



TOWN OF SURFSIDE

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TO: ALL EMPLOYEES AND CANDIDATES FOR OFFICE

CC: Mayor and Town Commission

FROM: Guillermo Olmedillo, Town Manager, and Lillian M. Arango, Town Attorney

DATE: October 17, 2019

RE: Campaign Activities

As the Town of Surfside ("Town") general election approaches and candidates commence the qualifications phase, this memorandum is respectfully submitted for your guidance in understanding the general rules and regulations placed on political campaigning. Town officials and employees, and candidates for office, are required to abide by the parameters imposed by Florida law, the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Town policies and procedures, and other applicable laws.

I. CAMPAIGNING PROHIBITIONS AND RESTRICTIONS

A. Elected Officials

i. Political Activities in Town Hall

Elected officials are not permitted to support a candidate's election from the dais. The Florida Division of Elections has cautioned elected officials not to use their official authority to influence another person's vote. Furthermore, the Florida Commission on Ethics has opined that public funds and public resources should not be used for purposes unrelated to Town business. Taking time during a public meeting to express support for a candidate is unrelated to Town business, as political campaigns and campaign-related activities do not serve a public purpose. Thus, in order to preserve public confidence and avoid the appearance of impropriety, no candidate for elected office (incumbents or challengers) may engage in campaign activities in Town Hall.

Section 102.031, Florida Statutes, prohibits any person, political committee, or other group or organization from soliciting voters inside the polling place or within 150 feet of the entrance to any polling place, a polling room, an early voting site, or an office of the supervisor where vote-by-mail ballots are requested and printed on demand for the convenience of electors who appear in person to

request them. The terms “solicit” or “solicitation” shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout, conducting a poll except as specifically permitted, seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item.

ii. *Official Duties of Elected Officials*

Elected official seeking re-election (“Incumbents”) who regularly communicate with constituents by sending newsletters, may detail the official’s accomplishments and mention the date of election, but cannot turn the newsletter into a mere advocacy piece for the Incumbent candidate. Additionally, Incumbents may continue to hold events in the community consistent with their duties as elected officials while seeking re-election, but Incumbents and other candidates are not permitted to convert or use Town events to campaign rallies or otherwise promote their candidacy as part of the official Town program or event. Incumbents may wear shirts with the Town logo at polls as long as interactions are limited to constituent service. Furthermore, elected officials may use their official titles when endorsing or criticizing candidates for office.

B. Town Employees

i. *Working on Campaigns*

State and local laws prohibit Town employees from working on campaigns or engaging in other political activities while on-duty. Further, elected officials may not use Town employees to work on their campaigns while they are on-duty. However, Town employees may take an active part in political management or political campaigning in an election for Mayor or Town Commission during off-duty hours.

ii. *Employees Wearing Uniforms*

Government employees may work on political campaigns when off-duty; however, most government employees are not permitted to wear a government uniform when campaigning. However, there is an exception for employees who wear uniforms and are considered to be on-call and on-duty twenty-four hours per day, seven days a week.

iii. *Employee Support*

Employees are not permitted to display in their work area any type of literature or signage that may be construed to support a particular candidate. Employees while on-duty or in the workplace are prohibited from wearing or displaying items, such as a campaign t-shirts. Employees may affix to their private automobiles bumper stickers or other items indicating support for a candidate, but may not affix such paraphernalia to Town-owned vehicles and equipment.

C. Town- Owned Property/Workplace

i. *Use of Town Resources*

Disseminating political campaign materials by a candidate or the candidate's supporters using Town resources such as the Town's email system, paper, etc., or any other Town resource is not permissible and a violation of the County's ethics code.

ii. Workplace Communications

State law prohibits officials and employees from directly or indirectly coercing other officials or employees to support a particular candidate or cause. However, non-coercive communications suggesting that an employee can voluntarily contribute to a candidate or cause is permissible. The prohibition against on-duty political activity does not prohibit casual political discussions in the workplace, which are protected by the First Amendment, as long as such discussions do not interfere with the proper functioning of the workplace and the efficient provision of public services.

iii. Political Fundraising

It is a crime in the state of Florida to solicit or receive political contributions in a government building (e.g. Town Hall and all other Town-owned facilities). However, the law provides an exception when a government-owned building or any portion thereof is rented for the specific purpose of holding a campaign fundraiser pursuant to Section 106.15, Florida Statutes.

iv. Candidate Forums

The Town can hold candidate forums in Town Hall provided all candidates are invited. Attendees may wear items showing support for their candidate.

v. Candidate Booths at Town Events

Political campaign booths are permitted at Town events on Town property where booths are available for rental to vendors and the general public.

II. USE OF TOWN SEAL

As a general rule, it is improper to use any protected or trademarked Town symbol in a campaign advertisement or literature, and the use of the Town official seal in any campaign materials is prohibited. Section 2-1 of the Town Code provides that the Town seal or image shall be deemed the official Town of Surfside logo to be used in official Town business, and that no other than the Town may employ this image or anything similar. Section 165.043, Florida Statutes, similarly provides that the manufacture, use, display, or other employment of any facsimile or reproduction of the municipal or Town seal, except by municipal officials or employees in the performance of their official duties, without the express approval of the governing body, is a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes. Notwithstanding the foregoing, the incidental use of the Town logo or seal for campaign activities may be permissible under limited circumstances.

III. TEMPORARY SIGNAGE

The Town's Sign Code (Article VI., Chapter 90, of the Town Code) establishes the location and requirements of temporary signage and all political or campaign signs shall comply with the Town's Sign Code regulations. As provided for in the Town's Sign Code, temporary signs are regulated in Section 90-74 of the Code, including the maximum sign area or size, mounting, type of material, duration (signs shall not be erected for more than 90 days prior to the event or occurrence and removal is required seven days after the event or occurrence), prohibition on lighting and illumination, and a prohibition on placing temporary signs in the public rights-of-way or property.

A copy of the Town's Sign Code can be found at:

https://library.municode.com/fl/surfside/codes/code_of_ordinances

IV. FREQUENTLY ASKED QUESTIONS

1. Q. Can a candidate distribute campaign literature on Town property?

A. Unless the space is rented and a fee is paid to hold a rally or the Town is holding a public forum, candidates and their supporters may not distribute campaign literature on Town property.

2. Q. Can campaign signs be placed on Town property?

The Town's Sign Code establishes the location and requirements of temporary signage and all political or campaign signs shall comply with the Town's Sign Code regulations.

3. Q. Can campaign literature include the Town's logo or seal?

A. As a general rule, it is improper to use any protected or trademarked Town symbol in a campaign advertisement or literature and the use of the Town official seal in any campaign materials is prohibited. The Town Code provides that the official Town seal or image shall be deemed the official Town of Surfside logo to be used in official Town business, and that no other than the Town may employ this image or anything similar. Section 165.043, Florida Statutes, similarly provides that the use or reproduction of the municipal or Town seal, except by municipal officials or employees in the performance of their official duties, without the express approval of the governing body, is a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes. Notwithstanding the foregoing, the incidental use of the Town logo or seal for campaign activities may be permissible under limited circumstances.

4. Q. Can a candidate take campaign photographs with Town employees in uniform?

A. It depends on the definition of "uniform," but police officers and firefighters can have their photographs taken with candidates provided their departments have policies permitting this practice.

5. Q. Can the public wear or display campaign items on Town property at all times?

A. Wearing a t-shirt or pin showing support for a candidate on Town property is permissible provided the supporter is not actively campaigning, unless one of the above exceptions applies. Such paraphernalia can also be worn at the polling place.