



**DATE:** January 14, 2020

**CATEGORY:** New Business

**DEPT.:** City Clerk's Office

**TITLE:** **Accept Certification of Referendum Petition Against Ordinance 15.19 and Take Action to Repeal the Ordinance or Submit it to the Voters**

### **RECOMMENDATION**

1. Adopt a Resolution Accepting the Certification of the Sufficiency of Signatures on the Referendum Petition Against Ordinance 15.19, an Ordinance Amending Articles I and VIII of Chapter 19 of the Mountain View City Code Related to Oversized Vehicle Parking on Narrow Streets, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Pursuant to Elections Code Section 9241, take action to repeal the ordinance in its entirety or call an election to submit the ordinance to the voters:
  - a. To repeal the ordinance:
    - i. Introduce an Ordinance Repealing Ordinance 15.19 Amending Articles I and VIII of Chapter 19 of the Mountain View City Code Related to Oversized Vehicle Parking on Narrow Streets, in its Entirety, Pursuant to Elections Code Section 9241, to be read in title only, further reading waived (Attachment 2 to the Council report), and set a second reading for January 28, 2020;

**OR**

- b. To submit the ordinance to the voters:
  - i. Adopt a Resolution Calling for the Holding of a General Municipal Election on Tuesday, November 3, 2020 and Requesting the Board of Supervisors of the County of Santa Clara to Consolidate the Municipal Election with the Presidential General Election to be Held on that Date Pursuant to Section 10403 of the Elections Code for the Purpose of Submitting to the Voters an Ordinance Amending Articles I and VIII of

Chapter 19 of the Mountain View City Code Related to Oversized Vehicle Parking on Narrow Streets, and Related Actions, to be read in title only, further reading waived (Attachment 3 to the Council report):

1. Direct the City Attorney to prepare an impartial analysis of the ballot measure.
2. Determine whether the Council will submit an argument related to the ballot measure and designate the Mayor and/or Councilmembers to write and sign the argument.
3. Direct the City Clerk and the City Attorney to take all necessary related actions for submitting the measure to the voters on November 3, 2020.
4. Direct staff to include funding of \$90,000 in the proposed Fiscal Year 2020-21 City Clerk's Office budget for County of Santa Clara's services and legal advertising in connection with the General Municipal Election;

**OR**

- ii. Adopt a Resolution Calling for the Holding of a Special Municipal Election on Tuesday, April 14, 2020, for the Purpose of Submitting to the Voters an Ordinance Amending Articles I and VIII of Chapter 19 of the Mountain View City Code Related to Oversized Vehicle Parking on Narrow Streets, and Related Actions, to be read in title only, further reading waived (Attachment 4 to the Council report):
  1. Direct the City Attorney to prepare an impartial analysis of the ballot measure.
  2. Determine whether the Council will submit an argument related to the ballot measure and designate the Mayor and/or Councilmembers to write and sign the argument.
  3. Direct the City Clerk and the City Attorney to take all necessary related actions for submitting the measure to the voters on April 14, 2020.

4. Appropriate \$1,815,000 in the General Non-Operating Fund, City Clerk's Office, for the County of Santa Clara's services and legal advertising in connection with the special municipal election. (Five votes required)

## **BACKGROUND**

On September 24, 2019, the City Council introduced an ordinance restricting parking of oversized vehicles on narrow streets (less than or equal to 40' wide) Citywide 24 hours a day, 7 days a week to address traffic safety concerns, with an effective date of June 30, 2020. The vote was 4-3 (Councilmembers Clark, Hicks, and Ramirez dissented). The Council report is included as Attachment 5 to this report.

On October 22, 2019, Council adopted Ordinance 15.19, Amending Articles I and VIII of Chapter 19 of the Mountain View City Code Related to Oversized Vehicle Parking on Narrow Streets. The vote was 4-3 (Councilmembers Clark, Hicks, and Ramirez dissented). The Council report is included as Attachment 6 to this report.

On October 23, 2019, the City Clerk attested to the adopted ordinance.

On November 22, 2019, within 30 days of the City Clerk's attestation of the adopted ordinance per Elections Code Section 9237, a referendum petition against Ordinance No. 15.19 Amending Articles I and VIII of Chapter 19 of the Mountain View City Code Related to Oversized Vehicle Parking on Narrow Streets was submitted to the City Clerk's Office. The City Clerk reviewed the petition for compliance with the Elections Code, performed a prima facie review of the signatures and counted 4,939 unverified signatures. To qualify for further action, a referendum petition must contain signatures of at least 10 percent of the registered voters of the City of Mountain View. Per the October 15, 2019 report of voter registration from the Santa Clara County Registrar of Voters (ROV) to the Secretary of State, there were 37,611 registered voters in the City of Mountain View; therefore, at least 3,761 valid signatures would be required on the referendum petition.

