

To: Diane Bilyeu, Analyst, Auditor's Office
From: Susan Mottet, Open & Accountable Elections Director
CC: Maja K. Haium, Deputy City Attorney, City Attorney's Office
Date: 12/14/2021
Re: Correcting technical errors in Ordinance No. 190598, amending PCC 2.16 (Open and Accountable Elections Program)

Thank you for catching the technical errors in Ordinance No. 190598, amending Portland City Code (PCC) 2.16 (Open and Accountable Elections Program). Correcting the errors in the following manner is consistent with PCC 1.01.035 B and has been reviewed and approved by Maja K. Haium in the City Attorney's Office.

(1) PCC 2.16.040 F.

Please add the new "or" (yellow) that was in Exhibit B but was not underlined.

- F. Participating and Certified Candidates~~certified candidates~~ may not accept Allowable Contributions~~allowable contributions~~ or Matchable Contributions from any one individual totaling more than \$250 in the Primary Election Period~~primary election period~~ and \$250 in the General Election Period~~general election period~~, except as Seed Money Contributions~~as provided in Section 2.16.150~~.

(2) PCC 2.16.070 D and E.

Out of an abundance of caution and transparency, this memo documents that some occurrences of the term "election" (yellow) in Exhibit B are struck through, but these occurrences do not appear in the original Code. Their inclusion in Exhibit B was therefore inaccurate. However, because Exhibit B struck each of these occurrences through, no substantive change is necessary.

Out of an abundance of caution and transparency, this memo also documents that the term "Certified" (yellow) did not need to be struck through in Exhibit B because the term is already capitalized in the original Code. However, because Exhibit B struck out the term and then added it again, no substantive change is necessary.

- D. Allowable Matchable contributions from Matchable Donors~~matchable donors~~ collected 10 or fewer calendar days prior to a Primary Election~~primary election~~ or Special Nominating Elections~~special nominating election~~ will only be eligible for public contribution matching City Matching Funds for the General Election~~general election~~ or Special Runoff Elections~~special runoff election~~ if the candidate qualifies for the General Election~~general election~~ or Special Runoff Election~~special runoff election~~, as provided in Subsection 2.16.070 E. Allowable Matchable contributions from matchable donors collected 10 calendar days prior to a General Election~~general election~~ or Special Runoff Election~~special runoff election~~ will not be eligible for public contribution matching City Matching Funds.
- E. Certified Candidates~~certified candidates~~ in the Special Runoff Elections~~special runoff election~~ who are nominated to the General Election~~general election~~ or Special Runoff Elections~~special runoff election~~ ballot in the same Election Cycle~~election cycle~~ are eligible for public contributions City Matching Funds as provided in this Section.
- ~~1.~~ Certified Candidates~~certified candidates~~ who reasonably expect to qualify for the General Election~~general election~~ or Special Runoff Elections~~special runoff election~~ ballot may begin collecting Allowable~~allowable~~ or Matchable Contributions~~contributions~~ for the General Election~~general election~~ or Special Runoff Elections~~special runoff election~~ 10 calendar days prior to the Primary

~~Election~~primary election or Special Nominating Elections~~special nominating election.~~

(3) PCC 2.16.070 E.

Please revert “Special Run Off Election” (yellow) back to the original Code language “primary election or special nominating election” and capitalize the term consistently with the rest of the Code so the Code reads “Primary Election or Special Nominating Election.” Exhibit B inadvertently omitted the original Code language, so the original term “primary election or special nominating election” wasn’t struck through and amended to show capitalization. Instead, the new term “Special Runoff Election” was inadvertently added, struck through and underlined. The term “Special Runoff Election” is not in accordance with the meaning and intent of the provisions of the Code. The intent of the meaning is the capitalization of the existing term “Primary Election or Special Nominating Election”.

E. ~~Certified Candidates~~certified candidates in the Special Runoff Elections~~special runoff election~~ who are nominated to the General Election~~general election~~ or Special Runoff Elections~~special runoff election~~ ballot in the same Election Cycle~~election cycle~~ are eligible for ~~public contributions~~ City Matching Funds as provided in this Section.

~~1.~~ ~~Certified Candidates~~certified candidates who reasonably expect to qualify for the General Election~~general election~~ or Special Runoff Elections~~special runoff election~~ ballot may begin collecting Allowable~~allowable~~ or Matchable Contributions~~contributions~~ for the General Election~~general election~~ or Special Runoff Elections~~special runoff election~~ 10 calendar days prior to the Primary Election~~primary election~~ or Special Nominating Elections~~special nominating election~~.

(4) PCC 2.16.140 B.

Out of an abundance of caution and transparency, this memo documents that the term “Participating” (yellow) did not need to be struck through in Exhibit B because the term was already capitalized in the original Code. However, because Exhibit B struck out the term and then added it again, no substantive change is necessary.

