

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED WITH THE CALIFORNIA STATE PRIMARY ELECTION TO BE HELD ON JUNE 3, 2014, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE II, SECTION 10; ARTICLE III, SECTION 12; ARTICLE IV, SECTION 24; ARTICLE V, SECTION 40; ARTICLE XIV, SECTION 212; AND ARTICLE XV, SECTION 265; RELATING TO THE DATE ELECTED OFFICIALS BEGIN THEIR TERM OF OFFICE AND THE TIMING OF SPECIAL ELECTIONS TO FILL VACANCIES IN THE OFFICES OF MAYOR AND CITY COUNCIL.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O-\_\_\_\_\_, introduced and adopted on \_\_\_\_\_, 2014, the Council has called a Municipal Special Election to be consolidated with the California State Primary Election to be held June 3, 2014, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, the Council desires to submit to the voters at the Municipal Special Election one proposition amending the Charter to revise certain election-related dates, to provide sufficient time for the City to comply with state laws setting deadlines to certify election results, provide mail ballots to qualified military and overseas voters, and to translate, print and publish ballot materials; and

WHEREAS, the City Council's proposal, on its own motion, of a Charter amendment is governed by California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. That one proposition amending the City Charter by amending Article II, section 10; Article III, section 12; Article IV, section 24; Article V, section 40; Article XIV, section 212; and Article XV, section 265; related to the date elected officials begin their term of office and the timing of special elections to fill vacancies in the offices of Mayor and City Council, is hereby submitted to the qualified voters at the Municipal Special Election to be held on June 3, 2014, and consolidated with the California State Primary Election to be held on the same date, with the proposition to read as follows:

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**PROPOSITION**

Article II

Nominations and Elections

**Section 10: Elections**

Elective officers of the City shall be nominated and elected by all of the electors of the City except that City Council members shall be nominated and elected by the electors of the district for which elective office they are a candidate.

Commencing with the year 1996, the municipal primary elections to the office of Council member for Districts 1, 3, 5, and 7 shall be held on same date in each election year as the California State primary election, and the general municipal election for these offices

shall be held on the same date as the California State general election for that year.

Commencing with the year 2012, the election to the office of Council member for District 9 shall be held on the same date as the election to the office of Council member for Districts 1, 3, 5, and 7.

Commencing with the year 1998, the municipal primary elections to the offices of Council member for Districts 2, 4, 6, and 8 shall be held on same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same date as the California State general election for that year.

Commencing with the next municipal primary and general elections following the redistricting occurring after the 2010 national decennial census, and every four years thereafter, the municipal primary and general elections to the office of Council District 9 shall be held.

Commencing with the year 1984, the elections to the offices of Mayor and City Attorney shall be held every four (4) years. The municipal primary election for the offices of Mayor and City Attorney shall be held on the same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same date as the California State general election for that year. All other municipal elections which may be held under this Charter shall be known as special municipal elections.

All elective officers of the City shall be nominated at the municipal 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 so receiving such majority of

votes shall be deemed to be and declared by the Council to be elected to such office. In the event no candidate receives a majority of votes cast as aforesaid, the two candidates receiving the highest number of votes for a particular elective office at said primary 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 general municipal election. At the general municipal election held for the purpose of electing Council members other than the Mayor the electors of each Council district shall select from among the candidates chosen at the primary election in that district one candidate for the office of the Council member whose term expires the succeeding December. At the general municipal election held for the purpose of electing any other elective officer there shall be chosen by all of the electors of the whole City from among the candidates chosen at the primary one candidate to succeed any other elective officer whose term expires in December succeeding the election.

After the result of an election for any office is declared, or when an appointment is made, the City Clerk, under his or her hand and official seal, shall issue a certificate therefor, and shall deliver the same immediately to the person elected or appointed, and such person must within ten days after receiving such certificate file his an official bond, if one be is required for his the office, and take and subscribe to the oath of office required of him by this Charter, which oath must be filed with the City Clerk.

Article III

Legislative Power

**Section 12: The Council**

(a) The Council shall be the legislative body of the City and each of its members shall have the right to vote upon all questions before it.

(b) ~~At the municipal primary and general election in 1979, a Mayor shall be chosen by the electors for a term of five (5) years. A Mayor shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The Mayor shall hold office for the term prescribed from and after 10 a.m. the first Monday after the first day of December next succeeding the election and until a successor is elected and qualified.~~

(c) ~~At the municipal primary and general elections in 1993, the Council members for Districts 1, 3, 5, and 7 shall be chosen by the electors for a term of three (3) years. Council members for Districts 1, 3, 5, and 7 shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. Electors shall choose the council member for District 9 at the next municipal primary and general elections following the redistricting after the 2010 national decennial census. The initial term for the District 9 Council member shall be four (4) years. The Council member for District 9 shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of the Charter.~~

(d) ~~At the municipal primary and general election in 1995, Council members for Districts 2, 4, 6, and 8 shall be chosen by the electors for a term of three (3) years.~~

~~Council members for Districts 2, 4, 6, and 8 shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter.~~

~~(e) (b) Except as provided in this Section,~~ Council members shall hold office for the term of four (4) years from and after 10 a.m. ~~the first Monday after the first~~ on the tenth day of December next succeeding their election and until their successors are elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day.

~~(f)(c)~~ Notwithstanding any other provision of this Charter ~~and commencing with elections held in 1992,~~ no person shall serve more than two consecutive four-year terms as a Council member from any particular district. If for any reason a person serves a partial term as Councilmember from a particular district in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision. ~~Persons holding office prior to the November 1992 election shall not have prior or current terms be counted for the purpose of applying this term limit provision to future elections.~~

~~(g)(d)~~ Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district in which they reside, unless as a result of such redistricting more than one incumbent Council member resides within any one district, in which case the City Council may determine by lot which Council member shall represent each district. At the next municipal primary and general elections following a redistricting, Council members shall be elected from those districts not represented and from those districts represented by incumbent Council members whose terms expire as of the general election in said year. If as a result of any redistricting more than a simple majority of the City Council as redistricted shall be elected at either the

municipal primary or general election next following any such redistricting, the City Council prior to any such election shall designate one or more new districts for which the initial council term shall be two (2) years in order to retain staggered terms for Council members.

~~(h)~~(e) If a vacancy occurs for any reason in the office of a Council District, ~~the procedures set forth in Charter section 12(h) shall be followed;~~ the following procedures shall apply:

(1) If the vacancy occurs for any reason other than a successful recall election, and,

(A) If the vacancy occurs with one (1) year or less remaining in the term, the Council shall appoint a person to fill the vacant seat on the City Council. Any person appointed by the Council to fill a vacant Council District seat shall not be eligible to run for that office for the next succeeding term; or,

(B) If the vacancy occurs with more than one (1) year remaining in the term, the Council shall call a special election to be held within ninety (90) days of the vacancy, unless there is a ~~regular~~ municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a ~~regular~~ municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that ~~regular~~ election.

(i) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the vacant office.

(ii) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within ~~forty-nine (49)~~ ninety (90) days of the first special election, unless there is ~~regular~~ a municipal or statewide election scheduled to be held within ~~ninety (90)~~ 120 days of the proposed special run-off election date, at which time the City Council may consolidate the special run-off election with that ~~regular~~ election. The two (2) candidates receiving the highest number of votes cast for the vacant seat in the first special election shall be the only candidates for the vacant Council seat and the names of only those two (2) candidates shall be printed on the ballot for that seat.

(2) If a vacancy occurs by reason of a successful recall election, the Council shall adopt procedures to fill the vacancy.

Whether a person is appointed or elected to fill a vacant Council District seat, whatever the reason for the vacancy, that person shall serve as that District's Councilmember for the remainder of the unexpired term.

For purposes of this Charter section 12(~~h~~), a vacancy may result from death, resignation, recall, or unexcused absences as described in Charter section 12(~~h~~) (f). If a vacancy occurs by reason of a resignation, the date of the vacancy will be the date specified in the written letter of resignation or, if there is no date certain specified in the letter, upon the date of receipt of the letter by the City Clerk.

~~(h)~~(f) It is the duty of the Council members to attend all Council meetings. The Council shall vacate the seat of any Councilmember who is absent from eight (8) consecutive meetings or fifty percent (50%) of any scheduled meetings within a month unless the absence thereof is excused by resolution of the Council.

~~(j)~~(g) Council members shall devote full time to the duties of their office and not engage in any outside employment, trade, business or profession which interferes or conflicts with those duties.

~~(k)~~(h) Council members shall not be eligible during the term for which they were appointed or elected to hold any other office or employment with the City, except as Mayor or City Attorney and as a member of any Board, Commission or Committee thereof, of which they are constituted such a member by general law or by this Charter.

Article IV

The Mayor

**Section 24: Mayor**

A Mayor shall be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The Mayor shall hold office for the term prescribed from and after 10 a.m. on the tenth day of December next succeeding the election and until a successor is elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day. The Mayor shall devote full time to the duties of the office and not engage in any outside employment, trade, business or profession which interferes or conflicts with those duties.

Article V

Executive and Administrative Service

**Section 40: City Attorney**

~~At the municipal primary and general election in 1977, a City Attorney shall be elected by the people for a term of seven (7) years.~~ A City Attorney shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The City

Attorney shall hold office for the term prescribed from and after 10 a.m. on the tenth day of December next succeeding the election and until a successor is elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day.

~~Notwithstanding any other provision of this Charter and commencing with elections held in 1992, n~~No person shall serve more than two (2) consecutive four-year terms as City Attorney. If for any reason a person serves a partial term as City Attorney in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision. Persons holding the office of City Attorney prior to the November 1992 election shall not have prior or current terms be counted for the purpose of applying this term limit provision to future elections.

[No change in remaining text.]

#### Article XIV

#### Miscellaneous Provisions

#### **Section 212: Continuance of Present Officers**

All persons holding office at the time the provisions of this Charter or any amendments thereto shall take effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. ~~The regular Municipal elections shall be held in the odd-numbered years, as in Article II provided.~~ The terms of all elective officers who are in office at the time this Charter or any amendments thereto become effective shall terminate on ~~the first Monday after~~ the first tenth day of December

following the holding of such election, except as otherwise provided in this Charter ~~otherwise provided.~~

[No change in remaining text.]

## Article XV

### Strong Mayor Form of Governance

#### **Section 265: The Mayor**

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

(e) If a vacancy occurs in the Office of Mayor for any reason other than a successful recall election, and,

(1) If the vacancy occurs with one year or less remaining in the term, the Council shall appoint a person to fill the vacancy.

(2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within ninety (90) days of the vacancy, unless there is a ~~regular~~ municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a ~~regular~~ municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that ~~regular~~ election.

(A) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the Office of Mayor.

(B) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within ~~forty-nine~~ ninety (90) days of the first special election, unless there is ~~regular~~ municipal or statewide election scheduled to be held

within ~~ninety~~ 120 days of the proposed special run-off election date, at which time the City Council may consolidate the special run-off election with that ~~regular~~ election. The two candidates receiving the highest number ~~City of San Diego City Charter~~ of votes cast for the Office of Mayor in the first special election shall be the only candidates for the Office of the Mayor and the names of only those two candidates shall be printed on the ballot for that seat.

(f) through (j) [No change in text.]

**END OF PROPOSITION**

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Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>PROPOSITION ____ . AMENDS CITY CHARTER RELATED TO ELECTIONS.</b> Shall the Charter be amended to: (1) set a later date for elected officials to be sworn into office; (2) extend the deadlines to call special elections to fill vacancies for Mayor and City Council; and (3) make non-substantive revisions, all to provide additional time to comply with state and federal deadlines to certify election results, provide mail ballots to military and overseas voters, and translate ballot materials?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the proposition.

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

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

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By \_\_\_\_\_  
Catherine Bradley  
Deputy City Attorney

CMB:sc  
01/13/2014  
Or.Dept:City Clerk  
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