

## CITY OF SAN JOSE, CALIFORNIA

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Office of the City Clerk  
200 East Santa Clara Street  
San Jose, California 95113  
Telephone (408) 535-1260  
FAX (408) 292-6207

### Office of the City Clerk Procedure for Assessing and Waiving Late Fines for Statements of Economic Interest (Form 700)

The Political Reform Act, codified in the California Government Code, mandates specific deadlines for the filing of Statements of Economic Interest (Form 700). In accordance with the Act, the Regulations of the Fair Political Practices Commission (FPPC) and actions taken by the San Jose City Council to adopt findings and recommendations of the City Auditor outlined in the Audit of Annual Form 700 Filers (Report 11-09), anyone filing a Form 700 after a prescribed deadline may be fined. This procedure provides a guideline for the assessment and/or waiver of fines, in accordance with GC §91013.

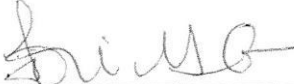
#### PROCEDURE:

- The City Clerk, as the Filing Officer, shall supply the necessary forms, manuals and deadlines for filing in accordance with the Political Reform Act.
- The City Clerk shall determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of the Political Reform Act.
- The City Clerk shall notify promptly all persons who have failed to file statement in the form and at the time required by the Political Reform Act.
- Any person who files a Form 700 after the deadline imposed is liable for a late fine pursuant to Government Code Section 91013. Fines issued pursuant to this section shall not exceed \$10 per day to a maximum of \$100.
- The City Clerk shall notify the City Manager and Department Heads of non-filers in their departments. The City Manager and Department Heads may consider disciplinary action on designated City employees who file untimely or not at all.
- The City Clerk shall notify the City Manager, City Attorney and appropriate Department Head of non-filing by any consultant.
- The City Clerk has the authority to fully or partially waive a fine if, on an impartial basis, it is determined that the late filing was not willful. However, no liability may be waived if a statement is not filed within 30 days after specific written notice of the late filing has been sent.

- The City Clerk will consider a request to waive the payment of a late fine if the request is based on "good cause." A written request for waiver of a late fine must be submitted to the City Clerk. The request may be submitted on the "Request for Waiver of Filing Fine" form or in an alternative format, provided that it includes specificity and detail to support the request. The waiver request must be signed by the person required to file the particular statement upon which the late filing fine was assessed.
  
- "Good Cause", as defined by the FPPC is as follows:
  - a) Incapacitation for Medical Reasons - Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name. This information may also be provided for an immediate family member's illness.
  
  - b) Hospitalization- Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.
  
  - c) Accident Involvement - If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.
  
  - d) Loss or unavailability of record - The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.
  
  - e) Other Unique Reasons - The City Clerk may waive any late fine for other good cause as shown. These include compelling reasons beyond the filer's control and must be defined in writing with specificity and detail.
  
- Late fines will *not* be waived for reasons such as:
  - Vacation
  - Filer's busy season or workload
  - Spouse/Assistant failed to file the form on behalf of the filer
  - Filer needed additional time to gather information in order to file
  - Filer is waiting for professional assistance from financial advisor/CPA/FPPC before filing
  - Filer asserts that he or she has not been late before, but promises to file on time in the future
  - Form was accidentally misplaced on desk, home or in vehicle
  - Filer did not receive a "reminder" to file his/her annual statement after receiving formal notice

□ The City Clerk will consider partial or full waivers for late filers described below, however a stricter standard may be applied to persons who filed late statements within the two years prior to the late filing in question:

- Filers who received inadequate or erroneous notification of their filing requirement, but who filed within 30 days after receiving adequate notice. Full details concerning the type of notice received or lack thereof must be provided in writing.
- Filers serving in an acting officeholder capacity who filed within 30 days of the first adequate notice.
- Filers who left office without receiving adequate notice of their filing requirement, but who filed within 30 days of receiving such notice
- Filers who wrote prior to the filing deadline, or who had someone write on their behalf, indicating that the filing would be late for good cause and who filed as soon as possible.

Approved by the City Clerk:  on May 10, 2013

# REQUEST FOR WAIVER OF FILING FINE

Office of the City Clerk Time Stamp

FILER NAME (Committee/Candidate/Lobbying Entity, etc.)

ADDRESS (No. and Street)

(AREA CODE) TELEPHONE NO.

CITY

STATE

ZIP CODE

PERIOD COVERED ON STATEMENT OR REPORT

FORM NO.

ID NO. (if applicable)

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND INCLUDE SUPPORTING DOCUMENTATION (Please refer to our "Good Cause" guidelines before submitting your waiver request):

I declare and certify under penalty of perjury that the foregoing information on this request for waiver is true and correct. I hereby request that the liability for failing to file a statement required by the Political Reform Act on time be waived.

EXECUTED ON \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_ (Month, Day) (City) (State)

\_\_\_\_\_  
(Signature of Filer/Responsible Officer, Treasurer, etc.)

\_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_  
(Signature of Candidate/Officeholder, if applicable)

\_\_\_\_\_  
(Type or Print Name)

## OFFICE USE ONLY

### FORM INFORMATION

PERIOD COVERED	FORM NO.	DUE DATE (S)	DATE FILED	LIABILITY
				\$

### WAVIER ACTION

Waived \_\_\_\_\_  
  
 Reduced/  
 Amt. Fined \_\_\_\_\_  
  
 Waiver Denied \_\_\_\_\_

Action Justification/Comment: F1 F2 F3 F4 S1 S2