

ORDINANCE NO. NS-19.40

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA AMENDING SECTIONS A35-1, A35-2
AND A35-3 OF CHAPTERS I AND II OF DIVISION A35 OF THE SANTA
CLARA COUNTY ORDINANCE CODE RELATING TO CAMPAIGN AND
OFFICEHOLDER CONTRIBUTION LIMITS**

Summary

This Ordinance institutes limits for contributions to officeholders and updates campaign contribution limits.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1: The title of Division 35 of Title A of the Ordinance Code of the County of Santa Clara is hereby amended to read as follows:

**Division A35
LIMITATIONS ON CAMPAIGN AND OFFICEHOLDER CONTRIBUTIONS**

SECTION 2: Section 1 of Chapter I of Division A35 of the Ordinance Code of the County of Santa Clara relating to the purpose of the County's campaign and officeholder contribution ordinance is hereby amended to read as follows:

Sec. A35-1. Purpose.

- (a) The purpose of this division is to place voluntary limits upon the total amount of money that may be spent from contributions to an election campaign for the offices of Board of Supervisors, District Attorney, County Sheriff, and County Assessor.
- (b) The purpose of this division is also to provide rules for campaign contributions for County offices and for contributions to County officeholders that are clear, that serve the interests of the County's voters while complying with U.S. Supreme Court precedents, and that provide fair notice to candidates and officeholders of such rules.

- (c) Further, the purpose of this division is to encourage participation by the public as candidates in County elections by clarifying regulations applicable to such contests.

SECTION 3. The title of Chapter II of Division A35 of the Ordinance Code of the County of Santa Clara relating to campaign and officeholder contributions is hereby amended to read as follows:

**CHAPTER II
CAMPAIGN AND OFFICEHOLDER CONTRIBUTION LIMITS AND
VOLUNTARY EXPENDITURE CEILINGS**

SECTION 4. Section 2 of Chapter II of Division A35 of the Ordinance Code of the County of Santa Clara relating to campaign and officeholder contribution limits is hereby amended to read as follows:

Sec. A35-2. Contribution limits.

- (a) No person shall make to any candidate for the Board of Supervisors, District Attorney, County Sheriff, or County Assessor, or to such candidate's controlled committee, and no such candidate's controlled committee shall accept from any person, a contribution or contributions totaling more than \$500.00 for each election in which the candidate is attempting to be on the ballot or is a write-in candidate for such office.
- (b) Notwithstanding (a) of this section, if a candidate for the Board of Supervisors, District Attorney, County Sheriff, or County Assessor accepts the expenditure limits set forth in Section A35-3(a), no person shall make to any candidate for the Board of Supervisors, District Attorney, County Sheriff, or County Assessor, or to the candidate's controlled committee, and no candidate for such office or the candidate's controlled committee shall accept from any person a contribution or contributions totaling more than \$1,000.00 for each election.
- (c) No person shall contribute to a County officeholder, including a Supervisor, District Attorney, Sheriff or Assessor, and no County officeholder shall accept from any person, a contribution or contributions totaling more than \$1,000.00 per calendar year for the purpose of defraying expenses related to holding office as defined below in Section A35-2(d).

- (d) County officeholders may use contributions made pursuant to Section A35-2(c) ("officeholder funds") for all lawful purposes under state law and regulations of the Fair Political Practices Commission, but may not use such officeholder funds to pay "campaign expenses" as defined in California Code of Regulations, title 2, section 18525(a)(1)-(4).
- (e) Unspent campaign funds from a past campaign shall not count toward the officeholder contribution limit in this section.
- (f) The contribution limits of this section do not apply to:
 - (i) A candidate's or officeholder's expenditure of his or her personal funds for campaign or officeholder purposes respectively; or
 - (ii) Personal loans made by the candidate or officeholder for campaign or officeholder purposes respectively.
- (g) Notwithstanding subsection (f), any payment made by anyone other than the candidate or officeholder to reduce the amount of any loan made for campaign or officeholder purposes shall remain subject to the applicable contribution limits of this section.

SECTION 5. Section 3 of Chapter II of Division A35 of the Ordinance Code of the County of Santa Clara relating to voluntary expenditure ceilings is hereby amended to read as follows:

Sec. A35-3. Voluntary expenditure ceiling.

- (a) The County of Santa Clara hereby establishes voluntary expenditure ceilings for candidates for the office of Board of Supervisors, and for the controlled committees of candidates for the Board of Supervisors in the amount of \$250,000.00 total expenditure per election for such office, excepting expenditure of personal funds made by the candidate.

The County of Santa Clara hereby establishes voluntary expenditure ceilings for candidates for the office of District Attorney, County Sheriff, and County Assessor, and for the controlled committees of such candidates in the amount of \$500,000.00 total expenditure per election for such office, excepting expenditure of personal funds made by the candidate.

- (b) Each candidate for the Board of Supervisors, District Attorney, County Sheriff and County Assessor shall file with the Registrar of Voters of the County of Santa Clara a written statement of acceptance or rejection of the voluntary expenditure ceilings before accepting any contributions. Candidates who accept the expenditure ceiling set forth in this section shall not be subject to the contribution limitation set forth in Section A35-2(a) of \$500.00, but rather shall be subject to the contribution limits set forth in Section A35-2(b) of \$1,000.00.
- (c) If a candidate for the Board of Supervisors, District Attorney, County Sheriff or County Assessor declines to accept the voluntary expenditure ceiling set forth in Section A35-3(a) the candidate shall be subject to the contribution limits set forth in Section A35-2(a) of \$500.00.
- (d) Any candidate for the Board of Supervisors, District Attorney, County Sheriff, or County Assessor who declined to accept the voluntary expenditure ceiling set forth in Section A35-3(a), but who nevertheless did not exceed the recommended spending limits in the primary, special primary, or special election, may file a statement of acceptance of the spending limits for a general or special runoff election within 14 days following the primary, special primary, or special election and receive all the benefits accompanying such an agreement specified in this chapter.

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SECTION 6. Chapter IV of Division A35 of the Ordinance Code of the County of Santa Clara relating to effective date is hereby repealed.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on AUG 27 2013 by the following vote:

AYES: **CHAVEZ, CORTESE, SIMITIAN, WASSERMAN, YEAGER**

NOES: **NONE**

ABSENT: **NONE**

ABSTAIN: **NONE**



KEN YEAGER, President
Board of Supervisors

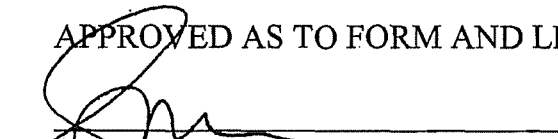
Signed and certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

ATTEST:



LYNN REGADANZ
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

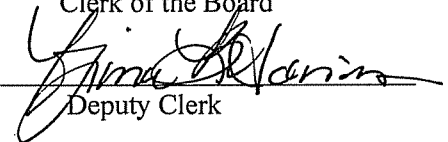


STEVE MITRA
Deputy County Counsel

The foregoing instrument is a correct copy of the original.

ATTEST: Lynn Regadanz
Clerk of the Board

By:



Gina Marin
Deputy Clerk

Date: 10/3/2013

ORDINANCE NO. NS-300.857

AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
AMENDING SECTIONS 8, 10, AND 11 OF DIVISION A11 OF THE SANTA
CLARA COUNTY ORDINANCE CODE
RELATING TO ELECTRONIC FILING OF CAMPAIGN STATEMENTS.

Summary

This ordinance amends existing provisions regarding electronic filing of campaign statements with the Registrar of Voters to include specified persons and committees for which the Registrar of Voters is the Filing Officer.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:

SECTION 1. Section A11-8 of Division A11 of the Santa Clara County Code is amended to read as follows:

Sec. A11-8. Electronic filing; findings and purpose.

- (a) The Board finds that public access to campaign disclosure information is a vital and integral component of a fully informed electorate. Transparency in campaign financing is critical in order to maintain public trust and support of the political process.
- (b) State law requires candidates, persons supporting or opposing ballot measures and certain other types of committees to file campaign finance statements with the Registrar of Voters detailing the sources of contributions and manner of expenditure of contributions. Government Code section 84615, effective January 1, 2013, authorizes local jurisdictions to require the filing of campaign statements and reports solely in an electronic form, with a specified exemption. The purpose of these laws is to assist voters in making informed electoral decisions and to assist in ensuring compliance with campaign contributions laws. In any instance in which the original statement, report, or other document is required to be filed with the Secretary of State and a copy of that statement, report, or other documents is required to be filed with the local government agency, the filer is exempt from filing the statement electronically as provided by Government Codes section 84615.

- (c) Frequently, these disclosure reports are extremely lengthy. Moreover, literally hundreds of such reports are filed with the Registrar of Voters office each reporting period. It is extremely difficult for members of the public, the media and election officials efficiently to review and compare these statements.
- (d) The Board makes the following findings in support of requiring that political committees and candidates that meet certain financial thresholds file their campaign statements electronically:
 - (i) An electronic system reduces paper waste and time spent processing and storing paper filings, so that efforts can be focused on helping filers comply with filing requirements.
 - (ii) An electronic system is not unduly burdensome on candidates in that it reduces the need for candidates to print out and physically mail statements to the Registrar of Voters office, and it eases the entry of contributors' information in that the system recognizes repeat contributors and automatically populates their information.
 - (iii) The system used by the County contains multiple safeguards to protect the integrity and security of the data.
 - (iv) An electronic system streamlines the filing process, by storing information previously entered, calculating numbers, and helping catch errors before filings are submitted.
 - (v) Once the statements are placed online, they are easily accessible for public viewing and allow the public to search reports by field, including, but not limited to, election, candidate, date, contributor and expenditure.

SECTION 2. Section A11-10 of Division A11 of the Santa Clara County Code is amended to read as follows:

Sec. A11-10. - Filing of campaign statements.

