

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 12 OF THE SAN JOSE MUNICIPAL CODE TO AMEND SECTION 12.04.080 OF CHAPTER 12.04 TO AUTHORIZE THE CITY CLERK TO DISMISS WITHOUT PREJUDICE INSUFFICIENT COMPLAINTS OR COMPLAINTS THAT ARE OUTSIDE THE JURISDICTION OF THE BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES; SECTION 12.05.020 OF CHAPTER 12.05 TO REGULATE THE SCHEDULING OF SPECIAL ELECTIONS FOR CERTAIN INITIATIVE MEASURES; SECTION 12.06.295 OF CHAPTER 12.06 TO REMOVE LIMITATIONS ON THE AMOUNT A CANDIDATE MAY LOAN TO THEIR OWN CAMPAIGN OR CAMPAIGN COMMITTEE; SECTION 12.10.020 AND 12.10.050 OF CHAPTER 12.10 TO REMOVE THE NONPROFIT EXCEPTION IN THE REVOLVING DOOR ORDINANCE; AND SECTION 12.12.440 OF CHAPTER 12.12 TO REMOVE THE LATE FILING FEE FOR WEEKLY LOBBYIST REPORTS

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

SECTION 1. Section 12.04.080 of Chapter 12.04 of Title 12 of the San José Municipal Code is hereby amended and reads as follows:

12.04.080 Investigations.

- A. The city council shall adopt, by resolution, regulations and procedures for investigations and hearings to be conducted by the commission.
- B. The commission has the authority to investigate complaints alleging violations of this title, in accordance with the regulations and procedures adopted by resolution of the city council.

C. A complaint filed with the commission may be investigated only if the complaint identifies the specific alleged violation which forms the basis for the complaint and contains sufficient facts to warrant a formal investigation.

D. The City Clerk is authorized to dismiss complaints without prejudice that do not satisfy the requirements of this Section or are outside the jurisdiction of the commission.

~~D.E.~~ The council shall retain an independent and neutral evaluator, selected by the commission, to review and investigate complaints and to make recommendations to the commission. The council shall appropriate funds anticipated to be needed to fund the evaluator for a period of four years.

~~E.F.~~ No complaint, investigative file or information contained therein may be disclosed by a city official, city employee, the evaluator or investigator to any person other than a respondent or respondent's representative, the city attorney or district attorney, a court, a law enforcement agency or otherwise as necessary to the conduct of an investigation before the evaluator presents the report and recommendations to the commission.

~~F.G.~~ Except as provided in this section, the evaluator must refer any complaint where the respondent is a classified or unclassified employee appointed by a city council appointee to the appointing authority for investigation and action. The board of fair campaign and political practices must not take any further action on the complaint with regard to the employee.

~~G.H.~~ Any city employee who is a candidate for city office must be treated as any other candidate for purposes of Chapter 12.06.

~~H.I.~~ The city attorney's office may provide legal advice to the commission related to noncomplaint matters or general interpretations of the Municipal Code or relevant

state or federal law, but must not participate in investigations or reviews of complaints.

SECTION 2. Section 12.05.020 of Chapter 12.05 of Title 12 of the San José Municipal Code is amended to read as follows:

12.05.020 Scheduling of City Municipal Elections.

- A. A regular municipal election which is a regularly scheduled primary election shall be held on the same date that the state of California holds its direct primary election.
- B. A regular municipal election which is a run-off municipal election shall be held on the same date that the state of California holds its statewide general election.
- C. A special municipal election for an initiative measure that has qualified pursuant to Charter Section 1603(a)(1) within one hundred eighty (180) days prior to a general election, regular municipal election, or special municipal election, occurring wholly or partially in the City, may be held on the same date as, and consolidated with, that general election, regular municipal election, or special municipal election.
- ~~C.D.~~ A special municipal election for an initiative measure that has qualified pursuant to Charter Section 1603(a)(1) during the period between a regularly scheduled statewide direct primary election and a regularly scheduled statewide general election in the same year, may be held on the same date as, and consolidated with, the statewide general election.
- ~~D.E.~~ To avoid holding more than one (1) special municipal election on an initiative measure that has qualified pursuant to Charter Section 1603(a)(1) within any one hundred eighty (180)-day period, the date for holding such a special municipal

election may be fixed later than the last date required under the California Elections Code but at as early a date as practicable after the expiration of one hundred eighty (180) days from the last special municipal election.

E.F. Not more than one (1) special municipal election for an initiative measure that qualifies pursuant to Charter Section 1603(a)(1) may be held during any period of one hundred eighty (180) days.

SECTION 3. Section 12.06.295 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended and reads as follows:

12.06.295 Deposit of personal funds into campaign bank accounts.

- A. A candidate must disclose the source of all personal funds deposited into his or her campaign bank account. If the source of the funds is a loan to the candidate, the name and address of the lender and the terms of the loan must also be disclosed.
- B. The information required by Subsection A must be reported, on a form provided by the City Clerk, on or before the date of the next campaign disclosure statement, which must be filed after the funds are deposited into the campaign bank account.
- C. A candidate may deposit personal funds into his or her campaign bank account up to 11:59 p.m. on the one hundred eightieth (180th) day after the day of the election for the purpose of paying outstanding debt as set forth in Section 12.06.710.

- D. Except as provided in this Section, nothing in this Chapter shall prohibit a candidate from making unlimited contributions to his or her own campaign.

SECTION 4. Section 12.10.020 of Chapter 12.10 of Title 12 of the San José Municipal Code is amended to read as follows:

12.10.020 Definitions.

For purposes of this Chapter, the terms below have the following meaning:

- A. "Agency Official" means the chairperson and members of the Board of Directors of the Redevelopment Agency of the City of San José.
- B. "City Official" means the Mayor and City Councilmembers.
- C. "Commission" means any body created by the City Council or Agency Board whose members are required to file statements of economic interest pursuant to the Political Reform Act of 1974 as amended (Gov. Code §§ 81000 et seq.).
- D. "Employee" has the same meaning as set out in Title 20 of the Code of Federal Regulations § 404.1007(b).

~~E. "Nonprofit organization" means an entity which would qualify as such under the federal Internal Revenue Code and has engaged in programs or projects which have received financial or other formal support from the City Council or Redevelopment Agency board within the past five years.~~

~~F.E.~~ "Transitional services" means services involving technical or specialized knowledge required to complete a project or to provide temporary consulting services to the City or the Agency.

~~G.F.~~ "Work" means any activity for which compensation is received from any source, including compensation received as an independent contractor. Work includes the supervision or direction of others performing work, except as provided in Section 12.10.050. Work for the City or Agency also includes any action of any sort whatsoever taken in one's official capacity. Service by a City or Agency Official or designated employee on any type of board, committee or similar body as a representative of the City or Agency is deemed to be work for the City or Agency.

SECTION 5. Section 12.10.050 of Chapter 12.10 of Title 12 of the San José Municipal Code is amended to read as follows:

12.10.050 Exceptions.

The following persons are not subject to the prohibitions of Section 12.10.030:

~~A. — An employee or volunteer of a nonprofit organization, as defined in Section 12.10.020.E.;~~

~~BA.~~ An employee or official of a government entity;

~~CB.~~ An independent contractor of the City or Agency where it has been determined that it is in the best interest of the City or Agency to retain the former official or employee to provide transitional services. Such determination will be made by the person or body authorized to enter into such a contract. In such event, the

City or Agency will contract directly with the former official or employee. The rate of compensation for such services must not exceed the former official's or employee's rate of pay, including benefits, at the time City or Agency service terminated.

SECTION 6. Section 12.12.440 of Chapter 12.12 of Title 12 of the San José Municipal Code is amended to read as follows:

- A. All fees, fines and interest referenced in this section are set forth in the schedule of fees established by resolution of the city council.

- B. All Lobbyists are required to register, including expenditure lobbyists or contract lobbyists that work for an in-house lobbyist, by filing a lobbyist registration report and paying an annual registration fee at the time of registration or registration renewal. If the Lobbyist registers for the first time on or after June 30 of a given year, the Lobbyist may pay a reduced registration fee. A Lobbyist is not registered if it pays the registration fee but does not file a Lobbyist registration report, or if it files a Lobbyist registration report but does not file the registration fee. If the registration fee is not paid in full at the time of registration or registration renewal, a late registration fine will be assessed per business day on the unpaid balance until the registration fee is paid in full. In no event will the late registration fine exceed one hundred percent of the unpaid registration fee.

- C. Every contract lobbyist must pay a fee for each client for whom lobbying activity is undertaken for compensation and the compensation is greater than five hundred dollars per client. The fee for each client must be paid on an annual basis with the registration or registration renewal. A Lobbyist is not registered if it pays the required client fees but does not file a Lobbyist registration report, or if it files a Lobbyist registration report but does not pay the required client fees. After

the registration or registration renewal, the fee for any new client must be paid with the weekly report immediately following the week when the Lobbyist is compensated and the compensation is greater than five hundred dollars. A Lobbyist has not duly filed a required weekly report if it pays the required client fees but does not file the weekly report, or if it files a required weekly report but does not pay the required client fees. (Lobbyists for organizations representing a group of organizations or associations such as trade associations will not be assessed a fee for each client if the compensation to the lobbyist is derived from fees or dues members pay for their membership in the organization or association.)

~~D. Beginning July 1, 2018, any Lobbyist who fails to file a weekly report or files a weekly report after the report is due under Section 12.12.430 will be assessed a late filing fine per business day until the required weekly report is filed, up to sixty business days. Interest calculated on a monthly basis or a fraction thereof will accrue on the late filing fine from the sixty-first day to the date the fine is paid. If more than one fine is due, interest will accrue separately upon each fine. The monthly rate of interest imposed pursuant to this section shall be that rate set forth in Section 1.17.150.C of Chapter 1.17 of Title 1 of this Code.~~

D. Failure to pay any fees, fines and interest assessed in this section may be enforced as a personal obligation of the Lobbyist.

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PASSED FOR PUBLICATION of title this ___ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk