



Berkeley City Council

ACTION CALENDAR

June 3, 2014

*(Continued from May 20, 2014)*

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Jesse Arreguín and Laurie Capitelli  
 Subject: Citizens Redistricting Commission Charter Amendment

RECOMMENDATION:

1. Adopt a motion expressing the City Council's intent to submit to the voters at the November 4, 2014 General Municipal Election, the attached amendment to the City Charter to establish an independent Citizens Redistricting Commission; and
2. Direct the City Manager to request that the City Attorney write the ballot question and analysis of the proposed measure as required by Elections Code Section 9280, and bring back to the City Council as soon as possible a resolution to submit the Charter Amendment to the voters along with the City Attorney's analysis and ballot question.

BACKGROUND:

Currently the Berkeley City Charter designates the City Council as the body charged with drawing Council district boundaries. Article V, Section 9 of the City Charter requires the Council to "divide the City into eight Council districts". In drawing districts the Council must ensure that the districts continue to be as nearly equal in population as may be according to the census and takes into consideration "topography, geography, cohesiveness, contiguity, integrity and compactness of the territory of the district, as well as existing communities of interest [...] and shall utilize easily understood district boundaries such as major traffic arteries and geographic boundaries."

Also no change in district boundaries may result in the residences of two sitting Council members being drawn into the same district. During the last two redistricting processes (2001-2002 and 2011-2013) the City Council adopted boundaries that were the subject of controversy and resulted in two citizen referendums which stayed implementation of the boundaries. On both occasions, charges of drawing boundaries on the basis of political considerations were raised. Putting the responsibility of drawing electoral boundaries in the hands of the very officials who stand to benefit from them may result in conflicts. In response to this inherent conflict, and the use of redistricting to provide partisan advantage, in 2008, California voters approved Proposition 11, which transferred the responsibility of reapportionment from the State Legislature to an independent Citizens Redistricting Commission which is independent from the

Legislature. In 2010, California voters empowered the commission to draw Congressional boundaries.

Thousands of California residents applied to serve on the state Redistricting Commission as a result of an extensive public outreach process, and the 14 members of the commission not only reflected geographic diversity, but also diversity in party identification and background. The state Redistricting Commission process has proven successful in drawing impartial district boundaries and has served as a model for other communities in the United States to delegate redistricting to an independent citizens panel. The City of San Diego and Austin, Texas also have independent redistricting commissions.

This Charter amendment is modeled largely off of Proposition 11, and would transfer responsibility for redistricting from the City Council to a citizen redistricting Commission.

If the referendum on Ordinance No. 7,320-N.S. does not pass at the November 2014 election, the commission shall be convened to draw district boundaries which shall be operative until the next redistricting process after the 2020 census. Then after each decennial census, the City Manager would determine whether redistricting is necessary to conform to the Charter and federal law. If it is necessary to adjust district boundaries the City Clerk shall initiate an application process to select the initial 8 members of the commission, one per City Council district. The remaining 5 members will be appointed by the commission by a two-thirds vote and based on the original pool of applicants, at a noticed meeting open to the public.

To form the Commission, the City Clerk would accept applications from registered voters and narrow the pool to 60 applicants best meeting the following criteria:

- experience with redistricting, including election and voting rights law;
- geographic diversity;
- enrolled at Berkeley City College or the University of California; and
- age, gender and racial diversity.

The following individuals would be ineligible:

- anyone who holds any elected office in Berkeley;
- anyone who has served on or run for the City Council or been or run for Mayor within the preceding 10 years;
- immediate family, staff and paid or unpaid interns for City Councilmembers or the Mayor;
- City employees, contractors and subcontractors and their employees; and
- anyone who has ever served as treasurer, or paid consultant of a campaign committee for any candidate for City Council or Mayor.

Members of City boards and commissions could serve as long as they resign from their board or commission and do not serve again as long as they are on the redistricting commission. Commissioners would be prohibited from serving on a City board or commission for 5 years, and from running for City Council or Mayor for 10 years.

The 60-person pool of applicants would be divided into 8 groups: one for each council district. One commissioner and one alternate would be chosen by lottery from each group. The five additional commission seats shall be selected after the commission convenes and the remaining commission seats will be appointed by a super-majority vote of the commission.

Commission meetings would comply with the state and local open meetings requirements. The Commission would be required to conduct public outreach and hold at least three public hearings, at different locations:

- at the beginning of the process to allow for submission of redistricting proposals from the public;
- after release of the final draft redistricting plan; and
- prior to final adoption of a redistricting plan.

Redistricting standards would be largely unchanged, except that:

- new districts would not be required to keep Council members' residences in their new districts, provided that the commission issues a report explaining why it was necessary to do so. In such cases, sitting council members would be allowed to complete their terms.
- Deviations from existing district boundaries must also be explained in a written report.

Districts adopted by the Commission could be subjected to a referendum. If a referendum qualified, the Commission would be required to attempt to adopt a new redistricting plan within 90 days. If it could not do so, its original plan would be placed on the ballot at the next regular election, along with any alternative redistricting plan developed by the referendum proponents.

By placing this Charter Amendment on the ballot, it transfers the power of redistricting from the Council directly to citizens and will ensure fair district boundaries not burdened by considerations of incumbency or outdated lines. It will help minimize the political conflict around redistricting in Berkeley, as it has generally done on the state level.

#### FINANCIAL IMPLICATIONS:

Some staff costs associated with reviewing the Charter Amendment language and preparing a City Attorney's analysis and the ballot question. However, some cost savings may be achieved by establishing a redistricting process which will minimize the possibility of a referendum, foregoing the cost of processing and verifying referendum petitions, and the costs associated with multiple rounds of redistricting.

#### CONTACT PERSONS:

Jesse Arreguín, Councilmember, District 4	981-7140
Laurie Capitelli, Councilmember, District 5	981-7150

ATTACHMENTS:

1. Text of Proposed Charter Amendment

FULL TEXT OF CHARTER AMENDMENT

AMENDMENT TO ARTICLE V, SECTION 9 OF THE BERKELEY CITY CHARTER TO ESTABLISH A CITIZENS REDISTRICTING COMMISSION

The People of the City of Berkeley hereby amend the following section of the Charter of the City of Berkeley to read as follows:

Section 1. Section 9 of Article V of the Charter of the City of Berkeley is amended to read as follows:

**Section 9. Election and Districts.**

(a) The Mayor, Auditor and School Directors shall be elected at the general municipal election on a general ticket from the City at large.

(b) The Councilmembers shall be elected at the general municipal election by districts. The Councilmembers shall be recalled by districts. Any person appointed to fill a vacancy on the City Council shall be a citizen of the United States and a qualified elector in the State of California and of the City of Berkeley as required in Article V, Section 10 of the City Charter, and must reside in the district they will be appointed to represent.

(c) (1) Within 90 days following the publication of the decennial federal census in the year 2020 and every decennial federal census thereafter, the City Manager shall determine and report to the City Council on whether the existing districts continue to meet the requirements of federal and state law and the criteria for drawing district boundaries set forth in this Charter.

If it is determined by the City Manager that the districts are in compliance with all legal requirements and with the criteria set forth in this Charter, including the requirement that the districts be as nearly equal in population as may be, the current districts as drawn will be effective for the next decade. If it is determined by the City Manager that any of the districts are not in compliance with applicable laws, the City Clerk shall initiate an application process to establish a Citizens Redistricting Commission and shall randomly select ~~seventeen-eight (817)~~ registered Berkeley voters, one per City Council district, from a pool of applicants using the process outlined in subsection (g) of this Section. Once the initial eight Commission members are appointed, the Commission shall convene for the purpose of appointing the remaining five (5) commission members and to drawing City Council district boundaries as required by this Section.

The Commission shall be solely responsible for drawing City Council district boundaries in accordance with the law and with the criteria established in this Section, and shall make adjustments as appropriate, taking into consideration public comment at public meetings and public hearings. The City Council shall have no role in developing or adopting a redistricting plan, and its sole responsibility in redistricting shall be to submit a redistricting plan that is the subject of a referendum to the voters as well as an alternate plan submitted by the named referendum proponents, as required in subsection (i)(5) of this Section if the Commission is unable to adopt a redistricting plan within 90 days after the certification of sufficiency of the referendum petition.

Except for the redrawing of boundaries if the referendum of Ordinance No. 7,320-N.S. does not pass at the following the November 4, 2014 General Municipal Election as required in subsection (d) of this Section, the Commission must adopt City Council district boundaries no later than December 31<sup>st</sup> of the third year in which each decennial federal census is taken. The district boundaries adopted by the Commission shall be final and in effect until the adoption of new district boundaries following the next decennial federal census, subsection (i) (5) notwithstanding. The City Council may not rescind, supersede or revise the district boundaries adopted by the Commission.

