

## Part 2 - CAMPAIGN CONTRIBUTIONS

## 12.06.200 - Intent and purpose.

It is the intent of the city council of the City of San José in enacting this chapter to place realistic and enforceable limits on the amount individuals and independent committees may contribute to political campaigns in municipal office elections for the purpose of preventing the perception by the public that campaign contributors exercise undue or improper influence over elected officials. In order to achieve this purpose it is not necessary to, nor is it the city council's intent to, impose limitations on individuals and committees whose sole objective is the passage or defeat of ballot measures.

(Ords. 24499, 24577, 25257, 26440, 29642.)

## 12.06.210 - Campaign contribution limitations.

- A. Beginning January 1, 2011, the total campaign contribution made by any person to any council candidate and any controlled committee of that candidate, other than the candidate in aid of himself or herself, may not exceed:
  - 1. Five hundred dollars for the primary election;
  - 2. Five hundred dollars for the general election, if any;
  - 3. Five hundred dollars for any special election;
  - 4. Five hundred dollars for any special run-off election, if any.
- B. Beginning January 1, 2011, the total campaign contribution made by any person to any mayoral candidate and any controlled committee of that candidate, other than the candidate in aid of himself or herself, may not exceed:
  - 1. One thousand dollars for the primary election;
  - 2. One thousand dollars for the general election, if any;
  - 3. One thousand dollars for any special election;
  - 4. One thousand dollars for any special run-off election, if any.
- C. The total post-election contribution made by any person to any council or mayoral candidate and any controlled committee of that candidate, other than the candidate in aid of himself or herself, may not exceed:
  - 1. One thousand one hundred dollars for the post-election contribution after the primary election;
  - 2. One thousand one hundred dollars for the post-election contribution after the general election, if any;
  - 3. One thousand one hundred dollars for the post-election contribution for any special election;
  - 4. One thousand one hundred dollars for the post-election contribution for any special run-off election, if any.
- D. Two hundred and eighty (280) days before every regularly scheduled primary municipal election, the City Clerk must determine whether the cost of living, as shown on the Consumer Price Index (CPI) for all items (with a base period of 1982-1984=100) for All Urban Consumers in the San Francisco-Oakland-Hayward area

as published by the U.S. Department of Labor, Bureau of Statistics, has increased during the "adjustment period" as defined in this Section.

1. Each adjustment period will be the CPI reported for the month of December 2010 and the CPI reported for the month that is at least two hundred and eighty days (280) days before the regularly scheduled primary municipal election.
2. If the CPI has increased for the applicable adjustment period, the City Clerk must multiply the contribution limits established in Subsections A. and B. by the percentage increase for the adjustment period. If the calculation results in an amount that is higher than the previously established contribution limit(s) when rounded to the nearest one hundred dollars (\$100), the City Clerk will recommend that the City Council adopt a resolution adjusting the contribution limit(s) established in Subsections A. and/or B. by the percentage increase rounded to the nearest one hundred dollars (\$100). The contribution limit established in Subsection C. shall be the same as the limits established in Subsection B., as adjusted.
3. In the event the City Council adopts a resolution adjusting the contribution limits, the City Clerk will publish the adjusted contribution limits at least one hundred and ninety (190) days before the regularly scheduled primary municipal election.
4. In the event the CPI is no longer published, the City Clerk will use as a reference another index published by either the State of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City of San José.

(Ords. 24499, 24577, 24845, 25257, 25445, 26440, 28654, 28861, 28985, 29642, 29793, 30231.)

#### 12.06.215 - Contribution limitations to city council and mayoral candidates.

No person shall make nor shall any person solicit or accept any contribution which will cause the total amount contributed by such person to a council candidate, mayoral candidate or any controlled committee of that candidate, other than the candidate in aid of himself or herself, to exceed the campaign contribution limitations set forth in Section 12.06.210.

(Ords. 29310, 29642.)

#### 12.06.220 - Applicability to agents.

- A. "Agent" shall mean any person who has express or implied authority to make or to authorize the making of expenditures on behalf of a candidate, or who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures. An "agent" is also any person who is serving or has served in an advisory, decision-making, or strategic role with a candidate's campaign, with or without compensation, where that person's duties and/or actions reflect or require direct knowledge of the candidate's campaign strategy, plans and needs.
- B. The prohibitions and requirements of this chapter applicable to a candidate shall also apply to the candidate's agent.

