

### **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. As such, the current petition process does not encourage or require the level of transparency that Austin residents deserve.

### **Draft Recommendation**

*Amended language for City Charter Article IV, Section 3:*

**Subsection 1: Notice of Intent.** A signature presented as part of a petition for a ballot initiative, referendum, recall, or 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 jurisdiction impacted by the petition;
- 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 are considered to be in effect once they are reviewed and accepted by the City Clerk, until the date the collected petition signatures are submitted to the City Clerk, for a period not exceeding 180 days.
- d) The signature was submitted as part of the petition before the 90th day before the date by which an election must be ordered for the next general municipal election date for petitions for initiative, referendum, and to the extent allowable under state law, Charter amendments.
- e) The signature was collected on a standardized petition form prescribed by the City Clerk, which at a minimum:
  - i) Contact information for the Clerk's office;
  - ii) 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;
  - iii) The following information provided on the Notice of Intent:
    - 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; 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.

**Subsection 2: Information disclosed on a Notice of Intent.** A Notice of Intent must include at a minimum:

- a) The names, addresses, dates of birth or Voter Unique Identifiers (VUIDs), and live signatures of 5 qualified voters in the jurisdiction impacted by the proposed petition (“the petitioners”);
- 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;
- e) The proposed ordinance language, if applicable, and the proposed ballot language;
- f) For petitions for ballot initiative, referendum, and Charter amendments, the date of the election in which the filers of the Notice intend for the 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.

**Subsection 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 certification. 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.

**Subsection 4: Certification of Petitions.** ~~[A petition under section 1 or section 2 of this article is subject to the requirements prescribed by state law for a petition to initiate an amendment to this Charter, and shall be in the form and validated in the manner prescribed by state law for a petition to initiate an amendment to this Charter.]~~ The City Clerk shall examine a petition for initiative, referendum, and, to the extent allowable under state law, Charter amendment for certification with sufficient time for City Council to order the election for the relevant municipal general election date if the petition was submitted timely and under an accepted Notice of Intent. If additional resources are required to complete certification of a petition within that time, City Council shall direct these additional resources to the Clerk for this purpose.

**Policy Reasons for the Recommendation**

Subsection 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 effective

period Notice as the period between the acceptance of the Notice by the Clerk, and the date the petition is submitted to the Clerk, for a maximum period of 180 days, in order to align with state law regarding Charter Amendments.

This section also requires that signatures are only valid if collected on standardized petition forms prescribed by the Clerk in order to increase transparency at the point of contact between a canvasser and a potential signer.

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

- *Presented by 5 qualified Austin voters, with information sufficient to verify that all 5 petitioners are qualified Austin voters, or voters in the relevant council district for petitions to recall a council member:* This requirement assures that Austinites maintain local control of the ordinances that govern them by preserving the powers of initiative, referendum, amending the Charter, and recall for the residents of the respective district 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. Providing the petitioners' filer ID will help the public more easily find and be able to inspect the petitioners' reports of 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:* 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.

Subsection 3 clarifies that the Clerk is responsible for reviewing Notices of Intent for the required information. Section 3 further clarifies that Notices must be posted publicly on a dedicated page within the City's website for inspection by the public.

Subsection 4 offers a reasonable assurance to petitioners that the Clerk will certify petitions in time for the item for the election to be ordered, assuming the petitions were submitted 90 days before the deadline to order the election and were in compliance with the Notice of Intent requirements. Section 7 of the Charter currently requires certification of recall petitions within 20 days; this recommendation does not impose a deadline for other petitions beyond the 90-day period between submission of the petition and deadline to order the election. This subsection also requires Council to direct appropriate resources for this work if necessary. The Clerk has confirmed to the Commission that, when combined with a required Notice of Intent, certification within this 90-day period is possible, even multiple petitions at once.

### **Fiscal Impact**

No 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 assignments, and would likely not require additional appropriations of funds solely for these purposes. The filing of a Notice of Intent may help the Clerk better anticipate staffing needs and thus use the department's budget more efficiently. If additional resources are required that would need City Council's authorization, this recommendation would require the direction of those resources; however such situations would be rare.

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

City Charter Article IV Sec. 3 will need to be amended; other sections may need to be amended to update relevant references.

### **Proposed Ballot Language**

The proposed ballot language below is subject to review and edit by the City Attorney.

*Shall the City Charter be amended to require petitioners to submit a Notice of Intent prior to submitting a petition for an election and to define a petition signature as valid only if the signature is collected under a Notice of Intent, collected on a standardized petition form prescribed by the Clerk to include contact and other information provided on the Notice of Intent, and signed by qualified voters in the impacted district of the petition?*