

ORDINANCE NO. 28212

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING  
TITLE 12 OF THE SAN JOSE MUNICIPAL CODE TO  
REPEAL PART 8 OF CHAPTER 12.06 REGULATING  
OFFICEHOLDER ACCOUNTS; ADOPT INTERIM  
OFFICEHOLDER ACCOUNT REGULATIONS; PROHIBIT  
THE ESTABLISHMENT OF OFFICEHOLDER ACCOUNTS  
AFTER JULY 1, 2008; AND MAKE OTHER TECHNICAL  
AND CLARIFYING CHANGES**

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

SECTION 1. Section 12.06.150 of Chapter 12.06 of Title 12 of the San José Municipal Code is repealed.

SECTION 2. Section 12.06.410 of Chapter 12.06 of Title 12 of the San José Municipal Code is amended to read as follows:

**12.06.410 Prohibition On Transfer Of Funds**

- A. The transfer of any City campaign funds to any other person's City campaign fund is prohibited.
- B. The transfer of any City campaign contribution to any other candidate's noncity campaign fund is prohibited.

SECTION 3. Section 12.06.430 of Chapter 12.06 of Title 12 of the San José Municipal Code is repealed.

SECTION 4. Section 12.06.600 of Chapter 12.06 of Title 12 of the San José Municipal Code is amended to read as follows:

**12.06.600 Special Municipal Elections**

- A. Except as otherwise provided by this Part 6, the provisions of Chapter 12.06 shall apply to special municipal elections. Part 6 of Chapter 12.06 shall only apply to special municipal elections which do not exceed a six-month period from the call of the special municipal election to the date of a special municipal run-off election if any.
- B. The prohibition on transfers of any City campaign funds to any other person's City campaign fund in Section 12.06.410 shall apply to any special municipal election.
- C. The prohibition on transfers of any City campaign funds to any other candidate's noncity campaign fund in Section 12.06.410 shall apply to any special municipal election.
- D. The disclosure requirements for transfers of City campaign funds to a candidate's own City and noncity campaign in Section 12.06.420 shall apply to any special municipal election.

SECTION 5. 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 ninety (90) days after withdrawal, defeat, or election to office, the surplus campaign funds shall be returned to the contributors on a pro rata basis, or turned over to the general fund.

SECTION 6. Part 8 of Chapter 12.06 of Title 12 of the San José Municipal Code is repealed.

SECTION 7. Transition Provisions. The following provisions relating to Officeholder Accounts will be effective from the effective date of this Ordinance, through and including June 30, 2008.

**Officeholder Contributions Defined**

"Officeholder contributions" means funds collected by City officeholders for the limited purposes set forth in this Ordinance. Officeholder funds are not campaign funds for purposes of this Ordinance.

**Prohibition on Transfer of Funds**

- A. The transfer of any city campaign funds to any other person's officeholder fund is prohibited.

- B. The transfer of any officeholder contribution to any other candidate's noncity campaign fund is prohibited.

### **Transfer Of City Officeholder Funds**

- A. The transfer of officeholder funds to be used for any campaign purpose is prohibited.
- B. Any officeholder funds which are not utilized by June 29, 2008 for officeholder purposes must be transferred to the general fund of the City of San José or contributed for charitable purposes.

### **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 after February 15, 2008 or 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.

### **Mayor's Officeholder Account Uses**

- A. Officeholder contributions are not campaign contributions for purposes of this Ordinance. Such contributions are solely intended to facilitate the performance of the incumbent officeholder. 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 fund-raising 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.

### **Councilmember Officeholder Accounts**

- A. Contributions to councilmember officeholder accounts are limited to two hundred fifty dollars (\$250) per calendar year from any person and may not be collected after February 15, 2008 or 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.

### **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.

### **Councilmember Officeholder Account Uses**

- A. Councilmember officeholder contributions are not campaign contributions for purposes of this Ordinance. 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.

### **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 or goods received prior to the officeholder account freeze period.
  
- C. For purposes of this Ordinance, 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.

### **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 Ordinance. Nothing in this Section shall prohibit an officeholder from spending personal funds on official or related business activities.

### **Officeholder Disclosure**

Reporting and disclosure of the Mayor's officeholder account and the councilmember's officeholder account shall be done in accordance with the requirements of the Political Reform Act, California Government Code Sections 81000 et seq. as amended, and the San José Municipal Code.

SECTION 8. Effective July 1, 2008, Chapter 12.06 of Title 12 of the San Jose Municipal Code is amended to add Part 8 Section 12.06.810 to read as follows:

**12.06.810 Officeholder Account Prohibited**

No City officeholder, or any person or committee on behalf of a City officeholder may establish an officeholder account or an account established under the Political Reform Act , California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

PASSED FOR PUBLICATION of title this 18<sup>th</sup> day of December, 2007, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, CORTESE, LICCARDO,  
NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED

NOES: NONE

ABSENT: CHIRCO

DISQUALIFIED: NONE

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk