



CITY OF SAN JOSE, CALIFORNIA

Office of the City Clerk
200 East Santa Clara Street, Tower – 14th Floor
San José, California 95113
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Toni J. Taber, CMC
City Clerk

CITY OF SAN JOSE POST JUNE 7, 2016 ELECTION INFORMATION FOR CANDIDATES

Now that the June election is over, all candidates have further filing obligations based on the outcome of the election. This document will guide you through the post-Primary election requirements and includes a section for [Unsuccessful Candidates](#) (section one—page 1), [Successful Candidates](#) who do not need to go to the Runoff election (section two—page 2), and Successful Candidates who will be going to the [Runoff election](#) (section three—page 4). This information and a calendar of dates of interest can be found on the City Clerk website at <http://www.sanjoseca.gov/DocumentCenter/View/57532>. [Resources](#) (helpful websites and phone numbers) can be found at the end of this guide (section four—page 6).

SECTION ONE: Unsuccessful Candidates

Unsuccessful candidates are still responsible for filing campaign statements, retiring debt and disposing of surplus campaign funds. The City of San José Municipal Code sections applicable to debt retirement and surplus campaign funds are below:

12.06.710 Deadline for debt retirement.

- A. No money can be collected for debt retirement after the end of the campaign contribution collection period as set forth in Section 12.06.290.*
- B. A candidate must retire all campaign-related debts, including loans, within one hundred eighty days after the date of the election.*
- C. A campaign-related debt, including any loan, which remains unpaid more than one hundred eighty days after the election is deemed to have been a campaign contribution which was accepted at the time the debt was incurred.*
- D. It is a violation of this section to forgive all or part of a loan or debt which is owed to the person by a candidate and which exceeds the applicable contribution limitations. Forgiveness of a loan or debt shall not be deemed to include the failure to collect the loan or debt where there have been substantial attempts, in good faith, to collect the monies owed and such efforts have proved unsuccessful. In such case, a candidate is not exonerated from violations of this chapter if an outstanding loan or debt exceeds the contribution limitations.*
(Ords. 24499, 24577, 25257, 26440, 29642.)

12.06.720 Surplus campaign funds.

Any remaining campaign funds in excess of expenses incurred for allowable expenses as specified under the Political Reform Act, shall be deemed to be surplus campaign

funds. Within one hundred eighty days after withdrawal, defeat, or election to office, the surplus campaign funds shall be returned to the contributors on a pro rata basis, or turned over to the general fund of the city. (Ords. 25257, 26440, 28212, 29642.)

The Santa Clara Registrar of Voters will be providing the City Clerk a final bill/refund for your campaign statement approximately a month after the election. Until that final bill/refund is provided to you by the City Clerk, we recommend that you do not terminate your committee. However, once you retire your campaign debt and/or dispose of your surplus campaign funds, it is recommended that you file a Fair Political Practices Commission (FPPC) Form 410 to terminate your committee. The FPPC requires each open committee to pay an annual fee, so terminating the committee at the end of the election will eliminate this fee. Additionally, you are required to file semi-annual reports while your committee is open even if there is no activity. Please refer to FPPC Manual 2 for further information.

If you use campaign funds to provide post-election payments, you are required to file a Form 504 with the City Clerk's office (this can be found on the City Clerk website).

12.06.930 Disclosure of post-election payment agreements.

A. A candidate or his or her controlled committee must disclose, on a form provided by the city clerk, any campaign-related agreements entered into by the candidate or controlled committee which provide for post-election payments. Such agreements include, but are not limited to, contingency payment or "bonus" payment plans offered by campaign consultants and agreements with persons who will receive compensation after the election for campaign services performed prior to the election.

B. A post-election payment agreement must be reported on or before the filing date of the next pre-election statement which must be filed after the agreement is entered into. (Ords. 24499, 24577, 25257, 26440, 29642.)

