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LCW'S PROPOSED EDITS TO CHAPTER 2.145, RESTRICTIONS ON ACTIVITIES OF CITY OFFICIALS AND CERTAIN CITY EMPLOYEES

Chapter 2.145

RESTRICTIONS ON ACTIVITIES OF CITY OFFICIALS AND CERTAIN CITY EMPLOYEES

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2.145.010 Purpose.

The purposes of this chapter are:

- a) To prevent former City officials and designated City employees from using their influence with the City or agency for personal gain.
- b) To prevent private for-profit business entities from obtaining a real or perceived unfair advantage in dealing with the City or agencies by hiring former City or agency officials and/or designated City employees.
- c) To comply with the City "Code of Ethics and Values."
- d) To attempt to assure the independence, impartiality and integrity of City and agency officials and designated City employees in making governmental actions and decisions. (Ord. 1755 § 2, 7-18-00).

2.145.020 Definitions.

For purposes of this chapter, the terms below shall have the following meaning:

- a) "Agency official" shall mean, respectively, the Chairperson and agency members of (1) the Redevelopment Agency of the City of Santa Clara ("RDA"), (2) the Sports and Open Space Authority of the City of Santa Clara ("SOSA"), (3) the City of Santa Clara Housing Authority ("HA") and (4) the Santa Clara Stadium Authority ("SA"). The RDA, SOSA, HA and SA may be referred to individually or collectively as "agency" as the context indicates.
- b) "City Official" shall mean the Mayor, Vice Mayor, and City Council members.

- c) "Commission" shall mean any body (commission, board, etc.) created by the City Charter, City Code or action of the City Council whose members are required to file statements of economic interest pursuant to the State Political Reform Act of 1974 (Government Code Section 81000 et seq.)
- d) "Commission official" shall mean any member of a City commission.
- e) "Designated City employee" shall be those City employees designated from time to time by the City Manager as subject to the provisions of this chapter. Annually, the City Manager will provide the City Council with a list of designated City employees.
- f) "Nonprofit organization" shall mean an entity which would qualify as such under the Federal Internal Revenue Code and has engaged in programs or projects which have received financial or other formal support from the City Council or agency board within the past five years.
- g) "Transitional services" shall mean services involving technical or specialized knowledge required to complete a project or to provide temporary consulting services to the City or agency.
- h) "Work" shall mean any activity, for which compensation is received from any source, including compensation received as an independent contractor. Work includes the supervision or direction of others performing work, except as provided in SCCC 2.145.050. Work for the City or an agency also includes any action of any sort whatsoever taken in one's official capacity. Service by a City or an agency official or designated City employee on any type of board, committee, subcommittee or similar body as a representative of the City or agency is deemed to be work for the City or an agency. (Ord. 1755 § 2, 7-18-00; Ord. 1884 § 1, 4-19-11).

2.145.030 Prohibitions - Post service activities for compensation.

Except as provided otherwise in this chapter, for one year immediately following the termination of City, agency or commission office or employment, former City officials, agency officials, commission officials (collectively referred to as "affected City official(s)") and designated City employees shall not, for compensation:

- a) Work on any matter which the affected City official or designated City employee previously worked on for the City.
- b) Represent anyone else before the City Council, a City agency, a City commission or staff of the City.
- c) Receive any gift or payment in excess of the amount determined from time to time by the Fair Political Practices Commission from any person who was, in any way, involved in or affected by the work of the affected City official or designated City employee. (Ord. 1755 § 2, 7-18-00).

2.145.040 Exceptions.

The following work shall not be subject to the prohibitions of SCCC 2.145.030:

- a) As an employee or volunteer of a nonprofit organization, as defined in SCCC 2.145.020(f).
- b) As an employee of a governmental entity.
- c) As an employee pursuant to City Charter Section 802 which, subject to the civil service provisions of the City Charter, grants authority to the City Manager to make personnel appointments.
- d) As an independent contractor of the City or agency where it has been determined that it is in the best interest of the City or agency to retain the former affected City official or City employee to provide transitional services. Such determination shall be made by the person or body authorized to enter into such a contract. In the independent contractor situation, the City or agency shall contract directly with the former affected City official or City employee. The rate of compensation for such services shall not exceed the former official or employee's rate of pay, including benefits, at the time City or agency service terminated. (Ord. 1755 § 2, 7-18-00).

2.145.050 Applicability.

- a) The provisions of this chapter shall not apply to prevent a former affected City official or designated City employee from testifying as a percipient witness in any legal proceeding.
- b) The provisions of this chapter shall not apply to prevent a former affected City official or designated City employee from working as a supervisor of a person or persons performing work that would be prohibited by this chapter, so long as the supervisor is screened from any personal participation in the work and receives no part of the fee therefrom. (Ord. 1755 § 2, 7-18-00).

2.145.060 Waiver.

The City Council, RDA, SOSA, HA or SA may waive the prohibitions of SCCC 2.145.030, upon full disclosure of the facts surrounding the proposed activity, if the City Council, RDA, SOSA, HA or SA finds that such waiver is in the best interest of the City or agency and that such waiver is not inconsistent with the purposes of this chapter as set forth in SCCC 2.145.010. (Ord. 1755 § 2, 7-18-00; Ord. 1884 § 2, 4-19-11).

2.145.070 Sanctions.

In addition to any other remedy provided in this Code, the following sanctions shall also apply to any violations of this chapter where appropriate:

- a) Upon the petition of any person, a court or the presiding officer of any proceeding shall, after providing notice and an opportunity for hearing, exclude any person found to be in violation of this chapter from further participation, or from assisting or counseling any other participant, in the matter then pending before such court or body.

b) The City or agency shall be entitled to recover from any former City or agency official or designated City employee the monetary value of any compensation or thing of value provided to such person in violation of the provisions of this chapter. (Ord. 1755 § 2, 7-18-00).