

DATE: September 25, 2012

AGENDA ITEM # 2

TO: City Council
FROM: Jolie Houston, City Attorney
SUBJECT: City Council term limits

RECOMMENDATION:

Receive the City Attorney's formal opinion on Council members returning to Council after serving two consecutive terms

SUMMARY:

Estimated Fiscal Impact:

Amount: None

Budgeted: Not applicable

Public Hearing Notice: Not applicable

Previous Council Consideration: July 24, 2012

CEQA Status: Not applicable

Attachments:

1. Los Altos Municipal Code Section 2.04.020
2. Ordinance No. 99-370
3. Argument in Favor of Measure G
4. Impartial Analysis by City Attorney for Measure G
5. California 1995-96 Senate Bill 2
6. California Government Code Section 36502
7. Ordinance No. 82-74
8. Ordinance No. 90-231
9. Excerpt from June 26, 1990 Council Minutes
10. Ordinance No. 06-302



MEMORANDUM

TO: Mayor Carpenter and Members of the Los Altos City Council
FROM: Jolie Houston, City Attorney
RE: City Council Term Limits
DATE: September 19, 2012

The purpose of this memorandum is to address the City of Los Altos Municipal Code ("LAMC") restrictions on term limits for City Councilmembers. It will also address the legislative history of the LAMC and state law pertaining to term limits for City Councilmembers.

Conclusion:

The LAMC limits the City of Los Altos ("City") Councilmembers from serving more than two consecutive terms. However, the LAMC does not prohibit a City Councilmember from taking a "break in service" and then be elected to the Council if he or she desires. This is supported by Measure G, adopted by the voters on November 2, 1999, as well as prior City ordinances.

Discussion:

Los Altos Municipal Code

2.04.020 - Limitation of terms for councilmembers.

No person shall serve more than two consecutive terms on the Los Altos city council, plus the completion of any unexpired term to which such person was elected or appointed.¹ [Emphasis added] (A copy of the current LAMC Section 2.04.020 is included as Attachment 1.)

Measure G

On November 2, 1999, Measure G was adopted by the voters and approved Ordinance No. 99-370.) (A copy of Ordinance No. 99-370 is included as Attachment 2.) Ordinance No. 99-370 was adopted on June 8, 1999. It was to apply to persons elected to the City Council or appointed thereto on November 2, 1999, and thereafter, "provided that a majority of the voters voting in said election pass and adopt the proposition approving the above ordinance." Measure G complied with state law² that allowed the City Council to enact an ordinance restricting the number of terms a person may serve on the City Council.

¹ Prior code § 2-2.02, renumbered as § 2.04.020.

² See Government Code § 36502, amended by Senate Bill No. 2, approved August 1995.

The “ARGUMENT IN FAVOR OF MEASURE G” stated:

“For many years, the City Council of Los Altos has had an informal two term limit for members of the City Council. Although not legally enforceable, no one has sought a third elective term since before 1982. However, an individual could do so under the City’s present regulations.

...

This measure will assure that persons know exactly what their term of office will be, and prevent professional politicians from making a career of serving on the City Council. Exceptional officeholders may seek election after a short break in service.” (A copy of the Argument is included as Attachment 3.)

The “LOS ALTOS MEASURE G - IMPARTIAL ANALYSIS BY CITY ATTORNEY” stated:

“This measure, if approved by a majority of the voters voting, will limit members of the Los Altos City Council to two (2) consecutive elective terms of four (4) years, plus the conclusion of any partial term to which they were appointed or elected as a result of a mid-term vacancy.

...

It would apply to those persons elected in November, 1999, if this Measure is approved, including incumbents who, if re-elected, would serve only four more years and then be ineligible to run without waiting at least two years. The measure is structured so that a person may have a break in service and then be appointed or elected to the Council should he or she so desire.” (A copy of the Impartial Analysis is included as Attachment 4.)

The City Attorney’s analysis also stated that, “By ordinance, the City has had a policy of a two-term limit for members of the City Council for many years.” This policy was codified in Ordinance No. 90-231, which added Section 2-2.03 to the LAMC. This “policy” is addressed in the “Legislative History of the City’s Term Limits” discussed *infra*.

The City’s Argument and City Attorney’s Impartial Analysis provide the intent of Measure G, which was that a City Councilmember may hold office for two consecutive terms, then “sit out” for two years and run again. Here, once Measure G qualified for a place on the ballot, the City Council directed the City Clerk to forward a copy of the measure to the City Attorney. Pursuant to the Elections Code, the City Attorney must then prepare an analysis of the measure, showing the effect of the measure on existing law, and the operation of the measure. The analysis is printed on the ballot preceding the arguments in favor of and against the measure. The purpose of the analysis, like all other ballot arguments, is to ensure a more informed electorate. *See* Elections Code § 9280; *Horwath v. City of East Palo Alto* (1989) 212 Cal.App.3d 766; *Patterson v. Board of Supervisors* (1988) 202 Cal.App.3d 22. In addition, the argument and analyses found in official ballot pamphlet materials may be consulted to determine the voters’ understanding and intent. *See People v. Birkett* (1991) 21 Cal.App.4th 226, 87 Cal. Rptr.2d. 205.