SECTION TWO: Successful Candidates—No Runoff and Post Runoff

Candidates who receive more than 50% of the vote during the Primary election are automatically elected to the seat for which they ran, and their campaign for office is completed. Successful Candidates will take office on January 1, 2017. Councilmembers are not allowed to convert campaign committees to officeholder accounts in the City of San José. Successful candidates are responsible for filing campaign statements, retiring debt and disposing of surplus campaign funds. The City of San José Municipal Code sections applicable to officeholder accounts, debt retirement and surplus campaign funds are below:

12.06.810 Officeholder account prohibited.

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder

*from spending personal funds on official or related business activities.
(Ord. 28212)*

12.06.710 Deadline for debt retirement.

- A. No money can be collected for debt retirement after the end of the campaign contribution collection period as set forth in Section 12.06.290.*
- B. A candidate must retire all campaign-related debts, including loans, within one hundred eighty days after the date of the election.*
- C. A campaign-related debt, including any loan, which remains unpaid more than one hundred eighty days after the election is deemed to have been a campaign contribution which was accepted at the time the debt was incurred.*
- D. It is a violation of this section to forgive all or part of a loan or debt which is owed to the person by a candidate and which exceeds the applicable contribution limitations. Forgiveness of a loan or debt shall not be deemed to include the failure to collect the loan or debt where there have been substantial attempts, in good faith, to collect the monies owed and such efforts have proved unsuccessful. In such case, a candidate is not exonerated from violations of this chapter if an outstanding loan or debt exceeds the contribution limitations.
(Ords. 24499, 24577, 25257, 26440, 29642.)*

12.06.720 Surplus campaign funds.

*Any remaining campaign funds in excess of expenses incurred for allowable expenses as specified under the Political Reform Act, shall be deemed to be surplus campaign funds. Within one hundred eighty days after withdrawal, defeat, or election to office, the surplus campaign funds shall be returned to the contributors on a pro rata basis, or turned over to the general fund of the city.
(Ords. 25257, 26440, 28212, 29642.)*

Because Councilmembers are not allowed to have officeholder accounts, it is recommended that once you retire your campaign debt and/or dispose of your surplus campaign funds, that you file a Fair Political Practices Commission (FPPC) Form 410 to terminate your committee. The FPPC requires each open committee to pay an annual fee, so terminating the committee at the end of the election will eliminate this fee. Additionally, you are required to file semi-annual reports while your committee is open even if there is no activity. Please refer to the FPPC Manual 2 for further information. We recommend that you do not terminate your committee until you receive the final bill/refund from the City Clerk/Registrar of Voters for your campaign statement. The final bill/refund usually is provided to the City Clerk a month after the election.

If you use campaign funds to provide post-election payments, you are required to file a Form 504 with the City Clerk's office (this can be found on the City Clerk website).

12.06.930 Disclosure of post-election payment agreements.

- A. A candidate or his or her controlled committee must disclose, on a form provided by the city clerk, any campaign-related agreements entered into by the candidate or*

controlled committee which provide for post-election payments. Such agreements include, but are not limited to, contingency payment or "bonus" payment plans offered by campaign consultants and agreements with persons who will receive compensation after the election for campaign services performed prior to the election.

B. A post-election payment agreement must be reported on or before the filing date of the next pre-election statement which must be filed after the agreement is entered into. (Ords. 24499, 24577, 25257, 26440, 29642.)

The City Clerk will provide you with key Council Policies, your office budget and work with you to staff and furnish your office. A training session will be scheduled after the Runoff election for all incoming Councilmembers on Council Policies, the Brown Act and Code of Conduct.

SECTION THREE: Successful Candidates—Runoff

If no one receives more than 50% of the vote at the Primary election, the two candidates to receive the most votes will move forward to the Runoff Election in November. Successful candidates who are moving to the Runoff election may transfer and use any remaining campaign funds from the Primary Election in the Runoff Election.

The City of San José Municipal Code sections applicable to comingling funds from elections, debt retirement and surplus campaign funds are below:

12.06.290 Campaign contribution collection period.

- A. No person shall solicit or accept any campaign contribution or deposit any contributions for any campaign into any municipal campaign bank account except during the campaign contribution period.*
- B. The campaign contribution period for the primary municipal election for council or mayor shall:*
- 1. Begin on the one hundred eightieth day before the primary municipal election.*
 - 2. End at 11:59 p.m. on the day before the primary municipal election.*
- C. The campaign contribution period for the run-off municipal election for council or mayor shall:*
- 1. Begin on the day after the primary municipal election for that office.*
 - 2. End at 11:59 p.m. on the day before a run-off municipal election for that office.*
- D. Any contribution which is received outside of the campaign contribution period for an election shall not be accepted or deposited but shall be returned to the contributor or donor within five business days.*
- (Ords. 24499, 24577, 25257, 25525, 25942, 26440, 28213, 28985, 29642.)*

12.06.420 – Disclosure – Transfers to a candidate’s own city and noncity campaign.

- A. No contribution collected for any City campaign fund may be transferred to another campaign fund of the candidate, unless a written disclosure appeared on all materials printed by the campaign committee during the campaign, which informed*

potential donors that such contributions are subject to being transferred to the candidate's own City and noncity campaigns, at any time, at the discretion of the candidate.

B. The disclosure required by the Section shall consist of the following statement in fourteen (14) point type:

Any contribution to this campaign may be transferred to this candidate's campaign for reelection or another City or noncity campaign at (name of the candidate's) sole discretion.

C. The prohibition in this Section does not apply if a candidate becomes eligible to run in a general or run-off election. The candidate may transfer and use any remaining campaign funds from the primary or special election in the general or special run-off election.

(Ords. 24499, 24577, 25257, 25447, 26440, 29642).

12.06.710 Deadline for debt retirement.

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B. A candidate must retire all campaign-related debts, including loans, within one hundred eighty days after the date of the election.

C. A campaign-related debt, including any loan, which remains unpaid more than one hundred eighty days after the election is deemed to have been a campaign contribution which was accepted at the time the debt was incurred.

D. It is a violation of this section to forgive all or part of a loan or debt which is owed to the person by a candidate and which exceeds the applicable contribution limitations. Forgiveness of a loan or debt shall not be deemed to include the failure to collect the loan or debt where there have been substantial attempts, in good faith, to collect the monies owed and such efforts have proved unsuccessful. In such case, a candidate is not exonerated from violations of this chapter if an outstanding loan or debt exceeds the contribution limitations.

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B. A post-election payment agreement must be reported on or before the filing date of the next pre-election statement which must be filed after the agreement is entered into. (Ords. 24499, 24577, 25257, 26440, 29642.)

Once the Runoff Election is decided, please see Section One or Two of this document for information on retiring your campaign debt.

SECTION FOUR: Resources

Office of the City Clerk, City of San José

200 E Santa Clara Street, Tower - 14th Floor, San José, CA 95113

Ph. (408) 535-1260 Fax: (408) 292-6207

Open Monday-Friday 8:00 a.m. - 5:00 p.m.

Email: elections@sanjoseca.gov

Website: <http://www.sanjoseca.gov/index.aspx?NID=446>

Office of the City Attorney, City of San José

200 E Santa Clara Street, Tower - 16th Floor, San José, CA 95113

Ph. (408) 535-1900 Fax: (408) 998-3131

Open Monday-Friday 8:00 a.m. - 5:00 p.m.

Email: SJElections@sanjoseca.gov

Website: <http://www.sanjoseca.gov/index.aspx?NID=4796>

California Fair Political Practices Commission (FPPC)

FPPC Toll-Free Number 1-866-ASK-FPPC (1-866-275-3772)

Open Monday-Thursday, 9:00 a.m. - 11:30 a.m. & 1:30 p.m. - 3:30 p.m.

Email: advice@fppc.ca.gov

Website: www.fppc.ca.gov

FPPC Manual 2: ([http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual 2/Final Manual 2 Entire Manual.pdf](http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual%202/Final%20Manual%20Entire%20Manual.pdf))

Santa Clara County Registrar of Voters

1555 Berger Drive, Building 2, San José, CA 95112

Open Monday - Friday 8:00 a.m. - 5:00 p.m.

General: (408) 299-VOTE [8683]

Election Officers: (408) 299-POLL [7655]

Toll Free: (866) 430-VOTE [8683]

Chinese: (408) 282-3086

Spanish/Español: (408) 282-3095

Tagalog: (408) 535-3916

Vietnamese/TiếngViệt: (408) 282-3097

Mailing Addresses:

General: P.O. Box 611360, San José, CA 95161-1360

Voter Registration: P.O. Box 611300, San José, CA 95161-1300

Vote by Mail: P.O. Box 611750, San José, CA 95161-1750

Precinct Operations: P.O. Box 612350, San José, CA 95161-2350

Email: registrar@rov.sccgov.org

Website: <https://www.sccgov.org/SITES/ROV/Pages/Registrar-of-Voters.aspx>

California Secretary of State

Political Reform Division

1500 11th Street

Sacramento, CA 95814

Ph. (916) 653-6224

Website: <http://www.sos.ca.gov/>

NetFile Campaign Disclosure System

Email: filerhelp@netfile.com

Websites:

New Users: <https://netfile.com/Filer/Authentication/RegisterUser>

Existing Users: <https://netfile.com/Filer>