

# City of Aliso Viejo

## **AGENDA ITEM**



DATE: May 19, 2021

TO: Mayor and City Council

FROM: Scott Smith, City Attorney

SUBJECT: POSSIBLE BALLOT MEASURE FOR NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION FOR THE ADOPTION OF AN ORDINANCE ESTABLISHING TERM LIMITS FOR MEMBERS OF THE CITY COUNCIL

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### **Recommended Action:**

Continue discussion related to the possible ballot measure for the November 8, 2022 General Municipal Election adopting an ordinance establishing term limits for members of the City Council and provide direction to staff as to the timing for placing the measure on the November 8, 2022 ballot.

### **Fiscal Impact:**

None at this time. If approved, the estimated cost to add a measure to the November 8, 2022 General Municipal Election would be approximately \$9,000 and would be contemplated in the FY 2022-23 budget.

### **Background:**

At its meeting of June 17, 2020, the City Council directed staff to draft and place on the November 8, 2022 General Municipal Election ballot, an initiative amending the Aliso Viejo Municipal Code to provide for term limits for City Council members pursuant to Government Code Section 36502(b). The term limits would be two consecutive four-year terms (or a total of eight years) to apply prospectively only. The Council directed staff to begin work on this effort in 2021.

### **Discussion:**

City staff and the City Attorney are facilitating this discussion in order to confirm the Council's prior directive to move forward with placement of this measure on the ballot and to address any remaining questions or concerns in this regard.

Government Code Section 36502(b) specifies that the City Council or the residents of the City may propose, by initiative, a proposal to limit the number of terms a member of the

City Council may serve on the City Council. Term limits do not become operative unless the proposition is submitted to the electors of the City at a regularly scheduled election and a majority of the votes cast favor its adoption.

Limitations may be placed on the number of consecutive terms that Councilmembers may serve and may also be placed on the number of terms that a person may serve during his/her lifetime. The types of term limit ordinances currently being utilized in Orange County generally fall within two models: The first model, which the Council at its June 17, 2020 meeting directed staff to pursue, imposes a limitation of two or three consecutive terms, followed by a hiatus of a specified duration before the incumbent is eligible to seek election to additional terms. The second model imposes a limitation on the number of terms that a person can serve in his/her lifetime.

In addition, pursuant to Government Code Section 36502(b), a term limit ordinance applies prospectively only. This means that any term of office that commenced prior to the effective date of a term limit ordinance would not count as a term served for purposes of implementing the ordinance.

At the Council's prior direction, the City Attorney has prepared the attached draft measure text which would limit the terms of Councilmembers to two consecutive four-year terms, followed by a two-year lapse in service before being eligible to serve again. Councilmembers who serve partial terms of less than two years would remain eligible to serve an additional two consecutive four-year terms. The draft ordinance has been prepared as a starting point for Council discussion and Council may refine the ordinance that it wishes to ultimately submit to the voters, if desired.

For purposes of discussion, Council is asked to consider the following points:

- the number of terms a Council Member may serve consecutively
- whether to allow a hiatus between terms when the imposed limit has been reached or create a lifetime term limit
- the period of hiatus between terms, if desired, when the imposed limit has been reached

Additionally, staff notes that the deadline for placing a measure on the November 8, 2022 ballot is August 12, 2022. Council may, at its discretion, adopt the resolution calling the election for the purposes of placing the measure on the ballot anytime between now and that date. The Council will also be required to adopt a resolution calling the election for November 2022 for the purposes of electing officers. Inasmuch as that action typically occurs in May or June of the election year, placing the matter on the ballot at this time requires that an election be called expressly for that purpose. Council may, further at its discretion, opt to formally adopt the resolution related to the proposed ballot measure at the same time as calling the election for the election of officers.

If Council approves the draft measure for placement on the November 8, 2022 ballot, the City Attorney recommends that the question appear on the ballot as follows:

<p><b>[Insert Ballot Measure Letter] Aliso Viejo, City Council Term Limits</b></p> <p>Shall Ordinance No. ____ be adopted generally limiting consecutive years of service by members of the City Council to a combined total of two four-year terms with the ability to again serve as a member of the City Council after a lapse of service of no less than two years?</p>	<p><b>YES</b></p>
	<p><b>NO</b></p>

Additionally, if approved, the City Attorney would need to prepare Resolutions calling the election for the purpose of placing the measure on the ballot, providing for the filing of primary and rebuttal arguments, and directing the City Attorney to prepare an impartial analysis of the measure to submit to the voters in the Voter Information Guide. The Council may, at its discretion, designate specific members to write the primary and rebuttal arguments, or may elect to co-author the arguments together.

**Environmental:**

There is no environmental impact related to this item.

**Public Notice:**

Public notice was provided through the normal agenda posting process.

**City Attorney:**

The City Attorney's office prepared this report.

**Attachments:**

1. Draft Measure text/ Ordinance establishing Term Limits