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LEGISLATION AND ELECTIONS**

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**Chapter 2.02**

**GENERAL PROVISIONS**

(New 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.

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- 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.
- 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.

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**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.
- 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.

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- 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.

**Chapter 2.04**

**INITIATIVE AND REFERENDUM  
PROCEDURES**

(New Chapter Substituted by Ord.  
No. 163790, Jan. 16, 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.
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- 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 No. 177200, effective February 21, 2003.)

**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 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.

**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.



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- 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:
- 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.

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**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 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.

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- 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 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

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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.
- 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.

**2.04.120 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;

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- 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.

**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

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- 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 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



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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 No. 177200, effective February 21, 2003.)

- 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.”

**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
  - 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.

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**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.)

**Chapter 2.08**

**NOMINATION AND ELECTION OF  
CANDIDATES**

(New Chapter substituted by Ord. No.  
167654, 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 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.

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- 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.

**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;

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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.

**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.

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- 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 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 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.

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- 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 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 FUND**

(New Chapter added by Ordinance  
No. 179258, effective June 17, 2005.)

**Sections:**

- 2.10.010 Definitions.
- 2.10.020 Management and Administration of Campaign Finance Fund.
- 2.10.030 Citizen Campaign Commission.
- 2.10.040 Contents of Campaign Finance Fund.
- 2.10.050 Seed Money, Prior Campaign Debt, In-Kind Contributions and Volunteer Work-Hours.
- 2.10.060 Declaration of Intent to Seek Certification and Agreement to Comply with Provisions of Chapter 2.10.
- 2.10.070 Qualifying Period, Contributions and Requirements.
- 2.10.080 Certification of Candidates.
- 2.10.090 Limitations on Use of Qualifying Contributions, Seed Money Contributions, and Campaign Finance Fund Revenues.
- 2.10.100 Timely Distribution of Funds.
- 2.10.110 Campaign Spending Limits for Certified Candidates.
- 2.10.120 Full Disclosure of Campaign Expenditures and Contributions, Including Seed Money, Qualifying Contributions and In-Kind Contributions.
- 2.10.130 Disclosure Requirements for Nonparticipating Candidates.
- 2.10.140 Independent Expenditure Disclosure Requirements.
- 2.10.145 Adjusting the Financial Threshold.
- 2.10.150 Limited Matching Funds.
- 2.10.160 Return of Unspent Funds to Campaign Finance Fund.
- 2.10.170 Adequate Funding.
- 2.10.180 Adjustments for Inflation and Population Growth.
- 2.10.190 Political Advertisement Disclosure Requirements for Certified Candidates.
- 2.10.200 Communication of Participation Status to Voters.

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- 2.10.210 Withdrawal of Certified Candidate, Repayment of Funds.
- 2.10.220 Civil Penalties, Revocation of Certification, Repayment of Funds.
- 2.10.230 Hearings.

**2.10.010 Definitions.**

(Amended by Ordinance Nos. 179535, 181054, 181656 and 182852, effective June 26, 2009.)

- A.** “Accounts Payable” means an amount owed to a creditor for the purchase of goods or services, or a pledge to make a Contribution, whether or not enforceable. A purchase is made when the obligation is first incurred, even if an invoice is not received until a later time. The date an order for goods or services is placed is the date an obligation is first incurred. The obligation for media buys is incurred when the media time is reserved. For the purposes of City Code Chapter 2.10, an Accounts Payable is considered an Expenditure.
- B.** “Accounts Receivable” means an unfulfilled pledge, subscription, agreement, or promise, whether or not legally enforceable, to make contributions. For the purposes of City Code Chapter 2.10, an Accounts Receivable is considered a Contribution.
- C.** "Campaign Finance Fund" or "Fund" means the fund established in Section 2.10.020.
- D.** "Candidate" means an individual whose name is or is expected to be printed on the official ballot.
- E.** "Certified Candidate" means a Candidate for nomination or election to City Office who chooses to participate in the Campaign Finance Fund and who is certified under Section 2.10.080.
- F.** "Citizen Campaign Commission" or "Commission" means the commission established in Section 2.10.030.
- G.** “City Elector” means a person who is a Resident and a registered voter in Oregon.
- H.** "City Office" means the elected offices of Mayor, Commissioner and Auditor.
- I.** “Clearly Identified” means:
  - 1.** The name of the Candidate involved appears;
  - 2.** A photograph or drawing of the Candidate appears; or

