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City Attorney

OAKLAND CITY COUNCIL

ORDINANCE 13687 C.M.S.

ADOPT AN ORDINANCE ESTABLISHING A CITY OF OAKLAND “TICKET DISTRIBUTION POLICY” RESCINDING AND SUPERCEDING CITY COUNCIL RESOLUTION 82032 TO UPDATE LOCAL LAW IN ALIGNMENT WITH STATE AND LOCAL ETHICS LAWS AND TO GOVERN THE DISTRIBUTION OF TICKETS TO EVENTS FOR THE CITY OF OAKLAND

WHEREAS, the City of Oakland receives and distributes tickets to a variety of entertainment, sporting, or recreational events throughout the City; and

WHEREAS, the distribution of City tickets is governed by the City of Oakland Policy for Receipt and Distribution of Passes and Tickets, adopted as City Council Resolution 75052, C.M.S., on June 15, 1999, and later revised as City Council Resolution 82032, C.M.S., on May 19, 2009; and

WHEREAS, the California Political Reform Act and the Oakland Government Ethics Act provide restrictions on gifts, including a local gift limit of \$250 from a single source in a calendar year, and a lower \$50 limit on gifts from a person doing business with or seeking to do business with the department of the Public Servant receiving the gift or from a person who attempted to influence the Public Servant in any legislative or administrative action within the prior twelve months; and

WHEREAS, tickets are generally considered gifts to a Public Servant, unless a specific exception applies pursuant to the California Political Reform Act, including an exception for tickets that are received pursuant to a local agency’s written policy, adopted by that agency’s legislative body, which sets forth the public purposes of the agency for which tickets may be distributed; and

WHEREAS, tickets received and reported by Public Servants pursuant to a City’s ticket policy and properly used for a “public purpose” as described in the policy are considered exempt from the gift reporting and gift limit rules of the California Political Reform Act and Oakland Government Ethics Act; alternatively, tickets received by Public Servants in a manner that does not meet all of the requirements of the policy are otherwise subject to state and local gift rules, restrictions, and reporting requirements or may be considered income.

WHEREAS, the California Fair Political Practices Commission (FPPC), which administers the California Political Reform Act, recently amended Regulations 18944.1, 18946,

18946.1, and 18942 to provide clarifying and substantive changes to ensure that City Tickets are not disproportionately used by elected and appointed officials and that, if tickets are distributed to such officials for oversight or inspection of facilities, then those officials must include a written report of findings and recommendations as a result of their review during the ticket use, among other changes; and

WHEREAS, the Oakland Government Ethics Act was adopted by City Council in 2014 to incorporate and supplement the California Political Reform Act, including gift prohibitions, exceptions, and exemptions such as that provided by Regulation 18944.1, and to provide the Oakland Public Ethics Commission with specific authority to prevent and enforce violations of ethics laws; and

WHEREAS, existing City Council Resolution 82032, C.M.S., now is outdated and out of alignment with state law and Oakland's legal framework for education and enforcement of ethics laws under the Oakland Government Ethics Act,

NOW, THEREFORE, BE IT ORDAINED,

The City Council of the City of Oakland, to ensure compliance with the Oakland Government Ethics Act and the California Political Reform Act by the City and its public officials, and to provide a clear policy for the receipt, distribution, and reporting of the use of City tickets, does hereby enact the City of Oakland Ticket Policy Ordinance (hereinafter referred to as the Ticket Policy), to provide as follows:

Chapter 2.26 – City of Oakland Ticket Distribution Policy

2.26.010 – Short title.

This chapter shall be known as the City of Oakland Ticket Distribution Policy.

2.26.020 – Purpose.

- A. This chapter is adopted pursuant to section 18944.1 of Title 2 of the California Code of Regulations as the written ticket distribution policy for the City of Oakland. This chapter governs the distribution of tickets by all departments and offices of elected officials and supersedes any ticket distribution policy or procedures adopted by City Council or City department.
- B. This chapter articulates the public purpose, requirements, and restrictions for the distribution of City tickets to accomplish the following objectives:
 1. Ensure that the City's distribution of tickets to and at the behest of Public Servants complies with state law exempting such tickets from gift reporting requirements and limits; and
 2. Ensure that tickets, which are City resources, are appropriately distributed to Public Servants or non-City individuals for City purposes, as defined by this chapter.

2.26.030 – Definitions.

