

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE ADDING SECTION 12.02.095 AND 12.02.110 TO CHAPTER 12.02 AND AMENDING CHAPTER 12.08 OF TITLE 12 OF THE SAN JOSE MUNICIPAL CODE IN ITS ENTIRETY, TO ALIGN WITH THE POLITICAL REFORM ACT'S GIFT PROVISIONS, EXCEPT FOR THE POLITICAL REFORM ACT'S HIGHER GIFT LIMIT AND MAKING OTHER CLERICAL OR TECHNICAL CHANGES

WHEREAS, on December 15, 2015, the City Council approved the Mayor's 2015 Biennial Ethics Review and Recommendations which recommended revisions to the City's Gift Ordinance to better align with the gift rules under California law and simplify compliance with any conflicting rules; and

WHEREAS, the revisions to Title 12 (Ethics and Open Government Provisions) of the San José Municipal Code incorporate the provisions of the California Political Reform Act related to the meaning of the term gift and the exceptions to allowable gifts while maintaining the City's \$50.00 gift limit;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 12.02 of Title 12 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled as follows:

12.02.095 Political Reform Act

"Political Reform Act" means the California Political Reform Act (Government Code Sections 81000 *et seq.*), as amended, and the Regulations of the Fair Political

Practices Commission (Title 2, Division 6 of the California Code of Regulations) adopted thereunder, as amended.

SECTION 2. Chapter 12.02 of Title 12 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled as follows:

12.02.110 Successor Agency

“Successor Agency” means the Successor Agency to the City of San José Redevelopment Agency.

SECTION 3. Chapter 12.08 of Title 12 of the San José Municipal Code is hereby amended in its entirety to read as follows:

**CHAPTER 12.08
PROHIBITION OF GIFTS**

**Part 1
Title and Definitions**

12.08.010 Title

This Chapter will be known as the San José Gift Ordinance.

12.08.020 Definitions

The definitions in this Part govern the application and interpretation of this Chapter.

12.08.030 Gift

"Gift" has the same meaning as under the Political Reform Act.

12.08.040 Restricted Source

"Restricted Source" means any individual, firm or entity whose interest or whose employer's or client's interest:

- A. Has been materially affected by the work of such officer or employee of the City or Successor Agency within the two years prior to the time the gift is given; or
- B. In the future could reasonably be foreseen to be materially affected by the work of such officer or employee of the City or Successor Agency.

**Part 2
Acceptance of Gifts**

12.08.100 Gifts Prohibited

No officer or designated employee of the City or the Successor Agency may accept any gift, directly or indirectly, from a Restricted Source, except as provided in this Chapter.

12.08.110 Gifts Not Prohibited

This Chapter does not prohibit the acceptance or receipt of:

- A. Any gift that meets one of the exceptions under the Political Reform Act.
- B. Any gift, including meals and beverages, provided to an officer or employee in a business or social setting that has a value of fifty dollars or less, as long as the total value of all such gifts received from any one Restricted Source does not exceed fifty dollars in any calendar year.

12.08.120 Receipt, Promise, Acceptance, and Return of Gifts

For purposes of this Chapter, the promise, receipt, acceptance, and return of gifts are governed by the Political Reform Act. In addition, a gift is not considered accepted or received under this Chapter if:

- A. It is treated as and remains the property of the City or the Successor Agency
- B. It is received by an officer or designated employee in his or her official capacity or as a representative of the City or the Successor Agency, it is reported to the City Council or Successor Agency board, and the City Council or Successor Agency board, as applicable, approves of the official or designated employee retaining the gift.

Part 3

Reporting of Gifts

12.08.200 Reporting Requirements

- A. The reporting and disclosure of gifts must be done in accordance with the requirements of the Political Reform Act and the requirements in this Chapter.
- B. The gift limitations and disqualification requirements under the Political Reform Act are applicable to gifts which are not prohibited by this Chapter.

12.08.210 Reporting Gifts to Domestic Partner, Spouse, and Children

- A. At the time of filing the annual disclosure statement required by the Political Reform Act or any applicable conflict-of-interest code, each City officer, officer of the Successor Agency, or designated employee shall file a family gift report on a form provided by the City Clerk.
- B. The officer or designated employee shall indicate on such report any gifts known to have been accepted during the relevant reporting period by such officer's or employee's domestic partner, spouse, and any dependent child where such gifts would have been prohibited to the officer or employee. The value of any such gift and the donor must be disclosed. If the officer or employee has no knowledge of any such gift having been received, the report must so state.
- C. For purposes of this section, "domestic partner" means any person registered as a domestic partner by an employee with the City of San José.

RD:MJV:MJV
7/24/2017

PASSED FOR PUBLICATION of title this _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk