

**Agenda Item 3.5
Proposed Revisions
to Title 12 of the San Jose Municipal Code**

Title 12 Campaign Regulation

Under state law, the Political Reform Act (“PRA”) permits cities to adopt local campaign ordinance that provides for additional or different campaign requirements for candidates and committees *acting exclusively in the City* if the provisions are stricter than those imposed by the PRA. Candidates must follow the PRA and the City’s Municipal Code.

- Contribution amounts have been restricted to candidates since 1980.
- The time period candidates may receive contributions have been limited since 1989.

Rules Committee Referral

On November 30, 2022, following BFCPP review on the applicability of Title 12 to Common Good Silicon Valley, the Rules Committee approved former Councilmember Esparza’s recommendation to revise Title 12 of the Municipal Code (“SJMC”) to:

- Align SJMC definition of a “Candidate” with the Political Reform Act (“PRA”) definition;
- Align SJMC definition of a “controlled committee” with the PRA definition;
- Clarify candidate-controlled committees making independent expenditures are subject to SJMC’s contribution limits and time period restrictions; and
- Amend the City’s Revolving Door Policy to prohibit former city officials and employees from working with independent expenditure committees for one year after end of office term or termination of employment with the City.

Impetus for Referral

Under Section 82007 of the PRA, a “candidate” means:

“An elected officer, including any elected officer who is the subject of a recall. (b) Anyone who becomes a candidate retains candidate status until that status is terminated under Section 84214 [of the Government Code].”

A “candidate” under Title 12 means an individual that:

- A. Is listed on the ballot; or
- B. Has qualified to have write-in votes on his or her behalf counted by election officials for nomination or election to any elective city office; or
- C. Has given his or her consent for any other person to receive a contribution or make an expenditure with the intention of bringing about his or her nomination for or election to any elective city office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy; or
- D. Has filed a form "statement of intention" to be a candidate with the city clerk; or
- E. An elected officer, including any elected officer who is subject of a recall; or
- F. Retains candidate status under subsections A,B,C,D and E until their filing obligations terminate under Government Code Section 84214 of the Political Reform Act.

Effect of Proposed Revision

- Amends definition of “candidate” under SJMC to mirror the PRA to include “elected officials.”
- All contributions received by an elected official or their controlled committee, will now be subject to SJMC contribution limits and time period restrictions.
- *Does not prohibit candidates or their controlled committees from making independent expenditures or contributions to independent expenditure committees.*
- *SJMC campaign regulations do not impose limitations on individuals and committees whose sole objective is the passage or defeat of ballot measures.*