

ORDINANCE NUMBER O-18979 (NEW SERIES)

ADOPTED ON SEP 10 2001

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 2, SECTION 27.0213; BY AMENDING DIVISION 6, SECTIONS 27.0608, 27.0620 AND 27.0621; BY AMENDING DIVISION 7, SECTIONS 27.0701 AND 27.0709; BY AMENDING DIVISION 8, SECTIONS 27.0801, 27.0802, 27.0803, 27.0804, 27.0805, 27.0806, AND 27.0809; BY AMENDING DIVISION 9, SECTIONS 27.0902 AND 27.0907; AND, BY REPEALING DIVISION 23, SECTIONS 27.2301, 27.2302, AND 27.2303, ALL RELATING TO ELECTIONS.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 7, Division 2, of the San Diego Municipal Code is hereby amended by amending Section 27.0213, to read as follows:

§27.0213 Signing of Nominating Petitions

- (a) [No change in text]
- (b) It is unlawful for any individual to sign more than one nominating *petition* for the same office and if he or she does so, his or her signature shall count only for the first nominating *petition* which is filed and in which the signature is used to qualify a candidate.

Section 2. That Chapter 2, Article 7, Division 6, of the San Diego Municipal Code is hereby amended by amending Sections 27.0608, 27.0620, and 27.0621, to read as follows:

§27.0608 **Designation to Remain the Same**

- (a) [No change in text]
- (b) In the case of a *special election* called to fill a vacated *elective office*, the designation of principal profession, vocation or occupation shall remain the same for all purposes of the *special election* and the special run-off election, unless the *candidate*, at least forty-six calendar days prior to the special run-off election, requests in writing a different designation which the *candidate* is entitled to use at the time of the request.

§27.0620 **Statement of Candidates' Qualifications**

- (a) [No change in text]
- (b) [No change in text]
- (c) The statement may include quotations. A quotation from an individual included in the statement must be authorized in writing by the individual. A quotation from an organization included in the statement must be authorized in writing by the organization. The consent of an organization shall be signed by an officer or other duly authorized representative of the organization. If a quotation is from a publication, a copy of the publication may be provided instead of a letter. Such

authorization must be filed at the same time as the statement of qualifications, or the quotation will not be permitted in the statement.

- (d) The statement may include the names of family members. The name of any other individual included in the statement must be authorized in writing by the individual. The name of an organization, included in the statement as an endorsement, must be authorized in writing by the organization. The consent of an organization shall be signed by an officer or other duly authorized representative of the organization. Such authorization must be filed at the same time as the statement of qualifications or the name will not be permitted in the statement. An organizational reference used as part of the candidate's biographical information is permitted without authorization from the organization.

- (e) [No change in text]

§27.0621 Certain Content Prohibited in Statement of Qualifications

- (a) The statement of qualifications shall not refer, either directly by name, or indirectly by title or description to any other *candidate* or officeholder or to any other *candidate's* or officeholder's qualifications, character or activities, unless such reference is authorized pursuant to Section 27.0620(d).

- (b) The statement of qualifications shall not refer, either directly by name, or indirectly by title or description to any City employee or to a City employee's character or activities unless such reference is authorized pursuant to Section 27.0620(d).
- (c) [No change in text]
- (d) [No change in text]
- (e) [No change in text]
- (f) [No change in text]

Section 3. That Chapter 2, Article 7, Division 7, of the San Diego Municipal Code is hereby amended by amending Sections 27.0701 and 27.0709, to read as follows:

§27.0701 Purpose and Intent

The Charter of the City of San Diego gives the City *Council* the authority to fill a vacancy in the offices of the Mayor and City Attorney within thirty business days by appointment; and failing to do so within that time, the City *Council* is required to immediately cause an *election* to be held to fill such vacancy. The Charter provides that if a vacancy occurs in the office of a City *Council* district and there is one year or less remaining in the term, the City *Council* shall appoint an individual to fill the vacant seat. If the vacancy occurs with more than one year remaining in the term, the Charter requires the City *Council* to call a *special election* to fill such vacancy. The purpose

and intent of this division is to establish uniform provisions for filling a vacancy in any *elective office*.

§27.0709 Term of Office

- (a) The term of office for an individual elected to fill a vacancy in the office of a City *Council* district pursuant to Division 9 of this article shall commence at the time the City *Council* adopts the resolution declaring the results of such *election* to the vacant office, and shall expire at 10:00 a.m. on the first Monday after the first calendar day in December following the next *District* or *City-wide General Election* to fill that office, at the same time that the terms of other *elective officers* expire.
- (b) The term of office for an individual elected to fill a vacancy in the office of the Mayor or City Attorney pursuant to Division 9 of this article shall commence at the time the City *Council* adopts the resolution declaring the results of such *election* to the vacant office, and shall expire at 10:00 a.m. on the first Monday after the first calendar day in December following the next *City-wide General Election* to fill that office, at the same time that the terms of other *elective officers* expire.
- (c) The term of office for an individual appointed to fill a vacancy in the office of a City *Council* district pursuant to Division 8

of this article shall commence at the time the *City Council* adopts the resolution appointing that officer to fill the vacancy, and shall expire at 10:00 a.m. on the first Monday after the first calendar day in December following the *District or City-wide General Election* to fill that office, at the same time that the terms of other *elective officers* expire.

(d) The term of office for an individual appointed to fill a vacancy in the office of Mayor or City Attorney pursuant to Division 8 of this article shall commence at the time the *City Council* adopts the resolution appointing that officer to fill the vacancy. Any individual appointed to fill such vacancy, shall hold office only until the next regular municipal election, at which time an individual shall be elected to serve for the remainder of such unexpired term. The appointed officeholder's term of office shall expire at the time the *City Council* adopts the resolution declaring the results of the election and declares that a candidate has been elected to that office.

(e) [No change in text]

Section 4. That Chapter 2, Article 7, Division 8, of the San Diego Municipal Code is hereby amended by amending Sections 27.0801, 27.0802, 27.0803, 27.0804, 27.0805, 27.0806, and 27.0809, to read as follows:

§27.0801 Purpose and Intent

The purpose and intent of this division is to establish an orderly procedure for the *City Council* to follow in making any appointment to an *elective office*; and for all individuals interested in being appointed to the vacant office to follow in presenting their applications for consideration by the *City Council*; and at the same time to allow for public participation in the selection process. If a position is to be filled by appointment, the procedures provided for in this division shall be followed. An appointment to fill a vacancy in any *elective office* shall be made within thirty business days of the date of the vacancy.

§27.0802 Deadline for Filing Application Forms

- (a) If a vacancy exists in the office of a *City Council* district by reason of death or un-excused absences, the deadline for filing application forms with the *City Clerk* shall be fourteen calendar days after the date of the vacancy, as determined by Section 27.0703(b).
- (b) If vacancy exists or will exist in the office of a *City Council* district by reason of a resignation, the deadline for filing

application forms with the City *Clerk* shall be one of the following:

- (1) If there are at least fourteen calendar days between the time of the publication required by Section 27.0803 and the date of vacancy, the deadline shall be the calendar day before the vacancy occurs;
 - (2) If there are fewer than fourteen calendar days between the publication required by Section 27.0803 and the date of vacancy, the deadline shall be fourteen calendar days after the date of publication.
- (c) If a vacancy exists or will exist in the office of the Mayor or City Attorney, the deadline for filing application forms with the City *Clerk* shall be fourteen calendar days after the date the City *Council* determines that the *elective office* is to be filled by appointment, pursuant to Section 27.0705(a).

§27.0803 Notice to be Published by Clerk

- (a) If a vacancy exists in the office of a City *Council* district, by reason of death or un-excused absences, and the *elective office* is to be filled by appointment, the City *Clerk* shall publish

within five calendar days of the date of vacancy, as determined by Section 27.0703(b), the following notice in a paper of general circulation within the City of San Diego:

A vacancy exists in the office of (Councilmember, 1st through 8th District). Interested applicants may obtain information and forms at the office of the *City Clerk*, City Administration Building, 202 C Street, San Diego, California. To be considered, applications shall be returned to the office of the *City Clerk* by close of business, 5:00 p.m. on (insert date fourteen calendar days after the date of the vacancy as determined by Section 27.0703(b)).

- (b) If a vacancy exists or will exist in the office of a *City Council* district by reason of a resignation, the *City Clerk* shall publish within a reasonable time the following notice:

A vacancy exists (or will exist) in the office of (Councilmember, 1st through 8th District) on (date vacancy expected to occur). Interested applicants may obtain information and forms at the office of the *City Clerk*, City Administration Building, 202 C Street, San Diego, California. To be considered, applications shall

be returned to the office of the City *Clerk* by close of business, 5:00 p.m. on (insert date of the calendar day before vacancy occurs if at least a fourteen-calendar-day interval exists between publication and date of vacancy; if not, insert date fourteen calendar days after date of publication).

- (c) If a vacancy exists or will exist in the office of the Mayor or City Attorney, and the City *Council* determines that the *elective office* is to be filled by appointment, the City *Clerk* shall publish within five calendar days of the *Council* decision to fill the vacancy by appointment, pursuant to Section 27.0705(a), the following notice in a paper of general circulation within the City of San Diego:

A vacancy exists (or will exist) in the office of (Mayor or City Attorney) on (date vacancy expected to occur). Interested applicants may obtain information and forms at the office of the City *Clerk*, City Administration Building, 202 C Street, San Diego, California. To be considered, applications shall be returned to the office of the City *Clerk* by close of business, 5:00 p.m. on (insert date fourteen calendar days after the date

the City Council determines that the *elective office* is to be filled by appointment).

§27.0804 Application Forms and Requirements

Applicants for appointment to *elective office* shall file with the City Clerk on or before the date for return of applications as published by the City Clerk under Section 27.0803 the following:

- (a) Background information certified by the applicant that it is true and correct, signed under penalty of California perjury laws, disclosing the following:
 - (1) Name.
 - (2) Current address.
 - (3) Length of residence at current address, and address for the past year if other than the current address.
 - (4) Date of birth.
 - (5) Social Security Number for the purpose of conducting the police check.
 - (6) Business or occupation engaged in during the past five years together with address of and dates of service with each such business or occupation.
 - (7) Branch, dates and rank at discharge of military service.

- (8) Education starting with high school to highest level attained together with the name of each educational institution attended and any degree or diploma received.
- (9) Statement of Economic Interests Form 700.
- (b) A statement of qualifications not longer than 500 words expressing in the applicant's own words the reasons why the applicant believes he or she is qualified for the office.
- (c) A petition with the signatures of fifty registered voters in form and content similar to that required by the nomination procedures in this article.
- (d) A statement signed under penalty of California perjury laws that the applicant complies with the requirements of Section 27.0119 and has been a resident and *voter* of the City in the case of the Mayor or City Attorney, or of the district in the case of Councilmembers other than the Mayor, for at least thirty calendar days prior to the date of making application for appointment.

§27.0805 Responsibilities of the City Clerk and the Police Department

- (a) [No change in text]
- (b) [No change in text]

- (c) The Police Department shall, to the extent permitted by law, access each applicant's criminal history information maintained by the San Diego Police Department or the California Department of Justice, in order to determine whether the applicant is on parole for a felony conviction. The Police Department shall notify the *City Clerk* of the results of this search.

§27.0806 Public Hearing

Before any appointment to fill a vacancy in an *elective office* may be made, the *City Council* shall hold at least one public hearing for the purpose of considering the applications for appointment. The hearing shall be scheduled so that the appointment can be made within thirty business days of the date of the vacancy as specified in Section 27.0801. A second public hearing may be held if there are additional questions or if additional time for discussion is needed by the *City Council* prior to making the appointment.

§27.0809 Election of Official Following Appointment

- (a) [No change in text]
- (b) Any individual appointed by the *City Council* to fill a vacant seat in the office of the Mayor or office of the City Attorney shall be eligible to run for that office for the next succeeding term.

Section 5. That Chapter 2, Article 7, Division 9, of the San Diego Municipal Code is hereby amended by amending Sections 27.0902 and 27.0907, to read as follows:

§27.0902 Special Election to be Called

- (a) If a vacancy occurs in the office of a *City Council* district for any reason other than a successful recall *election*, and the vacancy is to be filled by *election*, the *City Council* shall immediately call a *special election* to be held within ninety calendar days of the vacancy, unless there is a regular municipal, statewide, or countywide *election* scheduled to be held within 180 calendar days of the vacancy. If there is a regular municipal, statewide, or countywide *election* scheduled to be held within 180 calendar days of the vacancy, the *City Council* may consolidate the *special election* with that regular *election*.
- (b) If a vacancy occurs in the office of the Mayor or City Attorney for any reason other than a successful recall *election*, and the *City Council* chooses to fill the vacancy by *election*, or fails to fill the vacancy by appointment within thirty business days of the vacancy, the *Council* shall immediately call a *special election* to be held within ninety calendar days of the date the ordinance calling the *election* is adopted, unless there is a regular municipal, statewide, or countywide *election* scheduled

to be held within 180 calendar days of the vacancy. If there is a regular municipal, statewide, or countywide *election* scheduled to be held within 180 calendar days of the vacancy, the *City Council* may consolidate the *special election* with that regular *election*.

§27.0907 Date to Assume Office

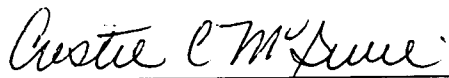
- (a) A *candidate* elected to the office of a *City Council* district, at either the *special election* or at the special run-off *election* called by the *City Council* to fill a vacant *elective office* shall be declared elected for the unexpired term of his or her predecessor and shall assume his or her office at the time the *City Council* adopts the resolution declaring the results of such *election* to the vacant office.
- (b) A *candidate* elected to the office of Mayor or City Attorney, at either the *special election* or at the special run-off *election* called by the *City Council* to fill a vacant *elective office* shall be declared elected for the unexpired term of his or her predecessor and shall assume his or her office at the time the *City Council* adopts the resolution declaring the results of such *election* to the vacant office.

Section 6. That Chapter 2, Article 7, of the San Diego Municipal Code is hereby amended by repealing Division 23, Sections 27.2301, 27.2302, and 27.2303.

Section 7. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 8. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 
Cristie C. McGuire
Deputy City Attorney

CCM:cw:jp:vl
06/27/01
08/14/01 Rev.
Or.Dept:City Clerk
O-2002-2