

Suggested Revisions to the San José Municipal Code Title 12 and Resolution 79187

#	TOPIC	ISSUE	FROM	POSSIBLE SOLUTION	TYPE	BOARD RECOMMENDATIONS
1	Remove lobbyist exemption for non-profits	Per the action of the Board at its 1/10/18 meeting, strike the non-profit exemption so that the same rules apply whether former designated employees go to work for non-profit or for-profit organizations.	Board	Revise SJMC 12.12 to strike the non-profit exemption so that the same rules apply whether former designated employees go to work for non-profit or for-profit organizations.	ORD	Revise SJMC 12.12 to strike the non-profit exemption so that the same rules apply whether former designated employees go to work for non-profit or for-profit organizations.
2	Late fines for weekly Lobbyist reporting	SJMC 12.12.440 (D) requires the City Clerk to assess a late filing fine to lobbyist who fails to file a weekly report on time. This would require the Clerk's Office to cross-reference dozens of calendars with reports that can be amended at any time through the City's lobbyist portal. This is not feasible without adding another full-time staff person.	City Clerk	Revise the requirement of the late fine in SJMC 12.12.440.	ORD	Direct the City Attorney to draft language to revise the requirement for the City Clerk to assess late filing fees, and instead allow the City Clerk discretion.
3	Rejecting complaints outside of Board jurisdiction or does not specify allegations	The Board receives complaints that does not specifically allege violations within the Boards purview. It is costly to have the independent evaluator review and advise the Board that the complaint is outside their purview.	City Attorney	Revise SJMC 12.04.080 and City Council Resolution 79187 to further clarify the City Clerk/Board's authority to reject complaints, without prejudice, that are outside the jurisdiction of the Board or does not specifically allege a violation.	ORD & RESO	Approve City Attorney's draft language for the SJMC 12.04.080 revision and accept listed potential solution, in consultation with the City Clerk's office.
4	Nepotism Rules & Campaign Mailers	Clarify the BFCPP's jurisdiction regarding Nepotism Rules and Campaign Mailers.	City Attorney	Revise Resolution to clarify that the BFCPP does not have jurisdiction over the Nepotism Rules	RESO	Approve City Attorney's draft language to clarify the lack of the Board's jurisdiction regarding nepotism complaints.

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5	Special Municipal Election Dates	Due to recent amendments to the Elections Code, the Council no longer has the discretion to submit an initiative that qualifies for a Special Municipal Election to a Regular Municipal Election if certain criteria are met	City Attorney	Amend SJMC Chapter 12.05 to authorize the City Council to submit an initiative that qualifies for a Special Municipal Election to a Regular Municipal Election if certain criteria are met.	ORD	Defer to the City Attorney's Office to address as an ad hoc item outside of the Biennial Review.
6	PRA Appeals	Clarify the Board's process for reviewing Public Records Act Appeals	Board			Request that the City Council remove sections 12.21.430.C and 12.21.430.D from the Municipal Code.
7	Defining "Officeholder"	The category of "officeholder" is not clearly defined in the SJMC	Ad Hoc Subcommittee	Defining a category of "officeholder" in the SJMC would allow the SJMC to explicitly state what restrictions apply to officeholders and clarify where officeholders are unrestricted.		Direct the City Attorney to analyze items 7-11 and consolidate them with Councilmember Esparza's memorandum, dated November 30, 2022.
8	Clarifying Officeholder Accounts	Clarify definitions of "officeholder accounts" and "officeholder funds" within the SJMC	Ad Hoc Subcommittee	Futher define the term "officeholder funds" in SJMC 12.06.810; import or better reference the PRA definition of "officeholder account." Add language expressly allowing officeholders to fundraise controlled committees for independent expenditures (for other candidates or for ballot measures). Require that donations to a charity not be used for an independent expenditure committee acting in City elections, limit the		Direct the City Attorney to analyze items 7-11 and consolidate them with Councilmember Esparza's memorandum, dated November 30, 2022.

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				transfer to only 501(c)(3) charities.		
9	Revise Controlled Committees	The SJMC currently defines candidate-controlled committees and categorizes all other committees as independent	Ad Hoc Subcommittee	Define both candidate-controlled and officeholder-controlled committees similarly, in order to align better with the State PRA definitions. All other committees would then be independent.		Direct the City Attorney to analyze items 7-11 and consolidate them with Councilmember Esparza's memorandum, dated November 30, 2022.
10	Add Explicit Statements Allowing Contributions	Lack of clarity where the SJMC imposes no restrictions (SJMC 12.06.210)	Ad Hoc Subcommittee	Clarify that the SJMC (12.06.210) imposes no restrictions on the following: <ul style="list-style-type: none"> • spending by anyone on ballot measures • independent expenditures by officeholders for/against (active) candidates • independent expenditures by non-controlled committees • [Note that coordination with a candidate by either officeholder-controlled or independent committees would be a violation] 		Direct the City Attorney to analyze items 7-11 and consolidate them with Councilmember Esparza's memorandum, dated November 30, 2022.
11	Revise Introductory Rationale	Lack of description on why contribution restrictions are not applied to officeholders and independent expenditures	Ad Hoc Subcommittee	Revise SJMC 12.06.200 to describe why contribution restrictions are not applied to officeholders and independent expenditures		Direct the City Attorney to analyze items 7-11 and consolidate them with Councilmember Esparza's memorandum, dated November 30, 2022.

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12	Disclaimers for Editorials and Commentaries	Lack of disclaimers on commentaries and editorials that the opinions of candidates are their own	Board	Incorporation of a requirement that candidates include a disclaimer at the end of editorials and commentaries describing that the opinions are their own		Direct the City Attorney to draft language addressing disclosure of unpaid campaign publications.
13	Exit Clause for Complaints	Lack of an exit clause in Resolution 79187 for a complainant to revoke their complaint	Board	Incorporation of an exit clause in Resolution 79187 to allow for complainants to revoke their complaint		Direct the City Attorney to draft language to permit a complainant to revoke their complaint.
14	Campaign Committee Loans	Reviewing limitations of candidates to make loans to their campaign committee	City Attorney	Strike SJMC 12.06.295.D		Accept the City Attorney's recommendation to strike section 12.06.295.D from the Municipal Code.