

RESOLUTION NO. 2023-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH, CALIFORNIA, CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024, FOR THE SUBMISSION TO THE VOTERS QUESTIONS RELATING TO CITY CHARTER AMENDMENTS.

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 Election Code Division 9, Chapter 3, Article 3 (commencing at § 9255) of the State of California, and under the provisions of the laws relating to Charter cities in the State of California, the City Council desires to hold a Special Municipal Election on March 5, 2024 to submit to the voters three questions relating to City Charter amendments; and

WHEREAS, the City Council is authorized and directed by statute to submit the proposed charter amendment(s) to the voters,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to Charter Cities, and pursuant to the California Constitution, Article XI and the Government Code, Title 4, Division 2, Chapter 2 (commencing at § 34450) and the Election 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 Huntington Beach, California, on Tuesday, March 5, 2024, a Special Municipal Election for the purpose of submitting to the voters the following questions relating to City Charter amendments:

“Shall proposed Charter Amendment No. 1 to: require Voter ID for elections, more in-person voting locations, and monitoring of drop-boxes; clarify that voters elect the City Attorney as the City’s legal counsel free from interference from City officials, and clarify budget authority for the City Attorney’s Office; update the qualifications of candidates for City Clerk; and stop potential political wrongdoing by requiring alleged malfeasance by a City official be investigated by outside agencies, be approved?”	Yes
	No
“Shall proposed Charter Amendment No. 2 to: provide that the only flags that shall be displayed by the City on City property are: the United States, County of Orange, City of Huntington Beach Flags, and the POW Flag and Flags of the Armed Forces; require the City to adopt a Two-Year Budget; and move the City Clerk and City Treasurer elections to the gubernatorial election cycle, be approved?”	Yes
	No
Shall proposed Charter Amendment No. 3 to: require voter approval of any City transaction that forgives, waives, or foregoes the collection of property in excess of \$100,000 per year, except acquisition of property for parks or infrastructure; update exceptions to Section 612 (Measure C) to allow certain children’s playground equipment, park-related utility structures and public restrooms be built or improved without limitation; and update the procedures to cancel a regular City Council meeting, be approved?	Yes
	No

SECTION 2. That the complete text of the Charter Amendments submitted to the voters is attached as Exhibit A.

SECTION 3. That the vote requirement for the measures 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 coordinate with the County of Orange Registrar-Recorder/County Clerk 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 (vote centers) for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until 8 o'clock p.m. of the same day when the polls (vote centers) shall be closed, pursuant to Election Code § 10242, except as provided in §§ 14212, 14401 of the Elections Code of the State of California.

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 Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 10. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the ____ day of _____, 2023.

Mayor

REVIEWED AND APPROVED:

City Manager

APPROVED AS TO FORM:



City Attorney

INITIATED AND APPROVED:

City Manager

EXHIBIT A
CHARTER AMENDMENT MEASURES
PROPOSED ADDITIONS SHOWN AS UNDERLINED
PROPOSED DELETIONS SHOWN AS ~~STRIKETHROUGH~~

Charter Amendment Measure No. 1

Section 702. PROCEDURE FOR HOLDING ELECTIONS.

All elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter. In the event of such conflict, the provisions of this Charter shall control and prevail, in accordance with Section 103 of this Charter.

Section 705. SPECIAL PROVISIONS RELATING TO MUNICIPAL ELECTIONS

For all municipal elections, “Elector” means a person who is a United States citizen 18 years of age or older, and a resident of the City on or before the day of an election. The City shall verify the eligibility of Electors by voter identification. Beginning in 2026, the City to provide at least 20 residential voting locations for in-person voting dispersed evenly throughout the City, in addition to any City facility voting locations. The City shall monitor ballot drop boxes located within the City for compliance with all applicable laws. As in Section 300, the City Charter shall determine the term of the City’s elective officers, the length of term, and the election cycle in which the election for those offices occur for the City’s elective officers.

Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER.

(a) **Quorum.** A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally or by mail to each Council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council.

