

San José Municipal Code Excerpt
From Title 12 ETHICS PROVISIONS
Chapters 12.05 and 12.06

Chapter 12.05 ELECTIONS

Sections:

- [12.05.010](#) **Superseding conflicting state laws.**
- [12.05.020](#) **Scheduling of city municipal elections.**
- [12.05.030](#) **Time for notice of election.**
- [12.05.040](#) **Nomination petitions.**
- [12.05.050](#) **Circulation of nomination petitions.**
- [12.05.060](#) **Nomination papers and filing deadline.**
- [12.05.070](#) **Number of nomination papers.**

12.05.010 Superseding conflicting state laws.

In accordance with Charter Section 1602, the provisions of this chapter supersede any conflicting provisions in the California Elections or Government Codes.

(Ord. 25214.)

12.05.020 Scheduling of city municipal elections.

A. A regular municipal election which is a regularly scheduled primary election shall be held on the same date that the state of California holds its direct primary election.

B. A regular municipal election which is a run-off municipal election shall be held on the same date that the state of California holds its statewide general election.

(Ord. 25214.)

12.05.030 Time for notice of election.

The city clerk shall publish a notice of the city election which meets the standards of Section 6061 of the California Government Code, not earlier than the one hundred thirteenth nor later than the eighty-eighth day before any city municipal election to fill offices.

(Ord. 25214.)

12.05.040 Nomination petitions.

A. Each candidate for city elective office shall be nominated by not less than fifty registered voters in the city. Not more than sixty signatures of registered voters shall be accepted and counted.

B. Voters signing nomination papers for the office of member of the council, except the mayor, shall be residents of the district by which the member is to be elected.

C. Voters signing nomination papers for the office of mayor shall be residents of the city and may reside anywhere in the city.

(Ord. 25214.)

12.05.050 Circulation of nomination petitions.

A. Any person who circulates a nomination paper for the office of member of the council, except mayor, shall be registered to vote at the election in the district by which the member is to be elected.

B. Persons circulating nomination papers for the office of mayor shall be registered to vote at the election in any part of the city.

(Ord. 25214.)

12.05.060 Nomination papers and filing deadline.

A. The voters may nominate candidates for election by signing a nomination paper not earlier than the one hundred thirteenth day nor later than twelve noon on the eighty-eighth day before a city municipal election.

B. All nomination papers shall be filed with the city clerk not later than twelve noon on the eighty-eighth day before the city municipal election, except as provided in subsection C. below.

C. If nomination papers for an eligible incumbent elective officer of the city are not filed by twelve noon on the eighty-eighth day before the election, nomination papers for candidates other than the incumbent elective officer for such elective office may be filed with the city clerk until twelve noon on the eighty-third day before the election.

(Ord. 25214.)

12.05.070 Number of nomination papers.

More than one nomination paper may be circulated and filed for a candidate.

(Ord. 25214.)

Chapter 12.06 MUNICIPAL CAMPAIGN AND OFFICEHOLDER CONTRIBUTIONS

Parts:

- 1 Definitions**
- 2 Campaign Contributions**
- 3 Independent Committees**
- 4 Transfer of Funds**
- 5 Voluntary Spending Limits Program**
- 6 Special Municipal Elections**
- 7 Debt Retirement, and Surplus Campaign Funds**
- 8 Officeholder Accounts**
- 9 Campaign Disclosure**

Part 1
DEFINITIONS

Sections:

- [12.06.010](#) **Definitions.**
- [12.06.020](#) **Business entity.**
- [12.06.030](#) **Candidate.**
- [12.06.040](#) **Committee.**
- [12.06.050](#) **Contribution.**
- [12.06.060](#) **Controlled committee.**
- [12.06.080](#) **Election.**
- [12.06.110](#) **Fair political practices commission.**
- [12.06.120](#) **Independent committee.**
- [12.06.130](#) **Independent expenditure.**
- [12.06.150](#) **Officeholder contributions.**
- [12.06.160](#) **Person.**
- [12.06.170](#) **Political reform act.**
- [12.06.180](#) **Statement of intention to be a candidate.**

12.06.010 Definitions.

The following definitions used in this chapter shall have the meanings set forth below. Except as otherwise provided here, the terms and provisions of this chapter shall be interpreted in accordance with the applicable definitions and provisions of the Political Reform Act of 1974, as amended (Government Code Section 81000 et seq.) and the regulations of the California Fair Political Practices Commission, as amended.

(Ords. 24466, 24577, 25257, 26440, 27291.)

12.06.020 Business entity.

“Business entity” shall mean any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

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

12.06.030 Candidate.

“Candidate” shall mean an individual who:

- A. Is listed on the ballot; or
- B. Has qualified to have write-in votes on his or her behalf counted by election officials for nomination or election to any elective city office; or
- C. Has given his or her consent for any other person to receive a contribution or make an expenditure with the intention of bringing about his or her nomination for or election to any elective city office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is

made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy; or

D. Has filed a statement of intention to be a candidate with the secretary of state.

(Ords. 24499, 24577, 25257, 25525, 26440.)

12.06.040 Committee.

“Committee” shall mean any person who, directly or indirectly, receives contributions or makes expenditures or contributions for the purpose of influencing or attempting to influence the action of the voters in a municipal election for or against the nomination or election of one or more candidates if:

A. Contributions received total one thousand dollars or more in any calendar year; or

B. Independent expenditures total one thousand dollars or more in a calendar year; or

C. Contributions made to or at the behest of candidates and committees total ten thousand dollars or more in a calendar year.

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

12.06.050 Contribution.

A. “Contribution” shall mean:

1. Any payment, loan, forgiveness or postponement of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

2. An expenditure benefiting a candidate or committee made at the behest of a candidate, committee or elected officeholder is a contribution to the candidate, committee or elected officeholder unless full and adequate consideration is received for making the expenditure.

3. Contributions include the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person, if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration; and the transfer of anything of value.

B. Volunteer personal services; payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her; or independent expenditures made by independent committees are not deemed to be contributions for purposes of this chapter.

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

12.06.060 Controlled committee.

“Controlled committee” shall mean a committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if such candidate, his or her agent, or any other committee such candidate controls, has a significant influence on the actions or decisions of the committee.

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

12.06.080 Election.

“Election” shall mean any regularly scheduled municipal or special municipal election. Recall elections are not considered elections for purposes of this chapter.

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

12.06.110 Fair political practices commission.

“Fair political practices commission” is the body charged with administering the Political Reform Act and adopting implementing regulations.

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

12.06.120 Independent committee.

“Independent committee” shall mean all committees other than controlled committees.

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

12.06.130 Independent expenditure.

A. “Independent expenditure” shall mean an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to or at the behest of the affected candidate or committee. An expenditure that is made to or at the behest of a candidate or controlled committee is not an “independent expenditure”.

B. Any expenditure in aid or in opposition to a council or mayoral candidate which is not an “independent expenditure” is deemed to be a contribution to that candidate, subject to the limitations of this chapter.

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

12.06.150 Officeholder contributions.

“Officeholder contributions” shall mean funds collected by city officeholders for the limited purposes set forth in Part 7 of this chapter. Officeholder funds are not campaign funds for purposes of this title.

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

12.06.160 Person.

“Person,” for purposes of this chapter, shall include an individual, business entity, foundation, organization, committee or association, nonprofit corporation, and any other organization or group of people acting in concert.

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

12.06.170 Political reform act.

“Political reform act” is Government Code Section 81000 et seq., as amended.

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

12.06.180 Statement of intention to be a candidate.

“Statement of intention to be a candidate” is a written statement, filed with secretary of state in accordance with Government Code Section 85200 and regulations thereunder, declaring intention to be a candidate for a specific elective city office.

(Ords. 24499, 24577, 25257, 25525, 26440.)

Part 2

CAMPAIGN CONTRIBUTIONS

Sections:

- 12.06.200 Intent and purpose.**
- 12.06.210 Campaign contribution limitations.**
- 12.06.220 Applicability to agents.**
- 12.06.230 Anonymous contributions.**
- 12.06.235 Information needed prior to deposit.**
- 12.06.240 Contributions through other persons prohibited.**
- 12.06.250 Contributions by certain business entities prohibited.**
- 12.06.260 Prohibited contributions - Cardrooms.**
- 12.06.270 Contribution limitations to city council candidates.**
- 12.06.280 Contribution limitations to mayoral candidates.**
- 12.06.290 Campaign contribution collection period.**
- 12.06.295 Deposit of personal funds into campaign bank accounts.**

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.)

12.06.210 Campaign contribution limitations.

A. The total campaign contribution made by any person to any councilmember, council candidate and any controlled committee of that candidate may not exceed:

1. One hundred dollars for the primary election;
2. One hundred dollars for the general election, if any;
3. One hundred dollars for any special election.

B. The total campaign contribution made by any person to any mayor, mayoral candidate and any controlled committee of the candidate may not exceed:

1. Two hundred fifty dollars for the primary election;
2. Two hundred fifty dollars for the general election, if any;
3. Two hundred fifty dollars for any special election.

C. If the candidate voluntarily elects to participate in the voluntary campaign expenditure limitation program, the alternative campaign contribution limitations set forth in Part 5 shall apply in lieu of subsection A. and B.

(Ords. 24499, 24577, 24845, 25257, 25445, 26440.)

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.)

12.06.230 Anonymous contributions.

A. No person shall make nor shall any person solicit or accept any anonymous contribution, gift, subscription, loan, advance, deposit, pledge or promise of money or anything of value in aid of or opposition to a candidacy.

B. All anonymous contributions shall 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.)

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.)

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.)

12.06.250 Contributions by certain business entities prohibited.

Contributions by business entities shall be limited in accordance with the Political Reform Act as amended.

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

12.06.260 Prohibited contributions - Cardrooms.

A. No cardroom, cardroom owner, officer of a cardroom, key management employee of a cardroom, spouse of a cardroom owner or spouse of a cardroom officer shall make any contribution under this chapter.

B. Cardroom and cardroom owner are as defined in Section 6.22.020 of Title 6 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.)

12.06.270 Contribution limitations to city council candidates.

No person, other than the candidate in aid of himself or herself, shall make nor shall any person solicit or accept any contribution in aid of and/or opposition to the nomination or election of a candidate for city council which will cause the total amount contributed by such person to the candidate and any controlled committee of such candidate to exceed one hundred dollars per election, except as provided in Part 5 of this chapter.

(Ords. 24499, 24577, 25257, 25445, 26440.)

12.06.280 Contribution limitations to mayoral candidates.

No person, other than the candidate in aid of himself or herself, shall make nor shall any person solicit or accept any contribution in aid of and/or opposition to the nomination or election of a candidate for mayor which will cause the total amount contributed by such person to the candidate or any controlled committee of such candidate to exceed two hundred fifty dollars per election, except as provided in Part 5 of this chapter.

(Ords. 24499, 24577, 25257, 25445, 26440.)

12.06.290 Campaign 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 5:00 p.m. on the seventeenth day prior to 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 5:00 p.m. on the seventeenth day prior to a run-off municipal election for that office.

D. Any contribution which is received outside of the campaign 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.)

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 pre-election statement which must be filed after the funds are deposited into the campaign bank account.

C. No candidate may deposit personal funds into his or her campaign bank account during the period beginning seven days prior to election day.

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. Nothing in this chapter shall prohibit a candidate from making unlimited contributions to his or her own campaign.

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

Part 3

INDEPENDENT COMMITTEES

Sections:

[12.06.310](#) **Contribution limitations to independent committees.**

[12.06.320](#) **Contributions and expenditures by independent committees.**

[12.06.330](#) **Contribution period for independent committees.**

12.06.310 Contribution limitations to independent committees.

A. No person shall make nor shall any person accept any contribution to or on behalf of an independent committee expending funds or making contributions in aid of and/or opposition to the nomination or election of a candidate for city council or mayor which will cause the total amount contributed by such person to such independent committee to exceed two hundred fifty dollars per election.

B. Independent committees contributing to election campaigns in addition to city of San José council or mayoral campaigns shall segregate contributions received and contributions or expenditures made for the purpose of influencing such San José elections from all other contributions or expenditures. Where an independent committee has segregated such contributions and expenditures for such city elections, contributors to that committee may contribute more than two hundred fifty dollars so long as no portion of the contribution in excess of two hundred fifty dollars is used to influence San José council or mayoral elections.

C. This section is not intended to prohibit or regulate contributions to independent committees

to the extent such contributions are used on behalf of or in opposition to candidates for offices other than mayoral or council offices of the city of San José.

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

12.06.320 Contributions and expenditures by independent committees.

A. Independent committees are “persons” for purposes of the contribution limitations to city council and mayoral candidates. Any expenditure by an independent committee in aid of or in opposition to a council or mayoral candidate which is not an “independent expenditure” is deemed to be a contribution to that candidate, subject to the limitations of this chapter.

B. Each independent committee making contributions or independent expenditures in a council or mayoral election which does not participate in elections other than for city offices shall file the reporting statements required by Section 12.06.910. For each expenditure or contribution, the committee shall report what amount or portion was of benefit to a particular candidate.

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

12.06.330 Contribution period for independent committees.

Contributions to independent committees for the purpose of supporting or opposing candidates for city office shall be subject to the campaign collection period set forth in Section 12.06.290.

(Ords. 25447, 26440.)

Part 4

TRANSFER OF FUNDS

Sections:

[12.06.410](#) Prohibition on transfer of funds.

[12.06.420](#) Disclosure - Transfers to a candidate's own city and noncity campaign.

[12.06.430](#) Transfer of city officerholder funds.

12.06.410 Prohibition on transfer of funds.

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

B. The transfer of any city campaign, or officeholder contribution to any other candidate’s noncity campaign fund is prohibited.

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

12.06.420 Disclosure - Transfers to a candidate's own city and noncity campaign.

A. No contribution collected for any city campaign fund may be transferred to another campaign fund of the candidate, unless a written disclosure appeared on all materials printed by the campaign committee during the campaign, which informed potential donors that such contributions are subject to being transferred to the candidate's own city and noncity campaigns, at any time, at the discretion of the candidate.

B. The disclosure required by this section shall consist of the following statement in fourteen

point type: Any contribution to this campaign may be transferred to this candidate's campaign for reelection or another city or noncity campaign at (name of the candidate's) sole discretion.

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

12.06.430 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 for officeholder purposes must be transferred to the general fund of the city of San José or contributed for charitable purposes.

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

Part 5

VOLUNTARY SPENDING LIMITS PROGRAM

Sections:

[12.06.500](#) **Voluntary campaign expenditure limits program.**

[12.06.510](#) **Voluntary campaign expenditure limits.**

[12.06.520](#) **Voluntary campaign expenditure limits - Transfers of campaign funds.**

[12.06.530](#) **Expenditure limits.**

[12.06.540](#) **Campaign contribution limits.**

[12.06.550](#) **Notification to voters.**

[12.06.560](#) **Expenditure limits tripled.**

12.06.500 Voluntary campaign expenditure limits program.

Each candidate participating in the voluntary campaign expenditure limits program shall comply with and receive all the benefits of the provisions of this chapter.

(Ords. 25445, 26440.)

12.06.510 Voluntary campaign expenditure limits.

A. Each candidate must file an expenditure ceiling statement with the city clerk indicating whether or not he or she will participate in the voluntary campaign expenditure limits program before accepting or receiving any campaign contributions.

B. Each candidate who has filed an expenditure ceiling statement indicating participation in the program shall be subject to the expenditure limits set forth in Section 12.06.530.

C. Any candidate who declined to accept the expenditure ceiling statement in Section 12.06.530 but who, nevertheless, did not exceed the voluntary expenditure limits in the primary election or special primary election may file an amendment to the expenditure ceiling statement, accepting participation in the voluntary campaign expenditure limits program for the general or special run-off election, within fourteen days following the primary or special primary election and receive all the benefits of the program specified in this chapter.

D. Expenditures for purposes of the expenditure limits shall include in-kind or non-monetary contributions.

(Ords. 25445, 25942, 26440.)

12.06.520 Voluntary campaign expenditure limits - Transfers of campaign funds.

A. Campaign funds collected for the primary municipal election or collected for the run-off municipal election by candidates who voluntarily participate in the voluntary campaign expenditure limits program shall not be transferred to any ballot measure committee.

B. Campaign funds collected for the primary municipal election by candidates who voluntarily participate in the voluntary campaign expenditure program shall not be transferred to the candidate's run-off municipal election campaign. Remaining campaign funds after the primary municipal election shall be deemed to be surplus campaign funds and shall be distributed in accordance with the provisions of this chapter.

(Ords. 26024, 26440.)

12.06.530 Expenditure limits.

A. The expenditure limits shall be set at:

1. Seventy five cents per resident of the city for candidates for the office of mayor; and
2. One dollar per resident of the district for candidates for council office.

B. The city council shall adopt an expenditure limits resolution, in advance of each election cycle, specifying the expenditure limits. The expenditure limits shall be based on census data supplied by the director of the department of planning, building and code enforcement for the city and each council district and adjusted by the percentage increase in residents as determined by population data provided by the state of California, department of finance, city/county population estimates.