(d) ~~Immediately following the 2014 General Municipal Election~~ If the referendum of Ordinance No. 7,320-N.S. does not pass at the November 4, 2014 General Municipal Election, then the City Clerk shall initiate an application process to select and appoint the initial eight members of the Commission using the process outlined in subsection (g) of this Section. Once appointed, the Commission shall convene for the purpose of appointing the remaining five (5) commission members and to drawing new City Council district boundaries that upon adoption shall be effective until new districts are established following the 2020 decennial federal census, subsection (i) (5) notwithstanding.

(e) **Purposes:** The Citizens Redistricting Commission should: 1) conduct an open and transparent process allowing public comment on the drawing of district boundaries; 2) draw City Council district boundaries according to the redistricting criteria set forth in this Section and in accordance with applicable State and Federal laws; and 3) conduct themselves with integrity, fairness, and without personal or political considerations in carrying out the duties of their office.

The Commission application and selection process is intended to produce a Citizens Redistricting Commission that is independent from legislative and political influence, and reasonably representative of the City's population.

(f) The Citizens Redistricting Commission shall consist of ~~seventeen~~ thirteen (13) members each of whom is a registered voter in the City of Berkeley, eight (8) of whom shall be randomly chosen to represent each City Council district from a pool of applicants residing in each respective City Council district, and subject to the qualifications set forth subsection (g) of this Section. The term of office of each member of the Commission shall expire upon the adoption of district boundaries by the Commission, unless there is a referendum of the redistricting plan adopted by the

Commission, in which case the term of office of each Commissioner shall expire at the conclusion of the referendum process, either by rescission and adoption of a new and substantially different redistricting plan as required in subsection (i)(5), or through approval of the redistricting plan by the voters if the referendum is placed on the ballot. If the voters reject the redistricting plan that is the subject of a referendum, the term of office of each Commissioner shall continue until the Commission adopts a new and substantially different redistricting plan. The final redistricting plan must be approved by a [two-thirds majority](#) vote of the Commission. The Commissioners shall annually elect one of their members to serve as the Commission Chair and one to serve as the Commission Vice-Chair.

Each Commission member should apply the law in a manner that is impartial and reinforces public confidence and integrity in the redistricting process. Commission members shall be ineligible to run for or be appointed to the office of Councilmember or Mayor for a period of 10 years from the date of their original appointments to the Commission.

(g) If the City Manager determines, pursuant to subsection (c) of this Section, that the existing City Council district boundaries are not in compliance with all legal requirements, including the requirement that they be as nearly equal in population as may be, the City Clerk shall initiate an application process to select [the initial eight](#) members of the Commission. [The application process which](#) shall be open to all registered Berkeley voters.

(1) The following individuals are prohibited from serving on the Citizens Redistricting Commission: Any individual who currently holds, has held, or who has run for the office of Mayor or City Councilmember in the preceding 10 years, or who has recently been elected and will be serving in such capacity; paid staff or unpaid interns to the Mayor or any Councilmember; the immediate family of the Mayor, any Councilmember or staff to a Councilmember; any other elective officer in the City of Berkeley; any person employed by the City of Berkeley full-time or part-time, including city contractors or subcontractors; any individual who has served as a treasurer, officer, or paid consultant of a campaign committee of a candidate for Mayor or City Council, or for any person elected to the office of Mayor or Councilmember. As used in this subdivision, a member of a person's "immediate family" is one with whom the person has a bona fide relationship established through blood or legal relation, including parents, children, spouses, siblings and in-laws. A person's registered domestic partner or significant other shall also be considered a member of a person's "immediate family" for purposes of this subdivision. The Commission application shall include questions asking if an applicant falls into one or more these prohibited categories, and applicants shall sign their applications under penalty of perjury certifying that the statements they are making are true and correct. If the applicant discloses that they fall into one or more of these prohibited categories, then they shall be removed from the applicant pool and shall not be considered further for appointment. If it is determined at any point during the screening and selection process that an individual falls into one or more of the prohibited categories then they shall be disqualified. If it is determined after an individual is selected and appointed to the Commission that they fall into one of the prohibited

categories then they shall be immediately removed from the Commission, as provided for in subsection (h)(1) of this Section.

If an applicant currently serves on a City of Berkeley Board or Commission appointed by the Mayor, a City Councilmember or the full City Council, they are permitted to serve on the Citizens Redistricting Commission if selected, provided they resign from the commission they were appointed to by the Mayor, City Councilmember or full City Council and agree not to serve on another City of Berkeley Board or Commission during their term of office on the Citizens Redistricting Commission. The applicant must also agree to not serve on a City of Berkeley Board or Commission for a period of five years following the expiration of their term on the Commission.

