

ORDINANCE NUMBER O- 20619 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 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 VII, BY REPEALING SECTION 69 AND ADDING A NEW SECTION 69; BY REPEALING SECTION 71 AND ADDING A NEW SECTION 71; BY REPEALING SECTIONS 71A AND 72; BY ADDING A NEW SECTION 72; BY AMENDING SECTIONS 73 AND 74; AND BY AMENDING ARTICLE XV, BY RETITLING AND AMENDING SECTION 290; ALL RELATING TO THE BUDGET APPROVAL AND APPROPRIATION PROCESS OF 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. O-20603, introduced and adopted on February 8, 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, the Council now desires to submit to the voters at the Municipal Special Election one proposition amending the Charter to update certain of the City's budget and appropriation provisions; and

WHEREAS, the provisions of the Charter dealing with budgeting and appropriation previously had been amended to reflect the Strong Mayor form of government, which resulted in budgeting and appropriation provisions appearing in different parts of the Charter; and

WHEREAS, the proposed Charter amendments will consolidate provisions relating to budgeting and appropriation in Article VII of the Charter, and expand the provisions to more clearly set forth the City's budget approval process; and

WHEREAS, certain Charter sections use the title Auditor and Comptroller when the current title is Chief Financial Officer and Manager where the appropriate designation is Mayor; and

WHEREAS, the amendments were proposed initially by City staff involved with the process; 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 VII, by repealing section 69 and adding a new section 69; by repealing section 71 and adding a new section 71; by repealing sections 71A and 72; by adding a new section 72; by amending sections 73 and 74; and by amending Article XV, by retitling and amending section 290; is hereby

submitted to the qualified voters in the City of San Diego 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:

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**PROPOSITION**

**ARTICLE VII**

**FINANCE**

**~~SECTION 69: FISCAL YEAR AND MANAGER'S ESTIMATE~~**

~~The fiscal year of the City shall begin with the first day of July and shall end with the next succeeding 30th day of June. On or before the first meeting in May of each year the Manager shall prepare and submit to the Council a budget of the expense of conducting the affairs of the City for the ensuing fiscal year. Departments not under the Manager shall submit their annual budget estimates to the Manager, or to such official as he may designate, and in such form as he shall require on or before April 1 for transmittal in proper form by the Manager to the Council. The budget shall include a summary outline of the fiscal policy of the City for the budget year, describing in connection therewith the important features of the budget plan; a general budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income and other means of financing the budget for the ensuing year, contrasted with corresponding figures for the current year. The classification of the estimate shall be as nearly uniform as possible for the main divisions of all Departments and shall furnish necessary detailed fiscal information.~~

~~The Council shall provide for printing a reasonable number of copies of the estimate thus prepared, for examination or distribution to citizens at least fifteen days before final passage. Copies shall also be furnished to the newspapers of the City and to each library thereof which is open to the public.~~

**SECTION 69: ANNUAL BUDGET AND APPROPRIATION**

The fiscal year of the City shall begin on July 1 of each year and shall end on June 30 of the following calendar year. The Mayor is responsible for the preparation of an annual budget, in each fiscal year, for the City and all of its departments. The annual budget shall set forth, in both summary and detail, the projected revenues and expenditures of the City. The budget as proposed by the Mayor and as adopted by the Council shall be balanced such that proposed expenditures shall not exceed projected revenues and any other sources to balance the budget. The process for the preparation and adoption of the budget is as follows:

- (a) The Mayor shall annually prepare a multi-year financial outlook for the general fund projecting anticipated revenues and expenditures in future years as a fiscal planning document and basis for the proposed budget.
- (b) Each Councilmember shall provide a memorandum to the Independent Budget Analyst setting forth the Councilmember's budget priorities early in each calendar year. The Independent Budget Analyst shall analyze the budget priorities of the Councilmembers and prepare a budget priorities resolution for Council consideration. Upon Council adoption of the budget priorities resolution, the resolution shall be sent to the Mayor for consideration in the proposed budget.

- (c) The Mayor shall present the proposed budget to the Council and the public no later than April 15.
- (d) The Council shall hold at least one public hearing on the Mayor's proposed budget. Such hearing may be before the City Council or any of its committees.
- (e) The Mayor shall provide to the Council any necessary revisions to the proposed budget in a timely manner to allow for Council consideration.
- (f) On or before June 15, the Council shall approve the budget as submitted by the Mayor or modify the proposed budget in whole or in part. The Council may increase or decrease any item or add or remove any item provided that the budget must remain balanced.
  - 1) If approved by the Council as proposed by the Mayor, the budget shall become the adopted budget upon the Mayor signing the budget resolution.
  - 2) If modified by the Council, the budget shall be returned to the Mayor as soon as practicable and, in no event more than 24 hours after Council approval.
- (g) The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.
- (h) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor. Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by the Council. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount

approved by the Mayor subject to the balanced budget requirements of this section. In no event may spending proposals not previously included in either of the Mayor's proposed budget or the Council's initial budget resolution be considered as part of a veto override action. The vote of two-thirds of the Council shall be required to override any veto by the Mayor under this section.

- (i) Upon the expiration of the Council's five business day override period, or sooner if the Council so votes, the budget as returned by the Mayor, and to the extent modified thereafter by the Council shall become the adopted budget.
- (j) Both the proposed and adopted budgets shall be made available to the public in any format required by ordinance.
- (k) No later than June 30, the Council shall adopt an Annual Appropriation Ordinance setting forth the legal levels at which the Chief Financial Officer, as the designee of the Mayor, shall control operational and capital project spending. The preparation of the appropriation ordinance, including the form, arrangement and itemization thereof, shall be determined and prescribed by the Chief Financial Officer and the City Attorney. The adopted budget and Salary Ordinance shall be controlling documents in the preparation of the Appropriation Ordinance. In the event that the Council fails to adopt the Appropriation Ordinance prior to the beginning of the new fiscal year the spending controls in the prior year's Appropriation Ordinance shall continue, as modified by the adopted budget.
- (l) The Appropriation Ordinance shall not be subject to veto by the Mayor.
- (m) The City's annual appropriation shall be limited in accordance with the California Constitution.

**SECTION 71: ~~PREPARATION AND PASSAGE OF ANNUAL APPROPRIATION ORDINANCE~~**

~~Upon receipt of the Manager's estimate the Council shall prepare an appropriation ordinance using such estimate as a basis. The form, arrangement and itemization of the appropriation ordinance shall be determined and prescribed by the Auditor and Comptroller, and City Attorney. Provision shall be made by the Council for a minimum of two (2) public hearings upon the appropriation ordinance either before a Committee of the Council or before the Council sitting as a committee of the whole. Following the public hearings the appropriation ordinances shall take the same course in the Council as other ordinances and shall be adopted during the month of July. The Council may reduce or eliminate any new item, may increase any amount or add any item for personal services, contractual services, materials, supplies, and equipment for any Department. However, the appropriation for the general operations of the City excluding water utilities funds, capital improvements, bond interest and redemption, retirement system contributions, grant funded programs, all other special funds in existence prior to the effective date of this section and expenditures to pay judgments or extraordinary claims or to defray the cost of emergency measures as defined in Section 17 of this Charter shall not exceed the prior year's appropriation for general operations of the City, with the stated exclusions, adjusted by no more than three quarters (3/4) of the percentage change in the price index added to any percentage increase in population growth. For purposes of this limitation, the term "percentage change in price index" shall be the percentage change from the first full quarter of the prior calendar year to the first full quarter of the current calendar year in the costs of goods and services purchased by local governments,~~

~~as determined by the City Auditor and Comptroller from information published by United States Department of Commerce or other official government sources. The term “percentage increase in population growth” shall be any percentage increase from the first full quarter of the prior calendar year to the first full quarter of the current calendar year in the total population of the City as estimated by the Planning Director. This limitation shall not apply to any expenditure approved by a majority of the qualified electors of the City voting at a general or special election subsequent to the effective date of this section. In the event that the revenues for the general operations of the City, with the stated exclusions, exceed the appropriation for such operations by more than 5%, such excess shall be used solely for tax reductions or tax refunds in a manner determined by the City Council. Upon final passage, the appropriation ordinance shall be published in the manner provided for the publication of other ordinances.~~

**SECTION 71:        MULTI-YEAR CAPITAL PLAN**

The Mayor shall maintain a current, multi-year capital plan that identifies and prioritizes deferred capital and infrastructure needs of the City and projects the amount of available funding sources over the term of the plan.

**SECTION 71A:    REAPPROPRIATIONS AT BEGINNING OF FISCAL YEAR FOR SALARIES AND MAINTENANCE AND SUPPORT EXPENSES**

~~If at the beginning of any fiscal year the appropriations necessary for the support of the various City offices, departments, services or institutions for such fiscal year shall not~~



~~have been made, the several amounts appropriated in the Annual Appropriation Ordinance for the preceding year for the objects and purposes therein specified, so far as the same shall relate to salaries and wages and maintenance and support expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year's Annual Appropriation Ordinance until the Council shall adopt the Annual Appropriation Ordinance for the new fiscal year; and during such interim the Auditor and Comptroller shall approve the payments necessary for the support of the various City offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year.~~

**SECTION 72: ~~APPROPRIATION ACCOUNTS~~**

~~Accounts shall be kept by the Auditor and Comptroller for each item of appropriation made by the Council. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the transfers made thereto, the unpaid obligations charged against it, and the unencumbered balance to the credit thereof. Upon completion of a project for which specific ordinance appropriation is made, it shall be the duty of the Director of the Department concerned at once to so notify the Auditor and Comptroller by letter of completion and clearance. The Auditor and Comptroller shall thereupon transfer any unexpended balance to the general fund. If after one year from date of approval of such ordinance, the Auditor and Comptroller has not received notice of completion or that the work is not progressing, he shall without further consideration restore the unexpended balance in the item so set up to the general fund.~~

**SECTION 72: MID-YEAR AMENDMENT TO ANNUAL BUDGET**

The Council shall by ordinance set forth the terms and conditions under which the Mayor must propose mid-year amendments to the annual budget.

**SECTION 73: TRANSFER OF APPROPRIATIONS**

Upon the written recommendation of the ~~Manager~~ Mayor, the Council may at any time transfer all or part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated for the same Department or office; provided, however, the Council shall have no authority to transfer all or any part of the salary account during the fiscal year to any other purpose, save and except in the event of a public emergency, and then only for the purpose of insuring the safety and lives and property of the inhabitants of The City of San Diego.

**SECTION 74: APPROPRIATION REQUIRED FOR CITY DEBT**

An appropriation on account of the debt of the municipality, at least equal to the amount or amounts, estimated by the ~~Manager~~ Mayor to be required for the purpose, shall be included in each Annual Appropriation Ordinance passed by the Council. If for any reason the Council fail to include such an appropriation in the Annual Appropriation Ordinance or shall appropriate for the debt of the municipality less than estimated by the ~~Manager~~ Mayor to be required for that purpose, or less than that actually required for that purpose, the ~~Auditor and Comptroller~~ Chief Financial Officer shall nevertheless cause to

be set up, an appropriation account for the full amount so estimated or actually required and shall, notwithstanding any other appropriation made by the Council, transfer to such account out of any moneys of the municipality derived from taxes and paid into the Treasury, such amount or amounts as may be necessary to bring the appropriation for the City debt up to the full amount of the ~~Manager's~~ Mayor's estimate or the sum actually required.

Any taxpayer of the City or owner of any bond thereof may bring suit against the ~~Auditor and Comptroller~~ Chief Financial Officer in the Superior Court to enforce the provisions of this section and if, upon such suit, it be found that the Council has failed to make an appropriation for the full amount estimated by the ~~Manager~~ Mayor and actually required for the City debt and that the ~~Auditor and Comptroller~~ Chief Financial Officer has failed to set up the appropriation account and provide for transfers thereto as required by this section, the court shall order the establishment of such appropriation account and the necessary transfers thereto as hereinbefore provided. And such action by the court shall have the same force and effect in regard to appropriations for the City debt as though taken by the Council in the Annual Appropriation Ordinance.

## ARTICLE XV

### STRONG MAYOR FORM OF GOVERNANCE

#### **SECTION 290: COUNCIL CONSIDERATION OF SALARY ORDINANCE AND BUDGET; ~~SPECIAL VETO POWER~~**

~~(a)~~ No later than April 15 of each year, the Council shall introduce a Salary Ordinance fixing the salaries of all officers and employees of the City in accordance with Charter

section 70. The Salary Ordinance shall be proposed by the Mayor for Council introduction in a form consistent with any existing Memorandum of Understandings with recognized labor organizations, or otherwise in conformance with procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City. Upon introduction, the Salary Ordinance shall be transmitted to the Mayor.

- ~~(1)~~ (a) The Mayor shall, within five business days of receipt of the Salary Ordinance introduced by Council, either approve the ordinance as introduced or veto all or any specific provision within the ordinance.
- ~~(2)~~ (b) The Salary Ordinance shall be returned to the Council within the five business day period either approved by the Mayor or accompanied by a statement explaining any reasons for the veto. The Council shall thereafter have ten business days within which to override the veto and pass the Salary Ordinance as introduced or otherwise accept the changes proposed by the Mayor in the veto statement and pass the ordinance at second reading with the changes proposed by the Mayor.
- ~~(3)~~ (c) The Salary Ordinance passed by Council shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.
- ~~(b)~~ Prior to June 15 of each year, the Council shall satisfy its obligations under Charter section 71 by holding a minimum of two public hearings to consider the budget submitted by the Mayor. Prior to the June 15 deadline, and after at least two such public hearings have been held, the Council shall pass a resolution that

~~either approves the budget as submitted by the Mayor or modifies the budget in whole or in part. The Council's modifications may call for adding new items or for increasing or decreasing any item.~~

~~(1) — If approved by the Council as proposed by the Mayor, the budget shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.~~

~~(2) — If modified by the Council, the budget shall be returned to the Mayor as soon as practicable.~~

~~(A) — The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.~~

~~(B) — The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor pursuant to section 290(b)(2)(A). Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden as provided in section 285. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71.~~

~~(C) — Upon the expiration of the Council's five business day period, or sooner if the Council by five votes so directs, the budget as returned by the Mayor, and to the extent modified thereafter by the~~

~~Council, shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.~~

~~(e) — As required by section 71, the Council shall adopt the Annual Appropriation Ordinance during the month of July.~~

~~(d) — The Mayor shall have no power of veto over the Annual Appropriation Ordinance.~~

**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 THE BUDGET AND APPROPRIATIONS PROCESS FOR THE CITY OF SAN DIEGO.</b> Shall the City Charter be amended to update the process related to budgeting and appropriating funds, to consolidate provisions that appeared throughout the Charter and to clarify the approval process for the City budget?	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.

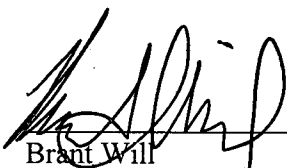
Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

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  \_\_\_\_\_  
Brant Will  
Deputy City Attorney

BCW:SBS:jdf  
02/22/16  
03/03/16 REV.  
Or.Dept:Charter Review Committee  
Doc. No.: 1223259\_2

Passed by the Council of The City of San Diego on MAR 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 MAR 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 , Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on MAR 08 2016, said ordinance being of the kind and character authorized for passage on its introduction by Section 295 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.

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20619