



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** LEE PRICE  
CITY CLERK

**SUBJECT: ORDINANCE AMENDING  
TERMS FOR MEMBERS OF  
CERTAIN BOARDS AND  
COMMISSIONS NOT ESTABLISHED  
BY CHARTER**

**DATE:** Sept. 23, 2004

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## RECOMMENDATION

Approve an ordinance amending Section 2.08.150 of the San José Municipal Code changing the regular maximum terms of members of certain non-charter commissions from one full four-year term to two full three-year terms, and allowing for an appointment to up to one additional three-year term in certain circumstances.

## BACKGROUND

In 2002 the Council approved a Rules Committee recommendation to change the policy for term limits for members of the City's boards and commissions under Project Diversity. Term lengths were reduced from four years to three years with a maximum service of two full terms. This change provided several benefits including allowing the City to gain and retain valuable experience and expertise that commissioners develop over time, as well as reduce the number of vacancies on City boards and commissions.

The Council approved the change in policy in June of 2002 and the City Clerk was given authority to make adjustments as necessary to certain terms in order to maintain staggered terms. The Municipal Code, however, was never amended to reflect this change in policy.

The Advisory Commission on Rents will have four terms expiring in December 2004. Three of the commissioners are not eligible for reappointment, leaving the seven-person commission with four openings, two members who have served less than six months, and only one experienced member. The current Commission has worked very well together and the expertise of the more seasoned members is highly valued. The challenge is compounded by the fact that the Advisory Commission on Rents must have two members who are landlords of apartments covered under the Ordinance, two members who must be tenants of these apartments, and the remaining three are neither landlords nor tenants. During the spring of 2004, there were no applicants for the open tenant position. Recruitment has resumed, however one of the termed-out Commissioners is also a tenant representative. It could be difficult to recruit two tenant representatives and would potentially leave the Commission without any tenant representation.

## ANALYSIS

Since the change reflected in the policy developed in 2002 relates to certain boards or commissions not established by Charter, these changes should be adopted by ordinance. Therefore, Section 2.08.150 has been amended accordingly.

The 2002 Rules Committee Memo also specifically noted that Arts Commission's existing terms, set forth in Chapter 2.08.830, already corresponded to the requested change in the Municipal Code. However, the current limit for serving out an unexpired term set forth in Chapter 2.08.830 is two and one-half years, as opposed to one and one-half years required by this new policy. The proposed amendment to Section 2.08.830 would reflect the change and bring the Arts Commission into line with the other commissions.

The Boards and Commissions affected by the changes proposed are as follows:

- Advisory Commission on Rents;
- Airport Commission;
- Arts Commission
- Early Care and Education Commission
- Community Development Block Grant Steering Committee;
- Disability Advisory Commission;
- Historic Landmarks Commission
- Housing Advisory Commission;
- Human Rights Commission;
- Library Commission;
- Mobilehome Advisory Commission;
- Parks and Recreation Commission;
- San Jose Appeals Hearing Board;
- Senior Citizens Commission;
- Small Business Development Commission; and
- Traffic Appeals Board.

The flexibility to extend and/or stagger terms in situations like that currently facing the Advisory Commission on Rents, however, is only partially addressed by the changes adopted by Council in 2002. In the current situation, the Advisory Commission on Rents will not only potentially be devoid of a tenant representative and experienced commissioners, but in three or six years, a large number of experienced commissioners could again be termed out simultaneously.

As a result, the ordinance change discussed in this memo would not only change the current terms from one, four year term, to two, three year terms, but would allow Council to allow a person to serve all or a portion of a third term in situations where reappointment of such member to a commission would be necessary to:

- (a) maintain a functioning quorum on the commission; or
- (b) maintain commissioners with one or more years of experience or a particular required background on the commission; or
- (c) establish, or reestablish, staggered terms to preserve a continuity of membership on the board or commission.

It would also make clear that those current commissioners who might otherwise be ineligible for reappointment under the old ordinance, could be reappointed by Council to serve a special third term (or a portion thereof) if Council finds that these conditions exist.

