

## **TITLE 2 - LEGISLATION AND ELECTIONS**

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# **TITLE 2 - LEGISLATION AND ELECTIONS**

## TITLE 2 LEGISLATION AND ELECTIONS

### CHAPTER 2.02 - GENERAL PROVISIONS

(Chapter added by Ordinance No. 177200, effective  
February 21, 2003,)

#### Sections:

- 2.02.010 Definitions.
- 2.02.020 City Elections Officer.
- 2.02.030 Campaign Finance Regulations.
- 2.02.040 Applicability of State Law; Limitations.
- 2.02.050 Computation of Dates.

#### **2.02.010 Definitions.**

(Amended by Ordinance No. 179258, effective June 17, 2005.) As used in this title, unless the context requires otherwise:

- A. **"Auditor"** means the Auditor of the City of Portland, or designee.
- B. **"Candidate"** means an individual whose name is or is expected to be printed on the official ballot.
- C. **"City Elections Officer"** means the Auditor, or designee.
- D. **"Elector"** or **"Eligible Elector"** means a person qualified to vote who is a resident of the City and a legal registered voter of the City and state of Oregon.
- E. **"General Election"** means the statewide election held on the first Tuesday after the first Monday in November of each even-numbered year.
- F. **"Initiative Petition"** means a petition to initiate a measure for which a prospective petition has been filed but that is not yet a measure.
- G. **"Measure"** means any city legislation, advisory question, property tax levy, tax base, or bond measure proposed for adoption, amendment, revision, repeal or referral through the initiative or referendum procedures prescribed by this title.
- H. **"Nonpartisan"** means not representing any national or state political party, committee or convention or acting for any political party. All City elected offices are nonpartisan.
- I. **"Perfected Petition"** or **"Petition"** means the information, including signatures and other identification of petition signatures, required to be contained in a completed petition.
- J. **"Primary Election"** means the statewide election held the third Tuesday in May of each even-numbered year.

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- K. "Prospective Petition"** means the information, except signatures and other identification of petition signers, required to be contained in a completed petition.
- L. "Referendum Petition"** means a petition to refer a measure for which a prospective petition has been filed but that is not yet a measure.
- M. "Regular Election"** means the biennial statewide primary or general election date.
- N. "Special Election"** means any election at which a measure is submitted to the electors or candidates are nominated or elected on a date other than a regular election date.
- O. "Statement of Understanding"** means a document provided by the Auditor and signed by the Chief Petitioner of a prospective petition indicating receipt of all forms and requirements necessary to file a perfected petition.

**2.02.020 City Elections Officer.**

- A.** The Auditor, or designee, shall serve as the City Elections Officer.
- B.** The City Elections Officer may accept for filing and verify elections documents, maintain elections registers and historical records, prepare and publish a voters' pamphlet, and prepare and publish an election notice.
- C.** All documents involving filing as a candidate, organizing a principal campaign committee or a political action committee, reporting campaign contributions, filing an initiative, referendum or recall petition, and preparing and forwarding a measure for the election ballot shall be filed with the City Elections Officer.
- D.** The City Elections Officer shall verify the sufficiency of the content and form of the documents and shall immediately stamp the date and time of receipt on the documents. The City Elections Officer's review does not include verification of factual representations contained in submitted documents or verification that filings are free of substantive legal defects.

**2.02.030 Campaign Finance Regulations.**

(Amended by Ordinance No. 179258, effective June 17, 2005.) Campaign finance regulations, procedures and forms shall be governed by state law and this title.

**2.02.040 Applicability of State Law; Limitations.**

(Amended by Ordinance No. 179258, effective June 17, 2005.)

- A.** The provisions of this title and the City Charter shall prevail over any conflicting provisions of state law relating to the exercise of initiative and referendum powers and matters subject to legislation by the City.

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- B.** The procedures for nominating and electing city officers shall be as provided by state law, the City Charter, and this title.
- C.** The campaign finance system and reporting requirements for city candidates, political committee, and chief petitioners shall be as provided by state law, the City Charter, and this title.
- D.** All elections for city officers shall be held at the same time and place as elections for state and county officers in accordance with state law, except in the case of a special election to fill a vacancy in office or providing a runoff for two candidates nominated at a general election or special nominating election.
- E.** Except as otherwise provided in the Charter or this title, the Auditor shall maintain and preserve all documents related to an election matter for the retention period prescribed by state law. The Auditor shall retain nominating petitions and declarations of candidacy for six years after the election.
- F.** An emergency ordinance shall not be subject to the referendum process; however, the City Attorney shall be consulted by the Auditor prior to refusal to accept a referendum petition.

#### **2.02.050 Computation of Dates.**

- A.** The filing deadline shall be 5 p.m. on the date the document or fee is due unless the deadline falls on a Saturday, Sunday or other legal holiday specified in ORS 187.010, in which case the due date shall be the next business day at 5 p.m. Documents will be accepted after 5 p.m. if the document is physically in the office at 5 p.m.
- B.** In computing the due date for documents due X months prior to an election date, the time is computed by using months; e.g. if the document is due six months prior to an election date which is November 6, it must be filed on or before May 6 at 5 p.m. If May 6 is a Saturday, Sunday or holiday, the provisions in 2.02.050 apply.



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**CHAPTER 2.04 - INITIATIVE AND  
REFERENDUM PROCEDURES**

(Chapter replaced by Ordinance No. 163790,  
effective February 15, 1991.)

**Sections:**

- 2.04.030 Pre-election Publication.
- 2.04.040 Submission of Measure to Voters.
- 2.04.050 Prospective Petition.
- 2.04.055 One Subject Determination.
- 2.04.060 Ballot Title; Publication; Legal Effect.
- 2.04.070 Legal Challenge to Ballot Title.
- 2.04.080 Circulation of Petition.
- 2.04.090 Filing Deadlines, Percentage Requirements and Signature Verification.
- 2.04.100 Council Action; Competing Measure and Certification.
- 2.04.110 Measures Proposed by the Charter Commission.
- 2.04.120 Measures Referred by the Council.
- 2.04.125 Advisory Questions Referred by Council.
- 2.04.130 Election Dates; Special Election.
- 2.04.140 Ballot Designations.
- 2.04.150 Computation of the Vote.
- 2.04.160 Effective Date.

**2.04.010 Definitions.**

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

**2.04.020 Applicability of State Law; Limitations.**

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

**2.04.030 Pre-election Publication.**

No City voters pamphlet shall be required for an election subject to this chapter unless the Council directs it specifically.

**2.04.040 Submission of Measures to Voters.**

(Amended by Ordinance Nos. 177200 and 184947, effective November 18, 2011.)

**A. Council Submission of Measures**

1. A measure may be submitted to the legal voters of the City by resolution of the Council. No petition is required.
2. An advisory question, measure or proposition may be submitted to the voters by resolution of the Council. No petition is required. The vote shall not enact the matter into law, preclude the Council from adopting an

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ordinance enacting the matter into law, or require the Council to enact the measure into law.

#### **B. Elector's Submission of Petition on Legislation**

- 1.** A petition initiating or referring city legislation may be submitted by electors. The petition shall comply with the requirements of Section 2.04.050 and meet the signature requirements of Section 2.04.090.

#### **C. Charter Commission Measures**

- 1.** A measure proposing a charter amendment that is supported by an affirmative vote of at least 15 members of the Charter Commission after a public hearing process prescribed by the Council shall be submitted to the legal voters of the City in conformance with the Charter and this Chapter.

#### **2.04.050 Prospective Petition.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** The chief petitioner(s) shall file a prospective petition with the Auditor prior to circulating the petition. The petition shall be in a form required by the Auditor.
- B.** State law with regard to the form of the petition shall apply except that the City shall provide on the form a place for the chief petitioners to state at which election date the measure is to be placed on the ballot.
  - 1.** In the case of an initiative petition:
    - a.** The chief petitioners shall specify the date at which the measure shall be submitted to the voters. The specified election date shall be a regular election date within two years and four months of the time the prospective petition is filed with the Auditor.
    - b.** Each signature sheet shall contain the caption of the ballot title.
    - c.** A full and correct copy of the legislation to be initiated must also be submitted with the prospective petition.
  - 2.** In the case of a referendum petition:
    - a.** Each signature sheet shall contain the title, and charter section or ordinance number or section numbers proposed for referral and the date it was adopted by Council.
    - b.** A full and correct copy of the legislation to be referred must also be submitted with the prospective petition.

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- 3. If one or more persons will be paid for obtaining signatures of electors on the petition, each signature sheet shall contain a notice stating: "Some Circulators For This Petition Are Being Paid."
- C. The Auditor shall provide each chief petitioner with a "Statement of Understanding" and with a copy of each of the forms and requirements listed on the Statement. A Statement of Understanding signed by each chief petitioner shall be a prerequisite to acceptance of the petition.
- D. Prospective petitions which meet the requirements of Sections 2.04.050 A., B., and C. shall be accepted by the Auditor. The Auditor shall inscribe the date of filing upon the petition. The Auditor shall forward two copies to the City Attorney for the preparation of a ballot title not later than the sixth business day after the prospective petition is filed with the Auditor.

**2.04.055 One Subject Determination.**

(Added by Ordinance No. 177200, effective February 21, 2003.)