State Law

Government Code section 36502(b) states:

“Notwithstanding any other provision of law, the city council of a general law or charter city may adopt or the residents of the city may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve. Any proposal to limit the number of terms a member of the city council, or the number of terms an elected mayor may serve, shall apply prospectively only and shall not become operative unless it is submitted to the electors of the city at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal.” (See SB 2, effective January 1, 1996.) (A copy of SB 2 and Govt. Code § 36502 are included as Attachments 5 and 6, respectively.)

Term limitations may limit an elected official's successive terms in office or they may place an absolute limit on the number of terms in office that an elected official may serve. The reported California cases primarily deal with limitations on successive terms in office and pre-date the 1995 amendment to Government Code section 36502. See, e.g., *Steinkamp v Teglia* (1989) 210 Cal.App.3d 402, 258 Cal.Rptr. 265.

Limitations on the Right to Hold Office

It is clear that Measure G serves a important governmental purpose and was a valid initiative measure to limit the number of terms of offices that a City Councilmember may serve. The California Supreme Court has determined term limitations do not impermissibly infringe on a candidate's right to hold public office or on an individual's right to vote for the candidate of his or her choice. *Legislature of the State v Eu* (1991) 54 Cal.3d 492, 524, 286 Cal.Rptr. 283, cert denied (1992) 503 U.S. 919. The Court held that such limitations serve substantial governmental interests, for example, discouraging entrenched incumbencies and encouraging public participation in civic affairs. The Court also noted that the incidental burden placed on the right to hold office or the right to vote was outweighed by those substantial governmental interests.

Legislative History of the City's Term Limits.

Ordinance No. 82-74, adopted May 11, 1982.

“SECTION 1. AMENDMENT OF CODE: Section 2-2.03 is hereby amended to add to the Los Altos Municipal Code to read as follows:

Section 2-2.03. Qualification for service on the City Council.

No person shall be qualified for election to, nor shall any such person hold, a third consecutive term on the City Council. A member of the City Council who has served seven (7) consecutive years or longer on the City Council, shall likewise be unqualified and ineligible for election to, or appointment to, such office, for a period

of two (2) years following the end of his or her last service.” [Emphasis added.] (A copy of Ordinance No. 82-74 is included as Attachment 7.)³

Ordinance No. 90-231, adopted July 17, 1990.

“Section 3. Section 2-2.03 of the Los Altos Municipal Code is hereby amended to read:

Policy Restricting Consecutive Terms on the City Council.

It is the policy of the City that no person shall seek election to a third consecutive term on the Council.” (A copy of Ordinance No. 90-231 is included as Attachment 8.)

Minutes of June 26, 1990 meeting:

“First reading of an ordinance amending Titles 1 and 2 (General Provision and Administration) of the Los Altos Municipal Code

Councilmember Spangler questioned the proposed deletion of the two-term limit from the Municipal Code. The City Attorney advised that such a limit would be unenforceable, thus the deletion. Council discussion followed regarding advisability of having a section of the Code reflect a *policy*, rather than law. It was the consensus of the Council to refer to the two-term limit in the Code as a policy.” [Emphasis added.] (A copy of the minutes are included as Attachment 9.)

Ordinance No. 99-370, adopted June 8, 1999. Approved by the voters November 2, 1999.

“Section 1. Section 2-2.02 is hereby added to the Los Altos Municipal Code to read as follows:

Section 2-2.02. Limitation of Terms for Councilmembers.

No person shall serve more than two consecutive terms on the Los Altos City Council, plus the completion of any unexpired term to which such person was elected or appointed.” (A copy of Ordinance No. 99-370 is included as Attachment 2.)

Ordinance No. 06-302, adopted November 28, 2006.

Ordinance Nos. 06-302 (Urgency Ordinance) and 06-303 were adopted because “the current Los Altos Municipal Code has conflicting provisions in that Section 2.04.020, pertaining to the limitation of terms for City Councilmembers, and Section 2.040.030, pertaining to the policy of restricting consecutive terms, both still remain codified.” Ordinance No. 06-302 and 06-303 were found to be “necessary to correct such a conflict, to avoid confusion and to assure the public and

³ Ordinance No. 82-74 restricted the *consecutive* terms of office to two terms; however, it also allowed a Councilmember to “sit out” for two years and run again. Former LAMC §§ 2-2.02 and 2-2.03 were repealed and/or amended by Ordinance No. 90-231.

the elected Councilmembers what term of office will apply.” (A copy of Ordinance No. 06-302 is included as Attachment 10.)

“SECTION 1. AMENDMENT OF CODE:

Section 2.04.030 of Chapter 2.04 entitled “Policy restricting consecutive terms on the city council” is hereby repealed in its entirety.”

Legislative History of Senate Bill 2 (SB 2), effective January 1, 1996.

SB 2 amended Government Code section 36502 to expressly authorize local governing bodies to submit a proposal to the electors to limit or repeal a limit on the number terms a member of the governing body (city council) may serve. (A copy of SB 2 and Government Code section 36503 are included as Attachments 5 and 6, respectively.)

The Senate Committee’s analysis of SB 2 found that there was a conflict in current case law. SB 2 was enacted as a legislative amendment to correct the conflict in the case law on term limits, and would expressly allow local governing bodies to adopt term limits, or repeal term limits through the initiative process. A portion of Senate Committee’s analysis is as follows:

“ANALYSIS:

Existing law does not specifically authorize the imposition of term limits on the governing boards of local governmental entities. The relevant case law on the subject differs according to the type of jurisdiction.

In *Younger v. Board of Supervisors* (1979), a California Appellate Court invalidated as unconstitutional a 1976 amendment to the San Diego County charter which imposed term limits upon elected county officials. The court held that neither state law nor the Constitution authorized a county to impose additional qualifications to hold elected county office.

In *Steinkamp v. Teglia*, (1989), the court similarly invalidated a South San Francisco ordinance limiting council terms (South San Francisco is a general law city). That decision was reaffirmed in *Polis v. City of La Palma* (1992).

However, in *Cawdrey v. Redondo Beach* (1994), a California Appellate Court upheld term limits for the City of Redondo Beach, a charter city.

Proposed Law:

This bill would authorize the adoption of a proposal to limit the number of terms of mayors, members of county boards of supervisors, city councils, county boards of education, school district boards, community college district boards, and special district governing

The term limit proposals could be initiated by the governing boards or by the voters through the initiative process. In either case, the proposals could not become operative until approved by the voters at a regular election.

With the exception of city mayors, this bill would not permit proposals to limit the terms of non-governing board elected officials such as District Attorneys, Assessors, and Sheriffs.”

Los Altos, California, Code of Ordinances >> - SUPPLEMENT HISTORY TABLE >> Title 2 - ADMINISTRATION AND PERSONNEL >> Chapter 2.04 - CITY COUNCIL >>

Chapter 2.04 - CITY COUNCIL

Sections:

2.04.010 - Meetings.

2.04.020 - Limitation of terms for councilmembers.

2.04.040 - Election date for council members.

2.04.050 - Reading of ordinances by title only.

2.04.060 - Reserved.

2.04.010 - Meetings.

The council shall hold its regular meetings in the community meeting chambers located at One North San Antonio Road, Los Altos, California on the second and fourth Tuesday of each month at 7:00 p.m. A special meeting of the city council may be called at any time by the mayor, or by a majority of the members of the city council, in accordance with state law. Any meeting of the city council may be cancelled in advance by majority vote of the council. The mayor may cancel a meeting in the case of an emergency or when a majority of members have confirmed in writing their unavailability to attend a meeting.

(Prior code § 2-2.01)

(Ord. No. 10-347, § 1, 4-13-2010; Ord. No. 2012-376, § 1, 1-24-2012)

2.04.020 - Limitation of terms for councilmembers.

No person shall serve more than two consecutive terms on the Los Altos city council, plus the completion of any unexpired term to which such person was elected or appointed.

(Prior code § 2-2.02)

2.04.040 - Election date for council members.

A regular election to select members of the council shall be held on the first Tuesday after the first Monday in November of each even-numbered year.

(Ord. 08-322 § 1)

2.04.050 - Reading of ordinances by title only.

For the purposes of adoption by the council, ordinances shall be read by title only, unless any member of the council requests that the ordinance be read in its entirety.

(Prior code § 2-2.05)

2.04.060 - Reserved.

ORDINANCE NO. 99-370

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ESTABLISHING A TERM LIMIT FOR COUNCILMEMBERS
AT TWO CONSECUTIVE TERMS PLUS COMPLETION
OF AN UNEXPIRED TERM

The City Council of the City of Los Altos does hereby ordain as follows:

Section 1: Section 2-2.02 is hereby added to the Los Altos Municipal Code to read as follows:

"Section 2-2.02. Limitation of Terms for Councilmembers.

No person shall serve more than two consecutive terms on the Los Altos City Council, plus the completion of any unexpired term to which such person was elected or appointed."

Section 2: Publication. This ordinance shall be published as provided in Government Code section 36933.

Section 3: Effective Date. This ordinance shall apply to persons elected to the City Council or appointed thereto on November 2, 1999, and thereafter, provided that a majority of the voters voting in said election pass and adopt the proposition approving the above ordinance.

The above and foregoing ordinance was duly and properly introduced at a regular meeting of the Los Altos City Council held on May 25, 1999, and was thereafter, at a regular meeting of the Los Altos City Council held on June 8, 1999, duly passed and adopted by the following roll call vote:

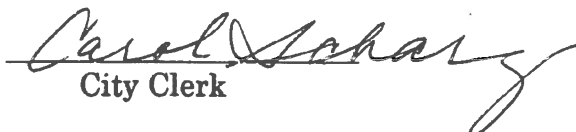
AYES: Mayor Becker, Councilmembers Casto, La Poll, Lear and Moss

NOES: None

ABSENT: None


Mayor

ATTEST:


City Clerk

ARGUMENT / REBUTTAL FORM

(Elections Code § 9160 - 9167, 9501 - 9504)

