

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

CALLING FOR THE HOLDING OF A CONSOLIDATED MUNICIPAL ELECTION IN THE CITY OF ALAMEDA ON TUESDAY, NOVEMBER 3, 2020, FOR THE SUBMISSION OF A PROPOSED CHARTER AMENDMENT TO CLARIFY THE PROHIBITION AGAINST MEMBERS OF COUNCIL INTERFERING WITH DUTIES OF THE CITY MANAGER AND OTHER EXECUTIVE CITY OFFICIALS, AUTHORIZE THE CITY ATTORNEY TO PROSECUTE STATE LAW MISDEMEANORS, AND AMEND OUTDATED PROVISIONS, INCLUDING UTILIZING GENDER NEUTRAL LANGUAGE, AND AUTHORIZING CITY COUNCIL MEMBERS TO FILE WRITTEN ARGUMENTS FOR OR AGAINST THE MEASURE

WHEREAS, consistent with the City of Alameda's longstanding operations under a Council-Manager form of government, clearer separation of administrative versus Council functions will contribute towards a better functioning local government; and

WHEREAS, authorizing the City Attorney to prosecute state law misdemeanors creates greater local control and accountability; and

WHEREAS, use of gender neutral pronouns contributes to a more inclusive and welcoming society; and

WHEREAS, certain other provisions of the City Charter are outdated and no longer conform to modern practices; and

WHEREAS, pursuant to authority provided by the California Constitution, Article XI and the Government Code, Title 4, Division 2, Chapter 2 (commencing at § 34450) and the Elections Code, Division 9, Chapter 3, Article 3 (commencing at § 9255) of the State of California, the City Council of the City of Alameda desires to submit to the voters proposed charter amendments relating to Council interference with the powers and duties of the City Manager, the prosecutorial duties of the City Attorney, and amendment of outdated sections, including use of gender neutral pronouns.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ALAMEDA THAT:

Section 1. That pursuant to the California Constitution, Article XI and the Government Code, Title 4, Division 2, Chapter 2 (commencing at § 34450) and the Elections Code, Division 9, Chapter 3, Article 3 (commencing at § 9255) of the State of California, there is called and ordered to be held in the City of Alameda, California, on Tuesday, November 3, 2020, a Consolidated Municipal Election for the purpose of submitting the following proposed charter amendment, which shall be designated on the ballot as

“Proposed Ballot Measure of the City of Alameda” and the aforementioned statement of the measure shall read as follows:

MEASURE: Proposed Ballot Measure of the City of Alameda

Shall the measure amending the City Charter to clarify the prohibition against members of the City Council interfering with City Manager’s duties, authorize the City Attorney to prosecute State law misdemeanors, and amend outdated provisions, including utilizing gender neutral language, be adopted? Such amendments will be accomplished by amending Charter Sections 2-9, 2-16, 7-3, 8-2, 10-2, 10-3, 10-4, 10-4.1, and deleting Sections 2-15, 22-7, 22-8, as set forth in City Council Resolution No. ____.	YES
	NO

Section 2. That the text of the charter amendments submitted to the voters is as follows:

CITY OF ALAMEDA CITY CHARTER AMENDMENTS

*Section 7-3 would be amended as follows:* Except for the purpose of inquiry, the City Council and its members, including the Mayor, shall deal with the administrative service under the City Manager and other appointed or elected officers solely through the City Manager or such other officer. Neither the City Council nor any member, including the Mayor, shall give orders to any subordinates under the jurisdiction of the City Manager or such other officers, either publicly or privately, nor shall they attempt to coerce or interfere, directly or indirectly, with the City Manager or such other officers, in respect to any contract, purchase of materials, or any other administrative action, nor shall they in any manner, directly or indirectly, direct, request or take part in the appointment, discipline, or removal of any employee by the City Manager or other such officers, or their subordinates. The City Council may further implement this section by ordinance, resolution, or rules of conduct. Violation of any provision of this section by a member of the Council, including the Mayor, shall be prosecuted as prescribed by State law, conviction of which shall immediately forfeit the office of the convicted member. Neither the Council nor any of the members thereof shall interfere with the execution by the City Manager of his or her powers and duties. Except for purposes of inquiry, the Council and its members shall deal with that portion of the administrative service for which the City Manager is responsible solely through him or her. An attempt by a Councilmember to influence the City Manager in the making of any appointment or the purchase of any materials or supplies shall subject such Councilmember to removal from office for malfeasance.

*Section 8-2 would be amended as follows:* The City Attorney shall have the authority and discretion to prosecute all violations of the ordinances of the City, and all misdemeanor offenses arising out of the laws of the State of California. The City AttorneyHe shall, subject to the general direction of the Council, board or elective officer

having jurisdiction of the matter, prosecute and defend for the City, and all boards, officers and employees in their official capacity all proceedings before judicial or quasi-judicial tribunals. The City AttorneyHe shall not compromise, settle or dismiss any action for or against the City without permission of the Council. The City AttorneyHe shall not commence any action without permission of the Council or written instruction of the City Manager. The City AttorneyHe shall be the legal advisor of and attorney and counsel for the City and for all officers and boards thereof, in all matters relating to their official duties, and whenever requested in writing by any of them, the City Attorneyhe shall give his or her legal advice in writing.