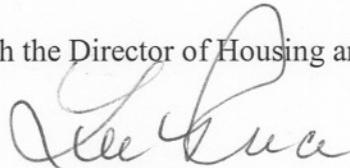
Staff considered an option to amend the Municipal Code to reflect the 2002 changes and the needs of the Advisory Commission on Rents separately. However, since some of the 2002 changes are helpful in addressing the problem on the Advisory Commission on Rents, staff has concluded that it would be advisable to address both changes simultaneously.

### **PUBLIC OUTREACH**

The changes to the terms were discussed at the Rules Committee Hearing of May 22, 2002 and the City Council Session of June 25, 2002. The change permitting a third term for Commissioners' in certain specified circumstances was discussed at both the Advisory Commission on Rents retreat in March 2004 and again at that Commissions' regular meetings in both May and July 2004. All Commission meetings are open to the public and meetings are posted in advance, as required by law.

### **COORDINATION**

Preparation of this report has been coordinated with the Director of Housing and the City Attorney's Office.



LEE PRICE, CMC  
City Clerk

Attachment: Legislative Draft Ordinance amending Chapter 2.08 of the San José Municipal Code.



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SAN JOSE  
AMENDING SECTION 2.08.150 AND SECTION 2.08.830  
OF CHAPTER 2.08 OF TITLE 2 OF THE SAN JOSE  
MUNICIPAL CODE TO MODIFY THE LENGTH AND  
NUMBER OF TERMS SERVED BY MEMBERS OF  
CERTAIN CITY BOARDS OR COMMISSIONS NOT  
ESTABLISHED BY THE CHARTER

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 2.08.150 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

**2.08.150 Term**

- A. The term of appointment to a Charter commission is as established by the Charter.
- B. Members of boards or commissions not established by the Charter shall serve for a term of ~~four~~three (3) years unless otherwise specified in this Chapter. Such members shall be eligible for reappointment at the expiration of their first term for one additional three-year term. The first term shall begin from the date of the expiration of the former incumbent's term, irrespective of the date of actual appointment.
- C. Unless otherwise specified in this Chapter, members who are appointed to serve unexpired terms shall serve to the end of the former incumbent's term.

- D. Except as otherwise specified in this Chapter, a member may be appointed to serve a term of less than ~~four~~three years or a term of less than the number of years established by this Chapter for the particular board of commission if the Council determines that it is in the best interest of the board or commission that a member serve a shorter term in order to provide for appropriate staggered terms to preserve a continuity of membership on the board or commission.
- E. Except as otherwise specified in this Chapter, if a member has been appointed to serve a term of less than ~~three and one-half~~one and one half years, the member may be reappointed to serve on the same board or commission for up to two consecutive additional terms.
- F. Notwithstanding Sections A through E, above, a member may be appointed to serve a third consecutive term with a length of one to three years, in the discretion of the City Council, if the City Council finds that reappointment of such member to a commission would be necessary to:
1. maintain a functioning quorum on the commission; or
  2. maintain commissioners with one or more years of experience or a required background on the commission; or
  3. establish, or reestablish, staggered terms to preserve a continuity of membership on the board or commission.

SECTION 2. Section 2.08.830 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

- A. All members of the commission shall serve up to two three-year terms for a maximum of six years.
- B. B. Members who are appointed to serve unexpired terms shall serve to the end of the former incumbent's term. Such member may be reappointed to

serve on the arts commission for two full three-year terms if the member served less than ~~two~~one and one-half years of the unexpired term.

SECTION 3.

Commissioners who were eligible to serve a second consecutive term as of January 1, 2003 will be considered to have served only one full term and will be eligible for reappointment under the terms set forth herein. Those members who are not eligible for reappointment to a second consecutive term as of January 1, 2003 may be reappointed if Council makes such reappointment pursuant to Section F.

**SECTION 4.**

Those provisions of Chapter 2.08.150 adopted on September 28, 2003 shall retroactively apply to any commissioner appointed to a three year term after January 1, 2003.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
RON GONZALES  
Mayor

ATTEST:

\_\_\_\_\_  
LEE PRICE, CMC  
City Clerk