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3. The identity of the Candidate is apparent by unambiguous reference.
- J.** "Contribute" or "Contribution" means:
1. Payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compensation or consideration, of money, services other than personal services for which no compensation is asked or given, supplies, equipment or any other thing of value:
    - a. For the purpose of influencing an election for public office or an election on a measure, or of reducing the debt of a Candidate for nomination or election to public office or the debt of a Political Committee; or
    - b. To or on behalf of a Candidate, Political Committee or measure.
  2. Any unfulfilled pledge, subscription, agreement or promise, whether or not legally enforceable, to make a Contribution.
- K.** "Determination Letter" means the letter sent to a Candidate by the Auditor:
1. Advising whether the Candidate is eligible for certification as outlined in Section 2.10.080 C.; or
  2. Advising whether the Candidate is eligible to receive Matching Funds as outlined in Section 2.10.150 D.
- L.** "Exploratory Period" for a Primary Election means the period beginning on the 21st day after the biennial General Election and ending the day before the start of the Qualifying Period defined in Section 2.10.010 Z. "Exploratory Period" for a Special Nominating Election means the period beginning on the first day of the Special Nominating Election Period and ending the day before the start of the Qualifying Period defined in Section 2.10.010 Z.
- M.** "Expenditure" means the payment or furnishing of money or anything of value, or the incurring or repayment of indebtedness or obligation, by or on behalf of any Person, Candidate or Political Committee in consideration for any services, supplies, equipment, or other thing of value performed or furnished for any reason, including support of or opposition to a Candidate, Political Committee or measure, or for reducing the debt of a Candidate for nomination or election to public office. "Expenditure" includes Contributions made by a Candidate or Political Committee to or on behalf of any other Candidate or Political Committee.
- "Expenditure" does not include:

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1. Any written news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other regularly published publication, including internet based publications, unless a Candidate for City Office or Political Committee filed with the City Elections Officer owns the facility;
  2. Any loan of money made by a financial institution, as defined in ORS 706.008, other than any overdraft made with respect to a checking or savings account, if the loan bears the usual and customary interest rate for the category of loan involved, is made on a basis that assures repayment, is evidenced by a written instrument and is subject to a due date or amortization schedule. However, each indorser or guarantor of the loan shall be considered to have Contributed that portion of the total amount of the loan for which that Person agreed to be liable in a written agreement, except if the indorser or guarantor is the Candidate's spouse;
  3. Any communication a membership organization or corporation makes only to its members, shareholders or employees if the membership organization or corporation is not organized primarily for the purpose of influencing an election to office; or
  4. Nonpartisan activity not referring to any Clearly Identified Candidate designed to encourage individuals to vote or to register to vote.
- N.** "General Election Period" means the period beginning on the 21<sup>st</sup> day after the biennial Primary Election and ending the 20<sup>th</sup> day after the biennial General Election.
- O.** "Hearings Officer" means the person or persons recommended by the Citizen Campaign Commission and appointed by the City's Code Hearings Officer to review cases and make determinations as outlined in Section 2.10.230.
- P.** "Independent Expenditure" means any Expenditure defined by Section 2.10.010 M. 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 term "agent" and the phrase "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(8)(b) and (e). An Independent Expenditure is made "in support of", "supporting", "in opposition to" or "opposing" a Candidate when:

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1. The communication in whatever medium, including but not limited to radio, television, billboards, direct mail, handbills, bus benches, phone banks, magazines, or newspapers, expressly advocates the election or defeat of one or more Clearly Identified Candidates for City Office through use of explicit phrases, including but not limited to: “vote for,” “elect,” “support,” “Smith for Auditor,” “Jones,” “vote Pro-Environment” accompanied by a listing of Clearly Identified Candidates portrayed as Pro-Environment, “vote against,” “defeat” accompanied by a picture of one or more Candidates, or “reject”; or
  2. The communication, in whatever medium, including but not limited to radio, television, billboards, direct mail, handbills, bus benches, phone banks, magazines, or newspaper:
    - a. refers to one or more Clearly Identified Candidates for City Office;
    - b. is made within (60) days before a General, Primary, Special Nominating, or Special Runoff Election for the office sought by the Candidate; and
    - c. is targeted toward Residents.
- Q.** "In-Kind Contribution" means a good or service, other than money, having monetary value. Volunteer work hours are non-reportable other receipts and are not considered In-Kind Contributions.
- R.** "Matching Funds" mean revenues distributed to Certified Candidates under Section 2.10.150 in addition to the initial allocation of revenues distributed under Section 2.10.100.
- S.** “Money Judgment” means any part of a civil or criminal judgment that requires the payment of money.
- T.** "Nonparticipating Candidate" means a Candidate for nomination or election to City Office who does not choose to participate in the Campaign Finance Fund and who is not seeking to be certified under Section 2.10.080.
- U.** "Notice of Proposed Penalty" means the notice sent under Section 2.10.220 to a Person, Candidate or Political Committee determined to be in violation of Chapter 2.10.
- V.** "Person" means an individual, corporation, limited liability company, labor organization, association, firm, partnership, joint stock company, club,

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organization, or other combination of individuals having collective capacity as defined in ORS 260.005.

- W.** "Political Committee" means a combination of two or more individuals, or a Person other than an individual that meets the definition of Political Committee in ORS 260.005 (15).
- X.** "Primary Election Period" means the period beginning on the 21<sup>st</sup> day after the preceding biennial General Election and ending the 20<sup>th</sup> day after the Primary Election.
- Y.** "Qualifying Contribution" means a Contribution during the Qualification Period of exactly \$5 in cash, or in the form of a check or a money order made payable by any City Elector to the Candidate or principal campaign committee of the Candidate.
- Z.** "Qualifying Period" for regular Primary Elections means the period beginning on the 250th day prior to the Primary Election date of the Primary Election Period and ending on the last business day of January of the Primary Election Period. For Special Nominating Elections, the Qualifying Period shall begin on the first day to file for office established by ordinance, and shall end on the 70th day prior to the Special Nominating Election date of the Special Nominating Election Period.
- AA.** "Resident" means an individual residing within the City limits of the City of Portland.
- AB.** "Seed Money Contribution" means a Contribution of no more than \$100 made by a Person or Political Committee to a Candidate.
- AC.** "Family Member" means any of the following persons: the Candidate's spouse, domestic partner, parent, grandparent, child, grandchild, sibling, aunt, uncle, niece, nephew, step-child, step-brother, step-sister, step-parents, step-grandparents, daughter-in-law, son-in-law, sister-in-law, brother-in-law, mother-in-law, father-in-law, grandparents in-law, and equivalent relatives of the Candidate's domestic partner.
- AD.** "Initial Financial Threshold" shall be an amount equal to the amount of revenues distributed to a Certified Candidate as provided in Section 2.10.110 A. for a particular election and City Office.
- AE.** "Adjusted Financial Threshold" means the Initial Financial Threshold plus the amount of any adjustment made by the Auditor in accordance with Section 2.10.145 for a particular election and City Office.

