



U City of San Clemente, Appointive City Clerk

Shall the office of City Clerk be appointive?

What your vote means

YES	NO
A "yes" vote on Measure U is a vote in favor of making the City Clerk of the City of San Clemente an appointed position.	A "no" vote on Measure U is a vote against making the City Clerk of the City of San Clemente an appointed position.

For and against

FOR	AGAINST
<p>Chris Duncan Council Member, on behalf of the City Council</p> <p>Kathy Ward Council Member, on behalf of the City Council</p>	No argument against this measure was submitted.



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Full Text of Measure U City of San Clemente

ORDINANCE NO. ----

AN ORDINANCE OF THE PEOPLE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ENACTING A NEW CHAPTER 2.10 OF TITLE 2 OF THE SAN CLEMENTE MUNICIPAL CODE ESTABLISHING THE APPOINTIVE OFFICE OF CITY CLERK, SUBJECT TO APPROVAL OF A MAJORITY OF THE ELECTORS VOTING ON THE MEASURE AT THE GENERAL MUNICIPAL ELECTION TO BE HELD TUESDAY, NOVEMBER 8, 2022

WHEREAS, pursuant to California Government Code Section 36502, the office of San Clemente City Clerk is currently an elective office; and

WHEREAS, Government Code Section 36508 and Elections Code Section 9222 authorize the City Council to submit to the electors the question of whether the elective City Clerk shall be an appointive office and, if a majority of voters voting on the measure approve it, the office shall become appointive; and

WHEREAS, an appointive City Clerk gives the City the ability to recruit candidates for the office of City Clerk who have the requisite training, skills and experience necessary to fulfill the important responsibilities of the office of City Clerk; and

WHEREAS, currently the majority of California cities have appointive City Clerks; and

WHEREAS, on June 7, 2022, pursuant to State law, the City Council adopted Resolution No. 22-18, submitting this ordinance to the voters at the General Municipal Election on Tuesday, November 8, 2022; and

WHEREAS, all other legal prerequisites to the adoption of this ordinance have occurred.

NOW, THEREFORE, the People of the City of San Clemente do ordain as follows:

Section 1: Chapter 2.10 of Title 2 of the San Clemente Municipal Code is hereby enacted to read as follows:

“Chapter 2.10 – CITY CLERK

2.10.010 – Office established – Appointment and compensation.

Pursuant to California Government Code Sections 36501 and 36508, there is hereby established the office of City Clerk. The City Clerk shall be appointed by, and shall serve at the pleasure of, the City Council and shall not be required to be a resident or elector of the City. The City Clerk shall receive such compensation as shall be fixed from time to time by resolution or ordinance of the City Council. Notwithstanding the above, pursuant to Government Code Section 36510, the City Council may, by ordinance, vest in the City Manager its authority to appoint the City Clerk.

2.10.020 – Bond requirement.

Pursuant to California Government Code Section 36518, the City Clerk shall furnish a corporate surety bond to be approved by the City Council in a reasonable amount recommended by the City Attorney and fixed by the City Council, by resolution, and may be changed during the City Clerk’s term of office. The bond shall be conditioned upon the satisfactory performance of the duties imposed upon the City Clerk by statute, ordinance, or resolution. Any premium for such bond shall be a proper charge against the City.

2.10.030 – Powers and Duties

The City Clerk shall have the powers, duties and responsibilities granted to and imposed upon the office of the City Clerk pursuant to the following:

- A. The provisions of Chapter 2 of Part 3 of Division 3 of Title 4 of the California Government Code (commencing with Section 40801), with the exception of the financial and accounting duties set forth in Government Code Sections 40802 through 40805;
- B. Other general laws of the State, with the exception of those financial powers and duties imposed upon the City Clerk by Title 4, Div. 3, Part 2, Chapter 4 of the California Government Code (commencing with Section 37201);
- C. The provisions of this Code; and
- D. The ordinances and resolutions of the City Council.

The principal functions of the City Clerk shall be to:

- A. Attend all meetings of the City Council and be responsible for the recording and maintenance of a record of all the actions of the Council;
- B. Keep all ordinances and resolutions of the Council in such a manner that the information contained therein will be readily accessible and open to the public. The City Clerk shall attach to the original copy of each ordinance a certificate which shall state the date the ordinance was adopted and, as to an ordinance requiring publication and/or posting, that the ordinance has been published and/or posted in accordance with law;
- C. Keep all records of the Council and of the office of the City Clerk in such manner that the information contained therein will be readily accessible and open to the public until such time as any of the records may be destroyed or reproduced and the original destroyed, in accordance with State law;
- D. Serve as the official custodian of all City records;

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- E. Be the custodian of the seal of the City;
- F. Prepare the Council agendas, in conjunction with and under the direction of the City Manager;
- G. Perform the duties prescribed by the California Elections Code in conducting municipal elections, except where said election duties are performed by the Orange County Registrar of Voters or similar agency;
- H. Perform the duties imposed upon City Clerks by the California Political Reform Act;
- I. Be responsible for the publication of all official advertising required by law with respect to matters coming before the City Council;
- J. Be responsible for the maintenance and distribution of the Municipal Code;
- K. Be responsible for accepting all claims filed against the City and its officers, agents or employees, pursuant to Chapters 1 and 2 of Part 3 of Division 3.6 of the California Government Code (commencing with Section 900) and Chapter 3.04 of Title 3 of this Code; and
- L. Perform such other duties consistent with this Code as may be required of the City Clerk by the City Council or City Manager.”

Section 2: If this ordinance is passed by a majority of San Clemente voters voting on the matter at the November 8, 2022 General Municipal Election, it shall take effect 10 days after the City Council declares and certifies the results of the election by resolution. The position of City Clerk shall be filled by appointment thereafter upon the earlier of either a vacancy in the office or at the expiration of the current term of office of the incumbent (i.e., December 2024).

Section 3: If any part of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of the ordinance. The People declare that they would have adopted this ordinance, and each part of it, irrespective of the possibility that some part or parts of it might be declared invalid or unconstitutional.

Section 4: The City Clerk is hereby directed to publish this ordinance at least once, within 15 days after the election results are certified, in a newspaper of general circulation published and circulated in the City of San Clemente.

**Impartial Analysis
City of San Clemente
Measure U**

California law requires all general law cities to have the position of city clerk. City clerks have many key administrative responsibilities, such as keeping records of all city council meetings, including ordinances and resolutions; overseeing city elections; administering retention of city records; and performing other significant duties imposed by state and local law. The position of city clerk may be either an elected position or an appointed position. Elected city clerks must reside and be registered to vote in the city where they hold office. No other requirements or minimum experience qualifications apply to elected city clerks. Appointed city clerks serve at the pleasure of their city council, and are not required to be residents or voters in the city in which they serve. A city council may establish minimum qualification requirements for appointed city clerks.

The office of City Clerk for the City of San Clemente is currently an elected office. California Elections Code section 36508 authorizes a city council to submit to the voters the question of whether an elected office, other than that of a city council member, shall be made an appointed office. The San Clemente City Council directed that this question be submitted to the voters of the City of San Clemente concerning whether the City Clerk shall be made an appointed position.

A “yes” vote on Measure U is a vote in favor of making the City Clerk of the City of San Clemente an appointed position. A “no” vote on Measure U is a vote against making the City Clerk of the City of San Clemente an appointed position. If a majority of the voters voting on Measure U vote “yes”, then the City Clerk will become an appointed position, and the City Council will appoint a City Clerk at the expiration of the term of the City Clerk now in office, or upon a vacancy in the office of City Clerk, whichever occurs first.



Argument in Favor of Measure U

The selection of the City Clerk for San Clemente should be based on qualification, skill and experience, not the results of a political campaign.

Duties of the City Clerk have evolved considerably over the past few decades. The City can no longer afford for this position to be strictly ceremonial in nature, administered by a part-time clerk, or guided by political motivations and agendas.

The complexities of the City Clerk position have increased and technical skills and knowledge required are significant. The Clerk's responsibilities include: City records and agenda management, elections oversight, administration of the City's legislative process, and compliance with conflict of interest regulations and other federal, state, and municipal laws. New laws are enacted each year that require research and administration by the City Clerk.

Given the complexities of this position, the City Clerk should be selected following a screening process designed to recruit and hire the person with the strongest technical and professional skills. Once hired, an appointed Clerk can be held accountable to perform to the same high standards established for other executive staff.

California State law requires only that an elected City Clerk be at least 18 years of age and a resident, registered voter within the City. Due to the lack of professional qualifications required for an elected City Clerk, the trend statewide has moved towards appointed rather than elected City Clerks. Nearly 80% of cities in California now appoint their City Clerks.

San Clemente residents deserve impartial, exemplary service by a full-time, qualified City Clerk who is neutral on all issues.

Your YES vote ensures the duties of the City Clerk are performed by a professional who is selected based on their knowledge, education, training and qualifications.

s/ Chris Duncan
Council Member, on behalf of the City Council

s/ Kathy Ward
Council Member, on behalf of the City Council

No argument against this measure was submitted.