

Gift Policy**1.2.2****PURPOSE AND SCOPE**

The purpose of this policy is to establish policy and guidelines for use by and applicable to elected and appointed City officials, City officers, including Board and Commission members, and employees in their officially assigned duties and responsibilities.

POLICY

Elected officials and City employees shall not accept money or other considerations or favors from anyone other than the City for the performance of an act which they would be required or expected to perform in the regular course of their duties; nor shall such persons accept any gifts, gratuities, or favors of any kind which might be perceived or interpreted as an attempt to influence their actions with respect to City business. Gifts may not be accepted unless they are done so in accordance with this policy.

For the purposes of this Policy, the term “gift” is used as defined in San Jose Municipal Code Chapter 12.08 and all exceptions in that Chapter also apply to this Policy except where otherwise provided in a more stringent departmental or administrative policy. Employees are advised to check with their departments for such a policy.

Section 12.08.020 provides that gifts include:

1. Any rebate or discount in the price of any thing of value unless the rebate or discount is made in the regular course of business to members of the public.
2. An officer's or employee's community property interest, if any, in a gift received by that individual's spouse.
3. The provision of travel, including transportation, accommodations and food, except as expressly permitted pursuant to Section 12.08.030.

As used in Chapter 12.08, the term “gift” does not include:

1. Campaign contributions which otherwise comply with Title 12 of the San José Municipal Code and which are required to be reported under Chapter 4 of the Political Reform Act of 1974 as amended.
2. Any devise or inheritance.

The exceptions in Chapter 12.08, Section 12.08.030 are included below.

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Gifts which are acceptable are as follows:

A. Gifts with a value less than fifty dollars (\$50):

Any gift, including meals and beverages provided to an officer or employee in a business or social setting, that has a value less than fifty dollars (\$50), as long as the total value of all such gifts received from any one donor does not exceed fifty dollars (\$50) or more in any calendar year.

B. Information Material:

Informational material such as books, reports, pamphlets, calendars, or periodicals or reimbursement for any such expenses. Informational material does include provision of educational trips including transportation, accommodation and food.

C. Hospitality:

Gifts of hospitality involving food, beverages or occasional lodging provided to any officer or employee by an individual in such individual's primary residence.

D. Reciprocal Gifts:

Presents exchanged between any officer or designates employee and an individual, other than a lobbyist as defined in Chapter 12.12, on holidays, birthdays, baby showers, or similar occasions provided that the presents are not substantially disproportionate in value.

E. Panels and Seminars:

Free admission, food, beverages, and similar nominal benefits provided to an officer or employee at an event at which the officer or employee speaks, participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel or for necessary accommodations provided directly in connection with such event.

F. Admission Given by Sponsor of an Event:

Admission to ceremonial, political, civic, cultural or community functions provided by a sponsor of the event for the personal use of the officer or employee.

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For example, cultural events include theatrical productions and art exhibits; political event include political fundraisers.

1. Admission to regularly scheduled athletic event, such as tickets to professional sporting events, are not included as an exception to prohibited gifts.
2. A sponsor of an event shall not include individuals, persons or organizations whose sponsorship of the event is solely limited to funding or monetary support such as the purchase of tickets.

G. Employment Interview – Government Employer:

Transportation, accommodation, food and directly related expenses advanced or reimbursed by a governmental agency in connection with an employment interview, when an interview is conducted at least one hundred fifty (150) miles from San Jose and where the site of the employment will be at least the same distance from the City.

H. Employment Interview – Private Employer:

Transportation, accommodation, food and directly related expenses incurred in connection with an employment interview and a bonafide prospect of employment, when the expenses are advanced or reimbursed to an officer or employee by a potential employer, provided that the officer or employee has not made or participated in the making of a governmental decision materially affecting the financial interest of the potential employer during the twelve (12) months immediately preceding the time the expenses are incurred or the offer of employment is made, whichever is sooner.

I. Authorized Travel:

Transportation, accommodation, food and directly related expenses for any officer or employee which has been authorized by a majority of the City Council or Redevelopment Agency Board or which is pursuant to a written City or Redevelopment Agency policy for intrastate or interstate travel regardless of the source of payment.

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J. City or Redevelopment Agency Business:

Transportation provided to an officer or employee by a contractor or other person doing business with the City or Redevelopment Agency, provided that such transportation is related to City or Redevelopment Agency business which is within the scope of employment or the duties of such officer or employee, and further provided that such transportation is not in excess of one hundred twenty-five (125) miles one way. Nothing in this subsection shall be interpreted to approve travel under subsection (I) above.

K. Flowers:

Flowers, plants or balloons, which are given on ceremonial occasion, to express condolences or congratulations, or to commemorate special occasions.

L. Prizes and Awards from Bona Fide Competitions:

A prize or award received shall be reported as a gift unless the prize or award is received in a bona fide competition not related to the recipient's status as a City or Redevelopment Agency employee. If reported as a gift, the prize or award must comply with the disclosure and disqualification requirement under the Political Reform Act of 1974 as amended.

M. Wedding Gifts:

Wedding gifts from an individual other than a lobbyist as defined in Chapter 12.12.

*Approved by the City Council
June 28, 2005*