



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Amendment of Campaign  
Ordinance – Mayor’s  
Officeholder Account

**DATE:** 11/12/2004

## **RECOMMENDATION**

Approval of an Ordinance of the City of San Jose amending Part 8 of Chapter 12.06 of Title 12 of the San Jose Municipal Code to amend the City of San Jose Campaign Ordinance relating to officeholder contributions.

## **BACKGROUND**

At its October 12 and October 28, 2004 meetings, the Mayor’s Blue Ribbon Task Force reviewed the City’s officeholder provisions in the “Campaign Contribution Ordinance” and recommended that officeholder account provisions (Part 8 of SJMC Chapter 12.06) in the City’s Campaign Contribution Ordinance be amended. The recommended changes reflected the Task Force’s recognition of the local, regional and national governmental and political responsibilities of the Office of the Mayor.

This memorandum will summarize the amendments to the draft Ordinance (attached).

## **DISCUSSION**

The draft amendment establishes new limits and expanded uses for a Mayor’s Officeholder Account but maintains the current limits and restrictions for Councilmember’s officeholder accounts.

### A. Mayor’s Officeholder Account (SJMC 12.06.820)

The draft amendment to the officeholder provisions establishes a Mayor’s Officeholder Account with a contribution limit of \$500 per calendar year from any person. The current contribution limits are \$250 for all officeholders.

The Mayor’s Officeholder Account aggregate limit per calendar year is \$50,000. The current limit for all officeholders is set at \$10,000.

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**B. Mayor's Officeholder Account Uses ( SJMC 12.06.830)**

The draft Ordinance provides that any use of the officeholder account for campaign purposes or expenditures in connection with a future election is prohibited. Expenditures from the Mayor's Officeholder Account may be made for any lawful political, legislative or governmental purpose. Such expenditures include fundraising expenditures for the account, donations to tax exempt organizations, contributions or expenditures to support or oppose candidates seeking election other than an elective City office and contributions or expenditures to support ballot measures.

**C. Other Officeholder Accounts Prohibited**

As recommended by the Task Force, the draft Ordinance prohibits the establishment of other officeholder accounts or an account established under the Political Reform Act for the solicitation and expenditure of officeholder funds except as provided in Chapter 12.06.

**D. Other Jurisdictions**

The state Political Reform Act (Gov. Code § 81000 *et seq*) limits expenditures from existing campaign accounts for officeholder expenses to expenditures reasonably related to a political, legislative or governmental purpose.

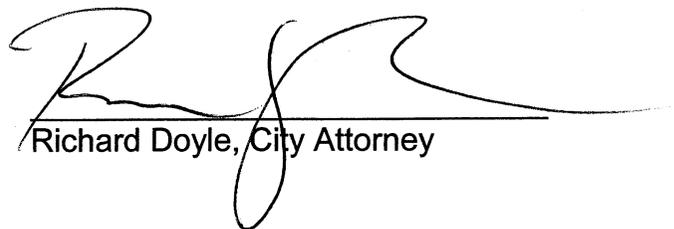
The city of Los Angeles limits contributions to \$1,000 for mayor with total contributions limited to \$75,000 per fiscal year. Los Angeles allows uses of officeholder funds which are similar to the uses allowed in the draft Ordinance.

Oakland's mayoral officeholder account provisions limit contribution from individuals to the mayor to \$500 per year with a total annual limit of \$50,000. Uses of officeholder funds must be for any political, governmental, or lawful purpose including contributions to non-city candidates.

San Francisco does not have officeholder accounts but allows for officeholder expenditures from existing campaign accounts in accordance with state law

**PUBLIC OUTREACH**

Not applicable.



Richard Doyle, City Attorney

Cc: Del Borgsdorf  
Lee Price

DRAFT

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING  
PART 8 OF CHAPTER 12.06 OF TITLE 12 OF THE SAN  
JOSE MUNICIPAL CODE TO AMEND THE CITY OF SAN  
JOSE CAMPAIGN ORDINANCE RELATING TO  
OFFICEHOLDER CONTRIBUTIONS**

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

Part 8 of Chapter 12.06 of Title 12 of the San José Municipal Code is hereby amended to be numbered, entitled and to read as follows:

**Part 8**

**Officeholder ~~Contributions~~Accounts**

**12.06.810 Intent**

It is the intent of the City Council of the City of San José in enacting this Part to place limits on the amount individuals may contribute to officeholders in order to prevent the perception by the public that such contributions may give rise to undue or improper influence over elected officials.

