



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: NORA FRIMANN
City Attorney

SUBJECT: Board of Fair Campaign and
Political Practices Recommended
Revisions to The Title 12

DATE: May 22, 2023

SUPPLEMENTAL MEMORANDUM

Item 3.4 of the City Council Agenda for May 23, 2023 relates to Board of Fair Campaign and Political Practices Recommended Revisions to the Title 12 of the San José Municipal Code, Ethics and Open Government, and Repealing Resolution No. 79187 Governing the Board's Regulations and Procedures.

Charter Section 607 requires the Mayor and City Council to adopt and maintain a Code of Ethics including "regulations regarding disqualification of former City officers and employees in matters connected with former City duties or official responsibilities." Any amendments that would lessen the ethical standard in a regulation must be approved by two-thirds vote of the City Council. On the spectrum of possible options being considered by the Council, the following are the vote requirements for approval:

1. Approval of the ordinance to redefine nonprofit for the purposes of exemption from the Revolving Door Policy from a nonprofit organization that received City funding to a nonprofit organization with Section 501c3 status under the Internal Revenue Code irrespective of funding from the City will require two-thirds vote of the City Council under Charter Section 607 because it will expand the pool of City officials and designated employees that will not need to seek a waiver.
2. Approval of direction to amend Section 12.10.030 to reduce the prohibition under the Revolving Door Policy from two years to one year will lessen the standards under Charter Section 607. The ordinance would need to return to the City Council for a first reading because it is a substantive change and will require two-thirds vote of the City Council.
3. Approval of the ordinance to remove the nonprofit exemption entirely would not require two-thirds vote of the City Council under Charter Section 607 because this change would tighten the ethical standard by potentially requiring more City officials and designated employees to seek a waiver.

/s/ Rosa Tsongtaatarii
ROSA TSONGTAATARII
CHIEF DEPUTY CITY ATTORNEY