

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 12 OF THE SAN JOSE MUNICIPAL CODE TO AMEND SECTION 12.05.020 OF CHAPTER 12.05 TO REGULATE THE SCHEDULING OF SPECIAL ELECTIONS FOR CERTAIN INITIATIVE MEASURES; AMEND SECTIONS 12.06.295, 12.06.720, AND 12.06.930 OF CHAPTER 12.06 TO CLARIFY DISCLOSURE REQUIREMENTS FOR THE SOURCE OF PERSONAL FUNDS DEPOSITED INTO A CAMPAIGN BANK ACCOUNT AND AMEND THE REQUIREMENTS FOR SURPLUS CAMPAIGN FUNDS; AMEND SECTIONS 12.10.020 AND 12.10.050 OF CHAPTER 12.10 TO REMOVE THE NONPROFIT EXCEPTION IN THE REVOLVING DOOR ORDINANCE; AND AMEND SECTION 12.12.430 OF CHAPTER 12.12 TO CLARIFY THE WEEKLY REPORTING OBLIGATIONS FOR LOBBYISTS

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure and Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

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

SECTION 1. 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. When it is legally possible to hold 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, the election on the initiative measure may be held on the same date as, and consolidated with, that General Election, Regular Municipal Election, or Special Municipal Election.
- D. When it is legally possible to hold 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, the election on the initiative measure may be held on the same date as, and consolidated with, the statewide general election.

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.

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 2. Section 12.06.295 of Chapter 12.06 of Title 12 of the San José Municipal Code is amended to read 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 ~~pre-election~~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. No candidate shall make loans to his or her own campaign or campaign committee where the outstanding total, at any one point in time, is more than twenty thousand dollars (\$20,000).
- E. 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 3. Section 12.06.720 of Chapter 12.06 of Title 12 of the San José Municipal Code is amended to read as follows:

12.06.720 Surplus Campaign Funds

~~Any remaining campaign funds in excess of expenses incurred for allowable expenses as specified under the Political Reform Act shall be deemed to be surplus campaign funds. Within one hundred eighty days after withdrawal, defeat, or election to office, the surplus campaign funds shall be returned to the contributors on a pro rata basis, turned over to the general fund of the city or may be used for attorney's fees and other costs in connection with an election contest or recount resulting from an Election that commenced the 180-day post-election contribution period.~~

A. Campaign funds under the control of a candidate for City office will be considered surplus campaign funds on the ninetieth (90th) day after the end of the postelection reporting period following the election in which the candidate was elected or defeated or from which the candidate withdrew.

B. The "end of the postelection reporting period" has the same meaning as defined under the Political Reform Act.

C. Surplus campaign funds shall only be used for the following purposes:

1. The payment of outstanding campaign debts.
2. The repayment of contributions on a pro-rata basis.
3. Donations to the general fund of the City or to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.
4. Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. [Notwithstanding the preceding sentence](#), the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined under the Political Reform Act.
5. Contributions to support or oppose a ballot measure.
6. The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees and other costs for litigation that arises directly out of a candidate's activities, duties, or status as a candidate, including, but not limited to, an action to enjoin defamation, defense of an action brought for a violation of state or local campaign,

disclosure, or election laws, and an action from an election contest or recount.

D. This section shall be retroactive to March 3, 2020.

SECTION 4. Section 12.06.930 of Chapter 12.06 of Title 12 of the San José Municipal Code is amended to read as follows:

12.06.930 Disclosure of Post-Election Payment Agreements

- A. A candidate or his or her controlled committee must disclose, on a form provided by the City Clerk, any campaign-related agreements entered into by the candidate or controlled committee which provide for post-election payments. Such agreements include, but are not limited to, contingency payment or "bonus" payment plans offered by campaign consultants and agreements with persons who will receive compensation after the election for campaign services performed prior to the election.
- B. A post-election payment agreement must be reported on or before the filing date of the next pre-election campaign disclosure statement which must be filed after the agreement is entered into.

SECTION 5. 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.~~

EF. "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.

EG. "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 6. 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.;~~

AB. An employee or official of a government entity;

BC. 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 7. Section 12.12.430 of Chapter 12.12 of Title 12 of the San José Municipal Code is amended to read as follows:

12.12.430 Weekly Reports

A. All Lobbyists must file a weekly report with the City Clerk, on a form provided by the City Clerk, for each calendar week they are registered as a Lobbyist with the

City and have engaged in any Lobbying Activity, any Lobbyist Fundraising Activity, or any activity under Section 12.12.420, as amended as defined in this Chapter. For the purposes of this Section, a "calendar week" begins at 12:00 a.m. on Monday and ends at 11:59 p.m. on the following Sunday.

- B. Each weekly report must contain the same information required to be disclosed in the Lobbyist registration report for those activities occurring in the calendar week being reported.
- C. Each weekly report for Contract Lobbyists must indicate the total compensation promised or received from each client listed during the reporting period for Lobbying Activity within the following ranges: (\$0.00 - \$500), (\$501 - \$1,000), (\$1,001 - \$10,000), (\$10,001 - \$100,000), (\$100,001 - \$200,000), (\$200,001 - \$300,000), (\$300,001 - \$400,000), and (Over \$400,001).
- D. Each weekly report must indicate whether the Lobbyist has any agreement, arrangement, or understanding regarding compensation for services set forth in Section 12.12.300.C and D for those activities occurring in the calendar week being reported and identify the name of the person that filed the disclosure form and the date it was filed with the City Clerk.
- E. Weekly reports must be filed with the City Clerk by 5:00 p.m. on Monday for the prior calendar week, and are delinquent thereafter. If the filing date in this Section is a holiday, the weekly report must be filed by 5:00 p.m. the next business day.

RD:MJV:KML
12/3/2019

PASSED FOR PUBLICATION of title this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk