

ORDINANCE NUMBER O- 20605 (NEW SERIES)

DATE OF FINAL PASSAGE FEB 08 2016

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE PRIMARY ELECTION TO BE HELD ON JUNE 7, 2016, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE II, SECTIONS 4, 5, AND 5.1; ARTICLE III, SECTION 12; AND ARTICLE XV, SECTION 270; RELATING TO REDISTRICTING IN THE CITY OF SAN DIEGO.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. 20603, introduced and adopted on FEB 08 2016, the Council has called a Municipal Special Election to be consolidated with the California State Primary Election to be held June 7, 2016, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, in June 1992, San Diego voters approved Proposition C, which amended the City Charter to grant "sole and exclusive authority to adopt plans which specify the boundaries of districts for the City Council" to a seven-member citizen Redistricting Commission; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one proposition amending the Charter to revise the redistricting process and related laws for the City of San Diego, to update the Charter based upon the City's experiences with the Charter sections related to redistricting in two redistricting cycles, in 2000 and 2010; and

WHEREAS, amendments to the City's redistricting laws were proposed initially by two Redistricting Commissions, the San Diego County Grand Jury, City staff involved with the process, and members of the public; and

WHEREAS, the proposed Charter amendments were heard and reviewed by the City Council's Charter Review Committee, and the Council, through this Ordinance, now seeks to place the proposed amendments on the June 7, 2016 Municipal Special Election ballot; and

WHEREAS, the City Council's proposal, on its own motion, of a Charter amendment is governed by California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. That one proposition amending the City Charter by amending Article II, sections 4, 5, and 5.1; Article III, section 12; and Article XV, section 270; related to redistricting in the City of San Diego, is hereby submitted to the qualified voters at the Municipal Special Election to be held on June 7, 2016, and consolidated with the California State Primary Election to be held on the same date, with the proposition to read as follows:

---

**PROPOSITION**

**ARTICLE II**

**NOMINATIONS AND ELECTIONS**

**SECTION 4: DISTRICTS ESTABLISHED**

For the purpose of electing members of the Council, the City shall be divided into ~~eight~~ Districts as nearly equal in population as practicable. ~~A ninth Council district shall be created in the redistricting following the 2010 national decennial census, at which time~~

~~the City shall be divided into nine (9) e~~Council districts as nearly equal in population as practicable. ~~Thereafter t~~The boundaries of such districts shall be subject to alteration and change under the provisions of this Charter.

In any redistricting plan adopted by the Redistricting Commission pursuant to Section 5.1 or ordinance adopted by the Council establishing, changing or altering the boundaries of any Council district, the redistricting plan or ordinance may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in said the redistricting plan or ordinance.

#### **SECTION 5: REDISTRICTING**

In the event that any voting precinct ~~which may be established at the time this Charter takes effect or which may be thereafter~~ established is located partly within two or more ~~such~~ Council districts, ~~said the~~ precinct shall be allocated to the Council dDistrict in which a majority of the voters within ~~such the~~ precinct resides, and ~~said the~~ district boundaries shall be changed accordingly.

The City shall be redistricted pursuant to Section 5.1 of this Charter at least once in every ten ~~(10)~~ years, but no later than nine months following the City's receipt of the final Federal Decennial Census information. The term "Federal Decennial Census," as used in this Charter, shall mean the national decennial census taken under the direction of the United States Congress at the beginning of each decade.

Any territory hereafter annexed to or consolidated with The City of San Diego shall at the time of such annexation or consolidation be added to an adjacent ~~D~~district or ~~D~~districts by an ordinance of the Council. However, if any territory annexed, deannexed or consolidated upsets the approximate equality of the populations of the established districts, a redistricting shall be conducted pursuant to Section 5.1 of this Charter, except that the nomination period for appointment to the Redistricting Commission shall commence on the ~~July~~ May 1 immediately succeeding the annexation, deannexation or consolidation and the Redistricting Commission shall be constituted no later than the next November 1.

