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11/13/18

(O-2019-31)
COR. COPY

ORDINANCE NUMBER O- 21009 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 20 2018

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.0101, 27.0103, AND 27.0107; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 3 BY AMENDING SECTIONS 27.0301, 27.0305, AND 27.0315; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 5 BY AMENDING SECTION 27.0501; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 7 BY AMENDING SECTIONS 27.0701, 27.0702, 27.0703, 27.0704, 27.0705, 27.0706, 27.0707, AND 27.0709; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 8 BY AMENDING SECTIONS 27.0802 AND 27.0803; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 9 BY AMENDING SECTIONS 27.0902 AND 27.0907; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 27 BY AMENDING SECTION 27.2727; AND AMENDING CHAPTER 2, ARTICLE 7, BY ADDING NEW DIVISION 30, SECTIONS 27.3001, 27.3002, 27.3003, 27.3004, 27.3005, 27.3006, 27.3007, 27.3008, 27.3009, 27.3010, 27.3011, 27.3012, AND 27.3013, ALL RELATING TO VACANCIES IN ELECTIVE OFFICE AND REMOVAL OF ELECTIVE OFFICERS FOR CAUSE.

WHEREAS, on November 8, 2016, San Diego voters approved Proposition E, which amended the City Charter (Charter) to update certain provisions relating to qualifications, vacancies, removal, and succession of elective officers; and

WHEREAS, the Charter amendments followed a San Diego County Grand Jury report written after the City's mayor resigned in 2013, identifying the lack of procedures in the Charter to remove an elective officer; and

WHEREAS, the City Council (Council) proposed the Charter amendments, which were approved by the Council's Charter Review Committee and Rules Committee before being submitted to voters at the November 8, 2016 Municipal Special Election; and

WHEREAS, Charter section 301 states that the Council, by ordinance, “shall provide a complete procedure for special elections to remove and replace elective officers by a majority of voters,” and this ordinance provides that procedure; NOW, THEREFORE,

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

Section 1. Chapter 2, Article 7, Division 1 of the San Diego Municipal Code is amended by amending sections 27.0101, 27.0103, and 27.0107, to read as follows:

§27.0101 Purpose and Intent

The purpose and intent of Chapter 2, article 7, 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. The divisions relating to initiative, referendum, removal, and recall are exclusive as required by the Charter.

§27.0103 Definitions

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

“*Ballot Materials*” through “*Board of Supervisors*” [No change in text.]

“*Candidate*” means any individual who

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

(d) is a *City elective officer* who becomes the subject of a recall or removal *election*.

- (1) A City *elective officer* becomes the subject of a recall *election* on the date a notice of intention to circulate a recall *petition* is published under the recall provisions of this article.
- (2) A City *elective officer* becomes the subject of a removal *election* on the date the *Council* adopts an ordinance calling a *special election* for the purpose of submitting to the *voters* a proposition to remove and replace the *City elective officer*.

“*City-wide General Election*” through “*Registrar*” [No change in text.]
“*Special Election*” means any *election* other than a *District* or *City-wide Primary Election*, or *District* or *City-wide General Election*. It includes all *elections* to consider ballot *measures* as well as *elections* to fill vacancies in *elective office* and recall and removal *elections*.

“*Voter*” through “*Voter Pamphlet*” [No change in text.]

§27.0107 Calling of Elections

- (a) through (b) [No change in text.]
- (c) An ordinance calling a *special election* to remove and replace an *elective officer* shall require the affirmative vote of at least seven votes of the nine-member *Council*.

Section 2. Chapter 2, Article 7, Division 3 of the San Diego Municipal Code is amended by amending sections 27.0301, 27.0305, and 27.0315, to read as follows:

§27.0301 General Provisions for Write-in Candidates

Write-in *candidates* are permitted only in *District Primary Elections*, *City-wide Primary Elections*, primary *special elections*, recall *elections*, and removal

elections called by the *Council* under section 27.0107 of this article. Write-in candidates are not permitted in *District General Elections*, *City-wide General Elections*, or run-off *special elections*.

§27.0305 Time to Obtain Nomination Papers for Write-in Candidates

Nomination papers for a write-in candidate in a *District Primary Election*, a *City-wide Primary Election*, a primary *special election*, a recall *election*, or a removal *election* may be obtained from the *Clerk* no earlier than the first business day after the close of regular nominations for that *election*.

§27.0315 Time for Submitting Nomination Papers of Write-in Candidates to Clerk

(a) Except for the Statement and Affidavit of Write-in Nominee filed pursuant to section 27.0306, nomination papers for a write-in candidate in a *District Primary Election*, *City-wide Primary Election*, primary *special election*, recall *election*, or removal *election* shall be submitted for filing in the Office of the *Clerk* not later than fourteen calendar days prior to the date of the *election*.

(b) [No change in text.]

Section 3. Chapter 2, Article 7, Division 5 of the San Diego Municipal Code is amended by amending sections 27.0501, to read as follows:

§27.0501 Purpose and Intent

The purpose and intent of this division is to clarify and consolidate all provisions for ballot *measures* in one division to better enable administration of these procedures and to provide for public participation in the process. For purposes of

this division, a *measure* does not include a measure to recall or remove an *elective officer*.

Section 4. Chapter 2, Article 7, Division 7 of the San Diego Municipal Code is amended by amending sections 27.0701, 27.0702, 27.0703, 27.0704, 27.0705, 27.0706, 27.0707 and 27.0709, to read as follows:

§27.0701 Purpose and Intent

The Charter provides that if a vacancy occurs in the office of the Mayor, City Attorney, or a *Council* district, and there is one year or less remaining in the term, the *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 *Council* to call a *special election* to fill the vacancy. The purpose and intent of this division is to establish uniform provisions for filling a vacancy in any *elective office*.

§27.0702 Reason for Vacancy

A vacancy in *elective office* occurs as provided by the Charter.

§27.0703 Date of Vacancy

- (a) [No change in text.]
- (b) If a vacancy occurs for any reason other than resignation, recall, or removal, the date of the vacancy will be the date of adoption of the *Council's* Declaration of Vacancy, as set forth in section 27.0704.

§27.0704 Council to Adopt Declaration of Vacancy

As soon as it is known that a vacancy exists in any *elective office* for any reason other than resignation, recall, or removal, the *Council* shall adopt a Declaration of

Vacancy at its next regularly scheduled meeting, or at a special meeting called for that purpose. The Declaration of Vacancy shall include the name of the *elective office* that is vacant and the reason for the vacancy.

§27.0705 Alternative of Appointment or Election

As soon as it is known that there will be a vacancy in any *elective office* for any reason other than a successful recall or removal *election*, the *Council's* decision to fill the vacancy by appointment or *special election* or at the next regularly scheduled municipal *election* shall be determined by the length of time remaining in the term of office, in compliance with Charter sections 12, 40, and 265.

§27.0706 Letter of Resignation May be Withdrawn

A letter of resignation from an elective officer that includes an effective date may be withdrawn by the *elective officer* in writing if that request is filed with the *Clerk* as follows:

- a) For a resignation causing a vacancy that the Charter requires to be filled by an *election*, no later than the business day before the *Council* calls a *special election* pursuant to Section 27.0902; or
- b) For a resignation causing a vacancy that the Charter requires to be filled by appointment, no later than the deadline established by the *Clerk* for filing appointment application forms pursuant to Section 27.0802.

§27.0707 Procedures to Fill Vacancy

- (a) When a vacancy is to be filled by appointment, the *Council* shall fill such vacancy in accordance with the provisions set forth in Division 8 of this article.

- (b) When a vacancy is to be filled by *special election*, the *Council* shall fill such vacancy in accordance with the provisions set forth in Division 9 of this article.
- (c) When a vacancy occurs because of a successful recall or removal *election*, the *Council* shall fill the vacancy in accordance with the provisions set forth in the Division 27 of this article regarding recall and Division 30 of this article regarding removal.

§27.0709 Term of Office

- (a) The term of office for an individual elected to fill a vacancy in the office of the Mayor, City Attorney, or a *Council* district pursuant to Division 9 of this article shall commence at the time the *Council* adopts the resolution declaring the results of such *election* to the vacant office, and shall expire at 10:00 a.m. on tenth day of December following the next *District General Election* or *City-wide General Election* to fill that office.
Whenever the tenth day of December falls on a weekend or holiday, the term of office shall expire at 10:00 a.m. on the next calendar day that is not a weekend or a holiday.
- (b) The term of office for an individual appointed to fill a vacancy in the office of the Mayor, City Attorney, or a *Council* district pursuant to Division 8 of this article shall commence at the time the *Council* adopts the resolution appointing that officer to fill the vacancy, and shall expire at 10:00 a.m. on tenth day of December following the *District General Election* or *City-wide General Election* to fill that office. Whenever the

tenth day of December falls on a weekend or holiday, the term of office shall expire at 10:00 a.m. on the next calendar day that is not a weekend or a holiday.

- (c) The *Clerk* or other qualified individual shall administer the oath of office to the elected or appointed officer at the time the term of office begins.

Section 5. Chapter 2, Article 7, Division 8 of the San Diego Municipal Code is amended by amending sections 27.0802 and 27.0803, to read as follows:

§27.0802 Deadline for Filing Application Forms

- (a) If a vacancy exists by any reason other than a successful recall or removal *election*, the deadline for applicants to file application forms with the *Clerk* shall be fourteen calendar days after the date of the vacancy, as determined by Section 27.0703(b).
- (b) If a vacancy exists or will exist by reason of a resignation, the deadline for filing application forms with the *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) [No change in text.]

§27.0803 Notice to be Published by Clerk

- (a) If a vacancy exists by any reason other than a successful recall or removal *election*, and the *elective office* is to be filled by appointment, the *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 (Mayor, City Attorney, or for a specific Councilmember). 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 by reason of a resignation, the *Clerk* shall publish within a reasonable time the following notice:

A vacancy exists (or will exist) in the office of (Mayor, City Attorney, or Councilmember, 1st through 9th 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.

Section 6. Chapter 2, Article 7, Division 9 of the San Diego Municipal Code is amended by amending sections 27.0902 and 27.0907, to read as follows:

§27.0902 Special Election to be Called

If a vacancy occurs in the office of the Mayor, City Attorney, or a *Council* district for any reason other than a successful recall or removal *election*, and the vacancy is to be filled by *election*, the *Council* shall promptly call a *special election* to be held within ninety calendar days of the vacancy, unless there is a municipal, statewide, or countywide *election* scheduled to be held within 180 calendar days of the vacancy. If there is a municipal, statewide, or countywide *election* scheduled to be held within 180 calendar days of the vacancy, the *Council* may consolidate the *special election* with that *election*.

§27.0907 Date to Assume Office

A *candidate* elected to the office of the Mayor, City Attorney, or a *Council* district, at either the *special election* or at the special run-off *election* called by the *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 *Council* adopts the resolution declaring the results of such *election* to the vacant office.

Section 6. Chapter 2, Article 7, Division 27 of the San Diego Municipal Code is amended by amending section 27.2727, to read as follows:

§27.2727 Cancellation of Election if Office Becomes Vacant

- (a) If a vacancy in the position occupied by the official whose recall is sought occurs, from any cause, after the *Clerk* files the certificate of sufficiency and with legally sufficient time prior to the *election*, the *Council* shall

cancel the *election* when it adopts the Declaration of Vacancy under Section 27.0704.

- (b) If there is not legally sufficient time to cancel the *election*, the *Clerk* shall not initiate a canvass or certify the results for the *election* to recall the official under Section 27.0411 and the *election* to recall the official will be void.

Section 7. Chapter 2, Article 7 of the San Diego Municipal Code is amended by adding new Division 30 and by adding new sections 27.3001, 27.3002, 27.3003, 27.3004, 27.3005, 27.3006, 27.3007, 27.3008, 27.3009, 27.3010, 27.3011, 27.3012 and 27.3013, to read as follows:

Division 30: Removal for Cause

§27.3001 Elective Officers Subject to Removal for Cause

- (a) The Mayor and City Attorney may be removed for cause by a majority of the votes cast in the removal election by *City voters*.
- (b) A Councilmember may be removed for cause by a majority of the *voters* in the appropriate district.
- (c) Removal proceedings shall not be initiated if the *elective officer's* term will end within six months of the *elected officer's* criminal conviction malfeasance in office or a court's adjudication of dereliction of duty.

§27.3002 Effect of Recall

Removal proceedings under this division shall be suspended any time a recall *petition* is deemed sufficient by the *Clerk*, as provided by the recall provisions of this article.

§27.3003 Cause for Removal

An *elective officer* is subject to removal for cause for dereliction of duty and malfeasance in office, as provided by the Charter.

§27.3004 Special Election May be Called

Upon notification from the *Clerk* of an *elective officer's* criminal conviction for malfeasance in office or adjudication of dereliction of duty, the *Council* may call a *special election*, as provided by the Charter.

§27.3005 Time for Special Election

- (a) If a *special election* is called under this division, it shall be held not less than 90 days after adoption of the ordinance calling the *special election* and not later than 180 days after such adoption.
- (b) For the Mayor and City Attorney:

If all *City voters* are entitled to vote at any other *election* scheduled within 180 days from the date that the notice of conviction or court adjudication is presented to the *Council*, the *Council* may, at its discretion, submit the removal and replacement ballots to *voters* at that *election*.
- (c) For a Councilmember:

If all *district voters* are entitled to vote at any other *election* scheduled within 180 days from the date that the notice of conviction or court adjudication is presented to the *Council*, the *Council* may, at its discretion, submit the removal and replacement ballots to *voters* at that *election*.

§27.3006 Removal Election to Conform to Other Elections

The *Clerk* shall conduct the removal *election*, including the nomination of *candidates* to succeed the *elective officer* whose removal is sought, in a manner conforming with other municipal *elections* to the extent practicable.

§27.3007 Content of Removal Ballots

Removal ballots shall contain the name and office of the *elective officer* whose removal is sought and the names of the *candidates* who have been nominated to succeed the *elective officer* whose removal is sought. A statement of the basis of the dereliction of duty or malfeasance in office constituting cause for removal shall be printed on the sample ballot and the official ballot or, at the discretion of the *Clerk*, printed separately and included in a pamphlet to be mailed with the sample ballot.

§27.3008 Reelection or Reappointment Prohibited for One Year

A *person* who has been removed, or who has resigned from *elective office* while removal proceedings were pending against the *elective officer*, shall not be a *candidate* for, nor appointed to such office, for at least one year after the *elective officer's* resignation or removal.

§27.3009 Separate Ballot Required

A removal ballot shall be separate from any other ballot to be presented to the *voters* at one *election*. The removal of more than one *elective officer* may be sought at one *election* on one ballot. A removal *election* may be consolidated with other municipal *elections*.

§27.3010 Elective Officer to Serve Until Declaration of Results

Any *elective officer* whose removal is sought shall continue to perform the duties of his or her office until the *Council* has adopted its resolution declaring the results of the *election* which shows, and follows the *Clerk's* certification that, a majority of the qualified *voters* has voted in favor of the *elective officer's* removal.

§27.3011 Cancellation of Election if Office Becomes Vacant

- (a) If a vacancy in the position occupied by the official whose removal is sought occurs, from any cause, after the *Clerk* files the certificate of sufficiency and with legally sufficient time prior to the *election*, the *Council* shall cancel the *election* when it adopts the Declaration of Vacancy under Section 27.0704.
- (b) If there is not legally sufficient time to cancel the *election*, the *Clerk* shall not initiate a canvass or certify the results for the *election* to remove the official under Section 27.0411 and the *election* to remove the official will be void.

§27.3012 Seat to be Filled with Candidate Receiving the Most Votes

Once a majority of *voters* votes to remove an *elective officer*, and the *Council* adopts a resolution declaring the results, the *candidate* receiving the most votes for the *elective office* shall be declared the winner regardless of whether the number of votes cast for the *candidate* constitutes a majority of the votes cast.

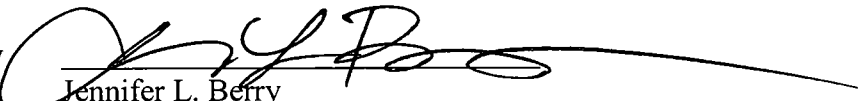
§27.3013 Successor to Serve Unexpired Term of Elective Officer Who Was Removed

A successor elected to replace the removed *elective officer* shall serve the remainder of the unexpired term of the *elective officer* who was removed.

Section 8. 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 9. 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 
Jennifer L. Berry
Deputy City Attorney

JLB:jvg
August 9, 2018
12/07/18 Cor. Copy
Or.Dept:City Clerk
Doc. No.: 1819332_8

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of NOV 13 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

(See attached memo and signature page.)

**Office of
The City Attorney
City of San Diego**

MEMORANDUM

DATE: December 7, 2018
TO: Myrtle Cole Council President
FROM: Judi Verni-Garcia
SUBJECT: Item 57 on November 13, 2018
O-21009 (O-2019-31)

The following corrections was made to the Ordinance

The title was amended by adding Section 27.0706 to Strikeout, Clean and Digest.

The word "City" was deleted from Section 27.0802(b) from the clean version.

On Section 27.0803(b) original text that was accidentally removed was added back
"...days after date of publication" to Strikeout and Clean.

JVG
Doc. No.: 1889866
Enclosure


§27.3013 Successor to Serve Unexpired Term of Elective Officer Who Was Removed

A successor elected to replace the removed *elective officer* shall serve the remainder of the unexpired term of the *elective officer* who was removed.

Section 8. 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 9. 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 
Jennifer L. Berry
Deputy City Attorney

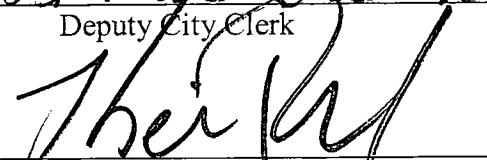
JLB:jvg
August 9, 2018
Or.Dept:City Clerk
Doc. No.: 1819332_7

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of NOV 13 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 11/20/18
(date)


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)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.0101, 27.0103, AND 27.0107; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 3 BY AMENDING SECTIONS 27.0301, 27.0305, AND 27.0315; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 5 BY AMENDING SECTION 27.0501; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 7 BY AMENDING SECTIONS 27.0701, 27.0702, 27.0703, 27.0704, 27.0705, 27.0706, 27.0707, AND 27.0709; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 8 BY AMENDING SECTIONS 27.0802 AND 27.0803; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 9 BY AMENDING SECTIONS 27.0902 AND 27.0907; AMENDING CHAPTER 2, ARTICLE 7, DIVISION 27 BY AMENDING SECTION 27.2727; AND AMENDING CHAPTER 2, ARTICLE 7, BY ADDING NEW DIVISION 30, SECTIONS 27.3001, 27.3002, 27.3003, 27.3004, 27.3005, 27.3006, 27.3007, 27.3008, 27.3009, 27.3010, 27.3011, 27.3012, AND 27.3013, ALL RELATING TO VACANCIES IN ELECTIVE OFFICE AND REMOVAL OF ELECTIVE OFFICERS FOR CAUSE.

§27.0101 **Purpose and Intent**

The purpose and intent of Chapter 2, article 7, 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. The divisions relating to initiative, referendum, removal, and recall (~~including the initiative provisions relating to Charter amendments~~) are exclusive as required by the Charter.

§27.0103 **Definitions**

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

“*Ballot Materials*” through “*Board of Supervisors*” [No change in text.]

“*Candidate*” means any individual who

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

(d) is a City ~~office holder~~ *elective officer* who becomes the subject of a recall or removal election.

(1) A City ~~office holder~~ *elective officer* “becomes the subject of a recall *election*” on the date a notice of intention to circulate a recall *petition* is published ~~pursuant~~ under to the recall provisions of this article.

(2) A City *elective officer* becomes the subject of a removal election on the date the Council adopts an ordinance calling a special election for the purpose of submitting to the voters a proposition to remove and replace the City *elective officer*.

“*City-wide General Election*” through “*Registrar*” [No change in text.]

“*Special Election*” means any *election* other than a *District* or *City-wide Primary Election*, or *District* or *City-wide General Election*. It includes all *elections* to consider ballot *measures* as well as *elections* to fill vacancies in *elective office* and recall and removal elections.

“*Voter*” through “*Voter Pamphlet*” [No change in text.]

§27.0107 Calling of Elections

(a) through (b) [No change in text.]

(c) An ordinance calling a special election to remove and replace an elective officer shall require the affirmative vote of at least seven votes of the nine-member Council.

§27.0301 General Provisions for Write-in Candidates

Write-in candidates are permitted only in *District Primary Elections, City-wide Primary Elections, primary special elections, and recall elections, and removal elections* called by the City Council pursuant to section 27.0107 of this article. Write-in candidates are not permitted in *District General Elections, City-wide General Elections, or run-off special elections.*

§27.0305 Time to Obtain Nomination Papers for Write-in Candidates

Nomination papers ~~in connection with a write-in candidacy~~ for a write-in candidate in a *District Primary Election, a City-wide Primary Election, a primary special election, or a recall election, or a removal election* may be obtained from the ~~City Clerk~~ no earlier than the first business day after the close of regular nominations for that *election.*

§27.0315 Time for Submitting Nomination Papers of Write-in Candidates to Clerk

(a) Except for the Statement and Affidavit of Write-in Nominee filed pursuant to section 27.0306, nomination papers for a write-in candidate in a *District Primary Election, City-wide Primary Election, primary special*

election, ~~or recall election, or removal election~~ shall be submitted for filing in the Office of the ~~City~~ *Clerk* not later than fourteen calendar days prior to the date of the *election*.

(b) [No change in text.]

§27.0501 Purpose and Intent

The purpose and intent of this division is to clarify and consolidate all provisions for ballot *measures* in one division to better enable administration of these procedures and to provide for public participation in the process. For purposes of this division, a *measure* does not include a measure to recall or remove an *elective officer*.

§27.0701 Purpose and Intent

The Charter provides that if a vacancy occurs in the office of the Mayor, ~~or a City Attorney, or 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~~ the vacancy. ~~If a vacancy occurs in the office of the City Attorney, the City Council shall appoint an individual to fill the vacant seat until the next regular municipal election.~~ The purpose and intent of this division is to establish uniform provisions for filling a vacancy in any *elective office*.

§27.0702 Reason for Vacancy

A vacancy ~~may occur as a result of death, resignation, un-excused absences, or a recall election~~ in *elective office* occurs as provided by the Charter.

§27.0703 Date of Vacancy

- (a) [No change in text.]
- (b) If a vacancy occurs ~~by for any reason of death or un-excused absences~~other than resignation, recall, or removal, the date of the vacancy will be the date of adoption of the *City Council's* Declaration of Vacancy, as set forth in section 27.0704.

§27.0704 Council to Adopt Declaration of Vacancy

As soon as it is known that a vacancy exists in any ~~elective office~~elective office ~~by for any reason of death or un-excused absences~~other than resignation, recall, or removal, the ~~City Council~~Council shall adopt a Declaration of Vacancy at its next regularly scheduled meeting, or at a special meeting called for that purpose. The Declaration of Vacancy shall include the name of the ~~elective office~~elective office that is vacant and the reason for the vacancy.

§27.0705 Alternative of Appointment or Election

- (a) ~~A vacancy in the office of the City Attorney of the City of San Diego, occurring for any reason other than a successful recall~~ election, shall be filled by appointment pursuant to City Charter section 40.
- (b) As soon as it is known that there will be a vacancy in any elective office ~~the office of the Mayor or a Councilmember of the City of San Diego~~, for any reason other than a successful recall or removal election, the Council's decision to fill the vacancy by appointment or special election or at the

next regularly scheduled municipal election shall be determined by the length of time remaining in the term of office, ~~pursuant to City in compliance with~~ Charter sections 12, 40 and 265.

§27.0706 Letter of Resignation May be Withdrawn

A letter of resignation ~~containing an~~ from an elective officer that includes an effective date may be withdrawn by the elective officer in writing if that request is filed with the ~~City Clerk~~ as follows:

- (a) ~~In the event the letter of resignation relates to the office of the City Attorney, no later than the deadline established by the City Clerk for filing appointment application forms pursuant to Section 27.0802; or~~
- (b)(a) ~~In the event the letter of~~ For a resignation relates to the office of the Mayor or a City Councilmember and an election is required by the City causing a vacancy that the Charter, requires to be filled by an election, no later than the business day before the ~~City Council~~ calls a special election pursuant to Section 27.0902; or
- (c)(b) ~~In the event the letter of~~ For a resignation relates to the office of the Mayor or a City Councilmember and ~~the~~ causing a vacancy will that the Charter requires to be filled by appointment ~~in accordance with the City Charter,~~ no later than the deadline established by the ~~City Clerk~~ for filing appointment application forms pursuant to Section 27.0802.

§27.0707 Procedures to Fill Vacancy

- (a) When a vacancy is to be filled by appointment, the ~~City Council~~ shall fill such vacancy in accordance with the provisions set forth in Division 8 of this article.
- (b) When a vacancy is to be filled by *special election*, the ~~City Council~~ shall fill such vacancy in accordance with the provisions set forth in Division 9 of this article.
- (c) When a vacancy occurs ~~by reason~~because of a successful recall or removal election, the ~~City Council~~ shall fill ~~such~~the vacancy in accordance with the provisions set forth in ~~the recall provisions~~Division 27 of this article regarding recall and Division 30 of this article regarding removal.

§27.0709 Term of Office

- (a) The term of office for an individual elected to fill a vacancy in the office of the Mayor, City Attorney, or 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 tenth day of December following the next *District General Election* or *City-wide General Election* to fill that office. Whenever the tenth day of December falls on a weekend or holiday, the term of office shall expire at 10:00 a.m. on the next calendar day that is not a weekend or a holiday.
- (b) The term of office for an individual ~~elected~~appointed to fill a vacancy in the office of the Mayor, City Attorney, or a Council district pursuant to

Division 98 of this article shall commence at the time the ~~City Council~~ adopts the resolution ~~declaring the results of such election to the vacant office~~ appointing that officer to fill the vacancy, and shall expire at 10:00 a.m. on tenth day of December following the ~~next~~ District General Election or City-wide General Election to fill that office. Whenever the tenth day of December falls on a weekend or holiday, the term of office shall expire at 10:00 a.m. on the next calendar day that is not a weekend or a holiday.

- (e) ~~The term of office for an individual appointed to fill a vacancy in the office of the Mayor, or 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 tenth day of December following the District or City-wide General Election to fill that office. Whenever the tenth day of December falls on a weekend or holiday, the term of office shall expire at 10:00 a.m. on the next calendar day that is not a weekend or a holiday.~~
- (d) ~~The term of office for an individual appointed to fill a vacancy in the office of the 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 officeholders'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)(c) The *City Clerk* or other qualified individual shall administer the oath of office to the elected or appointed officer at the time the term of office begins.

§27.0802 Deadline for Filing Application Forms

- (a) If a vacancy exists by any reason of ~~death or unexcused absences~~ other than a successful recall or removal election, the deadline for ~~filing applicants to file~~ 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 a vacancy exists or will exist 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) [No change in text.]

§27.0803 Notice to be Published by Clerk

- (a) If a vacancy exists by any reason of ~~death or unexcused absences~~, other than a successful recall or removal election, 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 (Mayor, City Attorney, or for a specific
Councilmember, 1st through 9th 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 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 (Mayor, City Attorney, or
Councilmember, 1st through 9th 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.

§27.0902 Special Election to be Called

- (a) If a vacancy occurs in the office of the Mayor, City Attorney, or a *City*
Council district for any reason other than a successful recall or removal

election, and the vacancy is to be filled by *election*, the ~~City~~ *Council* shall ~~immediately~~promptly call a *special election* to be held within ninety calendar days of the vacancy, unless there is a municipal, statewide, or countywide *election* scheduled to be held within 180 calendar days of the vacancy. If there is a 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 *election*.

- (b) ~~If a vacancy occurs in the office of the City Attorney for any reason other than a successful recall *election*, the *City Council* shall appoint a person to fill the vacancy until the next regular municipal election, at which time a person shall be elected to serve the unexpired term.~~

§27.0907 Date to Assume Office

- (a) A *candidate* elected to the office of the Mayor, City Attorney, or 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 the City Attorney, at either the next regular municipal *election* or at the run-off *election* called by the *City Council* to fill the vacant 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.~~

§27.2727

Cancellation of Election if Office Becomes Vacant

- (a) If a vacancy in the position occupied by the official whose recall is sought occurs, from any cause, after the Clerk files the certificate of sufficiency and with legally sufficient time prior to the election, the Council shall cancel the election when it adopts the Declaration of Vacancy under Section 27.0704.
- (b) If there is not legally sufficient time to cancel the election, the Clerk shall not initiate a canvass or certify the results for the election to recall the official under Section 27.0411 and the election to recall the official will be void.

Division 30: Removal for Cause

§27.3001

Elective Officers Subject to Removal for Cause

- (a) The Mayor and City Attorney may be removed for cause by a majority of the votes cast in the removal election by City voters.
- (b) A Councilmember may be removed for cause by a majority of the voters in the appropriate district.
- (c) Removal proceedings shall not be initiated if the elective officer's term will end within six months of the elected officer's criminal conviction malfeasance in office or a court's adjudication of dereliction of duty.

§27.3002 **Effect of Recall**

Removal proceedings under this division shall be suspended any time a recall petition is deemed sufficient by the Clerk, as provided by the recall provisions of this article.

§27.3003 **Cause for Removal**

An elective officer is subject to removal for cause for dereliction of duty and malfeasance in office, as provided by the Charter.

§27.3004 **Special Election May be Called**

Upon notification from the Clerk of an elective officer's criminal conviction for malfeasance in office or adjudication of dereliction of duty, the Council may call a special election, as provided by the Charter.

§27.3005 **Time for Special Election**

- (a) If a special election is called under this division, it shall be held not less than 90 days after adoption of the ordinance calling the special election and not later than 180 days after such adoption.

- (b) For the Mayor and City Attorney:
If all City voters are entitled to vote at any other election scheduled within 180 days from the date that the notice of conviction or court adjudication is presented to the Council, the Council may, at its discretion, submit the removal and replacement ballots to voters at that election.

- (c) For a Councilmember:
If all district voters are entitled to vote at any other election scheduled within 180 days from the date that the notice of conviction or court

adjudication is presented to the *Council*, the *Council* may, at its discretion,
submit the removal and replacement ballots to *voters* at that *election*.

§27.3006 **Removal Election to Conform to Other Elections**

The *Clerk* shall conduct the removal *election*, including the nomination of
candidates to succeed the *elective officer* whose removal is sought, in a manner
conforming with other municipal *elections* to the extent practicable.

§27.3007 **Content of Removal Ballots**

Removal ballots shall contain the name and office of the *elective officer* whose
removal is sought and the names of the *candidates* who have been nominated to
succeed the *elective officer* whose removal is sought. A statement of the basis of
the dereliction of duty or malfeasance in office constituting cause for removal
shall be printed on the sample ballot and the official ballot or, at the discretion of
the *Clerk*, printed separately and included in a pamphlet to be mailed with the
sample ballot.

§27.3008 **Reelection or Reappointment Prohibited for One Year**

A *person* who has been removed, or who has resigned from *elective office* while
removal proceedings were pending against the *elective officer*, shall not be a
candidate for, nor appointed to such office, for at least one year after the *elective
officer's* resignation or removal.

§27.3009 **Separate Ballot Required**

A removal ballot shall be separate from any other ballot to be presented to the
voters at one *election*. The removal of more than one *elective officer* may be

sought at one election on one ballot. A removal election may be consolidated with other municipal elections.

§27.3010 Elective Officer to Serve Until Declaration of Results

Any elective officer whose removal is sought shall continue to perform the duties of his or her office until the Council has adopted its resolution declaring the results of the election which shows, and follows the Clerk's certification that, a majority of the qualified voters has voted in favor of the elected officer's removal.

§27.3011 Cancellation of Election if Office Becomes Vacant

(a) If a vacancy in the position occupied by the official whose removal is sought occurs, from any cause, after the Clerk files the certificate of sufficiency and with legally sufficient time prior to the election, the Council shall cancel the election when it adopts the Declaration of Vacancy under Section 27.0704.

(b) If there is not legally sufficient time to cancel the election, the Clerk shall not initiate a canvass or certify the results for the election to remove the official under Section 27.0411 and the election to remove the official will be void.

§27.3012 Seat to be Filled with Candidate Receiving the Most Votes

Once a majority of voters votes to remove an elective officer, and the Council adopts a resolution declaring the results, the candidate receiving the most votes for the elective office shall be declared the winner regardless of whether the number of votes cast for the candidate constitutes a majority of the votes cast.

§27.3013 **Successor to Serve Unexpired Term of Elective Officer Who Was Removed**

A successor elected to replace the removed *elective officer* shall serve the remainder of the unexpired term of the *elective officer* who was removed.

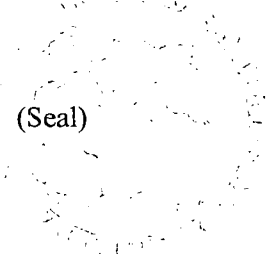
JLB:jvg
August 9, 2018
12/07/18 Cor. Copy
Or.Dept:Mayor
Doc. No.: 1810507_6

Passed by the Council of The City of San Diego on NOV 13 2018, 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 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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 20 2018

AUTHENTICATED BY:



(Seal)

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

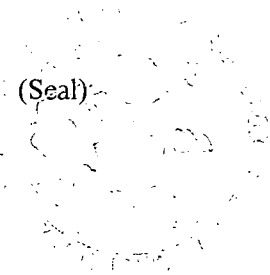
ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Linda Irwin, 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

OCT 23 2018, and on NOV 20 2018.

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 Linda Irwin, Deputy

<p>Office of the City Clerk, San Diego, California</p> <p>Ordinance Number O- <u>21009</u></p>
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