

ORDINANCE NUMBER O- 20724 (NEW SERIES)

DATE OF FINAL PASSAGE AUG 02 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 GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE III, SECTION 23, RELATING TO THE TIMING OF BALLOT MEASURE ELECTIONS.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (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 San Diego Ordinance O-20671, introduced and adopted on July 11, 2016, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 8, 2016, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, Charter section 8 states that the City's Election Code Ordinance in the San Diego Municipal Code (Election Code Ordinance) shall provide "an adequate and complete procedure to govern municipal elections" and that "All elections provided for by this charter, whether for choice of officers or submission of questions to the voters, shall be conducted in the manner prescribed by said election code ordinance"; and

WHEREAS, San Diego Charter section 23, enacted in 1941, confirms the California Constitution's requirement that "The right to recall municipal officers and the powers of the initiative and referendum are hereby reserved to the people of the City;" and

WHEREAS, Charter section 23 further states that the City's Election Code Ordinance shall provide "an expeditious and complete procedure for the exercise by the people of the initiative, referendum and recall"; and

WHEREAS, other than the "expeditious" clause in Charter section 23, the timing of the submission of ballot measures to the voters is not discussed in the Charter, but in the Election Code Ordinance; and

WHEREAS, the City's Election Code Ordinance, Section 27.0101, "Purpose and Intent," states that its purpose "is to provide an expeditious and complete procedure for the people's right to exercise the vote. If there is any ambiguity or contradiction between the provisions of general law and the provisions of this article, the provisions of this article shall govern"; and

WHEREAS, the City's Election Code Ordinance, Section 27.0502, "Submission of Ballot Measures at City-wide Elections," provides that "Bond measures and other measures may be submitted at any City-wide Primary or General Election, or at any City-wide special election held for that purpose"; and

WHEREAS, the Council now desires to amend Charter section 23 to add provisions that potentially would change the timing of certain ballot measure elections governed by the Charter and Election Code Ordinance; and

WHEREAS, the proposal to add timing requirements for certain ballot measures was proposed by a citizens' organization and heard by the Council's Rules Committee on June 15, 2016 and by the Council on July 11, 2016; and

WHEREAS, the Council voted to direct preparation of a measure to amend the Charter to provide that citizens' initiative and referendum measures are required to be heard at Municipal General Elections, which are held in November, and not at Municipal Primary Elections, which are held in June; and

WHEREAS, the Council also voted to direct that the measure be drafted in conformance with California's statutory and constitutional laws; and

WHEREAS, California Constitution, Article 2, Section 8(c), requires that statewide initiative measures shall be submitted to the voters "at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election," and that "The Governor may call a special statewide election for the measure"; and

WHEREAS, California Constitution, Article 2, Section 9(c), requires that statewide referendum measures shall be submitted to the voters "at the next general election held at least 131 days after it qualifies or at a special statewide election held prior to that general election," and that "The Governor may call a special statewide election for the measure"; and

WHEREAS, California Constitution, Article 2, Section 11(a), provides that local initiative and referendum powers may be exercised by city and county voters as provided by the Legislature or by charter; and

WHEREAS, as the California Constitution directs for statewide measures, the Legislature has provided methods to qualify city initiative and referendum measures for submission to the voters at a special election occurring prior to the next general election; and

WHEREAS, California cities, whether governed by state law or charter, currently provide voters methods to qualify city initiative and referendum measures for submission to the voters at a special election occurring prior to the next general election; and

WHEREAS, a city may provide greater powers of initiative and referendum to the voters by charter; however, where the California Constitution reserves to the people more expansive powers of initiative and referendum, the Constitution will control; and

WHEREAS, this ordinance provides a proposed Charter amendment that incorporates Council direction as well as the provision that such measures also may be heard at a special

election “held prior to that general election,” in conformance with the practice of California cities statewide; and

WHEREAS, municipal ballot measures in the City of San Diego are, by definition, all placed on Municipal Special Election ballots, which in turn are consolidated with either primary or general election ballots, or voted on alone; and

WHEREAS, the Council’s proposal, on its own motion, of a Charter amendment is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), and 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 measure amending the City Charter by amending Article III, section 23, related to the timing of certain ballot measure elections, is hereby submitted to the qualified voters at the Municipal Special Election to be held on November 8, 2016, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

MEASURE

ARTICLE III

LEGISLATIVE POWER

SECTION 23: INITIATIVE, REFERENDUM AND RECALL

The right to recall municipal officers and the powers of the initiative and referendum are hereby reserved to the people of the City. Ordinances may be initiated; and referendum may be exercised on any ordinance passed by the Council except an ordinance which by the provisions of this Charter takes effect immediately upon its passage; and any elective officer may be recalled from office. The Council shall include in the election code ordinance required to be

adopted by Section 8, Article II, of this charter, an expeditious and complete procedure for the exercise by the people of the initiative, referendum and recall, including forms of petitions; provided that the number of signatures necessary on petitions for the initiation of an ordinance for the consideration of the Council shall be three percent of the registered voters of the City at the last general City election; that for the direct submission of a measure to the people it shall require a petition signed by ten per cent of the registered voters of the City at the last general City election; that for a referendum upon an ordinance passed by the Council it shall require a petition signed by five per cent of the registered voters of the City at the last general election; and that for the recall of an elected officer who is elected by all of the electors of the City, it shall require a petition signed by fifteen per cent of the registered voters of the City at the last general City election; and that for the recall of a Council member other than the Mayor it shall require a petition signed by fifteen percent of the registered voters of the Councilmanic District at the last general City election.

Initiative measures and referendum measures that qualify for the ballot after the people's petition process, and in compliance with provisions of this Charter and the City's Election Code Ordinance, shall be submitted to the electorate at a Municipal Special Election consolidated with the next City-wide Municipal General Election ballot on which the measures legally can be placed, or at a City-wide Municipal Special Election held prior to that general election.

Submission of such measures to a general election ballot shall be considered to meet the Charter requirement of an expeditious procedure for the people's exercise of their constitutionally reserved powers of initiative and referendum.

All other municipal ballot measures may be submitted to the electorate at a Municipal Special Election that may be consolidated with the next City-wide Municipal Primary Election or Municipal General Election, or at any City-wide special election held for that purpose.

Charter amendment measures and the timing of their submission to the electorate are governed by California law.

END OF MEASURE

Section 2. The measure 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:

MEASURE ____ . CHARTER AMENDMENT REQUIRING CITIZENS’ INITIATIVE AND REFERENDUM MEASURES TO BE PLACED ON NOVEMBER GENERAL ELECTION BALLOTS, UNLESS THE COUNCIL DECIDES TO SUBMIT THEM TO VOTERS EARLIER. Shall the Charter be amended to require qualified citizens’ initiative and referendum measures to be submitted to voters on the next November general election ballot and not at a June primary election, unless the Council chooses to submit the measure to voters prior to that election?	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 measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

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

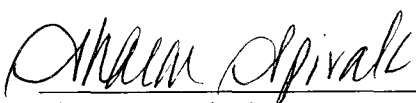
Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

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 AS TO FORM: JAN I. GOLDSMITH, City Attorney

By 
Sharon B. Spivak
Deputy City Attorney

SBS:jdf
07/27/16
Or.Dept: Council
Doc. No.: 1329183

Passed by the Council of The City of San Diego on AUG 0 2 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 AUG 0 2 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 Aty Brady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on AUG 0 2 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 Aty Brady, Deputy

<p>Office of the City Clerk, San Diego, California</p> <p>Ordinance Number O- <u>20724</u></p>
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