- A. The Auditor shall determine in writing no later than the fifth business day after receiving a prospective initiative petition whether the petition meets the requirements of Section 1(2)(D), Article IV of the Oregon Constitution.
- B. If the Auditor determines that the prospective initiative petition meets the requirements, the Auditor shall publish the ballot title as required in Section 2.04.060, including a statement that the petition has been determined to meet the requirements of Section 1(2)(D), Article IV of the Oregon Constitution.
- C. If the Auditor determines that the initiative petition does not meet the requirements, the Auditor shall immediately notify the petitioner of the determination in writing by certified mail, return receipt requested.
- D. Any elector dissatisfied with a determination of the Auditor under Section 2.04.055 A. may petition the circuit court to overturn the determination as provided by state law.

**2.04.060 Ballot Title; Publication; Legal Effect.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. The City Attorney shall prepare a ballot title within five business days after receiving the prospective petition from the Auditor, or in the case of measures referred by Council, within five business days of the request. The ballot title shall comply with the requirements of state law. The purpose of the ballot title is to accurately describe the proposed measure, and does not constitute an opinion as to whether the proposed measure is free of legal defects.
- B. The ballot title shall consist of:

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1. A caption of not more than 10 words which reasonably identifies the subject matter of the petition.
  2. A question of not more than 20 words which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote; and
  3. A concise and impartial statement of not more than 175 words summarizing the measure and its major effects.
- C. In the case of a prospective petition, the City Attorney shall transmit the ballot title to the Auditor who shall inscribe the date of receipt on it and shall:
1. Transmit a copy of the petition and the ballot title to one of the chief petitioners; and,
  2. Publish in the next available edition of a newspaper of general circulation in the City, a notice of receipt of the ballot title, that an elector may file a petition for review of the ballot title, and the date by which the appeal must be filed.
- D. Ballot titles for measures referred by Council shall be published by the Auditor as provided in Section 2.04.120 B.

#### **2.04.070 Legal Challenge to Ballot Title.**

(Amended by Ordinance No. 177200, effective February 21, 2003.) A ballot title filed with the Auditor by the City Attorney or adopted by the City Council may be challenged as provided by state law.

#### **2.04.080 Circulation of Petition.**

(Added by Ordinance No. 177200, effective February 21, 2003.)

- A. The Auditor shall certify the petition to one of the chief petitioners for circulation at the conclusion of the seventh business day after the ballot title is received from the City Attorney or immediately upon final adjudication as prescribed by the court, except a referendum petition which is found by the Auditor to satisfy the provisions of Section 2.04.050 may be circulated prior to the preparation of the ballot title.
- B. The Auditor shall advise the chief petitioner in writing that the preparation of the ballot title by the City Attorney and certification of the petition by the Auditor does not certify that the proposed measure is a proper matter for the initiative or referendum process or that it is legal or free of legal defects.
- C. Each copy of the petition which is circulated shall consist of a cover page including the ballot title and the text of the legislation being initiated or referred backed with the signature sheet. If the text of the legislation is too lengthy to fit on the cover sheet, each person obtaining signatures on the petition shall carry at least one full

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and correct copy of the measure to be initiated or referred and shall allow any person to review a copy upon request.

- D. Each elector signing the petition shall do so by affixing the elector's signature to the signature sheet. Space shall also be available on the signature sheet for the elector's, printed name, residence address, precinct number, and date of signing.
- E. No signature sheet shall be circulated by more than one person. Each signature sheet shall contain a certification signed by the circulator that each elector who signed the sheet did so in the circulator's presence and to the best of the circulator's knowledge, each elector signing the sheet is a legal voter of the City and that compensation received by the circulator, if any, was not based on the number of signatures obtained for this petition.

### **2.04.090 Filing Deadlines, Percentage Requirements and Signature Verification.**

(Amended by Ordinance Nos. 177200 and 178799, effective November 5, 2004.)

- A. The Auditor shall not accept a petition for signature verification which does not satisfy the requirements of this chapter and other applicable law. Petitions shall be verified in the order in which they are filed with the Auditor.
- B. A petition shall not be accepted for signature verification unless it contains at least 100 percent of the required number of signatures.
- C. In computing the required number of signatures, the required number shall be a percentage, as provided in this section, of the number of electors registered in the city on the date of the primary municipal election immediately preceding the date the prospective petition is filed.
- D. An initiative petition shall:
  - 1. Be filed with the Auditor for signature verification no less than four months before the election date specified on the petition. Failure to meet this filing deadline shall render the petition void.
  - 2. Be signed by a number of electors equal to or greater than 9 percent of the number of electors registered in the city on the date of the primary municipal election immediately preceding the date the prospective petition is filed.
- E. A referendum petition shall:
  - 1. Be filed with the Auditor for signature verification no later than 30 days after passage of the ordinance sought to be referred, however, it must be submitted to the Auditor at least four months before an election date in order to be placed on the ballot for that election. The four months submission requirement may be waived if the Auditor can complete the signature

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verification process and meet the counties' elections filing deadlines, and the provisions of Section 2.04.130 B. are satisfied.

2. Be signed by a number of legal voters equal to or greater than 6 percent of the number of electors registered in the city on the date of the primary municipal election immediately preceding the date the prospective petition is filed, except that a petition signed by 2,000 registered voters shall be sufficient to call a referendum upon any franchise ordinance.
- F. Upon acceptance of the petition, the Auditor shall arrange for verification of the validity of the signatures with the County Elections Officers. Verification may be performed by random sampling in a manner approved by the Secretary of the State of Oregon.
- G. The Auditor shall complete the verification process within 30 days after receipt of the petition and shall advise a chief petitioner whether the petition qualifies to be submitted to the voters.
- H. A date shall be placed on the petition or on a certificate attached to the petition which shows the date the verification process was completed. Measures which qualify for placement on the ballot shall be certified by the Auditor as meeting the requirements of this chapter and shall be submitted to the Council for action as provided by 2.04.100. The Auditor shall certify to the County Elections Offices each measure which qualifies for placement on the ballot, unless the measure has been enacted by the Council.

#### **2.04.100 Council Action; Competing Measure and Certification.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. The Auditor shall file with the Council each initiative and referendum measure submitted by the electors which qualifies for placement on the ballot for action by the Council as follows:
1. The Council may adopt an ordinance which codifies an initiative measure proposing a change to the City code. The Council shall act by a non-emergency ordinance not later than the 30th day after the measure has been certified by the Auditor for Council action and not later than the date the measure must be certified to the County for placement on the ballot. Approval of the ordinance shall void the initiative petition.
  2. The Council may repeal an ordinance provision which is the subject of a referendum petition. The Council shall act by a non-emergency ordinance not later than the 30th day after the measure has been certified by the Auditor for Council action and not later than the date the measure must be certified to the County for placement on the ballot. Repeal of the referred ordinance provision shall void the referendum petition.

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- B.** All measures involving charter language which qualify for placement on the ballot shall be submitted to the voters.
- C.** The Council may refer a competing measure, however, it shall prepare the measure not later than the 30th day after the measure has been filed with the Auditor for signature verification.

**2.04.110 Measures Proposed by the Charter Commission.**

(Added by Ordinance No. 184947, effective November 18, 2011.)

- A.** Preparation of Ballot Title
  - 1.** When a measure proposing a charter amendment is supported by an affirmative vote of at least 15 members of the Charter Commission after a public hearing process prescribed by the Council:
    - a.** The Commission shall notify the Auditor and submit to the Auditor the text of a proposed measure.
    - b.** Within seven business days after submission of the proposed measure to the Auditor, the Auditor shall file the measure as a report from the Charter Commission to the Council and place it on the Council agenda.
    - c.** Within two business days after the Charter Commission presents the measure to the Council at a Council meeting, the Auditor shall forward the measure to the City Attorney for preparation of a ballot title and explanatory statement in conformance with the requirements of state law.
    - d.** Within five business days after receiving the measure from the Auditor, the City Attorney shall prepare and transmit to the Auditor the ballot title and explanatory statement.
    - e.** After receiving the ballot title, the Auditor shall publish in the next available edition of a newspaper of general circulation in the City, a notice of receipt of the ballot title, that an elector may file a petition for review of the ballot title, and the date by which the appeal must be filed.
    - f.** Following completion of the ballot title challenge process, the Auditor shall file the measure, ballot title and explanatory statement with county elections officers.
    - g.** A measure shall be considered referred under this Section as soon as the measure is certified to the ballot. The measure shall be placed on the next primary or general election ballot that is at least 120 days

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after the date the Charter Commission presents the measure to Council. As part of its affirmative vote supporting a measure, the Charter Commission may specify whether the measure shall be submitted to the voters at the primary election or at the general election.

#### **2.04.120 Measures Referred by the Council.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

##### **A. Preparation of Ballot Title and Resolution; Effective Date.**

- 1.** Prior to final Council action on a measure to be referred to the electors, an elected City official shall submit a resolution and ballot title to the Council Clerk for placement on the Council agenda. The ballot title may be prepared by:

- a.** the City Attorney at the request of the Council or elected official;
- b.** the Council; or
- c.** an elected City official.

If the City Attorney is asked by the Council or an elected official to prepare the ballot title and resolution, the ballot title and resolution shall be transmitted to the Council or elected official within five business days of the request, unless a longer time period is specified by the Council or elected official.

- 2.** The ballot title shall comply with the requirements of Section 2.04.060 B.
- 3.** A measure shall be placed on the ballot if the Council enacts a resolution directing that a measure be placed on the ballot.
- 4.** A measure shall be considered referred under this section as of the date the Council adopts the resolution directing placement of the measure on the ballot.

- B.** Publication. Upon referral of the measure as outlined in Section 2.04.120 A., the Auditor shall publish in the next available edition of a newspaper of general circulation in the City, a notice of receipt of the ballot title, that an elector may file a petition for review of the ballot title, and the date by which the appeal must be filed.

- C.** Legal Challenge to Ballot Title. A ballot title adopted by Council may be challenged as provided by state law.



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**2.04.125      Advisory Questions Referred by Council.**

(Added by Ordinance No. 177200, effective February 21, 2003.)

**A.      Preparation of Ballot Title and Resolution; Effective Date.**

- 1.**      Prior to final Council action on an advisory question to be referred to the electors, an elected City official shall submit a resolution and ballot title to the Council Clerk for placement on the Council agenda. The ballot title may be prepared by:

- a.**      the City Attorney at the request of the Council or elected official;
- b.**      the Council; or
- c.**      an elected City official.

If the City Attorney is asked by the Council or an elected official to prepare the ballot title and resolution, the ballot title and resolution shall be transmitted to the Council or elected official within five business days of the request, unless a longer time period is specified by the Council or elected official.

- 2.**      The ballot title shall comply with the requirements of Section 2.04.060 B.
- 3.**      An advisory question shall be placed on the ballot if the Council enacts a resolution directing that a measure be placed on the ballot.
- 4.**      An advisory question shall be considered referred under this Section as of the date the Council adopts the resolution directing placement of the question on the ballot.

- B.**      Publication. Upon referral of the measure as outlined in Section 2.04.125 A, the Auditor shall publish in the next available edition of a newspaper of general circulation in the City, a notice of receipt of ballot title, that an elector may file a petition for review of the ballot title, and the date by which the appeal must be filed.

- C.**      Legal Challenge to Ballot Title. A ballot title adopted by Council may be challenged as provided by state law.

**2.04.130      Election Dates; Special Election.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.**      An initiative measure shall be placed on the ballot at the primary or general election date specified on the petition.
- B.**      A referendum measure shall be placed on the ballot at the next primary or general election unless the Council finds that the public interest in a prompt resolution of

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the question outweighs the costs associated with a special election. If the Council chooses not to place the matter on the ballot at the next primary or general election, the Council may call for a special election at the next available date or call for a special election at an election date when other measures are on the ballot thus reducing the cost.

- C. A measure or advisory question referred by Council shall be placed on the election ballot specified in the resolution directing the measure or question to be referred to the voters. This shall be a primary or general election date, unless the Council finds that the public interest in a prompt resolution of the question outweighs the costs associated with a special election. If the Council chooses not to place the matter on the ballot at the next primary or general election, the Council may call for a special election at the next available date or call for a special election at an election date when other measures are on the ballot thus reducing the cost. If no date is specified in the Council resolution, the measure shall be placed on the ballot at the next available primary or general election.

#### **2.04.140 Ballot Designations.**

(Amended by Ordinance Nos. 177200 and 184947, effective November 18, 2011.)

- A. Measures referred by the Council shall be designated on the ballot “Referred to the People by the City Council.”
- B. Advisory questions referred by the Council shall be designated on the ballot "Advisory Question Referred to the People by the City of Portland."
- C. Measures proposed by referendum petition shall be designated on the ballot “Referred by Petition of the People.”
- D. Measures proposed by initiative petition shall be designated on the ballot “Proposed by Initiative Petition.”
- E. Measures proposed by the Charter Commission supported by an affirmative vote of at least 15 members of the Charter Commission shall be designated on the ballot “Referred to the People by the Charter Commission.”

#### **2.04.150 Computation of the Vote.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. No measure shall be adopted unless it receives an affirmative majority of the total number of votes.
- B. A measure that falls under the requirements of Article 11, Section 11 (8) of the Oregon Constitution shall be adopted only if it receives an affirmative majority of the total number of votes and:
  - 1. At least 50 percent of registered voters of the City cast a ballot; or

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2. The election is a general election in an even-numbered year.
- C. If there are two or more measures on the ballot on the same subject or containing conflicting provisions, the measure receiving the greatest number of affirmative votes shall be the measure adopted.

**2.04.160 Effective Date.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. The Auditor shall submit the abstract of votes for each measure from the County Elections office to the Council within 30 days after the date of the election. The Mayor shall issue a proclamation giving the number of votes cast for or against a measure and declare the approved measure as the law on the effective date of the measure. If two or more approved measures contain conflicting provisions, the Mayor shall proclaim which is paramount, as provided by Section 2.04.150 B.
- B. An initiative or referendum measure adopted by the electors shall take effect upon proclamation by the Mayor unless the measure expressly provides a different effective date.

**2.04.170 Computation of Dates.**

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

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### **CHAPTER 2.08 - NOMINATION AND ELECTION OF CANDIDATES**

(Chapter replaced by Ordinance No. 167654,  
effective May 18, 1994.)

#### **Sections:**

- 2.08.040 City Offices.
- 2.08.050 Qualifications of Candidates.
- 2.08.060 Filing as a Candidate for Office.
- 2.08.070 Filing by Declaration of Candidacy.
- 2.08.080 Filing by Nominating Petition
- 2.08.090 Withdrawal of Candidate Before certification to County.
- 2.08.100 Register of Candidates for primary Election.
- 2.08.110 Statement of Candidates & Measures for Primary and General Elections Ballots.
- 2.08.120 Post-Election Procedures for Primary and General Election.
- 2.08.130 Tie Vote.
- 2.08.140 Candidate Elected by Write-in Vote.
- 2.08.150 Withdrawal after Nomination.
- 2.08.160 Filling Vacancy in Nomination.
- 2.08.170 Recall.

#### **2.08.010 Definitions.**

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

#### **2.08.020 Applicability of State Law.**

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

#### **2.08.030 City Elections Officer.**

(Repealed by Ordinance No. 177200, effective February 21, 2003.)

#### **2.08.040 City Offices.**

(Amended by Ordinance Nos. 177200 and 178799, effective November 5, 2004.)

- A.** All elective city offices shall be nonpartisan. Petitions or declarations of candidacy shall contain no reference to any political party affiliation. No reference to any political party affiliation shall be included in any notice, voters' pamphlet, ballot or other elections publication concerning a city candidate.
- B.** The Mayor, Auditor and Commissioners shall be nominated and elected subject to provisions in Charter Section 2-206 and Charter Chapter 3, Article 1 concerning filling vacancies in office and provisions in Code Chapter 2.08.160 concerning absence of a nominee after the Primary Election. If a City candidate receives a majority of the votes cast for an office at the Primary Election, the candidate shall be elected. If no candidate receives a majority of the votes cast for the office at the Primary Election, the two candidates receiving the highest number of votes for that

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office shall appear on the General Election ballot. The candidate receiving the majority of votes cast at the General Election shall be elected. In case no nomination is made at the Primary Election, nominations may be made at the General Election, and any candidate receiving a majority of votes shall be deemed elected at the General Election.

**2.08.050      Qualifications of Candidates.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. Eligible electors filing for city offices shall meet the qualifications for elected officials described in Charter Section 2-202. The candidate shall be a citizen of the United States and of the State of Oregon, and a registered voter in the City of Portland who shall have been a resident of the City of Portland or of an area which has become part of the City prior to filing the declaration of candidacy or petition for nomination, for a period of not less than one year immediately preceding the nominating election.
- B. In addition to the requirements of Section 2.08.050 A., candidates for Auditor must at the time of filing a declaration of candidacy or a nominating petition, be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected.
- C. The City Elections Officer shall reject the filing for candidacy if the City Elections Officer finds that a candidate is not a registered voter in the City of Portland, would otherwise be unable to qualify as an officer if elected, or if the filing is not in compliance with the law or the requirements of this Chapter in any other way.

**2.08.060      Filing as a Candidate for Office.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A. An eligible elector may become a candidate for nonpartisan office by filing a declaration of candidacy accompanied by a filing fee or by filing a nominating petition.
- B. A nominating petition or declaration of candidacy shall contain the name of only one candidate.
- C. No person shall file a nominating petition or declaration of candidacy for more than one lucrative office on the ballot at the same time. If a person has filed for another office, the person shall first withdraw the prior filing before a nominating petition or declaration of candidacy shall be accepted.
- D. A nominating petition or declaration of candidacy shall be filed within the time period prescribed by state law.

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#### **2.08.070 Filing by Declaration of Candidacy.**

(Amended by Ordinance Nos. 173369 and 177200, effective February 21, 2003.)

- A.** The Declaration of Candidacy shall be accompanied by the filing fee.
  - 1.** \$50 for the office of the Mayor.
  - 2.** \$30 for the office of Commissioner or Auditor.
- B.** A Declaration of Candidacy shall be on a Filing of Candidacy form provided by the Auditor as prescribed by state law and shall provide qualifications and fees for city candidates. It shall include:
  - 1.** The candidate's name and the manner in which the name should appear on the ballot;
  - 2.** The candidate's residence and mailing addresses and other contact information;
  - 3.** The candidate's county of residence;
  - 4.** The position and position number, if applicable, for which the candidate seeks nomination;
  - 5.** A statement of the candidate's occupation, educational and occupational experience and prior government experience;
  - 6.** A statement the candidate will accept nomination or election;
  - 7.** A statement the candidate will qualify if elected;
  - 8.** A statement the required fee is included with the declaration; and
  - 9.** The candidate's signature.
- C.** The Filing of Candidacy form shall state pursuant to ORS 260.715 that any person who supplies any information on the form, knowing it to be false, is subject upon conviction to imprisonment in the penitentiary for up to five years or to a fine of \$100,000 or both; and pursuant to ORS 249.013 that no person shall file a nominating petition or declaration of candidacy for more than one lucrative office before the date of the primary election unless the person first files a written withdrawal with the officer who accepted the initial filing.

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**2.08.080 Filing by Nominating Petition.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** As an alternative method of filing as a candidate without the expense of the filing fee, a candidate may file a nominating petition. A nominating petition shall contain no fewer than 100 original signatures of electors registered in the City of Portland.
- B.** Before circulating a nominating petition, the candidate shall file with the City Elections Officer a prospective petition signed by the candidate. The prospective petition shall be a copy of the signature sheet intended for circulation and filing, a statement whether petition circulators will be paid or unpaid, a Filing of Candidacy form. The copy of the signature sheet shall be in the form prescribed by state law and signed by the candidate.
- C.** The Filing of Candidacy form shall be on a form provided by the Auditor as prescribed by state law and shall provide qualifications and signature requirements for city candidates. It shall include the items listed in Section 2.08.070 B. 1. - 7., and 9. and 2.08.070 C. It shall also include a statement that the required prospective petition forms are included with the declaration.
- D.** No petition shall be circulated for signatures without the approval of the prospective petition by the City Elections Officer.
- E.** After circulating the petition, the candidate shall submit to the City Elections Filing Officer the signature sheets including no less than 100 percent of the required signatures and the circulator's signed certification on each signature sheet that all signatures were obtained in the circulator's presence and the circulator believes the signatures to belong to eligible electors.
- F.** Upon receipt of signature sheets containing the required number of signatures, the City Elections Officer shall arrange for verification of the validity of the signatures with the County Elections Officers.
- G.** Upon verification of the validity of 100 signatures, the candidate shall file the perfected petition, including a Declaration of Candidacy labeled "perfected petition" with the City Elections Officer.
- H.** Any eligible elector may sign a nominating petition of any candidate for nonpartisan city office.

**2.08.090 Withdrawal of Candidate before Certification to County.**

(Amended by Ordinance No. 177200, effective February 21, 2003.) A candidate who has filed a Declaration of Candidacy or nominating petition may withdraw as a candidate provided the withdrawal is made by the deadline prescribed by state law and the withdrawal is made on a form provided by the City Elections Officer and signed by the candidate under

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oath. If the withdrawal is filed before the statutory deadline, the City Elections Officer shall refund any filing fee.

#### **2.08.100 Register of Candidates for Primary Election.**

The City Elections Officer shall keep a register of candidates for nomination at the primary election. The register shall contain the title of each office, the name and residence mailing address of each candidate for nomination at the primary election, the date of filing of the prospective petition for nomination of the candidate, the date of filing of the perfected petition for nomination, the date of filing of the declaration of candidacy, and such other information as may aid the City Elections Officer to provide the Multnomah County Elections Officer with information for the official ballot for the primary election.

#### **2.08.110 Statement of Candidates & Measures for Primary and General Elections Ballots.**

- A.** The City Elections Officer shall file with the Multnomah County Elections Officer a statement of the candidates' names as they will appear on the ballot, the city offices for which candidates are to be nominated or elected, and city measures to be voted on, including the ballot title for each measure. The City Elections Officer shall file this statement no later than the deadline prescribed by state law for notification to county offices.
- B.** The City shall reimburse the County for expenses incurred in changing the ballot if the City Elections Officer makes changes after the deadline for filing the statement with the County.

#### **2.08.120 Post-Election Procedures for Primary and General Elections.**

(Amended by Ordinance No. 177200, effective February 21, 2003.)

- A.** Upon receipt of the abstract of the vote tally for nominated or elected officers and measures from the County, the City Elections Officer shall act as follows no later than 30 days after the election.
- B.** The City Elections Officer shall:
  - 1.** Prepare a register of nominations, including the name of each candidate nominated, the position for which the candidate was nominated, and the date of entry;
  - 2.** Proclaim to the City Council the candidates nominated or elected and the measures approved;
  - 3.** Proclaim which measure is paramount if approved measures contain conflicting provisions; and
  - 4.** Prepare and deliver to each candidate a certificate of nomination or election, provided each candidate has filed financial statements relating to the



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election that the candidate is required to file under ORS 260.058 and 260.068.

- C. The certificate is primary evidence of nomination or election. No candidate shall take the oath of office before receiving a certificate of election from the City Elections Officer. The City Elections Officer shall not grant a certificate of nomination or election to any candidate until the candidate has filed the statements relating to the election that the candidate is required to file under ORS 260.058 and 260.068.
- D. A contested election and recount of votes for any City office shall be determined according to state law regulating these proceedings.
- E. Any write-in candidate for a city office who wishes a tally of votes shall file a written request for the tally with the City Elections Officer. The City Elections Officer shall forward the request to the Multnomah, Clackamas and Washington County Elections Officers. The request shall be filed with the City Elections Officer by the deadline prescribed in state law.

**2.08.130 Tie Vote.**

After a recount of the vote, if two candidates have an equal and highest number of votes at the General Election, the Auditor shall have the candidates meet publicly to decide by lot who is elected after providing notice to the candidates and public.

**2.08.140 Candidate Elected by Write-in Vote.**

An individual nominated or elected by write-in votes shall sign and file a form indicating that the individual accepts the nomination or office before the City Elections Officer may issue a certificate of nomination or election. The form shall be provided by the City Elections Officer.

**2.08.150 Withdrawal after Nomination.**

(Amended by Ordinance No. 177200, effective February 21, 2003.) Any person who has been nominated at a nominating or Primary Election may withdraw from nomination by filing a statement declining the nomination and stating the reasons for withdrawal. The request for withdrawal shall be on a form provided by the City Elections Officer and signed by the candidate under oath before the City Elections Officer no later than the deadline prescribed by state law.

**2.08.160 Filling Vacancy in Nomination.**

- A. If the only candidate nominated to a nonpartisan office dies, withdraws, is removed or disqualified or becomes ineligible before the deadline for filing statements with the County, the nomination process shall be initiated and candidates for the office shall file nominating petitions in the manner provided for nonpartisan office. The General Election shall serve as the nominating election. The City Elections Officer

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shall consult with the Secretary of State in adopting a schedule for filing nominating petitions and subsequent elections documents.

- B.** If a candidate nominated under the provisions of this Chapter receives a majority of the votes cast for the office at the General Election, that candidate shall be deemed elected. If no nominee receives a majority of the vote at a nominating election held at a General Election, the two candidates receiving the highest number of votes shall be in a runoff election, and the candidate receiving a majority of the votes shall be the winner. Any special runoff election required by this Chapter shall be according to provisions of Charter Section 2-206 for filling vacancies in office.

#### **2.08.170 Recall.**

Procedures and forms for a recall petition and election shall be according to state law.

**CHAPTER 2.10 – CAMPAIGN FINANCE IN  
CANDIDATE ELECTIONS**

(Chapter added by Ordinance No. 189348, effective  
January 16, 2019.)

**Sections:**

- 2.10.010 Contributions in City of Portland Candidate Elections.
- 2.10.020 Expenditures in City of Portland Candidate Elections.
- 2.10.030 Timely Disclosure of Large Contributions and Expenditures.
- 2.10.040 Coordination with Public Funding of Campaigns.
- 2.10.050 Implementation and Enforcement.
- 2.10.060 Adjustments.
- 2.10.070 Severability.
- 2.10.080 Definitions.

**2.10.010 Contributions in City of Portland Candidate Elections.**

- A.** An Individual or Entity may make Contributions only as specifically allowed to be received in this Chapter.
- B.** A Candidate or Candidate Committee may receive only the following Contributions during any Election Cycle:
  - 1.** Not more than \$500 from an Individual or a Political Committee other than a Small Donor Committee;
  - 2.** Any amount from a qualified Small Donor Committee;
  - 3.** A loan balance of not more than \$5,000 from the Candidate;
  - 4.** No amount from any other Entity, except as provided in Section 2.10.040.
- C.** Individuals shall have the right to make Contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

**2.10.020 Expenditures in City of Portland Candidate Elections.**

- A.** No Individual or Entity shall expend funds to support or oppose a Candidate, except those collected from the sources and under the Contribution limits set forth in this Chapter.
- B.** An Entity shall register with the Oregon Secretary of State as a Political Committee under Oregon law within 3 business days of making aggregate Independent Expenditures exceeding \$750 in any Election Cycle to support or oppose one or more Candidates in any City of Portland Candidate Election.

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- C.** Only the following Independent Expenditures are allowed per Election Cycle to support or oppose one or more Candidates in any particular City of Portland Candidate Election:
- 1.** An Individual may make aggregate Independent Expenditures of not more than \$5,000.
  - 2.** A Small Donor Committee may make Independent Expenditures in any amounts from funds contributed in compliance with Section 2.10.010.
  - 3.** A Political Committee may make aggregate Independent Expenditures of not more than \$10,000, provided that the Independent Expenditures are funded by means of Contributions to the Political Committee by Individuals in amounts not exceeding \$500 per Individual per year.

#### **2.10.030 Timely Disclosure of Large Contributions and Expenditures.**

- A.** Each Communication to voters related to a City of Portland Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:
- 1.** The names of any Political Committees and other Entities that have paid to provide or present it; and
  - 2.** For each of the five Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:
    - a.** The name of the Individual or Entity providing the Contribution.
    - b.** The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
  - 3.** For each of the largest five Dominant Independent Spenders paying to provide or present it:
    - a.** The name of the Individual or Entity providing the Independent Expenditure.
    - b.** The types of businesses from which the maker of the Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the NAICS.

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- B.** If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee) or nonprofit organization, the prominent disclosure shall include its top three funders during the current Election Cycle.
- C.** The disclosure shall be current to within 10 business days of the printing of printed material or within 5 business days of the transmitting of a video or audio communication.

**2.10.040      Coordination with Public Funding of Campaigns.**

A Candidate participating in a government system of public funding of campaigns (including the Open and Accountable Elections Fund established under Portland City Code Chapter 2.16) may receive any amount that such system allows a participating candidate to receive.

**2.10.050      Implementation and Enforcement.**

- A.** The provisions of this Chapter shall take effect on September 1, 2019.
- B.** Each violation of any provision in this Chapter shall be punishable by imposition of a civil fine which is not less than 2 nor more than 20 times the amount of the unlawful Contribution or Expenditure or Independent Expenditure at issue.
- C.** Any person may file a written complaint of a violation of any provision in this Chapter with the City Auditor.
- D.** The City Auditor, otherwise having reason to believe that a violation of any provision has occurred, shall issue a complaint regarding such violation.
- E.** Upon receipt or issuance of a complaint, the City Auditor:
  - 1.** Shall examine the complaint to determine whether a violation has occurred and shall make any investigation necessary.
  - 2.** Within 2 business days of receiving or issuing a complaint, shall issue a notification, including a copy of the complaint, to every person who is the object of the complaint.
  - 3.** Shall accept written materials supporting or opposing the complaint for a period of 10 business days following any such notification.
  - 4.** Shall render a decision on the complaint within 10 business days of the close of the material submission period.
- F.** If the complaint is received or issued within 30 calendar days of the date of the election involving the object of the complaint, then all time periods stated in Subsections 2.10.050 E.3. and 2.10.050 E.4. shall be reduced by one-half.

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- G.** The City Auditor may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with the provisions of this Chapter.
- H.** Upon finding a violation of the requirement for timely disclosure set forth in Section 2.10.030, the City Auditor shall determine the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication at issue and shall immediately issue a statement to all interested parties and news organizations containing all of the information about the involved donor(s) required by Section 2.10.030.
- I.** The complainant or any person who is the object of the complaint may, within 30 calendar days of the issuance of the decision, appeal that order to the appropriate Circuit Court as an agency order in other than a contested case.
- J.** The decision in the matter shall be deemed final, following completion of any judicial review. Such decision shall be enforced by the City of Portland. If the decision is not enforced within 30 calendar days of the decision becoming final, the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the City of Portland, and for any appropriate equitable relief.

#### **2.10.060 Adjustments.**

All dollar amounts shall be adjusted on January 1 of each odd-numbered year to reflect an appropriate measure of price inflation, rounded to the nearest dollar.

#### **2.10.070 Severability.**

For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

#### **2.10.080 Definitions.**

Unless otherwise indicated by the text or context of this Chapter, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of January 1, 2018. Terms found therein or defined below are capitalized in this Chapter.

- A.** “Candidate” has the meaning set forth at ORS 260.005(1).
- B.** “Candidate Committee” has the meaning set forth at ORS 260.039 - 260.041, as of November 8, 2016, for the term “principal campaign committee.”

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- C.** “City of Portland Candidate Election” means an election, including a primary election, to select persons to serve (or cease serving) in public offices of City of Portland.
- D.** “Communication” means any written, printed, digital, electronic or broadcast communications but does not include communication by means of small items worn or carried by Individuals, bumper stickers, Small Signs, or a distribution of 500 or fewer substantially similar pieces of literature within any 10 business-day period.
- E.** “Contribution” has the meaning set forth at ORS 260.005(3) and 260.007, as of November 8, 2016, except it does not include:
- 1.** Funds provided by government systems of public funding of campaigns; or
  - 2.** Providing rooms, phones, and internet access for use by a candidate committee free or at a reduced charge.
- F.** “Dominant Contributor” means any Individual or Entity which contributes more than \$1,000 during an Election Cycle to a Candidate Committee or Political Committee.
- G.** “Dominant Independent Spender” means any Individual or Entity which expends more than \$1,000 during an Election Cycle to support or oppose a particular Candidate.
- H.** “Election Cycle” means:
- 1.** Generally, the period between an election at which a Candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.
  - 2.** For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
  - 3.** For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.
- I.** “Entity” means any corporation, partnership, limited liability company, proprietorship, Candidate Committee, Political Committee, or other form of organization which creates an entity which is legally separate from an Individual.
- J.** “Expenditure” has the meaning set forth at ORS 260.005(8) and ORS 260.007, as of January 1, 2018, except that:

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1. It does not include a Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of influencing an election.
  2. The exception in ORS 260.007(7) does not apply.
- K.** “General Election Period” means the period beginning the day after the biennial primary election and ending the day of the biennial general election.
- L.** “Individual” means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Chapter expresses a limitation or prohibition, “Individual” means any human being.
- M.** “Membership Organization” means a nonprofit organization, not formed or operated for the purpose of conducting or promoting commercial enterprise, which has Individual members who have taken action to join the organization and have made a payment of money or volunteer time to maintain membership in the organization.
1. It cannot have commercial enterprises as members.
  2. It can transfer to one and only one Small Donor Committee not more than 40 percent of the amount paid to the organization by each Individual member, with a limit of \$100 transferred per Individual member per calendar year.
  3. It shall within 30 calendar days of any such transfer notify each paying member of the amount transferred, expressed in dollars or as a percentage of the member’s amount paid to the organization. Such notice may be provided by regular mail or electronic mail to each affected member or by posting the information on the organization’s main website. If the amount transferred is the same for each member or category of members (in dollars or in percentage of amount paid), the posting may state that amount or percentage without identifying individual members.
- N.** “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.
- O.** “Prominently Disclose” means that the disclosure shall be readily comprehensible to a person with average reading, vision, and hearing faculties, with:
1. any printed disclosure appearing in a type of contrasting color and in the same or larger font size as used for the majority of text in the printed material;



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2. any video disclosure remaining reading on the regular screen (not closed captioning) for not less than 4 seconds;
  3. any auditory disclosure spoken at a maximum rate of 5 words per second;
  4. any website or email message in type of a contrasting color in the same or larger font size as used for the majority of text in the message;
  5. any billboard or sign other than a Small Sign: in type of a contrasting color and not smaller than 10 percent of the height of the billboard or sign.
- P.** “Small Donor Committee” means a Political Committee which has never accepted any Contributions except from Individuals in amounts limited to \$100 per Individual contributor per calendar year.
- Q.** “Small Sign” means a sign smaller than 6 square feet.

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### **CHAPTER 2.12 - REGULATION OF LOBBYING ENTITIES**

(Chapter added by Ordinance No. 179843, effective  
April 1, 2006.)

#### **Sections:**

- 2.12.010 Purpose.
- 2.12.020 Definitions.
- 2.12.030 Registration for Lobbying Entities.
- 2.12.040 Quarterly Reporting Requirements for Lobbying Entities.
- 2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.
- 2.12.060 Declaration Required by Lobbyists
- 2.12.070 Reporting Requirements for City Officials.
- 2.12.080 Prohibited Conduct.
- 2.12.090 Verification of Reports, Registrations and Statements.
- 2.12.100 Public Nature of Reports, Registrations and Statements.
- 2.12.110 Auditor's Duties.
- 2.12.120 Penalties.
- 2.12.130 Severability.

#### **2.12.010 Purpose.**

The City finds that, to preserve the integrity of its decision making processes, lobbying entities that engage in efforts to influence City officials, should report their lobbying efforts to the public.

#### **2.12.020 Definitions.**

(Amended by Ordinance Nos. 180205, 180620, 180917, 181204, 182389, 182671, 184046, 184882, 185304, 186028, 186176 and 189078, effective July 18, 2018.) As used in this Chapter unless the context requires otherwise:

- A. "Calendar quarter" means one of the four three-month periods of January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.
- B. "Calendar year" means the period of January 1 through December 31.
- C. "City director" means the director or individual in charge of the following or its successors: the Bureau of Transportation, the Office of Management and Finance, the Office of Government Relations, the Office of Community & Civic Life, the Bureau of Planning and Sustainability, the Portland Bureau of Emergency Management, the Bureau of Emergency Communications, Portland Fire & Rescue, the Bureau of Police, the Bureau of Parks and Recreation, the Bureau of Environmental Services, the Portland Water Bureau, the Bureau of Development Services, the Portland Housing Bureau, the Bureau of Revenue, the City Budget Office, the Office of Equity and Human Rights, the Bureau of Fire and Police

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Disability and Retirement, the Bureau of Human Resources, the Bureau of Internal Business Services, the Bureau of Technology Services and the Portland Development Commission.