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- AF.** “Financial Threshold” means either the Initial Financial Threshold or, if the Initial Financial Threshold has been adjusted by the Auditor in accordance with Section 2.10.145, the most recent Adjusted Financial Threshold for a particular election and City Office.
- AG.** “Special Nominating Election” means a nominating election for a City 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.
- AH.** “Special Runoff Election” means a runoff election for a City 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.
- AI.** “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 10th day after the Special Nominating Primary Election.
- AJ.** “Special Runoff Election Period” means the period beginning on the 11th day after the Special Nominating Election and ending the 20th day after the Special Runoff Election.
- AK.** "Fixed Asset" means tangible property usable in a capacity that could be of benefit for a period of more than one year from the date of acquisition.

**2.10.020 Management and Administration of Campaign Finance Fund.**  
(Amended by Ordinance Nos. 181054 and 182852, effective June 26, 2009.)

- A.** The Campaign Finance Fund is established, separate from the General Fund. All monies described in Section 2.10.040 shall be paid and credited to the Campaign Finance 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 Auditor shall keep a record of all monies deposited into the Campaign Finance Fund and the activity or program against which any withdrawal is charged.
- C.** If the Council determines that the Fund contains monies in excess of the amount estimated by Council to be necessary to make payments to Certified Candidates in the next fiscal year, then Council may return the excess amount to other City funds during the budget process, and Council may elect not to appropriate funds to the Fund for the next fiscal year under Section 2.10.040.

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- 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 Auditor in carrying out the Auditor's functions and duties under this Chapter.
- E.** The Auditor shall adopt rules to ensure effective administration of this Chapter. The rules shall include but are not limited to procedures and forms for:
1. Contests involving Special Elections, recounts, vacancies, or withdrawals, including qualification, certification, and disbursement of Campaign Finance Fund revenues and return of unspent revenues for contests;
  2. Obtaining Qualifying Contributions;
  3. Certification as a Certified Candidate;
  4. Collection of revenues for the Campaign Finance 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. Interest calculation for delinquent penalties imposed under Section 2.10.220;
  9. Requests for and conduct of hearings under Section 2.10.230;
  10. Criteria for determining what constitutes a valid personal emergency or mitigating circumstance;
  11. Return of Fund disbursements, penalties, and other monies to the Fund;
  12. Notices by Nonparticipating Candidates required under Section 2.10.130;
  13. Notices of Independent Expenditures required under Section 2.10.140;
  14. Inspection of reports and documents for compliance with this Chapter; and
  15. Printed Advertisement Disclosure requirements under Section 2.10.190.
  16. Valuation of polls and receipt of poll results.



17. Investigation of alleged violations of Chapter 2.10.

F. The Auditor shall have the authority to investigate potential violations of this Chapter.

**2.10.030 Citizen Campaign Commission**

A. **Purpose.** The Citizen Campaign Commission is hereby created. The Commission shall:

1. Provide assistance to the Auditor and City Council in the development and implementation of the Campaign Finance Fund.
2. At the request of the Auditor, advise the Auditor on administrative judgments, recommended policy changes, administrative rule development, and operation of the Campaign Finance Fund.
3. Monitor Auditor elections and make Matching Fund decisions under Section 2.10.150 for all Candidates for Auditor if the incumbent Auditor is running for re-election.
4. Recommend to the Code Hearings Officer for appointment Hearings Officers to review cases and make determinations under Section 2.10.230.
5. Adopt such operating policies and procedures as necessary to carry out its duties.
6. Prepare and submit to the City Council a biennial report which shall contain an overview and evaluation of the Campaign Finance Fund during the previous election period.

B. **Membership.** The Citizen Campaign Commission shall consist of seven members who have demonstrated an interest in campaign finance funding and, insofar as possible, represent diverse interests in the community. The Auditor shall solicit applications from the Office of Neighborhood Involvement, the seven Neighborhood Coalition offices, and the general public in order to recommend nominees to Council for appointment.

C. **Appointments and Terms.** Citizen Campaign Commission members shall be appointed by Council and serve four-year terms starting January 1 of odd numbered years, except that three of the initial appointments shall be for two-year terms. Upon expiration of the term, a Commission member shall serve until re-appointed or replaced. If a position is vacated during a term, it shall be filled for

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the unexpired term. Council may replace any member of the Commission for due cause, including but not limited to malfeasance, incapacity, conflict of interest or neglect of duties.

**D. Meetings, Officers and Subcommittees.**

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

**E. Attendance.** Members of the Citizen Campaign 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.** Citizen Campaign Commission members shall serve without compensation.

**2.10.040 Contents of Campaign Finance Fund.**

(Amended by Ordinance No. 181054, effective July 13, 2007.) The following shall be deposited in the Campaign Finance Fund established in Section 2.10.020:

- A. An amount appropriated annually by the City Council to the Campaign Finance Fund. The amount appropriated under this subsection shall derive from the financing system developed by the Office of Management and Finance. The financing system shall limit annual impact on City funds to two tenths of one percent without raising any new taxes or fees;

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- B.** Fund revenues distributed to a Certified Candidate that remain unspent after a Primary or General Election and that are returned to the Fund as provided in Section 2.10.160;
- C.** Fund revenues returned by any Certified Candidate who withdraws as a Certified Candidate or who withdraws as a Candidate for nomination or election as provided in Section 2.10.210, or by a Candidate whose certification has been revoked under Section 2.10.220;
- D.** Fund revenues delivered by any Certified Candidate against whom a civil penalty has been imposed, as described in Section 2.10.220;
- E.** Voluntary private contributions made directly to the Fund;
- F.** Civil penalties and other monies collected under Sections 2.10.220 and 2.10.230; and
- G.** Any amounts allocated or transferred under Section 2.10.170.

**2.10.050 Seed Money, Prior Campaign Debt, In-Kind Contributions, and Volunteer Work-Hours.**

(Amended by Ordinance Nos. 181054, 181656 and 182852, effective June 26, 2009.)

- A. Seed Money.** Candidates who choose to participate in the Campaign Finance Fund may accept very limited private Contributions at the beginning of their campaigns called Seed Money Contributions.
  - 1.** To be eligible to become a Certified Candidate, a Candidate:
    - a.** May not accept Seed Money Contributions except during the Exploratory and Qualifying Periods.
    - b.** Shall not accept any Seed Money Contributions exceeding one hundred dollars from any Person or Political Committee.
    - c.** Shall not make a Seed Money Contribution exceeding one hundred dollars from the Candidate's personal funds to the Candidate's principal campaign committee.
  - 2.** A Candidate who has filed for certification under Section 2.10.080 may not accept further Seed Money Contributions.

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3. The total amount of Seed Money Contributions shall be deducted from the revenues distributed by the Auditor to a Certified Candidate under Section 2.10.100.
  4. The aggregate amount of Seed Money Contributions received under this Section shall not exceed an amount equal to ten percent of the applicable Primary Election Period or Special Nominating Election Period spending limit described in Section 2.10.110 A.1.
- B. Prior Campaign Debt.** If the principal campaign committee of a Candidate seeking certification has a prior campaign debt from a previous election period in which the Candidate was not a Certified Candidate, then during the Exploratory Period only, the Candidate may accept Contributions in addition to the Seed Money Contributions, provided such Contributions and monies are used solely to retire such debt.
- C. In-Kind Contributions.** In addition to Seed Money, a Candidate seeking certification may accept In-Kind Contributions. The value of any Contribution received under this Subsection shall not count against the applicable limit on Seed Money Contributions described in Section 2.10.050 A.4. The aggregate amount of In-Kind Contributions received under this Subsection shall not exceed an amount equal to six percent of:
1. The applicable Primary Election Period and Special Nominating Period spending limit described in Section 2.10.110 A.1. during the Primary Election Period, including the Qualifying and Exploratory Periods;
  2. The applicable General Election Period spending limit described in Section 2.10.110 A.2. during the General Election Period.
  3. The applicable Special Runoff Election Period spending limit described in Section 2.10.110 A.3. during the Special Runoff Election Period.
- D. Volunteer Work-Hours.** Volunteer work-hours are non-reportable other receipts and shall not count against the applicable limit on Seed Money Contributions described in Section 2.10.050 A.4. or the applicable limit on In-Kind Contributions described in Section 2.10.050 C. An individual may volunteer personal services to a Candidate or Political Committee without making a Contribution as long as the volunteer is not compensated by anyone for the services. However, if an individual provides services to a Candidate or Political Committee during working hours paid by a third-party employer or the Candidate, that employer of that individual thereby makes an In-Kind Contribution to the Candidate or Political Committee.

**2.10.060 Declaration of Intent to Seek Certification and Agreement to Comply with Provisions of Chapter 2.10.**

(Added by Ordinance No. 179258; amended by Ordinance Nos. 181054, 182852 and 183176, effective September 9, 2009.)

- A.** A Candidate shall file a declaration of intent to seek certification as a Certified Candidate for a Primary or Special Nominating Election and to comply with the requirements of Chapter 2.10.
- 1.** The declaration of intent for a Primary or Special Nominating Election shall be filed with the Auditor during the applicable Qualifying Period pursuant to forms and procedures adopted by the Auditor by rule. During the Qualifying Period for a Primary Election, a declaration of intent shall be filed no later than 5:00 p.m. of January 15. If January 15 falls on a Saturday, Sunday, or City holiday, a declaration of intent shall be filed no later than 5:00 p.m. of the next business day.  
A declaration of intent for a Special Nominating Election may be filed at any time during the Qualifying Period.
  - 2.** A Candidate shall submit a declaration of intent for a Primary or Special Nominating Election prior to collecting Qualifying Contributions.
  - 3.** A Candidate with a preexisting principal campaign committee shall file a detailed Contribution and Expenditure Report with the Auditor at the time of filing a declaration of intent pursuant to forms and procedures adopted by the Auditor by rule. This report shall included all Contributions received and Expenditures made during the Exploratory Period.
- B.** The declaration of intent for a Primary or Special Nominating Election shall specify that the Candidate agrees:
- 1.** To comply with the provisions of the Campaign Finance Fund Program as outlined in Chapter 2.10;
  - 2.** To comply with the provisions of Section 2.10.190, Political Advertisement Disclosure Requirements for Certified Candidates;
  - 3.** That any money received from the Campaign Finance Fund shall not be used to retire a campaign debt incurred prior to Certification;
  - 4.** That any money received from the Campaign Finance Fund shall be used only for purposes related to the Candidate's campaign for nomination or election to the City Office for which the Candidate has qualified as a

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Candidate in compliance with the provisions of Section 2.10.090, Limitations on Use of Campaign Fund Revenues;

5. That during the Primary or Special Nominating Election Period, including the Exploratory and Qualifying Periods, a Candidate may not:
  - a. Accept Contributions, except for Qualifying Contributions collected during the Qualifying Period as described in Section 2.10.070, Seed Money Contributions and In-Kind Contributions accepted during the Exploratory and Qualifying Periods as described in Section 2.10.050 or Contributions to retire prior campaign debt during the Exploratory Period in accordance with Section 2.10.050 B; or
  - b. Make campaign Expenditures from funds other than Qualifying Contributions collected during the Qualifying Period, Seed Money Contributions collected during the Exploratory and Qualifying Periods and Contributions to retire prior campaign debt during the Exploratory Period in accordance with Section 2.10.050 B. Except for Seed Money Contributions collected during the Exploratory and Qualifying Periods, a Candidate who has filed a declaration of intent may not make Expenditures from funds received prior to filing the declaration.
6. That during the Qualifying Period, a Candidate may not incur Accounts Payable, except as provided in Section 2.10.070 G.2.
7. That the limits for Seed Money Contributions and In-Kind Contributions in Section 2.10.050 apply to the entire applicable Primary Election Period or Special Nominating Election Period, including the Exploratory Period.

**2.10.070 Qualifying Period, Contributions and Requirements.**

(Amended by Ordinance Nos. 181054, 181656 and 182852, effective June 26, 2009.)

- A. To be eligible to become a Certified Candidate for a Primary or Special Nominating Election, a Candidate may receive and spend only Qualifying Contributions in the applicable Qualifying Period, Seed Money and In-Kind Contributions during the applicable Exploratory and Qualifying Periods, and Contributions to retire prior campaign debt during the Exploratory Period in accordance with Section 2.10.050 B. A Candidate may incur Accounts Payable during the applicable Qualifying Period only as provided in Section 2.10.070 G.2.
- B. To be eligible to become a Certified Candidate for a Primary or Special Nominating Election, a Candidate shall not make a Qualifying Contribution of

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more than \$5 from the Candidate's personal funds to the Candidate's principal campaign committee.

- C.** A Candidate who has filed for certification for a Primary or Special Nominating Election under Section 2.10.080 may not receive further Qualifying Contributions, unless the Auditor has determined that the Candidate does not have the required number of valid Qualifying Contributions per Section 2.10.080 C. If the Candidate has been notified by the Auditor that the Candidate's filing for certification did not include the required number of Qualifying Contributions, the Candidate may continue to collect Qualifying Contributions to meet the requirement prior to the close of the Qualifying Period.
- D.** In order to qualify for certification for a Primary or Special Nominating Election under Section 2.10.080, Candidates must obtain Qualifying Contributions during the Qualifying Period as follows:

  - 1.** Total Number of Contributions:

    - a.** For a Candidate for nomination or election to the office of Mayor, a minimum of 1,500 City Electors must make a Qualifying Contribution to the Candidate;
    - b.** For a Candidate for nomination or election to the office of Commissioner, a minimum of 1,000 City Electors must make a Qualifying Contribution to the Candidate;
    - c.** For a Candidate for nomination or election to the office of Auditor, a minimum of 1,000 City Electors must make a Qualifying Contribution to the Candidate.
    - d.** An Elector giving a Candidate a Qualifying Contribution must be registered to vote in Portland by 5:00 p.m. of the day the Candidate submits that City Elector's Qualifying Contribution form to the Auditor.
  - 2.** Required Submission of a Portion of Qualifying Contributions

    - a.** In addition to collecting the total number of required Qualifying Contributions by the end of the Qualifying Period, a Candidate seeking certification must submit Qualifying Contribution forms that the Candidate has collected to date within five business days after exceeding the following amounts:

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- (1) For a Candidate for nomination or election to the office of Mayor, 450 Qualifying Contribution forms;
      - (2) For a Candidate for nomination or election to the office of Commissioner, 300 Qualifying Contribution forms;
      - (3) For a Candidate for nomination or election to the office of Auditor, 300 Qualifying Contribution forms.
- E. To be eligible to become a Certified Candidate for a Primary or Special Nominating Election, a Candidate shall not accept any Contribution intended to be a Qualifying Contribution exceeding \$5 after filing a declaration of intent to seek certification throughout the applicable Qualifying Period.
- F. To be eligible to become a Certified Candidate for a Primary or Special Nominating Election, a Candidate shall not accept Contributions, except for Contributions intended to be Qualifying Contributions as described in Section 2.10.070 or Seed Money and In-Kind Contributions as described in Section 2.10.050 during the applicable Qualifying Period.
- G. To be eligible to become a Certified Candidate,
  1. A Candidate shall not make campaign Expenditures from funds other than Qualifying Contributions as described in Section 2.10.070 during the applicable Qualifying Period, Seed Money and In-Kind Contributions as described in Section 2.10.050 during the applicable Exploratory and Qualifying Periods, and Contributions to retire prior campaign debt during the Exploratory Period in accordance with Section 2.10.050 B.
  2. Beginning on the 31st day after filing a declaration of intent, a Candidate shall have a positive campaign finance account balance with the Secretary of State. Thereafter during the Qualifying Period, a Candidate shall not incur Accounts Payable that exceed the total available Seed Money and Qualifying Contributions.
- H. To be eligible to become a Certified Candidate for a Primary or Special Nominating Election, a Candidate must participate in mandatory Campaign Finance Fund-related training established by the Auditor:
  1. Training will cover Campaign Finance Fund code and rules;
  2. The Auditor or Auditor's designee will conduct training.