Rec'd 8-9-99
Cheney
*(240 words)*ELECTION DATE: NOV 2 1999 MEASURE: GJURISDICTION: CITY of LOS ALTOSARGUMENT IN FAVOR ☒REBUTTAL TO ARGUMENT AGAINST ☐ARGUMENT AGAINST ☐REBUTTAL TO ARGUMENT IN FAVOR ☐

INSTRUCTIONS: (1) ARGUMENTS ARE LIMITED TO 300 WORDS AND 36 LINES, REBUTTALS ARE LIMITED TO 250 WORDS AND 30 LINES. (2) Certain unusual formatting is allowed (i.e. bold, underlining, capitalization). (3) Text is printed in standard paragraph form with each paragraph starting flush left or standard 5 space indentation. Paragraphs will be single-spaced. A double space will appear between paragraphs if they start flush left. If bullets are used, indentation must be standard 5 spaces. (4) Use of a FIXED FONT (i.e. Courier 12 pt) is necessary for scanning accuracy. (5) All statements should be checked by the author for spelling and grammar as the department is not permitted to edit. (6) Modifications to format are at the discretion of the Registrar of Voters.

Line

ARGUMENT IN FAVOR OF MEASURE G**VOTE YES ON MEASURE G.**

For many years, the City of Los Altos has had an informal two term limit for members of the City Council. Although not legally enforceable, no one has sought a third elective term since before 1982. However, an individual could do so under the City's present regulations.

State law now allows the City Council to enact an ordinance restricting the number of terms a person may serve on the City Council. Such an ordinance is required to be approved by the voters before becoming effective and cannot be repealed without the consent of the voters.

In June 1999, the City Council adopted an ordinance restricting any person from seeking more than two consecutive elective terms on the City Council plus serving out any midterm vacancy to which that person was appointed or elected. A person could sit out until the next election and then run again should he or she choose to do so.

This measure will assure that persons know exactly what their term of office will be and prevent professional politicians from making a career of serving on the City Council. Exceptional office holders may seek election after a short break in service.

Enactment of this measure will assure that new voices and ideas will be brought to public service and that worthy candidates will be more likely to seek election for prospective vacancies than the difficulties of unseating incumbents from office.