B. Participating~~participating~~ or ~~Certified Candidates~~certified candidates must file additional Contribution~~contribution~~ and Expenditure~~expenditure~~ reports to the Director as the Director deems necessary to make certification and ~~public contribution matching~~ City Matching Funds 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.

(5) PCC 2.16.140 B.

Please revert “or” (yellow) back to the original Code language “and”. Exhibit B omitted the original Code language, so the original term “and” wasn’t struck through. Instead, the new term “or” was added without underlining.

B. Participating~~participating~~ or ~~Certified Candidates~~certified candidates must file additional Contribution~~contribution~~ and Expenditure~~expenditure~~ reports to the Director as the Director deems necessary to make certification and ~~public contribution matching~~ City Matching Funds 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.

(6) PCC 2.16.170 H.3.

Please add the new term “City Matching Funds” (yellow) that was in Exhibit B but was not underlined.

3. In the case of a ~~public contribution matching~~ City Matching Funds hearing, the hearings officer may uphold or revoke ~~public contribution matching~~ City Matching Funds, or modify a ~~public contribution matching~~ City Matching Funds decision by revoking some or all ~~public contribution matching~~ City Matching Funds or granting additional ~~public contribution matching~~ City Matching Funds.

(7) PCC 2.16.070 E.

Please re-insert the number 1 (yellow) that was erroneously struck through in Exhibit B.

- E. ~~Certified Candidates~~certified candidates in the ~~Special Runoff Elections~~special runoff election who are nominated to the ~~General Election~~general election or ~~Special Runoff Elections~~special runoff election ballot in the same ~~Election Cycle~~election cycle are eligible for ~~public contributions~~ City Matching Funds as provided in this Section.
 1. ~~Certified Candidates~~certified candidates who reasonably expect to qualify for the ~~General Election~~general election or ~~Special Runoff Elections~~special runoff election ballot may begin collecting ~~Allowable~~allowable or ~~Matchable Contributions~~contributions for the ~~General Election~~general election or ~~Special Runoff Elections~~special runoff election 10 calendar days prior to the ~~Primary Election~~primary election or ~~Special Nominating Elections~~special nominating election.
 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 beginning 10 calendar days prior to the primary or special nominating election.

(8) PCC 2.16.080.

Please reassign letters C-F below to become D-G, so that the letter "C" is not repeated.

- C. Public contributions may not be used for penalties or election night and post-election parties, unless permitted by the Portland Elections Commission and published in administrative rules; however, allowable contributions, seed money and in-kind contributions may be used for such events.
- D. Contributions to civic and non-profit organizations are permitted as determined by the Portland Elections Commission and published in administrative rules. ~~from a participating candidate's publicly funded account are permitted only if the payment is for the purpose of attending a specific campaign event open to the public.~~
- E. A complaint alleging an impermissible receipt or use of funds by a Participating Candidate~~participating candidate~~ must be filed with the Director on the form prescribed by the program. Complaints shall be handled in accordance with a process defined in administrative rules.
- F. A Participating Candidate~~participating candidate~~ must provide the Director with reasonable access to the financial records of the Candidate's~~candidate's~~ publicly funded Campaign Account~~campaign account~~, upon request.

(9) PCC 2.16.110 A.

Please add the new "are" (yellow) that was in Exhibit B but was not underlined.

- A. A Participating Candidate~~participating candidate~~ may withdraw an application for a ~~public contribution~~ City Matching Funds any time before the ~~public contribution is~~ City Matching

Funds **are** received by the Candidate's publicly funded Campaign Account~~campaign account~~.

(10) **PCC 2.16.160 A.7.**

Please replace "Contributions" (plural, error in Exhibit B) with "Contribution" (singular, grammatically correct) (yellow).

7.6. Penalties may be paid from any private source and must be reported as an In-Kind Contributions~~in-kind contributions~~ unless paid by the Candidate~~candidate~~ or the Candidate's publicly funded Campaign Account~~campaign account~~. A penalty may not be paid from a Candidate's publicly funded Campaign Account~~campaign account~~ unless permitted by the administrative rules. Penalties for violating reporting requirements may be paid in excess of contribution limits in this Chapter only if paid by the Candidate's~~candidate's~~ treasurer.

(11) **PCC 2.16.160 C.1.**

Please capitalize "Participating Candidate" (yellow) even though the new capitalization was not underlined and the original lower case "p" and "c" were not struck through in Exhibit B.

C. Repayment of Funds.

1. A **P**articipating **C**andidate 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~~candidate~~ from the Fund after the date the Candidate~~candidate~~ was certified, plus interest on the total amount of revenues received at a rate set by the Portland Elections Commission, if any.~~of 12 percent per annum, in addition to the penalty and interest on the penalty.~~