



[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion

1        WHEREAS, the City Charter imposes a duty on the Council to “[f]aithfully  
2 execute and comply with all laws of . . . the United States of America,”  
3 including the United States Constitution; and

4        WHEREAS, regardless of personal views, beliefs or positions on the  
5 substance of the Proposed Ordinance, proceeding with an election on an a law  
6 determined to be unconstitutional by a court of law would mislead citizens  
7 about the legal effect of the proposition upon which they vote; and

8        WHEREAS, it is estimated that the cost of the election for the Proposed  
9 Ordinance, together with legal fees associated with defending challenges of  
10 the Proposed Ordinance, could easily reach over \$1 million in public  
11 expenditures; and

12        WHEREAS, a declaratory ruling from a court would provide guidance on  
13 the constitutionality of the measure and whether the Council is obligated to  
14 allow an election under these circumstances, or whether it may be halted or  
15 otherwise enjoined.

16 **BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**  
17 **ALBUQUERQUE:**

18        Section 1. The City Attorney is directed, in consultation with the City  
19 Council Office, to immediately retain independent legal counsel to provide  
20 legal advice and to pursue a declaratory ruling, an injunction, and any other  
21 appropriate remedy from the appropriate court with jurisdiction in order to  
22 determine the constitutionality of the Proposed Ordinance, to determine  
23 whether the Council is obligated to allow an election notwithstanding any  
24 constitutional infirmities, or whether the election may be halted or otherwise  
25 enjoined, and to advise on what actions that City Council or court may take, if  
26 any, to prevent a futile public election and to preserve public funds.

27        Section 2. This resolution becomes effective immediately upon adoption by  
28 the City Council.

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