

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 2.08.080, 2.08.090, 2.08.130, AND 2.08.150 OF CHAPTER 2.08 OF TITLE 2 OF THE SAN JOSE MUNICIPAL CODE RELATING TO THE ESTABLISHMENT OF THE VOLUNTARY EMPLOYEES BENEFICIARY ASSOCIATION ADVISORY COMMITTEE**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 2.08.080 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

**2.08.080 Procedural Rules and Regulations**

A. Specific procedural rules and regulations.

1. The following boards and commissions shall each adopt its own procedural rules and regulations for the conduct of its business subject to the approval of the ~~f~~Rules and ~~e~~Open ~~g~~Government ~~e~~Committee:
  - a. Board of ~~a~~Administration for the ~~f~~Federated ~~e~~City ~~e~~Employees ~~r~~Retirement ~~s~~System;
  - b. Board of ~~a~~Administration for the ~~p~~Police and ~~f~~Fire ~~d~~Department ~~r~~Retirement ~~p~~Plan;
  - c. Planning ~~e~~Commission;
  - d. Civil ~~s~~Service ~~e~~Commission;

- e. Appeals hHearing bBoard;
- f. Salary sSetting eCommission;
- g. Deferred eCompensation aAdvisory eCommittee;
- h. Airport eCommission;
- i. Board of fFair eCompaign and pPolitical pPractices.
- j. Voluntary Employees Beneficiary Association Advisory Committee

2. The rules may:

- a. Provide for the establishment of various offices, provided membership therein is restricted to members of the board or commission.
- b. Provide for the establishment of various committees or subcommittees which may contain non-members of the board or commission, provided that at least one (1) of the members of the board or commission is a member of every committee or subcommittee.
- c. Specify the powers, duties and functions of the offices and committees. If non-members of the board or commission are allowed on committees or subcommittees, the rules of the board or commission shall contain specific rules for the establishment and operation of the committees or subcommittees, including rules setting out conflict-of-interest provisions and specifying the number of non-members allowed, whether a majority of members are

required, the voting rights of non-members, and the powers, duties and functions of the committees or subcommittees.

3. The rules shall comply with all applicable laws and ordinances and other applicable regulations or limitations.
  4. A copy of the rules shall be filed in the office of the eCity eClerk, where they shall be available for public inspection.
- B. All other boards and commissions shall conduct their meetings pursuant to standardized rules and regulations developed by the eCity eClerk and amended from time to time, as approved by the fRules and eOpen gGovernment eCommittee.

SECTION 2. Section 2.08.090 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

**2.08.090 Quorum**

A. Unless otherwise specifically provided in this Chapter, a majority of the total number of seats, whether filled or vacant, shall be necessary to constitute a quorum for a board or commission to take action, although a lesser number may adjourn from time to time.

B. This Section shall not apply to the Voluntary Employees Beneficiary Association Advisory Committee.

SECTION 3. Section 2.08.130 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

**2.08.130 Removal from Office**

- A. Except as provided in subsections B., ~~and C.~~, and D., notwithstanding an appointment for a specific term or part of a term, any person appointed to and holding the position of member of any board or commission may be removed from appointment, at any time, by the Council, with or without prior notice, and with or without cause.
- B. Notwithstanding the appointment of a person to the position of member of the Board of Administration for the Police and Fire Department Retirement Plan for a specific term or part of a term, any person holding such position may be removed by the Council for cause as follows:
1. The San José Police Officers' Association, the International Association of Fire Fighters, Local 230, the City Manager, any retired member of the Police and Fire Department Retirement Plan or any member of the public may submit a written request for removal to the City Council. Any such request shall state the grounds for which removal is sought.
  2. The City Council shall hold a hearing on any written request for removal submitted by the San José Police Officers' Association, the International Association of Fire Fighters, Local 230, or the City Manager.
  3. The Rules and Open Government Committee of the City Council shall consider any written request for removal submitted by a retired member of the Police and Fire Department Retirement Plan or any member of the public, and shall determine in its discretion, whether such request should be forwarded to the full City Council for hearing. Any such request shall state the grounds for which removal is sought.
  4. Notice of hearing shall be provided to the affected Board member at least ten (10) days prior to the date of any City Council meeting.

