

IMPACT STATEMENT

Legislation title: Adopt the Open and Accountable Elections Policy (Ordinance; add code chapter 2.16)

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Purpose of proposed legislation and background information:

The purpose of this legislation is to address the real or perceived influence of money in political elections for the City of Portland, to amplify the voices of small dollar contributors during elections, and to allow candidates with modest means and from diverse backgrounds the opportunity to run for office. This is accomplished by providing matching funds from City General Fund resources.

This is a substitute, which was originally brought before Council on 11/3. Below is a list of substantive changes:

1. 2.16.010 A3 replace language with, “documentation as specified by administrative rule”
2. 2.16.010 remove definition B and replace with definition H “Director” meaning Director of Office of Neighborhood Involvement or their designee and, where appropriate, replace throughout the code
3. 2.16.010 Q clarify that donors are only allowed to receive one match per candidate per race. We will also clarify in admin rules
4. 2.16.040 D Remove the requirement of providing a receipt and replace with, “documentation” throughout the code
5. 2.16.070 A2 correct total public contribution payable to certified candidate. For a primary election or special nominating election may not exceed \$200,000 \$144,000 for a candidate for Commissioner or Auditor. For a general election or special runoff election may not exceed \$240,000 \$216,000 for a candidate for Commissioner or Auditor
6. 2.16.070 B4 clarify again that donors are only allowed to receive one match per candidate per race. We will also clarify in admin rules
7. 2.16.110 B Replace “board” with Director
8. 2.16.170 Remove Auditor and replace with Director
9. Implementation section added to state that the enforcement of 2.16 will begin after the 2018 general elections

10. Add section in ordinance clarifying that the Director will begin the preliminary implementation process (i.e admin rules and structuring Commission) once the ordinance is adopted

Financial and budgetary impacts:

This legislation creates the Public Election Fund, with the expectation that Council will consider an allocation of funds during the Fiscal Year 2017-18 budget process. The cost of the program will be limited to 0.2% of the City's general fund, which is currently about \$1.2 million.

Community impacts and community involvement:

The creation of this policy involved weekly meetings with advocates from OSPIRG, Common Cause, Every Voice, and Sightline. Additionally, several presentations of this policy were conducted and included representatives from SEIU, AFSCME, UFCW, AFL-CIO, League of Women Voters, Latino Network, Rosewood Initiative, Causa, Oregon Voice, Coalition of Communities of Color, Color PAC, Mainstreet Alliance, Bus Project, Unite Oregon, Portland Forward, AARP, Working Families Party, and other community-based and democracy-focused organizations. A public meeting was held on September 8th, 2016 to hear community feedback on the proposed policy.

After the first hearing on November 3rd, 2016, a small work group consisting of representatives from Common Cause, SEIU, League of Women Voters

This policy will allow candidates to run a competitive campaign by engaging a broader pool of small-dollar contributors in Portland, which will increase the ability for all Portlanders to engage in the City's election process.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES: Please complete the information below.
 NO: Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

**Portland City Code, Title 2 Legislation & Elections,
Chapter 2.16 Election Reform**

*Substitute,
As Amended
Additional Docs*

188152

2.16.010 Definitions.

As used in this Chapter, unless the context requires otherwise:

- A. “Allowable contribution” means a monetary donation of at least \$5 but no more than \$250 in support of a participating or certified candidate that is:
 - 1. Made by an individual;
 - 2. Made during the election cycle in which the candidate is seeking office; and
 - 3. Acknowledged by documentation, as specified by administrative rule.
- B. “Campaign finance entity” means a principal campaign committee registered with the Oregon Secretary of State.
- C. “Candidate” means:
 - 1. An individual whose name is printed on a ballot, for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is expected to be or has been presented, with the individual’s consent, for nomination or election to public office;
 - 2. An individual who has solicited or received and accepted a contribution, made an expenditure, or given consent to an individual, organization, political party or political committee to solicit or receive and accept a contribution or make an expenditure on the individual’s behalf to secure nomination or election to any public office at any time, whether or not the office for which the individual will seek nomination or election is known when the solicitation is made, the contribution is received and retained or the expenditure is made, and whether or not the name of the individual is printed on a ballot.
- D. “Certified candidate” means a candidate running for a covered office who is certified as eligible to receive public contribution matching from the Fund.
- E. “Contested election” means an election in which there are at least two candidates for a covered office who have a campaign finance entity. Contested election includes a special election held to fill a vacancy in a covered office.
- F. “Contribution” has the meaning set forth in ORS 260.005 and 260.007 at the time of this Chapter’s adoption.
- G. “Covered office” means the office of Mayor, Commissioner or Auditor.
- H. “Director” means the Director of the Office of Neighborhood Involvement or the Director’s designee, and includes any individual or entity with whom the City contracts to administer and enforce this Chapter or a portion thereof.
- I. “Election cycle” means the primary election period and the general election period for the same term of a covered office. For a special election, it means the special nominating election period and the special runoff election period.