- D.** “City official” means any City elected official; the at will staff of a City elected official; any City director as defined in this section; or appointee to the Portland Development Commission, the Planning and Sustainability Commission, the Design Commission, and the Fire and Police Disability and Retirement Board.
- E.** “Consideration” includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.
- F.** “Official action” means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, measure, resolution, amendment, nomination, appointment, or report, or any matter, including administrative action, that may be the subject of action by the City.
- G.** “Lobby” or “Lobbying” or “Lobbies” means attempting to influence the official action of City officials. Lobbying includes time spent preparing emails and letters and preparing for oral communication with a City official. Lobbying does not include:

  - 1. Time spent by an individual representing his or her own opinion to a City official.
  - 2. Time spent participating in a board, committee, working group, or commission created by City Council through approval of resolution or ordinance.
  - 3. Time spent by a City official or City employee acting in their official capacity as an official for the City.
  - 4. Time spent submitting a bid, responding to related information requests, and negotiating terms on a competitively bid contract or intergovernmental agreement.
  - 5. Oral or written communication made by a representative of a labor organization that is certified or recognized, pursuant to ORS 243.650 et seq., as the exclusive bargaining representative of employees of the City of Portland, to the extent that such communications do not deal with actual or potential ordinances that are unrelated to the collective bargaining process, or implementation or application of any collective bargaining agreement provision.

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6. Formal appearances to give testimony before public hearings or meetings of City Council.
  7. Work performed by a contractor or grantee pursuant to a contract with or grant from the City.
  8. Time spent by any person holding elected public office, or their specifically authorized representative, acting in their official capacity.
- H.** “Lobbying entity” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group who lobbies either by employing or otherwise authorizing a lobbyist to lobby on that person’s behalf.
- I.** “Lobbyist” means any individual who is authorized to lobby on behalf of a lobbying entity.
- J.** “Person” means any individual, business association, corporation, partnership, association, club, company, business trust, organization or other group.
- K.** “Gift” means something of economic value given to a City official without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not City officials on the same terms and conditions; and something of economic value given to a City official for valuable consideration less than that required from others who are not City officials. However, “gift” does not mean:
1. Campaign contributions, as described in ORS Chapter 260.
  2. Gifts from family members.

#### **2.12.030 Registration for Lobbying Entities.**

(Amended by Ordinance Nos. 180205, 181204 and 187854, effective September 1, 2016.)

- A.** Within three working days after a lobbying entity has spent 8 hours or more or estimates that it has spent cumulative 8 hours or more or has spent at least \$1,000 during any calendar quarter lobbying, the lobbying entity shall register with the City Auditor by filing with the Auditor a statement containing the following information:
1. The name, address, email, website and telephone number of the lobbying entity;
  2. A general description of the trade, business, profession or area of endeavor of the lobbying entity;

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3. The names, addresses, email, website and telephone number of all lobbyists who are employed by or otherwise authorized to lobby on behalf of the lobbying entity. The list must include:
    - a. Individuals who are paid to lobby for the interests of the lobbying entity.
    - b. Other persons, including lobbying entity employees or volunteers, who are authorized to lobby on behalf of the lobbying entity.
    - c. Previous City of Portland employment status of individuals who are paid or otherwise authorized to lobby on the entity's behalf, the affiliated bureau(s) or office(s) of employment, and dates of employment.
  4. The subjects and any specific official actions of interest to the lobbying entity.
- B.** A business, organization, or association who anticipates registering as a lobbying entity is encouraged to register at the beginning of each calendar year.
- C.** Registrations shall expire December 31 of every year. Lobbying entities shall renew their registrations once the 8-hour threshold has been reached in each calendar year.
- D.** An authorized representative of the lobbying entity must sign the registration required by this Section.

**2.12.040 Quarterly Reporting Requirements for Lobbying Entities.**

(Amended by Ordinance Nos. 180205, 180620, 181204, 186176 and 187854, effective September 1, 2016.)

- A.** A lobbying entity registered with the City Auditor or required to register with the City Auditor shall file a report, if the lobbying entity has spent an estimated 8 hours or more or at least \$1,000 during the preceding calendar quarter lobbying, with the City Auditor, by April 15, July 15, October 15, and January 15, showing:
1. The specific subject or subjects of the official action of interest to the lobbying entity, including but not limited to the names of City officials a lobbying entity met with or contacted through direct mail, email or telephone regarding such subject or subjects, the name of the registered lobbyist representing the entity and the date of the contact
  2. A good faith estimate of total moneys, if the total exceeds \$1,000, expended by the lobbying entity or any lobbyist employed by or otherwise authorized to lobby on behalf of the lobbying entity, for the purpose of lobbying City

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officials on behalf of the lobbying entity in the preceding calendar quarter reporting period for:

- a. Food, refreshments, travel and entertainment;
  - b. Printing, postage and telephone;
  - c. Advertising, direct mail and email;
  - d. Miscellaneous and gifts;
  - e. Compensation paid to lobbyists; and
  - f. Reimbursements to lobbyists for their expenses.
- 3. The name of any City official to whom or for whose benefit, on any one occasion, the lobbying entity made an expenditure in excess of \$25 in the preceding calendar quarter for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure.
- B. Statements required by this section need not include amounts expended by the lobbying entity for personal living and travel expenses and office overhead, including salaries and wages paid for staff providing clerical assistance and others not engaged in lobbying activities and maintenance expenses. If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.
- C. A lobbying entity shall update any information submitted in Section 2.12.030 that has changed since registration.
- D. A statement required by this section shall include a copy of any notice provided to a City official under ORS 244.100.
- E. An authorized representative of the Lobbying Entity must sign the declaration required by Section 2.12.090 A. for each quarterly report.
- F. Lobbying entities who expect to spend 8 hours or more lobbying City Officials in a calendar quarter, but do not anticipate spending over \$1,000 in the same reporting period for the purpose of lobbying may sign and file a certificate of limited expenditure provided by the Auditor's office in lieu of the financial portion of the quarterly report described in Section 2.10.040 A.2. The certificate affirms that the lobbying entity will spend less than the threshold required for quarterly financial reporting of moneys expended under Section 2.12.040 A.2. If a lobbying entity that files a certificate of limited expenditure spends over \$1,000 in a calendar

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quarter for the purpose of lobbying, the lobbying entity shall withdraw the certificate of limited expenditure and shall report moneys expended pursuant to Section 2.12.040 A.2.

- G.** A lobbying entity may amend a quarterly report without penalty if it files the amended report within 25 days after the end of the calendar quarter.

**2.12.050 Exemptions to Registration and Reporting Requirements for Lobbying Entities.**

(Amended by Ordinance Nos. 180620, 181204, 188286 and 189078, effective July 18, 2018.) In addition to the thresholds set forth in Section 2.12.030 and 2.12.040 for the registration, reporting and financial reporting of lobbying entities, Sections 2.12.030 and 2.12.040 do not apply to the following persons:

- A.** News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge official action but that engage in no other activities in connection with the official action.
- B.** Any lobbying entity that satisfies all three of the following requirements:
- 1.** Complies with state public record and meeting laws or with the standards referenced in Section 3.96.020 G.;
  - 2.** Is classified as a non-profit organization, registered with the Oregon Secretary of State Corporation Division; and
  - 3.** Is formally recognized by the Office of Community & Civic Life or through City Council resolution or ordinance.

**2.12.060 Declaration Required by Lobbyists.**

(Amended by Ordinance No. 180205, effective June 7, 2006.) Prior to offering public testimony before City officials, at the beginning of any meetings or phone calls with City officials, or in emails and letters to City officials, a lobbyist must declare which lobbying entity he or she is authorized to represent for that communication.

**2.12.070 Reporting Requirements for City Officials.**

(Amended by Ordinance Nos. 180205, 180620, 187854 and 187961, effective September 1, 2016.)

- A.** City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25 received from a lobbying entity, regardless of the entity's registration status, or any person authorized to lobby on the lobbying entity's behalf. Such reports shall include:
- 1.** Name of lobbying entity, and if applicable, name of lobbyist;
  - 2.** Subject of lobbying;

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3. Value of gift, meal or entertainment; and
  4. Date of receipt.
- B.** City officials shall file written reports after a lobbyist or lobbying entity, regardless of the entity's registration status, has agreed to make a donation of personal or real property to the City. Such reports shall include:
1. Name of lobbying entity, and if applicable, name of lobbyist;
  2. Gift or donation requested;
  3. Purpose of donation; and
  4. Date of request.
- C.** The reports, if any, required by subsections 2.12.070 A. and B. shall be filed with the City Auditor 15 days after the end of the calendar quarter. City officials, other than elected officials, are not required to file reports with the Auditor if the amount of the gift, meal or entertainment is less than \$25 or if no gifts or donations have been requested in the calendar quarter.
- D.** City Elected officials and City directors shall post their calendars of activities that reflect official City business 15 days after the end of the calendar quarter for the previous calendar quarter, unless an elected official or City director determines that such posting poses a safety threat.
1. Unless otherwise exempted, calendars required by this Section shall note the date and length of scheduled official business that includes other City Elected officials, City directors or outside parties. Calendar items must list primary participants or organizations in attendance.
  2. Elected officials' and City directors' quarterly calendars required by this Section shall be retained in accordance with City Administrative Rules and posted publicly on the originating office's website for a period of at least one calendar year.
- E.** A City Official may amend a quarterly report without penalty if he or she files the amended report within 25 days after the end of the calendar quarter.

#### **2.12.080 Prohibited Conduct.**

(Amended by Ordinance No. 187854, effective September 1, 2016.)

