

DRAFT ORDINANCE NO. _____

AN ORDINANCE AMENDING CITY CODE CHAPTER 2-2 TO CLARIFY THE LEGAL REQUIREMENTS AND PROCESSES FOR CANDIDATES WHO SUBMIT A VOLUNTARY CAMPAIGN CONTRACT, TO ENSURE CITY CODE IS IN COMPLIANCE WITH COURT DECISIONS REGARDING THE GENERAL ELECTION CAMPAIGN FINANCE PERIOD, AND TO DELETE OBSOLETE REFERENCES TO THE TERM "DATA FILE."

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 2-2-2 (*Definitions*) is amended add a new Subsection (24) to read:

(24) VOLUNTARY CAMPAIGN CONTRACT CAMPAIGN PERIOD applies only to those candidates who have elected to submit the voluntary campaign contract and means the time period beginning when a candidate timely submits a campaign contract in accordance with Article 2 of this Chapter and ending on the date of the general election.

PART 2. Subsections (A), (B), and (G) of Section 2-2-7 (*Commencement of Campaign Period*) are amended to read:

A) A ~~[general election]~~ special election~~;~~ and a runoff election each have a separate campaign period for purposes of City Charter Article III, Section 8 (*Limits on Campaign Contributions and Expenditures*) and this chapter. The contribution limits set forth in City Charter Article III, Section 8 (*Limits on Campaign Contributions and Expenditures*) apply separately to each general election, runoff election, and special election.

(B) There is no mandated campaign period for a general election, except for the voluntary campaign contract campaign period for candidates who timely submit the voluntary campaign contract as provided in Section 2-2-11(B). ~~[The campaign period for a general election begins the 365th day before the date of the general election.]~~

(G) A candidate may only raise funds for a~~n~~ special or runoff election during an authorized campaign period.

PART 3. Subsection (B) of Section 2-2-11 (*Voluntary Campaign Contract*) is amended to read:

(B) A candidate must submit a personally signed ~~[the]~~ campaign contract no later than the earliest occurring deadline below~~[the earlier of]~~:

(1) 30 days after~~[he or she becomes a candidate under the Texas Election Code]~~ the date the individual files an appointment of campaign treasurer or an amendment of campaign treasurer with the City Clerk's office, if the applicable form was filed within 365 days of the City's next general election date; [or]

(2) ~~[the date the candidate files for a place on the ballot.]~~ 30 days after the date the individual accepts a campaign contribution or makes a campaign expenditure, as shown on a campaign finance report filed with the Clerk's office; or

(3) the date the candidate files an application for a place on the general election ballot or a declaration of write-in candidacy with the Clerk's office.

PART 4. Section § 2-2-12 (*Candidates' Expenditure Limitations*) is amended to read:

(A) A candidate who signs a campaign contract under this chapter shall not, during the voluntary campaign contract campaign period, make expenditures exceeding the following limits:

(1) candidates for mayor: expenditures of \$120,000 and an additional \$80,000 in a runoff election; and

(2) candidates for city council: expenditures of \$75,000 and an additional \$50,000 in a runoff election.

(B) A candidate in a race for mayor or city council shall not make expenditures from his or her own funds that exceed five percent of the applicable voluntary expenditure limits in this section for an election or runoff election during the voluntary campaign contract through the runoff election. An expenditure by a candidate is an expenditure by his or her campaign. A candidate shall report expenditures from personal funds consistent with state law and this chapter.

(C) If a candidate has signed a campaign contract under this chapter, expenditures on behalf of the candidate other than direct campaign expenditures, as defined in Article 4 (*Direct Campaign Expenditures*), shall apply to the candidate's voluntary expenditure limits.

(D) A candidate makes an expenditure subject to this article on the date that:

(1) a payment is actually made; or

(2) an agreement requiring payment is entered into; or

(3) an obligation to make a payment is incurred.

PART 5. Section 2-2-13 (*Candidates' Contribution Limits*) is amended to read:

(A) Except as provided in Subsection (B), a candidate who signs a campaign contract under this chapter shall not accept contributions from an individual or any political committee exceeding the following limits:

(1) Candidates for mayor:

(a) aggregate contributions of more than the amount set by City Charter Article III, Section 8(A)(1) for both the voluntary campaign contract campaign period for the election and the campaign period for a runoff election; and

(b) more than \$24,000 in contributions in a voluntary campaign contract campaign period from political committees for a regular election or an additional \$16,000 for a runoff election.

(2) Candidates for city council:

(a) aggregate contributions of more than the amount set by City Charter Article III, Section 8(A)(3), for both the voluntary campaign contract campaign period for the regular election and the campaign period for a runoff election; and

(b) more than \$15,000 in contributions in a voluntary campaign contract campaign period from political committees for a regular election or an additional \$10,000 for a runoff election.

(B) A candidate for mayor or city council may spend personal funds on his or her own campaign up to the applicable five percent expenditure limits set out in Section 2-2-12 (*Candidates' Expenditure Limitations*). An expenditure from personal funds shall be reported in a manner consistent with state law and this chapter.

(C) A candidate accepts a contribution subject to this Article on the date that:

(1) it is accepted under the Texas Election Code;

(2) an agreement is made to accept the contribution; or

(3) an obligation is incurred to accept a transfer.

PART 6. Subsection (B) of City Code Section 2-2-17 (*Waiver of Voluntary Limits*), is amended to read:

(B) A candidate who signed a campaign contract may, up to the end of the filing period for a place on the ballot, elect to opt out of the contract if another candidate ~~[has filed a designation of campaign treasurer for that office and]~~ has not ~~[within 30 days signed]~~ timely filed a campaign contract as provided in Section 2-2-11(B) or a notice of intent, under the Texas Election Code, to raise and spend less than \$500.

(1) A candidate must opt out of the contract by filing a notice stating such with the City Clerk no later than midnight of the next business day after the deadline to apply for a place on the ballot.

(2) If a candidate opts out of a contract, he or she may continue to use the disclaimer provided for in Section 2-2-14, but shall not be eligible to receive funds from the Austin Fair Campaign Finance Fund.

PART 7. Subsection (B) of Section 2-2-21 (*Additional Information Required On All Campaign Finance Reports Filed With The City*) is deleted:

~~[(B) The requirements described in Subsection (A) also apply to the structured data file provided to the city clerk by a candidate, office holder, or political committee with each campaign finance report, as prescribed by Section 2-2-26 (*Filing of Campaign Finance Report Data*).]~~

PART 8. Section 2-2-22 (*Fundraising And Bundling By Intermediaries*) is amended to read:

(A) In this section:

(1) BUNDLER means a person who bundles campaign contributions. The term does not apply to an individual whose only fundraising activity is a fundraising event held at the individual's residence if the event raises funds in an aggregate amount of less than \$5,000.

(2) BUNDLING means the soliciting and obtaining, during a voluntary campaign contract campaign period or other campaign period, contributions on behalf of a candidate of \$200 or more per person from five or more persons.

(B) For each reporting period in which a candidate for whom a bundler has bundled contributions must file a report of contributions and expenditures, the candidate must also file a separate report with the City Clerk disclosing:

- (1) the name and address of each bundler who has bundled for the candidate;
- (2) the bundler's occupation and the name of the bundler's employer; and
- (3) the name, address, occupation and employer of each individual contributor whose contribution was bundled by the bundler;
- (4) the amount contributed by each individual contributor whose contribution was bundled by the bundler;
- (5) the total amount the bundler has bundled for the candidate during the reporting period; and
- (6) the name of each person registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*) employed by, or compensated to lobby, by:
 - (a) the bundler;
 - (b) a business association through which the bundler does business; or
 - (c) the bundler's employer.

(C) A candidate who receives bundled contributions shall notify each bundler of the requirements of this section. A bundler shall provide to each candidate, at the time the bundler delivers bundled contributions to the candidate, the information necessary for the candidate to report the information required by this section. The failure of a bundler to provide the information required by this subsection does not excuse any failure by a candidate to report the required information.

(D) Except as may be further limited by Subsection (E), a person who is registered, who is required to register, or who is employed by a person who is registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*) may not bundle contributions totaling more than five times the contribution limit set by Article III, Section 8(A)(1) of the City Charter for any one candidate in a voluntary campaign contract campaign period or other campaign period.

(E) This subsection applies only to a business association that is registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*), that is owned in whole or in part by a person registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*), that employs a person registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*), or that compensates another person to lobby on a municipal question of interest to the business association. Partners, shareholders, principals, employees, and persons who conduct business through the same business association, are considered to be a single bundler for the purpose of this subsection. The total amount bundled by all the partners, shareholders, principals, employees, and persons who conduct business through the same business association when added together may not exceed ten times the contribution limit set by Article III, Section 8(A)(1) of the City Charter for the entire business association for any one candidate in a voluntary campaign contract campaign period or other campaign period.

PART 9. Section 2-2-26 (*Filing Of Campaign Finance Report Data*) is amended to read:

~~[(A) A candidate, officeholder, or political committee required by the City Code or state law to file a campaign finance report with the city clerk shall, in addition to the required report, also provide to the city clerk a structured data file containing the contents of the campaign finance report. The data file must comply with specifications and be on media determined by the city clerk. The data file must be provided to the city clerk no later than the date that the associated campaign finance report must be filed.]~~

(~~A~~B) The city manager, in consultation with the city clerk, shall maintain for the use of the city clerk a Web site that allows public access to a searchable and downloadable database capable of executing queries.

~~[(C) The city clerk must upload a data file into the database exactly as the file is received, except that the city clerk may not upload a data file that does not comply with the city clerk's technical specifications. A filer who provides a non-compliant data file to the city clerk shall resubmit the data in the required format. A data file that must be resubmitted is timely filed if resubmitted no later than the next business day after the date that the city clerk notifies the filer that data file is non-compliant.]~~

(~~B~~D) ~~[The city clerk shall upload the data related to a campaign finance report to the database available from the City's Web site on the first business day after the date that the city clerk accepts the data file.]~~ The city clerk shall post a campaign finance report to the City's Web site on the first business day after the date that the city clerk receives the report.

(~~C~~E) This ordinance is cumulative of, and does not supersede, another requirement of law regarding the deadline, filing, form, signing, or acknowledgement of a campaign finance report. A person who must file a report under this chapter shall file the report with the city clerk.

~~[(F) A data file has the same records retention period as the associated campaign finance report.]~~

~~(G) The requirement under this section to provide to the city clerk a structured data file containing the contents of each campaign finance report does not apply to a candidate or officeholder running for re-election if:~~

- ~~(1) the due date for the campaign finance report falls within the campaign period;~~
- ~~(2) the candidate or officeholder running for re-election has not raised and does not intend to raise more than \$10,000 in contributions during the campaign period; and~~
- ~~(3) the candidate or officeholder running for re-election files a signed statement with the city clerk stating that the candidate or officeholder running for re-election has not raised and does not intend to raise more than \$10,000 in contributions during a campaign period.~~

~~(H) If contributions to a candidate or officeholder running for re-election who has signed an exemption statement under this subsection exceed \$10,000, the candidate or officeholder running for re-election shall provide to the city clerk:~~

- ~~(1) a data file for each subsequent campaign finance report that the candidate or officeholder is required to file; and~~
- ~~(2) a data file for each prior campaign finance report that was due during the campaign period before the contributions to the candidate or officeholder exceeded \$10,000, to be provided to~~

~~the city clerk no later than the next campaign finance report filing deadline after the contributions to the candidate or officeholder exceed \$10,000.~~

~~(I) An exemption under this subsection from providing a data file associated with a required campaign finance report does not exempt the candidate from filing the campaign finance report.]~~

PART 10. Subsection (F) of Section 2-2-29 (*Pre-Election Reports*) is amended to read:

(F) The city clerk shall post each pre-election report on the City's Web site no later than 5 p.m. on the first business day after the date that the city clerk receives the report. ~~[and accepts the associated data file.]~~

PART 11. Subsections (D) and (E) of Section 2-2-32 (*Reporting Of Direct Campaign Expenditures*) are deleted and Subsection (F) is amended and re-lettered as follows:

~~[(D) A person making a report required by subsection (A) shall, in addition to the required report, also provide to the city clerk a structured data file containing the contents of the report. The data file must be provided to the city clerk no later than the date that the associated report must be filed.]~~

~~(E) The data file must comply with specifications and be on media determined by the city clerk. A filer who provides a non-compliant data file to the clerk shall resubmit the data in the required format. A data file that must be resubmitted is timely filed if resubmitted no later than the next business day after the date that the clerk notifies the filer that the data file is non-compliant.]~~

~~(D[F])~~ Information reported under this section by a political committee or a person subject to Section 254.261 (*Direct campaign expenditure exceeding \$100*) of the Texas Election Code must also be reported on the political committee's or person's next campaign finance report, if required by state law.

PART 12. Subsections (E) and (F) of Section 2--2-34 (*Reporting Of Covered Transfers*) are deleted, and Subsection (G) is re-lettered as follows:

~~[(E) A person making a report required by subsection (C) shall, in addition to the required report, also provide to the city clerk a structured data file containing the contents of the report. The data file must be provided to the city clerk no later than the date that the associated report must be filed.]~~

~~(F) The data file must comply with specifications and be on media determined by the city clerk. A filer who provides a non-compliant data file to the clerk shall resubmit the data in the required format. A data file that must be resubmitted is timely filed if resubmitted no later than the next business day after the date that the clerk notifies the filer that the data file is non-compliant.]~~

~~([EG])~~ Information reported under this section by a political committee or a person subject to Section 254.261 (*Direct campaign expenditure exceeding \$100*) of the Texas Election Code must also be reported on the political committee's or person's next campaign finance report, if required by state law.

PART 13. Subsection (A) of Section 2-2-53 (*Restrictions On Contributions By Lobbyists*) is amended to read:

(A) The city council finds that the practice of lobbying for compensation creates a unique relationship between candidates and officeholders on the one hand, and lobbyists on the other. To preserve public

confidence in the electoral process, to diminish the appearance of impropriety and special influence, and to minimize the role of political contributions in the legislative and regulatory processes and the awarding of public contracts, it is appropriate to prohibit persons who lobby the city council from making contributions to candidates for mayor and city council and to officeholders. Accordingly, no person who is compensated to lobby the city council and who is required to register with the City as a lobbyist, and no spouse of the person, may contribute more than \$25 in a voluntary campaign contract campaign period or other campaign period to an officeholder or candidate for mayor or city council, or to a specific purpose political committee involved in an election for mayor or city council.

PART 14. Section 2-2-63 (*Qualifying Candidates*) is amended to read:

To become a qualifying candidate eligible to receive public funds from the Austin Fair Campaign Finance Fund, a candidate for mayor or city council must sign and timely submit a campaign contract, and must ~~[agree to]~~:

- (1) abide by the applicable limitations on contributions and expenditures except when exempted as provided by Subsection 2-2-17(A);
- (2) timely file the required campaign finance reports; and
- (3) participate in specified ~~[debates]~~ events arranged by the City Ethics Review Commission.

PART 15. Section 2-2-65 (*Other Considerations For Campaign Contract*) is amended to read:

(A) A candidate who signs a campaign contract must participate in a series of City-organized candidate ~~[forums]~~ events, whether or not the candidate qualifies for funds.

(B) The Ethics Review Commission shall produce not fewer than three City-organized candidate ~~[forums]~~ events for each contested race as follows:

- (1) one ~~[forums]~~ event must air in real time on public access television; and
- (2) other ~~[forums]~~ events may be produced and made available to the public by radio, broadcast, publication on the Internet, or other means approved by the commission.

(C) The City shall make recordings of audio or video ~~[forums]~~ events available to the public at all branches of the City library.

(D) The City may purchase advertising promoting the candidate ~~[forums]~~ events.

(E) The Ethics Review Commission shall establish equitable guidelines to coordinate and produce the candidate ~~[forums]~~ events.

PART 16. This ordinance takes effect on _____, 2024.

PASSED AND APPROVED

_____, 2024 § _____
Kirk Watson
Mayor

APPROVED: _____ **ATTEST:** _____
Anne L. Morgan Myrna Rios
City Attorney City Clerk