



## OFFICE OF THE CITY CLERK

# REPORT

## TO THE CITY COUNCIL

**DATE:** March 24, 2017

**REPORT NO.:** CC-17-01

**SUBJECT:** San Diego Municipal Code Updates Pertaining to Measures K and L on the November 8, 2016 Ballot

On November 8, 2016, the citizens approved Ballot Measure K, "Charter Amendment Requiring Run-Off Election for the Offices of Mayor, City Attorney and Councilmembers" and Ballot Measure L, "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."

By way of background, Measure K amended the Charter to eliminate the provision that elects a candidate to City office – the Mayor, City Attorney or a Councilmember – if the candidate receives more than 50% of the vote in the June primary election. Instead, the amendments require a November run-off election between the two candidates who receive the most votes in the primary election, even if one candidate receives the majority vote. The only exception to this would occur if only one candidate qualified for the June primary for a particular seat.

Measure L added language to the Charter requiring citizens' initiative and referendum measures to be submitted to voters on the next November election ballot and not at a June primary election, unless the City Council decides to submit a particular measure to voters on an earlier ballot.

This report outlines San Diego Municipal Code (SDMC) sections which require updating to reflect the approved Charter changes.

The strike-out versions of Charter Section 10, which was updated by voter approval of Ballot Measure K, and Charter Section 23, which was updated by voter approval of Ballot Measure L, are included as Attachment A for easy reference.

The City Attorney has also provided a strike-out ordinance for your consideration, capturing the required changes to Chapter 2, Article 7, Division 1: Elections – General, Chapter 2, Article 7, Division 5: Ballots for Measures, Chapter 2, Article 7, Division 10:

Initiative and Chapter 2, Article 7, Division 11: Referendum. Details related to these proposed changes are listed below:

### **Changes to Chapter 2, Article 7, Division1: Elections – General**

#### **§27.0103: Definitions**

Definitions of the following terms were updated to reflect voter-approved language in Measure K related to candidates in City-wide and District General and Primary Elections:

*City-wide General Election*  
*City-wide Primary Election*  
*District General Election*  
*District Primary Election*

#### **§27.0108: Effect of Vote at Primary Election**

The word “Majority” has been struck from the title, and this section has been updated to reflect the voter-approved language in Measure K related to candidates.

### **Changes to Chapter 2, Article 7, Division 5: Ballots for Measures**

#### **§27.0502: Submission of Ballot Measures at City-wide Elections**

The language has been updated to reflect the language approved by voters in Measure L related to citizen initiative and referendum measures.

### **Changes to Chapter 2, Article 7, Division10: Initiative**

#### **§27.1037: Time for Special Election for Initiative Measures**

A minor change was made to the title of this section for consistency. The current title of §27.1037 is “Time for Special Election for Initiated Legislative Act.” The change to the title above is consistent with the language in the Charter.

In addition, outdated language regarding when a special election can be consolidated has been removed and updated language that specifically reflects the language approved by voters in Measure L.

#### **§27.1050: Action by petition to Amend or Repeal Initiated Legislative Acts**

The timing of the special election was updated to reflect the changes made to §27.1037 to reflect the language approved by voters in Measure L.

## **Changes to Chapter 2, Article 7, Division 11: Referendum**

### **§27.1133: Time for Special Election for Referendum Measures**

A minor change was made to the title of this section for consistency. The current title of §27.1133 is "Time for Special Election for Referended Legislative Act." The change to the title above is consistent with the language in the Charter.

In addition, outdated language regarding when a special election can be consolidated has been removed and updated language that specifically reflects the language approved by voters in Measure L.

### **Recommendation**

Introduce the ordinance, which contains amendments to the San Diego Municipal Code required due to Charter changes approved by the City's voters at the November 8, 2016 general election.

  
Elizabeth Maland  
City Clerk

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**MEASURE K**

**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 the 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. In the event only one candidate has qualified for the ballot in the municipal primary election for a particular elective office, the sole qualified candidate receiving votes in the municipal primary election shall be deemed to be, and declared by the Council to be, elected to such office after the primary election results are certified.

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 official bond, if one be required for his 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.

**END OF MEASURE**

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**MEASURE L**

**ARTICLE III**

**LEGISLATIVE POWER**

**SECTION 23: INITIATIVE, REFERENDUM AND RECALL**

The right to recall municipal officers and the powers of the initiative and referendum are hereby reserved to the people of the City. Ordinances may be initiated; and referendum may be exercised on any ordinance passed by the Council except an ordinance which by the provisions of this Charter takes effect immediately upon its passage; and any elective officer may be recalled from office. The Council shall include in the election code ordinance required to be adopted by Section 8, Article II, of this charter, an expeditious and complete procedure for the exercise by the people of the initiative, referendum and recall, including forms of petitions; provided that the number of signatures necessary on petitions for the initiation of an ordinance for the consideration of the Council shall be three percent of the registered voters of the City at the last general City election; that for the direct submission of a measure to the people it shall require a petition signed by ten per cent of the registered voters of the City at the last general City election; that for a referendum upon an ordinance passed by the Council it shall require a petition signed by five per cent of the registered voters of the City at the last general election; and that for the recall of an elected officer who is elected by all of the electors of the City, it shall require a petition signed by fifteen per cent of the registered voters of the City at the last general City election; and that for the recall of a Council member other than the Mayor it shall require a

petition signed by fifteen percent of the registered voters of the Councilmanic District at the last general City election.

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

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

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

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

**END OF MEASURE**

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