


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY THE CITY ATTORNEY AND THE CITY CLERK

ORDINANCE AMENDING AND REENACTING OAKLAND MUNICIPAL CODE CHAPTER 3.08 TO:

- 1. REMOVE SECTION 3.08.240, BALLOT TITLE AND SUMMARY OF CITY MEASURE, TO CLARIFY AND REMOVE UNNECESSARY REQUIREMENTS FOR CITY-SPONSORED BALLOT MEASURES;**
- 2. AMEND SECTION 3.08.040 TO CLARIFY REQUIREMENTS REGARDING NOMINATION PETITIONS;**
- 3. AMEND SECTION 3.08.080 TO CLARIFY DECLARATION OF CANDIDACY FORMS; AND**
- 4. ADD SECTION 3.08.085 TO CLARIFY REQUIREMENTS FOR BALLOT DESIGNATIONS**

WHEREAS, the California Constitution Article XI section 5(b) grants charter cities the power to provide in their charters for the conduct of city elections; and

WHEREAS, Oakland City Charter section 1103 states that except as provided in the charter, all elections and procedures related thereto may be provided by ordinance, and that any procedures not otherwise provided for, shall be in accordance with the applicable provisions of state law; and

WHEREAS, Oakland Municipal Code (“OMC”) section 3.08.200 requires that whenever any city measure qualifies for the ballot, “The City Attorney shall prepare an impartial legal analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed five hundred (500) words in length;” and

WHEREAS, OMC section 3.08.200 is consistent with state law, California Elections Code section 9280, which requires when directed that the city attorney prepare an impartial analysis of any city measure that qualifies for the ballot, not to exceed 500 words; and

WHEREAS, separately, OMC section 3.08.240 requires a ballot title and summary of any “City Council originated measure” that qualifies for the ballot, such that the City Attorney “shall describe in five hundred (500) words or less the provisions of the measure” and “give a true and impartial description of the provisions in such language that the ballot title and summary shall not be an argument or likely to create prejudice either for or against the measure;” and

WHEREAS, OMC section 3.08.240 does not have a counterpart in state law, as the Elections Code requires titles and summaries be prepared only for voter initiatives for purposes of gathering signatures on petitions but does not require titles and summaries for City-sponsored measures in addition to a 500-word impartial legal analysis, or require initiative titles and summaries be part of ballot materials; and

WHEREAS, having duplicative ballot materials can lead to voter confusion, unnecessarily increase the length of ballot materials leading to greater election costs, and create inconsistency between City-sponsored versus initiative-sponsored ballot measures; and

WHEREAS, this proposed Ordinance would delete the unnecessary requirement that City Council-sponsored measures have titles and summaries prepared in addition to the required impartial analysis; and

WHEREAS, the California Elections Code was recently amended to prescribe new uniform forms for municipal nominating papers and declarations of candidacy, and this proposed Ordinance would amend OMC sections 3.08.040 and 3.08.080 for clarity and to align, in part, with updated state forms when appropriate for City elections; and

WHEREAS, adding section OMC section 3.04.085 will help provide clarity to candidates regarding requirements for submitting documents for elective office, specifically ballot designations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby deletes section 3.08.240 of the Oakland Municipal Code in its entirety as set forth below (deletions are shown in ~~strikethrough~~):

~~3.08.240 – Ballot title and summary of city measure.~~

~~A. Whenever any City Council originated measure qualifies for a place on the ballot, the City Clerk shall immediately transmit a copy of the measure to the City Attorney. The City Attorney shall prepare a ballot title and summary for the measure within fifteen (15) days. The ballot title and summary may differ from the legislative or other title of the measure and shall describe in five hundred (500)~~

~~words or less the provisions of the measure. In furnishing the ballot title and summary, the City Attorney shall give a true and impartial description of the provisions in such language that the ballot title and summary shall not be an argument or likely to create prejudice either for or against the measure. The ballot title and summary shall be part of the official election materials available to voters.~~

