

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 12.08.020, 12.08.030 AND 12.08.040 TO CONFORM WITH THE POLITICAL REFORM ACT AND MAKING OTHER CLERICAL OR TECHNICAL CORRECTIONS

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

SECTION 1. Section 12.08.020 of Chapter 12.08 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.08.020 Gift defined

"Gift" is as defined in the Political Reform Act, California Government Code Section 81000 et seq.

Deleted: means a voluntary transfer of any thing, service, payment or value to the extent that legal consideration of equal or greater value is not received.¶

SECTION 2. Section 12.08.030 of Chapter 12.08 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.08.030 Gifts Not Prohibited

This chapter does not prohibit those gifts which strictly fall within the exceptions enumerated herein:

- A. Gifts with a value less than fifty dollars: Gifts, including meals and beverages provided to an officer or employee in a business or social setting, that have a value less than fifty dollars, as long as the total value of all such gifts received from any one donor do not exceed fifty dollars in any calendar year.

¶ A. As used in this chapter, the term "gift" includes:¶

¶ 1. Any rebate or discount in the price of any thing of value unless the rebate or discount is made in the regular course of business to members of the public.¶

¶ 2. An officer's or employee's community property interest, if any, in a gift received by that individual's spouse.¶

¶ 3. The provision of travel, including transportation, accommodations and food, except as expressly permitted pursuant to Section 12.08.030.¶

¶ B. As used in this chapter, the term "gift" does not include:¶

¶ 1. Campaign contributions which otherwise comply with Title 12 of the San José Municipal Code and which are required to be reported under Chapter 4 of the Political Reform Act of 1974 as amended.¶

¶ 2. Any devise or inheritance.

B. Informational material: Informational material as defined in the Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.

Deleted: such as books, reports, pamphlets, calendars, or periodicals or reimbursement for any such expenses. Informational material does not include provision of educational trips including transportation, accommodation and food

C. Hospitality: Gifts of hospitality involving food, beverages or occasional lodging provided to any officer or designated employee by an individual in such individual's primary residence.

D. Reciprocal gifts: Gifts exchanged between any officer or designated employee and an individual, other than a lobbyist as defined in Chapter 12.12, on holidays, birthdays, baby showers, or similar occasions provided that the presents exchanged are not substantially disproportionate in value.

E. Payments in connection with speeches: Making a speech, participating in a panel or making a substantive formal presentation at a seminar or similar event as defined in the Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations. **Patty and Norm: using the FPCC regulation effectively deletes the limitation of "intrastate"... but I'm not sure we've been limiting our analyses under this section to intrastate travel anyway.**

Deleted: Panels and seminars

Deleted: Free admission, food, beverages, and similar nominal benefits provided to an officer or employee at an event at which the officer or employee speaks, participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel or for necessary accommodations provided directly in connection with such event

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Deleted: provided by a sponsor of the event for the personal use of the officer or employee

Deleted: ; political events include political fund raisers

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1. Admission to regularly scheduled athletic events, such as tickets to professional sporting events, are not included as an exception to prohibited gifts.¶
¶
2. A sponsor of an event shall not include individuals, persons or organizations whose sponsorship of the event is solely limited to funding or monetary support such as the purchase of tickets.¶

F. Admission given by organizer of an event: Admission for the officer or designated employee and one guest provided by the person or entity actually organizing the event (as distinguished from a financial sponsor of the event) to a ceremonial, political, civic, cultural or community function, that is not a fundraiser. For example, cultural events include theatrical productions and art exhibits, Athletic events are not ceremonial, political, civic, cultural or community functions.

G. Nonprofit and Political Fundraisers: A single ticket or other admission privilege to a specific fundraising event provided to an official or designated employee by a nonprofit or political organization holding its own fundraiser and used solely by

the public official as defined in the Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.

H. Employment interview - government employer: Transportation, accommodation, food and directly related expenses advanced or reimbursed by a governmental agency in connection with an employment interview, when the interview is conducted at least one hundred fifty miles from San José and where the location of the employment will be at least the same distance from the city.

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J. Employment interview - private employer: Transportation, accommodation, food and directly related expenses in connection with an employment interview and a bona fide prospect of employment, when the expenses are advanced or reimbursed to an officer or designated employee by a potential employer, provided that the officer or designated employee has not made or participated in the making of a governmental decision materially affecting the financial interest of the potential employer during the twelve months immediately preceding the time the expenses are incurred or the offer of employment is made, whichever is sooner.

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J. Authorized travel: Transportation, accommodation, food and directly related expenses for any officer or designated employee which has been authorized by a majority of the city council or redevelopment agency board or which is pursuant to a written city or redevelopment agency policy for intrastate or interstate travel regardless of the source of payment.

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K. City or redevelopment agency business: Transportation provided to an officer or designated employee by a contractor or other person doing business with the city or redevelopment agency, provided that such transportation is related to city or redevelopment agency business which is within the scope of employment or the duties of such officer or designated employee, and further provided that such transportation is not in excess of one hundred twenty-five miles one way. Nothing

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in this subsection shall be interpreted to limit the city council's or redevelopment agency board's discretion to approve travel under this Chapter.

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L. Flowers: Flowers, plants or balloons which are given on ceremonial occasions, to express condolences or congratulations, or to commemorate special occasions.

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M. Prizes and awards from bona fide competitions: A prize or award received shall be reported as a gift unless the prize or award is received in a bona fide competition not related to the recipient's status as a city or redevelopment agency employee, as described in the Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations. If reported as a gift, the prize or award must comply with the disclosure and disqualification requirements under the California Political Reform Act.

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N. Wedding gifts: Wedding gifts from an individual other than a lobbyist as defined in Chapter 12.12.

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SECTION 3. Section 12.08.040 of Chapter 12.08 of Title 12 of the San José Municipal Code is hereby amended to read as follows:

12.08.040 Acceptance of gifts

A gift shall be deemed to have been accepted by an officer or designated employee except where:

- A. It is not used, and, within thirty days after receipt, is returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.

B. It is a gift to the city or the redevelopment agency, consistent with the Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.

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C. It is a ticket or pass to an event received by an officer or designated employee from the city or redevelopment agency, consistent with the Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.

Deleted: in his or her official capacity or as a representative of the city or redevelopment agency, is reported to the city council or agency board, and the council or board approves the retention

PASSED FOR PUBLICATION of title this ____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk