

**FULL TEXT OF MEASURE N
CITY OF MODESTO**

Elect City Council by Districts Measure of 2008 "By District" System

REVISED SECTIONS 500, 501, 700.

SECTION 500. ENUMERATION.

The elective officers of the City of Modesto shall be a Mayor and six (6) Councilmembers.

The Council shall consist of the Mayor and six (6) Councilmembers, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council.

(As amended November 4, 1980, and November 7, 1989)

SECTION 501. ELECTED AT LARGE METHOD OF ELECTION.

(a) Mayor. The Mayor and Councilmembers shall be elected at the regular municipal election on a general ticket from the City at large.

(b) District Councilmembers. The Six (6) Councilmembers shall be elected by district as described in this section. A candidate for, and councilmember of, each district must live in that district to be eligible to run for or hold the office of councilmember for that district. Only voters who live in a district shall be eligible to vote in the election for councilmember of that district.

(1) Six Districts. The City of Modesto is divided into six (6) districts for purposes of electing Councilmembers to the Council.

(2) Districting Commission; Duties. There shall be established a Citizen's Districting Commission, hereinafter "Commission," whose function shall be to recommend to the Council the districts from which Councilmembers shall be elected. The first such Commission shall be appointed by the Council no later than sixty (60) days from the effective date of this Charter provision. The Commission shall meet and recommend to the Council a districting plan establishing six councilmember election districts in a timely manner for use in the November 2009 and November 2011 municipal elections. Thereafter, a new Commission shall be appointed by the Council and then meet and recommend to the Council a plan for redistricting of the six councilmember election districts within nine (9) months of receipt by the City of the final Federal Decennial Census information. The Council shall appropriate adequate funds for the work of the Commission.

(3) Appointment of Commission. The Commission shall consist of nine (9) qualified electors residing within the City and shall be appointed by the City Council pursuant to the provisions below:

(A) Strong consideration shall be given to composing the Commission of:

(i) a retired Stanislaus County judge as chairperson;

(ii) one (1) member from a bona fide local taxpayer's association with tax-exempt status under the relevant provisions of the Internal Revenue Code;

(iii) one (1) member from a bona fide local nonpartisan political organization, with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, dedicated to encouraging informed and active participation in government;

(iv) one (1) member from a bona fide local civil rights organization with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code;

(v) one (1) member from a former Civil Grand Jury who has served in that role within the previous five (5) years;

(vi) additional members who have demonstrated civic involvement and a capacity to serve in an honest, independent, and impartial fashion, while upholding public confidence in the integrity of the redistricting process;

(B) The Commission shall reflect the demographic and geographic diversity of the City.

(C) No member of the Commission shall be a relative by blood or marriage within the second degree of the Mayor, a member of the Council, any Charter officer, or any department head or deputy department head, general ticket from the City at large.

(D) No member of the Commission shall be an employee of the City nor any bargaining unit for employees of the City, nor be a person who receives compensation from the City or from bargaining units of the City in any manner, including retirement benefits.

(As amended November 4, 1980, and November 7, 1989)

(E) No member of the Commission shall be a lobbyist or other person with business before the City that represents an economic interest in excess of the limit for material financial effect as established by local ordinance for the time periods established by local ordinance.

(F) A member of the Commission shall be ineligible for election to the City Council in any district whose boundaries were drawn by the Commission in which he or she serves.

(G) In all other respects, the members of the Commission shall be chosen pursuant to the provisions of this Charter.

(H) Members of the Commission shall serve without compensation.

(4) Criteria for Districting. To ensure fair and effective representation for all citizens of the City, the Commission, in recommending a districting or redistricting plan, and the Council, in approving or rejecting a districting or redistricting plan, shall consider the following criteria for the districts to the extent practicable:

(A) district boundaries should be geographically compact and contiguous;

(B) district boundaries should follow visible natural and man-made features;

(C) district boundaries should respect communities of interest. A community of interest is defined as a geographic area comprised of residents who share similar interests including, but not limited to, social, cultural, ethnic, geographic or economic interests, or formal government or quasi-governmental relationships, but not including relationships with political parties, incumbents, or candidates;

(D) district boundaries should be drawn without regard for advantage or disadvantage to incumbents or challengers;

(E) district boundaries should be drawn without regard for advantage or disadvantage to any political party.

(5) Procedure for Districting. The Commission and Council shall abide by the following procedure in any districting process:

(A) one or more, as necessary, independent consultants experienced and competent in the skills necessary for the districting work shall be utilized to assist the Commission in developing any of the Districting Plans detailed in this Section;

(B) the six districts shall be numbered for identification and other purposes as District One, District Two, District Three, District

Four, District Five and District Six;

(C) the Commission shall hold at least one (1) public hearing prior to adopting its Draft Districting Plan;

(D) the Draft Districting Plan shall be made available for at least seven (7) days prior to the commencement of public hearings to take public testimony and comment on the Draft Districting Plan;

(E) the Commission shall hold at least one (1) public hearing between the release of its Draft Districting Plan and the adoption of a Recommended Districting Plan by the Commission;

(F) the Commission shall provide timely public access to all data used in the district boundary drawing process and to all testimony, letters, exhibits and proposed plans received by the Commission;

(G) The Commission shall adopt a Recommended Districting Plan and submit it to the Council.

(6) Consideration by City Council; Final Districting Plan. After submittal of the Recommended Districting Plan to the Council:

(A) the Council shall hold at least one (1) public hearing on the Recommended Districting Plan of the Commission before any adoption of a Final Districting Plan;

(B) The Recommended Districting Plan approved by the Commission shall be available to the public for at least twenty (20) days prior to any vote by the Council to approve or disapprove the Plan.

(C) The Council may not alter the Recommended Districting Plan submitted to it by the Commission. Rather, the Council shall either approve or disapprove such a Recommended Districting Plan in its entirety. If the Council approves the Recommended Districting Plan, it shall become the Final Districting Plan and shall be implemented. If the Council disapproves the Recommended Districting Plan, the Council shall submit in writing to the Commission the reasons for such disapproval, including any deviation by the Commission from the criteria for districting detailed in this Section. The Commission shall consider any reasons for such disapproval submitted to it by the Council and may consider alterations to the Recommended Districting Plan in response to such reasons. After such consideration, the Commission shall submit its Final Districting Plan to the Council for implementation.

(7) Subject to Referendum. Any Final Districting Plan under this Section shall be subject to the referendum provisions of the Charter.

(d) The Transition from At-Large to District Elections. The City Clerk under former provisions of this Charter has previously designated each office held by an at-large councilmember with a descriptive designation commonly referred to as Chair One, Chair Two, Chair Three, Chair Four, Chair Five, and Chair Six. Under the City's election system, Chair Two, Chair Four, and Chair Five are subject to election in the 2009 municipal election and Chair One, Chair Three, and Chair Six are subject to election in the 2011 municipal election. A period of transition from At-Large to District elections will occur from the time of adoption of the first districting plan to the time that the first district elections are held. For this period of transition, each councilmember currently holding a chair will be designated as the councilmember representing the district with the same numerical designation in the districting plan whether or not that councilmember lives in the district. For example, upon adoption of the first districting plan, the councilmember occupying Chair One will be designated the councilmember representing District One whether or not that councilmember lives in District One. Each of the councilmembers occupying office at the time of the effective date of this Charter revision shall be so designated. Thereafter, the first district elections for Districts Two, Four and Five shall occur during the municipal election in 2009 and the first district elections for District One, Three, and Six shall occur during the municipal election in 2011. Notwithstanding the provisions of Section 700 of the Charter, an incumbent councilmember at the time of the effective date of this provision may run for a Council seat other than the seat which that member currently holds if the councilmember is otherwise eligible to run in that seat, all subject to the limitations of terms of office in Section 503 of this Charter.

SECTION 700. COUNCILMEMBERS. TERM OF OFFICE.

Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first Tuesday following their election. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified. ~~Three (3) Councilmembers shall be elected at the regular municipal election in 1963 and at each regular municipal election thereafter. A Mayor shall be elected at the regular municipal election in 1963 and at each alternate regular municipal election thereafter. If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each member of the Council shall have the right to vote on all matters coming before the Council. Each elective office shall be deemed a separate office to be filled at any election. The City Clerk shall designate each such elective office by an appropriate descriptive designation. No candidate shall file for more than one (1) elective office; and no incumbent member of the Council shall run for a seat other than that which the member holds, except that any incumbent member of the Council may run for the seat of Mayor, and an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council. Such designation shall be used on all nomination papers, certificates of election and all election papers referring subject to the office. After election, the designation shall have no further significance except for the purposes of designating incumbency terms of office in Section 503 of this Charter. (As amended November 4, 1980, and November 7, 1989)~~

**CITY OF MODESTO
MEASURE "N"
CITY ATTORNEY'S IMPARTIAL ANALYSIS**

The City Council, by majority vote, approved a binding election on the subject of changing the way in which candidates are elected to City Council offices.

Currently, the City of Modesto's system of electing City Councilmembers is an at-large, or city-wide election system, where the Councilmembers are elected by "Chair" and can live anywhere in the City and are voted on by all voters in the City. There are six (6) Councilmembers and a Mayor for a total of seven (7) Council seats.

A "Yes" vote on this measure would amend the City Charter by switching the current city-wide election system to an election system commonly referred to as the "By District" system. The "By District" system would require that the City of Modesto be divided into six (6) Council districts and the City Council candidates would have to live in the district he or she wished to represent in order to be eligible to run for and hold the office of councilmember for that district. The City Council candidates for each district would be elected by voters who also live in that Council district. The Mayor would still be elected city-wide by all voters in the City.

Approval of this measure would create a nine (9) member Citizens Districting Commission, which would be tasked with determining the districts. The Commission would be appointed by the City Council no later than sixty (60) days after this measure is effective. There are numerous prohibitions on who can serve on the Commission to prevent potential conflicts of interest, as well as a requirement that the Commission membership reflect the demographic and geographic diversity of the City. This Commission would be responsible for making recommendations to the City Council as to the adoption of a districting plan for the six (6) districts to be put in place for the November 2009 and November 2011 elections. Several public hearings must be held by the Commission and City Council to ensure public input before the City Council acts on the proposed districting plan. The measure also sets forth objective criteria to be used by the Commission in establishing the districts. The City Council must approve or disapprove the districting plan. The Commission must consider the Council's reasons for disapproval, however, the final decision for the districting plan ultimately remains with the Commission.

Although actual costs, if any, cannot be known at this time, there may be a fiscal impact related to the establishment and formation of the Commission and six (6) districts, including implementation costs.

s/ Susana Alcala Wood
City Attorney

ARGUMENT IN FAVOR OF MEASURE N

Measure N puts into action the vote of the people. In the November advisory election, voters overwhelmingly chose district elections for selecting council members. Measure N amends the Modesto Charter to a "By District" elections system where candidates must live in the District they wish to represent, and voters living in the District vote on who will represent them. The mayor will continue to be elected by all voters.

With the present "At Large by Chair" system candidates declare for designated seats and are elected citywide. Their "chair" does not represent the neighborhood they live in. This system started in 1962 when Modesto was a city of 36,585 covering 9.6 square miles. Now Modesto is a city of 207,000 covering an area of 36 square miles, and this system no longer serves Modesto well.

Most cities the size of Modesto or larger use a "By District" system. Modesto is no longer a small town, and a substantial majority of the voters expressed the need for change.

Districts will address many of the problems with our current system. Council members would be better able to connect with their constituents, and be more accountable to them. Neighborhood representation would improve with someone who knows your area. Campaign costs would be more manageable.

The measure creates a Citizen's Districting Commission to determine the initial districts and any reapportionment needed after each 10 year federal census. This independent citizens' commission will have representatives from taxpayer, voter rights, and civil rights organizations as well as former Civil Grand Jury members. A retired Stanislaus County judge will be sought to chair the commission. The commission will form six districts with the aid of an independent consultant. Public hearings will be held before a Districting Plan is approved.

We urge your yes vote on Measure N.

- s/ Brad Hawn, Vice-Mayor of Modesto
- s/ Garrad Marsh, Modesto City Councilman
- s/ Odessa P. Johnson, U.C. Regent, Former Modesto School Board Member
- s/ Carolina Bernal, CEO Hispanic Chamber of Commerce
- s/ G. Thomas Wright, Member Modesto Charter Review Committee

**ARGUMENT AGAINST MEASURE N
NONE SUBMITTED**