

CITY of ALBUQUERQUE

TWENTY FIFTH COUNCIL

COUNCIL BILL NO. O-22-39 ENACTMENT NO. _____

SPONSORED BY: Pat Davis, Klarissa J. Peña, and Brook Bassan, by request

1 **ORDINANCE**

2 **AMENDING CHAPTER 2, ARTICLE 4 OF THE CITY CODE RELATING TO**
3 **ELECTIONS AND PETITIONS.**

4 **WHEREAS, changes to the local election act require removing references**
5 **to management of elections that the City no longer maintains; and**

6 **WHEREAS, the 2021 election cycle highlighted the need for continuity in**
7 **petition gathering timeframes; and**

8 **WHEREAS, to comply with the Local Election Act, the City needs to**
9 **establish deadlines for filing of qualification documents.**

10 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
11 **ALBUQUERQUE:**

12 **SECTION 1. ROA 1994, Chapter 2, Article 4 is hereby amended as follows**
13 **and its sections and subsections are to be renumbered accordingly:**

14 **§ 2-4-1 SHORT TITLE.**

15 **This chapter shall be known and may be cited as the "Municipal Elections**
16 **Ordinance."**

17 **§ 2-4-2 PURPOSE.**

18 **The purpose of this chapter is to prescribe certain rules of procedure**
19 **concerning municipal elections by implementing the Constitution of the State**
20 **of New Mexico and the Charter of the City of Albuquerque [i.e., Article XIII of**
21 **the Charter] and by supplementing and modifying the statutes of the state and**
22 **their application to the city. In the event any of the provisions of this chapter**
23 **conflict with the Constitution of the state or the Charter of the city, the**
24 **Constitution and Charter shall prevail, and if any provision of this chapter**
25 **conflicts with any otherwise applicable provision of the general statutes of the**
26 **state, the provisions of this chapter shall prevail.**

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1 § 2-4-3 MUNICIPAL ELECTION CODE [LAWS].

2 [The conduct of municipal elections is governed by the State Election Code,
3 the Local Election Act, and the City Charter, as any of them are amended and
4 supplemented from time to time.]

5 ~~[The Municipal Election Code, Chapter 3, Articles 8 and 9, NMSA 1978, as~~
6 ~~amended and as supplemented from time to time, shall govern the conduct of~~
7 ~~all aspects of all municipal elections, except when the Municipal Election Code~~
8 ~~is silent on a matter, then the State Election Code, Chapter 1, NMSA 1978,~~
9 ~~shall govern, as appropriate; however, if any provision of either the Municipal~~
10 ~~Election Code or the State Election Code is inconsistent with the terms of the~~
11 ~~City Charter, the Charter shall control, or inconsistent with the terms of this~~
12 ~~chapter, this chapter shall take precedence over the Municipal Election Code~~
13 ~~and State Election Code and shall control.]~~

14 § 2-4-4 CITY CLERK - DUTIES.

15 The City Clerk shall administer all municipal elections [as provided herein].
16 The City Clerk may delegate to Deputy City Clerks and Assistant City Clerks
17 any of the duties of the City Clerk in the administration of municipal elections.

18 § 2-4-5 DATES OF REGULAR, SPECIAL AND RUNOFF ELECTIONS.

19 (A) Regular municipal elections shall be held on the first Tuesday after the
20 first Monday in November of odd-numbered years.

21 (B) Any special election that may be called by the City Council shall be held
22 ~~[on any day designated by the Council by resolution]~~[as provided by law].

23 (C) Any runoff election that may be called by the City Council shall be held
24 on any day designated by the Council by resolution consistent with Section 8
25 of Article II of the City Charter. [Upon informing the filing officer of the offices
26 to be filled at the next regular local election, the governing body shall set the
27 date of the runoff, not later than 120 days before the election].

28 (D) The term of office for the elected municipal office holders seated upon
29 city's opt-in to the Regular Local Election is adjusted, so that:

30 (1) City Councilors that began their term on December 1, 2015 in City
31 Council Districts 2, 4, 6, and 8 shall serve until December 31, 2019. The
32 subsequent term of office for these Districts shall be elected at the regular

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1 local election held in November, 2019, and the new term shall commence
2 January 1, 2020; and

3 (2) The Mayor, and the City Councilors who began their term on
4 December 1, 2017 in City Council Districts 1, 3, 5, 7, and 9, shall serve until
5 December 31, 2021. The subsequent term of office for the Mayor and for these
6 Districts shall be elected at the regular local election in November, 2021, and
7 the new term shall commence January 1, 2022.

8 ~~§ 2-4-6 VOTING MACHINES; PAPER BALLOTS.~~

9 ~~—Voting machines shall be used in all city elections, except paper ballots may~~
10 ~~be used in lieu of voting machines for the recording of votes cast in any city~~
11 ~~election if the decision to use paper ballots is made by the City Council at the~~
12 ~~time the election resolution is adopted.]~~

13 ~~§ 2-4-7 POSITION OF CANDIDATES ON THE BALLOT.~~

14 ~~—(A) The names of all certified candidates for office shall be listed on the~~
15 ~~ballot without party or other designation. The order, on the ballot, of the~~
16 ~~names of the candidates for each office shall be determined by lot, that is, the~~
17 ~~name of each candidate for an office or position shall be drawn in a impartial~~
18 ~~and fair public drawing administered by the City Clerk in accordance with the~~
19 ~~Municipal Election Code [as set forth in division (B) below]. The City Clerk~~
20 ~~shall notify, in writing, each candidate for an office or position of the time and~~
21 ~~place of the public drawing. Such notice shall be given to the candidate or the~~
22 ~~candidate's authorized representative at the time of filing of the candidate's~~
23 ~~declaration of candidacy.~~

24 ~~—(B) The City Clerk, at the time and place of the public drawing, shall place~~
25 ~~the names of each certified candidate for an office or position on separate~~
26 ~~pieces of paper which shall be placed in a container. The City Clerk shall then~~
27 ~~cause the pieces of paper to be drawn from the container one at a time. The~~
28 ~~positions of the candidates on the ballot shall be determined by the order in~~
29 ~~which the names of the candidates are drawn from the container.]~~

30 § 2-4-8 REGULAR MUNICIPAL ELECTION; TAKING OFFICE.

31 (A) Each candidate, elected to the office of Mayor or Councilor, shall
32 personally appear before the City Clerk at a time and place specified by the
33 City Clerk, but not earlier than after canvass and after the candidate has

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1 received ~~[City Clerk has prepared]~~ the certificate of election and not later than
2 the administration of the oath of office. When the candidate appears, ~~[the City~~
3 ~~Clerk shall deliver the certificate of election to the candidate and]~~ the
4 candidate shall sign a written statement acknowledging receipt of the
5 certificate of election and acknowledging that the candidate is legally qualified
6 to hold office. The City Clerk shall cause a copy of the certificate of election
7 and the written receipt and qualification statement to be filed in the Journal of
8 the Council.

9 (B) The City Clerk or any other person allowed by law to administer oaths
10 shall administer the oath of office to each candidate who has provided the
11 written receipt and qualifications statement to the City Clerk. A public
12 ceremony repeating the swearing in shall also be conducted on January 1
13 following each election. Officials shall be deemed to have taken office on
14 January 1.

15 (C) If a candidate fails to appear as required in division (A) of this section,
16 then the candidate or the candidate's authorized personal representative shall
17 file an affidavit with the City Clerk, not later than 5:00 p.m. on the fifth day after
18 the time specified by the City Clerk pursuant to division (A) of this section,
19 stating that the candidate was unable to personally appear before the City
20 Clerk as required by division (A) of this section. If such an affidavit is timely
21 filed, the candidate shall appear before the City Clerk not later than 5:00 p.m.
22 on the 15th day following the specified date for the commencement of the term
23 of office to ~~[receive]~~ ~~[provide]~~ the election certificate, file the receipt and
24 qualifications statement and take the oath of office.

25 (D) If a candidate fails to comply with division (A) of this section prior to the
26 specified date for the commencement of the term of office, then the person
27 holding the office shall remain in office until the candidate takes office or the
28 office is declared vacant.

29 (E) If a candidate fails to comply with division (A) and division (C) of this
30 section, then the Council shall declare by resolution that the office is vacant.

31 ~~[\$ 2-4-9 CHALLENGERS AND WATCHERS.~~

32 ~~—(A) Challengers, watchers and alternates may be appointed for Special~~
33 ~~Elections in the following manner:~~