**12.06.820 Mayor's Officeholder Account**

- A. Contributions to the Mayor's Officeholder Account are limited to Five Hundred Dollars (\$500) per calendar year from any person and may not be collected during the officeholder freeze period.
- B. The contributions to the Mayor's Officeholder Account are limited to Fifty Thousand Dollars (\$50,000) in the aggregate within any calendar year.

**12.06.830 Mayor's Officeholder Contribution Uses**

- A. Officeholder contributions are not campaign contributions for purposes of this Chapter. Such contributions are solely intended to facilitate the performance of the incumbent Mayor. Any use for the Mayor's campaign purposes or expenditures in connection with any election by the Mayor for elective office is prohibited.
- B. Expenditures from the Mayor's Officeholder Account may be made for any political, legislative, governmental or other lawful purpose. Such expenditures include but are not limited to expenditures for fundraising for the officeholder account, expenditures of donations to tax-exempt charitable, civic or service organizations, contributions or expenditures to support or oppose candidates seeking election to an office other than an elective City office and contributions or expenditures to support or oppose ballot measures.
- C. Contributions shall not be expended directly for salaries of the Mayor's office personnel. However, funds may be donated to the City of San José and appropriated by the City Council for the Mayor's office personnel.

**12.06.84020 Councilmember Officeholder Accounts**

- A. Contributions to the ~~mayer~~ and Councilmember ~~O~~officeholder ~~A~~accounts are limited to Two Hundred Fifty Dollars (\$250) per calendar year from any person and may not be collected during the officeholder account freeze period.
- B. The contributions to the officeholder account are limited to Ten Thousand Dollars (\$10,000) aggregate within any calendar year.

**12.06.85030 Mayor and Councilmember Officeholder Account Freeze Period**

The officeholder account freeze period is the period from the beginning date of the campaign contribution collection period for any office for which the officeholder is eligible to run until the election is ended or the candidacy is formally withdrawn.

**12.06.86040 Councilmember Officeholder Contribution Uses**

- A. Councilmember Officeholder contributions are not campaign contributions for purposes of this Chapter. They are solely intended to be used to facilitate the performance of the incumbent officeholder. Any use for campaign purposes is prohibited.
- B. Councilmember Officeholder funds are to be used exclusively for officeholder expenses and constituent services, including but not limited to, newsletter expenses, subscribing to publications, taking constituents to dinner to discuss City business, defraying the cost of trips made in connection with the discharge of official duties and attending community events.
- C. Contributions shall not be expended directly for salaries of a Councilmember's or Mayor's Office personnel. However, funds may be donated to the City of San José and appropriated by the City Council for office personnel.

**12.06.87050 Restrictions on Officeholder Accounts**

- A. No officeholder or controlled committee of the officeholder may solicit or accept contributions for the purpose of paying officeholder expenses during the officeholder account freeze period.

- B. No expenditures shall be made from an officeholder account during an officeholder account freeze period, except that nothing herein shall preclude the payment of obligations incurred for services ~~and~~ or goods received prior to the officeholder account freeze period.
- C. For purposes of this Part, the officeholder account freeze period does not apply to:
1. Officeholders who are ineligible to run for any City office during the officeholder account freeze period; and
  2. Officeholders who have made a final determination not to run for any City office during the election cycle and have filed a statement of noncandidacy for City office with the Office of the City Clerk. Until such statement is filed, no expenditures shall be made from an officeholder account during the officeholder account freeze period.

#### **12.06.880 Prohibition on Other Officeholder Accounts**

A City officeholder, and any person or committee on behalf of a City officeholder is hereby prohibited from establishing an officeholder account or an account established under the Political Reform Act for the solicitation and expenditure of officeholder funds except as provided in this Chapter. Nothing in this Section shall prohibit an officeholder from spending personal funds on official or related business activities.

#### **12.06.890-60 Officeholder Disclosure**

Reporting and disclosure of the Mayor's Officeholder Account and the the Councilmember Officeholder Accounts ~~officeholder funds~~ shall be done in accordance

with the requirements of the Political Reform Act, (Calif. Gov. Code Sections 81000 et seq. as amended) and the San Jose Municipal Code.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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RON GONZALES  
Mayor

ATTEST:

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LEE PRICE, CMC  
City Clerk