If the applicant made a monetary or non-monetary contribution to a candidate for Mayor or Councilmember, or someone elected to the office of Mayor or Councilmember, they shall be permitted to serve on the Citizens Redistricting Commission if selected, under the condition that they disclose under penalty of perjury all monetary and non-monetary contributions made within the last 10 years to a candidate for Mayor or Councilmember in the City of Berkeley, or to any person elected to the office of Mayor or Councilmember. The Commission application form shall include a question asking applicants if they had previously made a monetary or non-monetary contribution to a candidate for Mayor or Councilmember or to an individual elected to the office of Mayor or Councilmember. If the applicant had previously made such a contribution, they shall include with their application a list of all such contributions made within the last 10 years including the amount of each such donation and the recipient.

All applicants shall sign a statement on the Commission application form agreeing if selected not to serve on any City of Berkeley Board or Commission during their term of office on the Citizens Redistricting Commission, and shall agree to not make a monetary or non-monetary contribution, serve as paid staff or as a paid consultant to, or volunteer for any candidate for Mayor or Councilmember, or any person currently holding the office of Mayor or Councilmember, during their term of office on the Citizens Redistricting Commission.

The applicant must also disclose any communications with any elected official representing the City of Berkeley or any of their agents regarding local redistricting within the last ten years.

Failure to comply with any of these terms may be considered gross misconduct and may result in the removal of the Commissioner under the procedure specified in subsection (h) (1).

The City Clerk shall make available for public viewing the applications and disclosures of all current members of the Commission at each of its meetings and public hearings.

(2) The City Clerk shall review all applications to ensure that each applicant is a registered Berkeley voter and that an applicant does not fall into one of the prohibited categories in subsection (g)(1) of this Section. Anyone who is not a registered voter in



the City of Berkeley or falls into one of the prohibited categories in subsection (g)(1) of this Section shall be disqualified and removed from the applicant pool.

All remaining applicants shall be reviewed based on the following criteria: any relevant experience with redistricting, including experience in election law, voting rights law, and past experience with redistricting on the local, state or federal level; geographic diversity including comparable numbers of applicants from each City Council district; currently enrolled UC Berkeley and Berkeley City College students; as well as age, gender and racial diversity.

Based on a review of all of the applicants, the City Clerk shall narrow the pool of applicants to a group of 60 applicants who best meet the criteria set forth in this Section and shall divide those applicants into 8 9 separate pools: each pool based on each City Council district in which the applicant resides, ~~except for applicants who have indicated that they are a currently enrolled UC Berkeley students, who shall be in a ninth separate pool.~~

At a time and place open to the public and properly noticed, the City Clerk shall select the ~~17~~ initial eight (8) members of the Citizens Redistricting Commission by random drawing. The City Clerk shall randomly select one person from each of the ~~nine~~ eight pools. The first person chosen from each pool shall be appointed to the Commission. The City Clerk shall then select one additional individual from each of the ~~nine~~ eight pools to serve as an alternate for the individual appointed to the Commission. The alternates shall be appointed as voting members of the Commission if the individuals appointed to the Commission are removed or resign from office.

~~Once the initial eight members are selected, the Commission shall be convened for the purpose of selecting the remaining five (5) commission members and five alternates, who shall be appointed by a two-thirds vote of the commission from the combined initial pool of applicants, and shall be appointed at a noticed meeting of the commission open to the public. In appointing the remaining 5 commission members, the Commission shall take into consideration the background and demographics of the initial eight commission members, and shall attempt to balance the need for geographic, age and racial diversity in appointing the remaining commissioners. To select the remaining eight seats on the Commission, all remaining names in the pools shall be combined and the City Clerk shall randomly draw the first eight names. The first eight names selected out of the final draw shall be appointed to the Commission. The City Clerk Commission shall then select eight-five additional individuals from the remaining pool to serve as alternates for the remaining eight-five individuals appointed to the Commission. The alternates shall be appointed as voting members of the Commission if the individuals appointed to the Commission are removed or resign from office.~~

All alternates shall be eligible to participate in all Commission meetings, except for closed session meetings as necessary under the Brown Act, and can participate in Commission discussions, but cannot vote on any matters before the Commission.

