

No. 18-0769

In the Supreme Court of Texas

IN RE ALLAN McMURTRY §
RELATOR §

**ORIGINAL EMERGENCY PETITION FOR
WRIT OF MANDAMUS**

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IN THE INTEREST OF TIME, ORAL ARGUMENT NOT REQUESTED

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STATEMENT ON ORAL ARGUMENT

Due to the imminent deadline for correcting the ballot language, Relator has not requested oral argument. However, if oral argument is deemed appropriate, Relator asks to be included.

STATEMENT OF THE CASE

Relator Allan McMurtry and 31,062 others signed a petition initiating an ordinance of the City of Austin, if approved by voters, would require a waiting

period and subsequent voter approval of any City Council-approved ordinance seeking to enact a comprehensive revision of Austin’s land development code, known as “CodeNEXT.”

The caption to the petitioned ordinance said:

PETITION FOR AN AUSTIN ORDINANCE REQUIRING BOTH A WAITING PERIOD AND VOTER APPROVAL BEFORE CODENEXT OR COMPREHENSIVE LAND DEVELOPMENT REVISIONS BECOME EFFECTIVE.

On April 2, 2018, the Austin City Clerk certified the petition as being sufficient under requirements of the Austin City Charter, art. IV, section 1 wherein “[t]he people of the city reserve the power of direct legislation by initiative...”

However, rather than adopt the petitioned ordinance or place the proposition on the ballot using the caption language, the Austin City Council decided to do neither. A district court order was obtained by the petition advocates requiring the Council to place the proposition on the November 6, 2018 election ballot.

On August 9, 2018, instead of adopting the caption as the ballot language, the Austin City Council adopted ballot language for the “CodeNEXT Vote” proposition as:

Proposition J: Shall a City ordinance be adopted to require both a waiting period and subsequent voter approval period, a total of up to three years, before future comprehensive revisions of the City's land development code become effective?

Relator brings this action in mandamus asserting that the Austin City Council lacks discretion to establish ballot language for this “CodeNEXT” proposition other than the petitioned ordinance caption.

Austin City Charter art. IV, section 5 requires:

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.” (emphasis added)

Relator seeks a mandamus directly from the Supreme Court because there are only 11 business days between the date this Petition was filed and the deadline for finalizing the ballot language, as explained below. If the Court grants the mandamus, another meeting of the Austin City Council will have to be called (including with 72-hour notice to comply with the Texas Open Meetings Act (Tex. Gov’t Code section 551.043(a) ¹) so the Council can vote on corrected ballot language, hopefully—but not for certain—resolving the litigation.

STATEMENT OF JURISDICTION

This Court has jurisdiction to issue writs of mandamus under Texas Constitution article 5, section 6; Tex. Government Code section 22.221(a); Tex.

Election Code section 273.061; and Rule 52 of the Texas Rules of Appellate Procedure. No genuine issues of material fact exist to divest this Court of mandamus jurisdiction. Relator is mindful of TRAP 52.3(c), which ordinarily requires a Relator to file this Petition and Motion first with the Austin Court of Appeals, given that Court and this Court both have original jurisdiction to review this matter. However, given the time constraints, there is simply not enough time to go thru both Courts, and thus a “compelling reason” within the meaning of the rule applies here for Relator to file with this Court and not the Austin Court of Appeals.

The statutory deadline for ballot language is September 7, 2018, but the Travis County Clerk (who is conducting the election) indicates her office has an internal deadline of September 4, 2018 to receive final ballot language from the City of Austin. The City may contend that any ruling invalidating the adopted ballot language may be needed by the City by August 24th in order for the City to meet statutory and administrative deadlines for the November election. *See In re Williams*, 470 S.W.3d 819, 821 (Tex. 2015). (noting that under these circumstances “resort to the court of appeals is excused” and stating, “Indeed, for the same compelling reason that we exercise jurisdiction even though mandamus relief was

¹ Sec. 551.043. TIME AND ACCESSIBILITY OF NOTICE; GENERAL RULE. (a) The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by Sections 551.044-551.046.

not first sought in the court of appeals, we also immediately grant relief without requesting additional briefs on the merits.”).

ISSUE PRESENTED

In adopting ballot language that was different than the caption of the petitioned “CodeNEXT” ordinance, did the Austin City Council violate its ministerial duty pursuant to Austin Charter art. IV, § 5 such that mandamus should issue invalidating the ballot language adopted by the Council?

STATEMENT OF FACTS

During the Spring of 2018, over 31,000 Austin voters—including Relator Allan McMurtry—signed a petition calling for a waiting period and voter approval of CodeNEXT or other comprehensive land development revisions become effective. App. Tab A. *See Blum v. Lanier*, 997 S.W.2d 259, 263-64 (Tex. 1999) (noting standing of petition signers to seek relief to correct deficiencies in ballot language.).

The caption to the petitioned ordinance said:

PETITION FOR AN AUSTIN ORDINANCE REQUIRING BOTH A WAITING PERIOD AND VOTER APPROVAL BEFORE CODENEXT OR COMPREHENSIVE LAND DEVELOPMENT REVISIONS BECOME EFFECTIVE.

Id. at App. Tab A.

The petition was filed with the Austin City Clerk on March 29, 2018. App. Tab B. On April 2, 2018, the Austin City Clerk certified the petition as being “sufficient.” App. Tab C. But the Austin City Council refused to either adopt the petitioned ordinance or to place it on the ballot. As a result, petition advocates filed suit on June 1, 2018 seeking to mandamus the Council to place the CodeNEXT proposition on the ballot. App. Tab D. After a mandamus hearing on July 2, 2018, the District Court (the Honorable Orlinda Naranjo, presiding)

announced its decision in a letter to counsel. App. Tab E. The court entered an Order Granting Writ of Mandamus on July 16, 2018.

At its meeting on August 9, 2018, the Austin City Council adopted its own version of ballot language for what was labeled Proposition J instead of the adopting the caption of the petitioned ordinance:

Proposition J: Shall a City ordinance be adopted to require both a waiting period and subsequent voter approval period, a total of up to three years, before future comprehensive revisions of the City's land development code become effective?

App. Tab G (excerpt, Page 48, from the full Election Order at App. Tab H)

The Austin City Charter, art. IV section 1 says, in part, “The people of the City reserve the power of direct legislation by initiative....” App. Tab I. The Charter, art. IV section 5 has a specific requirement that “the caption” of an initiated ordinance be stated on the ballot. App. Tab I (Section 5: “BALLOT FORM AND RESULTS OF ELECTION. 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.").

Recently, the Mayor of Austin acknowledged that CodeNEXT had become very contentious and unpopular with Austin voters.

Comments of Mayor Steve Adler, August 1, 2018 at <http://austincouncilforum.org/viewtopic.php?f=2&t=1076&sid=1f93a892f9fe5566>

[c2f8bd2025fc999e](#). The Mayor called on the Council, which followed his suggestion: “Colleagues, I believe we should consider if the best way ultimately to find the right path to fix our land development code is to cease our current process and ask the City Manager to create a new process. While we have learned much and made gains as a council in our June work sessions, it seems evident that we’re not going to get to a place of sufficient consensus.” *Id.* Relator suggests that one of the reasons the Council adopted the ballot language for the “CodeNEXT” Vote ordinance without mentioning CodeNEXT is to deflate support for the ballot proposition by removing that red-flag term. CodeNEXT represents the kind of massive rewrite of Austin’s development regulations that voters signing the petition believe should require a waiting period and public vote.

Regardless, the Austin Charter requires the Council to use the caption language, regardless of the Mayor or Council’s political tactics regarding the upcoming city council election in November.

ARGUMENT

A. STANDARD FOR MANDAMUS

This Court’s constitutional and statutory grant of mandamus jurisdiction is very broad. *In Re Reece*, 341 S.W.3d 360, 374 (Tex. 2011) (orig. proceeding); *see* TEX. CONST. art. 5, § 3(a) (granting the Court power to issue writs of mandamus as specified by the Legislature); TEX. GOV'T CODE § 22.002(a) (permitting the

Court to issue writs of mandamus "agreeable to the principles of law regulating those writs").

Most relevant to this case, the Texas Election Code provides a remedy through mandamus "to compel the performance of any duty imposed by law in connection with the holding of an election." *See* Tex. Elec. Code § 273.061. The Court has applied this mandamus authority in similar circumstances to compel a city council to fulfill its ministerial duty to correct erroneous ballot language, particularly when the election deadlines are imminent. *In re Williams*, 470 S.W.3d at 821 (Tex. 2015).

Mandamus is an "extraordinary remedy, not issued as a matter of right, but at the discretion of the court." *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 138 (Tex. 2004) (orig. proceeding). "Mandamus review of significant rulings in exceptional cases may be essential to preserve important substantive and procedural rights from impairment or loss" *Id.* at 136. Mandamus is a remedy not restricted by "rigid rules" that are "necessarily inconsistent with the flexibility that is the remedy's principle virtue." *Id.*; *see also In re McAllen*, 275 S.W.3d 458, 464 (Tex. 2008) (orig. proceeding) (noting that whether a clear abuse of discretion can be remedied on appeal "depends heavily on circumstances, it must be guided by analysis of principles rather than simple rules that treat cases as categories"). Mandamus is a proper vehicle for this Court to correct blatant injustice that

otherwise would elude review by the appellate courts. *See In re Prudential*, 148 S.W.3d at 138.

Mandamus is generally appropriate only when the relator has no adequate remedy on appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135-40 (Tex. 2004) (citing *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992)). The “adequacy” of an appellate remedy must be determined by balancing the benefits of mandamus review against the detriments. *In re Team Rocket, L.P.*, 256 S.W.3d 257, 262 (Tex. 2008) (orig. proceeding). In evaluating the benefits and detriments, this Court should consider whether mandamus will preserve important substantive and procedural rights from impairment or loss. *Id.* In the present case, with appropriate speed in the Court and corrective action by the Austin City Council, the defective wording of the ballot can be corrected prior to the election. Under these circumstances, a post-election contest is not available as an adequate remedy. *See In re Williams*, 470 S.W.3d at 823 (Tex. 2015)(citing *Blum v. Lanier*, 997 S.W.2d at 264).

In addition to impairment of rights, this Court should consider whether mandamus will "allow the appellate courts to give needed and helpful direction to the law that would otherwise prove elusive in appeals from final judgments." *Prudential*, 148 S.W.3d at 136. Relator has good reason to doubt whether the Austin City Council will adopt lawful ballot language even if this Court invalidates

the current ballot language. While, based on separation of powers considerations, the courts may not dictate to the City Council what the ballot language will be, Relator urges the Court to hold that the Council must adopt the ordinance caption as the ballot language, as required by the Austin City Charter, art. IV, § 5.

B. THE AUSTIN COUNCIL HAS VIOLATED THE LAW

The Ballot Language Violates the City Charter

In adopting the Austin City Charter, the people reserved the power to direct legislation by initiative. App. Tab J (Austin Charter, art. IV § 1). Citizens exercising this power of initiative by signing the petition “become in fact the legislative branch of the municipal government” with standing to compel municipal authorities to perform their ministerial duties regarding the petitioned initiative. *Blum v. Lanier*, 997 S.W.2d at 262 (Tex. 1999).

Tex. Elect. Code section 52.072(a) says, “*Except as otherwise provided by law*, the authority ordering the election shall prescribe the wording of a proposition that is to appear on the ballot.” Tex. Elect. Code § 52.072(a) (emphasis added). The highlighted phrase has been interpreted as referring to a city’s charter. *Bischoff v. City of Austin*, 656 S.W.2d 209, 211–12 (Tex. App.—Austin 1983, writ ref’d n.r.e.) (“In general, the form of a ballot proposition to be submitted to the voters of a city is prescribed by municipal authority *unless such form is governed by statute, city charter, or ordinance.*”) (emphasis added). Where no such other

law prescribes the form of the ballot proposition, the City’s discretion is limited by “the common law requirement that the statement describe the proposition with such definiteness and certainty that the voters will not be misled.” *Id.* at 212.

In this case, the Austin City Charter *does* prescribe the form of the ballot proposition in Art. IV § 5:

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.” (emphasis added)

However, the Austin City Council did not adopt the petitioned ordinance’s caption which said:

PETITION FOR AN AUSTIN ORDINANCE REQUIRING BOTH A WAITING PERIOD AND VOTER APPROVAL BEFORE CODENEXT OR COMPREHENSIVE LAND DEVELOPMENT REVISIONS BECOME EFFECTIVE.

Id. at App. Tab A.

This caption language explains the purpose and chief characteristics of the petitioned ordinance. It fulfills the role of a caption as explained in municipal law:

Municipal ordinances are not within the application of the constitutional requirement that the title of a statute must embrace its subject, or that its purpose must be stated in the caption. However, some home-rule charters provide that ordinances and resolutions are to be confined to one subject, which must be expressed in the title.

The function of a caption is to declare the purpose of the ordinance. Matters mentioned in the caption that are not contained in the body of

the ordinance are mere surplusage and do not affect matters set forth in the ordinance itself. A caption is sufficient if there is one general object stated, and the subject matter of the ordinance is germane to the object specified. The failure to embrace a particular matter in the title or caption does not render the ordinance inoperative as to other matters that are so embraced.

52 Tex. Jur. 3d Municipal Corporations § 211 (citations omitted) (emphasis added).

Tex. Loc. Gov't Code section 52.013(a) permits the governing body of a home-rule municipality, such as the City of Austin, to “publish a caption of an adopted ordinance that summarizes the purpose of the ordinance” (and any penalty for violation) in lieu of publishing the entire text. Likewise, the Austin City Charter art. II, § 15 requires the City Clerk to publish notice of ordinances “by causing the *descriptive title or caption*” to be published. Austin City Charter, art. II, § 15 (emphasis added).

It should also be noted that, in certifying the CodeNEXT Vote petition, the City Clerk did not assert any deficiency in the ordinance, such as the absence of a caption. *See* Austin City Charter, art. IV, § 3 (“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.”). (emphasis added).

The people of Austin have not only reserved unto themselves the power to initiate legislation by petition, but also to require that the ballot language come from the petitioned ordinance caption as well. Austin City Charter art. IV, §§ 1 and 4. The cited caption language from the petitioned ordinance is descriptive and shows the purpose of the proposal for consideration by the voters. The Austin City Council lacks authority to sidestep the mandate of the Austin Charter.

Thus, this case turns on that straight-forward view that the Council lacks discretion to change the wording of the petitioned ordinance's caption for the ballot proposition. The Supreme Court has authority to issue mandamus requiring the Council's compliance with the City Charter art. IV, § 5.

PRAYER

For these reasons, Relator Allan McMurtry ask the Court for the following relief:

- a. Cite the Respondent to appear herein;
- b. Issue an immediate writ of mandamus ordering and compelling the Austin Mayor and Council to perform the following ministerial acts: (1) draft new ballot language for Proposition J conforming to the caption of the petitioned ordinance; (2) substitute such properly drafted ballot language in place of the ballot language adopted by the Council on August 9, 2018; and (3) to hold a validly called meeting of the City Council to take the actions within 4 days of receipt of the Order from

this Court.

- c. All costs of suit;
- d. All other relief to which Relator may show themselves to be justly entitled.

Respectfully submitted,



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COUNSEL FOR RELATOR

TRAP 52.3(J) CERTIFICATION

Pursuant to TRAP 52.3(j), the undersigned certifies that he has reviewed the above Emergency Petition for Writ of Mandamus and concluded that every factual statement in the petition is supported by competent evidence included in the appendix.



Bill Aleshire

CERTIFICATE OF COMPLIANCE

I certify that this Brief complies with TRAP Rule 9.4 and contains 2,118 words in Times New Roman typeface of 14-point.



Bill Aleshire

CERTIFICATE OF SERVICE

On August 17, 2018, this document was emailed to Anne Morgan, Austin City Attorney, to her email address Anne.Morgan@austintexas.gov as counsel for Respondent City of Austin, Austin City Council. Ms. Morgan's address is Law Department, P.O. Box 1546, Austin, Texas 78767-1546.



Bill Aleshire

APPENDIX

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Tab G – Council Election Ordinance – excerpt Page 48, Proposition J

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Tab A

112490

PETITION FOR AN AUSTIN ORDINANCE REQUIRING BOTH A WAITING PERIOD AND VOTER APPROVAL BEFORE CODENEXT OR COMPREHENSIVE LAND DEVELOPMENT REVISIONS BECOME EFFECTIVE

We, the undersigned registered voters of the City of Austin, support a proposed ordinance requiring that there shall be BOTH a waiting period and voter approval by election before CodeNEXT (or any subsequent comprehensive revisions of the City's land development laws) is legally effective. No land entitlements shall be granted or vested under the proposed comprehensive revisions until both requirements are met. Therefore, we, the undersigned, propose this ordinance be placed on the next available municipal election for a vote of the citizens of Austin:

1. Required Waiting Period and Voter Referendum for Comprehensive Revisions of the City's Land Development Laws.
 - A. Waiting Period. CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect legally, or any land entitlements be granted or vested under these laws, until the June 1st following the next regularly scheduled council elections after Council adopts CodeNEXT or the comprehensive revisions. This waiting period is to ensure voters can learn about the proposed comprehensive revisions and elect council members with sufficient time to amend or reject the prior council's adopted comprehensive revisions before these laws may go into effect.
 - B. Voter Approval. After the waiting period in Subsection (A), CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect, or any land entitlements be granted or vested under these laws, until the registered voters of Austin approve these laws at the next available municipal election. Voters shall approve or disapprove CodeNEXT, or subsequent comprehensive revisions, in its entirety and not piecemeal. Should the voters fail to approve the comprehensive revisions, then the existing land development laws remain in effect. Notwithstanding any other provision, under no circumstances, shall the voters' rejection of CodeNEXT or proposed comprehensive revisions under this Section be considered or interpreted as repealing the existing land development code.
 - C. This section overrides all city charter provisions, ordinances, and laws and should be liberally construed to uphold Austin citizens' sovereign rights to control their government and laws.
 - D. Severability Clause. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

ONLY REGISTERED VOTERS IN THE CITY OF AUSTIN MAY SIGN THIS PETITION. Please fill in ALL blanks that are NOT optional.

If you circulated this petition beyond your household, please print your name here: Ed English and your phone number here: 512-835-0000. Thank you!

DATE SIGNED	NAME (please print clearly) SIGNATURE	STREET ADDRESS	COUNTY (check one)	D.O.B. or VOTER REGISTRATION	EMAIL (optional) PHONE (optional)
11/1 2017	Print name below: <u>Allan M. Muntz</u> Sign name below: <u>Allan M. Muntz</u>	Street no. and name: Austin TX Zip code: <u>78757</u> <u>5901 Canyon Dr</u>	<input checked="" type="checkbox"/> Travis <input type="checkbox"/> Williamson	<u>12/13/1944</u> OR <u>08/15/1944</u>	
___/___ 2017	Print name below: _____ Sign name below: _____	Street no. and name: Austin TX Zip code: _____	<input type="checkbox"/> Travis <input type="checkbox"/> Williamson	___/___/19___ OR ___/___/19___	
___/___ 2017	Print name below: _____ Sign name below: _____	Street no. and name: Austin TX Zip code: _____	<input type="checkbox"/> Travis <input type="checkbox"/> Williamson	___/___/19___ OR ___/___/19___	

QUESTIONS? Contact IndyAustin at 512-535-0989 or contact@IndyAustin.org. Please print out, fill out all fields that are not optional, and mail to the following address ASAP:
IndyAustin, PO Box 41479, Austin, Texas 78704
This is pd. pol. adv. by IndyAustin SPAC.

Tab B



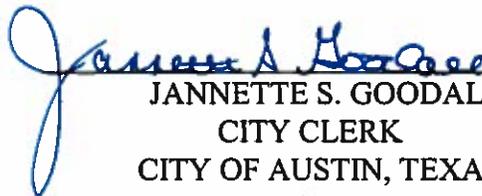
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Petition Cover Sheet, and page 000001 of the Petition signature pages, of the “Petition for an Austin Ordinance Requiring Both a Waiting Period and Voter Approval Before CodeNEXT or Comprehensive Land Development Revisions Become Effective”, as on file in the Office of the City Clerk the 29th day of March, 2018.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 18th day of June, 2018.




JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS



AUSTIN CITY CLERK
RECEIVED

2018 APR 29 AM 10 00

PETITION COVER SHEET

Name of Petition: Code Next

Who Filed the Petition: Fred Lewis

Date Petition was Filed: MARCH 29, 2018

Time Petition was Filed: 10:00 AM

Received by: *Jennifer A. [Signature]*
(Typed name of OCC staff member)

JSL
(Signature of staff member)

PETITION FOR AN AUSTIN ORDINANCE REQUIRING BOTH A WAITING PERIOD AND VOTER APPROVAL, BEFORE CODENEXT OR COMPREHENSIVE LAND DEVELOPMENT REVISIONS BECOME EFFECTIVE

We, the undersigned registered voters of the City of Austin, support a proposed ordinance requiring that there shall be BOTH a waiting period and voter approval by election before CodeNEXT (or any subsequent comprehensive revisions of the City's land development laws) is legally effective. No land entitlements shall be granted or vested under the proposed comprehensive revisions until both requirements are met. Therefore, we, the undersigned, propose this ordinance be placed on the next available municipal election for a vote of the citizens of Austin:

- I. Required Waiting Period and Voter Referendum for Comprehensive Revisions of the City's Land Development Laws.
- A. Waiting Period. CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect legally, or any land entitlements be granted or vested under these laws, until the June 1st following the next regularly scheduled council elections after Council adopts CodeNEXT or the comprehensive revisions. This waiting period is to ensure voters can learn about the proposed comprehensive revisions and elect council members with sufficient time to amend or reject the prior council's adopted comprehensive revisions before these laws may go into effect.
- B. Voter Approval. After the waiting period in Subsection (A), CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect, or any land entitlements be granted or vested under these laws, until the registered voters of Austin approve these laws at the next available municipal election. Voters shall approve or disapprove CodeNEXT, or subsequent comprehensive revisions, in its entirety and not piecemeal. Should the voters fail to approve the comprehensive revisions, then the existing land development laws remain in effect. Notwithstanding any other provision, under no circumstances, shall the voters' rejection of CodeNEXT or proposed comprehensive revisions under this Section be considered or interpreted as repealing the existing land development code.
- C. This section overrides all city charter provisions, ordinances, and laws and should be liberally construed to uphold Austin citizens' sovereign rights to control their government and laws.
- D. Severability Clause. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

ONLY REGISTERED VOTERS IN THE CITY OF AUSTIN MAY SIGN THIS PETITION. Please fill in ALL blanks that are NOT optional.

If you circulated this petition beyond your household, please print your name here: _____ and your phone number here: _____. Thank you!

DATE SIGNED	NAME (please print clearly) SIGNATURE	STREET ADDRESS	COUNTY (check one)	D.O.B. or VOTER REGISTRATION	EMAIL (optional) PHONE (optional)
12/02 2017	Joseph J Beaman Jr <i>J Beaman</i>	Street no. and name: 700 Texas Ave Austin TX Zip code: 78705	<input checked="" type="checkbox"/> Travis <input type="checkbox"/> Williamson	06/19/1950 OR Voter no. 110470946	Joseph Beaman Jr jbeaman@att.net
10/02 2017	LISA E. BEAMAN <i>Lisa E Beaman</i>	Street no. and name: 700 TEXAS AVE Austin TX Zip code: 78705	<input checked="" type="checkbox"/> Travis <input type="checkbox"/> Williamson	09/17/1955 OR Voter no. 139689471	
/ / 2017	_____ Sign name below:	Street no. and name: _____ Austin TX Zip code: _____	<input type="checkbox"/> Travis <input type="checkbox"/> Williamson	_____/_____/19_____ OR Voter no. _____	

QUESTIONS? Contact IndyAustin at 512-535-0989 or contact@IndyAustin.org. Please print out, fill out all fields that are not optional, and mail to the following address ASAP:
IndyAustin, PO Box 41479, Austin, Texas 78704
000012

Tab C



CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION

I, Jannette Goodall, City Clerk of the City of Austin, Texas, hereby certify that:

The initiative petition proposing an ordinance “requiring that there shall be BOTH a waiting period and voter approval by election before CodeNEXT (or any subsequent comprehensive revisions of the City’s land development laws) is legally effective.” The initiative petition was filed with the City Clerk on March 29, 2018.

At the time of filing, the petition was comprised of 9,707 pages containing 31,062 signatures.

In accordance with the City of Austin Charter and state law, the number of signatures required for a sufficient initiative petition is 5% of the qualified voters of the city or 20,000, whichever number is the smaller.

Based on verification against the voter registration rolls obtained from Travis County, Hays County, and Williamson County, I have determined the following facts regarding this petition:

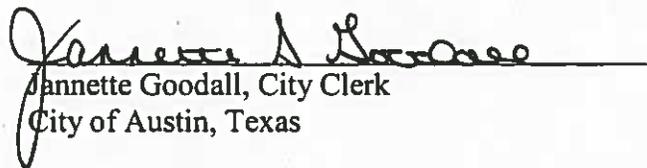
The raw-count number of signatures filed with the petition was 31,062. The required number of valid signatures is 20,000. The Texas Election Code authorizes the use of random sampling to verify petitions of large size, and the City has used the same random sampling method since 2002. Under that method, and in accordance with law, 25% of the total number of submitted signatures on this petition were verified, which equates to a sample size of 7,766.

Based on the analysis of the random sample results, it has been determined that the petition meets the requirement for the minimum number of signatures of valid voters, based on the required minimum of 20,000. Of the 7,766 submitted sample lines checked under the sampling method, 1,222 of the sample lines were disqualified on account of bearing signatures of persons not on the voter list (1,125), or of being duplicate signatures of registered voters who signed more than once (32), or for other reasons (65). The remaining 6,544 sample lines were validated as bearing signatures of qualified voters.

Based on the above, the petition is determined to be sufficient. Please see the attached report for details on the statistical analysis.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Austin on this the 23rd day of April, 2018.




Jannette Goodall, City Clerk
City of Austin, Texas

Tab D



(https://www.traviscountytexas.gov)

District Clerk - AARO - Attorney Access to Records Online

Details

Updated : Friday, August 17, 2018 4:45:05 AM

Cause Number	D-1-GN-18-002688	Request Documents (/aaro/Content/record_sea
Style	LINDER V CITY OF AUSTIN ET AL	
Filed Date	6/1/2018	New Search (/aaro/)
Court	201	
Type	MANDAMUS (GEN LIT)	
Case Status	PENDING	
Action/Offense		
Hearing Date	2/7/2018 09:00 AM	

Attorney	Type	Party - Full/Business	Party - Person
	DEFENDANT	SPENCER CRONK CITY MANAGER OF AUSTIN	
	DEFENDANT	CITY OF AUSTIN COUNCIL MEMBER ALTER	
	DEFENDANT	CITY OF AUSTIN COUNCIL MEMBER TOVO	
	DEFENDANT	CITY OF AUSTIN COUNCIL MEMBER TROXCLAIR	
	DEFENDANT	CITY OF AUSTIN COUNCIL MEMBER POOL	
	DEFENDANT	CITY OF AUSTIN COUNCIL MEMBER FLANNIGAN	
	DEFENDANT	CITY OF AUSTIN COUNCIL MEMBER CASAR	
	DEFENDANT	CITY OF AUSTIN COUNCIL MEMBER RENTERIA	
	DEFENDANT	CITY OF AUSTIN COUNCIL MEMBER GARZA	
	DEFENDANT	STEVE ADLER MAYOR OF AUSTIN	
	DEFENDANT	CITY COUNCIL OF AUSTIN	
LEWIS FRED I.	PLAINTIFF		INGLE , MARY
LEWIS FRED I.	PLAINTIFF		ROSS , D LAUREN
LEWIS FRED I.	PLAINTIFF		JACK , JEFF
LEWIS FRED I.	PLAINTIFF		HERBERT , MICHAEL
LEWIS FRED I.	PLAINTIFF		RIVERA , JANE
LEWIS FRED I.	PLAINTIFF		LINDER , NELSON
LEWIS FRED I.	PLAINTIFF		RIVERA , GILBERT
LEWIS FRED I.	PLAINTIFF		ALMANZA , SUSANA
	DEFENDANT	CITY OF AUSTIN	

Date	Court	Party	Description	Category	Pages	
8/2/2018	201		ASSIGNMENT BY PRESIDING JUDGE	OTHER	1	Download (/aaro/Default/GetPdf?barCodeId=5967248)
7/16/2018	OLN		ORD:OTHER ORDER	ORD	1	Download (/aaro/Default/GetPdf?barCodeId=5942826)

7/16/2018	201		LETTER/EMAIL/CORR	OTHER	1	Download (/aaro/Default/GetPdf?barCodeId=5935867)
7/2/2018	201		OTHER FILING	OTHER	4	Download (/aaro/Default/GetPdf?barCodeId=5911196)
6/29/2018	201	PL	OTHER FILING	OTHER	33	Download (/aaro/Default/GetPdf?barCodeId=5908663)
6/22/2018	201	DF	OTHER FILING	OTHER	89	Download (/aaro/Default/GetPdf?barCodeId=5897507)
6/22/2018	201	DF	OTHER FILING	OTHER	5	Download (/aaro/Default/GetPdf?barCodeId=5896003)
6/20/2018	201	PL	OTHER FILING	OTHER	73	Download (/aaro/Default/GetPdf?barCodeId=5892955)
6/15/2018	OLN		ORD:OTHER ORDER	ORD	1	Download (/aaro/Default/GetPdf?barCodeId=5885879)
6/1/2018	201	PL	ORIGINAL PETITION/APPLICATION	PET-PL	8	Download (/aaro/Default/GetPdf?barCodeId=5859243)

[Request Documents \(/aaro/Content/record_search_fillable.pdf\)](/aaro/Content/record_search_fillable.pdf)

[New Search \(/aaro/\)](/aaro/)

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Tab E

ORLINDA NARANJO
Judge
(512) 854-4023



LEAH HAYES
Official Court Reporter
(512) 854-4028

VICTORIA CHAMBERS
Court Operations Officer
(512) 854-4023

419TH DISTRICT COURT

HEMAN SWEATT COURTHOUSE
P. O. BOX 1748
AUSTIN, TEXAS 78767
FAX: (512) 854-2224

SELINA HAMILTON
Court Clerk
(512) 854-5827

Filed in The District Court
of Travis County, Texas

JUL 16 2018 *an*

At 3:35 P.M.
Velva L. Price, District Clerk

July 16, 2018

Via email: f lewis@sbcglobal.net

Fred I. Lewis
Law Office of Fred I. Lewis
309 East 11th St., Suite 2
Austin, Texas 78701

Via email: bill@sosalliance.org

William Bunch
Save Our Springs Alliance
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Via email: sclark@scottdoug.com

Casey L. Dobson
Jane M.N. Webre
Sara W. Clark
Scott Douglass & McConnico LLP
303 Colorado Street, Suite 2400
Austin, Texas 78701

RE: Cause No. D-1-GN-18-002688; *Linder, et al. v. The City of Austin, et al.*, in the 201st Judicial District Court of Travis County, Texas

Dear Counsel,

I wanted to thank the parties for a well-briefed and argued case, especially given the time-sensitive nature of the dispute. After consideration of the parties' briefs, arguments, and evidence, attached please find the file-stamped order granting the writ of mandamus. Though not required, the Court would like to give some of the Court's reasoning for its ruling.

Courts are prohibited from rendering advisory opinions. *Tex. Ass'n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 444 (Tex. 1993) (finding that the separation of powers doctrine prohibits "courts from issuing advisory opinions because such is the function of the executive rather than the judicial department"); see *Robinson v. Parker*, 353 S.W.3d 753, 755 (Tex. 2011) ("[T]he essence of the ripeness doctrine is to avoid premature adjudication . . . [and] to hold otherwise would be the essence of an advisory opinion" (quoting *Patterson v. Planned Parenthood of Hous. & Se. Tex.*, 971 S.W.439, 442 (Tex. 1998))). When an order addresses only a hypothetical injury, an opinion is advisory. *Tex. Ass'n of Bus.*, 852 S.W.2d at 444. The facts must be sufficiently developed and not contingent or remote. *Robinson*, 353 S.W.3d at 755.

In this case, Realtor's petition for writ of mandamus should issue absent a showing by Respondents that placing the initiative on the ballot is not a ministerial act—*i.e.* the proposed initiative is a subject matter withdrawn from the initiative process. However, Respondents'

arguments necessarily depend on the status and subject matter of CodeNEXT. At this point, CodeNEXT is not an ordinance; it is draft of a proposed ordinance. Neither the parties nor the Court know the exact substance of the final version of CodeNEXT. It is subject to revisions, or it may never be passed by the City Council. Nevertheless, Respondents ask the Court to find that CodeNEXT is a zoning ordinance or that zoning is not severable from the remainder of CodeNEXT. Indeed, the cases cited for the proposition of withdrawing zoning from the initiative process all involved substantive ordinances that had either already been passed or were proposed by initiative in its final, concrete form.¹ The facts underlying Respondents' challenges are contingent and hypothetical, including whether CodeNEXT is ever passed by the City Council and, if it is, what form it will eventually take. Because Respondent's challenges to their ministerial duty rely on these contingent facts, it would require an advisory opinion for this Court to address or rule on the merits of these challenges at this time.

Therefore, Respondents' challenges to their ministerial duty to place the initiative on the ballot are not ripe, and the writ of mandamus should conditionally issue.

Sincerely,



Judge Linda L. Naranjo
419th District Court

cc: Ms. Velva Price, District Clerk
Scott N. Houston, Counsel for Texas Municipal League (via email: shouston@tml.org)

¹ *Glass v. Smith*, 244 S.W.2d 645 (Tex. 1952) (initiative for ordinance to classify fireman and policeman and providing for overtime, setting holidays, etc.); *Dallas Ry. Co. v. Geller*, 271 S.W. 1106 (Tex. 1925) (substantive referendum on passed ordinance fixing and regulating of the schedule of rates for a public service company); *City of Cleveland v. Keep Cleveland Safe*, 500 S.W.3d 438 (Tex. App.—Beaumont 2016, no pet.) (initiative for charter amendment to prohibit red light cameras); *In re Arnold*, 443 S.W.3d 269 (Tex. App.—Corpus Christi 2014, orig. proceeding) (referendum to repeal four passed individual zoning ordinances); *In re Bouse*, 324 S.W.3d 240 (Tex. App.—Waco 2010, orig. proceeding) (initiative for ordinance granting consent from College Station for City of Wellborn to incorporate); *City of Canyon v. Fehr*, 121 S.W.3d 899 (Tex. App.—Amarillo 2003, no pet.) (initiative and referendum to negate or repeal passed ordinance that re-zoning two tracts of land); *San Pedro v. City of San Antonio*, 562 S.W.2d 260 (Tex. Civ. App.—San Antonio 1978, writ ref'd n.r.e) (proposed ordinance to repeal substantive zoning ordinance), *cert. denied*, 439 U.S. 1004 (1978); *Hitchcock v. Longmire*, 572 S.W.2d 122 (Tex. Civ. App.—Houston [1st Dist.] 1978, writ ref'd n.r.e.), (referendum to repeal substantive annexation ordinance); *Hancock v. Rouse*, 437 S.W.2d 1 (Tex. Civ. App.—Houston [1st Dist.] 1969, writ ref'd n.r.e.) (initiative to pass substantive zoning ordinance and referendum to repeal four passed zoning ordinances); *Denman v. Quin*, 116 S.W.2d 783 (Tex. Civ. App.—San Antonio 1938, writ ref'd) (referendum to veto passed ad valorem tax ordinance).

Tab F

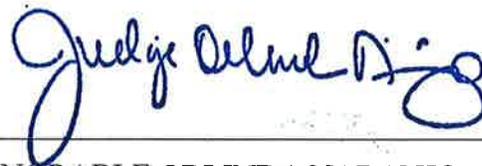
decision on Respondents' challenges would require an advisory opinion based on the current draft of CodeNEXT. Courts are not permitted to make advisory opinions. Because Respondents' challenges are not ripe and would require the Court to render an advisory opinion, Respondents have a ministerial duty to place the proposed initiative on the ballot for the November 6, 2018 election.

Additionally, the Court is not permitted to make any judgment at this time on the substantive validity of the proposed initiative or its language. Therefore, the Court makes no such judgment at this time, and this Order should not be construed to find the proposed initiative either valid or invalid.

IT IS THEREFORE ORDERED that Realtor's Petition for Writ of Mandamus is GRANTED.

IT IS FURTHER ORDERED that a writ of mandamus is conditionally granted requiring Respondents to timely take all steps to place the proposed initiative on the ballot for the November 6, 2018 election. Should Respondents not timely take the steps to place the initiative on the ballot for the November 6, 2018 election, the writ shall issue to that effect.

SIGNED this 16 day of July, 2018.



HONORABLE ORLANDA NARANJO

Tab G

§ 12. - INTERIM MUNICIPAL GOVERNMENT.

From and after the date of the adoption of any amendment to this Charter and until the completion of the first city election thereunder and the qualification of the mayor and council members therein elected, the mayor and council members then in office shall continue in office and shall exercise all of the powers conferred upon the city by such amendment.

PART 8. A special municipal election shall be held in the City on November 6, 2018, to submit to the voters of the City a proposed citizen-initiated ordinance regarding whether there must be both a waiting period and subsequent voter approval before any comprehensive revisions of the City's land development laws may go into effect. The ballot shall be prepared to permit voting "Yes" or "No" on the proposition:

Proposition J: Shall a City ordinance be adopted to require both a waiting period and subsequent voter approval period, a total of up to three years, before future comprehensive revisions of the City's land development code become effective?

PART 9. A special municipal election shall be held in the City on November 6, 2018, to submit to the voters of the City a proposed citizen-initiated ordinance regarding an efficiency study of the City's operational and fiscal performance conducted by an independent third party. The ballot shall be prepared to permit voting "Yes" or "No" on the proposition:

Proposition K: Without using the existing internal City Auditor or existing independent external auditor, shall the City Code be amended to require an efficiency study of the City's operational and fiscal performance performed by a third-party audit consultant, at an estimated cost of \$1 million - \$5 million?

PART 10. If the proposition provided in Part 8 is approved by the majority of voters voting at the election, the City Code is amended to read as follows:

ARTICLE ____ . _____ .

§ _____ **REQUIRED WAITING PERIOD AND VOTER REFERENDUM FOR COMPREHENSIVE REVISIONS OF THE CITY'S LAND DEVELOPMENT LAWS.**

- (A) Waiting Period. CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect legally, or any land entitlements be granted or vested under these laws, until the June 1st

Tab H

ORDINANCE NO. 20180809-113

AN ORDINANCE ORDERING A GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF AUSTIN ON NOVEMBER 6, 2018, FOR THE PURPOSE OF ELECTING A MAYOR (AT LARGE) AND CITY COUNCIL MEMBERS (SINGLE MEMBER DISTRICTS) FOR DISTRICT 1, DISTRICT 3, DISTRICT 5, DISTRICT 8, AND DISTRICT 9; ORDERING A SPECIAL ELECTION FOR THE PURPOSE OF AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS; ORDERING A SPECIAL ELECTION FOR THE PURPOSE OF SUBMITTING PROPOSED CHARTER AMENDMENTS TO THE VOTERS; ORDERING A SPECIAL ELECTION FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A PROPOSED CITIZEN-INITIATED ORDINANCE REGARDING WHETHER THERE MUST BE BOTH A WAITING PERIOD AND SUBSEQUENT VOTER APPROVAL BY ELECTION BEFORE ANY COMPREHENSIVE REVISIONS OF THE CITY'S LAND DEVELOPMENT LAWS MAY GO INTO EFFECT; ORDERING A SPECIAL ELECTION TO SUBMIT TO THE VOTERS A PROPOSED CITIZEN-INITIATED ORDINANCE RELATING TO AN EFFICIENCY STUDY OF THE CITY'S OPERATIONAL AND FISCAL PERFORMANCE; PROVIDING FOR THE CONDUCT OF THE GENERAL MUNICIPAL AND SPECIAL ELECTIONS; AUTHORIZING THE CITY CLERK TO ENTER INTO JOINT ELECTION AGREEMENTS WITH OTHER LOCAL POLITICAL SUBDIVISIONS AS MAY BE NECESSARY FOR THE ORDERLY CONDUCT OF THE ELECTIONS; AND DECLARING AN EMERGENCY.

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

PART 1. A general municipal election shall be held in the City of Austin on November 6, 2018. At the election there shall be elected by the qualified voters of the City a Mayor (at large) and City Council Members (single member districts) for District 1, District 3, District 5, District 8, and District 9. The candidates for Mayor shall meet all requirements and shall be residents of the City of Austin, and shall be elected by majority vote of the City at large. The candidates for Districts 1, 3, 5, 8, and 9 shall meet all requirements and shall be residents of their respective districts, and shall be elected by majority vote of voters residing in each respective district.

PART 2. A special election shall be held in the City of Austin on November 6, 2018, for the voters to consider the issuance of general obligation bonds and notes. The Council establishes that the following propositions shall be presented to the voters at the special election:

Proposition A (Affordable Housing)

CITY OF AUSTIN, TEXAS PROPOSITION A

Shall the City Council of the City of Austin, Texas be authorized to issue general obligation bonds and notes of the City for the public purposes of planning, designing, acquiring, constructing, renovating, improving, and equipping affordable housing facilities and related infrastructure for low and moderate income persons and families; acquiring land and interests in land and property necessary for such purposes; funding affordable housing and home repair programs as may be permitted by law; funding loans and grants for affordable housing purposes, pursuant to an economic development program now or hereafter approved; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$250,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition B (Libraries, Museums and Cultural Arts Facilities)

CITY OF AUSTIN, TEXAS PROPOSITION B

Shall the City Council of the City of Austin, Texas be authorized to issue general obligation bonds and notes of the City for the public purposes of planning, designing, acquiring, constructing, renovating, improving, and equipping community and cultural facilities, libraries, museums, and cultural arts facilities, which include creative spaces dedicated to the creation, exhibition, or preservation of art and creative expression; acquiring land and interests in land and property for such purposes; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$128,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and

pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition C (Parks and Recreation)

CITY OF AUSTIN, TEXAS PROPOSITION C

Shall the City Council of the City of Austin, Texas, be authorized to issue general obligation bonds and notes of the City for park and recreation purposes, to wit: planning, designing, acquiring, constructing, renovating, improving and equipping public parks, recreation centers and other park buildings and infrastructure, natural areas, and other related facilities, including, without limitation, playgrounds, hike and bike trails, athletic fields, swimming pools, sports and aquatics facilities, and related parking lot and roadway infrastructure; acquiring land and interests in land and property necessary for such purposes; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$149,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition D (Flood Mitigation, Open Space and Water Quality Protection)

CITY OF AUSTIN, TEXAS PROPOSITION D

Shall the City Council of the City of Austin, Texas, be authorized to issue general obligation bonds and notes of the City for the public purposes of planning, designing, acquiring, constructing, and installing improvements and facilities for flood mitigation and control, erosion control, water quality, water quantity, and storm-water drainage and acquiring land, open spaces and interests in land and property for the conservation, preservation and protection of natural areas and the

region's water quality; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$184,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition E (Health and Human Services)

CITY OF AUSTIN, TEXAS PROPOSITION E

Shall the City Council of the City of Austin, Texas be authorized to issue general obligation bonds and notes of the City for the public purposes of planning, designing, acquiring, constructing, and equipping a new neighborhood public health and human services facility in the Dove Springs area, to be owned and operated by the City; acquiring land and interests in land and property necessary for such purposes; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$16,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition F (Public Safety)

CITY OF AUSTIN, TEXAS PROPOSITION F

Shall the City Council of the City of Austin, Texas be authorized to issue general obligation bonds and notes of the City for public safety purposes, to wit: planning, designing, renovating, improving, and equipping existing fire department facilities and existing emergency medical service facilities in the City; and all matters necessary or

incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$38,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition G (Transportation Infrastructure)

CITY OF AUSTIN, TEXAS PROPOSITION G

Shall the City Council of the City of Austin, Texas, be authorized to issue general obligation bonds and notes of the City for transportation and mobility purposes, to wit: planning, designing, constructing, reconstructing, equipping and improving roads, streets, intersections, sidewalks, bridges, urban trails, and related utility and drainage infrastructure; improving traffic signal synchronization and communications and control systems; acquiring and installing traffic signals and related technology; acquiring land and interests in land and property necessary for such purposes; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$160,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

PART 3. The propositions will appear on the official ballot in substantially the following form, and the ballot shall be prepared to permit voting “for” or “against” each proposition:

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION A

The issuance of \$250,000,000 in tax supported general obligation bonds and notes for planning, constructing, renovating, improving, and equipping affordable housing facilities for low income and moderate income persons and families, and acquiring land and interests in land and property necessary to do so, funding loans and grants for affordable housing, and funding affordable housing programs, as may be permitted by law; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION B

The issuance of \$128,000,000 in tax supported general obligation bonds and notes for planning, acquiring, constructing, renovating, improving, and equipping community and cultural facilities, libraries, museums, and cultural and creative arts facilities, and acquiring land and interests in land and property necessary to do so; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION C

The issuance of \$149,000,000 in tax supported general obligation bonds and notes for planning, acquiring, constructing, renovating, improving and equipping public parks, recreation centers, natural areas, and other related facilities, including, without limitation, playgrounds, hike and bike trails, sports courts, and swimming pools, and acquiring land and interests in land and property necessary to do so; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION D

The issuance of \$184,000,000 in tax supported general obligation bonds and notes for flood mitigation, open space and water quality and quantity for planning, designing, acquiring, constructing, and installing improvements and facilities for flood control, erosion control, water quality, water quantity, and storm-water drainage, and acquiring land,

open spaces, and interests in land and property necessary to do so; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION E

The issuance of \$16,000,000 in tax supported general obligations bonds and notes for planning, constructing, reconstructing, improving, and equipping a neighborhood public health and human services facility in the Dove Springs area; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION F

The issuance of \$38,000,000 in tax supported general obligation bonds and notes for planning, renovating, improving, and equipping existing public safety facilities, specifically fire and emergency medical services stations, buildings, and other related facilities; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION G

The issuance of \$160,000,000 in tax supported general obligation bonds and notes for planning, constructing, reconstructing, and improving roads, streets, intersections, sidewalks, bridges, urban trails and related utility and drainage infrastructure for the roads and streets; improving traffic signal synchronization and control systems; acquiring and installing traffic signals; and acquiring land and interests in land and property necessary to do so; and the levy of a tax sufficient to pay for the bonds and notes.

PART 4. Pursuant to Section 3.009, Texas Election Code: (i) the proposition language that will appear on the ballot is set forth in Part 3 hereof, (ii) the purposes for which the bonds and notes are to be authorized are set forth in Part 2 hereof, (iii) the principal amount of bonds and notes to be authorized is set forth in Part 2 hereof, (iv) if the issuance of bonds and notes is authorized by voters, taxes sufficient, within the limits prescribed by law, to pay the annual principal of and interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes may be imposed,

as set forth in Part 2 hereof, (v) bonds and notes authorized pursuant to this ordinance may be issued to mature over not to exceed 40 years from their date of issuance and bearing interest at the rate or rates as authorized by law and determined by the Council, (vi) as of the beginning of the City's current fiscal year, the aggregate amount of outstanding principal of the City's debt obligations was \$1,378,485,000 and the aggregate amount of outstanding interest on the City's debt obligations was \$494,427,000, and (vii) the City's ad valorem debt service tax rate as of the date of adoption of this ordinance is \$.1055 per \$100 of taxable property.

Based upon market conditions as of the date of this ordinance and using taxable assessed values for the 2017 tax year (2017/2018 fiscal year), without adjustment for anticipated growth in taxable assessed value in future years, if the bonds and notes are authorized, the estimated total tax rate of the City is expected to be approximately \$.5440 per \$100 of taxable assessed value, (which represents an increase of \$.0992 per \$100 taxable assessed valuation as compared to the City's total tax rate as of the date of the adoption of this ordinance), based on current State law, which is subject to change. The estimated total tax rate represents the sum of (i) the most recently adopted tax rate for operations and maintenance, which is \$.3393 per \$100 of taxable assessed valuation, plus (ii) the estimated tax rate for debt obligations of the City, including the bonds and notes, which is expected to be approximately \$.2047 per \$100 of taxable assessed valuation.

If approved by voters, the bonds and notes will be secured by an ad valorem tax that is sufficient, within the limits prescribed by law, to pay the principal of and interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes. Actual tax rates, interest rates, maturity dates, aggregate outstanding indebtedness and interest on such debt, will only be established and known at the time that bonds and notes are issued. In addition, actual tax rates will depend upon, among other factors, the assessed valuation of taxable property, prevailing interest rates, the market for the City's bonds and notes and general market conditions at the time that bonds and notes are issued.

The estimated tax rates and other statements contained in this Part 4 are (i) based on certain assumptions (including assumptions concerning prevailing market and economic conditions at the time(s) of issuance of the bonds and notes) and derived from projections obtained from the City's financial advisor, (ii) subject to change to the extent that actual facts, circumstances and conditions prevailing at the time that the bonds and notes are issued differ from such assumptions and projections, (iii) provided solely in satisfaction of the requirements of Section 3.009, Texas Election Code, and for no other purpose, without any assurance that such projections will be realized, and (iv) not intended to give rise to a contract with voters or limit the

authority of the Council to issue bonds and notes in accordance with the propositions submitted herein.

If the issuance of bonds and notes is approved by a majority of the voters voting on the proposition to issue bonds and notes for affordable housing (Proposition A), funding of affordable housing projects shall be in accordance with guidelines of the City relating to affordable housing now and hereafter existing, including but not limited to guidelines for rental housing, home ownership, and home repair. The guidelines have been developed by staff after consulting with bond counsel. The guidelines governing affordable housing projects comprise a program established in part under authority of Chapter 380 of the Texas Local Government Code, relating to the issuance of ad valorem tax supported obligations for this purpose, and Council approves and affirms this program, the guidelines governing the program, and their application to the issuance of bonds and notes for affordable housing purposes.

PART 5. A charter amendment election shall be held in the City on November 6, 2018, at which the ballot shall be prepared to permit voting “Yes” or “No” on the following propositions:

Proposition H: Shall the City Charter be amended to provide that the term of service and process for removal of the Planning Commission members be determined by ordinance?

Proposition I: Shall the City Charter be amended to make non-substantive corrections to grammar, typographical errors, capitalization, punctuation, and sentence structure; and to change or remove charter language that is obsolete?

PART 6 – If Proposition H is approved by the majority of voters voting at the election, the City Charter is amended to read as follows:

ARTICLE X. – PLANNING.

§ 2. - THE PLANNING COMMISSION — ORGANIZATION.

There shall be established a planning commission which shall consist of citizens of the City of Austin who must be registered voters in the city and must have resided within the city for one year next preceding their appointment. The planning commission shall have a number of members equal to the number of members on the council plus two [~~2~~]additional members, a minimum of two-thirds of the members who shall be lay members not directly or indirectly connected with real estate and land development. The city manager, the

chairperson of the zoning board of adjustment, the director of public works and the president of the board of trustees of the Austin Independent School District shall serve as ex officio members. The members of said commission shall be appointed by the council for a term of up to two [(2)]years~~[, five (5) members to be appointed in every odd numbered year and four (4) members in every even numbered year]~~. The timing of appointments, as well as a process for removing commissioners prior to expiration of a term, shall be established by ordinance. The commission shall elect a chairperson from among its membership and shall meet not less than once each month. Vacancies in an unexpired term shall be filled by the council for the remainder of the term.

PART 7. If Proposition I is approved by the majority of voters voting at the election, the City Charter is amended to read as follows:

ARTICLE I. - INCORPORATION, FORM OF GOVERNMENT, POWERS.

§ 1. - INCORPORATION.

The inhabitants of the City of Austin, [~~Travis County,~~] Texas, within its corporate limits, as established by Chapter 90, page 634, Special Laws of Texas, 1909, 31st Legislature, and as extended by ordinances of the City of Austin enacted subsequent thereto, shall continue to be and are hereby constituted a body politic and corporate, in perpetuity, under the name the "City of Austin," hereinafter referred to as the "city," with such powers, privileges, rights, duties, and immunities as are herein provided.

§ 3. - GENERAL POWERS.

The city shall have all the powers granted to cities by the constitution [~~Constitution~~] and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers. The city may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or political subdivision thereof, or with the federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the city and its inhabitants; may acquire property within or without its corporate limits for any municipal purposes in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good

government, order, and peace of the city and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. In addition to the powers enumerated herein, and subject only to the limitations imposed by the state constitution, the state laws, and this Charter, the city shall have, without the necessity of its express enumeration in this Charter, each and every power which, by virtue of Article XI, Section 5, of the Constitution of Texas, the people of the city are empowered by election to grant to or confer upon the city by expressly and specifically granting and enumerating the same herein.

§ 4. - STREETS AND PUBLIC PROPERTY.

The city shall have exclusive dominion, control, and jurisdiction[,] in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the city, and in, upon, over, and under all public property of the city. With respect to each and every public street, sidewalk, alley, highway, public square, or other public way within the corporate limits of the city, the city shall have the power to establish, maintain, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

§ 5. - STREET DEVELOPMENT AND IMPROVEMENT.

The city shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the city by laying out, opening, narrowing, widening, straightening, extending and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvements. The city may make or cause to be made any one or more of the kinds or classes of development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement shall be paid by the city, or partly by the city and partly by assessments levied against the property abutting thereon and the owners thereof, and such assessments may be levied in any amounts and under any procedure now or hereafter permitted by state law.

If improvements be ordered constructed in any part of the area between and under rails, tracks, double-tracks, turnouts and switches, and two [~~2~~] feet on each

side thereof, of any railway[;] using, occupying, or crossing any such highway, portion or portions thereof, ordered improved, then the city council shall have power to assess the whole cost of improvements in such area against such railway, and shall have power, by ordinance, to levy a special tax upon such railway, and its road-bed, ties, rails, fixtures, rights and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except state, county, and city ad valorem taxes, and which may be enforced either by sale of said property in the manner provided by law for the collection of ad valorem taxes by the city, or by suit in any court having jurisdiction. The ordinance levying such tax shall prescribe the time, terms and conditions of payment thereof, and the rate of interest, not to exceed eight percent [(8%)] per annum, and same, if not paid when due, shall be collectible, together with interest, to expenses of collection and reasonable attorney's fees, if incurred. The city council shall have power to cause to be issued assignable certificates in evidence of any such assessments.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits, the city shall have the power and authority to proceed in accordance with Chapter 106, page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended,[;] to adopt plans and specifications pursuant thereto; to pay to the contractor, the successful bidder, in cash, that part of the cost which may be assessed against the abutting property and the owners thereof; to reimburse itself for the amount paid such contractor by levying assessments against the abutting property and the owners thereof, after the hearing and notice prescribed in the aforesaid statutes, in an amount permitted by said statutes and not in excess of the enhancement in value of such property occasioned by the improvements; and to issue assignable certificates in favor of the city for such assessments, said certificates to be enforceable in the manner prescribed by the aforesaid statutes. The city shall likewise have the power to make any such development, improvement or paving with its own forces if, in the opinion of the council, the work can be done more expeditiously or economically, and in such event the city shall have the power to reimburse itself for the cost of such improvement in the same amount and in the same manner as if the work had been performed by a successful bidding contractor.

§ 6. - ANNEXATION FOR ALL PURPOSES.

The city [City] council [Council] shall have the power by ordinance to fix the boundary limits of the City of Austin; and to provide for the alteration, reduction, and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the city, with or without the consent of the territory and inhabitants annexed. Before the city [City] may institute annexation or disannexation

proceedings, the city [City] council [Council] shall provide an opportunity for all interested persons to be heard at a public hearing. Prior notice of such hearings shall be published in accordance with state law in a newspaper having general circulation in the city [City] and in the territory proposed to be annexed. Upon the final passage of any such ordinance, the boundary limits of the city [City] shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Austin, and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions, and regulations of the city [City].

§ 7. - LIMITED PURPOSE ANNEXATION.

In addition to the power to annex additional territory for all purposes, the city [City] shall have the power, by ordinance, to fix, alter, and extend the corporate boundary limits of the city [City] for the limited purposes of planning, zoning, health, and safety and to annex for such limited purposes additional territory lying adjacent to the city [City], with or without the consent of the property owners or inhabitants of such annexed territory; provided, however, that no such territory which lies farther than five miles from the corporate boundary limits enclosing the territory which is a part of the city [City] for all purposes, as those corporate boundary limits are now or may hereafter be established, shall be annexed for any limited purpose or purposes. Whenever the boundary limits annexed for such limited purposes are not coterminous with the corporate boundary limits enclosing the territory which a part of the city [City] for all purposes, such boundary limits of the limited purpose territory shall be known as "Limited Purpose Boundary Limits." Every ordinance by which territory is to be annexed to the city [City] for limited purposes shall state clearly the limited purpose or purposes for which it is being annexed, and shall be published one time, in a newspaper of general circulation in the city [City] and in the form in which it is to be finally adopted, not less than 30[~~thirty~~(30)] days prior to its final passage.

When any additional territory has been annexed for said limited purpose or purposes, it shall be a part of the city for such limited purpose or purposes only. However, in dealing with the property and inhabitants thereof, the city [City] shall have every power which it otherwise possesses and which is reasonable and expedient for the accomplishment of the limited purpose or purposes for which such property is annexed, and the power of the city [City] to deal with the property and inhabitants of such limited purpose territory shall include the powers enumerated in the next two [(2)] succeeding sentences but shall not be limited or restricted thereto. With regard to territory annexed for the limited purpose of planning or zoning, the

city [City] shall have the power to control and regulate the use of property and the density of structures, to require compliance with reasonable zoning regulations, to control and regulate the subdivision of property and to control and regulate the construction of buildings. With regard to territory annexed for the limited purpose or purposes of health or safety, the city [City] shall have the power to adopt all reasonable regulations pertaining to health and safety and to require compliance with such regulations. Every inhabitant of territory annexed for limited purpose or purposes, who is otherwise qualified, shall be entitled to vote in city [City] elections on every issue where the question[s] is the election or recall of a city [City] council member or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the city [City] in connection with any ordinance, regulation, or action which is, or is alleged to be, applicable to him or her or his or her property because of such limited purpose annexation, but will not be eligible to run for any office in the City of Austin. The city [City] shall have no power to levy any tax for municipal purposes on either the property or [of] the inhabitants of territory annexed for limited purpose or purposes, and no funds of the city [City] shall be spent in such territory except where reasonable and expedient for the accomplishment of the limited purpose or purposes for which the territory is annexed; but the city [City] may collect reasonable charges from property owners and inhabitants of such territory for services rendered by the city [City] in the accomplishment of the limited purpose or purposes for which the territory is annexed.

ARTICLE II. - THE COUNCIL.

§ 3. - REDISTRICTING.

(A) For purposes of this section, the following terms are defined:

(4) PANEL means the Applicant Review Panel of three qualified, independent auditors that screens applicants for the commission [Commission].

(B) In 2013 and thereafter in each year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the commission [Commission] shall adjust the boundary lines of the 10 single-member districts in conformance with the standards and process set forth in this article. The commission [Commission] shall be fully established no later than July 1, 2013, and thereafter no later than March 1 in each year ending in the number (1). The commission [Commission] shall not draw district lines at any other time, except if the districts must be redrawn because of a judicial decision invalidating the then existing district

plan, in whole or in part, or the date of the city election is moved. If the date of the city election is moved, then the dates in this article shall be adjusted to ensure the commission has sufficient time to draw the lines prior to the election date.

(C) The commission shall:

- (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines;
- (2) draw district lines according to the redistricting criteria specified in this section; and
- (3) conduct themselves with integrity and fairness. This selection process is designed to produce a commission that is independent from influence by the city [~~City~~] council [~~Council~~] and is reasonably representative of this city's diversity.

(D) The commission shall consist of 14 members.

- (1) Each commission member shall be a voter who has been continuously registered in the City of Austin for five or more years immediately preceding the date of his or her appointment. Each commission member, except the student member described below, shall have voted in at least three of the last five City of Austin general elections immediately preceding his or her application. One commission member shall be a student duly enrolled in a community college or university in the City of Austin and who resides and is registered to vote in the City of Austin.
- (2) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission in the year following the year in which the national census is taken.
- (3) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action, including approval of a final plan establishing the boundaries of any council district.
- (4) Each commission member shall apply this section in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible, for a

period of 10 years beginning from the date of appointment, to hold elective public office for the City of Austin. A member of the commission shall be ineligible, for a period of three years beginning from the date of appointment, to hold appointive public office for the City of Austin, to serve as paid staff for, or as a paid consultant to, the City of Austin, the city [City] council [Council] or any member of the city [City] council [Council], or to receive a noncompetitively bid contract with the City of Austin. This three year ban on having a paid consultancy or entering noncompetitively bid contracts applies to the member individually and all entities for which the member is a controlling person.

- (E) The commission shall establish the boundaries of the council districts for the City of Austin in a plan using the following criteria as set forth in the following order of priority:
- (1) districts shall comply with the United States Constitution. Each council district shall have reasonably equal population with other districts, except where deviation is required to comply with the federal Voting Rights Act or is allowable by law.
 - (2) districts shall comply with the federal Voting Rights Act (52[42] U.S.C. Sec. 10101[1971] and following) and any other requirement of federal or state law.
 - (3) districts shall be geographically contiguous.
 - (4) the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subsections. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.
 - (5) to the extent practicable, district boundaries shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant populations.

- (6) to the extent practicable, district boundaries shall be drawn using the boundaries of existing election precincts.
 - (7) to the extent practicable, district boundaries shall be drawn using geographically identifiable boundaries.
- (G) By December 1, 2013, and thereafter by November 1 in each year ending in the number one [~~4~~], the commission shall adopt a final plan for the City of Austin specifically describing the district boundaries for each of the council districts prescribed above. Upon adoption, the commission shall certify the plan to the city [~~City~~] council [~~Council~~]. The city council may not change the plan. The plan shall have the force and effect of law.
- (1) The commission shall issue a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed above and shall include definitions of the terms and standards used in drawing the final plan.
 - (2) If the commission does not adopt a final plan by the dates in this section, the city attorney for the City of Austin shall immediately petition state court for an order prescribing the boundary lines of the single-member districts in accordance with the redistricting criteria and requirements set forth in this section [~~Section~~]. The plan prescribed by the court shall be used for all subsequent city council elections until a final plan is adopted by the commission to replace it.
- (H) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the city [~~City~~] council [~~Council~~] if it determines that funds or other resources provided for the operation of the commission are not adequate. The city [~~City~~] council [~~Council~~] shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the city attorney or other legal counsel retained by the commission at its discretion shall represent the commission in defense of a certified final map.
- (I) Commission Selection Process.
- (1) No later than December 1, 2012, and thereafter by June 1 in each year ending in the number zero, the City of Austin Auditor shall initiate and widely publicize an application process, open to all registered City of Austin voters who meet the requirements of subdivision 3(D)(1) above,

in a manner that promotes a large, diverse (by race, ethnicity, gender, and geography) and qualified ~~commissioner~~[~~Commissioner~~] applicant pool. The City Auditor shall take all reasonable and necessary steps to ensure that the pool has the requisite numbers, diversity, and qualifications. This process shall remain open until February 1, 2013, and thereafter until September 30 in each year ending in the number zero.

- (2) No later than December 1, 2012, and thereafter by June 1 in each year ending in the number zero, the City of Austin Auditor shall initiate and widely publicize an application process, open to all qualified independent auditors that reside in the City of Austin and who meet the requirements of subdivision 3(A)(5) above, in a manner that promotes a large pool of applicants and applicant diversity by race, ethnicity, gender, and geography. This process shall remain open until February 1, 2013 and thereafter until September 1 in each year ending in the number zero.
- (3) The City of Austin Auditor shall remove from the commissioner or independent auditor applicant pool any person with conflicts of interest including:
 - (a) Within the five years immediately preceding the date of application, either the applicant or their spouse, shall have done any of the following:
 - (i) been appointed to, elected to, or have been a candidate for state or city office.
 - (ii) served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective state, county or city office.
 - (iii) been a registered state or local lobbyist.
 - (iv) contributed or bundled \$1,000 or more in aggregate to candidates for City of Austin elective office in the last city election.
 - (b) A person who has been, within the three years immediately preceding the date of application: a paid employee of the City of Austin; person performing paid services under a professional or

political contract to the City of Austin; to the city [City] council [Council], or to any member of the city [City] council [Council]; any controlling person of any such consultant; or a spouse of any of the foregoing.

- (4) No later than February 15, 2013, and no later than October 1 in each year ending in the number zero, the City [~~of Austin~~] Auditor shall review the auditor review panel applicants and remove those who do not meet the prescribed qualifications in subdivision 3(A)(5) or have conflicts of interest as defined by subdivision 3(I)(3). No later than February 15, 2013, and no later than October 1 in each year ending in the number zero, the City [~~of Austin~~] Auditor shall at a public meeting randomly draw the names of three qualified independent auditors from a pool consisting of all qualified independent auditors, without conflicts of interest, that have applied to serve on the Applicant Review Panel. After the drawing, the City Auditor shall notify the three qualified independent auditors whose names have been drawn that they have been selected to serve on the panel. If any of the three qualified independent auditors declines to serve on the panel or is disqualified because of any conflict of interest prescribed above in subdivision 3(I)(2), the City [~~of Austin~~] Auditor shall resume the random drawing at a public meeting as soon as possible until three qualified independent auditors who meet the requirements of this section have agreed to serve on the panel.
- (5) No later than March 1, 2013, and thereafter no later than October 31 in each year ending in the number zero, the City [~~of Austin~~] Auditor shall have reviewed and removed individuals with conflicts of interest as defined in subdivision 3(I)(3), or who fail to meet the qualification prescribed in subdivision 3(D)(1), from among the commission applicants, and then shall publicize the names in the applicant pool and provide copies of their applications to the Applicant Review Panel.
- (6) No later than May 1, 2013, and thereafter by January 15 in each year ending in the number one, the Applicant Review Panel shall select a pool of 60 applicants from among the qualified applicants. These persons shall be the most qualified applicants on the basis of relevant analytical skills, ability to be impartial, residency in various parts of the city [City], and appreciation for the City of Austin's diverse demographics and geography. The members of the Applicant Review Panel shall not communicate directly or indirectly with any elected

member of the city [City] council [Council], or their representatives, about any matter related to the nomination process or any applicant prior to the presentation by the panel of the pool of recommended applicants to the city [City] council [Council].

- (7) No later than May 2, 2013, and by January 16 in each year ending in the number one thereafter, the Applicant Review Panel shall submit its pool of 60 recommended applicants to the city [City] council [Council]. Each member of the city [City] council [Council] within five days in writing may strike up to one applicant from the pool of applicants. No reason need be given for a strike. Any applicant struck by any member of the city [City] council [Council] must be removed from the pool of applicants. No later than May 8, 2013, and thereafter by January 22 in each year ending in one, the Applicant Review Panel shall submit the pool of remaining applicants to the City [~~of Austin~~] Auditor.
- (8) No later than May 9, 2013, and thereafter by January 23 in each year ending in the number one, the City [~~of Austin~~] Auditor shall randomly draw at a public meeting eight names from the remaining pool of applicants. These eight individuals shall serve on the commission[~~Citizens Redistricting Commission~~].
- (9) No later than June 30, 2013, and thereafter by February 28 in each year ending in the number one, the eight commissioners shall review the remaining names in the pool of applicants and, from the remaining applicants in that pool, shall appoint six applicants to the commission. These six appointees must be approved by at least five affirmative votes among the eight commissioners. These six appointees shall be chosen to ensure that the commission reflects the diversity of the City of Austin, including, but not limited to, racial, ethnic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial. As for geographic diversity, for the first redistricting in 2013, the eight commissioners shall appoint the remaining six members to ensure geographic diversity and that at least three commissioners come from each of the four existing Travis County Commissioners precincts[~~districts~~], to the extent feasible with the remaining six open seats. As for the redistricting in each year ending in the number one thereafter, the eight commissioners shall ensure that at least one commission member

resides in each of the then current council districts, to the extent feasible with the remaining six open seats.

- (10) Once constituted, the commission shall conduct hearings and adopt a plan for the boundaries of the city's council districts as required by the Charter~~[charter]~~ of the City of Austin.
- (J) Citizens Redistricting Commission Vacancy, Removal, Resignation, or Absence.
 - (1) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission, having been served written notice and provided with an opportunity for a response, may be removed by a vote of 10 of the commissioners~~[Commissioners]~~.
 - (2) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions shall be filled by the commission~~[Commission]~~ within 15 days after the vacancy occurs, from the remaining pool of applicants and in compliance with the applicant requirements of subdivision 3(I)(8). Nine members must agree to any appointment.
- (K) The activities of the commission~~[Citizens Redistricting Commission]~~ are subject to all of the following:
 - (1) the commission shall comply with all state and city requirements for open meetings.
 - (2) the records of the commission and all data considered by the commission are public records that will be made available in a manner that ensures immediate and widespread public access.
 - (3) commission members and commission staff may not communicate with, or receive communications about, redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, commission staff (which shall exclude staff of any council members), legal counsel, and consultants retained by the commission that is otherwise permitted by state and city open meeting requirements.

- (4) the commission shall select one of its members to serve as the chair and one to serve as vice chair. The chair and vice chair shall remain voting members of the commission.
- (5) the commission shall hire commission staff, legal counsel, and consultants as needed; provided, however, that compensation of such persons shall be limited to the period in which the commission is active. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in subdivision 3(I)(3) to the hiring of staff, legal counsel, and consultants. The commission shall require that at least one of the legal counsel hired by the commission has demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (52[42] U.S.C. Sec. 10101[1971] and following). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes.
- (6) notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of such employee's membership on the commission or attendance or scheduled attendance at any meeting of the commission.
- (7) the commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through an extensive outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall begin with hearings to receive public input before the commission votes and approves a preliminary redistricting plan. In 2013, there shall be at least two such public hearings, before the commission votes on a preliminary plan, in each of the four Travis County Commissioner p[P]recincts, and in each year ending in the number one thereafter, there shall be at least one such public hearing, before the commission votes on a preliminary redistricting plan in each of the then existing 10 council districts. In addition, these hearings shall be supplemented with all other appropriate activities to further increase opportunities for the public to observe and participate in the review process.

Following the commission's vote approving the preliminary plan, there shall be at least four public hearings, geographically dispersed, with at least one hearing in each of the four Travis County Commissioners' precincts, and each hearing shall be held on a different date. The commission also shall display the approved preliminary plan for written public comment in a manner designed to achieve the widest public access reasonably possible. Written public comment shall be taken for at least 14 days from the date of public display of the approved preliminary plan. The commission then shall vote on a proposed final plan and then it shall hold two subsequent public hearings, one north of Lady Bird Lake and one south of Lady Bird Lake and take at least five days of written public comments. The commission~~[Commission]~~ then shall be finished with all hearings and adopt a final plan by no later than December 1, 2013, and thereafter by November 1 in each year ending in the number one.

- (8) members of the commission shall not be compensated for their service. Members of the panel and the commission are eligible for reimbursement of reasonable and necessary personal expenses incurred in connection with the duties performed pursuant to this act.
- (9) the city ~~[City]~~ council ~~[Council]~~ shall appropriate sufficient funds to meet the operational cost of the commission and the cost of any outreach program to solicit broad public participation in the redistricting process.
- (10) the commission shall remain inactive except when necessary to comply with its duties under this ordinance and the Charter~~[charter]~~ of the City of Austin.

§ 4. - REPEALED~~[TRANSITION]~~.

- ~~[(A) This section provides for a transition from the seven-member council elected at large to the 11 member council provided by this article. Except as provided in this section, and after the transition as prescribed in this section, the mayor and council members shall serve three-year terms.]~~
- ~~[(B) The three council members elected at large in May 2011 shall serve three-year terms. The mayor and three council members elected at large in the May 2012 general election shall serve two-year terms.]~~

- ~~(C) A general election shall be held for the council in May 2014, at which the mayor and the 10 council members elected from council districts shall be elected.~~
- ~~(D) As soon as practicable after assuming office after the May 2014 general election, the City Clerk shall divide at a public hearing the council members elected from council districts into two classes by drawing lots. Class One shall consist of five council members who shall serve initial two year terms. Class Two shall consist of five council members who shall serve three year terms.~~
- ~~(E) At the May 2016 general election, the five Class One council members elected by districts will be elected for three year terms.~~
- ~~(F) At the May 2017 general election, the Mayor and five Class Two council members elected by districts will be elected for three year terms, marking the end of the transition period.]~~

§ 5. - TERM LIMITS.

- (A) Except as provided in subsection[Subsection] (C), a person may not be elected to, or serve in the office of mayor[Mayor], for more than two consecutive terms, and a person who has held the office of mayor[Mayor] for more than two years of a term to which some other person was elected mayor[Mayor] may not be elected to the office of mayor[Mayor] more than once in succession.
- (B) Except as provided in subsection[Subsection] (C), a person may not [shall] be elected to, or serve on, the city [City] council [Council] in a position other than mayor[Mayor] for more than two consecutive terms, and a person who has held a position other than mayor[Mayor] for more than two years of a term to which some other person was elected to the position may not be elected to a position other than mayor[Mayor] more than once in succession.
- (C) A person subject to a term limit with respect to an office may become a candidate for the office and serve if elected, if the person's application to be a candidate for the office is accompanied by a petition requesting that the person be authorized to be a candidate and the petition is signed by at least five percent of the qualified voters of the territory from which the office is elected.

§ 6. - VACANCIES.

Where a vacancy in any place on the council shall occur, the vacant place shall be filled by a special election, and, where necessary, by a run-off election, in the same manner as provided in this Charter for the regular election of a council member. Such special election shall be held on the next available state uniform election date following the creation of the vacancy, and the run-off election shall be held according to state law following the preceding election; provided, however, that where a vacancy shall occur within [~~ninety~~ (90)] days of a regular election, no special election to fill the vacancy shall be called, unless more than one vacancy occurs.

§ 10. - MAYOR AND MAYOR PRO TEM.

The council member elected to and occupying the place designated "mayor" shall be the mayor of the City of Austin. At its first meeting following each regular election of council members, the council shall, by election, designate one of its number as mayor pro tem, who shall serve in such capacity at [~~during~~] the pleasure of the council. The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for military purposes, but he or she shall have no regular administrative duties. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council, but shall have no veto power. The mayor pro tem shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if present.

§ 12. - MEETINGS OF THE COUNCIL.

The council shall meet in regular session at the City Hall at least once each week at such time as may be prescribed by ordinance, unless otherwise ordered by the council for reasons to be documented in [~~spread upon~~] the minutes. Special meetings of the council shall be called by the city clerk upon written request of the mayor or two [(2)] members of the council. All meetings shall be open to the public except as may be authorized by the laws of the State of Texas.

§ 14. - PROCEDURE TO ENACT LEGISLATION.

The council shall legislate by ordinance only, and the enacting clause of every ordinance shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN." Before any ordinance shall be adopted, the city attorney shall approve such ordinance in writing or shall file with the city clerk his or her written legal

objections thereto. Every ordinance enacted by the council shall be signed by the mayor, mayor pro tem, or by two council members, and shall be filed with and recorded by the city clerk before the same shall become effective. Unless otherwise provided by law or this Charter, no ordinance shall become effective until the expiration of 10 days following the date of its final passage, except where an ordinance relating to the immediate preservation of the public peace, health or safety, is adopted as an emergency measure by the favorable votes of at least two-thirds of the council members and contains a statement of the nature of the emergency.

§ 16. - CODE OF ORDINANCES.

Within six ~~[(6)]~~ months after the effective date of this section, the council shall cause all general ordinances of the city to be compiled and printed in code form. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. Every general ordinance enacted subsequent to the original codification required above shall be enacted as an amendment to the code. After the original codification, the council shall have the power to cause all general ordinances to be recodified and reprinted whenever in its discretion such is deemed desirable, and it shall be mandatory upon the council to cause all general ordinances to be recodified and reprinted before the expiration of any 10~~[ten (10)]~~ consecutive years following the last preceding codification or recodification. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper.

ARTICLE III. - ELECTIONS.

§ 2. - ELECTION DATE; COUNCIL TERMS; ELECTION BY MAJORITY AND RUN-OFF ELECTIONS.

(A) The c[~~E~~]ity's general election shall be held on the November uniform election date authorized by state law in even-numbered years. Notwithstanding any other provision of this Charter, the regular term of the mayor and council members is four years. Council terms shall be staggered so that a general election is held every two years, and half, or as near to half as is practical, of the council is elected at each election.

~~[(1) The council shall provide by ordinance for the transition from three-year terms to four-year terms and for staggering the terms of council members. The ordinance may provide for drawing lots for initial terms~~

~~or temporarily lengthening or shortening individual council member's terms to accomplish the transition. If a council member's term is shortened by more than a year, for the purpose of the transition, that shortened term does not count as a term for the purpose of Article II Section 5 of this Charter. When this paragraph has served its purpose, it expires, and need not be reprinted in future versions of the Charter.]~~

- (C) The regular term of a council member begins on the date set by ordinance. A council member may qualify for office on that date or as soon thereafter as practicable. In the case of a special election to fill an unexpired term, the person elected may qualify and assume office as soon as practicable after the canvass of the election.

§ 3. - REGULATION OF ELECTIONS.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the council for the conduct of elections. ~~The~~[Provided that the] council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

§ 4. - FILING OF CANDIDATES.

Any qualified person who desires to become a candidate for election to a place on the council shall file with the city clerk, at least ~~45~~[forty five (45)] days prior to the election day, an application for his or her name to appear on the ballot. Such application shall be accompanied by a filing fee of ~~\$500.00~~[five hundred dollars (\$500.00)]. ~~Such~~ [If the petition is sufficient to satisfy statutory requirements, the] filing fee may be reduced by ~~\$1.00~~[one dollar (\$1.00)] per signature for each registered voter who signs a petition requesting that the name of the candidate be placed on the ballot, if such petition is sufficient to satisfy statutory requirements. In case of a district position, the petition shall be signed by registered voters residing in the particular district. Such application shall clearly designate by number the place on the council to which the candidate seeks election and shall contain a sworn statement by the candidate that he or she is fully qualified under the laws of Texas and the provisions of this Charter to hold the office he or she seeks.

§ 6. - CANVASSING ELECTION AND DECLARING RESULTS.

The returns of every municipal election shall be delivered by the election judges to the city clerk not later than ~~12~~[twelve (12)] hours after the closing of the polls. The council shall canvass the returns and declare the official results of the

election in accordance with state law. The returns of every municipal election shall be recorded in the minutes of the council, by precinct totals for each candidate.

§ 8. - LIMITS ON CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.

(A) Limits On Contributions To Candidates.

- (1) No candidate for mayor[~~Mayor~~] or city [~~City~~] council [~~Council~~] and his or her campaign committee shall accept campaign contributions in excess of \$300 per contributor per election from any person, except for the candidate and small-donor political committees. 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 \$50.00.
- (2) Each candidate may authorize, establish, administer, or control only one campaign committee at one time.
- (3) No candidate and his or her committee shall accept an aggregate contribution total of more than \$30,000 per election, and \$20,000 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.

(B) Small-Donor Political Committees.

- (1) A small-donor political committee is a political committee which has accepted no more than \$25 from any contributor during any calendar year, has had at least 100 contributors during either the current or previous calendar year, has been in existence for at least six months, and has never been controlled by a candidate.

- (2) Such a committee shall not contribute more than \$1000 per candidate per election for the offices of mayor[~~Mayor~~] and city [~~City~~] council [~~Council~~].

(F) Time Restrictions On Candidate Fundraising; Officeholder Accounts.

- (1) In this section terms have the same meaning as they have in Title 15 of the Texas Election Code. The term "officeholder account" means an account in which funds described by subsection (F)(4) must be kept. "Officeholder" means the mayor or a council member.
- (2) An officeholder, a candidate for mayor or city council, or an officeholder's or candidate's committee, may not solicit or accept a political contribution except during the last 180 days before an election for mayor or council member or in which an officeholder faces recall.
- (3) Except as provided by subsection (F)(6), no later than the 90th day after an election, or if a candidate is in a runoff election no later than the 90th day after the runoff, a candidate or officeholder shall distribute the balance of funds received from political contributions in excess of any remaining expenses for the election:
 - (a) to the candidate's or officeholder's contributors on a reasonable basis,
 - (b) to a charitable organization, or
 - (c) to the Austin Fair Campaign Fund.
- (4) An unsuccessful candidate who, after an election, has unpaid expenses remaining, or who has unreimbursed campaign expenditures from personal funds that were made with the intent to seek reimbursement from political contributions, may solicit and accept political contributions after the election until the unpaid expenses are paid and the unreimbursed expenditures are reimbursed.
- (5) An officeholder who, after an election, has unpaid expenses remaining, or who has unreimbursed campaign expenditures from personal funds that were made with the intent to seek reimbursement from political contributions, may solicit and accept political contributions after leaving office until the unpaid expenses are paid and the unreimbursed expenditures are reimbursed. An officeholder may also pay the unpaid

expenses and reimburse the unreimbursed expenditures from political contributions received during a subsequent campaign.

- (6) An officeholder may retain up to \$20,000 of funds received from political contributions for the purposes of officeholder expenditures.
 - (7) An officeholder shall keep funds retained under subsection (F)(6) in an account separate from any other funds including personal funds of the officeholder and any other political funds of the officeholder. The funds kept in an officeholder account may be used only for officeholder expenditures. The funds kept in an officeholder account may not be used for campaign expenditures. The funds kept in an officeholder account may not exceed \$20,000.00 at any time.
 - (8) When an officeholder leaves the council~~[Council]~~, the funds remaining in an officeholder account must be paid to the Austin Fair Campaign Fund.
- (G) Applicability To Council M~~[m]~~embers. Any incumbent mayor or council member is subject to the regulations applied to candidates for the office he or she holds.
- (I) Enforcement. The city council may by ordinance adopt penalties and enforcement procedures for violations of this article~~[Article]~~.

ARTICLE IV. - INITIATIVE, REFERENDUM, AND RECALL.

§ 2. - POWER OF REFERENDUM.

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~~[five (5)]~~ or more of the council members. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by 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.

§ 3. - FORM AND VALIDATION OF A PETITION.

A petition under section~~[Section]~~ 1 or section~~[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.

§ 4. - COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council shall either:

- (a) Pass the initiated ordinance without amendment within 10~~(ten)~~ ~~(10)~~ days after the date of the certification to the council; or
- (b) Order an election and submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a regular or special election to be held on the next allowable election date authorized by state law after the certification to the council.

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. Special elections on initiated or referred ordinances shall not be held more frequently than once each six ~~[(6)]~~ 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 ~~[(2)]~~ years from the date of such election.

§ 5. - BALLOT FORM AND RESULTS OF ELECTION.

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 ~~[(2)]~~ 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.

§ 6. - POWER OF RECALL.

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.

§ 7. - RECALL ELECTION.

Within 20 days after a recall petition is filed, the city clerk shall examine the same. The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient and the council member whose removal is sought does not resign within five days after the certification to the council, the council shall order and hold a recall election in the territory from which the council member is elected on the first authorized election date that allows sufficient time to comply with other requirements of law.

§ 8. - RECALL BALLOT.

Ballots used at recall elections shall conform to the following requirements:

- (1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of council member[Councilmember]) be removed from the office of city[City] council member[Councilmember]?"
- (2) Immediately below each such question there shall be printed the two [(2)] following propositions, one above the other, in the order indicated:
"For the recall of (name of council member[Councilmember])."
"Against the recall of (name of council member[Councilmember])."

§ 9. - RESULTS OF RECALL ELECTION.

If a majority of the votes cast at a recall election shall be against removal of the council_member named on the ballot, he or she shall continue in office. If the majority of the votes cast at such election be for the removal of the council_member named on the ballot, the council shall immediately declare his or her office vacant, and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A council_member thus removed shall not be a candidate to succeed himself or herself in an election called to fill the vacancy thereby created.

§ 10. - LIMITATION ON RECALL.

No recall petition shall be filed against a council_member within six [~~(6)~~] months after he or she takes office, and no council_member shall be subject to more than one recall election during a term of office.

ARTICLE V. - ADMINISTRATIVE ORGANIZATION.

§ 1. - THE CITY MANAGER.

The council shall appoint a city manager who shall be the chief administrative and executive officer of the city. He or she shall be chosen by the council solely on the basis of his or her executive and administrative training, experience, and ability, and need not, when appointed, be a resident of the City of Austin; however, during the tenure of his or her office, he or she shall reside within the city.

The city manager shall not be appointed for a definite term, but may be removed at the will and pleasure of the council by a majority vote of the entire membership of the council. If removed after serving six [~~(6)~~] months, he or she may demand written charges and the right to be heard thereon at a public meeting of the council prior to the date on which his or her final removal shall take place. Pending such hearing, the council may suspend him or her from office. The action of the council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the council. The city manager shall receive such compensation as may be fixed by the council.

No member of the council shall, during the time for which he or she is elected or for two [~~(2)~~] years thereafter, be chosen as city manager.

§ 4. - DIRECTORS OF DEPARTMENTS.

At the head of each department there shall be a director who shall be appointed, and who may be removed, by the city manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. Two [~~(2)~~] or more departments may be headed by the same individual, and the city manager may head one or more departments.

§ 5. - DEPARTMENTAL ORGANIZATION.

The work of each department shall be distributed among such divisions as may be established by ordinance; provided[~~—Provided~~], however, that no departmental division shall be made until the city manager shall have been heard and have made his or her recommendations with respect thereto. Pending passage of ordinances establishing departmental divisions, the manager may establish temporary divisions in any department.

§ 6. - CITY ATTORNEY.

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 [~~(5)~~] 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.

ARTICLE VI. - MUNICIPAL COURT.

§ 2. - JUDGE OF THE MUNICIPAL COURT.

The municipal court shall be presided over by a magistrate who shall be known as the judge of the municipal court. He or she shall be appointed by the council for a four-year term beginning on January first of even numbered years. He or she shall be removed only for cause or disability as defined in the Texas[~~State~~] Constitution. He or she shall have been admitted to practice law in the State of Texas

for not less than two [(2)] years and shall have resided in the city for a period of not less than two [(2)] years immediately preceding his or her appointment.

In the event the judge of the municipal court is unable to act for any reason, the council shall appoint an attorney possessing the qualifications required above to act in his or her place. The judge, or anyone acting in his or her place, shall receive such compensation as may be set by the council.

The council shall have the power to create and establish additional municipal courts, and to appoint more than one judge of each municipal court, whether one or more, each of whom shall be a magistrate and shall have the qualifications and serve the term of office prescribed in the first paragraph of this section.

If any judge of a municipal court announces candidacy, or in fact becomes a candidate, in any general, special, or primary election, for any elective public office, at a time when the unexpired term of the judge's office exceeds one year, the judge's announcement or candidacy is an automatic resignation of the office of municipal judge.

§ 3. - CLERK OF THE MUNICIPAL COURT.

There shall be a clerk of the municipal court who shall be appointed by, and who shall serve at the pleasure of, the council. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process ~~for~~ such court and conducting the business thereof.

There shall be such deputy clerks of the municipal court as may be authorized by the council, who shall have authority to act for and on behalf of the clerk of the municipal court, and who shall be appointed by the clerk of the municipal court.

ARTICLE VII. - FINANCE.

§ 2. - DIRECTOR OF FINANCE — POWERS AND DUTIES.

The director of finance shall administer all financial affairs of the city, other than the assessment and collection of taxes. He or she shall have authority and be required to:

- (1) Maintain a general accounting system for the city government and exercise financial control over all offices, departments, and agencies thereof;

- (2) Certify as to the availability of funds for all proposed expenditures. Unless the Director of Finance shall certify that there is an unencumbered balance in the appropriation and funds available, no appropriation shall be encumbered, and no expenditure shall be made;
- (3) Submit to the council, through the city manager, a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;
- (4) Prepare, as of the end of the fiscal year, a complete financial statement and report.

§ 3. - FISCAL YEAR.

The fiscal year of the city which began on January 1, 1953, shall end on December 31, 1953. The next succeeding fiscal year shall begin on January 1, 1954, and end on September 30, 1954, and shall constitute an interim fiscal period. After September 30, 1954, the fiscal year of the city shall begin on the first day of October and end on the last day of September of each calendar year. The fiscal year established by this section shall also constitute the budget and accounting year. As used herein, the term "budget year" shall mean the fiscal year for which any budget is adopted and in which it is administered. All funds collected by the city during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the city, shall be applied to the payment of expenses incurred during such fiscal year. Any revenues uncollected at the end of any fiscal year shall become resources of the next succeeding fiscal year.

§ 6. - BUDGET PREPARATION AND ADOPTION.

At least 30~~[thirty (30)]~~ days prior to the beginning of each budget year, the city manager shall submit to the council a proposed budget in the form required by this Charter. At the meeting of the council at which the budget is submitted, the council shall order a public hearing on the budget and shall cause to be published, at least 10~~[ten (10)]~~ days prior to the date of such hearing, the time and place thereof. At the time and place so advertised the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Upon final adoption the budget shall be in effect for the budget year, and copies thereof shall be filed with the city clerk, the county~~[County]~~ clerk~~[Clerk]~~ of Travis County, and the state comptroller of public

accounts. The final budget shall be reproduced and sufficient copies shall be made available for use of all offices, departments, and agencies of the city, and for the use of interested persons.

§ 7. - WORK PROGRAMS AND ALLOTMENTS.

At the beginning of each fiscal year the head of each department or agency of the city government, upon the direction of the city manager, shall submit to the department of finance a work program for the year. Said work program shall include all appropriations for operation, maintenance, and capital outlays and shall indicate the requested allotments of such appropriations by months for the entire fiscal year. The city manager shall review the requested allotments, and, after such alteration or revision as he may deem necessary, authorize such for expenditure. Thereafter the department of finance shall authorize all expenditures for departments and agencies to be made from the appropriations on the basis of the approved allotments and not otherwise. The approved allotments may be revised during the fiscal year by the city manager, or upon application by the head of any department or agency and approval by the city manager, but in no event shall the aggregate of departmental or agency allotments exceed the appropriation available to such departments or agencies for the fiscal year. If, at any time during the fiscal year, the city manager shall ascertain that available revenues will be less than total appropriations for the year, he or she shall reconsider the work program and allotments of the departments and agencies and revise them so as to prevent the making of expenditures in excess of available revenues.

§ 12. - REVENUE BONDS FOR CONSERVATION.

In order to conserve the energy-producing resources, water resources, and wastewater treatment facilities of the city and, therefore, to save money of the city, the city shall have power to borrow money for the purpose of providing conservation facilities, including facilities to be owned or operated by persons other than the city, and to issue revenue bonds, notes or other obligation in evidence of such borrowing. Such bonds shall be a charge upon and payable solely from the public utilities referred to in the first paragraph of [this] Section 11 and the income therefrom, and shall never be a debt of the city. All revenue bonds or obligations shall be issued in accordance with applicable laws of the State of Texas. The council shall have the authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the providing of any such resource conservation facilities.

§ 15. - PURCHASE PROCEDURE.

All purchases made and contracts executed by the city shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be binding upon the city unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition unless exempted by state statute. The city manager shall have the authority to contract for expenditures without further approval of the council for an expenditure that does not exceed forty-three thousand dollars annually. A contract or an amendment to a contract, involving an expenditure of more than forty-three thousand dollars annually must be expressly approved by the council. All contracts or purchases involving more than \$5,000.00~~[five thousand dollars (\$5,000.00)]~~ shall be let to the bid deemed most advantageous to the city after there has been an opportunity for competitive bidding; provided, however, that the council shall have the right to reject any and all bids. Contracts for personal or professional services shall not be let on competitive bids and each such contract, or amendment to a contract, involving more than forty-three thousand dollars annually shall be approved by the council. The city manager may not contract for personal or professional services under the manager's authority if the manager knows or reasonably should know that the contractor's full scope of work will exceed the limit of the manager's authority. The amount of the forty-three thousand dollar annual limitation 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 4, 2002, shall be used as a base of 100 and the adjustment thereafter will be to the nearest \$1,000.00~~[one thousand dollars (\$1,000.00)]~~.

ARTICLE IX. - PERSONNEL.

§ 1. - CLASSIFIED CIVIL SERVICE.

- (B) There is hereby established a classified civil service in which all employment and promotions shall be made on the basis of merit and fitness. The civil service shall include all appointive offices and employments in the administrative service and in other agencies and offices of the city~~[City]~~, except the following:

- (1) members of the city council and their direct staff;
- (2) persons who are appointed or elected by the city council pursuant to this Charter;
- (3) the city manager and assistant city managers;
- (4) department directors and assistant department directors;
- (5) the city attorney and all assistant city attorneys;
- (6) temporary and seasonal employees; and
- (7) employees covered by a state civil service statute.

§ 2. - MUNICIPAL CIVIL SERVICE COMMISSION.

- (C) Each commissioner must be a qualified voter of the city[City] who does not, during the commissioner's term, hold or become a candidate for any other public office of the city[City] or of the State of Texas.
- (G) The commission shall:
- (1) hear appeals and make final, binding decisions in the case of any municipal civil service employee or appointee who is discharged, suspended, demoted, denied a promotion, or put on disciplinary probation;
 - (2) recommend the adoption of civil service rules and perform services under the civil service rules as provided in this section;
 - (3) conduct any investigations it may consider desirable or which it may be required to make by the city council or the city manager concerning the administration of municipal civil service, and report its findings and recommendations to the city [City] council [Council];
 - (4) perform other duties regarding the municipal civil service, not inconsistent with this article, that the city [City] council [Council] may require;
 - (5) issue subpoenas and subpoenas duces tecum to witnesses, whether at the request of interested parties or on its own motion, when reasonably necessary to obtain pertinent evidence at a hearing or investigation; and

- (6) administer oaths to witnesses appearing at a hearing or investigation.

§ 5. – EMPLOYEES' RETIREMENT SYSTEM.

There shall be a retirement system for the employees of the city which shall be known as the employees' retirement system of the City of Austin. After the first six [(6)] months of employment, all municipal employees except the mayor, members of the council, members of boards and commissions, employees of the fire department, and part-time or temporary employees, shall become members of such system. Such system shall be governed by a board of directors composed of such members and selected in such a manner as may be provided by ordinance of the council, provided that classified employees shall have representation on the board. Such system shall be financed by a retirement fund created by contributions of the members and of the city, and the contributions by the city shall always be equal to or greater than the contributions of the members. The benefits payable to any member upon retirement shall be based upon the amount of contributions made on behalf of such member, and shall be determined on an actuarial basis. Upon separation of any member from the service of the city before retirement, such member shall be entitled to receive only the amount of his or her contributions to the fund and interest thereon.

Establishment of the employees' retirement system shall not preclude the council from merging such system with, or adopting, any voluntary statewide or national retirement system where the general benefits of such merger or change are at least equal to those under the employees' retirement system. The council shall likewise not be precluded from consolidating any retirement system maintained by employees of the fire department with the employees' retirement system of the City of Austin under terms agreeable to both systems.

§ 6. - COUNCIL APPOINTEES.

(A) Notwithstanding any other provision of this Charter:

- (1) each member of the city [City] council [Council] may hire assistants and other office staff as may be necessary to carry out the duties and responsibilities of the city council, and as may be authorized by ordinance;
- (2) each of the salaried city employees that this Charter provides be appointed by the city [City] council [Council] shall hire and manage the appointee's own staff as may be authorized by ordinance;

- (3) the city [City] council [Council] may by ordinance provide for the adoption of the personnel policies for the employees subject to this section.
- (B) If an officer or employee who is appointed by the city council under this charter, other than a judge of a municipal court, announces candidacy, or in fact becomes a candidate, in any general, special, or primary election, for any elective public office, the officer's or employee's announcement or candidacy is an automatic resignation of the office or employment.

ARTICLE X. - PLANNING.

§ 4. - THE PLANNING COMMISSION — POWERS AND DUTIES.

The planning commission shall:

- (1) Review and make recommendations to the council regarding the adoption and implementation of a comprehensive plan (as defined by section[~~Section~~] 5 of this article) or element or portion thereof prepared under authorization of the city council and under the direction of the city manager and responsible city planning staff;
- (2) After a comprehensive plan or element or portion thereof has been adopted in conformity with this article:
 - (a) Review and make recommendation to the council on all amendments to the comprehensive plan or element or portion thereof;
 - (b) Review and make recommendations to the council on all proposals to adopt or amend land development regulations for the purpose of establishing the relationship of such proposal to, and its consistency with, the adopted comprehensive plan or element or portion thereof. For purposes of this article and subsection, "land development regulations" includes zoning, subdivision, building and construction, environmental, and other police power regulations controlling, regulating, or affecting the use or development of land;
- (3) Pursuant to ordinances adopted by the council, exercise control over platting and subdividing land within the corporate limits and the extraterritorial jurisdiction of the city to insure the consistency of any

such plats or subdivision with the adopted comprehensive plan or element or portion thereof;

- (4) Submit annually to the city manager, not less than ~~90~~^{ninety (90)} days prior to the beginning of the budget year, a list of recommended capital improvements, which in the opinion of the commission are necessary or desirable to implement the adopted comprehensive plan or element or portion thereof during the forthcoming five-year period;
- (5) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend annually to the council any changes in or amendments to the comprehensive plan as may be desired or required;
- (6) Prepare periodic evaluation and appraisal reports on the comprehensive plan, which shall be sent to the council at least once every five ~~(5)~~ years after the adoption of the comprehensive plan or element or portion thereof;
- (7) Require information from the city manager relative to its work;

The commission shall be responsible to and act as an advisory body to the council and shall perform such additional duties and exercise such additional powers as may be prescribed by ordinance of the council not inconsistent with the provisions of this Charter.

§ 5. - THE COMPREHENSIVE PLAN.

The council shall adopt by ordinance a comprehensive plan, which shall constitute the master and general plan. The comprehensive plan shall contain the council's policies for growth, development, and beautification of the land within the corporate limits and the extraterritorial jurisdiction of the city, or for geographic portions thereof including neighborhood, community or areawide plans. The comprehensive plan shall include the following elements: (1) a future land use element; (2) a traffic circulation and mass transit element; (3) a wastewater, solid waste, drainage and potable water element; (4) a conservation and environmental resources element; (5) a recreation and open space element; (6) a housing element; (7) a public services and facilities element, which shall include but not be limited to a capital improvement program; (8) a public buildings and related facilities element; (9) an economic element for commercial and industrial development and redevelopment; and (10) health and human service element.

The council may also adopt by ordinance other elements as are necessary or desirable to establish and implement policies for growth, development, and beautification within the city, its extraterritorial jurisdiction, or for geographic portions thereof, including neighborhood, community, or areawide plans. The council shall provide for financing of all elements contained in the comprehensive plan in accordance with law.

The several elements of the comprehensive plan shall be coordinated and be internally consistent. Each element shall include policy recommendations for its implementation and shall be implemented, in part, by the adoption and enforcement of appropriate land development regulations.

The planning commission shall forward the proposed comprehensive plan or element or portion thereof to the city manager, who shall thereupon submit such plan, or element or portion thereof, to the council with recommendations thereon.

The council may adopt, or adopt with changes or amendments, the proposed comprehensive plan or element or portion thereof, after at least one public hearing. The council shall act on such plan, element or portion thereof, within 60[sixty-(60)] days following its submission by the city manager. If such plan or element or portion thereof is not adopted by the council, it shall, with policy direction, return such plan or element thereof the planning commission, which may modify such plan or element or portion thereof, and again forward it to the city manager for submission in like manner to the council. Furthermore, all amendments to the comprehensive plan or element or portion thereof recommended by the planning commission shall be forwarded to the city manager and shall be subject to review and adoption in the same manner as for the original adoption of the comprehensive plan as set forth above.

§ 6. - LEGAL EFFECT OF COMPREHENSIVE PLAN.

Upon adoption of a comprehensive plan or element or portion thereof by the city council, all land development regulations including zoning and map, subdivision regulations, roadway plan, all public improvements, public facilities, public utilities projects, and all city regulatory actions relating to land use, subdivision and development approval shall be consistent with the comprehensive plan, element or portion thereof as adopted. For purposes of clarity, consistency, and facilitation of comprehensive planning and land development process, the various types of local regulations or laws concerning the development of land may be combined in their totality in a single ordinance known as the Land Development Code of the City of Austin.

§ 7. - LEGAL EFFECT OF PRIOR COMPREHENSIVE PLAN.

Any comprehensive plan or element or portion thereof adopted pursuant to the authority of Article X of this Charter or other law, but prior to the effective date of this amendment, shall continue to have such force and effect as it had at the date of its adoption and until appropriate action is taken to adopt a new comprehensive plan or element or portion thereof as required and authorized by this amendment.

ARTICLE XI. - FRANCHISES AND PUBLIC UTILITIES.

§ 1. - INALIENABILITY OF PUBLIC PROPERTY.

The right of control and use of the public streets, highways, sidewalk, alleys, parks, public squares, and public places of the city is hereby declared to be inalienable by the city, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the council or any officer or agent of the city shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise, or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property.

§ 2. - POWER TO GRANT FRANCHISE.

The council shall have the power by ordinance to grant, renew, and extend all franchises of all service providers placing or installing facilities or equipment in, on or over the city[City] rights of way and of all public utilities of every character operating within the city, and, with consent of the franchise holder, to amend the same; provided[~~Provided~~], however, that no franchise shall be granted for a term of more than 25[~~twenty five (25)~~] years, and that no franchise shall be granted, renewed, extended, or amended, except on condition that the city shall have the right at any time within five [~~(5)~~] years of the expiration of the term thereof to purchase the property of the franchise holder at a price to be determined according to the method agreed upon in the ordinance granting, renewing, extending, or amending the franchise.

§ 3. - ORDINANCE GRANTING FRANCHISE.

Every ordinance granting, renewing, extending, or amending a franchise shall be read at three [~~(3)~~] regular meetings of the council, and shall not be finally acted upon until 30[~~thirty (30)~~] days after the first reading thereof. Within five [~~(5)~~] days following each of the three [~~(3)~~] readings of the ordinance, the full text thereof shall be published one time in some newspaper of general circulation in the city, and the expense of such publication shall be borne by the prospective franchise holder. No

such ordinance shall become effective until the expiration of 60~~sixty (60)~~ days following the date of its final adoption by the council, and every such ordinance shall be subject to the referendum procedure provided by state law.

§ 6. - REGULATION OF RATES.

The council shall have full power after notice and hearing to regulate by ordinance the rates, charges, and fares of every franchise holder operating in the city to the fullest extent allowed by state and federal law; provided, however, ~~[-Provided]~~ that no such ordinance shall be passed as an emergency measure. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the council until such franchise holder has filed a motion for rehearing with the council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the council, and until the council shall have acted upon such motion.

ARTICLE XII. - GENERAL PROVISIONS.

§ 2. - OFFICERS, ETC. — IMPROPER ACTS OF.

Any officer or employee of the city who by solicitation or otherwise shall exert his/her influence directly or indirectly to influence any other officer or employee of the city to favor any particular person or candidate for office in the city shall be guilty of a misdemeanor and upon conviction thereof shall forfeit his or her office or employment and be punished by a fine not exceeding ~~[two hundred dollars]~~ ~~[(~~2~~)\$200.00(~~2~~)]~~. Officers and employees shall not be permitted to take an active part in any political campaign of another for an elective position of the city if they are in uniform or on active duty. The term "active part" means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes, and making public derogatory remarks about candidates for such elective positions. City officers and employees are prohibited from contributing or using city resources, equipment, or money for election campaigning.

Officers and employees coming under the provisions of this act are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any

official who attempts the same shall be guilty of violating the provisions of this section.

§ 3. - NOTICE OF CLAIMS.

Before the City of Austin shall be liable for damages for the death or personal injuries of any person or for damage to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of Texas, the person injured, if living, or his or her representatives, if dead, or the owner of the property damaged or destroyed, shall give the city council or city manager notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within 45~~[forty-five (45)]~~ days after same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction, occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six ~~[(6)]~~ months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages; and the failure to so notify the council or city manager within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever. No act of any officer or employee of the city shall waive compliance, or estop the city from requiring compliance, with the provisions of this section as to notice, but such provisions may be waived by resolution of the council, made and passed before the expiration of the 45-day~~[forty-five-day]~~ period herein provided, and evidenced by minutes of the council.

§ 6. - ASSIGNMENT, EXECUTION AND GARNISHMENT.

The property, real and personal, belonging to the city~~[City]~~ shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the city~~[City]~~, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city~~[City]~~ be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city~~[City]~~ nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever unless specifically exempted by statute. The city~~[City]~~ shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

§ 12. - INTERIM MUNICIPAL GOVERNMENT.

From and after the date of the adoption of any amendment to this Charter and until the completion of the first city election thereunder and the qualification of the mayor and council members therein elected, the mayor and council members then in office shall continue in office and shall exercise all of the powers conferred upon the city by such amendment.

PART 8. A special municipal election shall be held in the City on November 6, 2018, to submit to the voters of the City a proposed citizen-initiated ordinance regarding whether there must be both a waiting period and subsequent voter approval before any comprehensive revisions of the City's land development laws may go into effect. The ballot shall be prepared to permit voting "Yes" or "No" on the proposition:

Proposition J: Shall a City ordinance be adopted to require both a waiting period and subsequent voter approval period, a total of up to three years, before future comprehensive revisions of the City's land development code become effective?

PART 9. A special municipal election shall be held in the City on November 6, 2018, to submit to the voters of the City a proposed citizen-initiated ordinance regarding an efficiency study of the City's operational and fiscal performance conducted by an independent third party. The ballot shall be prepared to permit voting "Yes" or "No" on the proposition:

Proposition K: Without using the existing internal City Auditor or existing independent external auditor, shall the City Code be amended to require an efficiency study of the City's operational and fiscal performance performed by a third-party audit consultant, at an estimated cost of \$1 million - \$5 million?

PART 10. If the proposition provided in Part 8 is approved by the majority of voters voting at the election, the City Code is amended to read as follows:

ARTICLE ____ . _____ .

§ _____ **REQUIRED WAITING PERIOD AND VOTER REFERENDUM FOR COMPREHENSIVE REVISIONS OF THE CITY'S LAND DEVELOPMENT LAWS.**

- (A) Waiting Period. CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect legally, or any land entitlements be granted or vested under these laws, until the June 1st

following the next regularly scheduled council elections after Council adopts CodeNEXT or the comprehensive revisions. This waiting period is to ensure voters can learn about the proposed comprehensive revisions and elect council members with sufficient time to amend or reject the prior council's adopted comprehensive revisions before these laws may go into effect.

- (B) **Voter Approval.** After the waiting period in Subsection (A), CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect, or any land entitlements be granted or vested under these laws, until the registered voters of Austin approve these laws at the next available municipal election. Voters shall approve or disapprove CodeNEXT, or subsequent comprehensive revisions, in its entirety and not piecemeal. Should the voters fail to approve the comprehensive revisions, then the existing land development laws remain in effect. Notwithstanding any other provision, under no circumstances shall the voters' rejection of CodeNEXT or proposed comprehensive revisions under this Section be considered or interpreted as repealing the existing land development code.
- (C) This section overrides all city charter provisions, ordinances, and laws and should be liberally construed to uphold Austin citizens' sovereign rights to control their government and laws.
- (D) **Severability Clause.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

PART 11. If the proposition provided in Part 9 is approved by the majority of voters voting at the election, the City Code Chapter 2-3 (*City Auditor*) is amended to add new Section 2-3-12, to read as follows:

§ 2-3-12 EFFICIENCY STUDY.

MISSION

- (A) The City's Efficiency Study will provide an impartial, objective review of the city's operational and fiscal performance, including development of a Government Efficiency Blueprint which includes a comprehensive budget

analysis, efficiency and enhancement recommendations, and a targeted list of opportunities for operating savings.

QUALIFICATIONS

- (B) The efficiency study shall be conducted by an independent third party entity with extensive experience in government efficiency, and is knowledgeable in fiscal and budget analysis, public administration, and municipal finance and fiscal practices. The city may not contract with or hire, as an independent third party entity, an entity which has had a contract directly with the city within the past 5 years, or which employs an individual who:
- (1) has served as the City's mayor, a council member, city auditor or city manager or has had a contract directly with the city within five years before the date of hire; or
 - (2) is related, by affinity or consanguinity within the second degree, to the mayor, a council member, city auditor, or the city manager.

OBJECTIVES AND WORK PRODUCT

- (C) The efficiency study shall produce a Government Efficiency Blueprint (Plan) that recommends specific opportunities for consolidation, shared services, and other changes that permanently reduce tax burdens and/or increase the quantity and quality of services. The efficiency study shall include all City Departments, including all General Fund Departments and all publicly-owned utilities, including, but not limited to, Austin Energy, Austin Water, Austin Resource Recovery, all Enterprise Departments, including, but not limited to, the Austin Convention Center, the Austin Transportation Department, and all Internal Service Departments, including but not limited to, Law, Human Resources, Economic Development and Fleet Services. The Plan will identify specific targets for program efficiencies, cost savings, revenue enhancements, private/public partnership initiatives, and monetization of unused or underutilized city assets. The Plan shall include:
- (1) A comprehensive diagnostic analysis of the City's budget to identify spending and revenue trends and outliers. This Plan objective should include:
 - o Trend Analysis – Review and analysis of both historical and forecasted revenue and expense trends

- Benchmarking analysis – Comparison of the City’s revenue and expense spending levels to peer cities and other recognized benchmarks
- (2) Identify recommendations that prioritize target areas with large and substantial expenditures that affect the City’s general revenue fund and where the City can become more efficient and thereby provide cost savings.
 - (3) A prioritized listing of opportunities for operating savings, efficiency and enhancement recommendations both in written form and explained through testimony before the City Council and other responsible bodies. These recommendations should be classified into short-term opportunities which can be implemented within the current budget cycle, medium-term opportunities which can be implemented within one to three years, and long-term opportunities which may require three or more years to implement. The recommendations should be documented and the independent third party entity shall make the working papers available that detail the assumptions behind the cost and benefit estimates for each recommendation.
 - (4) The independent third party entity shall be available and willing to assist in the implementation of its recommendations. The Plan shall also include: a list of the required critical steps, including any statutory or regulatory changes, an estimate of the financial and personnel resources required, an estimate of the timeframe to implement the recommendations, and any deployment strategies, communication management, dashboards, and monitoring tools necessary for its implementation.

INDEPENDENCE AND NON-INTERFERENCE

- (D) The independent third party entity shall have the full cooperation and assistance of the City Manager, publicly-owned utilities, Enterprise Departments, Internal Services Departments and all other City Departments in providing unfettered access to all data and information requested. City employees shall provide free and open access to, and furnish copies of information in any medium, including a record, book, account, internal or external memorandum, tape, report, file, diskette, computer data, money, fund, or other information, and shall also provide free and open access to property, equipment, facilities, and operations for inspection or observation.

PART 12. The election shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. The precincts and locations of the election day polling places; the dates, hours, and locations of the early voting places; and the names of the officers appointed to conduct the election are provided in Exhibits A-D attached and incorporated as a part of this ordinance.

PART 13. A direct electronic recording voting system, as the term is defined in Title 8 of the Texas Election Code, shall be used for early voting and for voting conducted on election day. The central counting station is established at the Travis County Elections Division, 5501 Airport Boulevard, Austin, Texas.

PART 14. (a) Notice of this election shall be given by posting and publishing a copy of this ordinance in both English and Spanish. The notice and a copy of this ordinance shall be posted, in both English and Spanish, in three public places and at the City Hall notice kiosk not later than the 21st day before election day. The copy of the notice posted at City Hall shall be accompanied by a cover page, at the top of which shall appear the words "MUNICIPAL GENERAL AND SPECIAL ELECTIONS, NOVEMBER 6, 2018." Notice of this election shall be published, not earlier than the 30th day before the date of the election, in a newspaper of general circulation on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

(b) A copy of this ordinance shall be posted, in both English and Spanish, on election day and during early voting by personal appearance, in a prominent location at each polling place.

(c) This ordinance, together with the notice of election and the contents of the propositions, shall be posted on the City's website, in both English and Spanish, during the twenty-one (21) days before the election.

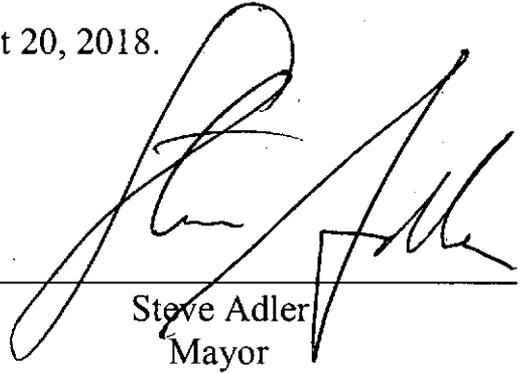
PART 15. In accordance with Chapter 271 of the Texas Election Code, the November 6, 2018 municipal election may be held jointly with the various political subdivisions that share territory with the City of Austin and that are holding elections on that day. The City Clerk may enter and sign joint election agreements with other political subdivisions for this purpose, and their terms as stated in the agreements are hereby adopted.

PART 16. The Council finds that the need to immediately begin required preparations for this election constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PART 17. This ordinance takes effect on August 20, 2018.

August 9, 2018

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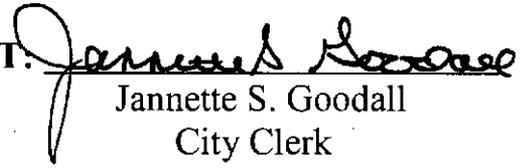
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk

Exhibits A – D (to be updated)

Exhibit A: Election Day Polling Places

Exhibit B: Main Early Voting Location Information

Exhibit C: Early Voting Polling Places

Exhibit D: Election Services Contract

Travis County Early Voting Locations for the November 6, 2018 General Election



DANA DEBEAUVOIR,
COUNTY CLERK

Sitios de Votación Adelantada del Condado de Travis, para la Elección General del 6 de noviembre de 2018

Early Voting begins Monday, Oct 22 and ends Friday, Nov 2

La Votación Adelantada empieza el lunes, 22 de octubre y termina el viernes, 2 de noviembre

Monday—Friday (7am-7pm) lunes—viernes (7am—7pm)

subject to change

DRAFT

CENTRAL:	ACC Highland	6101 Airport Blvd.	Austin
	Fiesta Central - Delwood Shopping Ctr	3909 North IH-35	Austin
	Travis County Granger Building	314 W 11th St, room 115	Austin
	UT Flawn Academic Center	2400 Inner Campus Drive	Austin
	New! UT Perry—Castañeda Library	101 E. 21st St.	Austin
EAST / ESTE:	Carver Branch Library	1161 Angelina St	Austin
	Dan Ruiz Branch Library	1600 Grove Blvd.	Austin
	Del Valle ISD Admin Building	5301 Ross Rd.	Del Valle
	Manor ISD Admin Building	10323 US-290	Manor
	Parque Zaragoza	2608 Gonzales St.	Austin
NORTH / NORTE:	Austin Area Urban League	8011 A Cameron Rd	Austin
	Ben Hur Shrine Center	7811 Rockwood Lane	Austin
	County Tax Office, Pflugerville	15822 Foothill Farms Loop	Pflugerville
	Disability Rights Texas	2222 W Braker Ln	Austin
	Hartfield Performing Arts Center - RRISD	5800 McNeil Dr.	Austin
	Old Quarry Library	7051 Village Center Dr.	Austin
	Randalls Research & Braker	10900 D Research Blvd	Austin
	New! Pflugerville ISD Rock Gym	700 W. Pecan St.	Pflugerville
SOUTH / SUR:	Fiesta Mart Stassney	5510 South IH-35	Austin
	Gardner Betts Annex	2501 S Congress at Long Bow Ln.	Austin
	Randalls Ben White and Manchaca	2025 W. Ben White Blvd.	Austin
	Randalls Brodie	9911 Brodie Ln	Austin
	Randalls South MoPac	6600 S. MoPac at William Cannon	Austin
	Southpark Meadows	9600 IH-35 South, Suite 600	Austin
WEST / OESTE:	Bee Cave City Hall	4000 Galleria Pkwy	Bee Cave
	Howson Branch Library	2500 Exposition Blvd	Austin
	Randalls Flagship - West Lake Hills	3300 Bee Caves Rd	Austin
	Randalls Lakeway	2301 RR 620 S at Lohmans Crossing	Austin
	Randalls Steiner Ranch	S145 N FM 620 at N. Quinlan Park Rd.	Austin

DRAFT

plus 55 additional mobile early voting locations! - see complete list at www.traviscountyelections.org



DANA DEBEAUVOIR,
CLERK COUNTY

Travis County Election Day Vote Centers Tuesday, November 6, 2018 (by precinct)

Sitios de Votación para el Día de Elección, martes 22 de mayo de 2018 (por precinto)

Polls are open 7 am - 7 pm; Horas de Servicio 7 am - 7 pm

DRAFT subject to change

VOTE CENTER ELECTION *Centros de Votación del Condado de Travis* On Election Day, eligible Travis County VOTERS MAY VOTE AT ANY of the locations listed on this page. Voters are NOT limited to only voting in the precinct where they are registered to vote; El día de elección votantes elegibles del Condado de Travis podrán votar en cualquier sitio indicado en esta página. Votantes tienen más opciones en dónde votar, sin limitarse al precinto en donde están registrados para votar.

Pct.	Polling Station	Address	Combined Precincts
101	Dailey Middle School	14000 Westall St	114; 115; 116; 117; 119; 120; 138
105	Manor ISD Admin Building	10335 Hwy 290	
106	Elgin High School	14000 County Line Rd	
107	New Sweden Lutheran	12809 New Sweden Church Rd	
108	Our Savior Lutheran	1513 E Yager Ln	102 ; 103
111	Nat Am Univ or Hana World Market	1700 W Parmer Ln #100	109
112	Dessau Elementary	1501 Dessau Ridge Ln	113
121	LBJ High School	7309 Lazy Creek Dr	128 ; 131 ; 134
122	YMCA East Communities Y	5315 Ed Bluestein Blvd	
123	Falcon Pointe Community Center	19015 Falcon Pointe Blvd	163
124	Carver Branch Library	1161 Angelina St	
129	Sims Elementary	1203 Springdale Rd	
130	Memorial United Methodist	6100 Berkman Dr	118 ; 151
132	East Nineteenth Missionary Baptist	3401 Rogge Ln	133
135	Messiah Lutheran	5701 Cameron Rd	
136	Pfluger Hall and Conference Center	203 B E Pecan St	146
137	Blackhawk Amenity Center	3111 Speidel Dr	161
139	Austin Area Urban League	8011 A Cameron Rd STE 100	141
140	Gus Garcia Rec Center	1201 E Rundberg Ln	104
148	County Tax Office, Pflugerville	15822 Foothill Farms Loop	145 ; 160
150	Park Crest Middle School	1500 N Railroad Ave	110
152	Fiesta Mart Central	3909 N I 35	126
153	Pioneer Crossing Elementary	11300 Samsung Blvd	
154	Bluebonnet Trail Elementary	11316 Farmhaven Rd	125 ; 127
156	ACC Highland	6101 Airport Blvd	142, 149
164	Barrington Elementary	400 Cooper Dr	
200	Winters Building	701 W 51st St	235
202	Red River Church	4425 Red River St	
203	Boulder Ridge Clubhouse	3300 Killingsworth Ln	227
205	Parmer Lane Baptist	12424 Scofield Farms Dr.	
207	Hartfield Performing Arts Center	5800 McNeil Dr	

Pct.	Polling Station	Address	Combined Precincts
208	UT Flawn Academic Center	2400 Inner Campus Dr	206, 277
208	UT-Perry-Castaneda Library	101 E 21st St	
210	O Henry Middle School	2610 W 10th St	251
211	St. Mark United Methodist	601 W. Braker Ln	226
214	Bryker Wood Elementary	3309 Kerbey Ln	
217	Lanier High School	1201 Payton Gin Rd	223 ; 224
218	Disability Rights Texas	2222 W Braker Ln	268
219	Caldwell Elementary	1718 Picadilly Dr	
221	Bridge Point Elementary	6401 Cedar St	212
225	Wells Branch MUD Rec Center	3000 Shoreline Dr	
229	Wells Branch Community Center	2106 Klattenhoff Dr	215 ; 216
231	Cat Mountain HOA	6007 Mt Bonnell Rd	
232	Canyon Ridge Middle School	12801 Country Trails Ln	
234	River Place Elementary	6500 Sitio Del Rio Blvd	233
236	Northwest Recreation Center	2913 Northland Dr	
237	Highland Park Baptist	5206 Balcones Dr	213 ; 220 ; 240
238	Murchison Middle School	3700 N Hills Dr	247
238	Old Quarry Library	7051 Village Center Dr	
239	Gullett Elementary School	6310 Treadwell Blvd	
242	Brentwood Bible Church	6301 Woodrow Ave	241
243	Ben Hur Shrine Center	7811 Rockwood Ln	
244	Randalls Steiner Ranch	5145 N FM 620	245
249	St. Matthew's Episcopal	8134 Mesa Dr	246
250	St Luke United Methodist	1306 West Lynn	
252	North Village Branch Library	2505 Steck Ave	248
253	Anderson High School	8403 Mesa Dr.	262
254	Brookdale North Austin	5310 Duval Rd	267
256	Howson Branch Library	2500 Exposition Blvd	266
258	St. John's Episcopal	11201 Parkfield Dr at Braker	222
259	Milwood Branch Library	12500 Amherst Dr.	
260	Jaime Padron Elementary	2011 W Rundberg Ln	228

Pct	Polling Station	Address	Combined Precincts
263	United Christian	3500 W Parmer Ln	
273	Congregation Beth Israel	3901 Shoal Creek Blvd	
275	Church of Christ in Hyde Park	310 W 43rd St at Ave B	274
301	Sunset Valley City Hall	3205 Jones Rd	358
302	Bailey Middle School	4020 Lost Oasis Hollow	
307	Rollingwood Municipal Building	403 Nixon Dr	347 ; 356
308	Briarcliff POA	22801 Briarcliff Dr	
310	Manchaca United Methodist	1011 Farm to Market 1626	315
311	Austin Recreation Center	1301 Shoal Creek Blvd	
312	Travis County Sheriff West Command	3800 Hudson Bend Rd	
313	Senior Activity Center Lamar	2874 Shoal Crest Ave	
314	Oak Hill Fire Dept #302	4111 Barton Creek Blvd	357
316	Travis County Parks Office	14624 Hamilton Pool Rd	
317	Lost Creek Limited District	1305 Quaker Ridge Dr	
319	Lakeway Activity Center	105 Cross Creek	306
320	Randalls Lakeway	2301 Ranch Rd 620 S	
323	Randalls Research & Braker	10900 D Research Blvd	305 ; 321 ; 345
324	Bee Cave City Hall	4000 Galleria Pkwy	368
326	Laurel Mountain Elementary	10111 DK Ranch Rd	
327	Austin Fire Station #33	9409 Bluegrass Dr	
328	Renaissance Retirement Center	11279 Taylor Draper Ln	
329	Austin City Hall	301 W 2nd St	325 ; 341
329	Travis County Granger Building	314 W 11th St	
330	Laura Bush Community Library	9411 Bee Caves Rd	318
331	Kathy Caraway Elementary	11104 Oak View Dr.	
332	Zilker Elementary	1900 Bluebonnet Lane	340
333	St. Thomas More Catholic	10205 N FM 620	334 ; 343
336	Hallmark Baptist	9023 Old Lampasas Trl	335
337	Lakewood HOA	7317 Lakewood Dr	
338	Travis County WCID #18	1502 San Juan Dr	
342	Barton Hills Elementary	2108 Barton Hills Dr	
344	Berkeley United Methodist	2407 Berkeley Ave.	
346	Serene Hills Elementary	3301 Serene Hills Dr	
349	Oak Hill United Methodist	7815 US-290	303
350	Randalls Brodie & Slaughter	9911 Brodie Ln	309, 352
351	Randalls South MoPac	6600 S MoPac Expy	339
354	Travis Country HOA	4504 Travis Country Cir	
359	Lake Travis ISD Education Dev Center	607 Ranch Rd 620 N	
360	Bowie High School	4103 W Slaughter Ln	
363	Shepherd of the Hills Presbyterian	5226 W William Cannon Dr	362
364	Randalls Flagship - West Lake Hills	3300 Bee Caves Rd	

Pct	Polling Station	Address	Combined Precincts
365	Community Center at Oak Hill	8656 W Hwy 71	361
366	Mills Elementary	6201 Davis Ln	
367	Circle C Community Center	7817 LaCrosse Ave	304
369	Christ Episcopal	3520 W. Whitestone Blvd	
370	Travis County ESD 1 Fire Station 104	14401 Round Mountain Rd.	
371	K-Oaks Club House	7000 Bar K Ranch Rd	
372	Community Center at Jonestown	18649 FM 1431 STE 6A	
373	Lago Vista City Hall	5803 Thunderbird St	
374	Deer Creek Elementary	2420 Zeppelin Dr	
375	Volente Fire Dept	15406 FM 2769	
401	Del Valle ISD Admin Building	5301 Ross Rd	
402	Elroy Community Library	13512 FM 812	
403	Creedmoor Elementary	5604 FM 1327	
404	Blazier Elementary	8601 Vertex Blvd	
405	Ojeda Middle School	4900 McKinney Falls Pkwy	
406	St Alban's Episcopal	11819 I 35 S	417 ; 418
407	Community Center at Del Valle	3518 S FM 973	427
411	South Park Meadows Center	9600 I 35 S STE 600	416
414	Texas Oaks Baptist	9910 Bilbrook Place	408 ; 415
420	Parker Lane United Methodist	2105 Parker Ln	431 ; 440
421	Church on Congress Ave	1511 S Congress Ave	422
424	South Austin Rec Center	1100 Cumberland Rd	409
426	Parque Zaragoza Rec Center	2608 Gonzales St	436 ; 444
428	Mexican American Cultural Center	600 River St	
429	Dan Ruiz Branch Library	1600 Grove Blvd	423
433	Gardner Betts Annex	2501 S Congress Ave	442
435	Southwest Church of Christ	8900 Manchaca Rd	
437	Twin Oaks Library	1800 S 5th St	
438	Terrazas Branch Library	1105 E Cesar Chavez St	432 ; 434
439	Cantu/Pan Am Recreation Center	2100 E 3rd St	
441	Fiesta Mart Stassney	5510 I 35 S	425 ; 446
447	Odom Elementary	1010 Turtle Creek Blvd	419
448	Langford Elementary	2206 Blue Meadow Dr	404 ; 413
450	Southeast Branch Library	5803 Nuckols Crossing Rd.	443
451	Bedichek Middle School	6800 Bill Hughes Rd	4110
452	Houston Elementary	5409 Ponciana Dr	
454	Randalls Ben White & Manchaca	2025 W Ben White Blvd	412 ; 458
460	ACC South Austin	1820 W Stassney Ln	
461	Wheatsville Co-op South Lamar	4001 S Lamar Blvd	430
463	Dittmar Recreation Center	1009 W Dittmar Rd	419

DRAFT

"Subject to approval of Travis County Commissioner's Court"

November 6, 2018 General, Bond and Special Municipal Election Early Voting Information

Main Early Voting Polling Locations

Hays County: Government Center Conference Room, 712 S. Stagecoach Trail, San Marcos, TX

Travis County: ACC Highland, 6101 Airport Boulevard, Austin, TX

Williamson County: Williamson County Inner Loop Annex, 301 SE Inner Loop, Suite 104, Georgetown, TX

Early Voting: Monday, October 22, 2018 – Friday, November 3, 2018

Ballots by Mail – Travis County

By Mail voters: P.O. 149325, Austin, Texas 78714-9325

By Contract Carriers/ Fedex: 5501 Airport Blvd., Austin, Texas 78751

Ballots by Mail - Hays County

By Mail Voters: P.O. Box 907, San Marcos, TX 78666

Ballots by Mail – Williamson County

By Mail voters: P.O Box 209, Georgetown, TX 78627

**ELECTION AGREEMENT BETWEEN
TRAVIS COUNTY AND CITY OF AUSTIN**

Pursuant to Chapter 31, Subchapter D, Chapter 123, and Chapter 271 of the Texas Election Code ("Code") and Chapter 791 of the Texas Government Code, Travis County and City of Austin ("Participating Entity") enter into this agreement for the Travis County Clerk, as the County's Election Officer, to conduct the Participating Entity's elections, including runoffs, and for the Participating Entity's use of the County's current or future-acquired election equipment for any voting system that the County adopts, as authorized under Title 8 of the Election Code, for all Participating Entity elections. The purpose of this agreement is to maintain consistency and accessibility in voting practices, polling places, and election procedures in order to best assist the voters of the Participating Entity.

I. GENERAL PROVISIONS

- (A) Except as otherwise provided in this agreement, the term "election" refers to any Participating Entity election, occurring on any uniform election date prescribed by the Texas Election Code or a primary election date and a resulting runoff, if necessary, within all Participating Entity territory located in Travis, Williamson and Hays Counties. If a runoff is necessary, the Participating Entity shall work with the Election Officer to determine a mutually acceptable run-off date; in the event that the Participating Entity and any other entity for which the County is providing election services or for which the County is conducting a joint election do not agree on a run-off date, the Participating Entity agrees to whichever run-off date is selected by the Election Officer.
- (B) If the Participating Entity determines it is necessary to conduct an election during a time other than that specified in I.(A), the Election Officer and a representative designated by the Participating Entity will meet as soon as possible to determine the feasibility of the Election Officer conducting such an election. If both parties agree that the Election Officer will administer this election, the new election will be based on all other applicable provisions of this agreement, except provisions that are inconsistent and cannot be feasibly applied.
- (C) Except as otherwise provided in this agreement, the term "Election Officer" refers to the Travis County Clerk.
- (D) Except as otherwise provided in this agreement, the term "precinct" means all precincts in the territory of the Participating Entity located within Travis County, as they currently exist or are as later modified to incorporate single-member districts.
- (E) Except as otherwise provided in this agreement, the term "election services" refers to services used to perform or supervise any or all of the duties and functions that an election officer determines necessary for the conduct of an election. Except as otherwise provided in this agreement, the term "cost for election services" includes the costs for personnel, supplies, materials, or services needed for providing these services as

permitted by the Texas Election Code. The term does not refer to costs relating to the use of the voting equipment.

- (F) Except as otherwise provided in this agreement, the cost for "use of voting equipment" is the amount the Participating Entity agrees to pay the County for use of the County's direct electronic recording equipment or any other voting equipment in use at the time of the election (hereinafter referred to as DRE).
- (G) The Participating Entity agrees to commit the funds necessary to pay for election-related expenses for Participating Entity elections.
- (H) The Election Officer has the right to enter into agreements with other entities at any time, including during the dates listed in I.(A).
- (I) As a condition for providing election services and equipment usage, the Election Officer may require authorities of political subdivisions holding elections on the same day in all or part of the same territory to enter into a joint election agreement as authorized in Chapter 271 of the Texas Election Code. The Participating Entity agrees to enter into any joint election agreement required by the County.

II. PARTICIPATING ENTITY'S USE OF VOTING EQUIPMENT

The County shall make available to the Participating Entity their current and future-acquired voting system as authorized under Title 8 of the Election Code, subject to reasonable restrictions and conditions imposed by the Election Officer to ensure availability of the equipment for County-ordered elections, primary elections, and subsequent runoff elections, if applicable. The Election Officer may impose reasonable restrictions and conditions to protect the equipment from misuse or damage.

III. APPOINTMENT OF ELECTION OFFICER

- (A) The Travis County Election Officer ("Election Officer") is appointed to serve as the Participating Entity's Election Officer and Early Voting Clerk to conduct the Participating Entity's elections described in Section I.
- (B) As the Participating Entity's Election Officer and Early Voting Clerk, the Election Officer shall coordinate, supervise, and conduct all aspects of administering voting in Participating Entity elections in compliance with all applicable laws, subject to Section III, (C) below. The Election Officer will provide the Participating Entity's election results for their precincts located in Williamson and Hays Counties.
- (C) The Participating Entity shall continue to perform those election duties listed in (1) through (8) below and any other election duties that may not be delegated to another governmental entity such as receipt of candidate applications:
 - (1) preparing, adopting, and publishing all required election orders, resolutions,

notices and other documents, including bilingual materials, evidencing action by the governing authority of the Participating Entity necessary to the conduct of an election, except Election Officer shall (1) publish a single newspaper notice that includes Participating Entity; however, such publishing expense will not be included in the pro rata assessment for remaining joint Participating Entities, and (2) in any debt obligation elections, post the notice required by and in accordance with Section 4.003(f), Texas Election Code in each election day and early voting polling place;

- (2) preparing any necessary federal Voting Rights Act election preclearance submissions to the U.S. Department of Justice, other than changes in a joint election conducted under this agreement that directly affect the County;
 - (3) preparing the text for the Participating Entity's official ballot in English and Spanish, and any other languages as required by law;
 - (4) providing the Election Officer with a list of candidates or propositions showing the order and the exact manner in which the candidates' names and the propositions are to appear on the official ballot;
 - (5) conducting the official canvass of a Participating Entity election;
 - (6) administering the Participating Entity's duties under state and local campaign finance laws;
 - (7) having a Participating Entity representative serve as the custodian of its election records; and
 - (8) filing the Participating Entity's annual voting system report to the Secretary of State as required under Chapter 123 et seq. of the Texas Election Code.
- (D) The Participating Entity shall also be responsible for proofing and attesting to the accuracy of all ballot language and format information programmed by the County. This includes any information programmed for use with the audio or tactile button features of the equipment. The Participating Entity will also monitor and review all logic and accuracy testing and mandatory tabulations. The Participating Entity will complete its duties within timeframes as prescribed by the County. If the Participating Entity finds any discrepancies or concerns, it will immediately report them to the Election Officer and work with the Election Officer's staff to resolve any issues so that final approval can be reached. The Participating Entity shall be responsible for any and all actual costs associated with correcting the ballot and ballot programming if the error is discovered after the Participating Entity has signed off on its final proof containing the error.
- (E) The City Clerk of the City of Austin ("City Clerk") will assist the County whenever possible when the conduct of the election requires assistance from Participating Entity departments and staff. The City Clerk will serve as the Regular Early Voting Clerk for

the Participating Entity to receive requests for applications for early voting ballots and forward these applications to the Joint Early Voting Clerk. The City Clerk will serve as the Custodian of Records for the Participating Entity to complete those tasks in the Election Code that the Election Officer will not perform.

IV. ELECTION WORKERS AND POLLING PLACES

- (A) For presentation to the governing body of the Participating Entity, the County shall provide a list containing the locations, times, and dates of early voting polling places suitable for consideration and adoption by the governing body in accordance with Texas Election Code Chapter 85, and also a list of judges and alternates pursuant to Election Code Chapter 32, no later than the 45th day before the election. The Election Officer will designate and confirm all election day polling place locations.
- (B) The Election Officer will assume the responsibility for recruiting election personnel; however, if by the 5th day before the election, the Election Officer reports vacancies in positions for election judges, alternate judges, election day clerks, early voting ballot board, receiving substation clerks, or any other key election personnel, the Participating Entity shall provide emergency personnel in these positions.
- (C) The Election Officer shall notify each of the election judges and alternates of their appointment and the eligibility requirements that pertain to them and to the selection of election day clerks. Included in this notification will be the number of clerks that each precinct should have in addition to the election judge and alternate judge. The election judges and/or the alternates are responsible for recruiting and supervising their clerks.
- (D) All election workers must agree to attend training sessions as determined by the Election Officer. Costs for these training sessions and compensation for attendees, if authorized, will be included as part of the election services costs.
- (E) During any election and any subsequent runoff election that involve entities in addition to the Participating Entity, the Election Officer will work with all parties to find a plan that can be agreed upon regarding the designation of polling places. If agreement cannot be reached, the Election Officer will resolve the differences. In all cases, emergency polling place changes will be made by the Election Officer.

V. PAYMENTS FOR ELECTION SERVICES

- (A) Payments for the use of voting equipment are addressed separately in Section VI of this agreement.
- (B) At the time a Participating Entity executes this Agreement, its representative must tender \$100 towards the costs associated with administering the election including, but not limited to, polling place searches and preparation for poll worker training. If the election is ultimately held by the Election Officer, the \$100 fee will be applied towards the Participating Entity's total costs due to the Election Officer. Not later than October 1

before a November election, or not later than the 35th day before any election not held in November, the Participating Entity will make a payment equal to 75% of the total of the Participating Entity's projected share of election costs according to the most recent calculation presented by the Election Officer. Additionally, a cost estimate will be submitted to the Participating Entity no later than the 50th day before the election.

- (C) In case of a cancellation of an election by the Participating Entity, the Participating Entity shall notify the Election Officer on or before 11:59 p.m. on the 60th day before the election whether it expects to be able to cancel its election, and on or before 11:59 p.m. on the 53rd day before the election if that election will or will not be cancelled. If the Participating Entity cancels its election, the \$100 fee will not be refunded.
- (D) Notwithstanding the provisions in IX. (B), the County and the Participating Entity agree that notice under V. (C) can be provided via e-mail to the County at elections@co.travis.tx.us and cc to michael.winn@co.travis.tx.us. Email notification shall be sent by the City Clerk. No further costs (except for the \$100 fee) will be due if the Election Officer receives final written notice on or before 11:59 p.m. of the 53rd day before the election that an election will be cancelled. Within thirty days after receipt of an election cost schedule or bill setting forth the Election Officer's actual contract expenses and charges incurred in the conduct of the election, the Participating Entity shall pay the Election Officer the remaining balance due. If there is a runoff election, the Participating Entity will make a payment equal to 75% of the projected costs for the runoff election immediately after receiving that projected cost from the Election Officer. The projected share of election costs will include the 10% fee for election services as discussed in V. (E).
- (E) The Election Officer will charge a fee for election services, as described in Section V, equal to 10% of the total costs of each election, excluding the costs of voting equipment. Costs for use of voting equipment are described in Section VI. In the event of a joint election, the election costs will be divided on a pro rata basis among all entities involved in the election in the following manner referred to hereafter as the "pro rata methodology": the number of precincts each participating entity has involved in an election will be added together. The proportional cost of each participating entity for election services will be calculated by multiplying the proportional percentage of each participating entity by the total cost of the election. The product of these numbers is the pro rata cost of each participating entity. Additionally, the Participating Entity acknowledges and understands that if any other Participating Entity should cancel its election, each remaining Participating Entity's pro rata cost will result in a proportionate cost increase.
- (F) For elections that do not have a runoff election, the County will send the Participating Entity a final invoice of election expenses not later than the 90th day after an election. For elections that do have a runoff, the County may send the Participating Entity a final invoice of election expenses not later than the 90th day after the runoff election. The total amount due according to these invoices shall be offset by payments made for costs made in accordance with Subsection (B) of this section and offset by any payments made

otherwise, such as proceeds received by the County in a sale, exchange, or return of voting equipment subject to the Addendum to the Election Services Agreement executed on October 25, 2011, which is hereby attached as Exhibit A and incorporated herein for all applicable purposes. The County shall prepare the invoice to include (1) an itemized list of each election expense incurred; (2) an itemization of any adjustments or credits to the first post-election invoice; and (3) the total payment due from the Participating Entity for any portion of the Participating Entity's costs not included in the City's payment or not included as payment for an "upfront" cost.

- (G) The Participating Entity shall promptly review an election invoice and any supporting documentation when received from the County. The Participating Entity may audit, during normal business hours, relevant County election or accounting records upon reasonable notice to the County. The Participating Entity shall pay the entire final invoice or the undisputed portion of the final invoice not later than the 30th day after receiving the invoice. Failure to timely pay invoice in full may impact Election Officer's participation in future elections with Participating Entity.

VI. PAYMENTS FOR USE OF VOTING EQUIPMENT

- (A) The Election Officer shall conduct elections using a voting system certified by the Secretary of State in accordance with the Texas Election Code and that has been approved for use by the Travis County Commissioners Court unless otherwise agreed upon by both parties.
- (B) The Participating Entity shall make payments to Travis County as consideration for the use of the County's DRE equipment. The Participating Entity shall pay \$5 for each unit of electronic voting system equipment installed at a polling place; and \$5 for each unit of other electronic equipment used to conduct the election or provide election services.
- (C) If the Participating Entity holds an election on a date when the County is holding its own election, the Participating Entity is not charged any cost for equipment usage. However, if a runoff election is necessary after such an election, the Participating Entity will be responsible for payment of equipment usage.
- (D) If the Participating Entity holds an election on a date other than as listed in Section I.(A), the Participating Entity will pay \$5 for each unit of electronic voting system equipment installed at a polling place; and \$5 for each unit of other electronic equipment used to conduct the election or provide election services.
- (E) Payment by the Participating Entity to the County for DRE equipment is due 30 days after receipt of billing as part of the final payment for election costs as discussed in Section V. (D).
- (F) If the County acquires additional equipment, different voting equipment, or upgrades to existing equipment during the term of this contract, the charge for the use of the equipment may be renegotiated.

VII. ADDITIONAL EARLY VOTING LOCATIONS

- (A) All of the Participating Entity's voters within Travis County will have access to all of the Travis County Early Voting sites in each election at no additional cost. If Travis County does not run a permanent or mobile site in a Participating Entity's area, the Participating Entity may request a mobile unit for one to five days. This would include Travis County staff setting up and breaking down the equipment daily, training staff for each location, and providing Travis County law enforcement to secure the equipment in the Travis County Elections Division's safe at 5501 Airport on a daily basis.
- (B) Any Participating Entity requesting additional early voting sites shall be responsible for the additional daily cost of \$1,560 per location, with said costs to be included in the overall election costs for that Participating Entity.

VIII. COMMUNICATIONS

- (A) The Participating Entity and the Election Officer shall each designate a member of their staff to serve as the primary contact for the respective offices under this agreement and provide the name and contact information for that individual to each entity.
- (B) Throughout the term of this Agreement, the Participating Entity and the County will engage in ongoing communications regarding issues related to Participating Entity elections, the use of County's voting equipment, and the delivery of services under this agreement and, when necessary, the County Clerk, elections division staff members, and other election workers shall meet with the Participating Entity to discuss and resolve any problems which might arise under this Agreement.
- (C) The Election Officer shall be the main point of media contact for election information related to election administration. The Participating Entity shall designate a contact to be the main point of contact for matters related to the content of the Participating Entity's ballot or candidates.

IX. MISCELLANEOUS PROVISIONS

(A) Amendment/Modification

Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing, duly executed by the parties hereto. No official, representative, agent, or employee of the County has any authority to modify this Agreement except pursuant to such express authorization as may be granted by the Commissioners Court of Travis County, Texas. No official, representative, agent, or employee of the Participating Entity has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the Participating Entity. Dana DeBeauvoir, Travis County Clerk, may propose necessary amendments or modifications to this Agreement in writing in order to conduct a Joint Election smoothly and efficiently,

except that any such proposals must be approved by the Commissioners Court of the County and the governing body of the Participating Entity.

(B) Notice

Any notice to be given hereunder by any party to the other shall be in writing and may be affected by personal delivery, by certified mail, or by common carrier. Notice to a party shall be addressed as follows:

City of Austin
Jannette Goodall
City Clerk
P.O. Box 1088
Austin, Texas 78767-1088

Cc: Anne Morgan
City Attorney
P.O. Box 1088
Austin, Texas 78767-1088

TRAVIS COUNTY
Honorable Dana DeBeauvoir, Travis County Clerk
1000 Guadalupe Street, Room 222
Austin, Texas 78701

Cc: Honorable David Escamilla, Travis County Attorney
314 West 11th Street, Suite 300
Austin, Texas 78701

Notice by hand-delivery is deemed effective immediately, notice by certified mail is deemed effective three days after deposit with a U.S. Postal Office or in a U.S. Mail Box, and notice by a common carrier is deemed effective upon receipt. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this Section.

(C) Force Majeure

In the event that the performance by the County of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party or in privity thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

(D) Venue and Choice of Law

The Participating Entity agrees that venue for any dispute arising under this Agreement will lie in the appropriate courts of Austin, Travis County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America.

(E) Entire Agreement

With the exception of the aforementioned Exhibit A, this Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and also supersedes all prior agreements, including prior election services contracts and prior agreements to conduct joint elections. With the exception of the aforementioned Exhibit A, any other prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of no force and effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.

(F) Severability

If any provision of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Agreement; and, parties to this Agreement shall perform their obligations under this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions of this Agreement.

(G) Breach

In the event that Participating Entity or County breaches any of its obligations under this Agreement, the non-breaching party shall be entitled to pursue any and all rights and remedies allowed by law.

(H) Payments from Current Revenues

Payments made by the Participating Entity in meeting its obligations under this Agreement shall be made from current revenue funds available to the governing body of the Participating Entity. Payments made by the County in meeting its obligations under this Agreement shall be made from current revenue funds available to the County.

(I) Other Instruments

The County and the Participating Entity agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.

(J) Third Party Beneficiaries

Except as otherwise provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto, any benefits, rights or remedies under or by reason of this Agreement.

(K) Other Joint Election Agreements

The County and the Participating Entity expressly understand and acknowledge that each may enter into other Joint Election Agreements with other jurisdictions, to be held on Election Day and at common polling places covered by this Agreement.

(L) Mediation

When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed-upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.023 of the Texas Civil Practice and Remedies Code unless both parties agree, in writing, to waive the confidentiality. Notwithstanding the foregoing, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term "confidential" as used in this Agreement has the same meanings as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.

(M) Addresses for Payments

Payments made to the County or the Participating Entity under this agreement shall be addressed to following respective addresses:

Elections Division
Travis County Clerk
P.O. Box 149325
Austin, Texas 78751

City of Austin
Jannette Goodall
City Clerk
P.O. Box 1088
Austin, Texas 78767-1088

(N) Effective Date

This agreement is effective upon execution by both parties and expires on September 1, 2019.

(O) Renewal Terms

This Agreement may be extended by written agreement of both parties for up to two (2) additional one (1) year periods (each a "Renewal Term") and all provisions of this Agreement shall remain unchanged and in full force and effect unless otherwise amended by the parties pursuant to the terms of the Agreement.

(P) Termination

Either party may terminate this agreement for any reason upon providing 60 days written notice to the other party.

(Q) The individuals below have been authorized to sign this Agreement.

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, on this 11 day of October, 2016, with the effective date being the date of execution by last signatory.

CITY OF AUSTIN

BY: Jannette Goodall
Jannette Goodall
City Clerk

TRAVIS COUNTY

BY: Sarah Eckhardt
Sarah Eckhardt
County Judge

BY: Dana DeBeauvoir
Dana DeBeauvoir
County Clerk

Tab I

Austin City Charter art IV

Available at:

https://library.municode.com/TX/Austin/codes/code_of_ordinances?nodeId=CH_ARTIVINRERE

§ 1. - POWER OF INITIATIVE.

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 qualified voters of the city equal in number to the number of signatures required by state law to initiate an amendment to this Charter.

Amendment note: Section 1 appears as amended at the election of November 6, 2012.

§ 3. - FORM AND VALIDATION OF A PETITION.

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.

Amendment note: Section 3 appears as amended at the election of November 6, 2012.

§ 4. - COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council shall either:

- (a) Pass the initiated ordinance without amendment within ten (10) days after the date of the certification to the council; or
- (b) Order an election and submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a regular or special election to be held on the next allowable election date authorized by state law after the certification to the council.

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. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) 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 (2) years from the date of such election.

Amendment note: Section 4 appears as renumbered by Ord. 20121213-004. The section had previously been amended at the election of May 7, 1994. A former § 4, which concerned the filing, examination, and certification of petitions, was repealed at the election of November 6, 2012.

§ 5. - BALLOT FORM AND RESULTS OF ELECTION.

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 (2) 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.

***Amendment note:** Section 5 appears as amended at the election of November 6, 2012, and later renumbered by Ord. 20121213-004. As former § 6, the section had previously been amended at the elections of May 7, 1994, and April 1, 1967.*