In any redistricting, the districts shall be comprised of contiguous territory and made as equal in population as shown by the census reports, and as geographically compact as possible, and the districts so formed shall, as far as possible, be bounded by natural boundaries, by street lines and/or by City boundary lines.

#### **SECTION 5.1: REDISTRICTING COMMISSION**

The members of the City Council shall be elected by districts, ~~as follows:~~

Subject to the provisions of the City Charter relating to referendum and initiative powers of the people, the sole and exclusive authority to adopt plans which specify the boundaries of districts for the City Council is vested in the Redistricting Commission, to be established by this Section.

Commencing in the year following the year in which the ~~national~~ Federal Ddecennial Census is taken ~~under the direction of the United States Congress~~ at the beginning of each decade, the Redistricting Commission shall adopt plans that redistrict the City into nine (9) Council districts

designated by numbers 1 to 9, inclusive. Those districts shall be used for all elections of Council members, including their recall, and for filling any vacancy in the office of member of the Council, ~~subsequent to the effective date of this Section~~ (and until new districts are established).

No change in the boundary or location of any district by redistricting as herein provided shall operate to abolish or terminate the term of office of any member of the Council prior to the expiration of the term of office for which such member was elected.

Districts formed by the Redistricting Commission shall each contain, as nearly as practicable, one-ninth of the total population of the City as shown by the Federal Decennial Census immediately ~~proceeding~~ preceding such formation of districts.

Each redistricting plan shall provide fair and effective representation for all citizens of the City, including racial, ethnic, and language minorities, and be in conformance with the requirements of the United States Constitution and ~~F~~ederal statutes.

To the extent it is practical to do so, districts shall: preserve identifiable communities of interest; be geographically compact - populous contiguous territory shall not be bypassed to reach distant populous areas; be composed of whole census units as developed by the United States Bureau of the Census; be composed of contiguous territory with reasonable access between population centers in the district; and not be drawn for the purpose of advantaging or protecting incumbents.

The Redistricting Commission shall be composed of ~~seven (7)~~ nine members who shall be appointed by the ~~Presiding Judge of the Municipal Court, San Diego Judicial District.~~

~~the event that the Presiding Judge declines to make the appointments, they shall be made by a Municipal Court Judge selected by vote of the Judges of the Municipal Court, San Diego Judicial District. Should the Judges of the Municipal Court decline to so act, then the Redistricting Commission shall be appointed by a panel of three retired judges who served in any of the following courts: the Superior Court Judges of the State of California, an appellate court of the State of California, or a U.S. District Court located within California. Names of the retired judges willing to serve will be submitted to the City Clerk and drawn at random by the City Clerk, using procedures for judicial nominees and appointees as set forth in the San Diego Municipal Code. The City Clerk shall also draw at random the name of one additional retired judge to be designated as an alternate, who will be appointed to serve on the panel if another member is unable or unwilling to serve. Manager in the fashion described in Penal Code sections 900(a) and 902. In the event that all of the preceding individuals decline to act, then the Redistricting Commission shall be appointed by a majority vote of the City Council in the fashion set forth below. The term "Presiding Judge," "Appointing Authority," as used herein below, shall include any person or any body refer to the panel of retired judges acting to appoint the Redistricting Commission pursuant to the provisions of this paragraph.~~

The City Clerk shall solicit nominations for appointment to the Redistricting Commission in accordance with this Section and shall distribute to the news media the announcement of a ~~thirty (30)~~ sixty-day nomination period (which shall commence on ~~July 1, 2000, and on July~~ May 1 of every year in which a ~~national~~ Federal Decennial Ceensus is taken) and the guidelines for selection of Commission members.

Individuals or organizations desiring to nominate persons for appointment to the Commission shall ~~do so in writing~~ submit application materials to the City Clerk within the nominating period, using procedures set forth in the San Diego Municipal Code.

The City Clerk shall transmit the names and information regarding all nominees with the names of nominating individuals and organizations to the ~~Presiding Judge~~ Appointing Authority immediately upon the close of nominations.

