

#53
4/25/17

(O-2017-125)

ORDINANCE NUMBER O- 20820 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 05 2017

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 27.0103 AND RETITLING AND AMENDING SECTION 27.0108; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 5 BY AMENDING SECTION 27.0502; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 10 BY RETITLING AND AMENDING SECTION 27.1037 AND AMENDING SECTION 27.1050; AND AMENDING CHAPTER 2, ARTICLE 7, DIVISION 11 BY RETITLING AND AMENDING SECTION 27.1133, ALL RELATING TO CANDIDATE AND BALLOT MEASURE ELECTIONS.

WHEREAS, on November 8, 2016, City of San Diego (City) voters approved Measure K and Measure L, which amended the San Diego Charter (Charter) to change procedures for candidate and ballot measure elections in the City; and

WHEREAS, Measure K was titled, "Charter Amendment Requiring Run-Off Election for the Offices of Mayor, City Attorney and Councilmembers;" and

WHEREAS, Measure K amended the Charter to eliminate the provision under which a candidate is elected to City office (the Mayor, City Attorney or a Councilmember) if the candidate receives more than 50% of the vote in a June primary election, and added a requirement for a run-off election in November between the two candidates who receive the most votes in the primary; and

WHEREAS, Measure K included an exception if only one candidate qualified for the June primary for a particular office; and

WHEREAS, Measure L was titled, "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;" and

WHEREAS, Measure L added language to the Charter requiring 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 decides to submit a particular measure to voters on an earlier ballot; and

WHEREAS, the City's Election Code (San Diego Municipal Code Chapter 2, Article 7) now requires amendments to conform its provisions to the new procedures approved by voters in the Charter amendments, which are now part of Charter sections 10 and 23; and

WHEREAS, the Council now desires to approve San Diego Municipal Code amendments to bring the City's Election Code into compliance with the new Charter procedures; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 7, Division 1 of the San Diego Municipal Code is amended by amending section 27.0103 and retitling and amending section 27.0108, to read as follows:

Division 1: Elections - General

§27.0103 Definitions

Terms specific to this article are defined in this section. Defined terms are noted by italics.

"Ballot Materials" to *"Candidate"* [No change in text.]

"City-wide General Election" means either of the following:

- (a) the *election* at which the Mayor and City Attorney are elected, unless such officers are elected at the *City-wide Primary Election* because the *candidate* was the sole qualified *candidate* for the office in the *City-wide Primary Election*; or

- (b) a City-wide municipal *election* consolidated with the statewide *election* on the first Tuesday after the first Monday in November of each even-numbered year.

“*City-wide Primary Election*” means the *election* at which the Mayor and City Attorney are nominated, or elected if a *candidate* was the sole qualified *candidate* for the office in the *City-wide Primary Election*.

“*Circulator*” to “*Council*” [No change in text.]

“*District General Election*” means an *election* at which *Council candidates* are elected, unless such officers are elected at the *District Primary Election* because a *candidate* was the sole qualified *candidate* for the office in the *District Primary Election*.

“*District Primary Election*” means an *election* at which *Council candidates* are nominated, or elected if a *candidate* was the sole qualified *candidate* for the office in the *District Primary Election*.

“*Election*” [No change in text.]

“*Elective Office*” or “*Elective Officer*” includes the office of the Mayor, Councilmember, or City Attorney of the City of San Diego. It may include the office of a member of the governing board of the San Diego Unified School District.

“*Enforcement Authority*” to “*Voter Pamphlet*” [No change in text.]

§27.0108 Effect of Vote at Primary Election

- (a) All *elective officers* of the City shall be nominated at a *District* or *City-wide Primary Election*.

- (b) The two *candidates* receiving the highest number of votes for a particular *elective office* at the *District* or *City-wide Primary Election* shall be the *candidates*, and only *candidates*, for such office and the names of only those two *candidates* shall be printed upon the ballots to be used at the *District* or *City-wide General Election*.
- (c) If only one *candidate* has qualified for the ballot in the *District* or *City-wide Primary Election* for a particular *elective office*, the sole qualified *candidate* receiving votes in that *election* shall be deemed to be, and declared by the Council to be, elected to such office after the *City-wide Primary Election* results are certified.