C. No candidate who files an expenditure ceiling statement participating in the voluntary campaign expenditure limits program shall make any campaign expenditure above the limits set forth in the expenditure limits resolution.

D. The city council shall review the amount of the expenditure limits set forth in subsection A. above, nine months in advance of each election, to determine if any change is warranted.

(Ords. 25445, 25942, 26440.)

12.06.540 Campaign contribution limits.

Candidates who participate in the voluntary campaign expenditure limits program shall be entitled to collect contributions in the following amounts:

A. The total contributions per election made by any person to any council candidate participating in the voluntary campaign expenditure limits program or to the controlled committee of that candidate shall not exceed a total of more than two hundred fifty dollars in the aggregate.

B. The total contributions per election made by any person to any mayoral candidate participating in the voluntary campaign expenditure limits program or to the controlled committee of that candidate shall not exceed a total of more than five hundred dollars in the aggregate.

(Ords. 25445, 26440.)

12.06.550 Notification to voters.

The ballot, ballot pamphlet and sample ballot shall prominently designate those candidates

who participate in the program.

(Ords. 25445, 26440.)

12.06.560 Expenditure limits tripled.

Notwithstanding Section 12.06.530.

A. If a candidate who is not participating in the voluntary campaign expenditure limits program receives contributions, has cash on hand, or makes qualified expenditures equal to seventy-five percent or more of the expenditure limits set forth in the expenditure limits resolution adopted pursuant to this part, the expenditure limit shall be tripled.

B. If an independent expenditure committee(s) spend in the aggregate, in support or opposition to a candidate, more than fifty percent of the expenditure limits set forth in the expenditure limits resolution adopted pursuant to this part, the expenditure limit shall be tripled.

(Ords. 25445, 26440.)

Part 6

SPECIAL MUNICIPAL ELECTIONS

Sections:

12.06.600 Special municipal elections.

12.06.610 Campaign contribution collection period - Campaign disclosure.

12.06.620 Voluntary campaign expenditure limits program - Special election.

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 or officeholder 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.

(Ords. 26239, 26440.)

12.06.610 Campaign contribution collection period - Campaign disclosure.

A. The campaign contribution collection periods for the special municipal election and a special municipal run-off election shall:

1. Begin on the date that the special municipal election is set by the city council and begin the day after the special municipal election for any run-off election.

2. End at 5:00 p.m. on the seventh day prior to the election and the seventh day prior to any run-off election.

B. Each candidate and each committee shall file, as a public record with the city clerk,

cumulative itemized campaign statements completed on campaign statement forms required to be filed by the regulations of the fair political practices commission by no later than the fifth day prior to the special municipal election and the fifth day prior to any special municipal run-off election.

(Ords. 26239, 26440.)

12.06.620 Voluntary campaign expenditure limits program - Special election.

A. Unless otherwise provided in this Part 6, each candidate in any special municipal election participating in the voluntary campaign expenditure limits program shall comply with and receive all the benefits of this chapter.

B. Campaign funds collected for a special municipal election by candidates including those candidates participating in the voluntary campaign expenditure limits program may be transferred to the candidate's special municipal run-off election campaign.

(Ords. 26239, 26440.)

Part 7

DEBT RETIREMENT, AND SURPLUS CAMPAIGN FUNDS

Sections:

[12.06.710](#) **Deadline for debt retirement.**

[12.06.720](#) **Surplus campaign funds.**

12.06.710 Deadline for debt retirement.

A. No money can be collected for debt retirement after the end of the campaign contribution collection period as set forth in Section 12.06.290.

B. A candidate must retire all campaign-related debts, including loans, within six months after the date of the election.

C. A campaign-related debt, including any loan, which remains unpaid more than six months after the election is deemed to have been a campaign contribution which was accepted at the time the debt was incurred.

D. It is a violation of this section to forgive all or part of a loan or debt which is owed to the person by a candidate and which exceeds the applicable contribution limitations. Forgiveness of a loan or debt shall not be deemed to include the failure to collect the loan or debt where there have been substantial attempts, in good faith, to collect the monies owed and such efforts have proved unsuccessful. In such case, a candidate is not exonerated from violations of this chapter if an outstanding loan or debt exceeds the contribution limitations.