- A. Unless expressly defined in this chapter, the words and terms used in this chapter have the same meaning as those defined or used in the Oakland Government Ethics Act or the California Political Reform Act (Government Code Sections 81000, *et seq.*), as amended, and Fair Political Practices Commission Regulations (Title 2, Sections 18110, *et seq.*, of the California Code of Regulations), as amended.
- B. “City” or “City of Oakland” means and includes the City of Oakland and any of its departments, boards, and commissions.
- C. “City ticket” means any ticket or pass received by the City pursuant to the terms of a contract for use of public property; offered by the City to officials for a City-controlled event; purchased by the City as a lawful expenditure of City money; or obtained by the City from an outside source that did not earmark the tickets for use by a particular official, and the City determines, in its sole discretion, who will receive the ticket.
- D. “Elected official” means the Mayor, City Councilmembers, the City Attorney, and the City Auditor.
- E. “Immediate family” means a person’s spouse or registered domestic partner and dependent children.
- F. “Public Servant,” as defined by the Oakland Government Ethics Act, includes:
 - 1. Any elected or appointed officeholder of the City of Oakland, including any such officeholder elected but not yet sworn in, and not including Oakland School Board Directors, and
 - 2. Any City board or commission member, including the Board of Port Commissioners, and
 - 3. Any full-time or part-time employee of the City, and
 - 4. Any consultant of the City who is required to file a Form 700 Statement of Economic Interests pursuant to the City of Oakland Conflict of Interest Code and the California Political Reform Act.
- G. “Ticket” means and includes any form of admission, parking, or other access privilege to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose, if similar tickets are sold or provided to the public to view, listen to, or otherwise take advantage of the attraction or activity.
- H. “Ticket Administrator” means an agency or department’s chief administrative officer or their designee. For Citywide elective offices, the chief administrative officer is the elected City official or their designee. For Council Member offices, the chief administrative officer is the City Council President or their designee. Both the chief administrative officer and their designee(s) are responsible for ensuring tickets are distributed according to this policy.

2.26.040 – City Receipt of Tickets.

Tickets received or distributed pursuant to this policy must first be obtained by the Ticket Administrator and logged into a database that reflects the number of tickets, event venue, name

and date of the event, and the face value for each ticket. If the ticket does not identify a face value, the Ticket Administrator must identify the price at which the ticket or pass would otherwise be offered for sale to the public by the operator of the venue or host of the event who offers the ticket for public sale.

2.26.050 – Ticket Distribution Process.

- A. Each Ticket Administrator shall establish a process for ticket distribution that ensures that tickets are tracked and distributed according to the public purposes and limitations of this policy. The Ticket Administrator and their designee are both responsible for determining whether the ticket distribution is made in furtherance of at least one of the public purposes provided in this chapter. The process shall be electronic so that it can be updated, searched, and provided to the public in electronic format.
- B. The Ticket Administrator shall collect the following information before distributing any tickets to Public Servants or non-City individuals:
 - 1. The ticket recipient’s name and department if a Public Servant, or the ticket recipient’s name and organization if a non-City individual;
 - 2. A description of the event;
 - 3. The date of the event;
 - 4. The fair value of the ticket, which is the face value on the ticket, or, if no value is indicated or if the face value does not reflect the actual cost for a ticket in a luxury box or suite, the face value is the total cost of the suite divided by the number of tickets available for the suite;
 - 5. The number of tickets provided;
 - 6. If the ticket distribution to the Public Servant or non-City individual was requested by another City official, the name of the requesting or “behesting” official; and
 - 7. The public purpose that best describes the reason for the distribution of the tickets, from the list provided in this policy.
- C. The Ticket Administrator shall not distribute any City ticket, even temporarily, to any Public Servant or non-City individual without first receiving the above information. If any of the information required above changes following the distribution or use of the ticket, the ticket recipient must notify the Ticket Administrator within 10 days of the change to accurately reflect the use of the ticket.
- D. The Ticket Administrator may receive requests for City tickets to be distributed to other Public Servants, non-City individuals, or organizations for a public purpose as provided by this policy, so long as the Ticket Administrator collects the above information from the ticket recipients directly, determines that a stated public purpose applies, and distributes the tickets to the recipients directly.

2.26.060 – Reporting of City Ticket Data.

- A. For every City ticket received and distributed under this policy, the Ticket Administrator is responsible for ensuring that all ticket distribution data is complete, properly entered into the City’s information management system created for this purpose, and maintained as a

public record subject to public inspection. Pursuant to State law, all City ticket information must be entered into the City's information management system within 25 days of the distribution of any ticket under this policy.

