

Revolving Door

3.1.7

PURPOSE – SJMC 12.10.10

As set forth in San Jose Municipal Code, Chapter 12.10 Revolving Door Restrictions, the City is required to assure the independence, impartiality and integrity of City officials and designated employees in making governmental decisions and taking governmental actions, to prevent such former officials and designated employees from using their positions with the City for personal gain and to prevent private for-profit business entities from obtaining a real or perceived unfair advantage in dealing with the City of San Jose by hiring former officials and designated employees.

AUTHORITIES

San Jose Municipal Code, Chapter 12.10 Revolving Door Restrictions

DEFINITIONS – SJMC 12.10.20

1. “*City official*” means the Mayor and City Councilmembers.
2. “*Commission*” means anybody created by the City Council whose members are required to file statements of economic interest pursuant to the [Political Reform Act of 1974](#) as amended (Gov. Code §§ 81000 et seq.).
3. “*Designated employee*” are those employees who are designated employees within the meaning of the Political Reform Act of 1974, as amended, and who are required by the Political Reform Act or the City’s Conflict of Interest Code to file financial interest disclosure statements.
4. “*Nonprofit organization*” means means a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.
5. “*Transitional services*” means services involving technical or specialized knowledge required to complete a project or to provide temporary consulting services to the City.
6. “*Work*” means any activity for which compensation is received from any source, including compensation received as an independent contractor. Work includes the supervision or direction of others performing work, except as provided in [Section 12.10.050](#). Work for the City also includes any action of any sort whatsoever taken in one’s official capacity. Service by a City Official or designated employee on any type of board, committee or similar body as a representative of the City is deemed to be work for the City.

PROHIBITIONS FOR FORMER OFFICIAL AND DESIGNATED EMPLOYEES – SJMC 12.10.30

No City official or designated employee, for one year after terminating City office or employment, may:

- A. Work on any legislative or administrative matter on which the official or employee worked on behalf of the City during the twelve months prior to termination of service, or which was within the former City official’s or designated employee’s area of job responsibility. “Work on any legislative or administrative matter” includes, but is not

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limited to, providing advice or recommending any action with regard to a city legislative or administrative matter such as a project involving land use, development, or public works. Legislative matters include city council and city board or commission actions related to ordinances, resolutions, agreements, permits or licenses.

- B. Represent anyone else on any matter, whether or not for compensation, before the City Council, any commission thereof; or any individual member of the City Council, or commission, or any staff of the City.
- C. Receive any gift or payment which would be prohibited under San Jose Municipal Code Chapter 12.08 from any person who was, in any way, involved in or affected by the work of the official or employee during the twelve months prior to the termination of service.

DESIGNATED EMPLOYEES TERMINATED DUE TO REDUCTIONS IN WORK FORCE – SJMC 12.10.35

- A. Notwithstanding the provisions in San Jose Municipal Code, Chapter 12.10 Revolving Door Restrictions to the contrary, a designated employee who was terminated or involuntarily separated from City service due to consolidation, elimination of functions, or other reduction in the City work force, which was based solely on economic or budgetary conditions, is permitted to:
 - 1. Work legislative or administrative matters on which the employee worked on behalf of the City during the twelve months prior to termination of service, or which was within the former designated employee's area of job responsibility.
 - 2. Represent, before City commissions or City staff, any business or person that within the last twelve months of the employee's employment: (a) did not receive any subsidy from the City; or (b) was not involved in any project on which the employee worked.
- B. Except as permitted by Subsection A.1., for two years after leaving City or employment, no designated employee described under this section may accept any gift or payment that would be prohibited under San Jose Municipal Code Chapter 12.08 from any person who was in any way involved in or affected by the work of the official or employee during the twelve months prior to the termination of service.

PROHIBITION FOR FORMER COMMISSION MEMBERS – SJMC 12.10.40

No member of a commission may, for two years after leaving the commission, represent anyone else, whether or not for compensation, before the commission on which the former member served. No other provisions of this chapter apply to persons serving on a commission who are not otherwise City officials or designated employees.

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EXCEPTIONS – SJMC 12.10.50

The following persons are not subject to the prohibitions of [Chapter 12.10.030](#):

- A. An employee or volunteer of a nonprofit organization, as defined in San Jose Municipal Code, Chapter 12.10.020 E.;
- B. An employee or official of a government entity;
- C. An independent contractor of the City where it has been determined that it is in the best interest of the City to retain the former official or employee to provide transitional services. Such determination will be made by the person or body authorized to enter into such a contract. In such event, the City will contract directly with the former official or employee. The rate of compensation for such services must not exceed the former official's or employee's rate of pay, including benefits, at the time City service terminated.

APPLICABILITY – SJMC 12.10.60

- A. San Jose Municipal Code, Chapter 12.10.060 does not prevent a former City official, or designated employee from testifying as a percipient witness in any legal proceeding.
- B. San Jose Municipal Code, Chapter 12.10.060 does not prevent a former City official, or designated employee from working as a supervisor of a person or persons performing work that would be prohibited by this chapter, so long as the supervisor is screened from any personal participation in the work and receives no part of the fee therefrom.

WAIVER – SJMC 12.10.70

The City Council may waive the prohibitions of San Jose Municipal Code Chapter 12.10.30 for former official and designated employees if the Council finds that such waiver is in the best interest of the City and that such waiver is consistent with San Jose Municipal Code, Chapter 12.10.010.

ENFORCEMENT – SJMC 12.10.80

- A. The City Attorney may conduct inquiries or investigate complaints of violations of this chapter. The City Attorney may seek judicial relief to enjoin violations of or to compel compliance with the provisions of Chapter 12.10.
- B. A City official, designated employee or person who is subject to the provisions of San Jose Municipal Code, Chapter 12.10 Revolving Door Restrictions may request a formal written opinion from the City Attorney and may reasonably rely on such advice in order to comply with the requirements of this Chapter 12.10. Before such opinion is rendered, such official or employee must fully cooperate with the City Attorney in disclosing facts and information in order to prepare the formal opinion.
- C. Any person may file a complaint alleging a violation of Chapter 12.10 with the elections commission through the Office of the City Clerk.

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- D. The City Attorney may put persons on notice of a potential violation of the requirements of Chapter 12.10, whether or not a complaint is filed with the elections commission.

PENALTIES– SJMC 12.10.90

Violations of this policy may result in civil penalties of up to five thousand dollars (\$5,000) for each violation. The City of San José is entitled to recover from any former City official or designated employee the monetary value of any compensation or thing of value provided to such person in violation of the provisions of Chapter 12.10.

Approved for posting:

/s/ Jennifer A. Maguire
City Manager

February 5, 2024
Date