- (a) Whenever any elected officer, candidate or committee is required by the California Political Reform Act to file a semi-annual campaign statement, a pre-election campaign statement, an amended campaign statement, a supplemental pre-election campaign statement, a report disclosing a contribution received by or made to a candidate, local ballot measure, or an independent expenditure made for or against

a candidate or local ballot measure, of \$1,000 dollars, or more, during an election cycle with the Registrar of Voters, it shall be filed electronically. The elected officer, candidate or committee shall file the statement using the electronic filing system available on the Registrar of Voters' website. The street or address or building number of the persons or entity representatives, or any bank account number, shall not be displayed online.

- (b) Statements or reports that are filed electronically with the Registrar of Voters pursuant to this section need not also be filed in a paper format.
- (c) This requirement does not apply to any elected officer or candidate who receives contributions totaling less than \$1,000.00, and makes expenditures totaling less than \$1,000.00, in a calendar year.

SECTION 3. Section A11-11 of Division A11 of the Santa Clara County Code is amended to read as follows:

Sec. A11-11. - Penalties for late filing.

- (a) Any person who files an electronic copy of a statement or report required by this article after the deadline imposed by the California Political Reform Act for filing the written copy of the statement or report **shall be liable** in the same amount and on the same terms as set forth in the Act for late filing of the written copy of the campaign statement or report, except that no fines shall be waived by the Registrar of Voters.
- (b) Any person required to file an electronic copy of a statement or a report required by this article, who does not do so by the deadline imposed under the California Political Reform Act, shall be notified by the Registrar of Voters of that failure no later than the expiration of 10 days following the deadline to file the statement or report. The Registrar of Voters shall notify such persons that the matter will be referred to the Santa Clara County District Attorney and the Fair Political Practices Commission if the required electronic statement is not filed by the end of the 20th day following the deadline to file the electronic statement or report. The notification shall be made at the telephone number, fax line or electronic mail address on the "Campaign Statement Reporting Notification" form provided by the Registrar of Voters.

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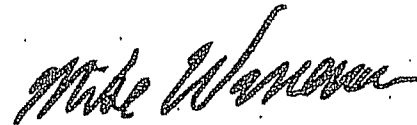
- (c) The Registrar of Voters shall immediately refer to the District Attorney and FPPC any persons required by this article to file the electronic statement or report set forth in subsection (a) who fails to do so by the 20th day following the deadline.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on MAY 13 2014 by the following vote:

AYES: **CHAVEZ, CORTESE, SIMITIAN, WASSERMAN, YEAGER**

NOES: **NONE**

ABSENT: **NONE**



MIKE WASSERMAN, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

ATTEST:



LYNN REGADANZ
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



SUSAN B. SWAIN
Lead Deputy County Counsel

926686

Division A3
ETHICAL STANDARDS FOR THE BOARD OF SUPERVISORS

CHAPTER I.
PURPOSE AND RULES OF INTERPRETATION

Sec. A3-1. - Purpose of the code of ethics.

(a) The proper operation of democratic government requires that elected officials be responsible to the people; that public office not be improperly influenced or used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of ethics for the Board of Supervisors.

(b) The purpose of this code of ethics is to describe in one code existing ethics laws and to establish ethical standards of conduct for the Board of Supervisors. These new standards provide more stringent limits on: 1) campaign contributions, 2) actions that are in conflict or incompatible with the best interests of the County, and 3) the use of the office for personal gain. The provisions of this code of ethics are hereby declared to be in the best interest of the County and for the protection of the public interest.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-2. - Responsibilities of public office.

(a) Board members hold office for the benefit of the public. They are bound to uphold the Constitutions of the United States and California, the County Charter, and to carry out impartially the laws of the nation, State and the County. They are bound to observe the highest standards of performance and to discharge faithfully the duties of their office, regardless of personal considerations.

(b) The purposes of Chapters III through VI of this code of ethics are to assure that: 1) Board members exercise their official powers in pursuit of the public interest without regard to personal interest, and 2) Board offices not be used for private gain before, during or following holding the office.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-3. - Rules of interpretation.

(a) This code of ethics shall be construed broadly in order to effectuate its purposes.

(b) To the extent practicable, the words and phrases used in this code of ethics shall be interpreted consistent with their meaning under existing general California law, including the Political Reform Act of 1974, as amended, and regulations of the Fair Political Practices Commission.

(c) To the extent that the provisions of this division are more stringent than existing general California law or regulations, the more stringent provisions control. To the extent that the limitations and

requirements imposed by this code of ethics are different from those set forth in general California ethics laws or regulations they shall be applied and interpreted so as to be no less stringent than those laws or regulations.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-4. - Distribution of rules.

Each candidate and campaign treasurer shall be provided a copy of this code at the time he or she files a declaration of candidacy. Each shall sign an acknowledgment that he or she has read and understood the code and agrees to be bound by its terms.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Secs. A3-5—A3-9. - Reserved.

CHAPTER II. - RESERVED

Secs. A3-10—A3-29. - Reserved.

**CHAPTER III.
CONFLICT OF INTEREST**

Sec. A3-30. - Personal conflicts.