A yes vote on Measure G is urged by your City Council.

~~~~~ALL AUTHORS MUST SIGN ON THE REVERSE SIDE~~~~~

*Recd 8-19-99  
C. Schary  
262 word count*

## LOS ALTOS MEASURE G


### IMPARTIAL ANALYSIS BY CITY ATTORNEY

This measure, if approved by a majority of the voters voting, will limit members of the Los Altos City Council to two (2) consecutive elective terms of four (4) years, plus the conclusion of any partial term to which they were appointed or elected as a result of a mid-term vacancy. A Yes vote is in favor of term limits for Council Members. A No vote is against term limits.

State law permits the City Council to enact an ordinance establishing term limits for Council membership, but provides that limits will not become effective until approved by a majority of the voters voting. In June, 1999, the City Council of Los Altos unanimously enacted such an ordinance. It would apply to those persons elected in November, 1999, if this Measure is approved, including incumbents who, if re-elected, would serve only four more years and then be ineligible to run without waiting at least two years. The measure is structured so that a person may have a break in service and then be appointed or elected to the Council should he or she so desire.

By ordinance, the City has had a policy of a two-term limit for members of the City Council for many years. There have been no Council Members for at least the past twelve years who have served more than two consecutive elective terms.

The above statement is an impartial analysis of Ordinance 99-370. If you desire a copy of the ordinance, please call the City Clerk at 650/948-1491 and a copy will be mailed at no cost to you.

  
\_\_\_\_\_  
ROBERT K. BOOTH, JR., City Attorney, City of Los Altos

## California 1995-96 Senate Bill 2

Text History Status Documents

Show as: HTML SLIM CALM RDF Akoma Ntoso

### Senate Bill No. 2

#### CHAPTER 432

An act to amend Sections 1006, 35107, and 72103 of the Education Code, and to amend Sections 25000 and 36502 of, and to add Section 53077 to, the Government Code, relating to governing bodies.

[ Approved By Governor August 10, 1995. Filed with Secretary of State August 11, 1995. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 2, Kopp . Governing bodies: term limits.

Existing law does not authorize the imposition of limitations on the number of terms that persons may serve on governing bodies of local governmental entities.

This bill would expressly authorize the governing bodies of county boards of education, school districts, community college districts, or other districts, any board of supervisors or city council, or the residents of those respective entities, to submit a proposal to the electors to limit or repeal a limit on the number of terms a member of the governing body, board of supervisors, or city council may serve.

The bill would require that a term limit proposal apply prospectively only, and would make the operation of the proposal contingent upon the approval of the proposal by a majority of the votes cast on the question at a regularly scheduled election. Since the bill would create additional duties for local election officials, the bill would impose a state-mandated local program. This bill would provide that the enactment by the Legislature of this act shall not prejudice the legal claims made by any party to any legal action concerning Proposition 140 of the November 6, 1990, statewide general election.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

The people of the State of California do enact as follows:

#### SECTION 1. Section 1006 of the Education Code is amended to read:

1006. (a) Any registered voter is eligible to be a member of the county board of education except the county superintendent of schools, any member of his staff, or any employee of a school district.

(b) Notwithstanding any other provision of law, the county board of education may adopt or the residents of the county may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the county board of education may serve on the county board of education. Any proposal to limit the number of terms a member of the county board of education may serve on the county board of education shall apply prospectively only and shall not become operative unless it is submitted to the electors of the county at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal.

(c) An initiative measure proposed pursuant to subdivision (b) shall be subject to the procedures set forth in Chapter 2 (commencing with Section 9100) of Division 9 of the Elections Code.

#### SEC. 2. Section 35107 of the Education Code is amended to read:

35107. (a) Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the school district, a registered voter, and who is not disqualified by the Constitution or laws

of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a school district without further qualifications.

(b) (1) An employee of a school district may not be sworn into office as an elected or appointed member of that school district's governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office.

(2) For any individual who is an employee of a school district and an elected or appointed member of that school district's governing board prior to January 1, 1992, this subdivision shall apply when he or she is reelected or reappointed, on or after January 1, 1992, as a member of the school district's governing board.

(c) Notwithstanding any other provision of law, the governing board of a school district may adopt or the residents of the school district may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the governing board of the school district may serve on the governing board of the school district. Any proposal to limit the number of terms a member of the governing board of the school district may serve on the governing board of the school district shall apply prospectively only and shall not become operative unless it is submitted to the electors of the school district at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal.

(d) (1) An initiative measure proposed pursuant to subdivision (c) shall be subject to the procedures set forth in Chapter 4 (commencing with Section 9300) of Division 9 of the Elections Code.

(2) A proposal submitted to the electors by the governing board pursuant to subdivision (c) shall be subject to the procedures set forth in Chapter 6 (commencing with Section 9500) of Division 9 of the Elections Code.

SEC. 3. Section 72103 of the Education Code is amended to read:

72103. (a) Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the community college district, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a community college district without further qualifications.

(b) (1) An employee of a community college district may not be sworn into office as an elected or appointed member of that community college district's governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office.