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

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 and shall be distributed within ninety days after withdrawal, defeat, or election to office in the following manner:

A. No more than ten thousand dollars may be deposited in the candidate's officeholder account; except that no such surplus campaign funds may be deposited into the officeholder

account within sixty days immediately following the election to office.

B. Any remaining surplus funds shall be returned to the contributors on a pro rata basis, or turned over to the general fund.

(Ords. 25257, 26440.)

Part 8

OFFICEHOLDER ACCOUNTS

Sections:

- 12.06.810 Intent.**
- 12.06.820 Mayor's officeholder accounts.**
- 12.06.830 Mayor's officeholder account uses.**
- 12.06.840 Councilmember officeholder accounts.**
- 12.06.850 Mayor and councilmember officeholder account freeze period.**
- 12.06.860 Councilmember officeholder account uses.**
- 12.06.870 Restrictions on officeholder accounts.**
- 12.06.880 Prohibition on other officeholder accounts.**
- 12.06.890 Officeholder disclosure.**

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.

(Ords. 24499, 24577, 25257, 26440, 27290.)

12.06.820 Mayor's officeholder accounts.

A. Contributions to the mayor's officeholder account are limited to five hundred dollars 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 in the aggregate within any calendar year.

(Ords. 24499, 24577, 25257, 25446, 25447, 26440, 27290.)

12.06.830 Mayor's officeholder account 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 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.

(Ords. 24499, 24577, 25257, 26440, 27290.)

12.06.840 Councilmember officeholder accounts.

A. Contributions to councilmember officeholder accounts are limited to two hundred fifty dollars 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 aggregate within any calendar year.

(Ord. 27290.)

12.06.850 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.

(Ords. 25446, 25447, 26440, 27290.)

12.06.860 Councilmember officeholder account 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.

(Ord. 27290.)

12.06.870 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 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.

(Ords. 24499, 24577, 25257, 25446, 25447, 26440, 27290.)

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.

(Ord. 27290.)

12.06.890 Officeholder disclosure.

Reporting and disclosure of the mayor's officeholder account and the councilmember officeholder accounts 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.

(Ords. 24499, 24577, 25257, 26440, 27290.)

Part 9

CAMPAIGN DISCLOSURE

Sections:

[12.06.910](#) **Statements and reporting requirements.**

[12.06.920](#) **Duties of the city clerk.**

[12.06.930](#) **Disclosure of post-election payment agreements.**

12.06.910 Statements and reporting requirements.

A. Each candidate and each committee, except committees whose sole purpose is to support or oppose a ballot measure, shall file, as a public record with the city clerk, cumulative itemized reports at the times specified herein showing the total amounts of contributions accepted and expenditures made. The required statements may be completed on campaign statement forms required to be filed by the regulations of the fair political practices commission so long as such forms are completed in sufficient detail to comply with the requirements of this chapter. Such statements shall contain a declaration by the candidate or committee treasurer that the candidate or committee has neither accepted nor solicited any campaign contribution in excess of the limitations of this chapter.

B. The listing of contributions shall include all contributions accepted during the campaign contribution collection periods specified in this chapter including all amounts less than one hundred dollars.

C. The first and second campaign statements shall be filed at the times prescribed for pre-election statements by the Political Reform Act. The second statement shall in addition include all contributions accepted through the end of campaign contribution collection period specified in Section 12.06.290.

D. Thereafter, semi-annual statements shall be filed in the form and at the times required by the regulations of the fair political practices commission.

(Ords. 24499, 24577, 24733, 25257, 26440.)

12.06.920 Duties of the city clerk.

A. The city clerk shall, five days prior to the election, prepare a report to be published in the *San José Mercury News*. The report shall contain the total contributions and expenditures for each of the candidates and for each independent committee. The clerk shall cause the report to be published two days prior to the election.

B. In the event the city clerk has reason to believe a late contribution has not been reported, the clerk shall notify the ethics board.

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

12.06.930 Disclosure of post-election payment agreements.

A. A candidate or his or her controlled committee must disclose, on a form provided by the city clerk, any campaign-related agreements entered into by the candidate or controlled committee which provide for post-election payments. Such agreements include, but are not limited to, contingency payment or “bonus” payment plans offered by campaign consultants and agreements with persons who will receive compensation after the election for campaign services performed prior to the election.

B. A post-election payment agreement must be reported on or before the filing date of the next preelection statement which must be filed after the agreement is entered into.

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