

**AN ORDINANCE ESTABLISHING THE TOWN OF CHAPEL HILL
VOTER-OWNED ELECTIONS PROGRAM (2008-06-09/O-10)**

BE IT ORDAINED by the Council of the Town of Chapel Hill as follows:

Section 1. A new Chapter 2, Article V of the Code of Ordinances of the Town of Chapel Hill is hereby added to read as follows:

“Article V. Town of Chapel Hill Voter-Owned Elections Program

Sec. 2-85. Purpose Statement.

The Town Council of the Town of Chapel Hill finds that:

- (a) There is a compelling need to address the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections for Mayor and Town Council.
- (b) These contributions and expenditures may cause corruption or the appearance of corruption in the election process.
- (c) The establishment of this Voter-Owned Elections Program and the provision of public funding to candidates who accept strict yet reasonable limitations on campaign expenditures help achieve fairness of democratic elections by allowing any eligible citizen of Chapel Hill a realistic opportunity to choose to seek and run for public office.
- (d) It is in the public interest that the detrimental effects of increasingly large amounts of money being raised and spent in Chapel Hill to influence the outcome of municipal elections be minimized and that the meaningful participation of all citizens in the democratic process be enhanced.
- (e) The public funding available to a candidate pursuant to this Article, when combined with private contributions available to that participating candidate, provides sufficient funds for the participating candidate to mount a competitive campaign for Town elective office.

Accordingly, this Article establishes the Town of Chapel Hill Voter-Owned Elections Program (the Program) as an alternative source of campaign financing for candidates who obtain a sufficient number of qualifying contributions and who voluntarily accept strict fund-raising and spending limits.

This Article is available to candidates for Chapel Hill Mayor and Chapel Hill Town Council in elections to be held beginning in 2009.

Sec. 2-86. Definitions.

- (a) The following definitions shall apply to this Article:
 1. *Certified Candidate*: A candidate on the ballot for the office of Mayor or Town Council who abides by the provisions of this Article and any rules established to implement this Article and who provides documentation that he/she has raised at least the minimum number of Qualifying Contributions, in amounts that add up to the minimum total provided for in this Article in order to receive a public grant and, in addition, has not exceeded the fund-raising and expenditure limits established for certified candidates under this Article.
 2. *Declaration of Participation*: A sworn statement stating that the candidate (a) agrees to participate in the Voter-Owned Elections program, (b) agrees to the program’s spending and fund-raising rules and all the other applicable provisions of

this Article, and (c) agrees to collect only *Qualifying Contributions* from that date forward.

3. *Non-participating Candidate*: A candidate running for office who is not seeking to be a certified candidate.
4. *Participating Candidate*: A candidate as defined by N.C. Gen. Stat. § 163-278.6(4) who has filed a Declaration of Participation for the Voter-Owned Elections Program established by Article V and is raising qualifying contributions but has not yet met the requirements to become a certified candidate.
5. *Qualifying Contribution*: A contribution for a candidate who has filed a Declaration of Participation of \$5 to \$20 made by a resident of Chapel Hill who is registered to vote in Chapel Hill by the time the candidate files the required documentation to become a certified candidate.
6. *Rescue Funds*: Additional public funds provided to certified candidates when expenditures by non-participating candidates or independent expenditures which oppose a certified candidate or support a candidate with a certified opponent exceed the thresholds established by this Article.
7. *Seed Money*: Funds raised before a candidate files a Declaration of Participation, in accordance with the Town's current campaign finance regulations.
8. *Spending Limit*: The sum of the maximum amounts of Seed Money and Qualifying Contributions a participating candidate may raise, plus the initial public grant awarded to a certified candidate.
9. *State Board*: The State Board of Elections.

(b) Unless a specific provision of this Article or other Town Ordinance or the context indicates otherwise, the definitions provided in Articles 22A, 22D and 22J of Chapter 163 of the North Carolina General Statutes shall apply and may be considered in administering and interpreting any provision of this Article.

Sec. 2-87. Voluntary Campaign Funding Program Established.

- (a) Establishment of Fund. The Town of Chapel Hill Voter-Owned Elections Fund is established to provide public funding for the election campaigns of certified candidates for the office of Mayor and Town Council. The Fund shall be maintained in a separate account in the Town's financial records. Moneys allocated to the Fund by budgetary action of the Town Council or coming to the Fund as voluntary donations, contributions, reimbursements from candidates, or otherwise shall remain in the Fund and shall be used for the purpose of providing the public grants to candidates authorized by this Article. Pending distribution to qualified candidates, moneys in the Fund may be invested in accordance with the standard investment policies of the Town and any interest earned shall be credited to the Fund.
- (b) Funding Provided. The funding provided to certified candidates by this Program shall be distributed solely on the basis of candidates meeting the specific qualifications of the Program and shall not be affected by any candidate's race, creed, gender, national origin, age, economic status, sexual orientation, gender identity, gender expression, position on the issues, status of incumbency or non-incumbency, or party affiliation.

Sec. 2-88. Pre-Declaration Limitation on Fund-Raising.

- (a) From January 1 of the election year until filing a Declaration of Participation, a candidate who intends to participate in the Program established by this Article may raise seed money from sources and in amounts allowed by State Law as further restricted by Article IV, Chapter 2 of the Town Code and this Section.

- (b) For Council candidates, the seed money limit is \$750.
- (c) For Mayoral candidates, the seed money limit is \$1,500.

Sec. 2-89. Declaration of Participation.

- (a) Any candidate for Mayor or Town Council choosing to participate in the Program shall first file with the Board and the Town Clerk a declaration of intent to participate in the Program established by this Article.
- (b) The Declaration of Participation may be filed beginning May 1 of the year of the general election for municipal offices in the Town. Only upon filing of said declaration may a candidate begin to collect qualifying contributions needed to become a certified candidate. No gift or anything of value may be given in exchange for a qualifying contribution. During this period, the candidate shall only spend leftover seed money and qualifying contributions.

Sec. 2-90. Impact of Excess Non-Qualifying Contributions Raised and Spent.

- (a) Any candidate who has, prior to submitting a Declaration of Participation, raised and spent funds that would not qualify as seed money shall not be eligible to file a Declaration of Participation in this Program; provided, however, that upon the filing of a sworn statement with the Board that all such excess seed money raised has not been spent and has been returned to the contributors or transferred to the Fund, any such candidate shall be eligible to file a Declaration of Participation.
- (b) Any contribution received by a participating or certified candidate that falls outside that permitted by this Article shall be returned to the donor or transferred to the Fund as soon as practicable.

Sec. 2-91. Demonstration of Public Support Required for Certification.

- (a) In order to be a certified candidate, a candidate for Town Council must raise at least 75 qualifying contributions that add up to at least \$750.
- (b) In order to be a certified candidate, a candidate for Mayor must raise at least 150 qualifying contributions that add up to at least \$1500.

Sec. 2-92. Limitation on Fund-Raising for Participating Candidates.

- (a) Participating candidates for Town Council may raise and spend a maximum of \$2,250 in qualifying contributions.
- (b) Any qualifying contributions raised by a participating candidate for Council in excess of a total of \$2,250 will reduce, on a dollar-for-dollar basis, the amount awarded as a public grant or must be paid by the candidate into the Fund.
- (c) Participating candidates for Mayor may raise and spend a maximum of \$4,500 in qualifying contributions.
- (d) Any qualifying contributions raised by a participating candidate for Mayor in excess of a total of \$4,500 will reduce, on a dollar-for-dollar basis, the amount awarded as a public grant or must be paid by the candidate into the Fund.

Sec. 2-93. Public Grant Period.

- (a) Upon filing a notice of candidacy with the Orange County Board of Elections during the filing period as provided in N.C. General Statute Sec. 163-294.2, a participating candidate may submit documentation to become a certified candidate.
- (b) The deadline for the State Board to receive the certification documentation is 18 days

before the date set for the general election for municipal office.

- (c) The State Board shall have up to four full business days after receiving the certification documentation to determine if the certification documentation meets all applicable requirements. The State Board shall have two additional days to oppose the award if the documentation is not submitted electronically.
- (d) Documentation submitted must include:
 - a. the donor's name and address, and amount given and date of receipt for each qualified contribution;
 - b. a sworn statement from the candidate that, to the best of his/her knowledge, the qualifying contributions:
 - i. do not violate any statutes or ordinances and
 - ii. all of the qualifying contributions are from voting-age citizens who reside in Chapel Hill.
 - c. a sworn statement from the candidate that lists any campaign literature or signs purchased with campaign funds in a previous campaign which are available to and will be used by the candidate in the current campaign and the current replacement cost of such materials.

(e) Upon submitting said documentation and being approved for receipt of a public grant, the candidate may only spend leftover seed money, qualifying contributions, and public funds.

(f) After receiving a grant of public funds, the candidate may continue raising qualifying contributions of any amount up to \$20 per donor, up to the applicable limit set forth in Section 2-92. A qualifying contribution of less than \$5 may be accepted. All such contributions shall count toward the applicable limit set forth in Sec. 2-92.

Sec. 2-94. Public Funds Available for Certified Candidates.

- (a) Upon submittal of proper documentation, unless the State Board has objected to the award, the Town of Chapel Hill shall certify the candidate and provide the candidate with the public grant applicable to the office being sought by the candidate.
- (b) For certified candidates for Town Council, the maximum public grant is \$3000.
- (c) For certified candidates for Mayor, the maximum public grant is \$9000.
- (d) In the event that the funds held in the Town's account for grants would be insufficient to provide the maximum public grant to all certified or potentially certifiable candidates, at the time of certification of the first candidate or candidates for receipt of a public grant, the Town shall distribute such amounts as would be permitted to ensure that all potentially certifiable candidates for Mayor will receive an equal amount of public funds and all certifiable candidates for Town Council receive an equal amount of public funds, based on the same distribution ratio provided in (b) and (c) of this Section. In such case, upon the passing of the deadline for participation in the program, additional grants shall be provided, based on the same distribution ratio provided in (b) and (c) of this Section, up to the maximum permitted by this Article and available funds. If the available funds do not equal the maximum permitted by this Article for each certified candidate then private funds may be accepted by certified candidates, subject to the contribution limits, up to an amount which, when combined with the available public grant funds, would total the public grant amounts authorized.
- (e) All grant moneys shall be provided by the Town to candidates within four business days of the passing of any applicable deadline established by this Article, provided the Board does not object to awarding the funds.
- (f) At any time after qualifying and being certified, a candidate may file a declaration opting out of the program. Within four days of filing such a declaration, payment shall be made

to the Town of the full amount of any public grant and any rescue funds received by the candidate.

- (g) In the event the total number of candidates in any election campaign for Mayor or Council, including qualified write-in candidates, does not exceed the number of open seats, public grants shall not be provided to certified candidates for that office.
- (h) Funds provided to certified candidates as grants or as rescue funds are not subject to the contribution limitations of G.S. Sec. 163-278.13 or this Code or the prohibition on corporate contributions of G.S. Sec. 163-278.15 or G.S. Sec. 163-278.19, but shall be reported as campaign contributions in all campaign reports required by law to be filed by the campaigns receiving the payments.
- (i) The value of campaign literature and signs reported under Section 2-93(d) of this Ordinance shall reduce the amount of the public grant otherwise available to a certified candidate as follows: The public grant to any candidate shall be reduced by the amount to which the reported value of such materials exceeds \$100.

Sec. 2-95. Availability of Rescue Funds.

Additional public grants to certified candidates (rescue funds) shall be provided in accordance with the provisions of this Section.

- (a) Rescue funds shall be provided to all certified candidates for an office (Mayor or Council) when a candidate for the same office files a required report showing that that candidate has raised or spent 140% of the spending limit for a certified candidate.
- (b) Rescue funds shall also be provided to a certified candidate, when required reports of independent expenditures which oppose the certified candidate or support an opponent of the certified candidate show spending in excess of 140% of the spending limit for a certified candidate.
- (c) Upon the submittal of a required report by any candidate or entity making independent expenditures indicating that the threshold for distribution of rescue funds has been met, the Board shall have up to two full business days to oppose the issuance of rescue funds to certified candidates seeking the same office.
- (d) For purposes of determining if the limits have been exceeded to trigger the award of rescue funds, amounts raised and spent by a candidate and any independent expenditures that name that same candidate shall be combined; amounts spent that address multiple candidates shall be apportioned accordingly.
- (e) Rescue funds for certified candidates for Town Council are set at \$2000 for candidates for Town Council and at \$4000 for candidates for Mayor. Rescue funds awarded to a candidate are not counted in the calculation of issuing rescue funds.
- (f) In the event that the funds held in the Town's account for grants would be insufficient to provide the maximum rescue grant to all certified candidates, the Town shall distribute funds so that all certified Mayoral candidates receive an equal amount of public funds and all certified Council candidates receive an equal amount at the same overall ratio as the amounts provided for in paragraph (e) of this Section.
- (g) Rescue funds are a onetime award to each certified candidate for the office for which the limits provided by this Section have been surpassed.

Sec. 2-96. Spending Limitation for Program Participants.

- (a) Candidates who voluntarily choose to participate in the program and accept public grant money from the Town shall be limited in their expenditures as provided in this Section.
- (b) Council Candidates: Council Candidates may only spend their Seed Money (maximum

\$750); their qualifying contributions (maximum \$2250) and the public grant (maximum \$3000), except for rescue funds as provided in Sec. 2-95 of this Article.

- (c) **Mayoral Candidates:** Mayoral Candidates may only spend their Seed Money (maximum \$1500); their qualifying contributions (maximum \$4500) and their public grant (maximum \$9000), except for rescue funds as provided in Sec. 2-95 of this Article.
- (d) For purposes of these spending limitations, expenditures on advertisements, signs, or other published or broadcast materials that are on behalf of multiple candidates shall be considered prorated among the candidates for whom they are made.

Sec. 2-97. Permissible Expenditures.

Funds provided to candidates by the Town's Voter-Owned Elections Program shall be used only for the following purposes:

- (a) Advertisement expenditures, including all print and electronic media, yard signs, mailings;
- (b) Campaign office supplies and expenses including, but not limited to, telephone, postage, rent and printed mailing material; but does not include any penalties assessed under Sec. 2-101.
- (c) Consulting services, accounting services, clerical services, polling and other campaign advisory services;
- (d) Travel expenses for candidate and staff including mileage at the Town's rate;
- (e) Refreshments provided at meet-the-candidate events.
- (f) No certified candidate may use public funds for any expenditures incurred after the polls are closed in the election.

Sec. 2-98. Unspent Public Grants to be Returned to Fund..

Certified candidates shall return to the Fund any amount distributed by the Town that is unspent and uncommitted at the time of the election. For accounting purposes, all qualifying contributions and seed money shall be considered spent before any grant money provided from the Fund is spent or committed.

Sec. 2-99. Additional Reporting Requirements for Candidates and Individuals or Entities making Independent Expenditures.

- (a) In addition to any other reporting requirements established by law, the following reporting requirements for contributions, expenditures and obligations shall apply to municipal election campaigns in Chapel Hill:
 - 1) Each certified candidate for municipal office shall conduct all transactions of contributions, expenditures and obligations out of a single campaign account. For certified candidates, no unreported debt may be carried over after Election Day, and no debt may be incurred after Election Day.
 - 2) Participating candidates shall include, in each required report, information regarding their seed money fund-raising and qualifying contributions, including the amount, name and address of each contributor.
 - 3) All candidates for municipal office, including certified candidates and those who are not so certified, must file, electronically or by fax, an additional disclosure report five days before Election Day, covering activity through six days before the election not previously reported, including all contributions, expenditures and obligations incurred.
 - 4) All candidates must file a disclosure report 16 days after Election Day covering activity not previously reported through 14 days after Election Day, including all

contributions, expenditures and obligations incurred.

- 5) A non-participating candidate must report, electronically or by fax, within 24 hours of raising or spending more than 100% of the spending limit established for a certified candidate seeking the same elective office (Council or Mayor). A subsequent report in the same manner is required upon raising or spending more than 140% of the spending limit established for a certified candidate seeking the same elective office.
 - 6) Individuals or entities making independent expenditures supporting or opposing candidates with a certified opponent must report those expenditures, electronically or by fax, within 24 hours of spending more than 50%, 100% and 140% of the applicable spending limit for the office sought by the candidate so named.
 - 7) The program administrator may require additional reports to facilitate awarding of rescue funds in a timely manner.
- (b) All disclosure reports required by this Article shall be filed with the State Board with copies to the Orange County Board of Elections and the Town of Chapel Hill Department of Communications and Public Affairs.
 - (c) All reports required by this Article shall be available to the public as soon as possible after their receipt. Electronic means of reporting and storing information may be used.
 - (d) The reporting requirements of this Section shall not apply to any non-participating candidate who complies with all of the provisions of N.C.G.S. Section 163-278.10A.

Sec. 2-100. Adjustment Criteria for Private Contributions, Public Grants and Rescue Funds.

- (a) The maximum amount of seed money, the minimum and maximum aggregate amount of qualifying contributions, the limitation on the value of campaign literature and signs in Section 2-94(i), and amount of public funding (grants and rescue funds) provided for in this Article shall be adjusted as part of the annual budget approval process of the Town in each even-numbered year beginning in 2010 to reflect the change in the number of active registered voters in the Town of Chapel Hill provided in (c) and the change in the cost of living provided in (d) of this Section.
- (b) The minimum number of qualifying contributors in this Article shall be adjusted as provided in (c) of this Section as part of the annual budget approval process in each even-numbered year beginning in 2010 to reflect the change in the number of active registered voters in the Town of Chapel Hill provided in (c) of this Section.
- (c) On or before February 1 in each even-numbered year after 2008, the Town Manager shall obtain from the Orange County and Durham County Boards of Elections a statement of the number of active registered voters in Chapel Hill as of January 1. For each full 2,000 that number is above or below 40,000, the criteria referenced in (a) and (b) shall be increased or decreased by five percent of the amount originally authorized, rounded to the nearest whole number.
- (d) On or before February 1 in each even-numbered year after 2008, the Town Manager shall obtain from the US Bureau of Labor Statistics the change in the Consumer Price Index from 2009 and shall apply that percentage to increase or decrease the criteria referenced in (a) that were in place in the previous election. The resulting adjustment, rounded to a whole number, shall be combined with the adjustment in (c) of this Section.
- (e) The Manager shall include in each recommended budget sufficient funds to provide for the adjustments to grants and rescue funds and, upon approval of the funding by the Council, the provisions of this Article shall be amended to reflect the adjustments in this Section.

Sec. 2-101. Enforcement and Penalties.

- (a) All declarations and disclosure reports required by this Article must be certified as true and correct to the best of his/her knowledge by the candidate or, where appropriate, an individual or authorized representative of an entity making independent expenditures, and in compliance with the law and program rules. Knowingly certifying a false report may be a violation of North Carolina General Statute 14-209.
- (b) In addition to any other penalties that may be applicable, any individual, political committee or other entity that violates any provision of this Article is subject to a civil penalty of up to \$500 per violation or up to three times the amount of any financial transactions involved in the violation, whichever is greater.
- (c) Any candidate or other person who believes that a violation of this Article has been committed may file a complaint with the State Board within 30 days of learning of the alleged violation and the Board shall have authority to investigate said complaint and to initiate appropriate proceedings to enforce the provisions of this Article and to seek the return of any moneys and the collection of penalties. The State Board shall reduce the monies collected by the enforcement costs and collection costs before returning any monies to the Fund or paying the clear proceeds to the Civil Penalty and Forfeiture Fund. The State Board may also waive a penalty if they determine there is good cause for the waiver.

Sec. 2-102. Program Administration; Additional Guidelines.

- (a) This Article will be administered by the State Board.
- (b) The State Board may adopt such further regulations and guidelines as it deems appropriate to assist candidates in achieving compliance with this Program.
- (c) The State Board may delegate certain tasks to the Orange County Board of Elections or to the Chapel Hill Town Manager as it deems appropriate.”

Section 2. If the State Board of Elections incurs excessive costs outside of the ordinary administrative duties to administer this Article after any election, it will submit an itemized statement of those costs to the Town after that election. In the event the Board and the Town do not, within 120 days of the submittal of such an itemized statement, reach a satisfactory resolution of the itemized statement, the Board’s responsibility for administering the Town’s Voter Owned Elections Program under Chapter 2, Article V, Section 2-102, of the Town Code of Ordinances in future Town elections shall expire and the Town shall amend this Ordinance and be required to seek re-approval by the Board prior to its being effective for a subsequent election.

Section 3. This Ordinance shall be effective upon its approval by the North Carolina State Board of Elections.

This the 23rd day of February, 2009.