~~B. When any registered voter believes that subsection A of this section has been violated, the voter may obtain a writ of mandate pursuant to applicable state law requiring the ballot title and summary prepared by the City Attorney to be amended.~~

SECTION 2. The City Council hereby amends the language from the fifth paragraph of section 3.08.040 of the Oakland Municipal Code as set forth below (deletions are shown in ~~striketrough~~ and additions are shown in underline), such that any paragraph of section 3.08.040 not listed below remains unchanged:

The City Clerk shall issue twenty (20) ~~forty (40)~~ nomination petitions to each candidate containing adequate space for ten (10) ~~five (5)~~ signatures per page, for a total of two hundred (200) signatures and no additional nomination petitions will be issued to any candidate(s). A supplemental petition may be issued pursuant to California Elections Code section 10221. The City Clerk shall initially accept up to one hundred (100) signatures from each candidate for verification ~~shall accept up to forty (40) nomination petitions from each candidate for verification~~. Nomination petitions may be issued to the candidate(s) only, in person, or to an authorized representative in possession of a written request of authorization to receive the nomination petitions, signed and dated by the candidate(s). Nomination petitions may only be returned by the candidate(s), in person, ~~and must be signed and dated by the candidate(s).~~

SECTION 3. The City Council hereby amends section 3.08.080 of the Oakland Municipal Code as set forth below (deletions are shown in ~~striketrough~~ and additions are shown in underline):

Section 3.08.080 – Declaration of Candidacy and Qualifications statement.

At the time his or her nomination petitions are filed, every candidate shall file with the City Clerk a Declaration of Candidacy on a form prepared and issued by the City Clerk.

Every candidate shall also file a verified statement of his or her qualifications on a form provided by the City Clerk, setting forth her or his name, the office for which he or she is a candidate, his or her place of residency for the past five (5) years, his or her occupation for the past five (5) years, public offices he or she has held, if any, and a brief description not to exceed one hundred fifty (150) words describing his or her qualifications for the office, including, for example, education and experience. The City Clerk shall reject any statement which

includes any of the matters prohibited by general law or which contains any reference whatsoever to any partisan political party or organization including membership or activity therein, or endorsement thereby. Such statement shall also contain the signatures and addresses of not less than ten (10) nor more than twenty (20) registered voters that are residents of the City sponsoring such candidate, who need not have signed such candidate's nomination petition. Such candidate may also file with his or her qualifications statement a true and accurate portrait photograph of such candidate taken within two (2) years prior thereto and suitable for newsprint. The photograph must be at least four (4) by six (6) inches in size. A copy of such qualifications statement and a reproduction of the photograph, if furnished, shall be mailed by the City Clerk to each qualified elector with the sample ballot for said election. The qualifications statement mailed by the City Clerk with the sample ballot shall be printed and distributed without the inclusion of the addresses of the candidate and his or her sponsors. No qualifications statement shall be filed by candidates at a second or general municipal election following the nominating municipal election or shall any qualifications statement or photograph be distributed to the voters by the City Clerk prior to such second election.

SECTION 4. The City Council hereby adds section 3.08.085 to the Oakland Municipal Code as set forth below (additions are shown in underline):

Section 3.08.085 – Ballot Designations.

The submission and form of ballot designations shall be governed by California Elections Code section 13107 et seq. and any implementing regulations, rules or guidelines issued by the California Secretary of State.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 6. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

3468672v3/MJM

NOTICE AND DIGEST

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- 4. ADD SECTION 3.08.085 TO CLARIFY REQUIREMENTS FOR BALLOT DESIGNATIONS**

This Ordinance deletes Oakland Municipal Code (“OMC”) section 3.08.240, which requires a ballot and title for City Council-originated ballot measures. OMC section 3.08.240 is duplicative of impartial legal analysis requirements already required for all ballot measures and is not necessary under state election law. This Ordinance would also amend language in section 3.08.040 to clarify requirements for nomination petitions and amend section 3.08.080 to clarify requirements for Declaration of Candidacy forms, consistent with uniform materials under state law. Finally, the Ordinance would add section 3.08.085 to clarify local requirements for ballot designations.