(b) **Proceedings.** The City Council shall judge the qualification of its members as set forth by the Charter. It shall judge all election returns. Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable. ~~The City Council shall have control of all legal business~~

~~and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business.~~

(c) **Rules of Order.** The City Council shall establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings. Upon adoption of any ordinance, resolution, or order for payment of money, or upon the demand of any member, the City Clerk shall call the roll and shall cause the ayes and noes taken on the question to be entered in the minutes of the meeting.

Section 309. CITY ATTORNEY. POWERS AND DUTIES.

To become and remain eligible for City Attorney the person elected or appointed shall have graduated from a law school accredited by the American Bar Association, be an attorney at law, duly licensed as such under the laws of the State of California, shall have been engaged in the practice of law in this State for at least five years prior to their election or appointment.

The City Attorney represents the City of Huntington Beach, a Chartered City under the Constitution of the State of California and a Municipal Corporation.

The elected City Attorney is, by virtue of the election, designated by the people as the City's exclusive legal counsel. The City Attorney may hire, contract, and/or appoint outside contract attorneys and/or such in-house deputy or deputies to assist or act for the City Attorney, at such salaries or compensation as the City Council may by ordinance or resolution prescribe; provided that the employ of attorneys to assist the City Attorney in the execution of his or her duties is the exclusive purview of the City Attorney. Neither the City Council, the City Manager, nor any other City Official or department may hire their own attorneys, consult with, attempt to contract with attorneys for services, or obtain other/outside legal opinions, without the prior express written consent of the City Attorney.

Because of the unique nature of the City Attorney's work at the pleasure of the electorate, and in order to protect the City Attorney's work from political interference, neither the compensation of the City Attorney nor the City Attorney's annual budget or any aspect thereof shall be reduced by the City Council from year to year unless approved by a four-fifths majority of the total members of the City Council, but in no event shall any such reduction exceed 3% in a year and from the previous year.

The City Attorney shall have the power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.

(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or

former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of their employment or by reason of their official capacity.

(d) Attend all regular meetings of the City Council, unless excused, and give their advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(e) Approve in writing the form of all contracts made by and all bonds and insurance given to the City.

(f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.

(g) Devote such time to the duties of their office and at such place as may be specified by the City Council.

(h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.

(i) Surrender to their successor all books, papers, files, and documents pertaining to the City's affairs.

(j) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

(k) Provide advice related to compliance with the City Charter to all elected and appointed officials of the City.

(l) Keep, maintain, and protect all City confidential attorney-client privileged, and attorney work product privileged information. Such confidential information shall not be accessible to any other City Official, City Staff, or third party, unless the City Attorney authorizes such access or the City Council votes to authorize such access by majority vote.

(m) Additions to Section 309 of this Charter, if approved by the voters at the March 5, 2024 election, shall take effect on January 1, 2027.

Section 310. CITY CLERK. POWERS AND DUTIES.

To become and remain eligible for City Clerk, the person elected or appointed shall have a Bachelor's Degree ~~in business, public administration, or a related field~~, and hold a certification as a Municipal Clerk or obtain such certification within the first three years in office. The City Clerk shall have the power and shall be required to:

(a) Attend all meetings of the City Council, unless excused, and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City

Council in records that shall bear appropriate titles and be devoted to such purpose.

(b) Maintain separate records, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.

(c) Maintain separate records of all written contracts and official bonds.

(d) Keep all records in their possession properly indexed and open to public inspection when not in actual use.

(e) Be the custodian of the seal of the City.

(f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(g) Be ex officio Assessor, unless the City Council, has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the City Council by ordinance provides otherwise.

(h) Have charge of all City elections.

(i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

(j) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

The City Clerk may, subject to the approval of the City Council, appoint such deputy or deputies to assist them or act for them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

Section 314. INVESTIGATION OF MALFEASANCE

To avoid potential conflicts of interest and political interference, any allegation of malfeasance, wrongdoing or misconduct against an elected official of the City, shall not be investigated by the City, any other City Official, or member of City Staff. Rather, such allegations shall be referred to the Orange County District Attorney, the California Attorney General, the Fair Political Practices Commission, or other appropriate higher level government agency.

Charter Amendment Measure No. 2

SECTION 806. DISPLAY OF FLAGS.

Except as otherwise provided herein, the City shall only fly or display at or on any of the City's properties the following flags: the American flag, the POW/MIA flag, the State of California flag, the Huntington Beach City flag, the County of Orange flag, or any of the flags of the six branches of service: the Army, Navy, Air Force, Coast Guard, Marine Corps, and Space Force. During the Summer Olympic Games, the Mayor is authorized to order the display of the official Olympic flags for four weeks prior to the dates of the games, and for up to two weeks thereafter. The City may display any other flag in addition to those already enumerated, but only if authorized by a unanimous vote of all members of the City Council.

Section 401. POWERS AND DUTIES.

Except as otherwise provided in this Charter, the City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting this general grant of powers and responsibilities, the City Manager shall have the power and be required to:

(a) Appoint, promote, demote, suspend or remove department heads, officers and employees of the City except elective officers and the Chief of Police. The Chief of Police shall not be appointed or removed until the City Manager shall first have reviewed such appointment or removal with the City Council and have received approval for such appointment or removal by a majority vote of the full City Council.

(b) Prepare the budget as required by this Charter annually, submit it to the City Council, and be responsible for its administration upon adoption.

(c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City, and annually or more frequently, a current report of the principal administrative activities of the City.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.

(e) Maintain a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare, administer and enforce rules and regulations recommended to and adopted by the City Council governing the contracting for, purchase, inspection, storage, inventory, distribution and disposal of all supplies, materials and equipment required by any office, department or agency of the City government.

(g) Be responsible for the compliance by the City with the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.

Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees, and prescribe such general rules and regulations as deemed necessary or proper for the general conduct of the administrative offices and departments of the City under their jurisdiction.

(h) Perform such other duties consistent with this Charter as may be required by the City Council.

Section 601. BIENNIAL ANNUAL BUDGET, PREPARATION BY THE CITY MANAGER.

At such date as the City Manager shall determine, each board or commission and each department head shall furnish to the City Manager, personally, or through the ~~Finance Director~~ Chief Financial Officer, estimates of the department's, board's or commission's revenue and expenditures for the ensuing two fiscal years, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as may be deemed advisable.

Section 602. BIENNIAL ANNUAL BUDGET. SUBMISSION TO THE CITY COUNCIL.

The City Manager shall submit the proposed budget to the City Council at least thirty days prior to the beginning of each even numbered fiscal year beginning in 2026. After reviewing the proposed budget and making such revisions as it may deem advisable, the City Council shall hold a public hearing thereon at least fifteen days prior to the beginning of each even numbered fiscal year and shall cause to be published a notice thereof not less than ten days prior to said hearing. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to said hearing.

Section 603. BIENNIAL ANNUAL BUDGET. PUBLIC HEARING.

At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Section 604. BIENNIAL ANNUAL BUDGET. FURTHER CONSIDERATION AND ADOPTION.

At the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before the last day of the fiscal year it shall adopt the budget with revisions, if any, by the affirmative vote of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing two fiscal years. Copies thereof, certified by the City Clerk, shall be filed with the City Manager, ~~Finance Director~~ Chief Financial Officer, City Treasurer and the person retained by the City Council to perform the post audit function, and a further copy shall be placed, and shall remain on file in the office of the City Clerk where it shall be available for

public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

Section 605. BIENNIAL ANNUAL BUDGET APPROPRIATIONS.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named; provided, however, that the City Manager may transfer funds from one object or purpose to another within the same department, office or agency. All appropriations shall lapse at the end of the second fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any public meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative vote of at least a majority of the total members of the City Council.

Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS.

The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify, unless otherwise provided in this Charter. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Four members of the City Council shall be elected at the general municipal election held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected for a term of six years at the general municipal election held in 2024, ~~1968, and each fourth year thereafter~~. A City Attorney, a City Clerk, and a City Treasurer shall be elected in 2030 ~~1966~~, and each fourth year thereafter.