1 ~~— (1) For recall elections, upon petition filed with the City Clerk by the~~
2 ~~elective officer subject to the recall election and the chairperson of the~~
3 ~~measure finance committee that initiated the recall election, those persons~~
4 ~~may appoint one challenger and one alternate, and one watcher and one~~
5 ~~alternate for each polling place in the recall election.~~
6 ~~— (2) For referendum, direct legislation by voter initiative and charter~~
7 ~~amendment elections, upon petition filed with the City Clerk by the~~
8 ~~chairperson of the measure finance committee if there is only one such~~
9 ~~committee, or by both chairpersons if there are two such committees, or by a~~
10 ~~majority of such chairpersons if there are more than two such committees,~~
11 ~~these chairpersons may appoint one challenger and one alternate, and one~~
12 ~~watcher and one alternate for each polling place in the referendum, direct~~
13 ~~legislation by voter initiative or charter amendment election.~~
14 ~~— (3) The City Clerk shall designate the form of the petition appointing~~
15 ~~watchers, challengers and alternates.~~
16 ~~— (4) The petition appointing watchers, challengers and alternates shall be~~
17 ~~filed not later than 5:00 p.m. on the fourth day preceding the special election.~~
18 ~~— (5) Only one challenger and one alternate, and one watcher and one~~
19 ~~alternate may be appointed for each polling place in any special election.~~
20 ~~— (B) Challengers, watchers and alternates so appointed shall have the same~~
21 ~~qualifications and rights as do challengers, watchers and alternates in~~
22 ~~candidate elections as those qualifications and rights are specified in the~~
23 ~~Municipal Election Code.~~
24 ~~— (C) For the purposes of this section, a MEASURE FINANCE COMMITTEE is~~
25 ~~a measure finance committee as defined in the Election Code of the City~~
26 ~~Charter [see Section 2(j), Article XIII of the City Charter] which has filed all~~
27 ~~required statements with the Board of Ethics and Campaign Practices.]~~
28 § 2-4-10 NOTICE OF INTENT.
29 Prior to circulating a petition pursuant to Sections 1 or 3, Article III, or Article
30 VI of the City Charter, a notice of intent to circulate a petition, containing the
31 signatures of at least five qualified voters, must be filed with the City Clerk.
32 The City Clerk shall designate the form of the notice of intent, which shall
33 include sufficient information to determine if each signer of the notice of intent

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1 to circulate a petition is a legally registered voter and a person entitled to vote
2 in city elections. A notice of intent to circulate a petition to recall a Councillor,
3 pursuant to Section 1, Article III of the City Charter, shall be signed only by
4 qualified voters registered as residing in the District which the Councillor
5 represents.

6 **§ 2-4-11 FILING OF PROPOSED MEASURES AND CHARTER AMENDMENTS.**

7 (A) Measures. Concurrently with the filing of a notice of intent to circulate a
8 petition, pursuant to Section 3, Article III of the City Charter, the proposed
9 measure shall be filed with the City Clerk. The proposed measure shall be
10 complete in all respects.

11 (B) Charter Amendments. Concurrently with the filing of a notice of intent to
12 circulate a petition, pursuant to Article VI, City Charter, the proposed Charter
13 amendment shall be filed with the City Clerk. The proposed Charter
14 amendment shall be complete in all respects.

15 **§ 2-4-12 FORM OF PETITION, REQUIREMENTS FOR CIRCULATORS AND
16 VOID PETITION SIGNATURES.**

17 ~~[(A) Findings. More than 3,100 petition signatures for the October 4, 2005
18 election submitted to the City Clerk were identified by the Bernalillo County
19 Sheriff's Department as forgeries which creates the need to know who gathers
20 and submits petitions to the City Clerk and the public's right to know if the
21 circulator is paid or a volunteer.]~~

22 (B) The City Clerk shall designate the form of the petitions to be followed in
23 all petitions to be circulated in accordance with the provisions of Articles II, III
24 and VI of the City Charter. The form established shall include sufficient
25 information to determine if the signer of the petition is a legally registered
26 voter and a person entitled to vote in city elections. [The form of petition shall
27 be in accordance with the petition requirements in NMSA 1978, § 1-8-
28 30.] ~~[Every petition page shall contain (1) a heading which clearly conveys the
29 purpose for signing the petition; (2) columns for the voter's signature, printed
30 name of voter, residence of voter as shown on current voter registration rolls,
31 and the date the voter signed the petition (3) in capital letters in the upper
32 right hand corner of the face of the petition page the following: " _____ Paid
33 Circulator" " _____ Unpaid Volunteer". A petition submitted pursuant to Article~~

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1 ~~II and a receipt for a Qualifying Contribution provided for in the Open and~~
2 ~~Ethical Elections Code may be combined into a single document so that there~~
3 ~~is one signature of the contributor as required by the Open and Ethical~~
4 ~~Elections Code and a second signature of the same individual if they also~~
5 ~~choose to sign pursuant to Article II. A document combining the requirements~~
6 ~~of a receipt under the Open and Ethical Elections Code and a petition under~~
7 ~~Article II shall be in such form as to meet the requirements of both documents~~
8 ~~and the signature of the City Clerk shall appear on each page as provided~~
9 ~~herein.] To each petition or group of petitions submitted pursuant to City~~
10 ~~Charter Article III or VI by a circulator shall be attached a signed and notarized~~
11 ~~affidavit containing the following: (1) the circulator's actual residence address~~
12 ~~and if no street address exists, a description of the residence location, city~~
13 ~~and zip code; (2) the printed or typed name of the circulator; (3) the printed~~
14 ~~name, address and signature of the person or representative of the~~
15 ~~organization or other entity that paid the circulator and (4) the following~~
16 ~~verification signed by the circulator: "I _____ (name of circulator),~~
17 ~~under penalty of perjury, hereby verify that each of the names on this petition~~
18 ~~page was signed in my presence and that in my belief each signer was a~~
19 ~~qualified elector who was registered to vote at the address given as their~~
20 ~~residence on the date indicated". The City Clerk shall place on the affidavit the~~
21 ~~petition pages to which the affidavit applies, using the petition page numbers~~
22 ~~that are designated by the City Clerk. The affidavit shall not be part of the~~
23 ~~petition. The circulator shall not sign and complete the affidavit at the time the~~
24 ~~petition is presented to voters for their signatures but shall sign and complete~~
25 ~~the affidavit before it is submitted to the City Clerk. All requirements for~~
26 ~~affidavits set forth in this section shall apply to affidavits in support of~~
27 ~~petitions submitted pursuant to City Charter Article II, provided that such~~
28 ~~affidavits need be signed only by the candidate or the candidate's treasurer~~
29 ~~who is registered with the City Clerk, that no name, signature and address of~~
30 ~~the person or organization that paid the circulator need be provided and that~~
31 ~~the affidavit need not represent that the petition was signed in the presence of~~
32 ~~the candidate or the candidate's treasurer. The signature of the City Clerk and~~
33 ~~date of issuance of the petition shall appear on each petition page. All print~~

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1 on the petition shall be in no less than eleven point type. The circulator of the
2 petition shall indicate whether he or she is a paid circulator or a volunteer on
3 each petition page prior to obtaining any signatures. Petition pages submitted
4 under City Charter Article III, Section 3, Direct Legislation by Voter Initiative, or
5 Article VI, Charter Amendments, shall contain the full text of the measure
6 proposed to be on the ballot or shall attach the full text of the measure to the
7 petition. The measure proposed to be placed on the ballot shall be provided in
8 writing to the voter by the circulator prior to the voter signing the petition. The
9 circulator shall provide the voter the opportunity to read the entire measure to
10 be placed on the ballot or, if requested by the voter, shall read the entire
11 measure to be placed on the ballot to the voter prior to the voter signing the
12 petition.

13 (C) Signatures obtained in violation of this section are void and shall not be
14 counted by the City Clerk in determining whether a sufficient number of
15 signatures were submitted to the City Clerk. All signatures on a petition page
16 shall be void if (1) the circulator fails to provide the affidavit required in this
17 section, (2) neither "Paid Circulator" nor "Unpaid Volunteer" is checked on the
18 petition page, or (3) the petition page does not contain all of the information
19 required by this section to be on or attached to a petition page. When a
20 petition page meets all of the requirements of this section, the presence of a
21 signature that is invalidated because the person signing the petition cannot be
22 identified by the City Clerk as currently registered to vote in Albuquerque shall
23 not invalidate other signatures on the petition that were obtained as
24 prescribed by this section.

25 (D) A "circulator" of a petition shall be any person who presents or
26 otherwise makes available to any person a petition required under the
27 Albuquerque City Charter or Ordinances of the City of Albuquerque for the
28 purpose of requesting or obtaining that person's signature on such petition.

29 (E) The City Clerk shall not approve the form of a petition proposing a
30 measure or a Charter amendment if the proposed measure or Charter
31 amendment has not been filed pursuant to this section.

32 § 2-4-13 FILING OF PETITIONS.

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1 (A) The City Clerk shall accept a petition for filing only if the City Clerk has
2 approved the form of the petition prior to circulation of the petition.

3 (B) Persons submitting petitions in accordance with Section 4, Article II of
4 the City Charter shall collect all signatures on such petitions during the
5 following periods in the year of the election:

6 (1) For Mayoral candidates [~~who are seeking public financing~~], starting [at
7 8:00am] 199 days before the election, and ending [at 5:00pm] 136 days before
8 the election;

9 ~~[(2) For Mayoral candidates who are seeking private financing, starting~~
10 ~~147 days before the election, and ending 84 days before the election;]~~

11 (3) For Council candidates [~~who are seeking public financing~~], starting [at
12 8:00am] 155 days before the election, and ending [at 5:00pm] 120 days before
13 the election; and

14 ~~[(4) For Council candidates who are seeking private financing, starting~~
15 ~~119 days before the election, and ending 84 days before the election;]~~

16 ~~[(5) If a candidate seeking public financing collected one or more petition~~
17 ~~signatures during a public financing petition gathering period, and later~~
18 ~~converts to a privately funded candidate, the candidate may only collect~~
19 ~~petition signatures during the public financing petition gathering period in~~
20 ~~which they began.]~~

21 (C) Petitions gathered pursuant to the provisions of Subsection (B) shall be
22 submitted to the City Clerk for verification every Tuesday by 12:00 p.m. during
23 the petition gathering period.

24 ~~[(1) For Mayoral candidates seeking public financing, the final submission~~
25 ~~of petitions is due to the City Clerk no later than 5:00 p.m. 136 days before the~~
26 ~~election.~~

27 ~~—(2) For Mayoral candidates seeking private financing, the final submission~~
28 ~~of petitions is due to the City Clerk no later than 5:00 p.m. 84 days before the~~
29 ~~election.~~

30 ~~—(3) For Council candidates seeking public financing, the final submission~~
31 ~~of petitions is due to the City Clerk no later than 5:00 p.m. 120 days before the~~
32 ~~election.~~

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1 ~~—(4) For Council candidates seeking private financing, the final submission~~
2 ~~of petitions is due no later than 5:00 p.m. 84 days before the election.]~~

3 (5) Petition signatures that have not been submitted to the City Clerk
4 within the timeframes set in Subsection (B) shall be deemed invalid and shall
5 not be considered in any determination of candidate qualification.

6 (D) Persons submitting petitions in accordance with Section 1 or 3, Article
7 III of the City Charter, or Article VI of the City Charter, shall do so within the 60-
8 day limitation; provided, that parts of the petition may be submitted in three
9 stages:

10 (1) The first part not more than 20 days after the filing of the notice of
11 intent to circulate the petition;

12 (2) The second part not more than 40 days after the filing of the notice of
13 intent to circulate the petition; and

14 (3) The third and final part of the petition shall be filed no later than 60
15 days after the filing of the notice of intent to circulate the petition.

16 (E) Persons submitting petitions in accordance with Section 2, Article III of
17 the City Charter, shall do so within the 35-day limitation; provided, that parts
18 of the petition shall be submitted in two stages:

19 (1) The first part not more than 15 days after the filing of the notice of
20 intent to circulate a petition; and

21 (2) The second and final part of the petition shall be filed no later than 35
22 days after the filing of the notice of intent to circulate the petition.

23 ~~[(F) Applicant Candidates seeking public financing who are submitting~~
24 ~~petitions in accordance with Section 4, Article II of the City Charter shall file~~
25 ~~their Declaration of Candidacy and verified petitions with the County Clerk 14~~
26 ~~days after the last day of the Qualifying Period.]~~

27 (G) All such petitions shall be filed in the City Clerk's office during the
28 regular business hours of that office~~[- If the last day to file a petition falls on a~~
29 ~~Saturday, Sunday or city holiday, the time in which to file a petition shall be~~
30 ~~deemed to be extended to 5:00 p.m. on the next full business day following the~~
31 ~~Saturday, Sunday or holiday.] [as determined by Rule promulgated by the City~~
32 ~~Clerk.]~~

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1 (H) All candidates who submitted a petition in accordance with Section 4,
2 Article II of the City Charter shall file the results of the City Clerk's petition
3 signature verification and their Declaration of Candidacy with the proper filing
4 officer on the prescribed filing day in accordance with Section 1-22-3.2(D)
5 NMSA 1978 or Section 1-22-7 NMSA 1978.

6 [(1) Publicly Financed Candidates for Mayor shall submit their petitions
7 and Declaration of Candidacy to the City Clerk one hundred and twenty-two
8 (122) days before the election in accordance with NMSA 1978, Section 1-22-
9 3.2(D).

10 (2) Publicly Financed Candidates for City Council shall submit their
11 petitions and Declaration of Candidacy to the City Clerk one hundred and six
12 (106) days before the election in accordance with NMSA 1978, Section 1-22-
13 3.2(D).

14 (3) Privately Financed Candidates for Mayor and City Council shall submit
15 their petitions and Declaration of Candidacy to the County Clerk seventy (70)
16 days before the election in accordance with NMSA 1978, Section 1-22-7. The
17 Candidate may store the original petitions in the City Clerk's Office vault until
18 the above-specified filing date for privately financed candidates.]

19 § 2-4-14 VALIDITY OF PETITION.

20 When a petition is circulated pursuant to the procedures set forth in the City
21 Charter, the validity of the petition shall be determined by the City Clerk in
22 accordance with Section 3-1-5 NMSA 1978 , as amended and as supplemented
23 from time to time. It shall be the duty of the City Clerk to begin the verification
24 process of the validity of the petition and any portion thereof upon being filed
25 in the City Clerk's Office. The results of the validation process shall become a
26 matter of public record and a list of the names, addresses and signatures
27 which were purged from the petition shall be posted in the office of the City
28 Clerk.

29 § 2-4-15 REINSTATEMENT OF PURGED SIGNATURES.

30 Any person whose signature has been purged from a petition shall have the
31 opportunity to have the person's signature reinstated in accordance with
32 Section 3-1-5 NMSA 1978. The widest latitude is to be given for the manner in

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1 which a person whose signature is to be purged from a petition may have the
2 person's name reinstated.

3 **§ 2-4-16 RECOMMENDATIONS.**

4 Within a reasonable time after the holding of a municipal election the City
5 Clerk shall make appropriate recommendations to the Mayor and the City
6 Council for modification of election procedures designed to insure fairness
7 and accuracy, protect the secrecy of the ballot and reduce the administration
8 costs and burdens of conducting elections.

9 ~~§ 2-4-17 CANVASSING OF RETURNS.~~

10 ~~—Election returns shall be canvassed in accordance with Section 3-8-53 NMSA~~
11 ~~1978, the Municipal Election Code, except that the matters to be performed~~
12 ~~shall be completed not later than 5:00 p.m. on the tenth day following the~~
13 ~~election. In addition to the duties prescribed by Section 3-8-53(C)(2) NMSA~~
14 ~~1978 the City Clerk shall also certify, and include on the certificate of canvass,~~
15 ~~the total number of signatures that will be required for any subsequent voter~~
16 ~~initiatives proposed pursuant to Article III, Section 3 of the City Charter.]~~

17 **§ 2-4-18 ABSENTEE VOTING.**

18 Absentee voting shall be conducted in accordance with [NMSA 1978, Chapter
19 1, Article 6] [~~Chapter 3, Article 9, NMSA 1978 with the following exceptions.~~
20 ~~The absent precinct board shall convene three days prior to the day of the~~
21 ~~election at which time the municipal clerk shall deliver to the absent voter~~
22 ~~precinct board the absentee ballot register and the absent voter ballots~~
23 ~~received by the clerk. The absent voter precinct board shall immediately begin~~
24 ~~the process of voter name verification from the official mailing envelope to the~~
25 ~~absentee voter list. As the process is completed, the official mailing envelope~~
26 ~~shall be returned to the locked ballot boxes and secured by the absent voter~~
27 ~~precinct board until 7:00 a.m. on election day at which time the absent voter~~
28 ~~precinct board may begin opening the official mailing envelopes and the inner~~
29 ~~envelopes and begin the counting and tallying of the results. Prior to 7:00 p.m.~~
30 ~~on election day, the municipal clerk shall deliver any ballots received on~~
31 ~~election day to the absent voter precinct board and the precinct board shall~~
32 ~~note the receipt of ballots in the absent ballot register and on the absentee~~
33 ~~voter list. For any all-mailed ballot election conducted by the city pursuant to~~

1 ~~to the state Mail Ballot Election Act, the municipal clerk shall mail the ballots~~
2 ~~no sooner than five working days after the County Clerk delivers to the~~
3 ~~municipal clerk a corrected and updated voter list. The municipal clerk shall~~
4 ~~not count unsigned ballots, and the municipal clerk shall not attempt to locate~~
5 ~~voters who returned unsigned ballots, nor make arrangements for voters to~~
6 ~~sign unsigned ballots after they have been returned to the city. City~~
7 ~~employees, other than those employed by the municipal clerk's office, shall~~
8 ~~not handle ballots or assist the municipal clerk with the election in any way~~
9 ~~during an all-mailed ballot election.]~~

10 **§ 2-4-19 LIMITATION ON USE OF FUNDS.**

11 (A) Short title. This section may be referred to as the "Limitation on Use of
12 Open and Ethical Elections Code Funds Ordinance".

13 (B) Limitation on use of funds. Funds distributed to participating
14 candidates under the provisions of the Open and Ethical Elections Code, in
15 addition to the limitations contained in that Code, shall not be used for the
16 following purposes:

17 (1) The purchase of "alcoholic beverages" as that term is defined at § 13-
18 2-2 ROA 1994.

19 (2) Any payment to a registered voter in exchange for that voter agreeing
20 to vote in an election.

21 (C) Penalty. Violation of this section shall be a criminal act punishable as
22 provided for at § 1-1-99 ROA 1994.

23 **§ 2-4-20 LIMITATIONS ON USE OF SEED MONEY.**

24 (A) Short title. This section may be referred to as the "Limitation on Use of
25 Seed Money Ordinance".

26 (B) Limitation on use of seed money. Seed money collected by applicant
27 candidates under the provisions of the Open and Ethical Elections Code, in
28 addition to the limitations contained in that Code, shall be subject to the
29 following limitations:

30 (1) All goods and services received prior to certification must be paid for
31 with seed money contributions, except for goods and services that are
32 excluded from the definition of contribution in Article XIII, Section 2,
33 subsection g. It is a violation of this ordinance for a participating candidate to

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1 use fund revenues received after certification to pay for goods and services
2 received prior to certification.

3 (2) Prior to certification, an applicant candidate may obligate an amount
4 greater than the seed money collected, but may only receive that portion of
5 goods and services that has been paid for or will be paid for with seed money.
6 An applicant candidate who has accepted contributions or made expenditures
7 that do not comply with the seed money restrictions under this chapter may
8 petition the Clerk to remain eligible for certification as a participating
9 candidate if the failure to comply was unintentional and does not constitute a
10 significant infraction of these restrictions.

11 (3) An applicant candidate or participating candidate who receives a
12 contribution exceeding the seed money per donor restriction or the total
13 amount restriction must immediately return the contribution and may not
14 otherwise use the contribution.

15 ~~§ 2-4-21 MAINTENANCE OF CAMPAIGN IN OFF YEARS FOR PUBLICALLY~~
16 ~~FINANCED CANDIDATES.~~

17 ~~—A person may solicit and accept contributions, not to exceed \$100 per~~
18 ~~person, for the purpose of financing costs related to maintenance of a~~
19 ~~campaign during an election cycle in which the person is not a candidate as~~
20 ~~follows:~~

21 ~~—(A) A person who accepts donations for these purposes must establish a~~
22 ~~candidate finance committee and appoint a treasurer who is responsible for~~
23 ~~keeping records of donations and for filing a financial disclosure statement~~
24 ~~required by this section. All donations received must be deposited in a~~
25 ~~separate and segregated account and may not be commingled with any~~
26 ~~contributions received by any candidate or political committee or any personal~~
27 ~~or business funds of any person.~~

28 ~~—(B) A committee established pursuant to this section shall register and file~~
29 ~~a financial disclosure statement with the City Clerk as required by this~~
30 ~~subsection.~~

31 ~~—(C) The committee shall register with the City Clerk within ten days after~~
32 ~~appointment of a treasurer. The registration must include the name and~~
33 ~~mailing addresses of the members of the committee, and the treasurer.~~

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- 1 ~~—(D) The financial disclosure statement must contain the names, addresses,~~
2 ~~occupations and employers of all donors who have given money or anything~~
3 ~~of value, including in-kind donations of goods or services, along with the~~
4 ~~amounts and dates of the donations.~~
- 5 ~~—(E) Any outstanding loan, debt or other obligation of the committee must be~~
6 ~~disclosed as a donation.~~
- 7 ~~—(F) The financial disclosure statement must identify the amounts, dates,~~
8 ~~payees and purposes of all payments made by the committee.~~
- 9 ~~—(G) Financial disclosure statements must be filed in accordance with Article~~
10 ~~XII, Section 4, Subsection 2(A).~~
- 11 ~~—(H) A committee established pursuant to this section may accept~~
12 ~~contributions until the following deadlines:~~
- 13 ~~—(1) For Mayoral candidates, 287 days before an election in which the~~
14 ~~individual benefitted by the committee seeks to be a candidate where the~~
15 ~~person is a candidate; and~~
- 16 ~~—(2) For Council candidates, 203 days before an election in which the~~
17 ~~individual benefitted by the committee seeks to be a candidate where the~~
18 ~~person is a candidate.~~
- 19 ~~—(I) The registration of a committee established pursuant to this section shall~~
20 ~~expire each year on December 31st. A committee established pursuant to this~~
21 ~~section shall renew its registration with the City Clerk upon the later of~~
22 ~~expiration or within five days of any contribution collection or expenditure by~~
23 ~~the committee that is in excess of \$250.~~
- 24 ~~—(J) Any unspent funds remaining in the committee's account as of the first~~
25 ~~day of the exploratory period shall be forfeited to the Fund.~~
- 26 ~~—(K) Contributions to a committee pursuant to this section shall count~~
27 ~~towards the aggregate and per person limits on seed money.]~~

28 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, word or
29 phrase of this ordinance is for any reason held to be invalid, or unenforceable
30 by any court of competent jurisdiction, such decision shall not affect the
31 validity of the remaining provisions of this ordinance. The Council hereby
32 declares that it would have passed this ordinance and each section,

1 paragraph, sentence, clause, word or phrase thereof irrespective of any
2 provision being declared unconstitutional or otherwise invalid.

3 SECTION 3. COMPILATION. Section 1 of this ordinance shall amend, be
4 incorporated in, and made part of the Revised Ordinances of Albuquerque,
5 New Mexico, 1994.

6 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five (5) days
7 after publication by title and general summary.

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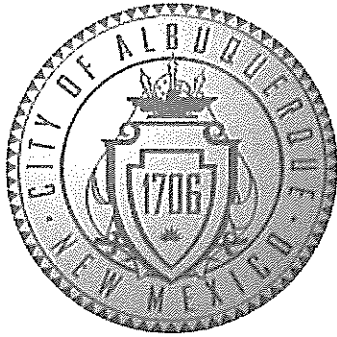
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Mayor Timothy M. Keller

CITY OF ALBUQUERQUE


Albuquerque, New Mexico

Office of the Mayor

INTER-OFFICE MEMORANDUM

September 12, 2022

TO: Isaac Benton, President, City Council

FROM: Timothy M. Keller, Mayor 

SUBJECT: Code Clean Up – Regular Local Election and Petitions

The Code Clean Up – Regular Local Election and Petitions addresses Chapter 2, Article 4 of the City’s Code of Ordinances. Various sections in these Articles reference the State Municipal Election Code which has been replaced with the Local Election Act and this Clean Up will remove sections that apply to aspects of election administration which are now overseen by the County Clerk and the Secretary of State.

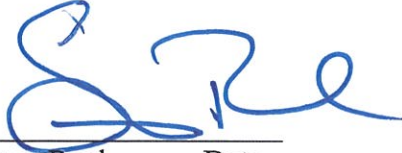
The Code Clean Up removes or amends ROA 1994, Sections 2-4-6, 2-4-7, 2-4-9, 2-4-17, and 2-4-18, as these sections are now overseen and managed by the County Clerk and the Secretary of State.

The Code Clean Up also edits Section 2-4-12 to clarify the form of petition is dictated by state law and the requirements in this section are no longer applicable. The ordinance also edits Section 2-4-13 to merge the petition gathering periods for candidates so that candidates circulating petitions, whether public or privately financed, will circulate petitions during the same timeframe.

The Code Clean Up removes Section 2-4-21 which describes what publicly financed candidates must do to maintain their campaign during off years.

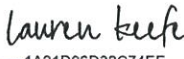
CODE CLEAN UP – REGULAR LOCAL ELECTION AND PETITIONS.

Approved:



Lawrence Rael Date
Chief Administrative Officer

Approved as to Legal Form:

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Lauren Keefe Date
City Attorney

Recommended:

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EH

DocuSigned by:



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Ethan Watson, City Clerk Date

Cover Analysis
2023 Code Clean Up – Regular Local Elections and Petitions

- 1. What is it?** An Ordinance to clean up the City Code, Chapter 2, Article 4
- 2. What will this piece of legislation do?** This legislation will clarify outdated references to state law, and remove sections of Chapter 2, Article 4 that are no longer overseen by the City and rather managed by the County Clerk and the Secretary of State Office. The Legislation will edit the requirements of the petition to comport with state law and will merge petition gathering periods so that candidates, whether publicly financed or privately finance, will gather petitions during the same timeframe. This legislation will also remove the option for maintenance of a campaign in off years for publicly financed candidates.
- 3. Why is this project needed?** It is vital to continually maintain the City Charter to comport with state law as well as to address any confusions or outstanding issues from the previous election cycle. This Code Clean Up will remove outdated references to state law and election management, and will also address items from the 2021 election cycle in advance of the 2023 cycle. These items include removing references to the management of elections that are overseen by the County Clerk and the Secretary of State. During the 2021 election cycle it was discovered that candidates circulating petitions during separate timeframes created issues that could be avoided by merging the petition timeframes.
- 4. How much will it cost and what is the funding source?** N/A
- 5. Is there a revenue source associated with this contract? If so, what level of income is projected?** N/A
- 6. What will happen if the project is not approved?** The references to election management will remain in the City Code and will continue to cause confusion. Candidates will also continue to circulate petitions during separate timeframes.
- 7. Is this service already provided by another entity?** No.