- A.** No former City elected official shall, for a period of 2 years after the termination of the official's term of office, lobby for money or other consideration a City elected official or their salaried at-will staff.



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- B.** No former salaried at-will staff of a City elected official, shall, for a period of 1 year after the termination of employment, lobby for money or other consideration any City elected official or their salaried at-will staff.
- C.** No former City director shall, for a period of 2 years after termination of the director's appointment, lobby for money or other consideration the current City director of the office or bureau to which the former City director was appointed or, regarding matters within the powers and duties of the bureau to which the former City director was appointed, the City elected official in charge of the office or bureau to which the City director was appointed.
- D.** No Former City employee shall lobby a City Official for money or other consideration regarding a contract if the employee exercised contract management authority with respect to that contract while employed by the City. This prohibition shall be for the duration of the contract.
- E.** The prohibitions in this Section shall not apply to:
  - 1.** Prevent any former City elected official or other City employee from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before the City;
  - 2.** The activities of any former City elected official or other City employee who is an elected or appointed officer or employee of any public body, when that former City elected official or other City employee is solely representing that agency in his or her official capacity as an officer or employee of the public body;
  - 3.** Any ministerial action. For purposes of this subsection, a ministerial action is one that does not require a City official or other City employee to exercise discretion concerning any outcome or course of action.
  - 4.** Prevent City officials or other City employees from seeking information or participation from former City elected officials or other City employees where the public interest would be served by the information or participation.

**2.12.090 Verification of Reports, Registrations and Statements.**

(Amended by Ordinance No. 181204, effective September 7, 2007.)

- A.** Each report, registration or statement required by this Chapter shall contain or be verified by a written or electronic declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of any oath otherwise required.

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- B.** No person shall willfully make and subscribe any document which contains or is verified by a written or electronic declaration for false swearing which the person does not reasonably believe to be true and correct to every matter.

#### **2.12.100 Public Nature of Reports, Registrations and Statements.**

(Amended by Ordinance No. 186176, effective August 30, 2013.) All information submitted to the City Auditor in any report, registration or statement required by this Chapter is a public record and will be posted on Office of the Auditor website within three business days after receipt, except if the information is subject to amendment under this Chapter, the Auditor will post the information within three business days after the amendment period has closed.

#### **2.12.110 Auditor's Duties.**

(Amended by Ordinance Nos. 187854 and 188842, effective March 30, 2018.) In carrying out the provisions of this Chapter, the City Auditor:

- A.** Shall prescribe forms for registrations, statements and reports, and provide such forms to persons required to register and to file such statements and reports;
- B.** Shall accept registrations and reports in an electronic format;
- C.** Shall accept and file any information voluntarily supplied that exceeds the requirements of this Chapter;
- D.** Shall make registrations, statements and reports filed available for public inspection and copying during regular office hours, and make copies available. The Auditor may charge fees to recover the cost of retrieval and copying;
- E.** May audit whether registrations and reports required by this Chapter have been completed properly and within the time frames specified in this Chapter;
- F.** May initiate investigations and accept and investigate complaints of alleged violations of this Chapter;
- G.** May make such inquiries and obtain such reasonable assistance and information, including records, from any office or person as the Auditor shall require for enforcement purposes, including requests to produce documentary or other evidence that is reasonably relevant to the matters under investigation;
  - 1.** For information and records sought from City offices, employees or officials, the Auditor or any agent or employee of the Auditor employed for the purpose of auditing or investigating the City may obtain confidential and legally privileged information and records held by the City so long as privilege is not waived as to third parties. The Auditor shall not disclose confidential or legally privileged information and records and shall be subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure.

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- H.** May recover all reasonable costs incurred in enforcement in this Chapter, including but not limited to attorney's fees.
- I.** Is authorized to adopt administrative rules to carry out the duties and to administer the provisions of this Chapter.

**2.12.120 Penalties.**

(Amended by Ordinance Nos. 187854 and 188842, effective March 30, 2018.) A person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not to exceed \$3,000 per violation. By administrative rule, the Auditor shall establish enforcement criteria with increased fines for repeated violations. In the name of the City, the Auditor may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue. The Auditor may bring such an action through independent legal counsel retained or employed by the Auditor, or may request that the City Attorney provide such representation.

**2.12.130 Severability.**

If any provision of this Chapter, or its application to any person or circumstance, is held invalid by any court, the remainder of this Chapter and its application to other persons and circumstances, other than that which has been held invalid, shall not be affected by such invalidity, and to that extent the provisions of this Chapter are declared to be severable.

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### CHAPTER 2.14 - REPORTING BY POLITICAL CONSULTANTS

(Chapter added by Ordinance No. 187689, effective  
May 20, 2016.)

#### Sections:

- 2.14.010 Purpose.
- 2.14.020 Definitions.
- 2.14.030 Registration for Political Consultants.
- 2.14.040 Termination of Registration.
- 2.14.050 Quarterly Reporting by City Elected Official.
- 2.14.060 Public Nature of Reports and Registrations.
- 2.14.070 Prohibited Conduct.
- 2.14.080 City Auditor's Duties.
- 2.14.090 Penalties for Violation of this Chapter.
- 2.14.100 Enforcement.

#### **2.14.010 Purpose.**

The purpose of this Chapter is to improve transparency by requiring Political Consultants advising City elected officials to meet certain registration and reporting requirements.

#### **2.14.020 Definitions.**

As used in this Chapter unless the context requires otherwise:

- A. "City elected official" means the Mayor, City Commissioners, or Auditor.
- B. "Day" means a calendar day by 5 p.m. unless "business day" is specified. If the computed date for action falls on a Saturday, Sunday or legal City holiday, then the "day" shall be the next business day by 5 p.m.
- C. "Political Consultant" means a person or entity that provides Political Consulting Services to a City elected official or successful candidate for elected office, or a successful candidate's principal campaign committee, registered with the Oregon Secretary of State. The term "Political Consultant" does not include attorneys who provide only legal services, accountants who provide only accounting services, professional fundraisers, or pollsters who provide only polling services. The term "Political Consultant" does not include a person who
  - 1. Does not engage in Political Consulting Services as a trade or profession, or
  - 2. Is a City employee.
- D. "Political Consulting Services" include actions in campaign management and political strategy services, including but not limited to: advocacy and strategy; political polling; advising or assisting in voter contact strategies and services;

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advising in media strategy, buying and advertisement; providing candidate development, policy training, political image consulting, and designing, implementing and analyzing polls and surveys; performing issues research and opposition research; developing, assisting in strategic communication such as news releases, talking points and speech writing; and advising on negative information handling and political crisis management. This Chapter does not regulate the content and viewpoint of the services provided to a City elected official.

### **2.14.030 Registration for Political Consultants.**

- A.** Within 15 days after providing any Political Consulting Services to a City elected official, a Political Consultant must register with the City Auditor.
  - 1.** The registration must include at least the following information:
    - a.** The name, address and contact information of the Political Consultant, including the organization, if applicable, with which the Political Consultant is associated and the address and contact information of that organization if different than that of the Political Consultant.
    - b.** If the Political Consultant is an entity, the names, addresses and contact information of principals, employees and contractors that provide Political Consulting Services to a City elected official.
    - c.** If an entity registers, the individual employees or contractors of the entity do not need to register separately.
  - 2.** The name of the City elected official to whom the Political Consultant provides Political Consulting Services, and the date when services commenced. If services are provided in support of a City referred measure under Chapter 2.08, then the name, address and contact information for the lead representative for the measure, and the date when services commenced.
- B.** A Political Consultant must file an updated statement within 15 days if any previously reported information changes.
- C.** If a person for whom Political Consulting Services has been provided later becomes a City elected official, a Political Consultant must file a statement as required by this Section within 15 days from certification of election results.

### **2.14.040 Termination of Registration.**

When a Political Consultant who is required to register under this Chapter later terminates all Political Consulting Services to a City elected official, the Political Consultant shall file a termination statement on the form required by the City Auditor within 15 days of service termination.

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#### **2.14.050 Quarterly Reporting by City Elected Official.**

- A.** A City elected official shall file a statement with the City Auditor identifying the Political Consultant who provides or provided services to the City elected official, and the date when services commenced. If a City elected official sponsors a City referred measure under Chapter 2.04, the City elected official shall identify the measure and the Political Consultant that will perform or performed Political Consulting Services for the measure. Sponsorship of a City referred measure by a City elected official shall be determined by the City elected official who signed a resolution filed pursuant to Chapter 2.04.
- B.** The statement in this Section shall be filed with the City Auditor 15 days after the end of the calendar quarter as proscribed in Subsection 2.12.020 A.
- C.** Amendments to statements submitted under this Section may be made without penalty within 25 days after the end of the calendar quarter.
- D.** The City elected official shall file an updated statement within 15 days of change of any information reported.
- E.** If a person through election becomes a City elected official, the person shall file the statement required in this Section at the next quarterly reporting period that follows certification of elections results. If a person is appointed to the position of City elected official pursuant to Charter Section 2-206, the person shall file the statement required in this Section at the next quarterly reporting period following appointment.

#### **2.14.060 Public Nature of Reports and Registrations.**

All information submitted to the City Auditor in any statement required by this Chapter will be posted on the City Auditor's website within 3 business days after the receipt, except if the information is subject to amendment under this Chapter, the Auditor will post the information within 3 business days after the amendment period has closed.