On November 25, 2019, the City Clerk delivered the petition to the ROV for signature verification and requested a "full count" verification. The ROV declined to conduct a full count and proceeded with a random sampling of the signatures per Elections Code Section 9115. In accordance with the Elections Code, the random sampling must include an examination of at least 500, or at least 3 percent of the signatures, whichever is greater. The random sampling is drawn such that every signature filed is given an equal opportunity to be included in the sample. Signature examination was required to

be completed by the ROV within 30 working days from the date the petition was filed with the elections official (by January 10, 2020).

On December 23, 2019, the ROV provided the results of the signature verification per the random sampling method, which projected 4,179 valid signatures on the petition. The signature verification process resulted in the verification of 500 signatures of which 427 signatures were found valid. In accordance with California Administrative Code 20530, the ROV computed the percentage of valid signatures by dividing the total number of signatures found valid, 427, by the total number of signatures found in the sample, 500. The ROV then multiplied their raw count of 4,894 signatures by the same sample validity rate to determine the number of total valid signatures. The statistical sampling is over 110 percent and, therefore, deemed sufficient. If the statistical sampling was within 95 percent to 110 percent of the number of valid signatures of qualified voters needed to declare the petition sufficient, the ROV would have proceeded with a full count.

## **ANALYSIS**

As the petition was found sufficient, the effective date for the ordinance is suspended by operation of law and the Elections Code directs the City Council to reconsider the ordinance. The City Clerk has prepared and issued a Certificate of Sufficiency of Referendum Petition (Exhibit A to Attachment 1) for City Council adoption. Upon City Council adoption of the resolution accepting the City Clerk's Certificate of Sufficiency of Referendum Petition, California Elections Code Section 9241 provides that the City Council must then take one of the following actions: repeal the ordinance or submit the ordinance to the voters either at the next regular municipal election occurring not less than 88 days after the election is called, or at a special election called for the purpose, not less than 88 days after the election is called.

### **Repealing the Ordinance**

If Council desires to repeal the ordinance, an ordinance repealing Ordinance 15.19 may be introduced this evening, with a second reading set for January 28, 2020. Pursuant to Elections Code Section 9241, if Council repeals the ordinance, the ordinance, or a “substantially similar” or “materially alike” ordinance, may not again be enacted for a period of one year after the date of its repeal. Courts have interpreted the prohibition in Elections Code Section 9241 to apply to ordinances with the same scope of regulation and essential terms of the original ordinance.

## **Submitting the Ordinance to the Voters**

Pursuant to the Elections Code, if Council submits the ordinance to the voters and a majority of the voters vote in favor of it, the ordinance will be adopted 10 days after the vote is declared by the Council. If a majority of the voters voting on the ordinance do not vote in favor of it, the ordinance may not again be enacted for a period of one year after the date of its disapproval by the voters. If the ordinance is to be submitted to the voters, Elections Code Section 9223 requires the full text of the ordinance to be printed in the Voter Information Guide. The ROV estimates approximately \$8,500 per 800-word page printed in the County Voter Information Guide. The full text is estimated to be approximately two pages and, therefore, approximately \$17,000.

If the Council wishes to place the ordinance on an upcoming ballot, the options are as follows:

- *November 3, 2020 General Municipal Election:* If the ordinance is to be submitted to the voters on November 3, 2020, Council must adopt a resolution at a Regular Meeting at least 88 days prior to the election date, August 7, 2020, in order for the City Clerk to transmit the resolution to the ROV. The potential action to call the election for November 2020 is presented to Council this evening. The cost estimate from the ROV for placing the ordinance on the ballot is approximately \$90,000, including the cost of printing the full text in the ballot, representing the incremental cost of adding an additional item to the already planned officeholder election, which is estimated at \$131,600. If Council places the ordinance on the November ballot, direction should be provided to staff to include funding of \$90,000 in the proposed Fiscal Year 2020-21 City Clerk's Office budget for County of Santa Clara's services and legal advertising in connection with the General Municipal Election.

The ordinance will become effective if approved by a majority of voters. The Council would certify the election results in December 2020, and the ordinance would go into effect 10 days after that date. A draft resolution calling the election for the November 2020 election is included as Attachment 3.

- *April 14, 2020 Special Municipal Election:* April 14, 2020 is an established election date per Elections Code Section 1000. If the ordinance is to be submitted to the voters on April 14, 2020, the Council must adopt a resolution at a Regular Meeting no later than January 17, 2020 in order for the City Clerk to transmit the resolution to the ROV at least 88 days prior to the election date. January 14 (this Council meeting) is the last Regular Meeting scheduled prior to the January 17 deadline.

