

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of San Jose for the purpose of placing an initiative on the November Ballot for voter approval. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

Statement of Reasons for the Initiative

Voter participation in San Jose city elections is woefully low. This initiative is intended to increase voter confidence and voter participation. An identifiable factor in low voter participation for the Mayor and Councilmember elections is a widespread perception that one's vote "doesn't count" and that the campaign contributions by special interests, not the needs and desires of residents, influences the votes of local lawmakers as they award large contracts, approve unpopular projects, and set housing and development policies. City contractors, real estate developers, landlords, and their lobbyists have long been a dependable source for political fundraising at City Hall. It is important that we dispel that perception that their voices carry disproportional weight as a result of the relationships they have with the Mayor and Councilmembers through campaign contributions. Therefore, this initiative will prohibit candidates for Mayor or City Council from accepting any contribution or fundraising from any for profit developer who has submitted any application for a discretionary land use approval for a development project with over 20 residential units or over 10,000 square feet of non-residential floor area; any residential landlords/property managers owning or managing more than ten (10) rental units in the City; any business or person who has received, earned, proposed or bid to receive over \$250,000 in City funds over the past two year; and lobbyists for any of these special interests who in turn are prohibited from making contributions or engaging in prohibited fundraising. Also, since more residents vote in presidential election years, this initiative will increase the number of voters choosing the Mayor (who is the only generally elected City official) by amending the Charter to schedule the Mayoral election in the same year as the Presidential election beginning in year 2024. To facilitate this transition, the Mayor elected in 2022 will serve a two-year term on a one time only basis. These steps will increase voter confidence and participation and result in fairer elections. (words 315)

INITIATIVE FOR FAIR ELECTIONS

INITIATIVE OF THE CITY OF SAN JOSE AMENDING THE MUNICIPAL CODE BY AMENDING CHAPTER 12.06 OF TITLE 12 WITH THE ADDITION OF A NEW SECTION 12.06.265 TO LIMIT CAMPAIGN CONTRIBUTIONS BY SPECIAL INTERESTS AND AMENDING THE CHARTER SECTION 402 OF ARTICLE IV, SECTION 500 OF ARTICLE V AND SECTION 1600 OF ARTICLE XVI OF THE SAN JOSE CITY CHARTER RELATING TO THE TIMING OF THE ELECTION OF THE MAYOR.

WHEREAS, citizen participation in local elections is critical to our democracy. Nonparticipation is related to cynicism about local government and local politics. The belief that local officials are in the pocket of special interests manifests itself in political apathy. Steps need to be taken to increase participation in local elections in San Jose; and.

WHEREAS, participation in elections is reduced when voters believe that special interests including large city contractors, developers, landlords, and their lobbyists have a disproportionate influence on elected officials due to campaign contributions. It is essential to avoid the impression that City policy is swayed by a “pay-to-play” environment; and.

WHEREAS, this Initiative will preclude Special Interests from making campaign contributions including Substantial Contractors who are seeking or are recipients of more than \$250,000 under a contract with the City; Substantial Developers with applications for new developments larger than 20 residential units or more than 10,000 square feet of non-residential floor area; and Substantial Landlords/Property Managers with more than ten (10) rental units; and their Lobbyists;

WHEREAS, studies have shown that in California cities where mayoral elections coincide with the presidential elections, voter turnout is more than double that of cities where mayoral elections are conducted off cycle, for instance only 36 percent and 46.2 percent of registered voters cast ballots in San Jose’s 2018 Mayoral primary election and 2014 Mayoral run-off election respectively, compared with 77.6 percent and 80.5 percent who voted for President in 2012 and 2016 respectively; and

WHEREAS, participation will be increased by having the Mayoral election at the same time as the Presidential election beginning 2024. To do this, it is necessary to limit the Mayor elected in 2022 to a two-year term; and.

WHEREAS, Special Interests with stake in an election have a disproportionately greater impact when turn out is low; and

WHEREAS, the limiting of campaign contributions by Special Interests and their lobbyists and the change in timing of the Mayoral election will increase voter confidence and participation and make the elections fairer;

NOW THEREFORE, BE IT ORDAINED, BY THE PEOPLE OF THE CITY OF SAN JOSE:

SECTION 1. This initiative shall be known as the Fair Elections Initiative.

SECTION 2. Municipal Code shall be amended by the addition of a new Section 12.06.265 entitled and to read as follows:

§ 12.06.265 – Contributions by Special Interests Prohibited.

In order to avoid the perception as well as any reality that there is undue influence on the votes of local lawmakers, contributions as defined by Section 12.06.050 by Special Interests, as defined herein, shall neither be made to or accepted by candidates for Mayor or City Council. Special Interests and their lobbyists are also prohibited from engaging in prohibited fundraising activities as described in Section 12.16.030.

A. Special Interests:

- 1 Substantial Contractors** including any for profit business or person offering, proposing or bidding on providing goods or services to the City or who is seeking funding from the City in an amount to exceed two hundred and fifty thousand dollars (\$250,000) from the date of the bid or proposal until two years after the award or denial.
- 2 Substantial Developer** includes any for profit business or person who owns the land or is the applicant of a project for which an application for any discretionary land use approval has been submitted with over twenty (20) residential units or over ten thousand (10,000) square feet of non-residential floor area until the final discretionary approval or denial.
- 3 Substantial Landlord/Property Manager** including any for profit business or person owning or managing over ten (10) residential rental units in the City.

B. Lobbyists and other parties subject to the prohibition

- 1. Special Interest Contract Lobbyist** includes any Contract Lobbyist as defined by Section 12.12.180A conducting any lobbying activity as set forth in Section 12.12.170 on behalf of any Special Interest listed in Section 12.06.265 shall be subject to the prohibitions of this Section notwithstanding any other provision of Title 12.
- 2. Related Parties** including any owner, officer, spouse or key management employee or in-house lobbyist of any Special Interest or Special Interest Contract Lobbyist is subject to the contribution and fundraising prohibition. A key management employee is any person who has the authority to hire or fire other employees.

C. Exceptions to the Prohibition:

1. A candidate for elected City office who is a bidder, proposer, contractor, subcontractor, developer, lobbyist, or principal thereof with regard to using personal funds or engaging in fundraising on the candidate's own behalf for the candidate's election for City office.
2. Any person for which application of the Chapter would violate any state or federal law shall be exempted from the requirements of this Section.

D. Contributions

The prohibition includes Contributions defined by Section 12.06.050 as well as prohibition of Contributions through other persons as set out in Section 12.06.240 and Fundraising as set out in Section 12.12.190.

E. Compliance and training.

The City Clerk shall oversee compliance with this Section, including the creation of all forms and explanatory materials.

SECTION 3. Charter Section 402 OF ARTICLE IV, Section 500 OF ARTICLE V AND Section 1600 OF ARTICLE XVI shall be amended to schedule the Mayoral election in presidential election years and to accomplish this by one time only limiting the Mayor's term to two years as shown in Exhibit A attached hereto.

SECTION 4. In addition to any other persons, the proponents of this measure shall have standing in California and Federal Courts to defend this measure from all challenges to its validity or enforceability.

SECTION 5. If any portion of this Initiative is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Initiative that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or adopted this Initiative and each portion thereof regardless of the fact that any portion of the Initiative may be subsequently deemed invalid.

Exhibit A

San Jose City Charter Amendments

ARTICLE IV - TERM LIMITS

SECTION 402. Mayor and Council Member Term Limits.

The regular term of office of each member of the Council shall be four (4) years. The Mayor and Council members shall be subject to the following term limits:

(a) MAYOR. No person who has been elected to the office of Mayor for two (2) successive four-year terms shall be eligible to run for election to the office of Mayor, nor to serve as such, for any additional successive term, excepting however, Mayor whose term begins

in 2023 shall serve for a term of two (2) years to enable the election of Mayor to be concurrent with the election of President, and shall only be eligible to run for re-election to the office of Mayor for one additional successive four-year term; but the above shall not disqualify any person from running for election to the office of Mayor, nor from further service as Mayor, for any term or terms which are not successive; nor for any parts of terms which are not successive.

(b) COUNCIL MEMBER. No person who has been elected to the City Council as a Council member in any Council District in the City for two (2) successive four-year terms, after the effective date of this Section, shall be eligible to run for election as a member of the Council in any Council District, nor appointed to serve as a Council member for any additional successive term. Any person appointed or elected to the City Council as a City Council member to fill an unexpired term of two years or less in length shall be eligible to serve two successive four-year terms upon the expiration of the unexpired term for which that person was appointed or elected. Any person appointed or elected to the City Council as a City Council member to fill an unexpired term of more than two years in length shall only be eligible to serve one successive four-year term. The above shall not disqualify any person from running for election to the Office of Mayor or for any term or terms which are not successive. The effective date of this Section shall be January 1, 1991.

ARTICLE V - THE MAYOR

SECTION 500. Mayor.

There shall be a Mayor of the City of San José, elected at large, who shall be the eleventh member of the Council. Except as otherwise provided elsewhere in the Charter, the Mayor shall be elected by a majority of the votes cast citywide at a Regular Municipal Election, for a term of four (4) years from and after the first day of January following the year of the election, **excepting however, the term of Mayor beginning in 2023 only shall serve for a term of two (2) years from and after the first day of January following the 2022 election.**

The office of each member of the Council, including the office of the member who is Mayor, is a separate office to be separately filled. Any incumbent member of the Council may run for the seat of Mayor, and the Mayor may run for the seat of Mayor or for any other seat on the Council for which the Mayor is otherwise eligible; however, no member of the Council shall hold more than one seat, and no person may be a candidate for more than one seat.

ARTICLE XVI - ELECTIONS

SECTION 1600. Municipal Elections.

All municipal elections shall be held in accordance with the following:

- (a) **REGULAR MUNICIPAL ELECTIONS.** A Regular Municipal Election is either a regularly scheduled Primary or Run-off Municipal Election. Such elections shall be held every two years, with the election for Mayor and for the odd numbered Council Districts being every four (4) years beginning with 1994, and the election for the even numbered Council Districts being every four (4) years beginning in 1996. **Beginning in 2024, the election for Mayor shall be held concurrent with the Presidential election.** Each member's term shall commence on the first day of January next following, and end on the last day of December in the fourth calendar year succeeding the date of the member's election **excepting as set forth in Section 500 of Article V with regard to the term of Mayor beginning in 2023.** A regularly scheduled Primary Election shall be held on the same date that the State of California holds its Direct Primary Election. A Run-off Municipal Election shall be held on the same date the State of California holds its Statewide General Election.
- (b) ~~GENERAL ELECTIONS.~~ Elections which are held simultaneously in all districts of the City, whether municipal, county or state elections are referred to as General Elections.
- (c) **SPECIAL MUNICIPAL ELECTIONS.** Special Municipal Elections are elections scheduled pursuant to Section 1601. The dates of any Special Municipal Election shall be set by resolution.
- (d) **RUN-OFF QUALIFICATION.** The two candidates who poll the greatest number of votes for office in the Primary Municipal Election shall be the only candidates whose names shall appear on the ballot as candidates for such office at the following Run-off Municipal Election.
- (e) **TIES.** Anything elsewhere to the contrary notwithstanding, all ties in any municipal election shall be decided by lot during open meeting of the Council, under the direction of the Council.
- (f) **DEATH OF A CANDIDATE.** If a candidate dies after the filing of nomination papers for the primary election, the deceased candidate is treated as a candidate for all election purposes. If the deceased candidate is elected, the office will be declared vacant as of the beginning of the term of office for which the election was held. The position shall be filled in accordance with Section 410.
- (g) **MAJORITY OF VOTES.** No person shall be declared elected to the office of the Mayor or Council member at any municipal election unless the person receives a majority of the votes cast for such office.

Note: added language is underlined and bold.