

ORDINANCE NO. 7,875–N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12: BERKELEY ELECTION REFORM ACT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 2.12.095 is amended to read as follows:

2.12.095 Committee

"Committee" means any person or combination of persons that directly or indirectly receives contributions which total more than one thousand dollars in a calendar year or makes expenditures exceeding more than one thousand dollars in a calendar year for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party.

Section 2. That Berkeley Municipal Code Section 2.12.168 is amended to read as follows:

2.12.168 Qualifying period.

"Qualifying period" means the period beginning on the day after the date of the most recent general election for the specific office or seat that a candidate is seeking and ending at the close of regular business hours, 14 days before the date of the election for which the candidate is seeking office.

Section 3. That Berkeley Municipal Code Section 2.12.255 is amended to read as follows:

2.12.255 Statement of organization--Committee required to file.

A. Subject to the exception in Section 2.12.255(B), every committee under Section 2.12.095 of this chapter shall file with the City Clerk a statement of organization, as defined in Government Code Section 84101 et. seq., or its successors, within ten days after qualifying as a committee pursuant to Section 2.12.095.

B. Every committee that qualifies during the period between the closing date of the last pre-election statement and the election shall file with the City Clerk, by hand delivery or by such means as the commission may prescribe, a statement of organization no later than the close of the next business day.

C. The date on which a committee qualified, and not the date on which the committee filed its statement of organization, shall determine the committee's obligation to file the campaign statements and late contribution reports required by this chapter. All committees, whether qualified before or after the date of the final pre-election statement, but before the date of an election, are subject to late contribution reporting requirements.

Section 4. That Berkeley Municipal Code Section 2.12.260 is repealed.

2.12.260 Repealed.

Section 5. That Berkeley Municipal Code Section 2.12.265 is repealed.

2.12.265 Repealed.

Section 6. That Berkeley Municipal Code Section 2.12.505.H is amended to read as follows:

H.

- 1). Unspent campaign funds of any Participating Candidate who does not qualify as a candidate for the ballot at the election for which the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City no later than the date of the election for which the funds were distributed. All funds returned under this paragraph must be accompanied by any required supporting documentation. In such cases, the participating candidate must return the unspent funds to the City, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions, prior to refunding any contributions to individual contributors.
- 2). Any campaign funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.
- 3). All unspent campaign funds returned to the City shall be deposited in the Fair Elections Fund pursuant to the City Charter.
- 4). The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.
- 5).After the deadline to return unspent funds in 2.12.505.H.2, a participating candidate may continue to raise funds in accordance with Article 8 of Chapter 2.12 to pay campaign-related debt from the most recent election. Any such contributions received shall not be eligible for matching funds.

Section 7. That Berkeley Municipal Code Section 2.12.505.J is added to read as follows:

J. Requests for matching funds may be submitted no later than 30 days after Election Day for the election at which the participating candidate qualified as a candidate.

Section 8. That Berkeley Municipal Code Section 2.12.505.K is added to read as follows:

K. Upon approval of a participating candidate's Initial Qualifying Request, the candidate is prohibited from withdrawing from the Public Financing Program and receiving contributions pursuant to Section 2.12.415 for the same office at the same election for which they are a participating candidate.

Section 9. That Berkeley Municipal Code Section 2.12.507 is added to read as follows:

2.12.507 Return of Contributions by Participating Candidates

A. Notwithstanding the requirements in Section 2.12.505.H.1, if a participating candidate returns a qualified contribution for which they have requested and received matching funds, they must immediately return all said matching funds to the City.

B. Notwithstanding the requirements in Section 2.12.505.H.1, a participating candidate may return a non-qualified contribution to the contributor at any time without triggering any requirement that they return matching funds.

Section 10. That Berkeley Municipal Code Section 2.12.510 is amended to read as follows:

2.12.510 Candidate statement notice.

A candidate certified as a Fair Elections program participant shall be identified as such by a notice prominently posted on the City website.

Section 11. That Berkeley Municipal Code Section 2.12.545 is amended to read as follows:

2.12.545 Cost of living adjustments.

The Commission shall adjust the dollar amounts specified in Sections 2.12.167, 2.12.500.A.3, 2.12.500.A.6, 2.12.500.A.7, 2.12.500.A.8, 2.12.505.B and 2.12.530.B.3.b for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections 2.12.167, 2.12.500.A.3 and 2.12.530.B.3.b and one thousand dollars (\$1,000) with respect to Section 2.12.505.B.

Section 12. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 13, 2023, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Harrison, Humbert, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.