- J. “Expenditure” has the meaning set forth in ORS 260.005 and 260.007 at the time of this Chapter’s adoption.
- K. “Fund” means the Public Election Fund.
- L. “General election matching period” means the period beginning 20 days before the primary election and ending 21 days before the general election. The general election matching period for a special runoff election must be set by ~~the Director by~~ administrative rule.
- M. “General election period” means the period beginning the day after the biennial primary election and ending the day of the biennial general Election
- N. “Independent expenditure” means an expenditure by a person for a communication in support of or in opposition to a clearly identified candidate for City office that is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate. The terms “expenditure”, “clearly identified” and “agent” and the phrases “communication in support of or in opposition to a clearly identified candidate or measure” and “made with the cooperation or with the prior consent of, or in consultation with or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate” shall have the meanings set forth in ORS 260.005 and 260.007 at the time of this Chapter’s adoption.
- O. “Individual” means a natural person.
- P. “In-kind contribution” has the meaning set forth in the Oregon Administrative Rule 165-012-005 at the time of this Chapter’s adoption.
- Q. “Matchable donor” means an individual 18 years of age or older who resides within the City limits of the City of Portland, whose residency is verified pursuant to criteria established by the Director, and who can legally contribute to campaigns under state and federal law. The Director may use voter registration as the sole means of verifying residency if the Director determines other methods are not reliable or expedient. Matchable donors may only have their contributions matched for one candidate in each contested election in each matching period.
- R. “Non-participating candidate” means a person who is running for a covered office who chooses not to apply to be a certified candidate, applies to be a certified candidate but fails to qualify, or a certified candidate who declines to accept a public contribution.
- S. “Notice of intent” means a notice filed with the Director that a candidate intends to seek qualification as a certified candidate.
- T. “Participating candidate” means a person who is a candidate for a covered office and who seeks to be a certified candidate in a primary election or general election. Limitations imposed on a participating candidate apply during the entire election cycle, both before and after filing a notice of intent to participate, whether or not the candidate has announced an intention to seek public contribution matching, and continue to apply once the candidate becomes a certified candidate.
- U. “Primary election matching period” means the period of time beginning July 1 of the year preceding the primary election for the office the candidate seeks and ending 21

days before the date of the primary election. The primary election matching period for a special nominating election must be set by ~~the Director by~~ administrative rule.

- V. “Primary election period” means the period beginning on the 21st day after the preceding biennial general election and ending the day of the biennial primary election.
- W. “Public contribution” or “public contribution matching” means money disbursed from the Fund to a certified candidate.
- X. “Publicly funded campaign account” means a campaign finance account established by a candidate for the exclusive purpose of receiving allowable contributions, public contribution matching and seed money contributions and spending funds in accordance with this Chapter.
- Y. “Seed money contribution” means a contribution that is not an allowable contribution or in-kind contribution, which is received by a participating candidate before filing a notice of intent. A loan from the candidate or the candidate’s spouse is considered a seed money contribution.
- Z. “Special nominating election” means a nominating election for a covered office held on any date other than the biennial primary election date when the Primary Election for that office would normally be held pursuant to City Charter Section 3-301.
- AA. “Special nominating election period” means the period beginning on the day a vacancy exists or a notice of intent to resign from office is filed with the Auditor and ending the day of the Special Nominating Election.
- BB. “Special runoff election” means a runoff election for a covered office held on any date other than the biennial general election date when the General Election for that office would normally be held pursuant to City Charter Section 3-301.
- CC. “Special runoff election period” means the period beginning on the day after the special nominating election and ending the day of the special runoff election.

2.16.020 Public Election Fund Established.

- A. The Public Election Fund is established, separate from the General Fund. All monies described in Subsection 2.16.020.E. shall be paid and credited to the Fund. Monies in the Fund shall be invested in the same manner as other City monies, and any interest earned shall be credited to the Fund.
- B. The Director shall keep a record of all monies deposited into the Fund and the activity or program against which any withdrawal is charged.
- C. If monies credited to the Fund are withdrawn, transferred, or otherwise used for purposes other than the program or activity for which the Fund is established, interest shall accrue on the amount withdrawn from the date of withdrawal and until the monies are restored.
- D. Monies in the Fund shall provide, and are continuously appropriated for, the financing of election campaigns of certified candidates for nomination or election to City Office,

and the payment of administrative, enforcement, and other expenses of the Director in carrying out the Director's functions and duties under this Chapter.