#### **2.14.070 Prohibited Conduct.**

- A.** A City elected official shall not knowingly utilize a Political Consultant who is in violation of this Chapter.
- B.** A Political Consultant shall not provide Political Consulting Services without reporting as required under this Chapter.
- C.** No person shall submit false, fraudulent or misleading information on statements, including but not limited to misrepresenting the scope or nature of services provided or the identity of clients to whom services are provided.

**2.14.080 City Auditor's Duties.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) The City Auditor is authorized to adopt, amend and repeal administrative rules, policies, procedures and forms for the regulation and enforcement of this Chapter, including but not limited to prescribing forms for registration and reporting, determining the method for filing, conducting appropriate inquiry and audit of reports or statements for completeness and accuracy, establishing fees for late filing or non-filing, and imposing civil penalties for non-compliance.

For information and records sought from City offices, employees or officials, the Auditor or any employee or agent of the Auditor employed for the purpose of auditing or investigating the City may obtain confidential and legally privileged information and records held by the City so long as privilege is not waived as to third parties. The Auditor shall not disclose confidential or legally privileged information and records and shall be subject to the same penalties as the legal custodian of records for any unlawful or unauthorized disclosure.

**2.14.090 Penalties for Violation of this Chapter.**

- A. A person who fails to report as required by this Chapter shall be subject to a civil penalty and other administrative sanctions until the registration or reporting is complete and in compliance with this Chapter.
- B. A person who provides false or misleading information may be subject to a civil penalty and other administrative sanctions.
- C. A person who violates any section of this Chapter may be subject to a civil penalty of up to \$1,000 per violation.

**2.14.100 Enforcement.**

(Amended by Ordinance No. 188842, effective March 30, 2018.) If facts supporting an enforcement action exist, the City Auditor, in the name of the City, may initiate action in Multnomah County Circuit Court to enforce the provisions of this Chapter, including collection of any unpaid fees or civil penalties. The Auditor may bring such an action through independent legal counsel retained or employed by the Auditor, or may request that the City attorney provide such representation. The City may seek enforcement of all provisions of this Chapter in the enforcement action, including but not limited to recovery of all fees and civil penalties assessed under this Chapter as well as enforcement of any other provision of this Chapter. In any enforcement action, the City shall be entitled to recover any costs and attorneys' fees incurred as a result of the violation of this Chapter.

## TITLE 2 LEGISLATION AND ELECTIONS

### CHAPTER 2.16 – OPEN AND ACCOUNTABLE ELECTIONS PROGRAM

(Chapter added by Ordinance No. 188152; amended  
by Ordinance No. 188853, effective March 8,  
2018.)

#### Sections:

- 2.16.005 Short Title.
- 2.16.010 Definitions.
- 2.16.020 Open and Accountable Elections Fund Established.
- 2.16.030 Administrative Rules, Director’s Duties and Authority.
- 2.16.040 Contribution and Expenditure Requirements for Participating and Certified Candidates.
- 2.16.050 Requirements for Certification.
- 2.16.060 Director Determination.
- 2.16.070 Distribution of Public Contribution.
- 2.16.080 Use of Contributions.
- 2.16.090 Adequate Funds.
- 2.16.100 Return of Public Contributions.
- 2.16.110 Withdrawal.
- 2.16.120 Participating and Certified Candidate Restrictions.
- 2.16.130 Open and Accountable Elections Commission.
- 2.16.140 Additional Reporting.
- 2.16.150 Removal of Certain Contribution Limits.
- 2.16.160 Penalties, Revocation of Certification and Repayment of Funds.
- 2.16.170 Hearings.
- 2.16.180 Implementation.
- 2.16.190 Program Management.

#### **2.16.005 Short Title.**

(Added by Ordinance No. 188853, effective March 8, 2018.) Chapter 2.16 of the Portland City Code shall be known as the Open and Accountable Elections Program.

#### **2.16.010 Definitions.**

(Amended by Ordinance Nos. 188853 and 189336, effective January 2, 2019.) As used in this Chapter, unless the context requires otherwise:

- A. “Allowable contribution”** means a monetary donation of no more than \$250 in support of a participating or certified candidate that is:
  - 1.** Made by an individual; and
  - 2.** Made during the election cycle in which the candidate is seeking office;



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- 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. “Commission”** means the Open and Accountable Elections Commission.
- F. “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.
- G. “Contribution”** has the meaning set forth in ORS 260.005 and 260.007 at the time of this Chapter’s adoption.
- H. “Covered office”** means the office of Mayor, Commissioner or Auditor.
- I. “Director”** means the Open and Accountable Elections Program Director.
- J. “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.
- K. “Expenditure”** has the meaning set forth in ORS 260.005 and 260.007 at the time of this Chapter’s adoption.
- L. “Fund”** means the Open and Accountable Elections Fund.
- M. “General election matching period”** means the period beginning 20 days before the primary election and ending 21 days before the general election. The general

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election matching period for a special runoff election must be set by administrative rule.

- N. **“General election period”** means the period beginning the day after the biennial primary election and ending the day of the biennial general Election.
- O. **“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.
- P. **“Individual”** means a natural person.
- Q. **“In-kind contribution”** has the meaning set forth in the Oregon Administrative Rule 165-012-005 at the time of this Chapter’s adoption.
- R. **“Matchable contribution”** is an allowable contribution of at least \$5 that is acknowledged by documentation, as specified by administrative rule.
- S. **“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.
- T. **“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.
- U. **“Notice of intent”** means a notice filed with the Director that a candidate intends to seek qualification as a certified candidate.
- V. **“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

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the candidate has announced an intention to seek public contribution matching, and continue to apply once the candidate becomes a certified candidate.

- W. “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 administrative rule.
- X. “Primary election period”** means the period beginning on the 45th day after the preceding biennial general election and ending the day of the biennial primary election.
- Y. “Public contribution” or “public contribution matching”** means money disbursed from the Fund to a certified candidate.
- Z. “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.
- AA. “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.
- BB. “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.
- CC. “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.
- DD. “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.
- EE. “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 Open and Accountable Elections Fund Established.**

(Amended by Ordinance No. 189336, effective January 2, 2019.)

- A.** The Open and Accountable Elections Fund is established, separate from the General Fund. All monies described in Subsection 2.16.020 E. shall be paid and

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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.**

(Amended by Ordinance No. 189336, effective January 2, 2019.) 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 specify:

- A. How and when documentation for allowable contributions from contributors must be submitted to the Director;

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

### **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, filing deadlines for the notice of intent will be set that seek to provide adequate time for candidates to qualify for public contribution matching; and

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- 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.

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- 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

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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:



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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 during the primary election period or special nominating election period and on at least four dates during the general election period or special runoff election period. The final distribution for each election period will be 14 days before the election.
- 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

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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. 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:

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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.
- 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.

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- 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.**

(Amended by Ordinance No. 188853, effective March 8, 2018.)

- 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 Commission; and

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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.**

(Amended by Ordinance No. 189336, effective January 2, 2019.) 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 or special nominating election period and \$250 during the general election period or special runoff 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 Open and Accountable Elections Commission.**

(Amended by Ordinance Nos. 189078 and 189336, effective January 2, 2019.)

- A. **Duties.** The Open and Accountable Elections Commission is hereby created. The Commission shall:

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1. Provide assistance to the Director and Council in the development and implementation of the Open and Accountable Elections 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 Open and Accountable Elections 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 Open and Accountable Elections Commission shall consist of nine 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 Community & Civic Life and the general public in order to recommend nominees to Council for appointment.

**C. Appointments and Terms.**

1. Open and Accountable Elections Commission members shall be appointed by Council and serve 4 year terms starting May 1 of odd-numbered years, except that the initial appointments shall be as follows.
  - a. Four of the initial appointees will serve terms from date of appointment to April 30, 2021; and
  - b. Five of the initial appointees will serve terms from date of appointment to April 30, 2023.
2. 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

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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 Open and Accountable Elections 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. Five 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 Open and Accountable Elections 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.** Open and Accountable Elections Commission members shall serve without compensation.

### **2.16.140 Additional Reporting.**

(Amended by Ordinance No. 189336, effective January 2, 2019.)

- 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 to the Director as the Director deems necessary to make certification and public contribution matching decisions in a timely manner, as established by administrative rule. For the purposes of Subsection 2.16.140 B., the Director is the City's election officer.
- 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

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day before the election, participating and non-participating candidates shall report contribution and expenditure transactions to the Director 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 to the Director 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 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.



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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

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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.**

(Amended by Ordinance No. 189336, effective January 2, 2019.)

- 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 a Hearings Officer, to be recommended by the Open and Accountable Elections 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.

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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 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 Open and Accountable Elections 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 Open and Accountable Elections Commission.
3. Written requests for hearings shall be filed with the Director within the deadlines established in Subsection 2.16.170 C. The Open and Accountable Elections 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:

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- 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 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.

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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 Open and Accountable Elections 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 Open and Accountable Elections 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.

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#### **2.16.180 Implementation.**

(Amended by Ordinance No. 189336, effective January 2, 2019.) This Chapter applies to election after November 1, 2019.

#### **2.16.190 Program Management.**

(Added by Ordinance No. 188853; amended by Ordinance No. 189336, effective January 2, 2019.) The Commissioner of Public Utilities shall provide oversight to the Open and Accountable Elections Program until July 1, 2019. Beginning July 1, 2019, the program will sit within the Bureau of Revenue and Financial Services.