



Office of the City Manager

ACTION CALENDAR

June 16, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Placing Charter Amendment Measure on the November 3, 2020 Ballot to  
Repeal the Residency Requirement for Sworn Members of the Berkeley  
Fire Department

RECOMMENDATION

1. Adopt a Resolution submitting an Amendment to Article VII of the City Charter regarding the residency requirement for sworn members of the Fire Department to a vote of the electors at the November 3, 2020 General Municipal Election.
2. Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

FISCAL IMPACTS OF RECOMMENDATION

Amending the Charter to remove the residency requirement would not have a significant fiscal impact on the budget of the Fire Department or the General Fund.

The table below shows the year-by-year costs for elections since 2012. Significant cost increases occurred in 2012 and 2014 due primarily to general year-over-year increases, and the addition of two more required languages (Vietnamese and Tagalog). The cost increase in 2016 is due to a new, permanent surcharge from the Registrar of Voters to fund the County's voting equipment replacement account.

|                   | Election         |                  |                  |                 |                  |
|-------------------|------------------|------------------|------------------|-----------------|------------------|
| Date              | Nov. 2012        | Nov. 2014        | Nov. 2016        | Mar. 2017       | Nov. 2018        |
| No. of Measures   | 10               | 7                | 11               | 0               | 4                |
| No. of Candidates | 26               | 23               | 29               | 2               | 30               |
| General Costs     | \$367,884        | \$392,331        | \$706,901        | -               | \$385,246        |
| RCV Costs         | \$101,041        | \$189,148        | \$181,954        | -               | \$185,578        |
| Total Costs       | <b>\$468,925</b> | <b>\$581,479</b> | <b>\$888,855</b> | <b>\$85,628</b> | <b>\$570,824</b> |

### **CURRENT SITUATION AND ITS EFFECTS**

The Berkeley Fire Department (Department), as well as fire departments across California, face an increasing challenge in recruiting and retaining qualified paramedics and Emergency Medical Technicians (EMTs). The Department engages actively in career development through Berkeley High School, the Berkeley Adult School, and college recruitment programs such as Ignite Academy. Even so, applications are at an historic low. This is partially attributed to the residency requirement and to the high cost of living in the Bay Area.

All City employees are Disaster Service Workers who need to respond in emergencies, however, sworn members of the Department are the only positions singled out in the residency requirement in the Charter. Removing the residency requirement will treat all employees equally and support recruitment and retention efforts.

### **BACKGROUND**

In the wake of the 1991 Tunnel Fire, Berkeley developed a number of plans to help in future disasters. One of them was adding a residency requirement to the 1994 ballot for firefighters. At the time, urban fire departments were less familiar with state-wide mutual aid and California's emergency management system was in its infancy. The measure passed and the following language was added to the Charter:

"Any sworn member of the fire department who is hired subsequent to January 1, 1995, may not reside greater than a radius of forty (40) air miles from the boundaries of the City of Berkeley."

Since then, Berkeley has dramatically increased its participation in and understanding of the mutual aid system. Also, in 2018 the California fire service began pre-positioning firefighters and apparatus in areas forecast to have high fire danger weather. This has dramatically reduced the need for firefighters to live within forty (40) miles for emergency callback. In other disasters such as earthquakes or even on normal days in the Bay Area, recall time to the City will be dependent on traffic conditions and damaged infrastructure more than miles traveled.

### **ENVIRONMENTAL SUSTAINABILITY**

While it is a requirement of all sworn members of the Department to have a valid California driver's license, removing the residency requirement in the Charter will expand the area in which sworn members of the Department can reside thereby increasing fuel consumption and emissions due to commuting.

### **RATIONALE FOR RECOMMENDATION**

Berkeley's 133 firefighters are required to live in a city whose limits are within 40 air miles of Berkeley's city limit. The limitation imposed on sworn members of the Department concentrates them in an area where property values and the cost of living has dramatically outpaced wages, which makes it difficult to recruit and retain a

qualified workforce. Further, by repealing the residency requirement, sworn members of the Department will likely reside in a broader geographic area, which reduces the impacts of a regional disaster such as a fire or earthquake on the Department's workforce.

**ALTERNATIVE ACTIONS CONSIDERED**

None

**CONTACT PERSON**

Mark Numainville, City Clerk, (510) 981-6900

Attachments:

1: Resolution

Exhibit A: Text of Measure

**RESOLUTION NO. -N.S.**

**SUBMITTING TO THE BERKELEY ELECTORATE AN AMENDMENT TO THE RESIDENCY REQUIREMENTS FOR SWORN MEMBERS OF THE BERKELEY FIRE DEPARTMENT IN ARTICLE VII OF THE BERKELEY CITY CHARTER ON THE NOVEMBER 3, 2020 BALLOT**

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 3, 2020 General Municipal Election, a measure to amend Article VII of the Berkeley Charter related to the residency requirement for sworn members of the Berkeley Fire Department; and

WHEREAS, in accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Statewide General Election to be held November 3, 2020; and

WHEREAS, the City of Berkeley hereby requests that the Alameda County Board of Supervisors permit the Registrar of Voters of Alameda County to perform services in connection with said election at the request of the City Clerk. These services to include all necessary services related to official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election; and

WHEREAS, the Council desires to submit this measure to be placed upon the ballot at said consolidated election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED that the full text of the measure shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the above charter amendment requires a majority vote threshold for passage.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that Pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that the City will reimburse the Registrar of Voters for the costs associated with placing the measure on the ballot.

BE IT FURTHER RESOLVED that said proposed Charter Amendment measure shall appear and be printed upon the ballots to be used at said election as follows:

| CITY OF BERKELEY CHARTER AMENDMENT   |     |
|--|-----|
| Shall the measure amending the City Charter to repeal the requirement that firefighters hired after January 1, 1995 must live within a radius of forty air miles of the City of Berkeley be adopted? | YES |
|  | NO  |

BE IT FURTHER RESOLVED that the text of the Charter Amendment be shown as Exhibit A, attached hereto and made a part hereof.

Exhibits

A: Text of Charter Amendment

**Exhibit A**

**AMENDMENT TO ARTICLE VII OF THE BERKELEY CITY CHARTER TO ELIMINATE  
THE RESIDENCY REQUIREMENT FOR SWORN MEMBERS OF THE FIRE  
DEPARTMENT**

The People of the City of Berkeley hereby amend Section 37a of the Charter of the City of Berkeley as follows:

Section 1. Section 37a of Article VII of the Charter of the City of Berkeley is amended as follows:

**Section 37a. Repealed.Residency requirement for sworn members of the fire department.**

~~Any sworn member of the fire department who is hired subsequent to January 1, 1995, may not reside greater than a radius of forty (40) air miles from the boundaries of the City of Berkeley.~~