E. The following will be deposited in the Fund:

1. All amounts appropriated to it by the City Council. The annual impact of the appropriation on the City general fund is limited to two-tenths of one percent of the general fund without raising any new taxes or fees;
2. Any unspent money remaining in a certified candidate's publicly funded campaign account after the candidate is no longer a candidate for a covered office that is returned to the Fund as provided in Section 2.16.100;
3. Any public contribution plus interest returned to the Fund by a participating candidate who withdraws from participation as provided in Section 2.16.110;
4. All interest earned on money in the Fund;
5. Civil penalties and other monies collected under Sections 2.16.160 and 170; and
6. Voluntary donations made directly to the Fund.

2.16.030 Administrative Rules, Director's Duties and Authority

A. Before any administrative rules proposed by the Director may go into effect, the Director must submit the rules to Council for consideration and approval. The rules proposed by the Director must ~~adopt rules that~~ specify:

- 1.A. How and when documentation for allowable contributions from contributors must be submitted to the Director;
- 2.B. The documents that must be filed with the Director for certification;
- 3.C. The allowable uses of money in a publicly funded campaign account; and
- 4.D. Other policies necessary to implement this Chapter, including but not limited to:
 - a.1. Contested elections involving special elections, recounts, vacancies, or withdrawals, including qualification, certification, and disbursement of Public Election Fund revenues and return of unspent revenues;
 - b.2. Obtaining allowable contributions and matchable contributions;
 - e.3. Certification as a certified candidate;
 - d.4. Collection of revenues for the Public Election Fund;
 - e.5. Distribution of Fund revenues to certified candidates;
 - f.6. Investigation and enforcement procedures for misuse of public funds;
 - g.7. Penalty matrix detailing penalties for potential violations of this Chapter;
 - h.8. Return of Fund disbursements, penalties, and other monies to the Fund;
 - i.9. Inspection of reports and documents for compliance with this Chapter; and
 - j.10. Investigation of alleged violations of Chapter 2.16.

~~B. The Director is authorized to enter into contracts or agreements relating to the administration of this Chapter, including intergovernmental agreements.~~

2.16.040 Contribution and Expenditure Requirements for Participating and Certified Candidates.

- A. Before accepting any allowable, seed money or in-kind contributions governed by this Chapter, a participating candidate must establish a publicly funded campaign account for the candidate for the purpose of receiving contributions and making expenditures in accordance with this Chapter.
- B. Before accepting any allowable contribution governed by this Chapter on which a participating candidate intends to rely for certification under Section 2.16.050 and seek a public contribution match, a participating candidate must:
 - 1. File a notice of intent with the Director after the primary election matching period begins and before the filing deadline for the primary election for the covered office. For a special nominating election, ~~the Director will identify, by administrative rule,~~ filing deadlines for the notice of intent ~~will be set~~ that seeks to provide adequate time for candidates to qualify for public contribution matching; and
 - 2. Attend mandatory training provided by the City. The candidate's treasurer must also attend the training.
- C. A participating candidate may accept up to \$5,000 total in seed money contributions before filing a notice of intent. A participating candidate may not accept seed money after filing a notice of intent. Certified candidates may not accept seed money contributions.
- D. Participating and certified candidates may accept in-kind contributions valued at no more than \$20,000 for the primary election period or special nominating election period and no more than \$20,000 for the general election period or special runoff election period. The contribution of paid time for a supervisor of volunteers does not count toward the \$20,000 limit on in-kind contributions for purposes of this Chapter. However, a participating candidate must provide documentation to the Director for such a contribution and it may be reportable as an in-kind contribution under state law.
- E. During an election cycle, participating and certified candidates may only accept allowable contributions, public contribution matching from the City, and seed money and in-kind contributions allowed by this Chapter.
- F. Participating and certified candidates may not accept allowable contributions from any one individual totaling more than \$250 in the primary election period and \$250 in the general election period, except as provided in Section 2.16.150.
- G. From the date the primary election period begins until filing a notice of intent, a participating candidate may not collect any contributions other than allowable, seed and in-kind contributions allowed by this Chapter and may only make expenditures from such contributions. After filing a notice of intent, participating and certified candidates may not make expenditures from funds other than public contribution

matching and allowable, seed money or in-kind contributions, as allowed by this Chapter.

- H. Participating and certified candidates must deposit all allowable contributions, public contribution matching and seed money contributions received into the candidate's publicly funded campaign account. Participating and certified candidates must deliver to the Director documentation, as specified by administrative rule, for each allowable contribution, seed money contribution, and in-kind contribution.
- I. A participating or certified candidate may retain a preexisting campaign committee or political activities committee as long as the campaign committee or political activities committee does not accept contributions or make expenditures during the election cycle for which the candidate is seeking a covered office, other than a transfer of seed money to the candidate, consistent with Subsection 2.16.040.C.
- J. Seed money loans from the candidate or candidate's spouse must be repaid with contributions that are not eligible for public contribution matching or for which public contribution matching is not requested.
- K. The total contributions a participating or certified candidate may collect during the primary election period or special nominating election period, consisting of allowable contributions, public contributions, seed money and in-kind contributions, cannot exceed:
 - 1. \$380,000 for a candidate for Mayor; and
 - 2. \$250,000 for a candidate for Commissioner or Auditor.
- L. The total contributions a participating or certified candidate may collect during the general election period or special runoff election period, consisting of allowable contributions, public contributions, seed money and in-kind contributions, cannot exceed:
 - 1. \$570,000 for a candidate for Mayor; and
 - 2. \$300,000 for a candidate for Commissioner or Auditor.

2.16.050 Requirements for Certification.

- A. In addition to the requirements of Section 2.16.040 and the limitations in Section 2.16.120, to qualify as a certified candidate:
 - 1. After filing a notice of intent, a candidate for Mayor must collect an aggregate total of at least \$5,000 in allowable contributions from at least 500 matchable donors.
 - 2. After filing a notice of intent, a candidate for Commissioner or Auditor must collect an aggregate total of at least \$2,500 in allowable contributions from at least 250 matchable donors.
 - 3. The participating candidate must have filed for office by petition as provided in Code Section 2.08.080.

- B. A participating candidate must apply to the Director for certification not later than 28 days before the end of the primary election matching period, or for a special nominating election, 28 days before the election.

2.16.060 Director Determination.

- A. The Director must certify a participating candidate if the Director finds that the election for the covered office is a contested election, the candidate has met the requirements of Sections 2.16.040, .050 and .120, the candidate has received the required aggregate total dollars of allowable contributions from the required number of matching donors for the office and the candidate has submitted all information required by this Code or by administrative rule.
- B. Before certification, the participating candidate must submit at least the following information to the Director, along with other information as may be required by administrative rule:
 - 1. A declaration from the candidate agreeing to follow the regulations governing the use of public contribution matching, allowable contributions, seed money and in-kind contributions; and
 - 2. A campaign finance report that includes:
 - a. A list of each allowable contribution received;
 - b. A list of each seed money and in-kind contribution received;
 - c. A list of each expenditure made by the candidate during the primary election matching period up to the time of filing; and
 - d. Other documentation required by administrative rule.
- C. The Director must make a certification determination no later than 10 business days after receiving information from the participating candidate necessary to determine compliance with the requirements of Subsections 2.16.060.A and B and Sections 2.16.040, .050 and .120. However, if the covered office is not a contested election at the time the participating candidate applies for certification, the Director will hold the application in abeyance until either the covered office becomes a contested election, in which case the Director will make a certification decision within 10 business days, or the filing deadline for the covered office expires, in which case the Director shall deny certification. Certification decisions may be challenged as provided in Section 2.16.170.
- D. A candidate may submit only one application for certification for any election.
- E. If the Director certifies a candidate, the Director will authorize an initial disbursement of a public contribution to the candidate's publicly funded campaign account.

2.16.070 Distribution of Public Contribution.

- A. Public contributions from the Fund will be distributed only in a contested election. The Director must distribute a public contribution from the Fund to each certified candidate in a contested election as follows:
1. For a certified candidate for a covered office, the public contribution matching must equal:
 - a. \$6 for each dollar of the first \$50 of allowable contributions in aggregate from a matchable donor made after the candidate files a notice of intent;
 - b. No match for allowable contributions after the first \$50 in aggregate contributed by a matchable donor.
 2. The total public contribution payable to a certified candidate for a primary election or special nominating election may not exceed \$304,000 for a candidate for Mayor and \$200,000 for a candidate for Commissioner or Auditor. The total public contribution payable to a certified candidate for a general election or special runoff election may not exceed \$456,000 for a candidate for Mayor and \$240,000 for a candidate for Commissioner or Auditor.
- B. The Director must not distribute public contribution matching from the Fund to a certified candidate for:
1. Seed money contributions;
 2. In-kind contributions;
 3. Allowable contributions from matchable donors made before the candidate files a notice of intent;
 4. Allowable contributions from donors who are not matchable donors; or
 5. Allowable contributions from matchable donors whose donations to another candidate for the same contested election during the same election period have resulted in a request for public contribution matching for that other candidate.
- C. Public contributions from the Fund will be distributed on at least four dates in addition to the initial distribution to each certified candidate upon certification ~~as set by the Director~~ during the primary election period or special nominating election period and on at least four dates ~~set by the Director~~ during the general election period or special runoff election period. The final distribution for each election period will be 14 days before the election. ~~The Director will set the remaining distribution dates, and the dates by which allowable contributions from matchable donors must be filed for each distribution, by administrative rule.~~
- D. A certified candidate may collect allowable contributions, including allowable contributions from matchable donors for which the candidate may seek public contribution matching for the primary or special nominating election, until the end of the primary election matching period. A certified candidate may continue to collect allowable contributions, consistent with Sections 2.16.040 and 2.16.120, between the date the primary election matching period ends until the end of the primary election period or special nominating election period, but allowable contributions from matchable donors collected during this time will only be eligible for public

contribution matching for the general or special runoff election if the candidate qualifies for the general or special runoff election, as provided in Subsection 2.16.070.E.

