

1 [Administrative Code - Minimum Transportation Reimbursement - Airport-Area Employees]

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3 **Ordinance amending Section ___ of the San Francisco Administrative Code by adding**
4 **Chapter 12Z, encompassing sections 12Z.1 to 12Z.8 to provide a minimum**
5 **transportation reimbursement for employees working at the San Francisco**
6 **International Airport; and making environmental findings and findings of consistency**
7 **with general plan (where applicable; delete this field after editing).**

8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are *strike-through italics Times New Roman*.
10 Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

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

12 Section 1. Findings.

13 Whereas the City and County of San Francisco has an interest in ensuring that working people
14 are able to take home sufficient income to ensure a decent and healthy life for themselves and their
15 families; and

16 Whereas the rising cost of transportation to the San Francisco International Airport has posed
17 significant financial hardship to Airport-area employees;

18 Section 2.

19 The San Francisco Administrative Code is hereby amended by adding Chapter 12Z,
20 encompassing Sections 12Z.1 to 12Z.XX to read as follows:

21 SEC. 12Z.1. TITLE.

22 This Chapter shall be known as the “Minimum Transportation Allowance for Airport-Area
23 Employees Ordinance.”

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1 SEC. 12Z.2. AUTHORITY.

2 This Chapter is adopted pursuant to the powers vested in the City and County of San Francisco
3 ("the City") under the laws and Constitution of the State of California and the City Charter including,
4 but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the
5 California Constitution and Section 1205(b) of the California Labor Law.

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7 SEC. 12Z.3 DEFINITIONS.

8 "Airport" shall mean the San Francisco International Airport.

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10 "Airport Employee" shall mean any person who:

11 (a) In a particular week performs at least two (2) hours of work for an Employer on property
12 under the jurisdiction of the San Francisco Airport Commission; and

13 (b) Qualifies as an employee entitled to payment of a minimum wage from any employer under
14 the California minimum wage law, as provided under Section 1197 of the California Labor Code and
15 wage orders published by the California Industrial Welfare Commission.

16 "Employer" shall mean any person, as defined in Section 18 of the California Labor
17 Code, including corporate officers or executives, who directly or indirectly or through an agent any
18 other person, including through the services of a temporary services or staffing agency or similar
19 entity, employs or exercises control over the wages, hours or working conditions of any Employee. For
20 purposes of this Chapter, "Employer" shall not include Federal, State, Municipal, or other government
21 bodies.

22 "Transportation Expenses" shall mean the costs of transportation to and from the Airport
23 incurred by an Airport Employee for the purposes of commuting to and/or from his or her employment
24 at the Airport, including but not limited to public transit tickets. Transportation Expenses shall not
25 mean the time spent by an Employee in commuting to and/or from this or her employment at the

1 Airport, but rather shall be limited to the out-of-pocket costs incurred by the Employee in such travel.
2 Nothing in this Chapter shall relieve the Employer of its obligation to compensate Airport Employees
3 for time spent in travel which constitutes “hours worked” under applicable State Law or this Code, or
4 the Employer’s obligation to reimburse an Employee for expenses incurred in such “hours worked.”

5 “Agency” shall mean the Office of Labor Standards Enforcement.

6 SEC. 12Z.4 MINIMUM TRANSPORTATION REIMBURSEMENT.

7 (a) On any day that an Airport Employee is employed by an Employer at the Airport, that
8 Employer shall reimburse such Airport Employees for Transportation Expenses, to a maximum of
9 \$18.50 per day, for each instance in which Transportation Expenses are incurred, including but not
10 limited to one such payment for commuting to work and one such payment for commuting from work

11 (b) To prevent inflation from eroding its value, the maximum reimbursement required under
12 SEC. 12Z.4(a) shall be adjusted such that it remains equal to the cost of a round-trip fare charged by
13 Bay Area Rapid Transit (BART) between the Richmond and San Francisco International Airport
14 Stations.

15 (c) Nothing in this Chapter shall relieve the Employer of its obligation to compensate Airport
16 Employees for time spent in travel which constitutes “hours worked” under applicable state or federal
17 law or this Code, or the Employer’s obligation to reimburse an Employee for expenses incurred in such
18 “hours worked.”