(h) (1) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the Commission may be removed by the Commission with the concurrence of two-thirds of the members of the Commission after having been served written notice and provided with an opportunity for a response. If it is determined after appointment to the Commission, based on a preponderance of evidence, that a Commission member falls into one of the prohibited categories in subsection (g)(1) of this Section, the member shall be immediately removed from the Commission by the City Clerk.

(2) Any vacancy, whether created by removal, resignation, or absence, in the 47-13 Commission positions shall be filled by the alternate for that Commission seat selected at the time of the original selection. If the alternate is unable to serve, the City Clerk Commission shall fill the vacancy by selecting an appointee from the original pool of applicants by random draw using the procedure specified in subsection (g)(2) of this Section by a two-thirds vote and at a noticed meeting open to the public. If the seat to be filled is one representing a specific City Council District, the Commission may only appoint an individual who resides in that City Council district. ~~or a UC Berkeley student representative, the City Clerk shall develop a pool based on all the remaining applicants who fill that specific category, and shall randomly draw names from the pool to select an individual to serve on the Commission.~~

(3) Commission members are strictly prohibited from communicating with or initiating or receiving communications about redistricting matters from anyone outside of a public meeting or hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel, and consultants retained by the commission, that is otherwise permitted by the Brown Act (California Government Code Section 54950-54963) or its successor, outside of a public meeting. This paragraph also does not prohibit the receipt of written communications (whether through paper or electronic format) from the public submitted at a public meeting of the Commission or submitted prior to a Commission meeting to the Secretary and made part of the public record. Any communication received by a commission member inconsistent with this subsection shall be promptly disclosed to the Secretary for the public record. Failure to disclose received communications or a Commissioner's response to such communications may be considered gross misconduct.

(4) The Commission shall comply with any relevant provisions of the Open Government Ordinance (Berkeley Municipal Code Chapter 2.06).

(5) The City Council, as part of the adoption of the City Budget, shall allocate necessary funds to support the work of the commission, including funds necessary for community outreach, costs for city staff time associated with supporting the work of the Commission, and the hiring of any necessary consultants or outside counsel.

(6) The Commission shall establish and implement an open process for public input and Commission deliberation that shall be promoted through a thorough outreach program to solicit broad public participation in the redistricting process. All Commission meetings shall be open to the public unless necessary to convene in closed session under the

Brown Act or its successor. Members of the public shall have the opportunity to provide written and oral comments to the commission. The public input process should also include a minimum of three public hearings at varied locations throughout the city: one at the commencement of the process to solicit public input on redistricting priorities and to allow for public submission of redistricting proposals; one after the release of the final draft map, and one final hearing prior to final adoption of a redistricting plan. In addition, hearings may be supplemented with other activities as appropriate to further increase opportunity for the public to observe and participate in the review process. The Commission shall display draft redistricting maps for public comment in a manner designed to achieve the widest public access reasonably possible.

Staff will develop maps based on Commission direction. The Commission and staff shall have the sole authority to submit redistricting maps for consideration, with the exception of maps that are submitted by the public to the Commission during the first public hearing.

(i) (1) The Commission shall adjust the boundaries of City Council districts following the release of each decennial federal census if it is determined that the districts do not comply with all legal requirements, as well [necessary if the referendum of Ordinance No. 7,320-N.S. does not pass at the November 4, 2014](#) as following the 2014 General Municipal Election as required in subsection (d) of this Section, as provided and required in the Constitution and statutes of the State of California and in order that the eight Council districts shall continue to be as nearly equal in population as may be according to said census, except where deviation is required to comply with the federal Voting Rights Act or allowable by law. Any such redistricting shall become effective for the next general election of Councilmembers immediately following the effective date of approval by the Commission, subsection (i) (5) notwithstanding.

(c) — No later than December 31st of the third year following the year in which each decennial federal census is taken, commencing with the 2010 census, the Council shall by ordinance divide the City into eight Council districts. Any such redistricting shall become effective as of the next general election of Councilmembers immediately following the effective date of said ordinance.

(1)(2) In establishing and modifying district boundaries, the ~~Council~~ Citizens Redistricting Commission shall ensure that the districts continue to be as nearly equal in population as may be according to the census, taking into consideration topography, geography, cohesiveness, contiguity, integrity and compactness of territory of the districts, as well as existing communities of interest as defined ~~in California Constitution Article XXI, section 2(d)(4) below~~ and shall utilize easily understood district boundaries such as major traffic arteries and geographic boundaries to the extent they are consistent with communities of interest. The geographic integrity of a neighborhood or community of interest shall be respected to the extent possible without violating State and Federal law or the requirements of this Section. For purposes of this subsection “communities of interest” shall mean the following: A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation.