- E. Certified candidates in the primary election or special nominating election who are nominated to the general election or special runoff election ballot in the same election cycle are eligible for public contributions as provided in this Section.
1. Certified candidates who reasonably expect to qualify for the general or special runoff election ballot may begin collecting allowable contributions for the general election or special runoff election on the first day of the general election matching period.
 2. After certification of the results of the primary or special nominating election, a certified candidate who qualifies for the general or special runoff ballot may use unspent funds in their publicly funded campaign account and seek public contribution matching for allowable contributions collected from matchable donors during the general election matching period.
 3. A certified candidate may continue to collect allowable contributions, consistent with Section 2.16.040, from the end of the general election matching period until the end of the general election period or special runoff election period, but the contributions will not be eligible for public contribution matching.
- F. A certified candidate must submit documentation, as specified by administrative rule, for each allowable contribution from a matchable donor to the Director to receive public contribution matching. The Director must deposit the appropriate public contribution into a certified candidate's publicly funded campaign account on the next distribution date after the Director authorizes the public contribution matching.

2.16.080 Use of Contributions.

- A. A participating or certified candidate may only use the seed money, in-kind and allowable contributions and the public contribution matching for direct allowed campaign purposes related to the candidate's campaign for nomination or election to the covered office for which they are eligible to be or have qualified as a candidate. ~~The Director shall establish g~~Guidelines regarding direct allowed campaign expenditures ~~may be established~~ by administrative rule.
- B. Public contributions distributed to a participating candidate and qualifying, seed money and in-kind contributions may not be:
1. Used to make any expenditures for personal use prohibited by ORS Chapter 260 and Oregon Administrative Rules;
 2. Contributed to, or for the purpose of supporting or opposing, any other candidate, political committee or measure;
 3. Used to make independent expenditures supporting or opposing any candidate, political committee or measure;

4. Used in connection with the nomination or election of a participating candidate to any office or at any election other than the office or election for which the contributions were given;
 5. Used to pay any loans, debts, fines or penalties;
 6. Used to pay for consulting services to an individual, unless the individual is providing bona fide services to the candidate and is compensated at fair market value;
 7. Used for out of state travel;
 8. Certain vehicle-related expenses, including vehicle purchases, leases, rental, insurance, repairs or fuel. Vehicle mileage reimbursement for campaign purposes is allowed, using the standard rate used by the City for mileage reimbursement;
 9. Attorney, accountant and other professional service fees in conjunction with appealing penalties or decertification;
 10. Used for salary or payment, other than reimbursable expenses, to a family member;
 11. Used for gifts, not including campaign brochures, buttons, signs or other printed campaign material;
 12. Used to make payments in cash; or
 13. Used in a manner inconsistent with administrative rules ~~established by the Director~~.
- C. Public contributions may not be used for election night and post-election parties; however, allowable contributions, seed money and in-kind contributions may be used for such events.
- D. Contributions to civic and non-profit organizations from a participating candidate's publicly funded account are permitted only if the payment is for the purpose of attending a specific campaign event open to the public.
- E. A complaint alleging an impermissible receipt or use of funds by a participating candidate must be filed with the Director.
- F. A participating candidate must provide the Director with reasonable access to the financial records of the candidate's publicly funded campaign account, upon request.

2.16.090 Adequate Funds

- A. If the Director determines that the amount deposited in the Fund will be insufficient at any point during the election cycle, the Director shall request the additional amount the Director estimates will be necessary from the City Council, subject to the annual appropriation limit detailed in Section 2.16.020.
- B. If the total amount available for distribution in the Fund is insufficient to meet the allocations required by this Chapter, the Director must reduce each public contribution to a certified candidate by the same percentage of the total public contribution.

2.16.100 Return of Public Contributions

- A. Within 15 days after the results of the primary election or special nominating election are certified, a certified candidate who is elected or is not certified to be on the ballot for the general election or special runoff election must return unspent money in the candidate's publicly funded campaign account to the Fund in proportion to the percentage of public to private contributions collected by the candidate, excluding in-kind contributions.
- B. Within 15 days after the results of the general election or special runoff election are certified, all participating candidates must return unspent money in the candidates' publicly funded campaign accounts to the Fund in proportion to the percentage of public to private contributions collected by the candidate, excluding in-kind contributions.

2.16.110 Withdrawal.

- A. A participating candidate may withdraw an application for a public contribution any time before the public contribution is received by the candidate's publicly funded campaign account.
- B. A certified candidate may withdraw from participation if the candidate:
 - 1. Files a statement of withdrawal with the Director on a form prescribed by the Board; and
 - 2. Repays to the Fund any remaining funds in their account up to the full amount of the public contribution received, together with the applicable interest established by administrative rule.