*Section 2-9 would be amended as follows:* If any elected or Council-appointed officer of the City who shall remove from the City or absent himself or herself therefrom for more than thirty days consecutively without the permission of the Council, or shall fail to qualify by taking the oath of office within fifteen days from the time his or her certificate of election or appointment is mailed or delivered to him or her, or shall resign, or be convicted of a felony, or be adjudged insane, his or her office shall be vacant.

*Section 2-15 would be deleted in its entirety in that those changes have been implemented:* Repealed. All references to Councilman here in shall be changed to Councilmember.

*Section 2-16 would be amended as follows:* In order to use neutral gender personal pronouns, aAll references to “he” shall be changed to “they” and “his” shall be changed to “his or her” shall be changed to “their”, and all references to “him” shall be changed to “him or her” shall be changed to “them”, and all references to “himself” shall be changed to “himself or herself” shall be changed to “themselves”, and all the references shall indicate a singular individual unless the context indicates to the contrary.

*Section 10-2 would be amended as follows:* Each of said Boards, except the Public Utilities Board, Social Service Human Relations Board and the City Planning Board shall consist of five members. Upon nomination of the Mayor, the Council shall appoint, ~~between May 1 and July 1 of each year,~~ one member of each such Board for a term commencing the first day of July following such appointment and continuing for four years, and thereafter until the successor of such member is appointed and qualified.

*Section 10-3 would be amended as follows:* The Public Utilities Board shall consist of five members, one of whom shall be the City Manager, who shall have full power of participating and voting. Upon nomination of the Mayor, the Council shall appoint, ~~between May 1 and July 1 of each year,~~ one member of such Board for a term commencing the first day of July following such appointment and continuing for four years and thereafter until the successor of such member is appointed and qualified.

*Section 10-4 would be amended as follows:* The Social Service Human Relations Board shall consist of seven members. Upon nomination of the Mayor, the Council shall appoint, ~~between May 1 and July 1 of each year,~~ at least two members of such Board for terms commencing on the first day of July following such appointment and

continuing for four years and thereafter until the successor of such member is appointed and qualified.

*Section 10-4.1 would be amended as follows:* The City Planning Board shall consist of seven members. Upon nomination of the Mayor, the Council shall appoint, ~~between May 1 and July 1 of each year,~~ such members as are necessary to maintain a full board, for terms commencing on the first day of July following such appointment and continuing for four years and thereafter until the successor of such member is appointed and qualified; provided, however, that not more than two terms shall expire in any year other than by resignation of a member.

*Section 22-7 would be deleted in its entirety in that these matters are handled through City administrative policies:* Repealed. ~~Traveling expenses shall not exceed actual cost of transportation, plus a reasonable per diem allowance, the latter to be fixed annually by the Council uniformly for all officers and employees. Traveling expenses, except for routine duties, shall be allowed only if authorized by the Council.~~

*Section 22-8 would be deleted in its entirety in that these days and hours are no longer the applicable days and hours when public offices are open and are better handled through administrative policies:* Repealed. ~~All public offices, except where otherwise provided by law, shall be open for business every day, except holidays, from 9:00 A.M. to 5:00 P.M., subject to modification by Council.~~

Section 3. That the vote requirement for the measure to pass is a majority (50% + 1) of the votes cast.

Section 4. That the ballots to be used at the election shall be in form and content as required by law.

Section 5. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

Section 6. That the polls shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Elections Code § 10242, except as provided in Elections Code § 14401.

Section 7. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 8. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

Section 9. That the City Council hereby requests the Board of Supervisors to consolidate this election with the November 3, 2020, statewide general election to be held on that date.

Section 10. That the City Council adopts the provisions of Elections Code § 9285(a) to permit rebuttal arguments, if arguments have been filed in favor of or against the measure that is being submitted to the voters of the City at this Consolidated General Municipal Election.

Section 11. That, pursuant to Elections Code § 9280, because the measure has the potential to affect the organization of the City Attorney's Office, the City Clerk is hereby directed to prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on existing law and the operation of the measure. The City Clerk is authorized to engage special counsel to assist in the preparation of this impartial analysis.

Section 12. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Alameda County Clerk of the Board of Supervisors and the County Registrar of Voters in sufficient time so that the measure may be included in the November 3, 2020 Consolidated General Municipal Election ballot.

Section 13. That the City Council authorizes its members to file written arguments for or against the measure described above, as follows:

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Section 14. That the ballot arguments for and against the measure shall not exceed 300 words in length and the rebuttal arguments shall not exceed 250 words in length.

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I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting of the City Council assembled on the 7th day of July, 2020, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 8th day of July, 2020.

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Lara Weisiger, City Clerk  
City of Alameda

Approved as to Form:

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Yibin Shen, City Attorney  
City of Alameda