(Ords. 24499, 24577, 25257, 26440, 27291, 29642.)

## 12.06.230 - Anonymous contributions.

- A. No person may make nor may any person solicit or accept any anonymous contribution, gift, subscription, loan, advance, deposit, pledge or promise of money or anything of value for a clearly identified candidate for San José City Council or Mayor.
- B. All anonymous contributions must be surrendered to the director of finance for deposit in the general fund of the city, earmarked to defray the costs of municipal elections.

(Ords. 24499, 24577, 25257, 26440, 28654, 29642.)

## 12.06.235 - Information needed prior to deposit.

No contribution of any amount shall be deposited into a campaign account unless the name, address, occupation and employer of the contributor is on file in the written records of the candidate receiving the contribution.

(Ords. 25257, 26440, 29642.)

## 12.06.240 - Contributions through other persons prohibited.

In applying the limitations set forth in this chapter to the contributions of a person, each contribution made under any of the following circumstances shall be deemed to have been made by the person and shall be included in determining whether the applicable limitation for such person has been exceeded:

- A. A contribution by an employee over whom the person exercises control as a supervisor or as an owner of the business entity for which the employee works, where the contribution was coerced by the person or made at his or her instigation from monies given or promised to the employee as a gift, bonus or other form of reimbursement for the contribution.
- B. A contribution of a spouse or child of the person where the contribution is coerced by the person or made from monies given or promised by the person in instigation of the contribution.

(Ords. 24499, 24577, 25257, 25447, 26440, 29642.)

## 12.06.250 - Contributions by certain business entities prohibited.

Except as otherwise provided in this chapter, contributions by business entities shall be defined and limited in accordance with the Political Reform Act as amended.

(Ords. 24499, 24577, 25257, 25447, 26440, 28280, 29642.)

## 12.06.260 - Prohibited contributions - Cardrooms.

- A. A cardroom, cardroom owner, officer of a cardroom, key management employee of a cardroom, spouse of a cardroom owner or spouse of a cardroom officer may not make any contribution to candidates or candidate controlled committees under this chapter.
- B. Cardroom and cardroom owner are as defined in Chapter 16.02 of this Code.
- C. A key management employee of a cardroom is any person who has the authority to hire or fire other employees.

(Ords. 24499, 24577, 25257, 26440, 28624, 28624, 29642.)

12.06.270 - Reserved.

**Editor's note**— Ord. No. 28654, § 3, adopted November 3, 2009, repealed § 12.06.270, which pertained to contribution limitations to city council candidates.

12.06.280 - Reserved.

**Editor's note**— Ord. No. 28654, § 4, adopted November 3, 2009, repealed § 12.06.280, which pertained to contribution limitations to mayoral candidates.

12.06.290 - Campaign and post-election contribution collection period.

- A. No person shall solicit or accept any campaign contribution or deposit any contributions for any campaign into any municipal campaign bank account except during the campaign contribution period.
- B. The campaign contribution period for the primary municipal election for council or mayor shall:
  - 1. Begin on the one hundred eightieth day before the primary municipal election.
  - 2. End at 11:59 p.m. on the day before the primary municipal election.
- C. The campaign contribution period for the run-off municipal election for council or mayor shall:
  - 1. Begin on the day after the primary municipal election for that office.
  - 2. End at 11:59 p.m. on the day before a run-off municipal election for that office.
- D. The post-election contribution period for the primary municipal election for council or mayor shall:
  - 1. Begin on the date of the primary municipal election.
  - 2. End at 11:59 p.m. on the one hundred eightieth day from the date of the primary municipal election.
- E. The post-election contribution period for the run-off municipal election for council or mayor shall:
  - 1. Begin on the date of the run-off municipal election.
  - 2. End at 11:59 p.m. on the one hundred eightieth day from the date of the run-off municipal election.
- F. Any contribution which is received outside of the campaign and post-election contribution period for an election shall not be accepted or deposited but shall be returned to the contributor or donor within five business days.

(Ords. 24499, 24577, 25257, 25525, 25942, 26440, 28213, 28985, 29642, 29793.)

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 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 and eightieth (180th) day after the day of the election for the purpose of paying outstanding debt as set forth in Sect 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.

(Ords. 24499, 24577, 25257, 26440, 28985, 29310, 29642, 30687.)