2.16.120 Participating and Certified Candidate Restrictions:

A participating or certified candidate must not:

- A. Accept a contribution, other than seed money or in-kind contributions as permitted by this Chapter, from any group or organization, including a political action committee, a corporation, a labor organization, or a State or local central committee of a political party;
- B. Accept one or more contributions from an individual totaling more than \$250 during the primary election period and \$250 during the general election period, other than seed money or in-kind contributions as permitted by this Chapter, except as provided in Section 2.16.150;
- C. Make an allowable contribution from the candidate's personal funds to the candidate's principal campaign committee.
- D. Accept seed money or in-kind contributions in excess of the amounts established in Section 2.16.040.
- E. Expend funds to benefit or advocate for another candidate;

- F. Accept a loan from anyone for campaign purposes, other than a loan from the candidate or candidate's spouse within seed money limitations; or
- G. Transfer funds:
 1. To the candidate's publicly funded campaign account from any other campaign finance entity established for the candidate; and
 2. From the candidate's publicly funded campaign account to any other campaign finance entity.
- H. Solicit for or direct contributions to other campaign finance entities to support their own election.

2.16.130 Public Campaign Finance Commission

- A. **Duties.** The Public Campaign Finance Commission is hereby created. The Commission shall:
 1. Provide assistance to the Director and Council in the development and implementation of the Public Election Fund. The Commission may make recommendations to the Director regarding administrative rules necessary to the effective administration of the code.
 2. Make recommendations on adjustments to matching ratios, adjustments to contribution limits and other regulations to improve operation of public campaign finance.
 3. At the request of the Director, advise the Director on administrative judgments, recommended policy changes, administrative rule development, and operation of the Public Election Fund.
 4. Recommend to the Director for appointment hearings officers to review cases and make determinations under Section 2.16.160.
 5. Adopt such operating policies and procedures as necessary to carry out its duties.
 6. Prepare and submit to the Council a biennial report which shall contain an overview and evaluation of the Campaign Finance Fund during the previous election period.
- B. **Membership.** The Public Campaign Finance Commission shall consist of seven members who have demonstrated an interest in campaign finance funding and, insofar as possible, represent diverse interests and diverse communities. The Director shall solicit applications from the Office of Neighborhood Involvement and the general public in order to recommend nominees to Council for appointment.
- C. **Appointments and Terms.** Public Campaign Finance Commission members shall be appointed by Council and serve 4 year terms starting January 1 of odd-numbered years, except that three of the initial appointments shall be for 2 year terms. Upon expiration of the term, a Commission member shall serve until reappointed or replaced. Members of the Commission are limited to a maximum of two full terms, except that members serving an initial term of less than 4 years may serve two

subsequent 4 year terms. If a position is vacated during a term, it shall be filled for the unexpired term. Council may replace any member of the Commission for due cause, including but not limited to malfeasance, incapacity, conflict of interest or neglect of duties.

D. Meetings, Officers and Subcommittees.

1. The Public Campaign Finance Commission shall meet at least four times per year and may meet more often as otherwise necessary to conduct its business. Meetings shall be conducted in accordance with rules of procedure adopted by the Commission. Four members shall constitute a quorum. A quorum shall be necessary to make decisions that represent the position of the Commission and to conduct any other Commission responsibilities. The election of officers shall take place at the first meeting of each calendar year.
2. The officers of the Commission shall consist of a chairperson and a vice-chairperson. The chairperson shall be responsible for conducting the meetings of the committee. The vice-chairperson shall act as chair when the chairperson is not available.
3. The Commission may form subcommittees comprised of Commission members which are authorized to act on behalf of the Commission for an assigned purpose.

E. Attendance. Members of the Public Campaign Finance Commission are expected to attend each meeting of the Commission. Council may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.

F. Compensation. Public Campaign Finance Commission members shall serve without compensation.

2.16.140 Additional Reporting.

- A. All candidates and political committees, including non-participating candidates, must report contributions and expenditure transactions electronically in the ORESTAR system in compliance with state law.
- B. Participating and certified candidates must file additional contribution and expenditure reports in the ORESTAR system as the [Director-City](#) deems necessary to make certification and public contribution matching decisions in a timely manner, as established by administrative rule.
- C. In a contested election in which there is at least one participating or certified candidate, beginning on the 180th day before the election and ending on the 42nd day before the election, participating and non-participating candidates shall report contribution and expenditure transactions in ORESTAR within 14 days.
- D. In a contested election in which there is at least one participating or certified candidate, beginning on the 180th day before the election and ending on the 42nd day before the election, persons or political committees making an independent expenditure in an amount of \$1,000 or more, or independent expenditures in an

aggregate of \$1,000 or more, supporting or opposing a candidate or candidates for nomination or election to City office shall report such expenditures in ORESTAR within 14 days.

2.16.150 Removal of Certain Contribution Limits.

If contributions to a non-participating candidate exceed the total contribution amounts in Subsection 2.16.040 K for a primary election period or special nominating election period or the amounts in Subsection 2.16.040 L for a general election period or special runoff election period, then any participating candidates for the same covered office may:

- A. Exceed the total contribution amounts in Subsection 2.16.040 K or L for the election period in which the non-participating candidate exceeds those amounts; and
- B. Accept up to \$500 in aggregate in allowable contributions from an individual during the relevant election period, notwithstanding the \$250 limit in Subsections 2.16.010 A, 2.16.040 F and 2.16.120 B.

2.16.160 Penalties, Revocation of Certification and Repayment of Funds.

A. Civil Penalties.

1. The Director may impose a civil penalty as provided in this Section, in addition to any other remedies that are provided by this Code or other law, for:
 - a. Violation of any provision of this chapter by a participating or certified candidate; or
 - b. Failure to timely file a non-participating candidate or independent expenditure report or to include information required by Section 2.16.140.
2. The ~~Director shall~~ City may establish a penalty matrix by administrative rule detailing civil penalties for potential violations of this chapter. A civil penalty imposed under this section shall not exceed \$10,000 for any violation except as otherwise provided in this Section. Limits on penalties imposed under this Section do not include interest. Penalties are subject to interest at a rate of 12 percent of the total amount per annum.
3. The Director shall send a notice of proposed penalty to any candidate, person or political committee against whom the Director is imposing a civil penalty.
 - a. The notice shall describe the proposed penalty and outline the procedures for requesting a penalty hearing.
 - b. The notice shall be sent by both certified and regular mail.
 - c. If a penalty hearing is not requested, the proposed penalty shall become final on the date specified in the notice, which date shall be the first day following the last day to file a request for a hearing.
4. If a civil penalty has been imposed under this Section against a candidate or the principal campaign committee of a candidate, the candidate shall be personally liable for the amount to be paid under this Section.

5. If a civil penalty has been imposed under this Section against a political committee other than a principal campaign committee, the directors of the political committee shall be jointly and severally liable for any amount to be paid under this Section.
6. Penalties may be paid from any private source. A penalty may not be paid from a candidate's publicly funded campaign account.
7. Civil penalties may be paid at any time after receiving the notice of proposed penalty, but are due immediately after the penalty has become final.
8. Penalties imposed under this Section are subject to interest at a rate of 12 percent of the total amount per annum.
9. All moneys received under this Section for violations of any provision of this Chapter shall be paid and credited to the Fund.
10. At the request of the Director, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter, in addition to any other remedies provided by this Code or other law, in Circuit Court or other appropriate venue.

B. Revocation of Certification.

1. The certification of a participating or certified candidate against whom a civil penalty has been imposed for violation of Section 2.16.080 shall be revoked by the Director and the candidate shall not be eligible to receive public contributions from the Fund during the primary and general election periods, or special nominating and special runoff period during which the penalty is imposed. However, revocation of a candidate's certification is permissive, not mandatory, if all of the following conditions are met:
 - a. The candidate has been found to have committed only one violation of Section 2.16.080; and
 - b. It is the candidate's first violation of Section 2.16.080.
2. If it is determined that a participating candidate violated any other provision of this Chapter during the primary election matching period or after certification, the Director has the authority to revoke the candidate's certification.

C. Repayment of Funds.

1. A participating candidate against whom a civil penalty has been imposed for violation of Section 2.16.080 shall return to the Director an amount of money equal to all revenues distributed to the candidate from the Fund after the date the candidate was certified, plus interest on the total amount of revenues received at a rate of 12 percent per annum, in addition to the penalty and interest on the penalty.
2. The Director shall seek immediate recovery of public contributions for any violation of this Chapter.

2.16.170 Hearings.

- A. **Purpose.** The purpose of this Section is to provide persons or political committees adversely affected by administrative determinations and decisions made under this Chapter with a timely, effective, and impartial appeal and review of the determination. Hearings will be heard by a member of the outside panel of hearings officers recommended by the Public Campaign Finance Commission and appointed by the Director.
- B. Types of Hearings.
1. **Certification Hearings.** A candidate who has received a determination denying certification or an opponent of a candidate who has been granted certification may challenge a certification decision by filing a written request for a hearing as outlined in Subsection 2.16.170.C.
 2. **Matching Fund Hearings.** A candidate who has received a determination granting or denying public contribution matching or an opponent of a candidate who has been granted public contribution matching may challenge the public contribution matching decision by filing a written request for a hearing as outlined in Subsection 2.16.170.C.
 3. **Penalty Hearings.** A candidate, person or political committee who has received a notice of proposed penalty from the Director may challenge the proposed penalty by filing a written request for a hearing as outlined in Subsection 2.16.170.C.
- C. Requests for Hearings.
1. The written request for a hearing shall be filed with the Director not later than:
 - a. 7 days after the mailing of the determination for a certification or public contribution matching hearing; or
 - b. 7 days after the mailing of the notice of proposed penalty for a penalty hearing.
 2. The request shall be filed pursuant to forms and procedures recommended by the Commission and adopted by ~~the Director by~~ rule. The written request shall contain either a copy of, or a full and complete description of, the decision or determination appealed and a statement of grounds upon which it is contended that the decision or determination is invalid, unauthorized, or otherwise improper, together with such other information as the Director may by require by rule.
 3. No person or political committee other than those described in Subsection 2.16.170.B. may be a party to any hearing conducted under this Section.
- D. Conduct of Hearings.
1. As provided in Section 2.16.130, the Public Campaign Finance Commission shall recommend to the Director for appointment an outside panel of hearings officers to review cases and make determinations under this Section.

2. The Director shall designate and appoint the hearings officers based upon the recommendations of the Public Campaign Finance Commission.
3. Written requests for hearings shall be filed with the Director within the deadlines established in Subsection 2.16.170.C. The Public Campaign Finance Commission shall coordinate with the hearings officer panel to assign a hearings officer to the case and set a hearing date within the timelines established in Subsection 2.16.170.D.4.
4. The date set for hearings under this Section shall be:
 - a. Not later than 7 days after the request for a certification or public contribution matching hearing is filed as outlined in Subsection 2.16.170 C.1.a; or
 - b. Not more than 14 days after the request for a penalty hearing is filed as outlined in Subsection 2.16.170 C.1.b.
5. Notice.
 - a. In the case of certification or public contribution matching hearings requested under Section 2.16.170 C.1.a:
 - (1) The Director shall give notice of receipt of a request for a hearing, together with a copy of the request, to all other candidates for the same office. The notice shall be sent not later than one business day after the request is filed with the Director.
 - (2) The Director shall give notice of the hearing, together with a copy of the request for a hearing, to the Person who requested the hearing and all other candidates for the same office. The notice shall be sent not later than one business day after the date is set for the hearing. The notice shall specify the time, date, and place set for the hearing.
 - (3) The notices required in Subsections 2.16.170 D.5.a(1) and (2) may be combined.
 - b. In the case of penalty hearings requested under Subsection 2.16.170 C.1.b, the Director shall give notice of the hearing to the person or political committee who requested the hearing. The notice shall be sent not later than one business day after the date is set for the hearing under Subsection 2.16.170 D.4. The notice shall specify the time, date, and place set for the hearing.
 - c. Notices may be given by any method or combination of methods which, under the circumstances, is reasonably likely to apprise the parties of the hearing. Notice may be given by United States mail, phone, e-mail or other method authorized by ~~the Director by~~ rule. If notice is given by mail, such notice shall be deemed given and received three days (Sundays and holidays not included) after the notice is deposited in the United States mail. The failure of any Person to receive actual notice of the proceeding shall not invalidate the hearing or any determination, decision, or order of the hearings officer.

6. The hearings shall be conducted in accordance with the provisions of Chapter 22.10, except as otherwise provided in this Section.
- E. Order of the Hearings Officer.
1. The hearings officer shall issue an order not later than three business days after a certification public contribution matching or penalty hearing.
 2. In the case of a certification hearing, the hearings officer may uphold or revoke the certification.
 3. In the case of a public contribution matching hearing, the hearings officer may uphold or revoke public contribution matching, or modify a public contribution matching decision by revoking some or all public contribution matching or granting additional public contribution matching.
 4. In the case of a penalty hearing, the hearings officer may uphold, revoke or modify the penalty.
 5. The order of the hearings officer is a final decision of the City.
 6. Judicial review of an order made under this Section shall be as provided in Title 22.
- F. Return of Funds and Payment of Cost of Hearing.
1. If the certification of a candidate is revoked following a hearing under this Section, the candidate shall return to the Director an amount of money equal to all revenues distributed to the candidate from the Public Election Fund after the date the candidate was certified, plus interest on the total amount of revenues received at a rate of 12 percent per annum, in addition to the penalty and interest on the penalty.
 2. If public contribution matching is revoked, the candidate shall return to the Director an amount of money equal to the amount of revoked public contribution matching distributed to the candidate from the Public Election Fund, plus interest on the total amount of public contribution matching received at a rate of 12 percent per annum.
 3. If the hearings officer or a court finds that a request for a hearing under this Section was made frivolously or to cause delay or hardship, the hearings officer or the court may require the person who filed the request for a hearing to pay costs of the hearings officer, court and opposing parties, and attorney fees of the opposing parties, if any.

2.16.180 Implementation.

This Chapter applies to election cycles beginning after the 2018 general election.