

ORDINANCE NUMBER O- 21509 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 25 2022

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, SECTION 55 TO AUTHORIZE CHILDCARE ON DEDICATED PARKLAND.

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-2023-11, introduced and adopted on July 25, 2022, the Council called a Municipal Special Election to be consolidated with the California State General Election to be held November 8, 2022, for the purpose of submitting to the qualified voters of the City of San Diego (City) one or more ballot measures; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one measure amending the Charter by amending Article V, Section 55, to authorize childcare in recreational facilities and buildings on dedicated parkland; and

WHEREAS, Article V, Section 55 of the Charter currently provides that “[A]ll real property owned in fee by the City heretofore or hereafter formally dedicated in perpetuity by ordinance of the Council or by statute of the State Legislature for park, recreation or cemetery purposes shall not be used for any but park, recreation or cemetery purposes without such changed use or purpose having been first authorized or later ratified by a vote of two-thirds of the qualified electors of the City voting at an election for such purpose . . .”; and

WHEREAS, the YMCA of San Diego County Childcare Resource Service reports that from the time the pandemic began until April 2021, 522 childcare providers closed in San Diego County; and

WHEREAS, many of the remaining childcare businesses are operating at reduced capacity, often with less staff and higher costs due to new health regulations; and

WHEREAS, while most schools have returned to full-time operations, childcare services will likely not rebound to prior levels, or to a capacity that is needed for working parents and employers; and

WHEREAS, the Economic Development & Intergovernmental Relations Committee requested that the Department of Real Estate and Airport Management identify City properties that could be adapted for use as, or made available for construction of, childcare facilities through a facilities assessment; and

WHEREAS, the final list of potential childcare facilities included 18 libraries, 42 park and recreation centers, and 12 office buildings; and

WHEREAS, the Council now desires to amend Article V, Section 55 of the Charter to authorize childcare in recreational facilities and buildings on dedicated parkland; and

WHEREAS, the amendment would allow the City Manager, without a vote of the people, to authorize childcare at recreation facilities and buildings on real property owned in fee by the City heretofore or hereafter formally dedicated in perpetuity by ordinance of the Council or by statute of the State Legislature for park or recreation purposes. For purposes of this amendment, childcare means any State-licensed childcare facility, other than in-home family day care, in which nonmedical care and supervision is provided for children under age 18 in a group setting

for less than 24 hours per day, excluding educational or instructional use provided by public, private, home, or charter schools; and

WHEREAS, the Charter amendment was proposed by Councilmember Chris Cate as part of the Council Policy 000-21 process, was heard by the Council's Rules Committee on April 20, 2022, and June 8, 2022, and is presented in this Ordinance for placement on the November 8, 2022 Municipal Special Election ballot; and

WHEREAS, the Council's proposal, on its own motion, of a Charter amendment is governed by article XI, section 3(b) of the California Constitution, 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. One measure amending the Charter by amending Article V, Section 55, to authorize childcare in recreational facilities and buildings on dedicated parkland, is hereby submitted to the qualified voters at the Municipal Special Election to be held on November 8, 2022, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

MEASURE

ARTICLE V

EXECUTIVE AND ADMINISTRATIVE SERVICE

SECTION 55: PARK AND RECREATION

The City Manager shall have the control and management of parks, parkways, plazas, beaches, cemeteries, street trees, landscaping of City-owned

property, golf courses, playgrounds, recreation centers, recreation camps, and recreation activities held on any City playgrounds, parks, beaches, and piers, which may be owned, controlled, or operated by the City. The City Council shall by ordinance adopt regulations for the proper use and protection of said park property, cemeteries, playgrounds, and recreation facilities, and provide penalties for violations thereof. The Manager is charged with the enforcement of such regulations.

All real property owned in fee by the City heretofore or hereafter formally dedicated in perpetuity by ordinance of the Council or by statute of the State Legislature for park, recreation, or cemetery purposes shall not be used for any but park, recreation, or cemetery purposes without such changed use or purpose having been first authorized or later ratified by a vote of two-thirds of the qualified electors of the City voting at an election for such purpose. However, real property which has been heretofore or which may hereafter be set aside without the formality of an ordinance or statute dedicating such lands for park, recreation, or cemetery purposes may be used for any public purpose deemed necessary by the Council.

Whenever the City Manager recommends it, and the City Council finds that the public interest demands it, the City Council may, without a vote of the people, authorize the opening and maintenance of streets and highways over, through, and across City fee-owned land which has heretofore or hereafter been formally dedicated in perpetuity by ordinance or statute for park, recreation, and cemetery purposes.

The City Council may, without a vote of the people, authorize a lease of the property occupied by San Diego High School to the San Diego Unified School District for educational, cultural, recreational, and civic programs and activities, provided that the property is used for a public high school. The property occupied by San Diego High School means the area used by the San Diego Unified School District for San Diego High School as of the date this amendment is effective, and further described in the legal description on file with the City Clerk as Document No. OO-20721.

The City Manager may, without a vote of the people, authorize childcare at recreation facilities and buildings on real property owned in fee by the City heretofore or hereafter formally dedicated in perpetuity by ordinance of the Council or by statute of the State Legislature for park or recreation purposes. For purposes of this section, childcare means any State-licensed childcare facility, other than in-home family day care, in which nonmedical care and supervision is provided for children under age 18 in a group setting for less than 24 hours per day, excluding educational or instructional use provided by public, private, home, or charter schools.

The City Manager shall also have charge of the management, control, preservation, regulation, improvement, and embellishment of all public burial grounds and cemeteries belonging to the City, and the sale of lots therein. At least twenty percent of the net proceeds from the sale of all cemetery lots shall be deposited with the City Treasurer and be kept in a fund to be known as the Cemetery Perpetuity Fund. This fund shall be administered by the Funds

Commission and shall be invested in such income-producing securities as the Funds Commission may decide. The principal of the perpetuity fund (subject to such accretion or diminution as may result from investing the same) shall not be available for meeting expenses for maintenance or upkeep of the cemeteries in any manner whatsoever. All income derived from the investment of the moneys in said perpetuity fund, together with the balance of the sale price of said lots not placed in the perpetuity fund, shall be expended in the maintenance and upkeep of the cemeteries and the perpetual care and upkeep of all graves and lots in said cemeteries; provided, however, that if in any one year such income is more than needed for the purpose of such maintenance, upkeep, and perpetual care, the Council may direct that the excess over and above that needed as above provided may be used for any other municipal purpose. If the income from said investments of said perpetuity fund and the balance of the sale price of said lots each year are not sufficient to maintain the cemeteries and to provide perpetual care and upkeep of all graves and lots in said cemeteries, the Council shall annually appropriate from other revenues an amount sufficient to enable the City to provide perpetual care and upkeep of all graves and lots in the cemeteries.

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 REGARDING ARTICLE V, SECTION 55. Shall Article V, Section 55 be amended to authorize childcare on dedicated parkland property with “childcare” meaning any State-licensed facility, other than in-home family day care, in which nonmedical care and supervision is provided for children under age 18 in a group setting for less than 24 hours per day, excluding educational or instructional use provided by public, private, home, or charter schools?	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 Council.

Section 7. In compliance with 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 City 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 made available to the 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 Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jane M. Boardman
Jane M. Boardman
Deputy City Attorney

JMB:nja
05/17/2022
Or. Dept: Council District 6
Doc. No. 3025937

Passed by the Council of The City of San Diego on JUL 25 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 25 2022

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 25 2022, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 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 Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21509