After receiving Commission member applications from the City Clerk, the three members of the Appointing Authority shall hold a public meeting to appoint the nine Commission members and two alternates. The public meeting shall be held as promptly as possible to ensure the appointments are timely made. The ~~Presiding Judge~~ Appointing Authority shall appoint the members constituting the Commission no later than ~~November 1, 2000, and on~~ November 1 of every year in which a ~~national~~ Federal Decennial Census is taken.

In the event that a complete panel of three retired judges is unable or unwilling to serve as the Appointing Authority, the City Clerk will serve as the Appointing Authority. The City Clerk will conduct a ministerial review of Commission member applications to determine which persons are qualified to serve, using the requirements of this Charter and procedures set forth in the San Diego Municipal Code. After all qualified applicants are identified and notified, the City Clerk will randomly select the Commission members and alternates from the pool of qualified applications in a public place.

The ~~Presiding Judge~~ Appointing Authority shall appoint ~~women and men~~ members who will give the Redistricting Commission geographic, social and ethnic diversity, and who, in ~~his or her~~ the Appointing Authority's judgement, have a high degree of competency to carry out the responsibilities of the Commission. The appointees shall include individuals with a demonstrated capacity to serve with impartiality in a nonpartisan role.

The Appointing Authority shall attempt to appoint one Commission member from each of the nine Council districts to the extent practicable, given the other requirements of this Charter Section, and considering the extent of the applicant pool and an individual's qualifications to serve. The Appointing Authority shall also attempt to appoint Commission members who possess working knowledge of the geography and neighborhoods of The City of San Diego.

Each member of the Commission shall be registered to vote in The City of San Diego.

The Appointing Authority shall also appoint two alternate Commission members from the same applicant pool, who will be available to serve if a Commission member cannot serve or resigns. The alternates shall have a duty to remain informed of Commission business so they are prepared to serve if called upon to do so.

Persons who accept appointment as members of ~~to~~ the Commission, at the time of their appointment, shall file a written declaration with the City Clerk stating that within five (~~5~~) years of the Commission's adoption of a final redistricting plan, they will not seek election to a San Diego City public office. Alternates shall sign the declaration if and when they become members of the Commission.



The members of the Redistricting Commission, and the alternates, shall serve until the redistricting plan adopted by the Commission becomes effective and ~~any and all legal and referendum challenges have been resolved~~ the referendary deadline for the Final Redistricting Plan has passed. If the Final Redistricting Plan is rejected by referendum or by a legal challenge, members of the Commission shall resume their service and shall create a new plan pursuant to the criteria set forth in Sections 5 and 5.1.

~~Any vacancy in the Redistricting Commission which occurs after the Commission is constituted shall be filled within seven (7) calendar days by the Presiding Judge of the San Diego Municipal Court, San Diego Judicial District, following the same procedure and using the same criteria established with this Section and making the selection from the same pool of individuals given consideration for appointment when the Commission was constituted.~~

Within ~~twenty (20)~~ thirty days after the ~~membership of the Commission~~ members are appointed, ~~if the Commission~~ shall hold its first meeting at a time and place designated by the City Clerk.

Within sixty days after the Commission members are appointed, the Commission shall adopt a budget and submit it to the Appointing Authority. If approved, the budget shall be forwarded to the City Council for its prompt consideration. The City Council shall appropriate funds to the Commission and to the City Clerk adequate to carry out their duties under this Section.

All Commission meetings shall be open to the public and Commission records, data and plans shall be available, at no charge, for public inspection during normal business hours in the office of the City Clerk. Copies of records and plans shall be provided, for a reasonable fee, to any interested person.

The Commission shall elect a chair and a vice chair and shall employ a chief of staff, who shall serve at the Commission's pleasure, exempt from Civil Service, and shall contract for needed staff, technical consultants and services, using existing City staff to the extent possible.

Aye votes by ~~5~~ six members of the Commission shall be required for the appointment of its chief of staff, the election of its chair, and the adoption of the Ffinal Rredistricting Pplan, ~~and~~ Aa majority vote of the Commission shall be required for all other actions. A majority of the entire Commission shall constitute a quorum for the transaction of business or exercise of any power of the Commission.

The Commission shall make every reasonable effort to afford maximum public access to its proceedings. It shall solicit public comment and shall hold at least ~~four (4)~~ nine public hearings in various geographic areas of the City before the preparation of a preliminary redistricting plan.

At least thirty ~~(30)~~ days prior to the adoption of a final plan, the Commission shall file a preliminary plan with the City Clerk, along with a written statement of findings and reasons for adoption, which shall includes ~~notation of all~~ the criteria employed in the process and a full analysis and explanation of decisions made by the Commission.

During the thirty-~~(30)~~ day period after such filing, the Commission shall hold at least ~~three (3)~~ five public hearings in various geographic areas of the City before it adopts a final plan. ~~Upon approval of the final plan, the Commission shall adjust the boundaries of any or all of the Council districts of the City pursuant to the final plan. Said~~ The Final Redistricting Plan shall be effective thirty (30) days after adoption by the Commission and shall be subject to the right of referendum in the same manner as are ordinances of the City Council. If rejected by referendum, the same Commission shall be empaneled to create a new plan pursuant to the criteria set forth in Sections 5 and 5.1.

The Final Redistricting Plan document, including all maps, will be final as set forth herein; however, the boundaries of the Council districts in the Final Redistricting Plan shall not be adjusted and effective until after the next regularly scheduled general election for Council seats following the redistricting.

~~Within sixty (60) days after the members of the Commission are appointed, the Commission shall adopt a budget and submit it to the Presiding Judge. If he or she approves it, it shall be forwarded to the City Council for its consideration. The City Council shall appropriate funds to the Commission and to the City Clerk adequate to carry out their duties under this Section.~~

If any part of these amendments to Sections 4, ~~or 5,~~ 5.1 of the Charter ~~or the addition of Section 5.1 to the Charter~~ or their application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.

**ARTICLE III**  
**LEGISLATIVE POWER**

**SECTION 12: THE COUNCIL**

[(a) to (c) No change in text.]

(d) Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district they were elected to serve in which they reside for the remainder of their current term, unless as a result of such redistricting more than one incumbent Council member resides within any one district, in which case the City Council may determine by lot which Council member shall represent each district. At the next municipal primary and general elections following a redistricting, Council members shall be elected from those districts not represented and from those districts represented by incumbent Council members whose terms expire as of the general election in said that year. If, as a result of any redistricting, more than a simple majority of the City Council as redistricted shall be elected at either the municipal primary or general election next following any such redistricting, the City Council prior to any such election shall designate one or more new districts for which the initial council term shall be two (2) years in order to retain staggered terms for Council members.

[(e) to (h) No change in text.]

**ARTICLE XV**  
**STRONG MAYOR FORM OF GOVERNANCE**

**SECTION 270: THE COUNCIL**

(a) The Council shall be composed of nine councilmembers elected by district. ~~The ninth councilmember shall be elected at the next municipal primary and general elections following the redistricting occurring after the 2010 national decennial census. Until the ninth~~

~~councilmember is elected and qualified, the Council shall be composed of eight councilmembers elected by district.~~ The Council shall be the legislative body of the City.

[(b) to (h) No change in text.]

**END OF PROPOSITION**

---

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>PROPOSITION __ . CHARTER AMENDMENTS REGARDING REDISTRICTING OF COUNCIL DISTRICTS IN THE CITY OF SAN DIEGO.</b> Shall the City Charter be amended to update the process related to redistricting of City Council districts, including amendments to expand the citizen Redistricting Commission from seven to nine members, to clarify and expand the timeline for the appointment and qualification of members, to provide for alternate members on the Commission and appointing panel, and to explain the effective date of boundaries?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the proposition.

Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.


Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance’s adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By  \_\_\_\_\_  
Sharon B. Spivak/  
Deputy City Attorney

SBS:jdf  
01/26/2016  
Or.Dept:Council  
Document No.: 1211545

Passed by the Council of The City of San Diego on FEB 08 2016, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 08 2016.

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By Stacy Brady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on FEB 08 2016, said ordinance being of the kind and character authorized for passage on its introduction by Section 16 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By Stacy Brady, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20605