

[Split appointments to the Recreation and Park Commission.]

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Section 4.113, to split the power to make appointments to the Recreation and Park Commission between the Mayor and the Board of Supervisors, and amending Section 15.105 to provide that the appropriate appointing authority may initiate removal of Recreation and Park Commissioners.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 2, 2010, a proposal to amend the Charter of the City and County by amending Sections 4.113 and 15.105 to read as follows:

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike through italics Times New Roman~~.

SEC. 4.113. RECREATION AND PARK COMMISSION.

~~*The Recreation and Park Commission shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.*~~

The Recreation and Park Commission shall consist of seven members, who shall each serve a four-year term. The Mayor shall appoint three members, not subject to the approval or rejection by the Board of Supervisors; the Rules Committee of the Board of Supervisors, or any successor committee thereto, shall nominate three members subject to approval by the Board of Supervisors; and the Mayor and the President of the Board of Supervisors shall jointly appoint one member.

Members may be removed by the appointing authority pursuant to Section 15.105.

The respective terms of office of members of the Recreation and Park Commission who hold office on February 1, 2011, shall expire at noon on that date, and the members appointed pursuant to the amendments to this Section approved at the November 2010 election shall succeed to said office at that time. To stagger the terms of the seven members, of the three members nominated by the Mayor, one member shall serve a term of two years, one member shall serve a term of three years, and one member shall serve a term of four years; of the three members nominated by the Rules Committee, one member shall serve a term of two years, one member shall serve a term of three years, and one member shall serve a term of four years; and the member nominated jointly by the Mayor and the President of the Board of Supervisors shall serve a term of four years. The Clerk of the Board of Supervisors shall designate such initial terms by lot. All subsequent appointments to the Commission shall be for four-year terms.

Pursuant to the policies and directives set by the Commission and under the direction and supervision of the General Manager, the Recreation and Park Department shall manage and direct all parks, playgrounds, recreation centers and all other recreation facilities, avenues and grounds under the Commission's control or placed under its jurisdiction thereafter, unless otherwise specifically provided in this Charter.

The Department shall promote and foster a program providing for organized public recreation of the highest standard.

The Department shall issue permits for the use of all property under the Commission's control, pursuant to the policies established by the Commission.

As directed by the Commission, the Department shall administer the Park, Recreation and Open Space Fund pursuant to Section 16.107 of this Charter.

The Department shall have the power to construct new parks, playgrounds, recreation centers, recreation facilities, squares and grounds, and to erect and maintain buildings and structures on parks, playgrounds, square, avenues and grounds, except as follows:

1. No building or structure, except for nurseries, equipment storage facilities and comfort stations, shall be erected, enlarged or expanded in Golden Gate Park or Union Square Park unless such action has been approved by a vote of two-thirds of the Board of Supervisors;

2. No park land may be sold or leased for non-recreational purposes, nor shall any structure on park property be built, maintained or used for non-recreational purposes, unless approved by a vote of the electors. However, with permission of the Commission and approval by the Board of Supervisors, subsurface space under any public park, square or playground may be used for the operation of a public automobile parking station under the authority of the Department of Parking and Traffic, provided that the Commission determines that such a use would not be, in any material respect or degree, detrimental to the original purpose for which a park, square or playground was dedicated or in contravention of the conditions of any grant under which a park, square or playground might have been received. The revenues derived from any such use, less the expenses incurred by the Department of Parking and Traffic in operating these facilities, shall be credited to Recreation and Park Department funds.

3. The Commission shall have the power to lease or rent any stadium or recreation field under its jurisdiction for athletic contests, exhibitions and other special events and may permit the lessee to charge an admission fee.

SEC. 15.105. SUSPENSION AND REMOVAL.

(a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors, Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal Transportation Agency Board of Directors, Port Commission, Public Utilities Commission, ~~Recreation and Park Commission~~, Fine Arts Museums Board of Trustees, Taxi Commission, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community

College Board is subject to suspension and removal for official misconduct as provided in this section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

(b) BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, AND ENTERTAINMENT COMMISSION, AND RECREATION AND PARK COMMISSION. Members of the Building Inspection Commission, the Planning Commission, the Board of Appeals, the Elections Commission, the Ethics Commission, *and* the Entertainment Commission, and the Recreation and Park Commission may be suspended and removed pursuant to the provisions of subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's appointees and the appointing authority shall act in place of the Mayor for all other appointees.

(c) REMOVAL FOR CONVICTION OF A FELONY CRIME INVOLVING MORAL TURPITUDE.

(1) Officers Enumerated in Subsections (a) and (b).

(A) An appointing authority must immediately remove from office any official enumerated in subsections (a) or (b) upon:

(i) a court's final conviction of that official of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the official was convicted warrants removal.

(B) For the purposes of this subsection, the Mayor shall act as the appointing authority for any elective official.

(C) Removal under this subsection is not subject to the procedures in subsections (a) and (b) of this section.

(2) Other Officers and Employees.

(A) At will appointees. Officers and employees who hold their positions at the pleasure of their appointing authority must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(B) For cause appointees. Officers and employees who by law may be removed only for cause must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(3) Penalty for Failure to Remove. Failure to remove an appointee as required under this subsection shall be official misconduct.

(d) DISQUALIFICATION.

(1) (A) Any person who has been removed from any federal, state, County or City office or employment upon a final conviction of a felony crime involving moral turpitude shall be ineligible for election or appointment to City office or employment for a period of ten years after removal.

(B) Any person removed from any federal, state, County or City office or employment for official misconduct shall be ineligible for election or appointment to City office or employment for a period of five years after removal.

(2) (A) Any City department head, board, commission or other appointing authority that removes a City officer or employee from office or employment on the grounds of official misconduct must invoke the disqualification provision in subsection (d)(1)(B) and provide notice of such disqualification in writing to the City officer or employee.

(B) Upon the request of any former City officer or employee, the Ethics Commission may, after a public hearing, overturn the application of the disqualification provision of subsection (d)(1)(B) if: (i) the decision that the former officer or employee engaged in official misconduct was not made after a hearing by a court, the Board of Supervisors, the Ethics Commission, an administrative body, an administrative hearing officer, or a labor arbitrator; and (ii) if the officer or employee does not have the right to appeal his or her restriction on holding future office or employment to the San Francisco Civil Service Commission.

(e) OFFICIAL MISCONDUCT. Official misconduct means any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required of all public officers and including any violation of a specific conflict of interest or governmental ethics law. When any City law provides that a violation of the law constitutes or is deemed official misconduct, the conduct is covered by this definition and may subject the person to discipline and/or removal from office.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
VIRGINIA DARIO ELIZONDO
Deputy City Attorney