The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first Monday date of the first regular City Council meeting following the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots.

If no candidate meets the qualifications for office of the City Clerk, City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected.

Charter Amendment Measure No. 3

SECTION 618. VOTER APPROVAL REQUIRED FOR MATTERS AFFECTING THE COLLECTION OF PROPERTY TAX.

No transaction that forgives, waives or foregoes the collection of property tax by the City in excess of \$100,000.00 per year shall be approved, unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted. This section shall not apply to transactions related to the acquisition of property for public parks; or to transactions related to the acquisition of property for infrastructure, as defined in Section 617(a) of this Charter.

Section 612. PUBLIC UTILITIES AND PARKS AND BEACHES.

(a) No public utility or park or beach or portion thereof now or hereafter owned or operated by the City shall be sold, leased, exchanged or otherwise transferred or disposed of unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

(b) No golf course, driving range, road, building over three thousand square feet in floor area nor structure costing more than \$161,000.00 may be built on or in any park or beach or portion thereof now or hereafter owned or operated by the City unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted after the appropriate environmental assessment, conceptual cost estimate, and reasonable project description has been completed and widely disseminated to the public. Effective January 1, 2011, and each year thereafter, the maximum cost will be adjusted by the Consumer Price Index for the Los Angeles-Riverside-Orange County area.

(c) Section 612(a) and 612(b) shall not apply;

(1) to libraries or piers;

(2) to any lease, franchise, concession agreement or other contract where;

- the contract is to perform an act or provide a service in a public park or beach AND
- such act was being performed or service provided at the same location prior to January 1, 1989 AND

- the proposed lease, franchise, concession agreement or other contract would not increase the amount of parkland or beach dedicated to or used by the party performing such act or providing such service.

(3) to aboveground public works utility structures or public restrooms under 6,000 3,000 square feet;

(4) to underground public works utility structures if park or beach use is not impeded;

(5) to any public works construction, maintenance or repair mandated by state or federal law that does not negatively impact recreational opportunities; ~~or~~

(6) to renewable energy projects that do not negatively impact recreational opportunities; or

(7) to new children's playground facilities or equipment in any park; or to replacement children's playground facilities or equipment in any park or beach, provided that the square footage of such replacement children's playground facilities or equipment is not increased by more than 100% during any ten year period.

(d) If any section, subsection, part, subpart, paragraph, clause or phrase of this amendment, or any amendment or revision of this amendment, is for any reason held to be invalid or unconstitutional, the remaining sections, subsections, parts, subparts, paragraphs, clauses or phrases shall not be affected but shall remain in full force and effect.

Section 303. MEETINGS AND LOCATION.

(a) **Regular Meetings.** The City Council shall hold regular meetings at least twice each month, unless it lacks a quorum or the meeting is canceled by the Mayor or a majority of City Council Members, at such time as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

(b) **Special Meetings.** A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. If any person entitled to such written notice files a written waiver of notice with the City Clerk, it may be dispensed with. This notice requirement shall be considered fulfilled as to any person who is actually present at the meeting at the time it convenes. In the event of an emergency affecting the public peace, health or safety, a special meeting may be called as provided in this section with less than twenty-four hours written notice by the Mayor Pro Tem in the Mayor's absence or by any member of the City Council in the absence of both the Mayor and Mayor Pro Tem provided that the nature of the emergency is set forth in the minutes of the meeting.

(c) **Place of Meetings.** All regular meetings shall be held in the Council Chambers of the City or in such place within the City to which any such meeting may be adjourned. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he should fail to act, by a majority of the members of the City Council.

(d) **Open Meetings.** All regular and special meetings of the City Council shall be open and public, and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to executive sessions. Subject to the rules governing the conduct of City Council meetings, no person shall be denied the right to be heard by the City Council.

(e) **Dissemination of Information.** The City Council shall adopt rules to ensure thorough and timely dissemination of information via current technology by resolution.