

RESOLUTION NO. 2005- 40

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA,
CALIFORNIA, ADOPTING A WRITTEN POLICY FOR ASSESSING
AND WAIVING FINES FOR THE LATE FILING OF
FPPC REGULATED DOCUMENTS**

WHEREAS, the Political Reform Act was adopted by the voters of the State of California in 1974 to regulate political practices and to ensure that "public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them;" and

WHEREAS, the Political Reform Act is contained in the California Government Code, Sections 81000 through 91015; and

WHEREAS, the Political Reform Act and the Fair Political Practices Commission (FPPC) Regulations set forth specific requirements for elected officials, candidates for elective office, committees supporting or opposing candidates or ballot measures, and certain appointed officials to file statements or reports listing financial information; and


WHEREAS, the Political Reform Act and FPPC Regulations specify fines to be levied when those required statements or reports are filed late; and

WHEREAS, the FPPC has adopted a model policy for assessing and waiving fines for late statements or reports which clarifies the requirements found in Section 91013 of the Government Code; and

WHEREAS, the FPPC recommends that each agency covered by the Political Reform Act adopt a written policy for assessing and waiving fines in order to advise the agency's filers of the provisions of Section 91013 of the Government Code.

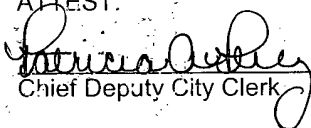
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Santa Maria, California, does hereby adopt a *Policy for Assessing and Waiving Fines for the Late Filing of FPPC Regulated Documents* which is attached and incorporated herein as Exhibit "A".

PASSED and ADOPTED this 15th day of March, 2005.



Mayor

ATTEST:



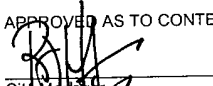
Chief Deputy City Clerk

APPROVED AS TO FORM

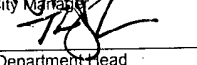


City Attorney

APPROVED AS TO CONTENT



City Manager



Department Head

CITY OF SANTA MARIA

POLICY FOR ASSESSING AND WAIVING FINES FOR THE
LATE FILING OF FPPC REGULATED DOCUMENTS

PURPOSE:

To establish a procedure for assessing and waiving fines on an impartial basis for the late filing of Statements of Economic Interests and Campaign Disclosure Statements.

SCOPE:

The Political Reform Act mandates specific deadlines for the filing of Statements of Economic Interests and Campaign Disclosure Statements. Anyone filing a statement after a prescribed deadline may be fined. This procedure provides a guideline for the impartial assessment and/or waiver of fines for late filings.

PROCEDURE:

A. Statements of Economic Interests

Any person who does not file a Statement of Economic Interests by the filing deadline incurs a late fine of \$10 for each day the statement is late, up to a maximum of \$100. (GC §91013 – Political Reform Act).

The Chief Deputy City Clerk, as the Filing Officer, has the authority to fully or partially waive a fine if, on an impartial basis, it is determined that the late filing was not deliberate. However, no liability may be waived if a statement is not filed within 30 days after a late notification has been sent by the Filing Officer.

When considering whether or not to waive or partially waive a fine, the Filing Officer will take into consideration any prior late filings. A filer who repeatedly files late greatly increases the chance of receiving a fine.

Assessing and Waiving Late Filing Fines

1. Full fines will be imposed upon the following:
 - a) Persons who fail to file within 30 days after a late notification is sent by the Filing Officer.
 - b) Persons who may have qualified for a waiver but fail to file a statement within 30 days after a late notification is sent by the Filing Officer.
 - c) Persons who fail to respond in 20 days after receiving a request from the Filing Officer for a written justification for the late filing.

2. Partial or full waiver may be issued to the persons described below. A stricter standard may be applied to persons who filed late statements within the two years prior to the late filing in question.
 - a) Persons who, because of illness, injury, personal tragedy or similar reasons, found it extremely difficult to file on or before their filing deadline but filed as soon as possible thereafter. Full details of the emergency must be provided in writing.
 - b) Persons who were necessarily out of town immediately prior to and on the filing deadline but who filed as soon as possible thereafter. Full details concerning the absence must be provided in writing.
 - c) Persons who received inadequate or erroneous notification of their filing requirement but who filed within 30 days after receiving proper notice. Full details concerning the type of notice received or lack thereof must be provided in writing.
 - d) Persons serving in an acting officeholder capacity who filed within 30 days of receiving the first adequate notice of their filing requirement from the Filing Officer.
 - e) Persons who left office without receiving adequate notice of their filing requirement but who filed within 30 days of receiving such notice from the Filing Officer.
 - f) Persons who wrote to the Filing Officer prior to the filing deadline, or who had someone write on their behalf, indicating that the filing would be late for a justifiable reason and who filed as soon as possible.
3. In cases in which persons do not have sufficient reasons to justify the late filing, the following guidelines will apply:
 - a) Persons who received adequate notice of the filing requirement prior to the filing deadline and nevertheless filed late, but who filed prior to receiving a late filing notification from the Filing Officer shall be assessed fines of between \$10 and \$25.
 - b) Persons who received adequate notice of their filing requirement prior to the filing deadline and nevertheless filed late but who filed within 30 days after receiving a late filing notification from the Filing Officer shall be assessed fines of between \$25 and \$100.
4. In cases in which persons filed within five days after the filing deadline, the following guidelines will apply:
 - a) Persons who filed within five days of the filing deadline with no prior history of late filing will be granted an automatic waiver.

- b) Persons who filed within five days of the filing deadline but who have a history of filing late within the prior two years will be subject to guidelines 2 and 3 above.

B. Campaign Disclosure Statements

Any person who files a campaign statement or report after the deadline imposed by the Political Reform Act may be liable for a late fine. The fine is \$10 per day, starting with the day after the filing deadline, until the statement is filed. However, no liability shall exceed the cumulative amount of contributions or expenditures for the period covered by the late statement or \$100, whichever is greater.

Liability need not be enforced if, on an impartial basis, it is determined that the late filing was not willful. A late filing shall not be considered willful only in the event that the filer, because of illness, injury, personal tragedy or similar reasons, found it extremely difficult to file on or before the filing deadline but filed as soon as possible thereafter. Full details of the emergency must be provided in writing.

However, the Filing Officer shall have no discretion to waive a fine if the statement is not filed within 10 days for the first pre-election or semi-annual statement, or 5 days for a second pre-election statement, after specific written notice of the late filing is sent. (GC §91013 (a))

In cases in which a filer does not have sufficient reasons to justify the late filing, a full fine will be assessed.

C. Deposit of Late Fines:

Late fines shall be deposited into the City's General Fund.

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF SANTA MARIA)

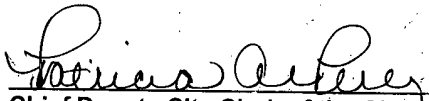
I, PATRICIA A. PEREZ, Chief Deputy City Clerk of the City of Santa Maria and ex officio Clerk of the City Council DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution No. 2005-40 which was duly and regularly introduced and adopted by said City Council at a regular meeting held March 15, 2005, and carried on the following vote:

AYES: Councilmembers Mariscal, Orach, Patino, Trujillo and Mayor Lavagnino.

NOES: None.

ABSENT: None.

ABSTAIN: None.



Chief Deputy City Clerk of the City of Santa Maria
and ex officio Clerk of the City Council