(a) No Board member shall participate in a governmental decision in which he or she has a close personal interest which would tend to impair the exercise of independent judgment in the public interest. Personal, as distinguished from financial, interests shall include interests arising from blood or marriage relationships or very close personal associations which would constitute a conflict of interest under the common law.

(b) The purpose of this section is to disqualify Board members from participating in decisions in which there would be a conflict of interest under the common law.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-31. - Financial conflicts. (Restatement of existing state law)

(a) All aspects of conflict of interest provisions of the Political Reform Act of 1974 as amended, including disclosure, disqualification standards, limitations on gifts, and enforcement are applicable to Board members. The following provisions are intended to summarize provisions of the Act; and care must be taken to consult the extensive body of general California law, which governs financial conflicts.

(b) Existing general California law, the Political Reform Act of 1974, prohibits Board members from making, participating in making, or attempting in any way to use an official position to influence a

governmental decision in which the member knows or has reason to know he or she has a financial interest.

(c) The Political Reform Act ("PRA") disqualifies an official from participating in a governmental decision which affects the economic interest of a Board member generally as set forth below.

(1) The decision affects the member's personal financial status, or that of his or her spouse or registered domestic partner or dependent children.

(2) The decision affects a business entity located in, doing business in, owning real property in, or planning to do business in the County, in which the member, or his or her spouse or registered domestic partner or dependent child has an investment in excess of the amount set forth in the PRA.

(3) The decision affects real estate (real property) located in the County and the member, or his or her spouse or registered domestic partner or dependent child has an interest in that real estate in excess of the amount set forth in the PRA.

(4) The decision affects a person, business entity, or nonprofit entity from whom the member has received gifts in the past 12 months in excess of the gift limits set forth in the PRA.

(5) The decision affects a business entity, other than a nonprofit organization, in which the member is a director, officer, partner, trustee, employee or holds a position of management.

(6) The decision affects a person, business entity, or nonprofit entity located in, doing business in, owning real property in, or planning to do business in the County, from which the member has received income in excess of the limits set forth in the PRA in the past 12 months. This includes a member's community property interest in spousal income.

(Ord. No. NS-19.30.4, § 1, 9-23-97; [Ord. No. NS-19.41, § 1, 9-24-13](#))

Sec. A3-32. - Special rules for interests in contracts. (Restatement of existing state law)

(a) Existing general California law, Government Code § 1090 et seq., prohibits a Board member from having a financial interest in any business transaction, or contract with the County, or in the sale of real estate, materials, supplies or services to the County, except as permitted by Government Code § 1091 et seq. Such contracts are void under state law, and may result in a forfeiture of the financial benefits of the contract.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-33. - Prohibition against acceptance of discounted travel. (Restatement of existing state law)

(a) The California Constitution, Article XII, Section 7 states: Sec. 7. "A transportation company may not grant free passes or discounts to anyone holding an office in this state; and the acceptance of a pass or discount by a public officer ... shall work a forfeiture of that office ..."

(b) The phrase "transportation company" as used in the Constitutional prohibition includes a public utility regulated by the Public Utilities Commission. It may also include a transportation company subject to regulation by a federal agency.

(c) The Attorney General concluded in a 1984 opinion that the Constitutional provision does not prohibit a member from accepting a free or discounted travel pass when such passes are offered on the same conditions to a segment of the public. (67 Ops. Cal. Atty. Gen. 81.)

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Secs. A3-34—A3-39. - Reserved.

CHAPTER IV. INCOMPATIBLE ACTIVITIES

Sec. A3-40. - Incompatible office. (Restatement of existing state law)

Under existing California common law, no Board member may hold another public office where the two offices are incompatible. Taking an incompatible second public office results in the automatic forfeiture of the first office. (66 Ops. Cal. Atty. Gen 176 (1983))

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-41. - Incompatible activities for compensation.

(a) A Board member shall not participate in outside employment or render services for compensation when to do so would substantially interfere with the member's ability to carry out official duties or exercise independent judgment on behalf of the public interest.

(b) A Board member shall not be engaged in outside employment or render services for compensation where the amount of time expended in such engagement exceeds an average of one day per week.

(c) A Board member shall not be engaged in outside employment or provide services for compensation where any part of the Board member's effort will be subject to approval by the Board of Supervisors or any other County board, officer or employee.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-42. - Incompatible uncompensated activities.

(a) Board members may participate in outside activities for which they are not compensated, but are discouraged from participating in such non-compensated activities which:

(1) Involve a substantial commitment of time that interferes with the Board member's ability to timely discharge his or her official duties; or

(2) Involve matters which come regularly before the Board and would create a substantial conflict between the private interests and the exercise of Board authority in the public interest.

(b) A Board member may disqualify himself or herself in matters coming before the Board where the Board member concludes that participation would create the appearance of a conflict of interest.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Secs. A3-43—A3-49. - Reserved.

CHAPTER V. USE OF OFFICE

Sec. A3-50. - Prohibitions against use of office for personal or campaign purposes.

(a) Existing California law prohibits the use of public resources for personal gain.

(b) Existing California law prohibits the use of public resources to advocate the passage or defeat of any candidate or measure.

(c) Existing California law restricts the use of mass mailings by public officials.

(d) In addition to the foregoing prohibitions, it is a violation of this chapter for any Board member to

- (1) Use, for personal gain or advantage, County facilities, equipment, supplies, personnel or other things of value; or

(2) Use the office to secure, for personal benefit, gifts, special privileges or exemptions.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-51. - No disclosure of confidential information.

(a) Board members shall not use for personal gain confidential information acquired by or available to them in the course of their employment with the County.

(b) Board members shall not reveal information received confidentially or in lawful closed session, unless such information is required by law to be disclosed.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Secs. A3-52—A3-59. - Reserved.

**CHAPTER VI.
LEAVING OFFICE**

Sec. A3-60. - "Revolving door" employee prohibitions are applicable to Board members.

(a) A Board member is a "County employee" within the meaning of the Revolving Door Ordinance (Chapter X of Division A25 of this Ordinance Code) and is subject to the provisions of that ordinance except as modified in Paragraph (b). Generally, the Revolving Door Ordinance prohibits a former employee from engaging in paid representation ("lobbying") on any matter within the employee's responsibility for a period of one year after leaving County employment. There is a lifetime ban on lobbying the County on matters in which the employee personally participated.

(b) The prohibition on paid lobbying related to matters under a Board member's official responsibility is extended to a period of four years. The lifetime ban on lobbying is inapplicable to Board members.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

**CHAPTER VII.
LOBBYING**

Sec. A3-61. - Purpose.

(a) The purpose of this chapter is to impose registration and disclosure requirements on those engaged in efforts to influence the decisions of County policy makers for compensation. Disclosure of lobbyists' identities and activities fosters public confidence in government officials by making government decision-making more transparent to the public.

(b) Additionally, the disclosure and registration requirements ensure that County officials are made aware of the interests that lobbyists represent when the officials are lobbied.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

Sec. A3-62. - Definitions.

Whenever used in this chapter, Sections A3-61 through A3-69, the following words and phrases shall have the definitions provided in this section. Other terms used and not defined in this chapter have the meanings set forth in this title, and terms used and not defined in this title have the meanings set forth in the California Political Reform Act of 1974, as amended.

(a) *At the behest* means at the means under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.

(b) *County official* means members of the Board of Supervisors and their staff (excluding administrative staff), appointees of the Board of Supervisors, the District Attorney, the Assessor, the Sheriff, the County Executive, Chief Operating Officer, Deputy County Executives, County

department and agency heads, members of County boards or commissions, and persons who have been elected to a County office but have not yet been sworn in to office.

(c) *Client* means the person who compensates a lobbyist for representation before a County official.

(d) *Contact* or *contacting* means attendance at a meeting with a County official, or any direct communication with a County official, whether oral, electronic, or in writing, including, but not limited to communication through an agent, associate, or employee, for the purpose of engaging in Lobbying Activity.

(e) *Compensated* or *compensation* means any economic consideration for services rendered or to be rendered in the future, including, without limitation, payment, distribution transfer, loan advance, deposit, other rendering of money, property, services, or anything else of value.

(f) *Lobbying Activity* means influencing or attempting to influence a County official with regard to a legislative or administrative action of the County.

(1) *Influencing* means contacting, either directly or indirectly, for the purpose of promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the official actions of the County official, by any means, including, but not limited to providing, preparing, processing, or submitting information, incentives, statistics, studies, or analyses.

(2) *Legislative action* means the drafting, introduction, consideration, modification, enactment, or defeat of any resolution, ordinance, amendment thereto, report, nomination, policy, or other action of the Board of Supervisors; a County board, commission, or task force; or any joint powers authority of which the County is a party.

(3) *Administrative action* means the proposal, drafting, development, consideration, advocacy, recommendation, adoption, amendment, termination, extension, or approval of any rule, regulation, agreement, contract, permit, license, policy, or hiring action.

(g) *Lobbyist* , unless exempt under Section A3-64, means:

(1) *Contract lobbyist* means any person, whether an entity or individual, engaging in Lobbying Activity on behalf of one (1) or more clients (acting individually or through agents, associates, employees, or contractors) and who has received or has entered into an agreement for compensation of one thousand dollars (\$1,000.00) or more for any services that include engaging in Lobbying Activity during any consecutive three-month period.

(2) *In-house lobbyist* means any person, including a business, corporation, association, political action committee, or any other organization if its owners, officers, or employees have engaged in Lobbying Activity on its behalf and whose aggregate time engaging in Lobbying Activity total ten (10) hours or more in a consecutive twelve-month period.

(3) *Expenditure lobbyist* means any person who makes payments or incurs expenditures in the aggregate amount of five thousand dollars (\$5,000.00) or more during any calendar year in connection with carrying out public relations, advertising, or similar activities with the intent of soliciting or urging, directly or indirectly, other persons to communicate directly with any County official in order to attempt to influence a legislative or administrative action. The five thousand dollars (\$5,000.00) threshold does not include:

(A) Compensation paid to contract lobbyists or in-house lobbyists for Lobbying Activity;
or

(B) Dues, donations, or other economic consideration paid to a membership organization that is ongoing in nature and whose membership services are not limited to Lobbying Activity, regardless of whether the dues, donations, or other economic consideration are used in whole or in part for Lobbying Activity.

(h) *Owner* means any individual with greater than a fifty-percent interest in the business.

(i) *Person* means any individual, business entity, trust, corporation, association, committee, or any other organization or group of persons acting in concert.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

Sec. A3-63. - Registration and disclosure requirements.

(a) *Initial registration.* A lobbyist is required to register his or her Lobbying Activity by filing a Lobbyist Disclosure Report (defined below) with the Clerk of the Board no later than ten (10) days after qualifying as a lobbyist as defined in this chapter and paying a registration fee. A lobbyist who meets the threshold requirements of one (1) or more of the categories (contract lobbyist, in-house lobbyist, or expenditure lobbyist) is only required to register once, but must make all disclosures in the Lobbyist Disclosure Report. Only Lobbying Activity that occurs after the effective date of this ordinance shall be considered for the purpose of qualifying as a lobbyist.

(b) *Annual registration.* A lobbyist must renew his or her registration by January 15 of each year by filing a Lobbyist Disclosure Report and paying a registration fee.

(c) *Quarterly disclosures.* Every Lobbyist must file a Lobbyist Disclosure Report for every calendar quarter with the Clerk of the Board no later than fifteen (15) calendar days after the end of each quarter after Initial Registration whether or not any Lobbying Activities have occurred during such period unless they have filed a declaration attesting to the termination of Lobbying Activity pursuant to the requirements of sub-section (e). Quarterly disclosures must be filed by April 15, July 15, and October 15 for the prior calendar quarter.

(d) *Lobbyist disclosure report.*

(1) A lobbyist who meets the threshold requirements of one (1) or more of the categories (contract lobbyist, in-house lobbyist, or expenditure lobbyist) must fill out one (1) registration report with all the applicable information including the following:

(A) Name;

(B) Business address;

(C) Telephone and fax numbers;

(D) Names of all owners if the lobbyist is a sole proprietorship or partnership of fewer than five (5) persons;

(E) Names of the officers and agent for service of process, if any, if the lobbyist is a corporation;

(F) If applicable, a description of the nature of, the business, corporation, association, committee, or any other organization in sufficient detail to inform the reader of its nature and purpose; and

(G) If applicable, contacts made with County officials during the preceding calendar quarter for the purpose of conducting Lobbying Activity. Contact information must include a brief description of the item(s) of legislative or administrative action the lobbyist is seeking to influence and the number of contacts in the following ranges: One (1), two (2) to five (5), six (6) to ten (10), or eleven (11) or more).

(2) All contract lobbyists must also provide the following information for each client:

(A) Name, business address, and telephone number of each client represented before County officials;

(B) Nature of each client's business;

(C) A brief description of the legislative or administrative action(s) the lobbyist seeks to influence on behalf of each client;

(D) Name of each person employed or retained by the lobbyist to engage in Lobbying Activity on behalf of each client; and

(E) The total compensation promised or received from each client listed during previous calendar quarter for Lobbying Activity within the following ranges: zero to five hundred dollars (\$500.00), five hundred one dollars (\$501.00) to one thousand dollars (\$1,000.00), one thousand one dollars (\$1,000.00) to one hundred thousand dollars (\$100,000.00), one hundred thousand one dollars (\$100,001.00) to two hundred thousand dollars (\$200,000.00), two hundred thousand one dollars (\$200,001.00) to three hundred thousand dollars (\$300,000.00), three hundred thousand one dollars (\$300,001.00) to four hundred thousand dollars (\$400,000.00), and over four hundred thousand one dollars (\$400,001.00).

(3) All in-house lobbyists must also provide the following information:

(A) Names of each owner, officer, and employee conducting Lobbying Activities on its behalf; and

(B) A brief description of the legislative or administrative action(s) the lobbyist seeks to influence.

(4) All expenditure lobbyists must also provide the following information:

(A) Names of each owner, officer, and employee conducting Lobbying Activities on its behalf; and

(B) A brief description of the legislative or administrative action(s) the lobbyist seeks to influence.

(e) *Termination of Lobbying Activity.* If lobbyists file a declaration attesting to the termination of Lobbying Activity no later than the date the annual registration or quarterly disclosure is due, they will not be required to file any further reports. This declaration must be accompanied by a final Lobbyist Disclosure Report, disclosing any Lobbying Activities that occurred during the quarter of termination.

(f) *[Submission of information.]* All information required under this section shall be submitted to the Clerk of the Board in the format designated by the Clerk.

(g) *[Verification of information.]* Lobbyists shall verify, under penalty of perjury, the accuracy and completeness of the information provided under this chapter.

(h) *[Retention of documents.]* Lobbyists shall retain for a period of five (5) years all books, papers and documents necessary to substantiate the registration and disclosure reports required by this chapter.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

Sec. A3-64. - Exemptions.

The following persons are exempt from the requirements of this chapter unless otherwise specified:

(a) A public official acting in his or her official capacity.

(b) A person engaged solely in publication or broadcasting of news items, editorials, or commentary which directly or indirectly urges governmental action.

(c) A person hired by the County for work performed on behalf of County, or a person who prepares documents for approval by the County under the California Environmental Quality Act of 1970, or a person who has been specifically invited by a County official for the purpose of giving testimony in aid of the body or person extending the invitation or invited to attend a meeting such as a County task force or department committee meeting to provide information or assistance requested by County staff.

(d) The owner of a business whose attempts to influence governmental action are on behalf of the business and:

(1) The owner or business has not retained a person to engage in Lobbying Activity on behalf of the owner or business; or

(2) Officers or employees of the business (not including the owner) have not engaged in Lobbying Activity on behalf of the owner or business.

This exemption applies only to the threshold for becoming an in-house lobbyist as defined under Section A3-62(g)(2). An owner of a business who meets this exemption is subject to the requirements of this chapter if he or she meets the definition of contract lobbyist or expenditure lobbyist as defined under Sections A3-62(g)(1) and (3), respectively.

(e) A person whose attempts to influence governmental action are limited to:

(1) Publicly appearing at a public meeting, public hearing, or other official proceeding open to the public; and/or

(2) Preparing, processing or submitting documents or writings in connection with the governmental action for use at a public meeting, public hearing, or other official proceeding open to the public.

(f) A person whose sole activity includes one (1) or more of the following:

(1) Submitting a bid on a competitively bid contract or other solicitation for goods or services;

- (2) Submitting a written response to a request for proposals or qualifications or other solicitation for goods or services;
- (3) Participating in an oral interview or other process in connection with a request for proposals or qualifications, or other solicitation for goods or services; or
- (4) Negotiating the terms of an agreement with the County official authorized to negotiate such an agreement.

(g) A person who meets with County officials solely to lodge "whistleblower" complaints relating to improper governmental activity such as mismanagement, waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(h) A person who meets with the County Counsel or Clerk of the Board regarding any claim or litigation matter, negotiation of any agreements where the County is a party, or the requirements or interpretation of this chapter.

(i) Members of non-profit organizations or the uncompensated members of the board of directors of a non-profit organization when they attempt to influence County officials on behalf of the non-profit organization.

(j) Members of neighborhood associations, neighborhood advisory committees, or project area committees.

(k) A person whose communications are solely related to:

- (1) The establishment, amendment, administration, implementation, or interpretation of a collective bargaining agreement or a memorandum of agreement between the County and a recognized employee organization;
- (2) Management decisions as to the working conditions of represented employees that clearly relate to the terms of a collective bargaining agreement or memorandum of agreement between the County and a recognized employee organization; or
- (3) Proceedings before the County Personnel Board.

(l) A person whose communications with County officials are solely in connection with the administration of an existing contract or agreement between the person and the County.

(m) Compensated officers or employees of a nonprofit organization with tax exempt status under Section 501(c)(3) of the Internal Revenue Code whose attempts to influence governmental action are on behalf of the organization.

(n) A person performing a duty or service that can be performed only by an attorney, architect, or engineer licensed to practice in the State of California.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

Sec. A3-65. - Fees.

(a) All fees and interest referenced in this section shall be set forth in the schedule of fees established by resolution of the Board of Supervisors.

(b) Lobbyists are required to pay an annual registration fee at the time of initial registration or annual registration (as defined in Section A3-63). If the lobbyist registers for the first time on or after June 30 of a given year, the lobbyist may pay a reduced registration fee. If the fee is not paid at the time of registration or registration renewal, a late registration fee will be assessed each day until the registration fee is paid in full. In no event will the late registration fee exceed one hundred (100) percent of the unpaid registration fee.

(c) Lobbyists who fail to file a quarterly report on the date due will be assessed a late fee.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

Sec. A3-66. - Administrative penalties.

(a) Each violation of this chapter may result in civil penalties of up to five thousand dollars (\$5,000.00) or the amount of the compensation received for the Lobbying Activity, whichever is greater.

(b) Violation of this chapter may result in a prohibition against engaging in Lobbying Activity for compensation. Such debarment will be in effect for three (3) months from the date the Clerk of the Board determines that a violation has occurred or until the lobbyist has come into compliance with this chapter, whichever is later.

(c) Violation of this chapter shall not constitute a criminal misdemeanor.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

Sec. A3-67. - Enforcement.

(a) Any person may file a complaint with the Clerk of the Board alleging a violation of this chapter.

(b) Enforcement protocol.

(1) Upon discovering a potential violation of this chapter, the Clerk of the Board must notify the lobbyist of the alleged violation and the requirements of this chapter. Persons notified of a potential violation will have thirty (30) days to correct the error or demonstrate to the Clerk that they have not violated this chapter.

(2) The Clerk of the Board will investigate alleged violations of this chapter. The Clerk of the Board may refer investigations of alleged violations to an independent third party investigator. The independent third party investigator shall investigate the alleged violation and make a recommendation to the Clerk of the Board based on its findings. The Clerk of the Board may accept, reject, or modify this recommendation.

(A) The Clerk of the Board has the power to inspect all documents required to be maintained by this chapter.

(B) The Clerk of the Board may issue an order to show cause to any person. Such an order must specify a time and place where such person must appear to provide evidence that he or she has complied with the requirements of this chapter.

(3) The Clerk of the Board may assess and collect fees and administrative penalties as an Enforcement Officer in compliance with the administrative procedures established by Division A37 of this Code.

(4) Decisions of the Clerk of the Board shall be appealable to the Office of the County Hearing Officer established by Division A38 of this Code.

(A) *Appointment.* The Board of Supervisors shall appoint three (3) hearing officers to hear appeals related to this chapter. Should an appeal be taken to the Office of the County Hearing Officer, an officer shall be selected at random from these three (3) hearing officers.

(B) *Qualifications.* In addition to the qualifications defined in Section A38-3 of this Code, hearing officers appointed to hear appeals from this chapter shall be retired judges who have not served as a judge in Santa Clara County.

(C) *Compensation.* Notwithstanding Section A38-5, hearing officers appointed under this chapter may receive compensation if they are chosen to adjudicate a dispute arising out of the requirements of this chapter.

(c) The Clerk of the Board may promulgate rules, regulations, guidelines, and/or policies in furtherance of this chapter.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

Sec. A3-68. - Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of the chapter. Every section, subsection, sentence, clause, or phrase of this chapter is severable from all other sections, subsections, sentences, clauses, or phrases.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

Sec. A3-69. - Effective date.

This ordinance shall become effective thirty (30) days from the date of second reading.

([Ord. No. NS-19.42, § 1, 2-25-14](#))

CHAPTER VIII. ENFORCEMENT

Sec. A3-70. - Ethics Commission.

(a) An Ethics Commission, consisting of seven members, shall be appointed. Five members shall be appointed to terms to coincide with the terms of office of each Board seat. The two at-large member shall be solicited from interested community groups or may be self-nominated, and the presiding judge shall select two individuals from the names of the group submitted to the presiding judge by the Ethics Commission after a review of their qualifications by a subcommittee of the Ethics Commission. The other five Commissioners shall be appointed by the presiding judge of the Superior Court from a list of three persons nominated by the Board member whose term of office corresponds with the term of the Commissioner. There shall be, among the seven Commissioners, at least one Commissioner appointed from each supervisorial district.

(b) The Commission may request, subject to approval of the Board of Supervisors, assignment or hiring of personnel to assist the Commission in carrying out its duties. The Board shall approve reasonable requests.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-71. - Enforcement proceedings.

(a) Any person who believes that a violation of any portion of this code of ethics has occurred may file a written complaint with the Ethics Commission. Any such complaint must be filed within two years after the date on which the violation occurred. A copy of any such written complaint shall, at the time such complaint is made, be filed with the County Clerk, and a copy shall also be provided to any person alleged to have violated any portion of this chapter. Should the preliminary investigation by the Ethics Commission reveal that there is sufficient basis upon which to proceed with a hearing regarding the alleged violation, the Ethics Commission shall refer the matter to a retired Superior Court judge, selected by the Commission, to serve as the hearing officer regarding the complaint. The hearing officer shall review the investigation, have the power to obtain additional discovery and testimony, shall have the authority to independently exercise all powers necessary to investigate, subpoena records, and issue orders to facilitate the investigation of complaints. The hearing officer shall conduct a hearing regarding the complaint. The Ethics Commission may attend the hearing as observers. After the conclusion of the hearing, the hearing officer shall make recommendations to the Ethics Commission regarding the disposition of the complaint and any recommended sanctions or penalties to be imposed.

(b) The Ethics Commission has the power to ratify the decision of the hearing officer or to reject the decision. Should the decision of the hearing officer be rejected, the complaint must be dismissed. If the decision of the hearing officer is ratified, and a violation of this code of ethics is found, the Ethics Commission may issue such enforcement orders as it deems necessary, including the sanctions set forth below.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-72. - Civil sanctions/penalties.

A person who is found to have violated this code of ethics is subject to the following sanctions:

- (1) Public censure by the Ethics Commission or the Board of Supervisors;
- (2) An official finding of misconduct in office and removal from office upon an accusation proceeding instituted by the grand jury;
- (3) Forfeiture into the County general fund of any amounts or things of value given or paid in violation of this division;
- (4) A penalty assessment to be deposited into the County general fund of up to \$500.00 per violation of this Code or an amount not to exceed three times the amount given, paid or expended in violation of this division.

(Ord. No. NS-19.30.4, § 1, 9-23-97)

Sec. A3-73. - Criminal penalty.

In addition to the civil penalties provided above, a willful violation of this code is a misdemeanor.

(Ord. No. NS-19.30.4, § 1, 9-23-97)