Section 2. That Chapter 2, Article 7, Division 5 of the San Diego Municipal Code is amended by amending section 27.0502, to read as follows:

Division 5: Ballots for Measures

§27.0502 Submission of Ballot Measures at City-wide Elections

- (a) Initiative *measures* and referendum *measures* that qualify for the ballot after the people's *petition* process, and in compliance with the San Diego Charter and the Election Code, shall be submitted to the electorate at:
 - (1) a *special election* consolidated with the next *City-wide General Election* ballot on which the *measures* legally can be placed, or
 - (2) a *special election* held prior to the next *City-wide General Election*.The *special election* may be consolidated with the next *City-wide Primary Election* or may be held as a separate *special election* called for the purpose of voting on the matter.

- (b) All other municipal ballot *measures* may be submitted to the electorate at a *special election* that may be consolidated with the next *City-wide Primary Election* or *City-wide General Election*, or may be held as a separate *special election* held for that purpose.

Section 3. That Chapter 2, Article 7, Division 10 of the San Diego Municipal Code is amended by retitling and amending section 27.1037, and by amending section 27.1050, to read as follows:

Division 10: Initiative

§27.1037 Time for Special Election for Initiative Measures

Initiative *measures* that qualify for the ballot after the people's *petition* process, and in compliance with the San Diego Charter and the Election Code, shall be submitted to the electorate at:

- (a) a *special election* consolidated with the next *City-wide General Election* ballot on which the *measures* legally can be placed, or
- (b) a *special election* held prior to the next *City-wide General Election*. The *special election* may be consolidated with the next *City-wide Primary Election* or may be held as a separate *special election* called for the purpose of voting on the matter.

§27.1050 Action by Petition to Amend or Repeal Initiated Legislative Acts

- (a) A *proponent* seeking to repeal, rescind or amend any legislative act previously proposed by an initiative *petition* and adopted by the *voters* shall use the procedures outlined in this division regarding an initiative *petition* containing the signatures of at least ten percent of the *voters* of

The City of San Diego. Should such a *petition* be presented to the City *Council*, then the City *Council* shall within ten business days of the date of presentation:

- (1) adopt a resolution of intention to submit the matter to the *voters* at a *special election*; and
 - (2) direct the City Attorney to prepare an ordinance calling a *special election* to place the matter on the ballot.
- (b) The timing of the *special election* will follow the procedure set forth in section 27.1037.

Section 4. That Chapter 2, Article 7, Division 11 of the San Diego Municipal Code is amended by retitling and amending section 27.1133, to read as follows:

Division 11: Referendum

§27.1133 Time for Special Election for Referendum Measures

Referendum *measures* that qualify for the ballot after the people's *petition* process, and in compliance with the San Diego Charter and the Election Code, shall be submitted to the electorate at:

- (a) a *special election* consolidated with the next *City-wide General Election* ballot on which the *measures* legally can be placed, or
- (b) a *special election* held prior to the next *City-wide General Election*. The *special election* may be consolidated with the next *City-wide Primary Election* or may be held as a separate *special election* called for the purpose of voting on the matter.

Section 5. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By Sharon B. Spivak
Sharon B. Spivak
Deputy City Attorney

SBS:jdf
04/04/17
Or.Dept: City Clerk
Doc. No.: 1445707

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 25 2017.

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved: 5/5/17
(date)

[Signature]
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

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Article 7: Elections, Campaign Finance and Lobbying

Division 1: Elections - General

§27.0103 Definitions

Terms specific to this article are defined in this section. Defined terms are noted by italics.

“Ballot Materials” to *“Candidate”* [No change in text.]

“City-wide General Election” means either of the following:

- (a) the *election* at which the Mayor and City Attorney are elected, unless such officers are elected at the *City-wide Primary Election* because the candidate was the sole qualified candidate for the office in the City-wide Primary Election; or
- (b) a City-wide municipal *election* consolidated with the statewide *election* on the first Tuesday after the first Monday in November of each even-

numbered year.

“*City-wide Primary Election*” means the *election* at which the Mayor and City Attorney are nominated, or elected if a *candidate* was the sole qualified *candidate* for the office in the *City-wide Primary Election*.

“*Circulator*” to “*Council*” [No change in text.]

“*District General Election*” means an *election* at which *Council candidates* are elected, unless such officers are elected at the *District Primary Election* because a *candidate* was the sole qualified *candidate* for the office in the *District Primary Election*.

“*District Primary Election*” means an *election* at which *Council candidates* are nominated, or elected if a *candidate* was the sole qualified *candidate* for the office in the *District Primary Election*.

“*Election*” [No change in text.]

“*Elective Office*” or “*Elective Officer*” ~~means~~ includes the office of the Mayor, Councilmember, or City Attorney of the City of San Diego. It may include the office of a member of the governing board of the San Diego Unified School District.

“*Enforcement Authority*” to “*Voter Pamphlet*” [No change in text.]

§27.0108 Effect of Majority Vote at Primary Election

(a) All *elective officers* of the City shall be nominated at a *District* or *City-wide Primary Election*. ~~In the event one *candidate* receives the majority of votes cast for all *candidates* for nomination to a particular *elective office*, the candidate receiving the majority of votes shall be~~

~~deemed to be, and declared by the City Council to be, elected to such office.~~

- (b) The two candidates receiving the highest number of votes for a particular elective office at the District or City-wide Primary Election shall be the candidates, and only candidates, for such office and the names of only those two candidates shall be printed upon the ballots to be used at the District or City-wide General Election.
- (c) If only one candidate has qualified for the ballot in the District or City-wide Primary Election for a particular elective office, the sole qualified candidate receiving votes in that election shall be deemed to be, and declared by the Council to be, elected to such office after the City-wide Primary Election results are certified.

Division 5: Ballots for Measures

§27.0502 Submission of Ballot Measures at City-wide Elections

- (a) Initiative measures and referendum measures that qualify for the ballot after the people's petition process, and in compliance with the San Diego Charter and the Election Code, shall be submitted to the electorate at:
- (1) a special election consolidated with the next City-wide General Election ballot on which the measures legally can be placed, or
 - (2) a special election held prior to the next City-wide General Election.
- The special election may be consolidated with the next City-wide Primary Election or may be held as a separate special election called for the purpose of voting on the matter.

- (b) All other municipal ballot measures may be submitted to the electorate at a special election that may be consolidated with the next City-wide Primary Election or City-wide General Election, or may be held as a separate special election ~~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.~~

Division 10: Initiative

§27.1037 Time for Special Election for Initiated Legislative Act Initiative Measures

~~A special election for an initiated legislative act may be consolidated with the next City-wide Primary or City-wide General Election at which the matter can be placed on the ballot; or a separate special election may be called for the purpose of voting on the matter.~~

Initiative measures that qualify for the ballot after the people's petition process, and in compliance with the San Diego Charter and the Election Code, shall be submitted to the electorate at:

- (a) a special election consolidated with the next City-wide General Election ballot on which the measures legally can be placed, or
- (b) a special election held prior to the next City-wide General Election. The special election may be consolidated with the next City-wide Primary Election or may be held as a separate special election called for the purpose of voting on the matter.

§27.1050 Action by Petition to Amend or Repeal Initiated Legislative Acts

- (a) A *proponent* seeking to repeal, rescind or amend any legislative act previously proposed by an initiative *petition* and adopted by the *voters* shall use the procedures outlined in this division regarding an initiative *petition* containing the signatures of at least ten percent of the *voters* of The City of San Diego. Should such a *petition* be presented to the City *Council*, then the City *Council* shall within ten business days of the date of presentation:
- (1) adopt a resolution of intention to submit the matter to the *voters* at a *special election*; and
 - (2) direct the City Attorney to prepare an ordinance calling a *special election* to place the matter on the ballot.
- (b) The timing of the special election will follow the procedure set forth in section 27.1037 ~~may be consolidated with the next *City-wide Primary* or *City-wide General Election* at which the matter can be placed on the ballot; or a *special election* may be called for the purpose of voting on the matter.~~

Division 11: Referendum

§27.1133 Time for Special Election for Referended Legislative Act

Referendum Measures

~~A *special election* for a referended legislative act shall be consolidated with the next *City-wide Primary* or *City-wide General Election* at which the matter can be~~

~~placed on the ballot; or at a separate *special election* called prior to that time for the purpose of voting on the matter.~~

Referendum *measures* that qualify for the ballot after the people's *petition* process, and in compliance with the San Diego Charter and the Election Code, shall be submitted to the electorate at:

- (a) a *special election* consolidated with the next *City-wide General Election* ballot on which the *measures* legally can be placed, or
- (b) a *special election* held prior to the next *City-wide General Election*. The *special election* may be consolidated with the next *City-wide Primary Election* or may be held as a separate *special election* called for the purpose of voting on the matter.

SBS:jdf
04/04/17
Or.Dept:City Clerk
Doc. No.: 1445708

Passed by the Council of The City of San Diego on APR 25 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 05 2017

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 [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on APR 11 2017, and on MAY 05 2017.

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 [Signature], Deputy

Office of the City Clerk, San Diego, California

20820
Ordinance Number O-_____