

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 2.08.050, 2.08.060, 2.08.820, 2.08.1020, 2.08.1600, 2.08.2140, 2.08.2640, 2.08.2830, 2.08.3240, AND REPEALING SECTIONS 2.08.1610, 2.08.1650, PART 22 AND PART 34 OF CHAPTER 2.08 OF TITLE 2 OF THE SAN JOSE MUNICIPAL CODE TO: (1) STREAMLINE THE APPOINTMENT PROCESS; (2) SUNSET THE NEIGHBORHOODS COMMISSION; AND (3) DISSOLVE THE COUNCIL APPOINTMENT ADVISORY COMMISSION

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); 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 2.08.050 of Chapter 2.08 of Title 2 of the San José Municipal Code is hereby amended to read as follows:

2.08.050 Seat Deemed Vacant When

- A. The seat of a member of any board or commission shall become vacant upon the happening of any of the following events:
1. The death of the member;
 2. Insanity of the member, when determined by a final judgment or final order of a court of competent jurisdiction;
 3. Resignation of the member;
 4. The member is no longer eligible, under any of the applicable provisions of this part to hold the office;
 5. Removal of the member from office;
 6. Absence of the member from the state for more than sixty (60) days, unless either upon business of the city or with consent of the council. In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limit for absence from the state shall be extended by the council;
 7. The member ceases to discharge the duties of the office for a period of three consecutive months, except when prevented by sickness or when absent from the state with permission required by this section;
 8. The member is convicted of a felony or of any offense involving a violation of his or her official duties;

9. The refusal or neglect of the member to file an official oath or bond, if it is required by law, within the time prescribed by law;
10. The decision of a court of competent jurisdiction declaring void the member's election or appointment;
11. The making of an order vacating the member's office or declaring the office vacant when the member fails to furnish an additional or supplemental bond if it is required by law;
12. The commitment of the member to a hospital or sanitarium, by a court of competent jurisdiction, but in that event the office shall not be deemed vacant until the order of commitment has become final;

13. The member does not take the oath of office within 30 days of appointment.

- B. In the event a vacancy should occur in the office of any member prior to the expiration of a term, the council, or the mayor if authorized by the council, shall appoint a successor for the unexpired portion of the member's term.

SECTION 2. Section 2.08.060 of Chapter 2.08 of Title 2 of the San José Municipal Code is hereby amended to read as follows:

2.08.060 Absence from Meetings - Reappointment

- A. A member of any board or commission, other than the planning commission, the salary setting commission and the civil service commission, shall be deemed to have automatically resigned from office if:

1. The board or commission has four or fewer regular meetings in any calendar year, and the member has unexcused absences from any two consecutive regular meetings of the board or commission; or
 2. The board or commission has more than four regular meetings in any calendar year, and the member has unexcused absences from either:
 - a. Any three consecutive regular meetings of the board, or commission; or
 - b. More than twenty percent of the total number of regular meetings in any calendar year, or if the member was appointed to fill a vacancy, more than twenty percent of the total number of remaining regular meetings in that calendar year.
- B. For purposes of this section, the following shall not be considered an unexcused absence:
1. An absence due to an illness of the member, or illness or death of a member's spouse, domestic partner, parent, child, sibling or dependent; or
 2. An absence because a member is away on authorized board or commission business provided that reasonable advance notice is given to the Secretary; or
 3. For any member who is a city councilmember or a city employee, an absence due to the member performing required city business provided that reasonable advance notice is given to the Chair or Secretary; or
 4. An absence from a meeting of the board of administration for the federated city employees' retirement system or of the board of administration for the

police and fire department retirement plan which the board of administration has found to be for good cause; or

5. An absence resulting from a meeting of the board or commission for which the board or commission has found to be for good cause.

- C. Within a reasonable period, but not exceeding ten days after a member has been deemed to have resigned pursuant to this section, the secretary of the board or commission shall notify the city clerk of the vacancy and the city clerk shall thereupon notify the member that the member is deemed to have resigned pursuant to this section. The city clerk shall simultaneously notify the city council that the vacancy exists as a result of the automatic resignation.
- D. Except as provided in Subsection A. above, the provisions of this section shall apply to all voting members of boards and commissions established or otherwise regulated under this Chapter 2.08.
- E. As used in this section, "regular meetings" means regularly scheduled meetings of the board or commission and shall not include special meetings. For purposes of this section, adjourned regular meetings or continued regular meetings shall be considered special meetings.
- F. For purposes of this section, a member shall be deemed absent from a meeting if the member fails to be in attendance at a regular meeting for at least one-half of the duration of the regular meeting.
- G. A member whose seat has become vacant by virtue of the above provisions may be reappointed to his or her former office for the balance of the member's unexpired term if the council finds there was good excuse for the member's

absence from meetings or finds that the reappointment will be in the best interests of the city.

- H. In the event of a reappointment, the previous unexcused absences of the reappointed member shall not be considered in determining any future resignation of the member under this section.

SECTION 3. Section 2.08.820 of Chapter 2.08 of Title 2 of the San José Municipal Code relating to the Arts Commission is hereby amended to read as follows:

2.08.820 Number of Members

~~A.~~ The Commission shall consist of eleven (11) members.

~~B. This subsection shall apply to the Arts Commission as of August 11, 2020. As of August 11, 2020 and until December 31, 2020, the Commission shall consist of an additional four (4) temporary nonvoting members whose terms will be from August 11, 2020 to December 31, 2020. Notwithstanding Section 2.08.840 B and Council Policy 0-4, Consolidated Policy Governing Boards and Commissions, these four (4) temporary nonvoting members shall be appointed by the City Council without a nomination process and may consist of former commissioners. This subsection B shall automatically sunset and have no force or effect after 11:59 p.m. on December 31, 2020.~~

SECTION 4. Section 2.08.1020 of Chapter 2.08 of Title 2 of the San José Municipal Code relating to the Board of Administration for the Federated City Employees' Retirement System is hereby amended to read as follows:

2.08.1020 Qualifications - Public Members

~~A.~~ Each public member of the board appointed on or before March 31, 2011 shall reside or have a primary place of employment or business within a fifty-mile radius of San José City Hall at all times during the board member's term of office.

AB. Each public member of the board ~~appointed on or after April 1, 2011~~ shall reside within a fifty-mile radius of San José City Hall at all times during the board member's term of office.

BC. Each public member of the board shall possess a baccalaureate degree from an accredited college or university in finance, actuarial science, law, economics, business or other relevant field of study. An advanced degree in a relevant field of study or professional certification is desirable but not required.

CD. Each public member of the board shall possess a high level of knowledge and expertise, and at least twelve years experience, relevant to the administration of a public retirement plan. Knowledge and expertise relevant to the administration of a public pension system may include but is not limited to experience in: a senior executive position in pension administration; pension actuarial practice; institutional investment management; auditing; accounting; legal; health and welfare and/or employee benefits management; investment management; banking; asset/liability management for an insurance company; college or university professor with a focus on fiduciary or trust fund law or a quantitative background in financial theory or actuarial math. Twelve years combined experience in related field may meet this requirement.

DE. The following individuals shall be ineligible for appointment as public members of the board: current and former city employees; current or former elected or

appointed city officials; retired members of, or persons participating in or receiving benefits from the police and fire department retirement plan or the federated city employees' retirement system; a representative from any union representing city employees; or any immediate family member of a city employee or persons participating in or receiving benefits from the police and fire department retirement plan or the federated city employees' retirement system.

EE. No person having a conflict of interest, significant potential for conflict of interest, or appearance of conflict of interest, shall be appointed as a public member of the board. For the purpose of evaluating conflicts of interest, potential conflicts of interest and the appearance of conflict of interest of board members, all applicants for public member board positions shall be required to provide disclosure information, in such form and substance as may be required by the council, to allow council to evaluate conflicts of interest, significant potential for conflicts of interest, or appearance of conflicts of interest, including but not limited to disclosure of information related to investments, ownership of real property, employment and business positions, income sources and loans of the prospective public member applicant and members of the applicant's immediate family. Disclosure of such conflict of interest, significant potential for conflict of interest, or appearance of conflict of interest information as may be required by council shall be provided by the applicant at the time of submission of an application for a public member position on the board, and annually thereafter, concurrently with such conflict of interest disclosure as board members may otherwise be required by law to file.

EG. For the purpose of this Section 2.08.1020, immediate family member means a person having any of the following relationships to a city employee or person participating in or receiving benefits from the police and fire department retirement plan or the federated city employees' retirement system:

1. By blood: Parent, child, grandparent, grandchild, brother, sister, nieces, nephews, uncles, aunts, great grandchildren, great grandparents.
2. By marriage: Husband, wife, stepparent, stepchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, half-sister, half-brother.
3. By law: Guardianship relationships and adoptive parent/child relationships.
4. Domestic partner: Individuals registered with the human resources department and/or the State of California.

SECTION 5. Section 2.08.1600 of Chapter 2.08 of Title 2 of the San José Municipal Code relating to the Board of Fair Campaign and Political Practices is hereby amended to read as follows:

2.08.1600 Commission Established, Continuation

~~The San José Board of Fair Campaign and Political Practices is hereby established as the successor to and continuation of the San José elections commission.~~

~~A. The Board of Fair Campaign and Political Practices is established by Section 1001.2 of the Charter.~~

~~B. The commission's membership, terms of office, functions, powers, and duties are governed by the Charter. The Charter shall control over any inconsistent provision of this part.~~

SECTION 7. Section 2.08.1610 of Chapter 2.08 of Title 2 of the San José Municipal Code is hereby repealed.

2.08.1610 Number of Members

~~The commission shall have five members. Members shall be appointed by no less than two-thirds vote of the city council. Members of the commission shall be selected by the same procedure of application and public interview which is utilized for the planning commission.~~

SECTION 8. Section 2.08.1650 of Chapter 2.08 of Title 2 of the San José Municipal Code is hereby repealed.

2.08.1650 Functions, Powers, and Duties

~~The commission shall have those functions, powers, and duties as set forth in Chapter 12.04.~~

SECTION 9. Section 2.08.2140 of Chapter 2.08 of Title 2 of the San José Municipal Code relating to the Climate Advisory Commission is hereby amended to read as follows:

2.08.2140 Appointment Process

- A. The members of the Clean Energy Community Advisory Commission with unexpired terms as of January 1, 2024 shall continue to serve as Climate Advisory Commissioners until their seats become vacant under Part 1 of this Chapter.
- B. ~~The Council Appointment Advisory Commission shall review all applicants and make a nomination to the City Council for all members of the Climate Advisory~~

~~Commission. If the Council Appointment Advisory Commission is unable to meet,~~
~~m~~Members of the Climate Advisory Commission ~~may are~~be appointed upon the Mayor's nomination to the City Council and the City Council's approval of such nomination.

SECTION 10. Part 22 entitled "Council Appointment Advisory Commission" of Chapter 2.08 of Title 2 of the San José Municipal Code is hereby repealed and reserved as follows:

Part 22 RESERVEDCOUNCIL APPOINTMENT ADVISORY COMMISSION

2.08.2200 Commission Eestablished

~~The council appointment advisory commission is hereby established.~~

2.08.2210 Number of Member

~~The commission shall consist of eleven members.~~

2.08.2220 Functions, Powers and Duties

~~The commission shall have the following functions, powers and duties:~~

~~A. Review applications, interview applicants and nominate for appointment by the City Council, persons to those commission seats that have special eligibility requirements, or as otherwise set forth in this chapter.~~

~~B. Such other related duties as may be directed by the City Council.~~

~~C. If the Council Appointment Advisory Commission is unable to meet, persons to these commission seats that have special eligibility requirements may be appointed upon the Mayor's nomination to the City Council and the City Council's approval of such nomination.~~

2.08.2230 Appointment Process

~~All members shall be appointed in accordance with Section 2.08.180.~~

SECTION 11. Section 2.08.2640 of Chapter 2.08 of Title 2 of the San José Municipal Code relating to the Historic Landmarks Commission is hereby amended to read as follows:

2.08.2640 Appointment Process

~~The Council Appointment Advisory Commission shall review the applicants and make a recommendation to the Mayor. Members shall be appointed to the commission upon the Mayor's nomination to the City Council and the City Council's approval of such nomination. If the Council Appointment Advisory Commission is unable to meet, members shall be appointed to the commission upon the Mayor's nomination, without recommendation from the Council Appointment Advisory Commission, and the City Council's approval of such nomination.~~

SECTION 12. Section 2.08.2830 of Chapter 2.08 of Title 2 of the San José Municipal Code relating to the Housing and Community Development Commission is hereby amended to read as follows:

2.08.2830 Appointment Process

- A. In the event that there is more than one recommended applicant for either of the seats to be filled by members meeting the special eligibility requirements set forth in Subsections 2.08.2820 A. and B., the ~~Council Appointment Advisory Commission~~Mayor shall review the recommended applicants and make a recommendation to the City Council. ~~If the Council Appointment Advisory Commission is unable to meet, in the event that there is more than one recommended applicant for either of the seats to be filled by members meeting the special eligibility requirements set forth in Subsections 2.08.2820 A. and B., the Mayor shall review the recommended applicants and make a recommendation to the City Council.~~
- B. The Mayor shall nominate to the City Council the member, and an alternate, who is currently or was formerly homeless. The alternate member shall, in the absence of the member for whom they are an alternate, serve in place of the member on the commission, and may exercise all the rights, privileges, and powers of the member when serving on the Commission. In the event of removal, resignation, or disqualification of a member, the alternate shall act as a member on the commission through the remainder of their term.
- C. The remaining members shall be appointed in accordance with the provisions of Section 2.08.180.
- D. The City Clerk shall implement procedures to ensure that a sufficient number of applicants to fulfill the special eligibility criteria set forth in Section 2.08.2820 C. are recruited for nomination consistent with Section 2.08.180.

SECTION 13. Section 2.08.3240 of Chapter 2.08 of Title 2 of the San José Municipal Code relating to the San José Library and Education Commission is hereby amended to read as follows:

2.08.3240 Appointment Process

- A. ~~The seats to be filled by members meeting the special eligibility requirements shall be nominated by the Council Appointment Advisory Commission. If the Council Appointment Advisory Commission is unable to meet, M~~members meeting the special eligibility requirements ~~may~~arebe appointed upon the Mayor's nomination to the City Council, and the City Council's approval of such nomination.
- B. The remaining members shall be appointed in accordance with the provisions of Section 2.08.180.

SECTION 14. Part 34 "Neighborhoods Commission" of Title 2 of the San José Municipal Code is hereby repealed in its entirety and reserved as follows:

Part 34 RESERVED NEIGHBORHOODS COMMISSION

2.08.3400 Commission Established; Continuation

~~The neighborhoods commission is hereby established as the successor to and continuation of the pilot neighborhoods commission originally established in April 2008.~~

2.08.3410 Number of Members

~~The commission shall consist of twenty members appointed by the city council with two members appointed from each of the ten council districts.~~

2.08.3420 Special Eligibility Requirements

~~To be eligible to serve, each member of the commission must reside within the boundaries of the council district for the seat to which he or she was appointed for the duration of the term of that seat. If a member is no longer a resident of the council district, the seat will be deemed vacant.~~

2.08.3430 Functions, Powers and Duties

~~The commission shall have the following functions, powers and duties:~~

~~A. Study, review, and evaluate and make recommendations to the city council regarding issues, policies, and programs affecting the quality of life in San José neighborhoods, focusing on neighborhood safety, transportation, and code enforcement.~~

~~B. Advise and make recommendations to the city council regarding annual budget priorities.~~

2.08.3440 Appointment Process

~~A. Members shall be appointed by the City Council, after taking into consideration nominations provided by neighborhood groups in each council district following a caucus process.~~

~~B. For the purposes of this chapter, "neighborhood groups" means those groups that meet the definition of neighborhood groups as set forth in Planning Outreach Policy 6-30 and that are officially registered with the City prior to the deadline for the neighborhood groups to submit recommended names to the City Council.~~

~~G. The caucus process shall be conducted in accordance with the rules developed by the commission and approved by the City Council, prior to the commencement of each selection period, as defined in Section 2.08.3450.~~

~~D. If a vacancy occurs outside of the scheduled caucus process for that district, the City Council will make an appointment based on the recommendation of the Council Appointment Advisory Commission. If the Council Appointment Advisory Commission is unable to meet, if a vacancy occurs outside of the scheduled caucus process for that district, the City Council will make an appointment based on the recommendation of the councilmember for that district. A commissioner appointed in this manner will serve until the next scheduled caucus process for that district.~~

2.08.3450 Initial Terms

~~A. The initial terms for commissioners from odd-numbered council districts shall be effective as of July 1, 2014.~~

~~B. The initial terms for commissioners from even-numbered council districts shall be effective as of July 1, 2016.~~

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PASSED FOR PUBLICATION of title this _____ day of _____, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk