

2024 Charter Review Commission Report  
March 21, 2024

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## 2024 Charter Review Executive Summary

The 2024 Charter Revisions Commission (CRC) makes the following recommendations to the Austin City Council:

1. **Alphabetic Rotation for Proposition Lettering:** this recommendation requires ballot propositions to be labeled sequentially through the alphabet until its completion. The CRC adopted this recommendation by an 8-0 vote on 1/30/24 with two commissioners off the dais and one commissioner absent.
2. **3.5% Signature Threshold for Petitions:** his recommendation sets a durable signature threshold for the approval of citizen initiative and referendum petitions at 3.5% of qualified Austin voters. On 2/29/24, this motion failed by a 5-5 vote with one commissioner absent. A renewed motion was made on 3/7/24 and it was adopted by a 6-5 vote.
3. **Signature, Form, and Notice of Intent for Petitions:** this recommendation addresses signature validity and requires a notice of intent with a 90-day deadline. The CRC adopted this recommendation on 2/29/24 with a 10-0 vote with one commissioner absent.
4. **Citizen-Initiated Petitions on Municipal General Election Dates:** This recommendation requires council to select the earliest municipal general election date when it orders an election for Charter changes or citizen-initiated initiatives. The final recommendation was presented to the full Commission on 2/15/2024. It was adopted by a 8-1 vote with two commissioners absent.
5. **Conflicting Ballot Initiatives:** this recommendation requires the implementation of the provisions of the proposition receiving the highest number of votes. The final recommendation was presented to the full Commission on 1/18/2024. It was adopted by a 10-0 vote with one commissioner absent.
6. **Disclosure & Contribution Limits for Recall Petitions:** this recommendation requires public disclosure and campaign finance reporting for contributions and expenditures made related to recall petitions. This recommendation was presented to the CRC on 2/29/24 and adopted with a vote of 10-0 with one commissioner absent.
7. **Recall Signature Thresholds:** this recommendation requires the recall of a city council member with a petition containing valid signatures of at least 15% of qualified voters within the respective council district instead of the current 10% of qualified voters. This recommendation passed on 2/29/24 by a vote of 8-2 with one commissioner absent.
8. **Ratification of City Attorney Appointment:** the CRC recommends that the city manager appoint or remove the city attorney with the confirmation of council. This recommendation was presented at the 2/15/24 meeting and passed by a vote of 8-0 with one commissioner off the dais, one abstention, and one absence.
9. **Designated Assistant City Attorney:** this recommendation designates an attorney within the city attorney's office to serve as a liaison to the council. The final recommendation was

presented to the CRC on 2/29/24 and was approved by a vote of 8-2 with one commissioner absent.

In addition to the nine formal recommendations listed above, the CRC included a list of suggested Charter revision topics to be examined and considered by a future commission. This list is included as Appendix A of the report.

Charter Review Commission Recommendations & Vote Outcomes		
Recommendation No.	Description	Vote
1	Alphabetic Rotation for Proposition Lettering	8-0
2	3.5% Signature Threshold for Petitions	6-5
3	Signature, Form, and Notice of Intent for Petitions	10-0
4	Citizen-Initiated Petitions on Municipal General Election Dates	8-1
5	Conflicting Ballot Initiatives	10-0
6	Disclosure and Contribution Limits for Recall Petitions	10-0
7	Recall Signature Thresholds	8-2
8	Ratification of City Attorney Appointment/Removal	8-0
9	Designated Assistant City Attorney	8-2

## 2024 Charter Review Commission Overview

The Austin City Council (the “council”) established the 2024 Charter Review Commission (the “CRC” or “commission”) pursuant to [Resolution 20230309-25](#) adopted on March 9, 2023. Council established the CRC “to advise the Council and issue a Recommendation Report to Council on initiative, referendum, and charter amendment petition and election requirements...and any further revisions which may be necessary or desirable to align the City Charter with changes to applicable law, and to make recommendations to the council to improve and enhance transparency and the general functions of city government.”

Council directed the Commission to propose recommendations including, but not limited to the following:

- (a) Use of a durable signature threshold that utilizes a percentage of the total number of registered voters in the city;
- (b) Limits on citizen-initiated changes to the City Charter to November elections with a stated preference of holding elections on presidential election years;
- (c) A process for filing petitions that ensures transparency, including, but not limited to: letters of intent, test of the proposed petition, and contact information;
- (d) Ethical guidelines for gathering petition signatures;
- (e) Alternative proposition lettering or numbers system to prevent voter confusion; and
- (f) Clarification of the outcome of an election where two similar but different ballot measures on the same subject matter both pass.

Appointments to the Commission included Julio Gonzalez Altamirano, Ryan Botkin, Michael Cowles, JC Dwyer, Betsy Greenberg, Megan Lasch, Alejandro Garcia Limon, Brian McGivern, Randy Ortega, Jessica Palvino, and Cynthia Van Maanen. The Commission chose Jessica Palvino as Chair and Alejandro Garcia as Vice Chair.

The Commission first met on 9/19/23. During the course of the CRC’s work, five working groups were created: 1) The Initiative/Charter/Referendum Mechanics Working Group (Commissioners Altamirano, Botkin, Ortega); 2) The Outreach Work Group (Chair Palvino, Vice Chair Garcia, and Commissioner Lasch); 3) The City Attorney Working Group (Chair Palvino, Vice Chair Garcia, and Commissioner McGivern); 4) The Petition Process Working Group (Commissioners Cowles, Dwyer, Greenberg, McGivern, and Van Maanen) and 5) The Recall Petitions Work Group (Commissioner Van Maanen). The working groups were tasked with developing proposed recommendations for the topics within their scopes of work.

The meeting schedule of the CRC is attached as Appendix B and the agendas, minutes, and all materials distributed at the meetings are available on the CRC’s website at [https://www.austintexas.gov/cityclerk/boards\\_commissions/meetings/2024\\_165\\_1.htm](https://www.austintexas.gov/cityclerk/boards_commissions/meetings/2024_165_1.htm).

### **Community Outreach:**

The CRC prioritized outreach by creating an Outreach Working Group tasked with taking the lead on a communication strategy for the commission. This strategy included working with City of Austin's staff to assist with community engagement through a three-pronged outreach strategy, consisting of: 1) an expanded online presence; 2) a public survey; and 3) CRC open houses.

The CRC's online presence included the CRC website with meeting calendars, recordings, and backup materials; a CRC consolidated email account; and Speak Up Austin [www.speakupaustin.org](http://www.speakupaustin.org) which provided the public with context on the CRC's work with links to the CRC survey and speaker signups.

The CRC worked with city staff to prepare a community survey to solicit feedback on charter changes. The survey had 160 participants and the results are included as Appendix C.

Two open houses to invite public comment were organized by the CRC. The Outreach working group and broader commission met with Dr. Larry Schooler, Professor from the Moody College of Communications at University of Texas, to get insights and best practice recommendations on outreach and the structure of the community town hall on 2/8/24. After receiving Dr. Schooler's feedback, the following structure was established: 1-hour session starting with a description of specific issues the CRC was considering, a presentation of both sides of said issue. Each presentation culminated in a facilitated community discussion on that topic. The second open house was designed as a public hearing and was held on 3/7/24. The goal for this hearing was to solicit feedback on any topic members of the public wished to include for the CRC's consideration. City of Austin staff assisted by issuing press releases and agenda postings for these public meetings. Video recordings for both open houses can be found on the CRC's website linked above.

## **Recommendation No. 1: Alphabet Rotation for Proposition Lettering** (Article III, § 5)

### **Background:**

City Council Resolution 20230309-025 establishing the 2024 Charter Review Commission indicated council's intent to hold an election in November 2024 to allow voters to decide on several important changes to the charter including an *"Alternative proposition lettering or numbering system to prevent voter confusion."*

The Charter Review Commission established the *Initiative, Charter, and Referendum Mechanics Working Group* ("Mechanics") on October 2nd, 2023. Its membership consisted of Commissioners Altamirano, Botkin, and Ortega. The working group was supported by Ms. Caroline Webster of the City of Austin Law Department.

This recommendation was presented to the full Commission on 01/30/2024. It was adopted by a 8-0 vote with two commissioners off the dais. One commissioner was absent.

This recommendation requires ballot proposition be labeled sequentially through the alphabet until its completion. When sufficient propositions are ordered for an election to go past the last letter of the alphabet ("Z"), then the ballot proposition label resets back to the first letter of the alphabet ("A"). For example, if the next available ballot proposition label is the letter "X", but six propositions are ordered for the election, then the ballot labeling would reset to "A".

Additional labeling approaches were considered, including a mix of letters and numbers, but only the recommended change is clearly allowed by state law. As City legal staff indicated to the Mechanics Working Group, the law only allows a letter or a number and reserves numbers for State props. Pursuant to § 52.0959(b) of the Texas Election Code:

- (b) Each political subdivision's proposition on the ballot shall be assigned a unique number or letter on the ballot as follows:
  - (1) except as provided by Subdivision (2), for each proposition on the ballot, the authority ordering the election shall assign **a letter of the alphabet** to the measure that corresponds to its order on the ballot; and
  - (2) for each proposition on the ballot to be voted on statewide, the authority ordering the election shall assign a number to the measure that corresponds to its order on the ballot.

### **Proposed Charter Recommendation:**

The Charter Review Commission recommends that a new paragraph be added to Article III, § 5 as follows:

For every regular election and for every special election called to fill one or more vacant places on the council, the city clerk shall place upon the official ballot the name of every candidate who shall file an application which complies with the provisions of this Charter.

The council places to be filled shall be placed on the ballot in numerical order. The name of each candidate shall be placed on the ballot under the designated place for which he or she shall have filed, and in such manner that the names of the candidates for each place shall be clearly separate and distinguishable from the names of the candidates for every other council place. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the supervision of the city clerk, at which drawing each candidate or his or her named representative shall have a right to be present.

Ballot propositions will use the next available letter of the alphabet, starting with the letter that follows the last letter used by municipal ballot propositions from the previous municipal election. Once the last letter of the alphabet is used, then ballot propositions will reset to the first letter to the alphabet. If the count of ballot propositions for a municipal election exceeds the remaining letters of the alphabet, then ballot propositions labels will reset to the first letter of the alphabet without utilizing the remaining letters of the alphabet. If a municipal election features more than 26 ballot propositions, then starting with the 27th proposition, double letters will be used as the proposition label.

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

This recommendation reduces the likelihood of voter confusion by expanding the possible characters used to brand city propositions.

#### **Proposed Ballot Language:**

The proposed ballot language below is subject to review and edit by the city attorney.

*“Shall proposition labels be rotated sequentially through the entire alphabet before resetting to the first letter?”*

#### **Alternative Implementation Options:**

Council could opt to pass an ordinance or resolution directing the city clerk to implement an alphabetic rotation for proposition labeling instead of adding language to the charter.



## **Recommendation No. 2: 3.5% Signature Threshold for Petitions (Article IV, §§ 1 & 2)**

### **Background:**

City Council Resolution 20230309-025 establishing the 2024 Charter Review Commission indicated City Council's intent to hold an election in November 2024 to allow voters to decide on several important changes to the charter including "*changes to petition requirements for initiative and referendum or City Charter amendments including (...) Use of a durable signature threshold that utilizes a percentage of the total number of registered voters in the City.*"

Among the reasons cited for this change, the Resolution stated:

*WHEREAS, in November 2012, voters approved a Charter amendment to change the number of required signatures for initiative and referendum petitions to be equal to the number of signatures required by state law to initiate a Charter amendment: 5% of qualified voters or 20,000, whichever number is smaller, and this change resulted in petitioners needing fewer than half the number of signatures than before; and*

*WHEREAS, in 2012, when the change was made, 20,000 signatures was 4% of qualified voters, but this fixed number represents a steadily decreasing percentage of Austin voters as the City's population continues to grow; and*

*WHEREAS, an October 2019 report by the City Auditor regarding citizen initiatives to amend the City Code noted that most peer cities require more signatures for citizen initiatives than Austin and that only Austin provides for a set number of signatures required or a percentage requirement, whichever is smaller.*

The Charter Review Commission established the Petition Process Working Group on October 2nd, 2023. Its membership consisted of Commissioners Cowles, Dwyer, Greenberg, McGivern and Van Maanen.

The final recommendation was presented by a member of the working group to the full Commission on 3/7/24, however 4 of the 5 working group members opposed this recommendation. It was adopted by a 6-5 vote. The motion was initially made on 2/29/24, but it failed on a 5-5 vote with one commissioner absent.

The CRC engaged in robust debate over the course of several meetings on this issue. Other options that were discussed included a 5% signature threshold (details on this approach can be found in the [backup](#) for the 2/15/24 meeting) and maintaining the current signature threshold, (addressed in the 1/30/24 meeting [backup](#)). During the 2/29/24 CRC meeting, the 5% threshold failed by a 1-9 vote with one commissioner absent and the 3.5% threshold failed by a 5-5 vote with one commissioner absent. The 3.5% threshold motion was adopted by a 6-5 vote through a renewed motion made during the 3/7/24 meeting. One of the key implications of this change would decouple the signature threshold for initiatives and referenda from the signature threshold for charter amendments, which is established in 9.004 of the Local Government Code as the lesser of 5% of

qualified voters or 20,000. This drew concerns among the commissioners including the potential enacting a 3.5% threshold would effectively push the threshold above the threshold for charters unless the TX State Legislature amends the Local Government Code. One of the potential implications of the disparate thresholds is that it would drive people to use charter amendments as an option where the CRC would like to encourage using initiatives for ordinance changes as the vehicle for policy changes within the city by design. Note however, that Recommendation No. 4 recommends moving the election date for citizen-initiated charter changes and petitions to align with the municipal general election. If this goes forward, the move to a municipal general election date for a charter change coupled with the two-year ban on charter changes (per Article 11, Sec. 5 of the Texas Constitution) will disincentivize the use of charter amendments as an easier avenue to get around signature threshold increases for initiatives because it will make elections for charter changes less frequent.

### **Public Comment:**

During the 2/8/24 open house, members of the public commented on the issues considered by the CRC, including the question of increasing the signature threshold for petitions. Representatives on behalf of Equity Action, including Kathy Mitchell and Chris Harris, stated that an increase will just make it harder for grassroots campaigns to advocate given that it is already costly to organize a citizen-initiated petition and foreclose the option to only those with deep pockets. They further argue that it will push citizens to use charter amendments because the signature threshold for a charter change would remain at 20,000 since that is delineated by state law. Monica Guzman also expressed that an increase would hinder participation and make it more challenging to have the resources to successfully launch a petition.

Robin Orlowski spoke in support of an increase given the city's population growth and the lack of representation inherent in a lower signature threshold.

In addition, on 2/8/24, several emails were sent to the CRC from members of the community stating that the current signature thresholds "help ensure that Austin voters have a check on power and can engage in grassroots policy movements to support Austin's values..." and raising the threshold would hinder direct democracy.

### **Opposing Viewpoint:**

This proposal failed adoption on its first motion at the Commission's meeting on 2/29/24 with a vote of 5-5 and 1 absence. At the Commission's 3/7/24 meeting, the motion was reconsidered and passed with a vote of 6-5. Five commissioners voted against this proposal in both votes: Cowles (District 1), Van Maanen (District 3), McGiverin (District 4), Greenberg (District 6), and Ortega (District 7).

The Commission's Petition Process Work Group was responsible for considering the question of the signature threshold, and 4 of the 5 members of this work group, informed by months of study and discussion on this topic, opposed this recommendation in both votes (Cowles, Van Maanen, McGiverin, Greenberg). The primary arguments against this recommendation are as follows.

1. A threshold of 3.5% of qualified voters' signatures for ballot initiative and referendum petitions will raise the signature threshold above the threshold for Charter amendments over time, incentivizing policymaking via the City Charter instead of Code.

State law sets the threshold for signatures for a Charter amendment at 20,000 qualified voters for a city with Austin's population, and this threshold will remain at 20,000 signatures regardless of this Commission's recommendations, barring a change in state law. The proposal for a 3.5% threshold may have a small impact in the next election cycle or two, but it will increase the threshold over time as Austin gains more voters – but the threshold will only increase for referendum and initiative petitions, and not for Charter amendment petitions.

Rather than solving a problem, a 3.5% threshold creates a new problem over time by effectively making it easier to change the City Charter than it will be to enact or repeal an ordinance by petition.

2. Other recommendations in this report directly address the identified inefficiencies and flaws in the City's petition process and ballot initiative elections; this recommendation does not.

Two principal problems observed with the existing citizen-driven initiative process include the increasing frequency of ballot initiative elections on low-turnout May and off-year November election dates, and the lack of transparency in this process. These weaknesses create opportunities for bad actors to game the timing of the election to draw a more favorable and unrepresentative electorate, and to mislead voters about the nature of a petition and the parties responsible for organizing and funding it. Elsewhere in this report are recommendations that clearly and directly address these problems.

The recommendation to set the signature threshold at 3.5% of qualified voters does not address these problems by fostering a fairer and representative vote on these important ballot items, but rather attempts to simply make the citizen-driven ballot initiative process less accessible over time. With other policy solutions available, such as moving the elections and requiring a Notice of Intent, there is no need to use a blunt instrument like raising the signature threshold.

3. Increasing the signature threshold, at once or over time, makes citizen-driven ballot initiatives less accessible, but only for the citizens with fewer resources and less funding.

The number of signatures a petitioner can collect is a function of the money and resources they have to organize the petition effort. Well-funded organizations will continue to have the resources to collect a sufficient number of signatures even if the threshold is raised. However, genuine grassroots, community-based organizations and groups of citizens with limited resources and funding will find it harder and harder to meet that higher threshold.

As the Commission has heard from several members of the public who have led petition efforts, 20,000 signatures is already a fairly high bar for groups that do not have the funding for paid canvassers and other organizing tools. Raising the threshold then, at

once or over time, creates a less equitable system and arguably contradicts the intended purpose of a tool for citizens to directly change policy, while favoring well-funded organizations or corporation-backed petition efforts.

4. A 3.5% signature threshold for initiative and referendum petitions will be unclear because that threshold will vary depending on when the number of qualified voters was calculated, potentially moving the goalposts for petitioners while they collect signatures.

The number of qualified voters is calculated by subtracting the number of voters on the suspense list from the number of registered voters. There are numerous reasons why a voter may appear on the suspense list, and typically this is easily resolved, often with the voter simply voting in the next election and thus confirming their address. However, the number of voters on the suspense list fluctuates throughout the year because of new registrations and resolved suspended registrations.

For example, the size of the suspense list in Travis County averages around 10% of the total number of registered voters in the county, but in the weeks leading up to the February 5, 2024, voter registration deadline for March primary elections, the suspense list in Travis County grew to 18%.

That number did not increase because Travis County lost registered voters – in fact it was the opposite. The influx of newly registered voters who may have had unclear addresses or who may have recently moved to Austin but still have an active registration in another county inflated the suspense list with many voters who would then be able to easily resolve the issue with their registration. Per the Travis County Tax Assessor-Collector’s Voter Registration staff, these fluctuations are typical in any given year, and any given voter registration deadline will have a similar impact on the size of the suspense list.

This means that calculating the number of qualified voters in January 2024, will yield a significantly different number than it will when calculated in June, 2024. The impact on the signature threshold will likely mean that the threshold will change between the date the petitioners begin collecting signatures, and the date that the petitioners submit those signatures to the City Clerk. We may not be able to correct this in every situation that relies on the number of qualified voters for a determination of validity, but we can avoid creating new situations that may cause confusion and disrupt petition efforts.

### **Substance of the Proposed Amendments, Revisions or Repeals to the Charter**

This recommendation sets a durable signature threshold for the approval of citizen initiative and referendum petitions at 3.5% of qualified Austin voters.

The Charter Review Commission recommends amending Article IV, § 1 (Power of Initiative) as follows:

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, not in conflict with this Charter, the state constitution, or the state laws except an ordinance appropriating money or

authorizing the levy of taxes. Any initiated ordinance may be submitted to the council by a petition signed by three and a half percent of qualified voters of the city. ~~[equal in number to the number of signatures required by state law to initiate an amendment to this Charter.]~~

In addition, the CRC recommends amending Article IV, § 2 (Power of Referendum) as follows:

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and which is adopted by the favorable votes of eight or more of the council members. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by three and a half percent of qualified voters of the city ~~[equal in number to the number of signatures required by state law to initiate an amendment to this Charter]~~ may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

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

This recommendation provides a durable threshold for the approval of petitions that retains their value over time by accounting for the continued growth of Austin's population.

At this time, a 3.5% threshold roughly aligns to the current effective threshold of 20,000 signatures, and so does not unduly burden petitioners.

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

The recommendation requires two amendments to Article IV of the Charter. Additionally, City staff and Council may need to develop or change procedures and/or ordinances to harmonize their processes in accordance with the Charter recommendation.

### **Proposed Ballot Language**

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

*“Shall the city change the number of signatures required to validate petitions for citizen-initiated changes to the municipal code from 20,000 to 3.5% of qualified voters?”*

### **Alternative Implementation Options**

Given that this proposal directly conflicts with current City Charter language, no alternative implementation options are available.

### **Recommendation No. 3: Signature, Form, and Notice of Intent for Petitions (Article IV, § 3)**

#### **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.

The final recommendation was presented to the full Commission on 2/29/24. It was adopted by a 10-0 vote on 2/29/24.

#### **Draft Recommendation:**

The CRC recommends amending the language for City Charter Article IV, Section 3 as follows:

~~[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.]~~

#### **(A): Information disclosed on a Notice of Intent.**

##### **(1) 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 one petitioner attesting to the accuracy of the information presented on the Notice of Intent.

**(B): 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.

**(C): Signature Validity.**

(1) 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 wet 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
  - 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 includes:
  - 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; and
  - iii) The following information provided in the Notice of Intent:
    - 1) The type of petition;
    - 2) The public contact information for the petitioners;
    - 3) The unique Notice of Intent identifier assigned by the Clerk;
    - 4) The proposed ballot language;

- 5) Space for signers to provide their printed name, residence address, date signed, signature, and date of birth or VUID.

**(D): Certification of Petitions.**

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 Recommendation:**

The CRC provides a detailed framework for the form and validity of petitions with an understanding that many of these details can be included in an ordinance, rather than the charter. If it were included in the charter, the language provided can be utilized as a starting point. The CRC's focus with this recommendation is to encourage the council to move forward with the broad policy of transparency through valid signatures, and a detailed notice of intent with a 90-day deadline.

Subsection C of the recommendation establishes that petition signatures are only valid if they are complete per the 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 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 A 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 B clarifies that the Clerk is responsible for reviewing Notices of Intent for the required information. Subsection 2 further clarifies that Notices must be posted publicly on a dedicated page within the City's website for inspection by the public.

Subsection D 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. Article IV, 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.

#### **Impact of 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?”*

**Alternative Implementation Options:**

No additional alternative implementation options are provided.

## **Recommendation No. 4: Elections for Citizen-Initiated Charter Changes & Initiatives held on Municipal General Election Dates**

**Article IV, § 4)**

### **Background:**

The City Council Resolution 20230309-025 establishing the 2024 Charter Review Commission indicated City Council’s intent to hold an election in November 2024 to allow voters to decide on several important changes to the charter including a “Limit on citizen-initiated changes to the City Charter to November elections with a stated preference of holding elections on presidential election years.”

The Charter Review Commission established the Initiative, Charter, and Referendum Mechanics Working Group (“Mechanics”) on October 2nd, 2023. Its membership consisted of Commissioners Altamirano, Botkin, and Ortega. The Working Group was supported by Ms. Caroline Webster of the City of Austin Law Department.

The final recommendation was presented to the full Commission on 2/15/2024. It was adopted by an 8-1 vote with two commissioners absent.

### **Proposed Charter Recommendations:**

This recommendation requires City Council to select the earliest municipal general election date when it orders an election for Charter changes or citizen-initiated initiatives (ie., citizen-initiated changes to the law). The City of Austin has its municipal general elections every two years, matching the presidential and “midterm” Congressional election cycle.

For citizen-initiated Charter changes, Local Government Code 9.004(b) already affords City Council the ability to select either the soonest of the next municipal general election or the presidential election:

*(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30<sup>th</sup> day after the date the ordinance is adopted.*

This recommendation binds Council to selecting the soonest of these two higher turnout elections.

For initiative petitions, the charter currently provides that they be submitted to the voters at the next allowable election date. Additionally, there are no limitations from state statute or the Texas Constitution preventing Austin’s Charter from placing the same requirement on citizen-initiated initiatives.

In consultation with City Law, the working group recommends the following language for the ordinance ordering the election of this charter change:

If the proposition is approved by a majority of voters voting in the election, Article IV, § 4 of the City Charter is amended to read as follows:

§ 4.-COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

- (A) When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council shall either:
- (1) ~~[(a)]~~ Pass the initiated ordinance without amendment within 10 days after the date of the certification to the council; or
  - (2) ~~[(b)]~~ Order an election and submit said initiated ordinance without amendment to a vote of the qualified voters of the city at the next available general municipal election date that allows sufficient time to comply with other requirements of law ~~[a regular or special election to be held on the next allowable election date authorized by state law after the certification to the council].~~
- (B) When the council receives an authorized referendum petition certified by the city clerk to be sufficient, the council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held on the next allowable election date authorized by state law after the date of the certification to the council.
- (C) When the council receives an authorized charter amendment petition certified by the city clerk to be sufficient, the council shall submit said proposed charter amendment to a vote of the qualified voters of the city at the next available general municipal election date that allows sufficient time to comply with other requirements of law.
- (D) Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two years from the date of such election.

**Policy Reasons for the Recommendation:**

This recommendation helps increase the total number and diversity of Austinites participating in citizen-initiated Charter changes and initiatives by requiring City Council to order elections on higher turnout dates.

#### **City of Austin Turnout 2012-Present**

<b>Election Date</b>	<b>Turnout</b>
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**May**

May 6, 2023	8.54%
May 7, 2022	7.69%
May 1, 2021	22.44%
May 7, 2016	17.43%
May 12, 2012	10.70%

<i>Average</i>	<i>13.36%</i>
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**Non-MGE November**

November 2, 2021	17.66%
November 5, 2019	13.70%
November 5, 2013	14.35%

<i>Average</i>	<i>15.24%</i>
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**Municipal General Election**

November 8, 2022	47.75%
November 3, 2020	70.89%
November 6, 2018	60.50%
November 8, 2016	64.56%
November 4, 2014	40.40%
November 6, 2012	60.34%

<i>Average</i>	<i>57.41%</i>
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#### **Impact of the Recommendation on Existing City Laws, Rules, Practices and Procedures:**

The recommendation amends Article IV of the Charter.

#### **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 provide that citizen-initiated initiative elections and citizen-initiated charter amendment elections must be held on the City’s next available municipal general election date that allows sufficient time to comply with other requirements of law?”*

**Alternative Implementation Options:**

There are no alternative implementation options that would consistently bind Council to select municipal general elections for citizen-initiated ordinance or Charter change petitions.

## **Recommendation No. 5: Conflicting Ballot Initiatives** (Article IV, § 5)

### **Background:**

The City Council Resolution 20230309-025 establishing the 2024 Charter Review Commission indicated City Council's intent to hold an election in November 2024 to allow voters to decide on several important changes to the charter including a "*Clarification of the outcome of an election where two similar but different ballot measures on the same subject matter both pass.*"

The Charter Review Commission established the Initiative, Charter, and Referendum Mechanics Working Group ("Mechanics") on October 2nd, 2023. Its membership consisted of Commissioners Altamirano, Botkin, and Ortega. The Working Group was supported by Ms. Caroline Webster of the City of Austin Law Department.

The final recommendation was presented to the full Commission on 1/18/2024. It was adopted by a 10-0 vote with one commissioner absent.

### **Proposed Charter Recommendations:**

This recommendation clarifies how contradictory ordinances approved through the citizen-initiative process will be harmonized. The CRC recommends implementation of the provisions of the proposition receiving the highest number of votes.

The recommended Charter language is based on the City of Houston's Charter Article VII(b). An identical or nearly identical provision can also be found in the Charters of the cities of Grapevine and Freeport.

The CRC recommends adding a new paragraph to Article IV, § 5 as follows:

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words, "For the Ordinance" and "Against the Ordinance."

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by favorable vote of at least three-fourths of the council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

If the provision of two or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

In *Hotze v. Turner* (2023), Texas Supreme Court Justice Jane Bland writes the following in the Court's opinion relating to two proposed amendments to the City of Houston's Charter:

*We do not interpret [Local Govt Code] Section 9.005 to require a local government to achieve the impossible by giving effect to two conflicting charter amendments adopted at the same election. In the absence of guiding state law, the City's charter resolves the issue in a manner that respects the will of the voters without burdening the City with the impossible task of complying with incompatible charter amendments. We therefore reject Hotze's challenge to the charter's reconciliation provision under Section 9.005.*

**Policy Reasons for the Recommendation:**

This recommendation provides a clear principle by which contradictory provisions in successful citizen-initiated initiative ordinances will be resolved.

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

The recommendation requires an amendment to Article IV of the Charter. Additionally, City staff and council may need to develop procedures and/or ordinances to establish more granular specifics on the process of harmonization in accordance with the Charter recommendation.

**Proposed Ballot Language:**

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

*"When two or more proposed ordinances or resolutions approved at the same election are inconsistent, shall the ordinance or resolution receiving the highest number of votes prevail?"*

**Alternative Implementation Options:**

While it may be possible for council to adopt the resolution principle by ordinance, it is ~~more likely~~ ~~more legally~~ prudent and defensible to adopt it as part of a citizen-approved Charter amendment that replicates a specific provision already reviewed by the Texas Supreme Court.



## **Recommendation No. 6: Disclosure & Contribution Limits for Recall Petitions (Article IV, § 6)**

The CRC recommends that the Charter be amended to include public disclosure and campaign finance limitations and reporting for contributions related to recall petitions.

This recommendation was presented to the CRC on 2/29/24 and adopted with a vote of 10-0 with one commissioner absent.

### **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....”

Through the regular electoral process, candidates for mayor and City Council must comply with limits on campaign funds, contributions, and expenditures imposed in the City Charter, Article III Section 8. The following are some, but not all, of these limitations: limits on individual campaign contributions and a limit on the total amount of contributions received outside of Austin; limits on contributions from political committees; prohibitions on soliciting and accepting campaign contributions outside of the 180-day period preceding an election, or recall election, for mayor or council member..

The City Charter does not currently require any public disclosure or campaign finance reporting on contributions received or expenditures made in connection with collecting petition signatures to recall a mayor, council member, or for any kind of petition. Because of this, it is generally not possible to determine which interests are backing the use of petitions to change policy or to recall the representatives that Austinites elect to serve them on City Council.

### **Recommendation:**

The CRC proposes that Article IV, § 6 of the Charter read as follows:

The people of the city reserve the power to recall any member of the council and may exercise such power by filing with the city clerk a petition, signed by qualified voters of the territory from which the council member is elected, equal in number to at least 10 percent of the qualified voters of the territory from which the council member is elected, demanding the removal of a council member. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

Any person or entity responsible for initiating and submitting a petition (“the petitioner”) to recall the mayor or a council member shall file a campaign treasurer appointment with the City Clerk and shall submit reports of all contributions received and expenditures made in connection with a recall petition per the City of Austin’s campaign finance rules.

Additionally, petitioners for the recall of the mayor or a council member shall comply with limits on campaign contributions and expenditures, similar to those described in City Charter Article III, Sec. 8, to the extent allowed by applicable law.

If any provision of this section, or the application of that provision to any persons or circumstances, shall be held invalid, then the remainder of this section, to the extent that it can be given effect, and the application of that provision to persons or circumstances other than those to which it was held invalid, shall not be affected thereby, and to this extent the provisions of this section are severable.

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

The expressed intent of collecting petition signatures is to place an item on the ballot for consideration by Austin voters, and thus all citizen-initiated petitions are directly related to city elections. Contributions and expenditures made in connection with these efforts are political contributions and political expenditures. As with other political contributions and expenditures, the donors and expenses for these efforts should be publicly disclosed in the method that exists for such disclosures: campaign finance reporting.

The number of signatures collected for a petition and the ability to collect them are in part functions of the money available to hire canvassers and to organize the effort. Limitations on contributions by individuals and committees toward recall petition efforts protect recall as a legitimate tool of direct democracy for Austinites who may have a legitimate reason to seek the recall of their own elected representative. Without limitations, a single or small number of wealthy donors, who may or may not even live in Austin or the relevant council district, may funnel money into a petition effort, undermining the right of the Austin residents to decide for themselves who represents them in City government.

Austin has an existing model in the Charter for limits on contributions as it applies to candidates for City office, and so the intent of this draft recommendation is to mirror this existing model as closely as possible. The nature of campaign finance for candidates, however, is different from finance for a petition effort, which would likely be reported by a political committee, so while the goal is to mirror this model, there may be a need for some amendment or adjustment. This draft recommendation does not outline the specific limitations that should be in place in anticipation of the need for consultation with the City Attorney to prevent the inclusion of terms in the Charter that are not legally sound or tenable.

If the resulting limitations be challenged in court, the recommended severability clause should allow for the disclosure and reporting requirements to remain in place.

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

City Charter Article IV, §. 6 will be amended with new language.

### **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 extend the same limitations on political contributions applicable to candidates for Mayor and City Council to recall petition efforts?”*

**Alternative Implementation Options:**

No additional alternative implementation options are provided.

## **Recommendation No. 7: Recall Signature Threshold (Article IV, § 6)**

The CRC recommends the recall of a city council member with a petition containing valid signatures of at least 15% of qualified voters within the respective council district instead of the current 10% of qualified voters.

This recommendation passed on 2/29/24 by a vote of 8-2 with one commissioner absent.

### **Background:**

The current recall structure outlined in the City Charter was written for an at-large council system, in which each Council Member was elected by the entire voting population of the city. Thus, a 10% threshold translated to approximately 50,000 signatures as of the November 2012 election, in which Austin voters chose to adopt a single-member district system of representation, rejecting the at-large system. Each Council District now is made of approximately one-tenth the number of residents that at-large districts were. The current system obfuscates the will of the median voter by allowing a small group of voters to upend the will of the electorate by threatening to recall an elected official with a very small number of signatures.

Under the at-large system, each Austinite had multiple Council Members that they elected to represent them. If any one at-large Council Member failed to adequately represent a community in Austin, that community had multiple other representatives accountable to them from which they could seek relief. In the event of a recall, no community was left without representation on City Council.

A single-member district system offers more community-centered representation more directly responsive to each geographic area of the city. However, in the event of a recall in a single-member district system, one-tenth of the city is left without directly responsive representation, leaving that area with no voice on City Council for the possibly months-long period before a special election occurs, which could leave that community virtually powerless in extremely consequential policymaking and budget decisions that directly impact them.

The single-member district system of representation is fundamentally different from an at-large system, and offers more community-centered, more direct and responsive representation. However, the recall structure was not amended when Austin adopted a single-member district system, and is not appropriate for a new system of representation.

As such, the current recall system is not an institutional choice allowing for a last-resort tool to achieve fair, competent, and adequate representation, but rather an oversight that compromises our system of government by allowing anyone—including corporations, people who do not live in Austin, and people who do not live in and are not represented by Council Members they wish to recall—to abuse this system to overturn an election as a means of influencing policy, especially when combined with the absence of transparency and accountability that currently exists in the City Charter.

Recall is an important tool for holding elected representatives accountable, but because the consequences of a recall are so potentially severe, it is a tool that must be carefully structured and protected from abuse to ensure that the tool remains effective for its intended use by communities that have been failed by their own elected representative.

As confirmed in multiple interviews, it was an oversight that the at-large recall system was not amended at the time that a single-member district system was adopted. At least one prior Charter Review Commission adopted a recommendation to amend the recall structure to be more appropriate for a 10-1 single-member district Council system.

Questions of petition signature thresholds are not simply questions of mathematics and finding an appropriate percentage, because the collection of signatures has material impact and real costs for petitioners. Unreasonably and arbitrarily high signature thresholds make petitions an unusable tool for many. By contrast, unreasonably and arbitrarily low thresholds leave our system of representation vulnerable to abuse and, in the case of recall petitions, may leave communities without representation as a result.

This recommendation, if placed on the ballot and adopted by Austin voters, will mark a significant step in achieving the appropriate balance for a single-member district system.

### **Proposed Charter Revision:**

*Amended language for City Charter Article IV, Sec. 6:*

The people of the city reserve the power to recall any member of the council and may exercise such power by filing with the city clerk, ~~[signed by]~~ with valid signatures of qualified voters of the territory from which the council member is elected collected pursuant to Article IV, Sec. 3 of this Charter, equal in number to at least ~~[40]~~ 15 percent of the qualified voters of the territory from which the council member is elected, or 10 percent of the qualified voters in the City of Austin in order to recall the mayor, demanding the removal of a council member. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

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

The threshold for recall petition signatures was originally written with the intention of equating to tens of thousands of signatures, and was never intended as an appropriate tool of representation in a single-member district system. A small increase in this threshold keeps recall as an accessible tool and does not impose an undue barrier on community members when considering the small number of signatures that percentage increase represents. Rather, it updates the Charter to better reflect that we no longer have an at-large City Council system of representation.

The proposed threshold remains lower than the average for cities in Texas. Per a University of Houston Election Lab study,<sup>1</sup> most Texas cities have a recall petition signature threshold of around 30%, and these researchers recommend a threshold of 50%.

This recommendation does not include a change to the threshold for the recall of the mayor as this threshold remains appropriate for a representative elected citywide, but it does include clarifying language in the Charter on this subject.

Finally, this recommendation represents the changes that can be accomplished by this Commission with the time allowed and given the scope of the Commission's work. Future Commissions should be granted more time and more direct focus on this issue. Recall should become subject to regular review as the number of qualified voters in each district is dependent on the regular review of Council district boundaries, which produces a disparate impact on the accessibility and functioning of recall for the residents of each Council district. Upon any change to the Council system of representation, the recall structure must be updated to appropriately accommodate those possible changes. Additional changes that should be considered include a system for appointing an active representative on City Council for a district whose representative has been recalled until a special election to elect a new representative, and whether to hold recalls on the next concurrent municipal election to foster a more representative electorate voting on the recall of their elected representative. Thus, the recall structure should be a focus of consideration by future Charter Review Commissions and should be regularly evaluated. Upon any potential change in the future to Austin's system of representation for City Council, the recall structure should be reconsidered alongside those changes.

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

City Charter Article IV Sec. 6 will be amended.

### **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 allow for the recall of a city council member with a petition containing valid signatures of at least 15% of qualified voters, instead of the current 10%, within the respective council district?"*

### **Alternative Implementation Options:**

No additional alternative implementation options are provided.

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<sup>1</sup> Rottinghaus et al., 2023, <https://www.uh.edu/class/political-science/about/election-lab/docs/uh-election-lab-recall-election.pdf>

## **Recommendation No. 8: Ratification of City Attorney Appointment (Article V, § 6)**

The CRC recommends that the city manager appoint the city attorney with the confirmation of council.

This recommendation was presented at the 2/15/24 meeting and passed by a vote of 8-0 with one commissioner off the dais, one abstention, and one absence.

### **Proposed Charter Revision:**

The CRC recommends the following changes to Article V, § 6 of the Charter:

There shall be a department of law, the head of which shall be the city attorney, who shall be appointed by the city manager, subject to confirmation by the council. The city attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five years immediately preceding his or her appointment. The city attorney shall be the legal advisor of, and attorney for, all of the officers and departments of the city, and he or she shall represent the city in all litigation and legal proceedings. He or she shall draft, approve, or file his or her written legal objections to every ordinance before it is acted upon by the council, and he or she shall pass upon all documents, contracts and legal instruments in which the city may have an interest. The city attorney shall serve until removed from office by the joint action of the city manager and council.

There shall be such assistant city attorneys as may be authorized by the council, who shall be authorized to act for and on behalf of the city attorney.

### **Background and Policy Reasons for the Recommendation:**

The City of Austin is an outlier in terms of how its city attorney is appointed. According to the most recent Texas Municipal League survey in 2010, most Texas home-rule cities (73%) authorize their council to appoint the city attorney directly. The CRC is recommending this charter revision to ensure accountability of the city attorney's office to the council.

### **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 allow the city council to confirm the appointment of the city attorney and allow the city council to remove the city attorney through joint action with the city manager?”*

### **Alternative Implementation Options:**

No additional alternative implementation options are provided.

## **Recommendation No. 9: Designated Assistant City Attorney (Article V, § 6)**

The CRC recommends assigning a designated attorney within the city attorney's office to serve as a liaison to the council.

The final recommendation was presented to the CRC on 2/29/24 and was approved is recommendation passed by a vote of 8-2 with one commissioner absent.

### **Proposed Charter Revision:**

The CRC recommends the following changes to Article V, § 6 of the Charter:

There shall be a department of law, the head of which shall be the city attorney, who shall be appointed by the city manager. The city attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five years immediately preceding his or her appointment. The city attorney shall be the legal advisor of, and attorney for, all of the officers and departments of the city, and he or she shall represent the city in all litigation and legal proceedings. He or she shall draft, approve, or file his or her written legal objections to every ordinance before it is acted upon by the council, and he or she shall pass upon all documents, contracts and legal instruments in which the city may have an interest.

There shall be such assistant city attorneys as may be authorized by the council, who shall be authorized to act for and on behalf of the city attorney. At least one assistant city attorney shall be appointed by the city attorney to serve as the designated liaison to council.

### **Background and Policy Reasons for the Recommendation:**

The CRC is recommending this charter revision to ensure that council has a designated attorney within the city attorney's office to assist it in formulating ordinances and working through policy matters.

While the CRC recommends this charter revision to add an assistant city attorney tasked with serving in a council liaison role, this change can be implemented with immediate effect without a charter amendment.

### **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 provide for at least one assistant city attorney designated to serve as a liaison to City Council?"*

### **Alternative Implementation Options:**

No additional alternative implementation options are provided.



## Appendix A: Suggested Future Topics

The below set of topics represent policy questions that the CRC did not have enough time to adequately explore, but may be of interest to the city council or future CRCs. The topics are listed in alphabetical order.

- **City Council District Population “Ceiling”**

In 2012, Austin voters adopted the 10-1 single-member city council district (SMD) system. According to the City of Austin Demographer, the Total Area Population (TAP) for the City of Austin was 823,539 in 2012. As a result, the original ratio of TAP per city council district was roughly 82,000 residents.

In their latest estimate, the demographer forecasts a TAP of 1,137,983 by the 2030 Census year. If the original 82,000 TAP-per-SMD ratio is kept, then council would need to grow to 14 single-member districts.

It may prove valuable for the charter to enshrine a population ceiling for single-member districts and to specify a process by which an even-numbered set of seats are added during the already established city council redistricting process.

- **Democracy Dollars**

The 2018 Charter Review Commission recommended the creation of a system of publicly-financed city council campaign contribution vouchers. According to the 2018 CRC:

*The purpose of the Democracy Dollars programs is to ensure that all people of Austin have equal opportunity to participate in political campaigns and are heard by candidates, to strengthen democracy, to fulfill the purposes of single-member districts, to enhance candidate competition, and prevent corruption.*

In the May 2021 Austin election, a similar public campaign finance voucher proposal received 43% of the cast votes in favor.

An updated version of the proposal that addresses the community concerns raised during the May 2021 election may gain widespread community support.

- **Independent Ethics Commission**

The current CRC discussed Commissioner Betsy Greenberg’s Independent Ethics Commission proposal. Many CRC members expressed an interest in reviewing the design and function of the City’s overall ethics apparatus. At the same time, commissioners voiced concerns about being able to meet the CRC’s report deadline and tackling such a complex topic that was not specifically mentioned in the City Council resolution creating the 2024 CRC.

A future CRC could be constituted with a clear mandate and ample time to allow for the proper consideration of an independent ethics commission.

- **Limit on Aggregate Campaign Contributions Outside of Austin (“Zip Code Envelope”)**

Article III § 8(A)(3) of the Charter states:

*No candidate and his or her committee shall accept an aggregate contribution total of more than \$30,000.00 per election, and \$20,000.00 in the case of a runoff election, from sources other than natural persons eligible to vote in a postal zip code completely or partially within the Austin city limits. The amount of the contribution limit shall be modified each year with the adoption of the budget to increase or decrease in accordance with the most recently published federal government Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City Average. The most recently published Consumer Price Index on May 13, 2006, shall be used as a base of 100 and the adjustment thereafter will be to the nearest \$1,000.00.*

This provision was challenged in court by former city council member Don Zimmerman, however the provision survived. From the opinion issued by the Fifth Circuit U.S. Court of Appeals:

*Zimmerman next challenges the district court’s determination with respect to the aggregate limit. The district court held that Zimmerman lacked standing to challenge the aggregate limit because he had not established a sufficient injury-in-fact traceable to that limit. We agree.*

Both the body of the opinion and news commentary about the case indicate that this Charter provision may need to be reviewed.<sup>2</sup> The goal would be to protect the concept of the zip code envelope but establish a data-driven threshold that more clearly evidences its legal rationality.

- **Local News Media Vouchers**

As the internet transformed the economics of advertising over the past two decades, local newspapers have shrunk or shuttered. Advocates and academics have developed different ideas to help provide local news as a public good. Two nascent efforts in Seattle and Washington, D.C. settled on using publicly-financed vouchers to fund local news outlets. For example, the proposed “Local News Funding Act” in D.C. would create a permanent

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<sup>2</sup> See, e.g., “Lawsuit Against Austin’s Campaign Rules Could Succeed”, Polo Rocha, Texas Tribune, 7/30/2015. Access URL: <https://www.texastribune.org/2015/07/30/observers-say-zimmerman-lawsuit-against-austin-cou/> (“The city’s contribution limits, most observers agreed, is the rule that’s most likely to stay in place. But the provision most at risk of being struck down, they said, is one allowing candidates to raise a total of \$36,000 from those who can’t vote in Austin. Buck Wood, an Austin election law attorney, says that rule ‘may not survive.’”).

funding stream and independent board to administer a voucher program in support of local news outlets covering local news stories. A policy area to watch for future CRCs.

- **Metropolitan Planning Organization Representation**

This past November, Houston voters passed a petitioned charter change that requires the city to participate in regional planning organizations (e.g. H-GAC) only if its voting privileges are proportional to its population. Like Houston, Austin is burdened with representation challenges at its regional planning organization (CAMPO). For example, while Austin constitutes roughly 48% of the population in CAMPO, the City of Austin itself only receives 4 of 22 seats (18%) on CAMPO's policy-making body, the Transportation Policy Board. Houston may inspire similar calls for change in Austin.

- **Referendum Timing**

The charter requires that a referendum petition must be submitted "prior to the effective date of any ordinance which is subject to referendum." In practice, this greatly limits the practical use of referendum to check City Council ordinances that may be out-of-step with the typical Austinite.

- **Recalls**

In order to correct the institution of recall to align with the 10-1 single-member district council system, the following items should be considered by future Charter Review Commissions:

1. The recall system and rules should be reconsidered periodically along with redistricting, as the composition and number of qualified voters changes with each redistricting. This number directly affects the recall thresholds and rules, and so recall should be considered along with redistricting.
2. Recall is currently the only method to remove a council member outside of a regular election, and recall is not an agile method for handling immediate emergencies. Future Charter Review Commissions should consider other possible methods of removing a council member in certain extreme circumstances in which a council member cannot continue to serve in their role, but refuses to resign. Any potential changes to the process for removal of a council member should be considered within strict limitations, including providing concrete justifications for such removal and a multi-step process to ensure that this action is not taken without cause.
3. When a council member resigns or is removed by recall, the constituents of that district must wait until a special election is called to regain representation. Future commissions should consider a process for the appointment of an interim or acting council member until that special election occurs so that no district is without direct representation on city council for important policy decisions.
4. Upon any change to the Council system of representation, the recall structure must be updated to appropriately accommodate those possible changes.

5. Future commissions should consider whether to hold recalls on the next concurrent municipal election to foster a more representative electorate voting on the recall of their elected representative.

## Appendix B: Meeting Dates

Tuesday, September 19, 2023	Austin City Hall
Monday, October 2, 2023	Austin City Hall
Thursday, October 19, 2023	Austin City Hall
Thursday, November 2, 2023	Austin City Hall
Thursday, November 16, 2023	Austin City Hall
Thursday, December 14, 2023	Austin City Hall
Thursday, January 18, 2024	Austin City Hall
Thursday, January 30, 2024	Austin City Hall
Thursday, February 8, 2024	Austin City Hall
Thursday, February 15, 2024	Austin City Hall
Thursday, February 29, 2024	Austin City Hall
Thursday March 7, 2024	Austin City Hall
Thursday, March 21, 2024	Austin City Hall

## Appendix C: Outreach Survey Results

# Charter Review Commission 2024

## Survey Results





# Overall Engagement

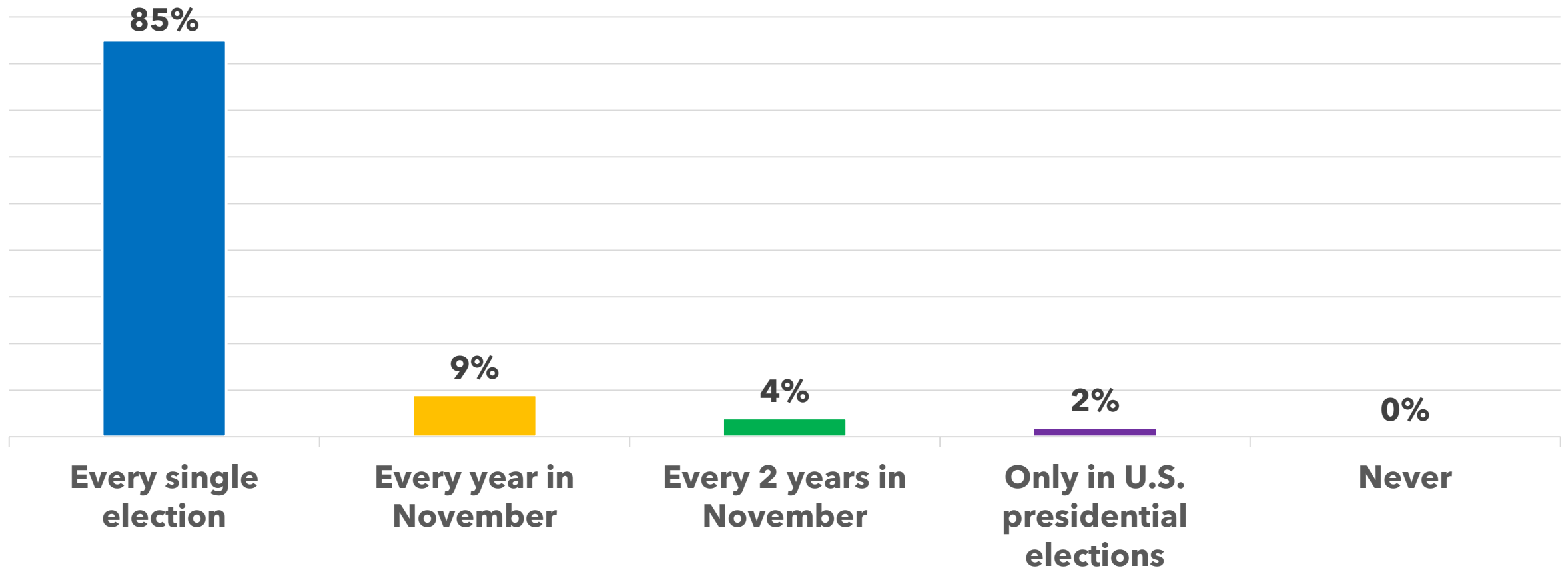


## CHARTER REVIEW COMMISSION

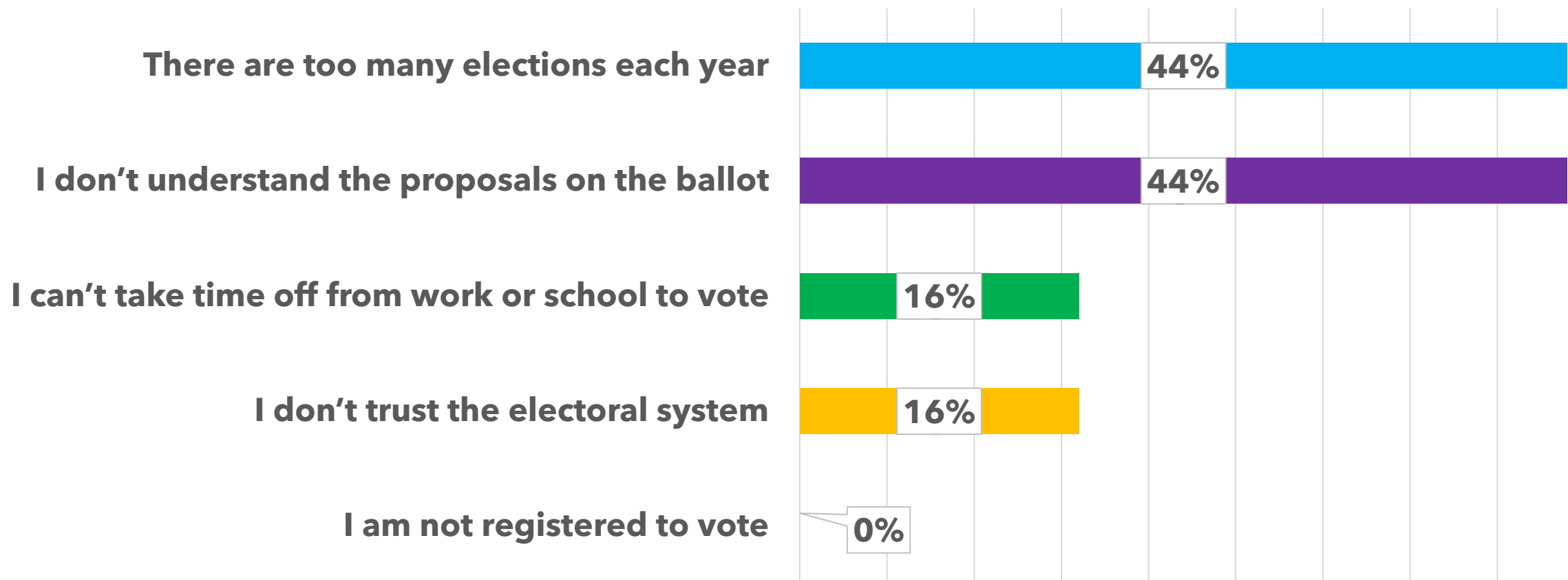
- **Views: 857**
- **Participants: 160**
- **Responses: 2,109**
- **Comments: 43**



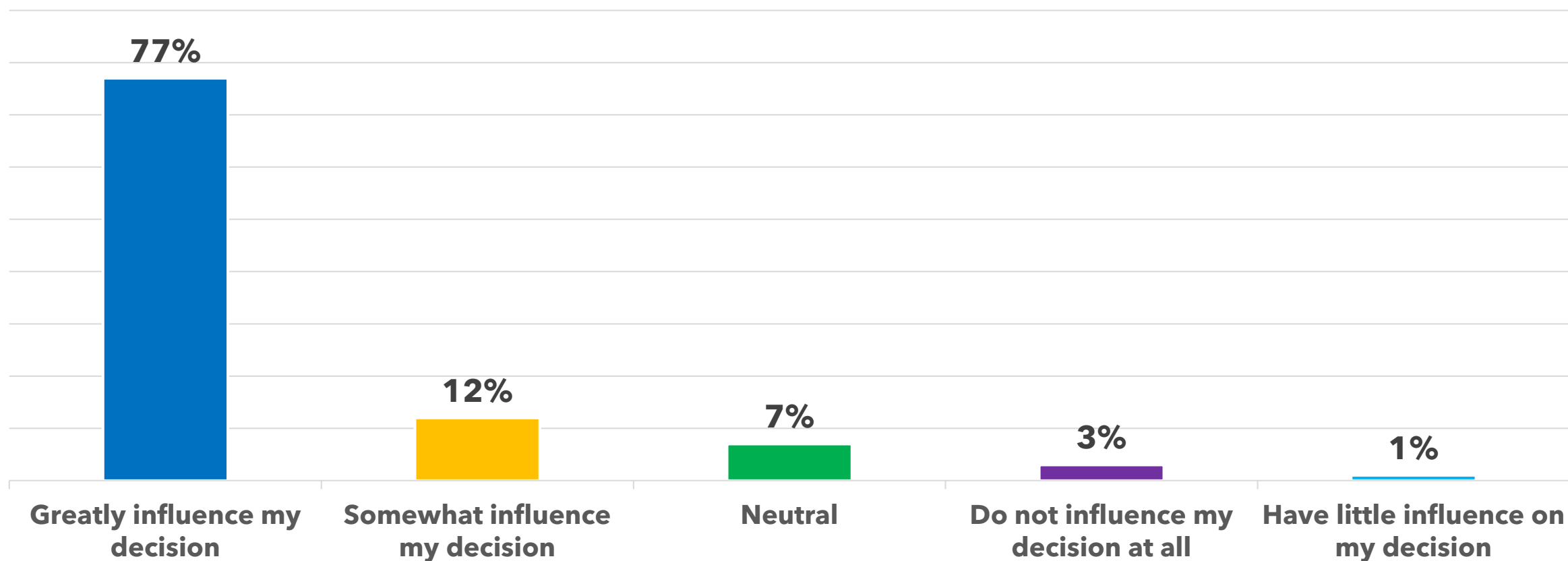
# How often do you vote?



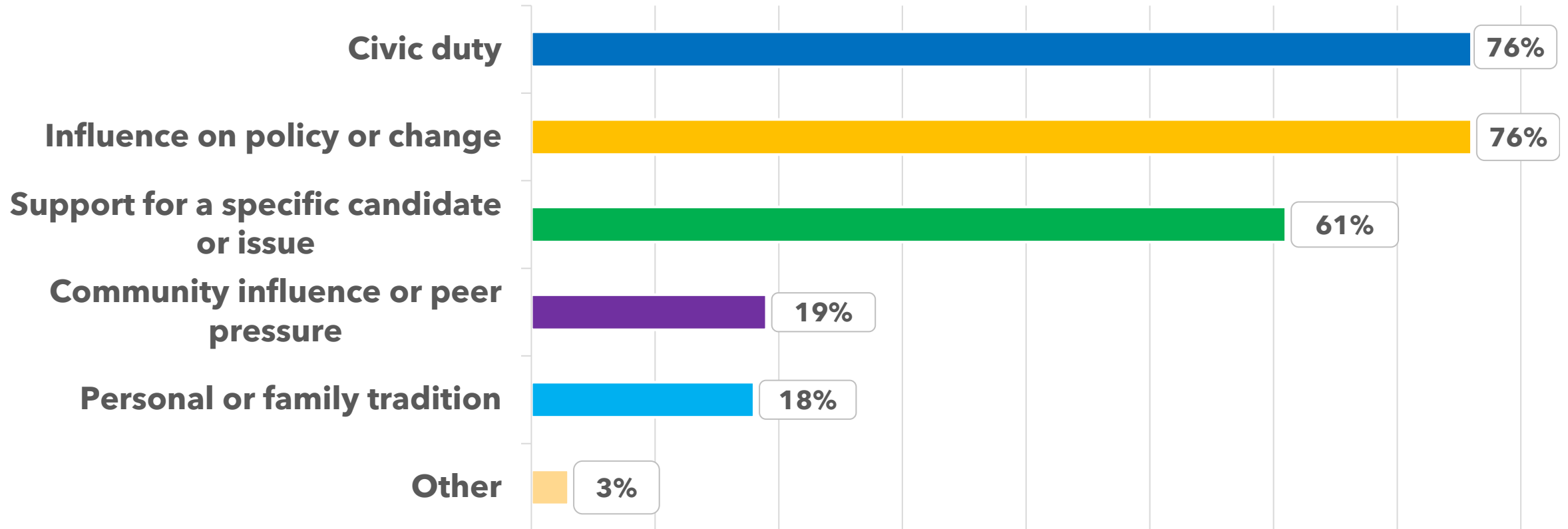
# If you don't vote in every election, why not? (select all that apply)



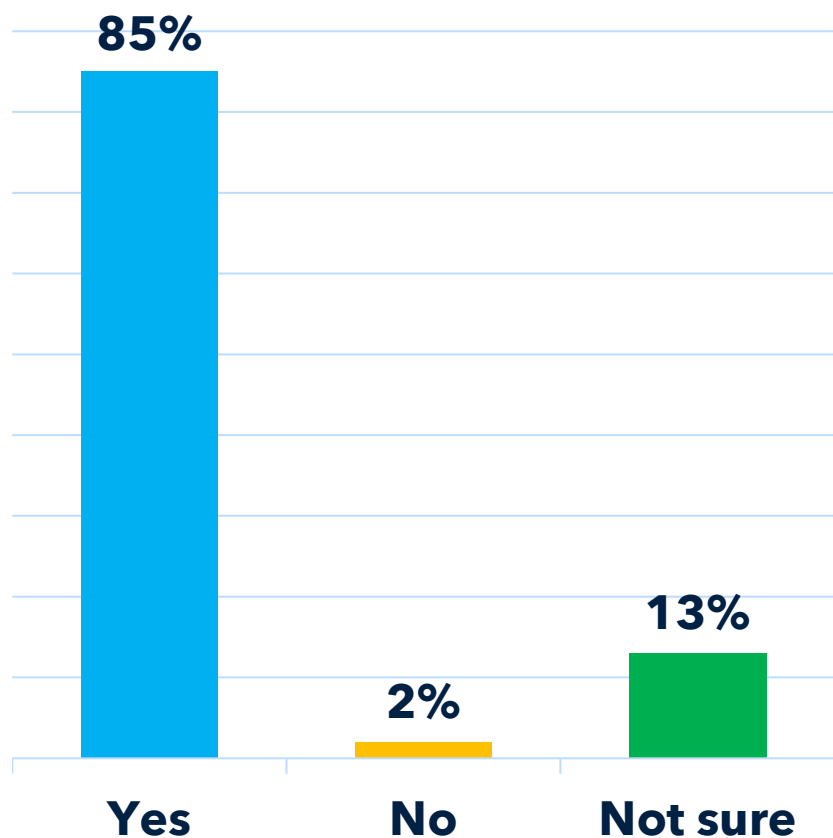
# How much do local issues influence your decision to vote in elections?



# What motivates you to vote? (Select all that apply)



# Have you ever voted on a citizen-initiated ballot proposal in local elections?



## If no, why not? (select all that apply)

40%

The names of the various proposals are confusing

40%

I don't understand what the proposals would do

30%

There are too many proposals

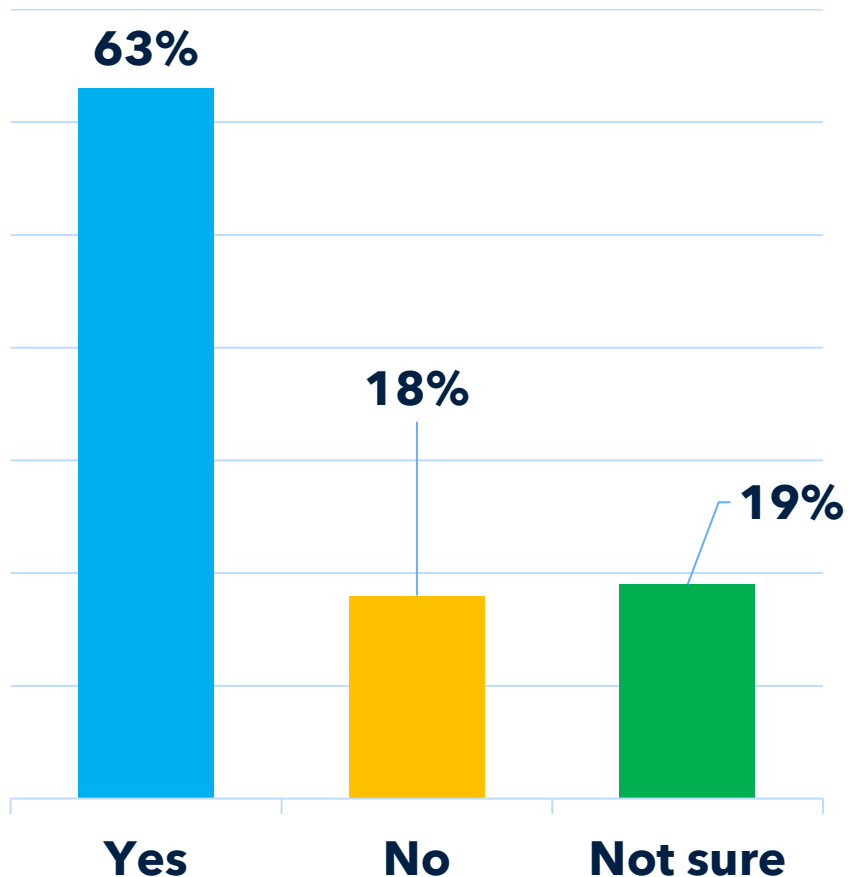
30%

I don't trust citizen-initiated ballot proposals

10%

It's only important to vote on candidates for government offices

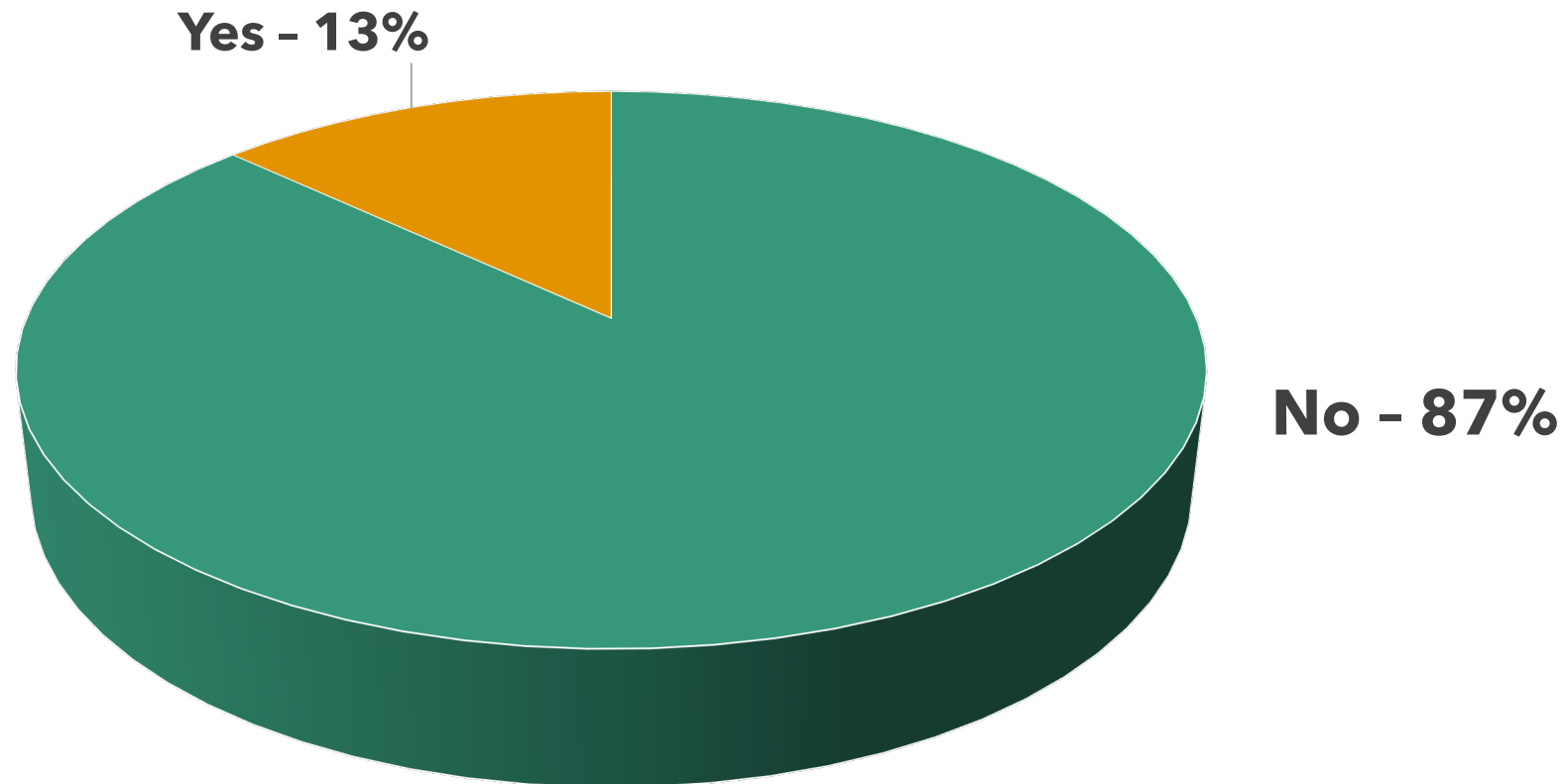
# Have you ever signed a petition for a citizen-initiated ballot proposal?



## If no, why not? (select all that apply)

- 66% I have never been asked to sign a petition
- 29% I don't trust these petitions
- 11% There are too many petitions
- 11% The petitions are confusing

# Have you ever started a petition or collected signatures for a citizen-initiated ballot proposal?



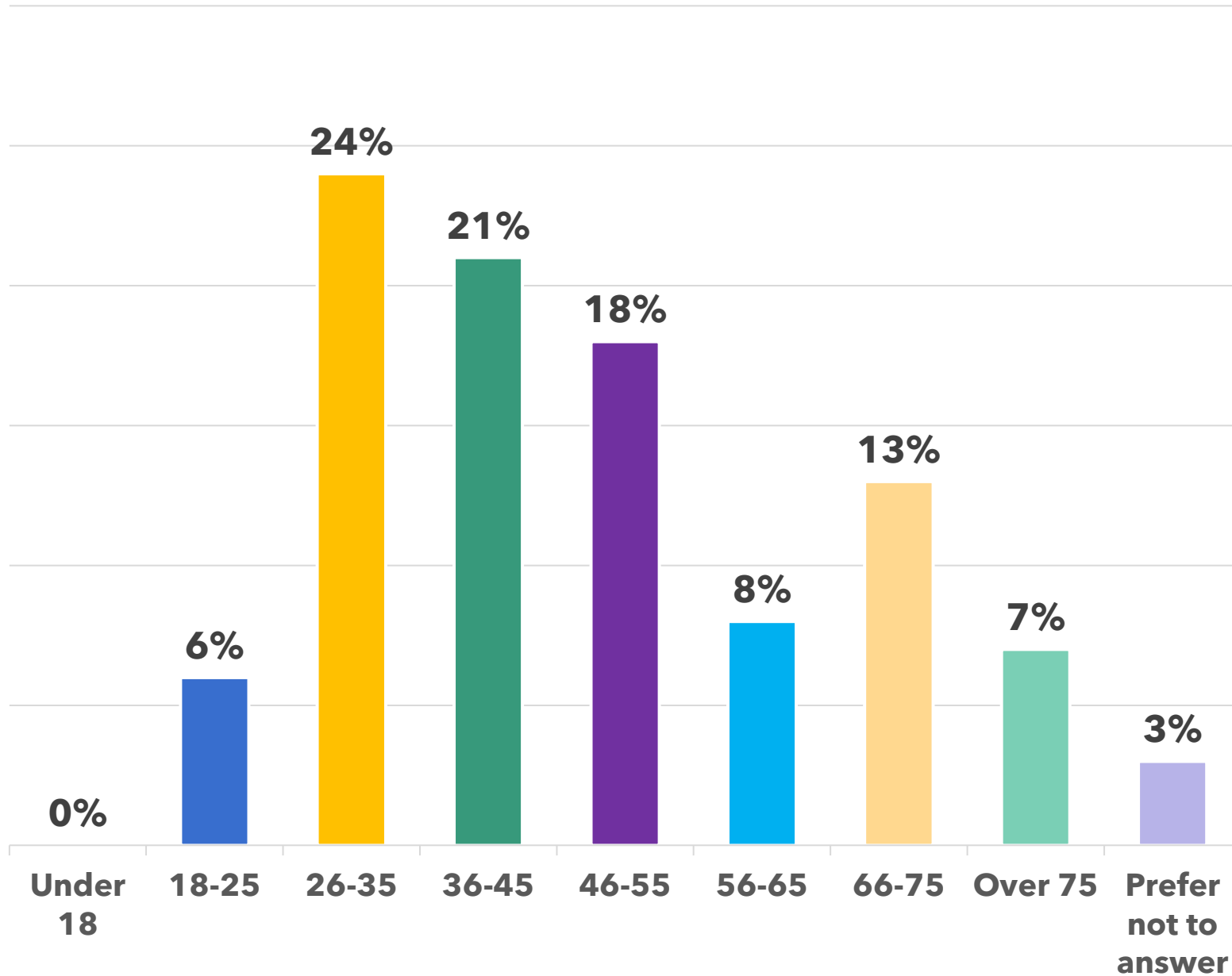
# What would improve the City's citizen-initiated petition process? (select all that apply)

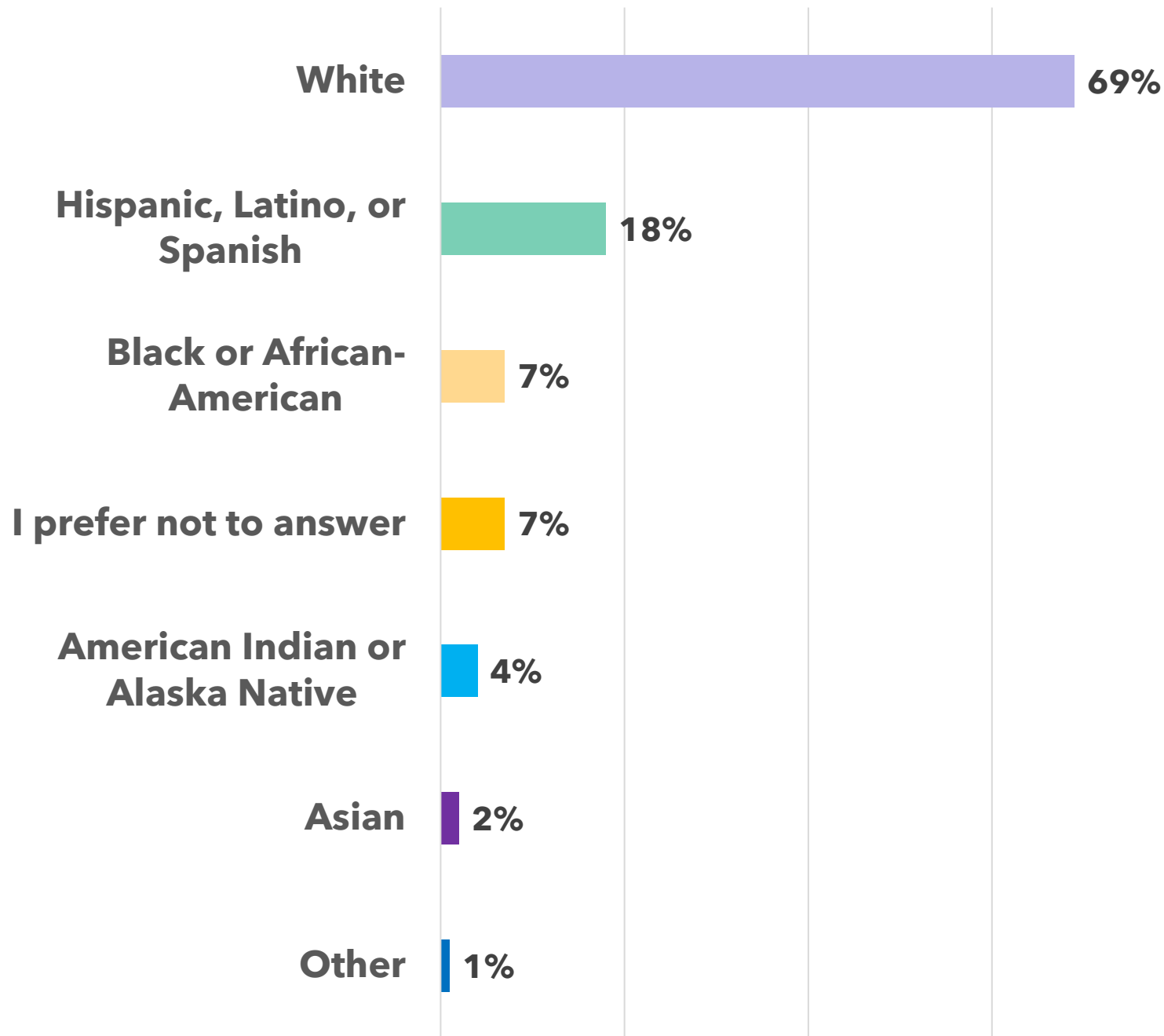
- **64%** - Ensure the information that signature collectors present to potential signers is true
- **62%** - Require that each signature sheet has the exact proposal language and the filer's contact information at the top of the sheet
- **61%** - Create ethical guidelines for how people can collect signatures
- **41%** - Create ethical guidelines for who can collect signatures
- **41%** - Require filers to sign a statement affirming that they believe each signature is genuine and that collectors witnessed each signature, showed potential signers the proposal, and verified that each signer is a registered voter
- **22%** - Increase the minimum number of signatures a petition needs to get on the ballot
- **13%** - Other



# Demographics

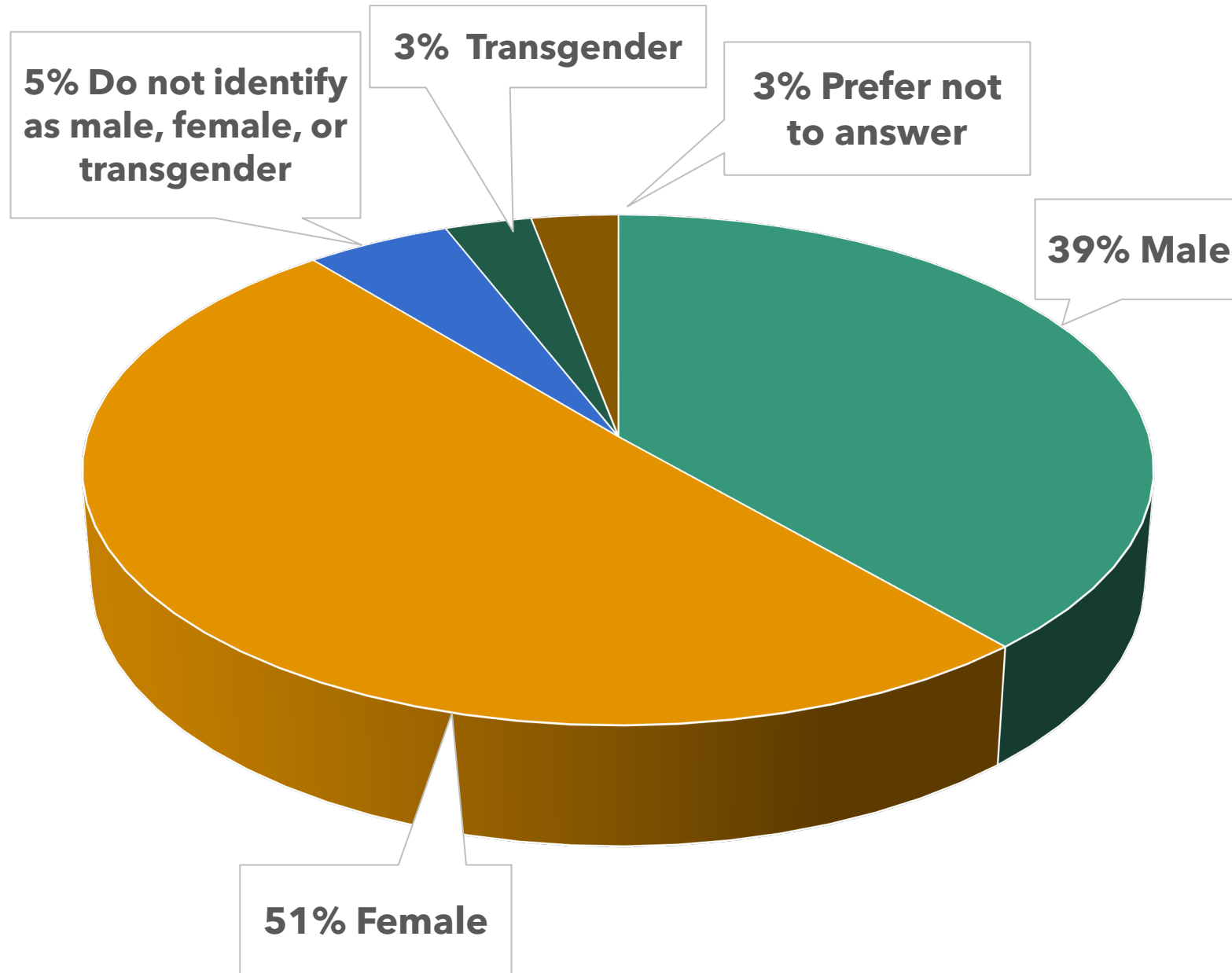
## Age of Respondents





## Demographics

### Ethnicity of Respondents

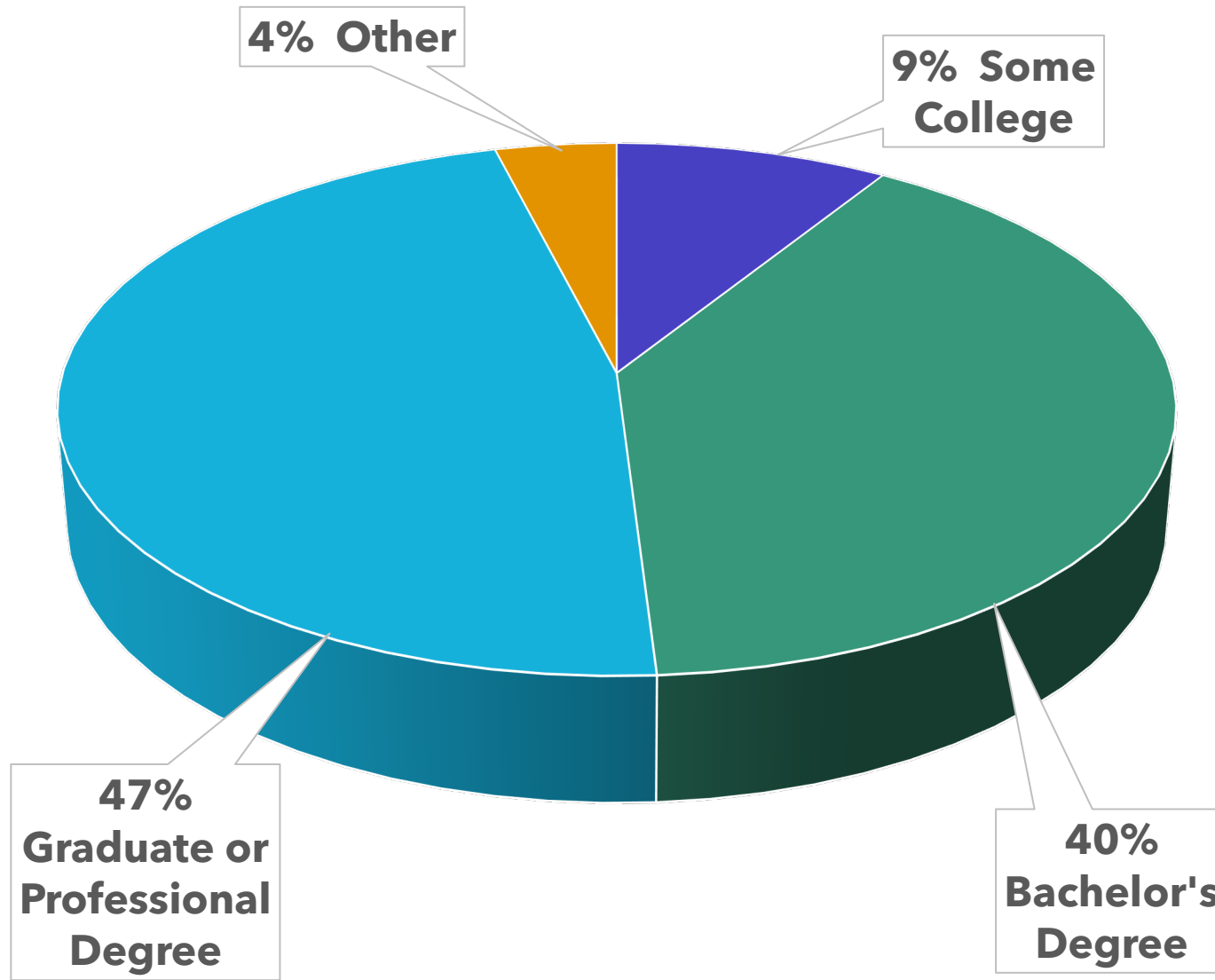


## Demographics

### Gender of Respondents

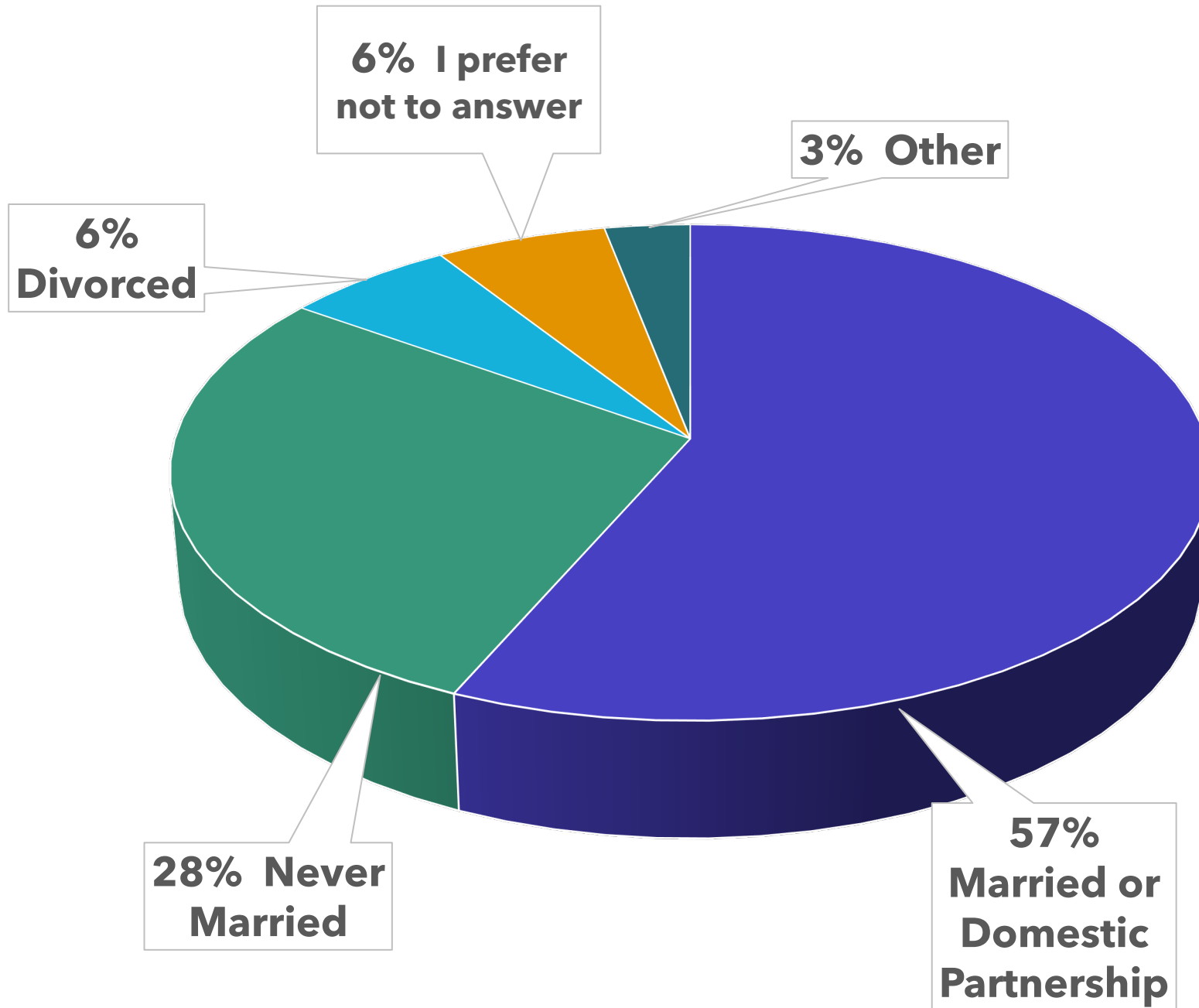
# Demographics

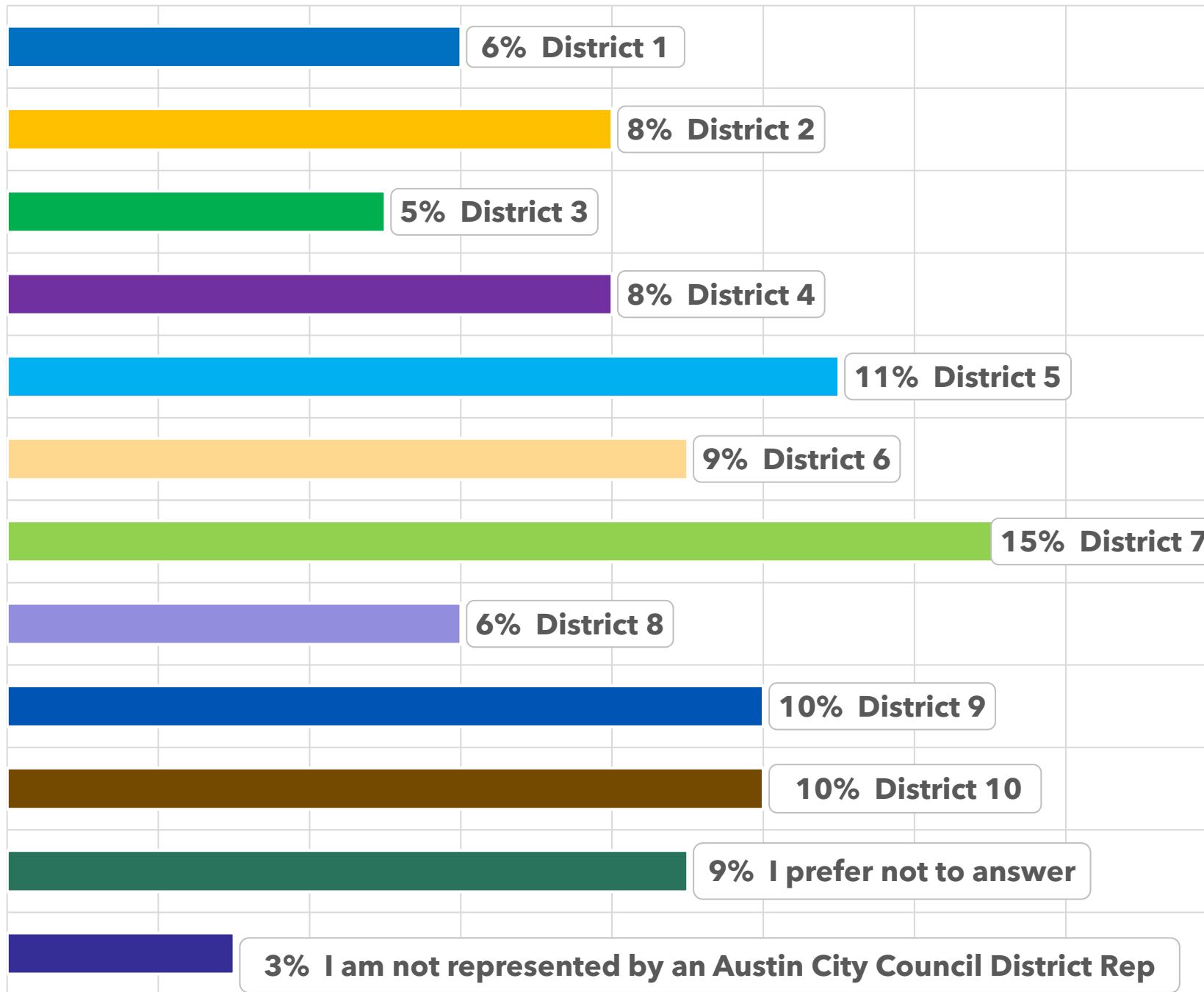
## Education Level of Respondents



## Demographics

### Marital Status of Respondents





# Demographics

## Council District of Respondents



# CHARTER REVIEW COMMISSION

**Thank you**