



CITY OF GILROY CITY CLERK'S OFFICE

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UPDATE: August 25, 2022

On August 18, 2022, I, the Gilroy City Clerk and Election Official, released a letter to the community titled, "re: Estimated Cost of Potential Recall Election." Upon release of this letter, we received several inquiries about the estimated cost of a possible **Mail Ballot** election as opposed to the **Vote Center and Mail Ballot** election estimate shown in the August 7 correspondence. As shown in the email correspondence shared with the August 18 letter, the Santa Clara County Registrar of Voters (SCCROV) didn't provide sufficient detail to determine which estimates were for a Mail Ballot and which were for a Vote Center and Mail Ballot, nor did they provide an updated figure for the Mail Ballot option. On August 22, 2022, the Gilroy City Clerk once again contacted the SCCROV to request a clarification on these numbers.

On August 23, 2022, the SCCROV responded to the Gilroy City Clerk with the following numbers:

- A standalone **Mail Ballot** election is estimated to cost: \$497,388 - \$808,256
- A standalone **Vote Center and Mail Ballot** election is estimated to cost: \$1,243,274 - \$2,020,320.

While the SCCROV may provide numbers for estimated costs for an election, whether or not a special election is eligible for a Mail Ballot is determined by the [California Elections Code](#).

It is the opinion of the Election Official and the City Attorney that a Mail Ballot is not an option for a recall election in Gilroy per the California Elections Code, as noted below.

- 1) Section 1404 of the Gilroy Charter states that recall of municipal officers shall be governed by the California Elections Code.
- 2) Elections Code Section 11328 states, "A recall election shall be conducted, canvassed, and the results declared in substantially the manner provided by law for a regular election for the office." Regular elections for the office of a Council Member in the City of Gilroy are conducted by a Vote Center and Mail Ballot, and thus any recall election would be held to the same standard.
- 3) Section 11328 aside, Code Sections 4000 and 4004 provide two different paths by which a city election may possibly qualify for a Mail Ballot. Section 4000 addresses conditions for local, special, or consolidated elections. Section 4004 addresses elections to fill Council vacancies. A recall election in Gilroy would not qualify for a Mail Ballot under either of these sections for the following reasons:

- a) To qualify for a Mail Ballot under Section 4000, the election must satisfy one of the eight requirements listed under Section 4000(c)(1) through 4000(c)(8). A recall election in Gilroy does not satisfy any of the eight requirements listed under Code Section 4000(c).

- b) To qualify for a Mail Ballot under Section 4004, the election must be a special election to fill a vacancy in the legislative body or governing body. Section 4004(c)(2). A recall election in Gilroy is not a special election to fill a vacancy in the City Council, so the recall does not satisfy condition 4004(c)(2). Accordingly, it cannot be held as a Mail Ballot election.

Sincerely,



Thai Nam Pham, CMC, CPMC
City Clerk
City of Gilroy