19 SEC. 12Z.5 IMPLEMENTATION AND ENFORCEMENT

20 (a) Implementation. The Agency shall be authorized to coordinate implementation and
21 enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes.
22 Any guidelines or rules promulgated by the Agency shall have the force and effect of law and may be
23 relied on by Employers, Employees and other parties to determine their rights and responsibilities
24 under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and
25 cost-effective implementation of this Chapter, including supplementary procedures for helping to

1 inform Employees of their rights under this Chapter, for monitoring Employer compliance with this
2 Chapter, and for providing administrative hearings to determine whether an Employer or other person
3 has violated the requirements of this Chapter

4 (b) Administrative Enforcement. The Agency is authorized to take appropriate steps to enforce
5 this Chapter. The Agency may investigate any possible violations of this Chapter by an Employer or
6 other person. Where the Agency has reason to believe that a violation has occurred, it may order any
7 appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending
8 completion of a full investigation or hearing. Where the Agency, after a hearing that affords a
9 suspected violator due process, determines that a violation has occurred, it may order any appropriate
10 relief including, but not limited to, reinstatement, the payment of any back wages unlawfully withheld,
11 and the payment of an additional sum as an administrative penalty in the amount of \$50 to each
12 Employee or person whose rights under this Chapter were violated for each day or portion thereof that
13 the violation occurred or continued. In order to compensate the City for the costs of investigating and
14 remedying the violation, the Agency may also order the violating Employer or person to pay to the City
15 a sum of not more than \$50 for each day or portion thereof and for each Employee or person as to
16 whom the violation occurred or continued. Such funds shall be allocated to the Agency and shall be
17 used to offset the costs of implementing and enforcing this Chapter. An Employee or other person may
18 report to the Agency in writing any suspected violation of this Chapter. The Agency shall encourage
19 reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by
20 applicable laws, the name and other identifying information of the Employee or person reporting the
21 violation. Provided, however, that with the authorization of such person, the Agency may disclose his
22 or her name and identifying information as necessary to enforce this Chapter or for other
23 appropriate purposes.

24 (c) Civil Enforcement. The Agency, the City Attorney, any person aggrieved by a violation of
25 this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other

1 person or entity acting on behalf of the public as provided for under applicable state law, may bring a
2 civil action in a court of competent jurisdiction against the Employer or other person violating this
3 Chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate
4 to remedy the violation including, without limitation, the payment of any back reimbursements
5 unlawfully withheld, the payment of an additional sum as liquidated damages in the amount of \$50 to
6 each Employee or person whose rights under this Chapter were violated for each day or portion
7 thereof that the violation occurred or continued, reinstatement in employment and/or injunctive relief,
8 and shall be awarded reasonable attorneys' fees and costs. Provided, however, that any person or
9 entity enforcing this Chapter on behalf of the public as provided for under applicable state law shall,
10 upon prevailing, be entitled only to equitable, injunctive or restitutionary relief, and reasonable
11 attorneys' fees and costs.

12 SEC. 12Z.6. WAIVER THROUGH COLLECTIVE BARGAINING.

13 All or any portion of the applicable requirements of this Chapter shall not apply to Employees
14 covered by a bona fide collective bargaining agreement to the extent that such requirements are
15 expressly waived in the collective bargaining agreement in clear and unambiguous terms.

16 SEC. 12Z.7. EFFECTIVE DATE.

17 This Chapter shall become effective sixty (60) days after it is adopted. This Chapter is intended
18 to have prospective effect only.

19 SEC. 12Z.8. SEVERABILITY.

20 If any part or provision of this Chapter, or the application of this Chapter to any person or
21 circumstance, is held invalid, the remainder of this Chapter, including the application of such part or
22 provisions to other persons or circumstances, shall not be affected by such a holding and shall continue
23 in full force and effect. To this end, the provisions of this Chapter are severable.

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

3 By: _____
4 ATTORNEY'S NAME
5 Deputy City Attorney
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