(2) For any individual who is an employee of a community college district and an elected or appointed member of that community college district's governing board prior to January 1, 1992, this subdivision shall apply when he or she is reelected or reappointed, on or after January 1, 1992, as a member of the community college district's governing board. This section does not apply to an individual who is usually employed in an occupation other than teaching and who also is employed part time by the community college district to teach no more than one course per semester or quarter in the subject matter of that individual's occupation.

(c) Notwithstanding any other provision of law, the governing board of a community college district may adopt or the residents of the community college district may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the governing board of the community college district may serve on the governing board of a community college district. Any proposal to limit the number of terms a member of the governing board of a community college district may serve on the governing board of a community college district shall apply prospectively only and shall not become operative unless it is submitted to the electors of the community college district at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal.

(d) (1) An initiative measure proposed pursuant to subdivision (c) shall be subject to the procedures set forth in Chapter 4 (commencing with Section 9300) of Division 9 of the Elections Code.

(2) A proposal submitted to the electors by the governing board pursuant to subdivision (c) shall be subject to the procedures set forth in Chapter 6 (commencing with Section 9500) of Division 9 of the Elections Code.

SEC. 4. Section 25000 of the Government Code is amended to read:

25000. (a) Each county shall have a board of supervisors consisting of five members. Not more than three members shall be elected at the same general election. If the terms of office of more than three members of the board expire at the same time, at the first regular meeting after January 1st following their election the members so elected shall so classify themselves by lot that three members shall serve for four years, and two for two years. Thereafter the term of office of each member shall be four years.

(b) Notwithstanding any other provision of law, the board of supervisors of any general law or charter county may adopt or the residents of the county may propose, by initiative, a proposal to limit or repeal a

limit on the number of terms a member of the board of supervisors may serve on the board of supervisors. Any proposal to limit the number of terms a member of the board of supervisors may serve on the board of supervisors shall apply prospectively only and shall not become operative unless it is submitted to the electors of the county at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal.

**SEC. 5.** Section 36502 of the Government Code is amended to read:

36502. (a) A person is not eligible to hold office as councilmember, city clerk, or city treasurer unless he or she is at the time of assuming the office an elector of the city, and was a registered voter of the city at the time nomination papers are issued to the candidate as provided for in Section 10227 of the Elections Code.

If, during his or her term of office, he or she moves his or her place of residence outside of the city limits or ceases to be an elector of the city, his or her office shall immediately become vacant.

(b) Notwithstanding any other provision of law, the city council of a general law or charter city may adopt or the residents of the city may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve. Any proposal to limit the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve, shall apply prospectively only and shall not become operative unless it is submitted to the electors of the city at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal. Notwithstanding the provisions of this subdivision, the provisions of any city charter that, on January 1, 1996, impose limitations on the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve, shall remain in effect. Unless otherwise prohibited by a city charter, any city charter may be amended pursuant to this section or pursuant to the procedures specified in the charter, to include the limitation authorized in this subdivision.

**SEC. 6.** Section 53077 is added to the Government Code, to read:

53077. (a) Notwithstanding any other provision of law, the governing body of a district may adopt or the residents of a district may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the governing body of the district may serve on the governing body of the district. Any proposal to limit the number of terms a member of the governing body of the district may serve on the governing body of the district shall apply prospectively and shall not become operative unless it is submitted to the electors of the district at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal.

(b) For purposes of this section, the term "district" shall mean an agency of the state, formed pursuant to general law or special act, for the performance of governmental or proprietary functions within limited boundaries.

**SEC. 7.** The enactment by the Legislature of this act shall not prejudice the legal claims made by any party to any legal action concerning Proposition 140 of the November 6, 1990, statewide general election.

**SEC. 8.** No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

O

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 4. Government of Cities (Refs & Annos)  
Division 3. Officers (Refs & Annos)  
Part 1. General (Refs & Annos)

West's Ann.Cal.Gov.Code § 36502

§ 36502. Councilmember, clerk or treasurer; qualifications;  
vacancy upon nonresidence; term limits; electoral approval

Currentness

(a) A person is not eligible to hold office as councilmember, city clerk, or city treasurer unless he or she is at the time of assuming the office an elector of the city, and was a registered voter of the city at the time nomination papers are issued to the candidate as provided for in Section 10227 of the Elections Code.

If, during his or her term of office, he or she moves his or her place of residence outside of the city limits or ceases to be an elector of the city, his or her office shall immediately become vacant.

(b) Notwithstanding any other provision of law, the city council of a general law or charter city may adopt or the residents of the city may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve. Any proposal to limit the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve, shall apply prospectively only and shall not become operative unless it is submitted to the electors of the city at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal. Notwithstanding the provisions of this subdivision, the provisions of any city charter that, on January 1, 1996, impose limitations on the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve, shall remain in effect. Unless otherwise prohibited by a city charter, any city charter may be amended pursuant to this section or pursuant to the procedures specified in the charter, to include the limitation authorized in this subdivision.