- B. All ticket distribution data entered into the City's information management system under this policy must be made available to the public online and in real time in an electronic machine-readable format that is accessible, searchable, and downloadable.

2.26.070 – Public Purposes.

The distribution of any City Ticket pursuant to this policy must accomplish one of the following stated public purposes:

- A. Further the City's work, mission, or duties;
- B. Recognize or encourage young people by providing opportunities for youth development, civic engagement, mentoring, or participation in cultural, artistic, educational, recreational, or community activities in the City;
- C. Promote City-controlled or City-sponsored events, activities, or programs;
- D. Enable a Public Servant to work at or attend the event as part of the Public Servant's job duties for the City;
- E. Promote or support community programs and resources available to City residents;
- F. Support or show appreciation for programs or services rendered by nonprofit 501(c)(3), educational, or government organizations that benefit City residents;
- G. Recognize significant academic, athletic, or public achievements of City residents;
- H. Recognize the meritorious service of another current or outgoing Public Servant or volunteer, for which such Public Servant or volunteer may receive up to 4 tickets per event, notwithstanding the limitations set forth in section 2.26.080;
- I. Promote local and regional businesses, economic development, local culture, and tourism activities within the City, including conventions, conferences, and job creation opportunities;
- J. Provide opportunities for economically disadvantaged or underserved residents to engage in cultural, artistic, educational, recreational, or community activities in the City; or
- K. Facilitate a Public Servant's oversight or inspection of a City facility or event, in which case a written inspection report of findings and recommendations by the official using the ticket must be submitted to the Ticket Administrator and included with the online ticket distribution data as required by state law.

2.26.080 – Limits on the Distribution, Use and Transfer of City Tickets.

- A. A Public Servant may receive no more than two tickets per event: one for their personal use under this policy and the other for a guest. No other transfer of a City ticket by a Public Servant, other than the Ticket Administrator, is permissible, including the sale of a ticket by a public servant.
- B. City Councilmembers, Citywide elected officials, chief administrative officers, political appointees, and department directors may not disproportionately use City tickets. For

purposes of this Chapter, "disproportionate use" means either of the following:

- a. Using a greater number of tickets than any other person not listed in this subsection who receives tickets from the City, or
 - b. Using more than one set of two tickets to an event per facility per calendar year.
- C. Nothing in this chapter prohibits a Public Servant from purchasing a ticket to an event for themselves or for additional guests to attend an event.

2.26.090 – Public Ethics Commission Role and Responsibilities.

- A. Prevention. The Commission, in consultation with the City Attorney, shall provide timely advice, assistance, and training to Public Servants who are subject to the requirements of this ordinance.
- B. Implementation. The Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this ordinance pursuant to Chapter 2.24 of the Oakland Municipal Code.
- C. Enforcement. A person who violates this ordinance is subject the same enforcement provisions as provided in Chapter 2.25, the Oakland Government Ethics Act.

2.26.100 – Miscellaneous provisions.

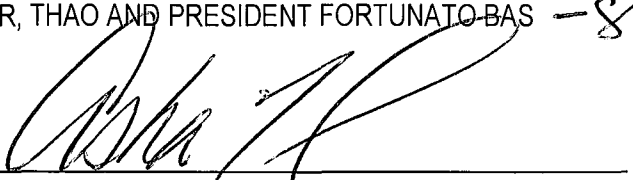
All references to other laws in this Act shall refer to those laws as they may be amended from time to time.

2.26.110 – Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

2.26.120 – Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, **MAY - 3 2022**
PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, Gallo, Kalb, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS - 8
NOES – 0
ABSENT – 0
ABSTENTION – 0

ATTEST: 
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: May 9, 2022

Introduction Date
APR 19 2022

NOTICE AND DIGEST

**ADOPT A CITY OF OAKLAND "TICKET DISTRIBUTION POLICY"
ORDINANCE RESCINDING AND SUPERCEDING CITY COUNCIL
RESOLUTION 82032 TO UPDATE LOCAL POLICY IN ALIGNMENT
WITH STATE AND LOCAL LAW AND ESTABLISH A CITYWIDE
ORDINANCE TO GOVERN THE DISTRIBUTION OF TICKETS TO
EVENTS FOR THE CITY OF OAKLAND**

Adoption of this Ordinance will rescind and supersede City Council Resolution 82032 to update local policy to bring it into alignment with state and local law. This Ordinance will establish a citywide distribution process for all tickets received or in the possession of the city.