After a hearing, the City Council may remove the member of the Board from office if the Council makes a written finding of substantial evidence of cause for removal. Cause may include, but is not limited to, failure to remain qualified for the Board position to which the member is appointed, failure to discharge the Board member's duty as a fiduciary for the Plan, or failure to perform the Board member's duties in accordance with applicable law, including the requirements of Chapter 3.36 of Title 3 of this Code. For public members of the Board, cause for removal may also be based on failure to disclose all conflicts of interest, significant potential for conflict of interest, or appearance of conflict of interest as required by Code Section 2.08.1220E., and/or the existence of conflict of interest, significant potential for conflict of interest, or appearance of conflict of interest as based on information disclosed by public members of the Board pursuant to Code Section 2.08.1220E., or such other information as may be available to Council.

- C. Notwithstanding the appointment of a person to the position of a member of the Board of Administration for the Federated City Employees' Retirement System for a specific term or part of a term, any person holding such position may be removed by the Council for cause as follows:
1. The City Manager or any employee organization recognized by the City as an exclusive representative of employees who are members of the Federated City Employees' Retirement System may submit a written request for removal to the City Council. Any such request shall state the grounds for which removal is sought.
  2. The City Council shall hold a hearing on any request for removal submitted by the City Manager or any employee organization recognized

by the City as an exclusive representative of employees who are members of the Federated City Employees' Retirement System.

3. The Rules and Open Government Committee of the City Council shall consider any written request for removal submitted by a retired member of the Federated City Employees Retirement Plan or any member of the public, and shall determine in its discretion, whether such request should be forwarded to the full City Council for hearing. Any such request shall state the grounds for which removal is sought.
4. Notice of hearing shall be provided to the affected Board member at least ten (10) days prior to the date of any City Council hearing.
5. After the hearing, the City Council may remove the member of the Board from office if the Council makes a written finding of substantial evidence of cause for removal. Cause may include, but is not limited to, failure to discharge the Board member's duty as a fiduciary for the Plan, failure to remain qualified for the Board position to which the member is appointed, or failure to perform the Board member's duties in accordance with applicable law, including the requirements of Chapter 3.28 of Title 3 of this Code. For public members of the Board, cause for removal may also be based on failure to disclose all conflicts of interest, significant potential for conflict of interest, or appearance of conflict of interest as required by Code Section 2.08.1070F., and/or the existence of conflict of interest, significant potential for conflict of interest, or appearance of conflict of interest as based on information disclosed by public members of the Board pursuant to Code Section 2.08.1070F., or such other information as may be available to Council.

D. Notwithstanding the appointment of a person to the position of member of the Voluntary Employees Beneficiary Association Advisory Committee for a specific

term or part of a term, any person holding such position may be removed by the Council for cause as set forth by Resolution of the Council.

SECTION 4. Section 2.08.150 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

**2.08.150 Term and Term Limits**

- A. The term of appointment to a eCcharter commission is as established by the eCcharter.
- B. Members of boards or commissions not established by the eCcharter shall serve for a term of four (4) years, unless otherwise specified in this eCchapter. Such members shall be eligible for reappointment at the expiration of their first term for one (1) additional four (4)-year term. The first term shall begin from the date of the expiration of the former incumbent's term, irrespective of the date of actual appointment.
- C. Unless otherwise specified in this eCchapter, members who are appointed to serve unexpired terms shall serve to the end of the former incumbent's term.
- D. Except as otherwise specified in this eCchapter, a member may be appointed to serve a term of less than four (4) years or a term of less than the number of years established by this eCchapter for the particular board or commission if the eCouncil determines that it is in the best interest of the board or commission that a member serve a shorter term in order to provide for appropriate staggered terms to preserve a continuity of membership on the board or commission.
- E. Except as otherwise specified in this eCchapter, if a member has been appointed to serve a term of less than two (2) years, the member may be reappointed to

serve on the same board or commission for up to two (2) consecutive additional terms.

F. Notwithstanding Subsections A. through E. above, a member may be appointed to serve a third consecutive term with a length of one (1) to four (4) years, in the discretion of the eCity eCouncil, if the eCity eCouncil finds that reappointment of such member to a commission would be necessary to:

1. Maintain a functioning quorum on the commission; or
2. Maintain commissioners with one (1) or more years of experience or a required background on the commission; or
3. Establish or reestablish staggered terms to preserve a continuity of membership on the board or commission.

G. This Section shall not apply to the Voluntary Employees Beneficiary Association Advisory Committee as set forth by Resolution of the Council.



PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk