

Outside Employment

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PURPOSE

This section provides information on the requirements for all City employees (including contract employees) who wish to engage in outside work activities.

AUTHORITIES

San Jose Municipal Code, §3.04.1710A

No employee shall engage in any work, employment or occupation outside his City employment which is detrimental to the service, which prevents or impedes the efficient performance of his duties in his City employment, or which is in any way in conflict with his employment by the City. No employee shall engage in any work, employment or occupation outside his City employment unless and until he shall have notified the City Manager of his intention to do so.

San Jose Municipal Code, §3.04.1710B

The City Manager may impose reasonable conditions or limitations upon any outside work, employment or occupation or may order an employee to terminate such outside work.

San Jose Municipal Code, §3.04.1710C

Any violation of any provision of this rule may be deemed grounds for discharge or other disciplinary action. Any employee affected by a denial of an outside work permit, or limitations or conditions upon any outside work may appeal such action to the [Civil Service] Commission within ten (10) working days after notice to the employee of the denial of an outside work permit or limitations or conditions imposed on an outside work permit.

Code of Ethics for Officials and Employees of the City of San Jose, Council Policy 0-15

No employees shall engage in any work, employment or occupation outside City employment, which is detrimental to City service, which prevents or impedes the efficient performance of their duties in City employment, or which in any way is in conflict with their employment with the City. No employee shall engage in any work, employment or occupation outside City employment unless they have notified their Department via an Outside Work Permit, and the permit has been approved by the Department Director.

POLICY

1. Criteria for Approval

Applications by City employees to engage in an outside work activity may be approved if the outside work activity (1) is not detrimental to the City (2) will not impede the efficient performance of the employee's assigned duties and (3) will not create a conflict of interest for the employee.

A conflict of interest occurs where an employee could make or participate in a decision that may foreseeably have a material effect on his or her personal financial interests. If an employee's outside work activity puts him or her in a position where his decisions as a City employee could foreseeably have a material effect on his personal financial interests, a conflict of interest is created, and the application for an outside work permit is to be denied.

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If necessary, a supervisor may request that an employee provide a job description from the outside employer in order to determine if an outside work activity meets the above criteria for approval.

2. Prior Approval Required

A City employee who wishes to engage in any outside work must first obtain approval from the appropriate Department, through an "Application for Outside Work Permit."

3. Reasons for Denial

Where an application for an outside work permit is denied, the Department should provide the employee with the reason why the permit was denied.

4. Restrictions

Reasonable conditions or limitations may be imposed upon any outside work activity, and an employee may be directed to end the outside work at any time.

5. Appeals

A classified employee who is affected by denial of an Outside Work Permit, or by limitations or conditions established for an Outside Work Permit, may appeal to the Civil Service Commission. An appeal to the Commission must be filed within ten (10) working days after notice of the denial or the limitations is given to the employee. The decision of the Commission is binding.

6. Annual Renewal

Outside work permits must be approved every year. At the Department's discretion, the Outside Work Permit can be set to expire on December 31st of the current calendar year, or a maximum of one (1) year from the approval date. Upon expiration of the permit, it is the responsibility of the employee to re-apply for an Outside Work Permit. Employees may not continue the outside work beyond the expiration of the Outside Work Permit unless a new application is submitted and approved.

7. Suspension of Outside Work While on Disability Leave

Outside work permit approvals are *automatically suspended* when an employee goes on disability leave status. This action is intended to ensure that the employee will not risk prolonging recuperation by working at another job. The employee may request authorization to continue the outside work while on disability status by sending a written request to his/her Department Director. If this application is denied, a new Application for Outside Work Permit must be submitted when the employee returns to regular duty, and approved before the employee resumes any outside work.

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8. Medical Review

The City Physician may provide a review of an employee's Outside Work Permit application in relation to the employee's medical history, upon request from the relevant Department Director, through the Director of Human Resources. The Physician will assess the employee's physical ability to safely and effectively perform his or her City work activities while doing the outside work.

9. Compliance with Business License Tax Requirements

City employees should be aware that the business tax requirement affects them if they conduct certain outside business activities in the City of San Jose as independent contractors. Applying for an outside work permit does not relieve an employee of the business tax requirement. Employees who are uncertain about whether their outside business requires a business license, or who have other questions regarding the business license tax, should check with the Business License Section of the Finance Department.

10. Violations

Violations of this policy may result in disciplinary action.

PROCEDURES

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| Employee | 1. Obtain an Application for Outside Work Permit form from the department timekeeper, Human Resources liaison, the Human Resources Department, or the City's intranet site. Complete, sign, and submit form to supervisor. |
| Supervisor,
Intermediate
Supervisor, and
Department Director | 2. Review application and approve or disapprove based on impact of outside work on employee's City work. Add limitations or conditions, if needed, and specify expiration date to be December 31st of the current calendar year or no later than one year from the date of approval. If application is disapproved, notify employee. |
| Department | 3. If approved, notify employee by providing him/her with a signed and dated copy of the application. Send the original signed application to Human Resources to be filed in the employee's City personnel file. File a copy of the signed application in the Department's personnel file. |
| Human Resources | 4. Place original signed application in the employee's City personnel file. |
| Employee | 5. Submit new application prior to expiration of Outside Work Permit or upon returning from disability leave. |

Please note that the Police Department has additional specific procedures for approval of Outside Work Permits.

