

INTEROFFICE MEMORANDUM
Santa Clara City Attorney's Office

DATE: April 30, 2012
TO: Rod Diridon, Jr., City Clerk
FROM: Richard E. Nosky, Jr., City Attorney
SUBJECT: November 2012 Election

This memorandum highlights several laws relating to campaigning for the November 2012 City election. Candidates should note that this is not an exhaustive list of applicable laws, and should not be construed as legal advice regarding campaign laws or their application to a particular situation. Candidates are encouraged to seek legal advice from their own attorney.

In general, the City of Santa Clara, as a charter city, may establish its own election rules. To the extent it does not, the California Elections Code controls.¹

1. Limitations on Political Signs

Section 18.80.180 of the Code of the City of Santa Clara defines a "political sign" as a sign announcing, supporting or opposing a candidate or issue in connection with any national, state or local election and contains the following provisions applicable to political signs:

- ▶ No sign permit is required.
- ▶ Signs cannot be a physical danger to persons or property and cannot obstruct sight lines or constitute a physical obstruction to vehicular or pedestrian traffic.
- ▶ Signs may be placed on private property only with the consent of the property owner.
- ▶ Signs cannot exceed 16 square feet in size, except for legal billboards.
- ▶ Signs cannot be placed more than 90 days before the November 6, 2012, election, which is Wednesday, August 8, 2012.
- ▶ Signs must be taken down no later than 10 days after the election, which is Friday, November 16, 2012; signs that violate this provision are subject to removal by the City.

Section 18.80.170 of the Code of the City of Santa Clara prohibits placement of any signs, including political signs, on City property or City structures, e.g., poles, fences, buildings in the public right-of-way, median strips on streets, and the mow/park strip between the curb and sidewalk.

2. Campaign Contributions and Expenditures

The City of Santa Clara adopted a Political Campaign Finance Reform Act, found in the Code of the City of Santa Clara Chapter 2.130. Chapter 2.130 limits campaign contributions and

¹ Cal. Const. art. XI, § 5(b); City Charter §§ 600.01, 700.

expenditures and addresses other campaign related issues. A few highlights of these provisions are set forth below.

Basic Provisions

- ▶ The Campaign Cycle for the November 2012, election is May 1st to December 31st.
- ▶ The cutoff date for the last deposit of campaign contributions is 11 calendar days prior to the election, which is Friday, October 26, 2012.
- ▶ Candidates must file an additional pre-election campaign statement on the appropriate standard form at least 7 calendar days prior to the election, which is Tuesday, October 30, 2012.
- ▶ The last day to pay campaign expenses is Monday, December 31, 2012, (note: December 31 is a City furlough day; December 24-December 28 are City furlough and holidays as well, so campaign expenses should be filed no later than Friday, December 21, 2012, or postmarked before December 31, 2012).

Limitations on Contributions

- ▶ \$99 cash donation or expenditure limit – please note that the cash amount from a single source is cumulative.
- ▶ \$250 from a single source for each campaign cycle unless the candidate participates in the Voluntary Campaign Expenditure Limit Program and then allowable contributions from a single source are increased to \$500.
- ▶ There is no limitation on a candidate's contributions to his/her own campaign.
- ▶ No fund transfers are allowed between candidates and/or committees controlled by candidates.
- ▶ Loans are subject to the campaign contribution limits unless they are a legitimate loan (not an extension of credit) from a commercial lending institution.
- ▶ Loans from a candidate's personal funds must be repaid in full by the end of the campaign cycle, December 31, 2012, (note: this date is a City furlough day).
- ▶ Contributions cannot be made on behalf of another individual.

Voluntary Campaign Expenditure Limit

If a candidate agrees to the expenditure limit of \$36,800, the following apply:

- ▶ The maximum contribution amount from a single source is increased to \$500.
- ▶ The City pays one-half of the cost of the candidate's statement of qualifications printed in the ballot pamphlet.

- ▶ The sample ballot will identify the candidate as a participant in the Voluntary Campaign Expenditure Limit program.
- ▶ A candidate's participation in the Voluntary Campaign Expenditure Limit program will be published in a newspaper of general circulation, on the City's website, government access cable television channel, public libraries, public offices, etc.
- ▶ The decision whether to participate in the voluntary campaign contribution program is made at the time the candidate files the declaration of nomination papers.
- ▶ Withdrawal from the program is permitted within 72 hours of the date nomination forms are to be filed if a rival candidate indicates in nomination papers they will not participate in the program.
- ▶ Withdrawal from the program is permitted if a rival candidate violates the expenditure ceiling.

3. Restrictions on Political Activity of Government Employees

Although political activity is generally a constitutionally protected activity, there are well-recognized exceptions that restrict the political activities of public employees. The California Government Code imposes restrictions on political activities of City of Santa Clara officials, employees and candidates. These include prohibition of:

- ▶ Engaging in political activities during work hours or on City property.²
- ▶ Use of City equipment, facilities, materials or supplies for any political activity or purpose.³
- ▶ Participating in political activities while in uniform.⁴
- ▶ Solicitation of funds or contributions, either directly or indirectly, from City employees for political activities. However, a general mailing to a significant segment of the public may be incidentally delivered to City employees.⁵
- ▶ Engaging in political activity or action that would make it appear that the employee is representing the City of Santa Clara rather than expressing an opinion as a private citizen, e.g., identifying oneself by using City title or position, using an employee identification card, or using indicia of office such as letterhead, etc.⁶

RICHARD E. NOSKY, JR.
City Attorney

² Government Code § 3207; City Manager Directive #82.

³ *Stanson v. Mott*, 17 Cal.3d 206 (1976); City Manager Directive #82.

⁴ Government Code § 3206; City Manager Directive #82.

⁵ Government Code § 3205; City Manager Directive #82.

⁶ City Manager Directive #82.