This would be a standalone special election as no other jurisdictions in Santa Clara County have placed an item on this ballot for this date (as of January 9, 2020). The cost estimate from the ROV for an April election is approximately \$1,293,000 to \$1,811,000 that would be paid entirely by the City. A standalone election is the most costly type of election, whereas a primary, general, or consolidated election is a shared-cost election. Per the ROV, an April election would present challenges due to the timing immediately following the March election. If the Council desires to place the ordinance on the ballot at the April 14, 2020 election, an appropriation with five affirmative votes is required per Charter Section 1105.

The ordinance will become effective if approved by a majority of voters. The Council would certify the election results in May 2020, and the ordinance would go into effect 10 days after that date. A draft resolution calling the election for April 2020 is included as Attachment 4.

If Council wishes to submit the ordinance to the voters, the ballot question will be as follows:

Shall Ordinance No. 15.19 Amending Articles I and VIII of Chapter 19 of the Mountain View City Code Related to Oversized Vehicle Parking on Narrow Streets be adopted?	YES
	NO

*Ballot Arguments and Impartial Analysis*

Elections Code Section 9282(b) provides that when a measure is placed on the ballot by the City Council, written arguments for and against the measure may be filed by the following: the City Council or any member or members of the Council authorized by the Council; any individual voter who is eligible to vote on the measure; a bona fide association of citizens; or any combination of voters and associations.

As such, the Council may authorize the City Council or any member or members of the City Council to submit an argument for or against the measure. Elections Code Section 9287(a) provides that if more than one argument for or against any City measure is submitted, the City elections official (City Clerk) shall give preference and priority in the following order: (a) the legislative body, or member or members of the legislative body authorized by that body; (b) the individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure; (c) bona fide associations of citizens; (d) individual voters who are eligible to vote on the measure.

If the Council chooses not to submit an argument, and arguments are submitted by others, the City Clerk will follow the priorities described in Elections Code Section 9287(a) in selecting an argument to be printed in the County Voter Information Guide. In the past, the Council has authorized arguments and rebuttal arguments on ballots measures.

When a measure is placed on the ballot, either by petition or at the direction of Council, the Council may direct the City Attorney to prepare an impartial analysis of the measure. The analysis is limited to 500 words or less, and is printed in the County Voter Information Guide immediately preceding the arguments for and against the measure.

If the ordinance will be placed on the November 3, 2020 ballot, in accordance with the Elections Code, the City Clerk has set the argument deadlines as follows:

Arguments: July 23, 2020  
Rebuttal Arguments: July 30, 2020  
Impartial Analysis (City Attorney): July 30, 2020

If the ordinance will be placed on the April 14, 2020 ballot, in accordance with the Elections Code, the City Clerk has set the argument deadlines as follows:

Arguments: January 28, 2020  
Rebuttal Arguments: February 3, 2020  
Impartial Analysis (City Attorney): February 3, 2020

### **FISCAL IMPACT**

As noted above, if the ordinance is to be placed on the ballot at the November 3, 2020 General Municipal Election, the estimated cost for ROV services is approximately \$90,000, in addition to a \$131,600 estimate for the scheduled officeholder election for City Council seats. This estimate and the costs of legal noticing would be included in the City Clerk's Office proposed Fiscal Year 2020-21 operating budget, and no appropriation of funds is required.

If the ordinance is to be placed on the ballot at the April 14, 2020 Special Municipal Election, the estimated cost for ROV services is approximately \$1,293,000 to \$1,811,000. Legal noticing costs are estimated at approximately \$3,500. If Council takes action to place the ordinance on the April 14, 2020 ballot, Council must also take action to

appropriate \$1,815,000. Staff's analysis suggests this could be funded from the Fiscal Year Ending 2018-19 Unallocated General Fund balance which was \$6.3 million as presented to Council with the City's Comprehensive Annual Financial Report (CAFR) in December 2019. City Charter Section 1105 authorizes appropriations for these purposes upon approval by five affirmative votes of the Council.

If the City Council repeals Ordinance No. 15.19, the associated cost would be legal noticing for the second reading of the ordinance per the City Charter, estimated at approximately \$100, which would be absorbed in the current City Clerk's Office budget for legal noticing.

### **PUBLIC NOTICING**

Agenda posting and a copy of the Council report sent to the representative of the referendum proponents.

Prepared by:

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428-01-14-20CR  
200050

- Attachments:
1. Resolution Certifying Sufficiency of Referendum Petition
  2. Draft Ordinance Repealing Ordinance 15.19
  3. Resolution Calling Election for November 3, 2020
  4. Resolution Calling Election for April 14, 2020
  5. [Council Report – Oversized Vehicles Parking Restrictions – September 24, 2019](#)
  6. [Council Report – Adoption of Ordinance – October 22, 2019](#)