**Credits**

(Added by Stats.1949, c. 79, p. 143, § 1. Amended by Stats.1957, c. 635, p. 1842, § 1; Stats.1961, c. 1682, p. 3650, § 1; Stats.1975, c. 1030, p. 2432, § 4, eff. Sept. 24, 1975; Stats.1994, c. 923 (S.B.1546), § 71; Stats.1995, c. 432 (S.B.2), § 5.)

Notes of Decisions (15)

West's Ann. Cal. Gov. Code § 36502, CA GOVT § 36502

Current with urgency legislation through Ch. 171 of 2012 Reg.Sess. and all propositions on the 6/5/2012 ballot.

End of Document

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## ORDINANCE NO. 82-74

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
ADDING SECTION 2-2.03 TO THE LOS ALTOS MUNICIPAL CODE  
TO ESTABLISH A LIMITATION ON CONSECUTIVE TERMS OF COUNCILMEMBERS  
AS A QUALIFICATION FOR SAID OFFICE

THE CITY COUNCIL OF THE CITY OF LOS ALTOS DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE: Section 2-2.03 is hereby added to the Los Altos Municipal Code to read as follows:

Section 2-2.03. Qualification for service on the City Council.

No person shall be qualified for election to, nor shall any such person hold, a third consecutive term on the City Council. A member of the City Council who has served seven (7) consecutive years or longer on the City Council, shall likewise be unqualified and ineligible for election to, or appointment to, such office, for a period of two (2) years following the end of his or her last service.

SECTION 2. PUBLICATION: This ordinance shall be published in full at least once within fifteen (15) days after its adoption in the Los Altos Town Crier, the official newspaper of the City of Los Altos.

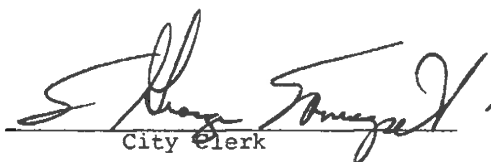
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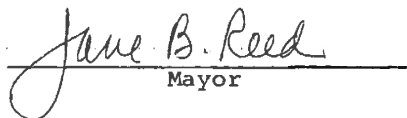
The above and foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on the 27th day of April, 1982, and was thereafter, at a regular meeting held on the 11th day of May, 1982, was passed and adopted by the following roll call vote:

AYES: Mayor Reed, Councilmen Grimm, Kallshian and Lave

NOES: Councilman Eng

ABSENT: None

  
City Clerk

  
Mayor

**ORDINANCE NO. 90-231**

**ORDINANCE OF THE COUNCIL OF THE CITY OF LOS ALTOS  
AMENDING VARIOUS PROVISIONS OF TITLES 1 AND 2  
OF THE LOS ALTOS MUNICIPAL CODE TO REMOVE OBSOLETE  
LANGUAGE AND PROVISIONS, CONFORM THE CODE TO  
CURRENT STATE LAW, AND OTHERWISE REVISE AND READOPT  
SAID TITLES**

The Council of the City of Los Altos does ordain as follows:

**Section 1.** Sections 1-1.08, 2-2.02, 2-2.03, and 2-4.03 of the Los Altos Municipal Code are hereby repealed. The remaining subsections of chapters 2-2 and 2-4 are hereby renumbered consecutively.

**Section 2.** Section 2-4.02 of the Los Altos Municipal Code is hereby amended to change the term "Chief Administrative Officer" to "City Manager" wherever the same appears therein.

**Section 3.** Section 2-2.03 of the Los Altos Municipal Code is hereby amended to read:

**Policy Restricting Consecutive Terms on the City Council.**

It is the policy of the City that no person shall seek election to a third consecutive term on the Council.

**Section 4.** Section 2-4.05 of the Los Altos Municipal Code is hereby amended to read as follows:

**Bidding.** Purchases of supplies and equipment shall be by procedures pursuant to Sections 2-4.08 and 2-4.09. Bidding shall be dispensed with only when an emergency requires that an order be placed with the nearest available source of supply, when the amount involved is less than an amount to be set by the Council by resolution, or when the commodity can be obtained from only one vendor.

**Section 5.** Section 2-4.06 of the Los Altos Municipal Code is hereby amended to read as follows:

**Purchasing Procedure.** Purchase of supplies, equipment, or services shall be made by purchase order, contract, petty cash, claim form or other procedure specified by the City Manager.

**Section 6.** The first paragraph of Section 2-4.08 of the Los Altos Municipal Code is hereby amended to read as follows:

**Formal Contract Procedure.** Except as otherwise provided in this chapter, purchases and contracts for supplies and equipment of estimated value greater than an amount to be set by the City Council by resolution, shall be by written contract with the lowest reasonable bidder pursuant to the following procedure:

**Section 7:** Section 2-4.08(a) of the Los Altos Municipal Code is hereby amended to read as follows:

(a) **Notices inviting bids.** Notices inviting bids shall include a general description of the articles to be purchased, where bid blanks and specifications may be secured, and the time and place for opening the bids.

(1) **Published notices.** Notices inviting bids shall be published at least ten (10) days before the date of opening the bids. Such notices shall be published at least once in a publication deemed appropriate by the Purchasing Officer.

(2) Bidders' list. The Purchasing Officer shall solicit sealed bids from all responsible prospective suppliers whose names are on the bidders' list or who have requested their names to be added thereto.

Section 8. Section 2-4.08 (e) of the Los Altos Municipal Code is hereby amended to read as follows:

(e) Award of contracts. A contract shall be awarded by the Council to the lowest responsible bidder, except as provided in this chapter. After City Council approval all contracts and other documents may be executed on behalf of the City by the City Manager.

Section 9. Section 2-4.09 of the Los Altos Municipal Code is hereby amended to read as follows:

**Open Market Procedure.** Purchases of supplies and equipment including installation and maintenance thereof, not exceeding an estimated value to be set by the City Council by resolution may be made by the Purchasing Officer in the open market pursuant to the following procedure:

(a) Minimum number of quotations. Wherever possible, open market purchases shall be based on at least two (2) quotations and shall be awarded to the lowest responsible quoter.

(b) Notices inviting quotations. The Purchasing Officer shall solicit quotations by written requests to prospective vendors or by telephone.

(c) Written quotations. Written quotations shall be submitted to the Purchasing Officer who shall keep a record of all open market orders and quotations for a period of two years after the submission of quotations or the placing of orders. Such record, while so kept, shall be open to public inspection.

Section 10. Section 2-5.05 of the Los Altos Municipal Code is hereby amended to read as follows:

