

## **Recommendation to Increase Transparency in Citizen-Initiated Recall Petitions**

### **Background**

City Council Resolution 20230309-025 establishing the 2024 Charter Review Commission to make recommendations to the Council to, in part, “improve and enhance transparency and the general functions of city government....”

The City Charter does not currently require public disclosure of the intent to collect signatures for a petition, the identity of the person(s) initiating the petition and responsible for collecting petition signatures, or contact information for the petitioners, among other disclosures commonly required in citizen-initiated petition policies in other cities, nor does the Charter require that the parties responsible for collecting and submitting petition signatures be residents of Austin in order to initiate and back a petition to recall of the mayor, or residents of the council district of a council member subject to a recall petition. As such, the current petition process does not encourage or require the level of transparency that Austin residents deserve.

Further, the current recall rules present a significant vulnerability in the community-centered representation and accountability afforded to Austinites under the 10-1 single-member district council system, in that they allow recalls to be initiated and backed by people from outside these districts. Since adopting the 10-1 council system, recall petitions have been initiated or threatened by corporations based in California and by residents of one council district seeking to recall multiple council members representing other districts in which the initiators of those petitions do not reside.

This draft recommendation amends the draft recommendation of the Petition Process work group to include the same transparency items for recall petitions.

### **Draft Recommendation**

**Section 1: Notice of Intent.** A signature presented as part of a petition for a Ballot Initiative, ~~or~~ Referendum, Recall, and for a Charter Amendment to the extent allowable under state law, is considered valid only if:

- a) The signer is a qualified voter in the City of Austin, and for petitions for recall of a council member, a qualified voter of the council district of the member the petition seeks to recall;
- b) The signature includes the signer’s printed name, residence address, date of birth or Voter Unique Identifier (VUID), the date of signing, and the signer’s live signature, as described in Texas Election Code Sec. 277.002 (a); and
- c) The signature was collected during the effective period of a Notice of Intent filed with and accepted by the City Clerk.
  - i) Notices of Intent for Initiatives and Referendums are considered to be in effect for 90 days after they have been accepted by the City Clerk. The Clerk may grant one additional 90-day extension upon request by the petitioners of the Notice, for

a total period of 180 consecutive days prior to submitting the petition signatures to the Clerk.

- 1) The request for an extension must be a written request; must update the information provided in section (d) below, if applicable; and may be in the form of an email to an email address specified by the Clerk from one of the five petitioners listed on the Notice of Intent.
- ii) Notices of Intent for Charter Amendments are considered to be in effect for 180 days preceding the submission of the petition signatures to the Clerk, in compliance with Texas Election Code Sec. 277.002 (e).

**Section 2: Information disclosed on a Notice of Intent.** A Notice of Intent must include the following information:

- a) The names, addresses, dates of birth or Voter Unique Identifiers (VUIDs), and live signatures of 5 qualified voters in the City of Austin (“the petitioners”);
  - a)i) For Notices of Intent filed to collect signatures to recall a council member, the petitioners must be qualified voters in the council district of the council member they seek to recall.
- b) A short, 1-sentence description of the policy purpose of the proposed initiative, referendum, or Charter Amendment;
- c) A phone number and email address, which members of the public may use to contact the petitioners for more information about the petition;
- d) The City of Austin campaign finance filer ID associated with expenditures related to the collection of signatures, if applicable;
  - d)i) For Notices of Intent filed to collect signatures to recall the mayor or a council member, the petitioners shall include a City of Austin campaign finance filer ID.
- e) The proposed ordinance language, if applicable, and the proposed ballot language;
- f) For a Notice of Intent for any petition other than a recall of the mayor or a council member, The-the date of the election in which the filers of the Notice intend for the ballot item to appear; and
- g) A notarized sworn statement signed by at least 1 of the petitioners attesting to the accuracy of the information presented on the Notice of Intent.

**Section 3: Review of Notices of Intent.** Upon the filing of a Notice of Intent, the City Clerk shall review the Notice to determine whether the requirements of the Notice of Intent have been met. Within 10 business days, the Clerk shall notify the petitioners whether their Notice has been accepted or rejected.

The Clerk shall indicate on accepted Notices of Intent a final date by which petition signatures must be submitted to the Clerk for verification, offering reasonable assurance that City staff is given adequate time to verify petition signatures and that City Council has adequate time to consider the petition for placement on the election date requested by the petitioners.

The Clerk shall assign a short identifier to each Notice of Intent, and post each Notice on a page within the City’s website housing all filed Notices.

**Section 4: Standardized petition forms.** Petitioners may only present to the City Clerk valid signatures collected on a standardized petition form provided by the Clerk, provided in English and Spanish, and available in other languages commonly spoken in Austin upon request.

Standardized petition forms shall include:

- a) Contact information for the Clerk's office;
- b) The URL of the page on the City's website where Notices of Intent are posted, as well as a QR code directing to that URL;
- c) The following information from the Notice of Intent, populated into the form by the Clerk:
  - 1) The type of petition;
  - 2) The public contact information for the petitioners that was provided on the Notice of Intent;
  - 3) The identifier assigned by the Clerk to the Notice of Intent;
  - 4) The proposed ballot language, as provided in the Notice of Intent, or as provided in the City Charter for a petition to recall the mayor or a council member; and
  - 5) Space for signers to provide the date signed, their printed name, their live signature, their residence address, and their date of birth or VUID.

#### **Policy Reasons for the Recommendation**

Section 1 of the recommendation establishes that petition signatures are only valid if they are complete per Texas Election code, and if they are collected under a Notice of Intent filed by 5 qualified voters in the City of Austin. The Notice of Intent is a tool to publicly disclose information.

State law defines the period under which petition signatures to amend the Charter are valid as 180 days preceding the submission of the petition. This recommendation sets the initial period of effect for a Notice filed to collect signatures for an Initiative or Referendum at 90 days with one possible extension, for a total period of 180 days, in order to align with law regarding Charter Amendments. The shorter initial period is designed to facilitate communication between the Clerk and the petitioners, which helps maintain the lines of communication between the petitioners and the Clerk, as well as helping the Clerk better anticipate the possible need to redirect staff time and department resources toward verifying petitions.

Section 2 outlines required information on the Notice of Intent; the policy reasons for each are as follows:

- *Presented by 5 qualified Austin voters, or qualified voters in the relevant council district in the case of a recall of a council member, with information sufficient to verify that all 5 petitioners are qualified ~~Austin~~-voters:* This requirement assures that Austinites maintain local control of the ordinances that govern them by preserving the powers of initiative, referendum, ~~and~~ amending the Charter, and recall for Austin residents only. Sufficient information must be provided on the Notice of Intent for the City Clerk to verify the petitioners' voter status.

- *A short description of the intended purpose of the ordinance or repeal:* This allows petitioners to offer a plain language description of their policy goal. Ballot and ordinance language may sometimes need to be written in a way that does not immediately clarify the intended policy change.
- *Public contact information for the petitioners:* This provides a way for members of the public to contact the petitioners to seek more information about the petition and signature collection efforts.
- *Campaign finance filer ID:* Expenditures associated with collecting petitions are political expenditures, and may be subject to campaign finance reporting requirements. If the petitioners report these expenditures and associated contributions, providing the petitioners' filer ID will help the public more easily find and be able to inspect the petitioners' reports of political contributions and expenditures.
  - In the case of a petition for the recall of the mayor or a council member, petitioners will be required to have filed a campaign treasurer appointment and thus to have a City of Austin campaign finance filer ID to facilitate transparency and the reporting of political contributions and expenditures.
- *Proposed ordinance and ballot language:* This makes the details of the proposed policy change and the question that may come before voters available for public review.
- *The date of the desired election, if applicable:* This facilitates communication between the petitioners and the City Clerk, allowing for the Clerk to plan staff time and department resources adequately to review the submitted signatures, and for the petition to be presented to Council with sufficient time for Council to call an election if necessary.
- *Sworn statement:* A notarized statement attesting to the accuracy of the information provided in the Notice of Intent places at least one of the petitioners in a position of responsibility for the Notice and the resulting petition signatures. Providing false information on the Notice then would leave the petitioner(s) subject to prosecution for perjury.

Section 3 clarifies that the Clerk is responsible for determining whether a Notice of Intent may be accepted and thus whether signatures collected may be considered valid, or must be rejected for not meeting the criteria required on the Notice.

Section 3 further clarifies that Notices must be posted publicly on a dedicated page within the City's website for inspection by the public.

Section 4 requires the use of standardized petition forms in order to further increase transparency at the point of contact between the petitioner and a potential signer.

### **Fiscal Impact**

Minimal impact is anticipated as a result of City staff's work to include a page on the City's website to house filed Notices of Intent, the review of Notices of Intent, or the creation of a standardized petition form, as these tasks can be absorbed into staff's current work, and such impacts would not require additional appropriations of funds solely for these purposes. The filing

of a Notice of Intent may in fact help the Clerk better anticipate staffing needs and thus use the department's budget more efficiently.

**Impact of the Recommendation on Existing City Laws, Rules, Practices and Procedures**

City Charter Article IV Sec. 1-3, and 6 will need to be amended.

**Proposed Ballot Language**

*To increase transparency in citizen-initiated petitions ~~for Ballot Initiatives, Referendums, and Charter Amendments~~, should the City of Austin require that, prior to the collection of signatures, a Notice of Intent be filed with the City Clerk? The Notice of Intent must include a copy of the proposed ordinance or charter amendment, the proposed ballot language, a one-sentence summary, public contact information for the filers of the Notice of Intent, and a sworn statement warning that providing false information on the Notice of Intent is subject to the penalty of perjury. The Notice of Intent must be signed by 5 qualified voters in the City of Austin, or in the district of a council member a petition attempts to recall. The City Clerk will post all filed Notices of Intent on the City's website.*