official duty.”<sup>2</sup>:

**5.4. Miscellaneous Expenses:** To the extent that actual costs incurred in the performance of official duties are defined as “Actual and Necessary” Expenses, pursuant to Section 4), but the reasonable costs are not otherwise defined in this section 5, the Councilmember shall be entitled to reimbursement for expenses to the extent equal to or less than any reasonably available government or group rate. In any event, a Councilmember shall not be entitled to reimbursement for any expenses to the extent they exceed the cost generally available to the public.

**5.4.1 Spouse and Guests.** Spouses and guests are allowed to accompany the elected official on City travel and at conferences, seminars and meetings when using public or private transportation. However, the City will only reimburse the elected official pursuant to this policy.

**6. Documentation of Actual Costs:** Each Councilmember shall submit requests for reimbursements to the Finance Director, using an “Expense Report Form” established by the Finance Director, to identify information sufficient to document compliance with the requirements of this Policy.

**6.1.** Councilmembers shall promptly submit reimbursement requests to the Finance Director.

**6.2.** At a minimum, the documentation of actual costs shall include an identification of the “official duty,” the type of expense based on the categories of reasonable reimbursement rates identified in Section 5, the actual amount of expenses, and the date each expense was incurred, along with a certification by the Councilmember that the

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<sup>2</sup> <https://www.gsa.gov/travel/plan-book/per-diem-rates?gsaredirect=perdiem>

expenses set forth on the Expense Report Form represent actual and necessary expenses incurred in the performance of the Councilmember's official duties.<sup>3</sup>

**6.3.** Adequate documentation of the actual costs shall be submitted with the Expense Report Form. Receipts are not required for meals under \$25. Adequate documentation may include receipts from the vendor, credit card receipts, cancelled checks, or any other documentation in a form satisfactory to the Finance Director to reasonably document the expense based on particular circumstances. If an original receipt has been lost, the councilmember may submit a declaration seeking approval of the affected expense.

**6.4.** If a Councilmember is reimbursed for attending a meeting of another local entity, conference or other education event, the Councilmember is required to briefly report on that conference, meeting or event at the next regular City Council meeting to inform the Council about the event.<sup>4</sup>

## **7. Policy Violations**

**7.1 General.** Violations of this Policy including falsifying expense reports may result in any or all of the following:

- (a) loss of reimbursement privileges,
- (b) demand for restitution to the City,
- (c) any other applicable state and federal penalties, including criminal prosecution.<sup>5</sup>

**7.2 Policy Violation Hearing.** The City Council shall consider 7.1(1) or 7.1(2) above only at a publicly noticed Council meeting at which a hearing shall be held to determine whether or not a Councilmember has violated the Policy and what the appropriate penalty shall be.

- (a) The determination as to whether or not to hold such a hearing may be made only after a vote of a majority of the Councilmembers present at any meeting during which the matter is considered.
- (b) The hearing shall not be a full adversarial evidentiary hearing, and there shall be no direct or cross examination of witnesses except by the Council.

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<sup>3</sup> Cal. Gov. Code § 53232.3

<sup>4</sup> Cal. Gov. Code § 53232.3(d)

<sup>5</sup> Cal. Gov. Code § 53232.4

(c) The Councilmember who is being accused of violating the Policy shall be entitled to present any evidence to the Council as to the validity and propriety of expenditures for which reimbursement was sought. The Councilmember being accused of violating the policy shall not participate in either the decision to hold the hearing or the decision on the hearing.

## **8. Ethics Training:**

**8.1.** Each Councilmember shall receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service every two years.<sup>6</sup>

**8.1.1.** “Ethics Laws” shall include:

(a) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.

(b) Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.

(c) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.

(d) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

**8.2. Maintaining Records.** After completing the Ethics law training, the Councilmember shall provide documentation of the ethics training to the City Clerk, indicating both of the following:

(a) The dates that local officials satisfied the requirements of this article.

(b) The entity that provided the training.<sup>7</sup>

**8.2.1.** The City Clerk shall maintain these records for at least five years after local officials receive the training.<sup>8</sup> These records are public records subject to disclosure under the California Public Records Act.

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<sup>6</sup> Cal. Gov. Code § 53235.

<sup>7</sup> Cal. Gov. Code § 53235.2.

<sup>8</sup> Cal. Gov. Code § 53235.2.