**Organization.** In March of each year, each commission shall elect one of its members as chair and one as vice-chair, each to serve a one year term. Each commission shall provide the time, place, and manner for holding regular and special meetings. Each commission may adopt rules of procedure to govern the conduct of its meetings. A majority of the authorized membership of a commission shall constitute a quorum of that commission.

Section 11. Chapter 6 of Title 2 of Los Altos Municipal Code is hereby repealed.

Section 12. A summary of this ordinance shall be published as provided in Government Code Section 36933.

The above and foregoing Ordinance was duly and regularly introduced, at a meeting of the City Council of the City of Los Altos on June 26, 1990, and was thereafter, at a meeting held on July 17, 1990 passed and adopted by the following roll call vote:

AYES: Mayor Reeder, Councilmembers Bruno, Laliotis, and Lave

NOES: None

ABSENT: Councilmember Spangler

*Carol Schary*  
City Clerk

*David Reeder*  
MAYOR

MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS HELD ON TUESDAY, JUNE 26, 1990, 7:30 P.M., AT THE LOS ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD, LOS ALTOS, CALIFORNIA.

The meeting was called to order at 7:40 p.m.

ROLL CALL

Present: Mayor Reeder, Councilmembers Bruno, Laliotis, Lave, and Spangler (Councilmember Laliotis arrived later in the meeting.)

Absent: None

PLEDGE OF ALLEGIANCE

SPECIAL ITEMS

- Presentations from Cities of Mountain View and Sunnyvale on light rail expansion proposals

Mountain View Vice Mayor Art Takahara introduced Ken Alsman, Economic Development Director, who presented the Mountain View Light Rail Proposal as an extension of the Tasman Corridor Light Rail alternative. In contrast, Councilmember Larry Stone of Sunnyvale presented the Light Rail Extension Proposal for termination in Sunnyvale. Each city urged Council endorsement of its own proposal.

COUNCILMEMBER LALIOTIS ARRIVED AT 7:55 P.M.

- Presentation of the "Outstanding Employee Award" to Lucy James, Personnel/Payroll Technician

The City Manager presented the seventh "Outstanding Employee Award" to Lucy James, Personnel/Payroll Technician, for her exemplary performance and outstanding contributions to the City of Los Altos organization.

PUBLIC COMMENTS

Jane Reed, Executive Director of the Los Altos Village Association, requested Council permission to hang a banner publicizing the Annual Los Altos Art and Wine Festival at the intersection of San Antonio Road and Main Street or some other acceptable location. The City Council expressed a desire to accommodate the request on a one-time basis, pending staff evaluation of the proposed location and the absence of any legal prohibitions.

CONSENT CALENDAR

ITEMS 3 and 6 were removed from the Consent Calendar.

ON MOTION FROM COUNCILMEMBER LAVE, SECONDED BY COUNCILMEMBER LALIOTIS, AND PASSED UNANIMOUSLY BY VOICE VOTE, the following actions were taken:

1. Approved minutes of June 12, 1990
2. Adopted Resolution 90-29 establishing the appropriations limit to comply with Proposition 4 for fiscal year 1990-91
4. Authorized staff to enter into an agreement with Messick & Associates for consultation services regarding completion of a citywide computer project
5. Authorized staff to apply to the Federal Communications Commission for an emergency radio frequency
3. First reading of an ordinance amending Titles 1 and 2 (General Provision and Administration) of the Los Altos Municipal Code

Councilmember Spangler questioned the proposed deletion of the two-term limit from the Municipal Code. The City Attorney advised that such a limit would be unenforceable, thus the deletion. Council discussion followed regarding advisability of having a section of the Code reflect a policy, rather than law. It was the consensus of the Council to refer to the two-term limit in the Code as a policy.

## ORDINANCE NO. 06- 302

### AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 2.04 OF THE LOS ALTOS MUNICIPAL CODE PERTAINING TO THE CITY COUNCIL TERMS OF OFFICE

WHEREAS, state law allows the City of Los Altos City Council to enact an ordinance restricting the number of terms a person may serve on the City Council. Such an ordinance is required to be approved by the voters before becoming effective and cannot be repealed without the consent of the voters; and

WHEREAS, in June 1999 the City of Los Altos City Council adopted Ordinance No. 99-370, Ballot Measure G, restricting any person from seeking more than two consecutive elective terms on the City Council, plus serving out any midterm vacancy to which that person was appointed or elected. Measure G further provided that a person could have a break in service and then be appointed or elected should he or she choose to do so; and

WHEREAS, prior to Measure G, the Los Altos Municipal Code had a policy of a two term limit for members of the City Council; and

WHEREAS, Measure G was approved by the voters and codified by Ordinance No. 99-370 and applied to persons elected to the City Council or appointed thereto on November 2, 1999; and

WHEREAS, the current Los Altos Municipal Code has conflicting provisions in that Section 2.04.020, pertaining to the limitation of terms for City Councilmembers, and Section 2.040.030, pertaining to the policy of restricting consecutive terms, both still remain codified; and

WHEREAS, this ordinance is necessary to correct such a conflict, to avoid confusion and to assure the public and the elected Councilmembers what term of office will apply.

The City Council of the City of Los Altos does hereby ordain as follows:

#### **SECTION 1. AMENDMENT OF CODE:**

Section 2.04.030 of Chapter 2.04 entitled "Policy restricting consecutive terms on the city council" is hereby repealed in its entirety.

**SECTION 2. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 3. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 4. EFFECTIVE DATE:** This Ordinance, pursuant to Government Code section 36937, is hereby declared to be necessary as an emergency measure for the preservation of the public peace, health, safety and property in the City, and as such shall take effect immediately and be in full force and effect after its adoption after publication at least once in an official newspaper of the City for the following reasons:

The City wishes to confirm City Council term limitations as adopted by the voters on November 2, 1999, and as set forth in the Los Altos Municipal Code Section 2.04.020 and to repeal the existing Section 2.040.030, to correct a conflict between the two code provisions, to avoid confusion and to assure the public and the elected Councilmembers what term of office will apply.


In order to accomplish these goals, Los Altos Municipal Code Chapter 2.04, as amended, must adopted by means of this emergency ordinance.

PASSED FOR THE PURPOSE OF PUBLICATION this 14<sup>th</sup> day of November 2006, by the following roll call vote:

Ayes: CARPENTER, COLE, CASAS, PACKARD  
Noes: NONE  
Absent: NONE

  
\_\_\_\_\_  
Ronald D. Packard, MAYOR

Attest:

  
\_\_\_\_\_  
Susan Kitchens, CITY CLERK