Such shared interests include but are not limited to those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process, as well as neighborhoods, students, organized student housing, shared age, and racial demographics. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

The Commission should consider existing district boundaries as a basis for developing new district boundaries. Should the Commission deviate in its redistricting plan from the previous district boundaries in order to reflect population growth, protect communities of interest or better comply with the redistricting criteria in the Charter, the Commission shall issue a report explaining its reasons for its deviation from the previous district boundaries.

~~(2) Notwithstanding the foregoing paragraph, no change in the boundary or location of any district by redistricting may result in the residences of two sitting Council members being located in the same district.~~

(3) The Commission in its deliberations may consider the residence of sitting Councilmembers, but may remove the residence of a sitting Councilmember from their district if the maintenance of their residence in the district divides communities of interest or would result in a redistricting plan that does not in the opinion of the commission best comply criteria set forth in this Section. The Commission shall issue a report explaining the reasons why it deemed it necessary to draw out the residence of a sitting Councilmember from their district.

*Phase-in period.* If the district boundaries adopted by the Commission remove the residence of a sitting Councilmember from their district, the Councilmember shall continue to serve on the City Council until the expiration of their term. However they will be required to reside in the new district to be eligible to run for another term.

(4) The Commission shall adopt a [resolution approving a final redistricting plan by resolution-a two-thirds vote](#) and upon 30 days after approval shall submit the final plan to the City Clerk and Alameda County Registrar of Voters for implementation starting with the next General Municipal Election. The Commission shall issue a report that explains its decisions in achieving compliance with the criteria listed in this Section and shall include definitions of the terms and standards used in drawing the final City Council districts map.

(5) The final redistricting plan adopted by the Commission shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to state law and Article XIV of the City Charter. The date of adoption of a resolution by the Commission approving a final City Council redistricting plan shall be deemed the

enactment date for the purposes of referendum. If within 30 days after the enactment of a redistricting plan by the Commission, a petition is submitted to the City Clerk protesting against the passage of the redistricting plan, signed by registered voters of the City equal in number to at least ten percent of the entire vote cast for all candidates for Mayor in the last preceding general municipal election at which a Mayor was elected, the redistricting plan shall be suspended from going into operation and it shall be the duty of the Commission to rescind the redistricting plan and adopt in good faith a new and substantially different plan within 90 days of the certification of sufficiency of the referendum petition. If the Commission does not adopt a new and substantially different redistricting plan within 90 days of the certification of sufficiency of the referendum petition, then the City Council shall submit the referendum to the voters at the next occurring Statewide or General Municipal Election. Upon the same ballot, the Council shall also submit to the voters an alternate redistricting plan by the named proponents of the referendum if provided.

(d) (j) Each Councilmember shall be elected by the electors within a Council district, must have resided in the District in which he or she is elected for a period of not less than thirty days immediately preceding the date he or she files a declaration of candidacy for the office of Councilmember, must continue to reside therein during his or her incumbency, and shall be removed from office upon ceasing to be such resident, however if the residence of a sitting Councilmember is removed from their district as part of the redistricting plan adopted by the Commission, the Councilmember shall continue to serve until the expiration of their term as permitted in subsection (i)(3) of this Section.

(e)(k) The candidate receiving the highest number of votes for the offices, respectively, of Mayor, Auditor and Councilmembers of the City shall be elected to such offices, provided that such candidate receives at least 40% of the votes cast for each such office. In the event that no candidate for Mayor, Auditor and Councilmember for one or more Council offices receives at least 40% of the votes cast for that office, then there shall be a runoff election between the two candidates receiving the most votes, which runoff election shall be held on the first Tuesday after the first Monday in February of the odd numbered year following the initial election. No other issues shall appear on the ballot of any runoff election. The successful candidate in any runoff election shall assume office on March 1, after the election results have been declared by the Council. If the provisions of Article III, Section 5, Paragraph 12 related to instant runoff voting are operative, the vote threshold requirements in this section shall have no application to municipal elections.

(f)(l) Should any provision of this section be held invalid, the remainder of this section shall not be affected thereby, and such word, phrase, sentence, part, section, subsection, or other portion shall be severable, and the remaining provisions of this section shall remain in full force and effect. The voters hereby declare that they would have passed this section and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more, subsections, sentences, clauses or phrases had been declared invalid.