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- I.** No payment, gift or thing of value shall be given or received in exchange for the Qualifying Contribution.
- J.** Prior to certification, and in accordance with administrative rules adopted by the Auditor, a Candidate shall return the following types of prohibited Contributions to contributors:
  - 1.** Qualifying Contributions of not exactly \$5 from any City Elector;
  - 2.** Seed Money Contributions exceeding \$100 from any Person or Political Committee;
  - 3.** Seed Money Contributions exceeding in aggregate an amount equal to ten percent of the applicable Primary Election spending limit described in Section 2.10.110 A.1.
- K.** Prior to certification, and in accordance with administrative rules adopted by the Auditor, a Candidate may return contributions intended to be Qualifying Contributions from contributors who are not City Electors.
- L.** The Auditor shall adopt by rule procedures for verifying the identity of a City Elector.
- M.** The Auditor shall establish procedures for receipt of Contributions by interested parties directly to the Campaign Finance Fund.

**2.10.080 Certification of Candidates.**

(Amended by Ordinance Nos. 181054, 181656 and 182852, effective June 26, 2009.)

- A. Request for Certification.** After receiving at least the minimum number of Qualifying Contributions specified in Section 2.10.070, a Candidate may file for certification with the Auditor. The request shall be filed during the applicable Qualifying Period pursuant to forms and procedures adopted by the Auditor by rule.
- B. Certification Requirements.** The Auditor shall determine that the Candidate has:
  - 1.** Signed, filed and complied with the provisions of a declaration of intent to seek certification described in Section 2.10.060;
  - 2.** Received the minimum number of valid Qualifying Contributions described in Section 2.10.070 D.1. during the Qualifying Period;

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3. Qualified as a Candidate for City Office by nominating petition, declaration of candidacy, or other means;
4. Complied with all requirements applicable to Qualifying Contributions and Seed Money Contributions;
5. Accepted no Contributions, except for Contributions intended to be Qualifying Contributions as described in Section 2.10.070 during the applicable Qualifying Period, Seed Money and In-Kind Contributions as described in Section 2.10.050 during the applicable Exploratory and Qualifying Periods, and Contributions to retire prior campaign debt during the Exploratory Period in accordance with Section 2.10.050 B. If a Contribution intended to be a Qualifying Contribution is determined not to have been made by a City Elector, the Candidate must have complied with Section 2.10.080 C.;
6. Made no Expenditures, except for Qualifying Contributions during the applicable Qualifying Period, Seed Money Contributions and In-Kind Contributions during the applicable Exploratory and Qualifying Periods and Contributions to retire prior campaign debt during the Exploratory Period in accordance with Section 2.10.050 B. A Candidate may incur Accounts Payable during the applicable Qualifying Period only as provided in Section 2.10.070 G.2.;
7. No unresolved outstanding Money Judgments against the Candidate. The Candidate has the burden of demonstrating to the satisfaction of the Auditor that the Candidate has satisfied any Money Judgment, or is currently paying the terms of the judgment through a plan approved by the judgment creditor and is not in arrears or delinquent as to the payment plan.

**C. Non-Qualifying Five Dollar Contributions.**

1. If a Contribution intended to be a Qualifying Contribution is determined by the Auditor to not qualify as a Qualifying Contribution as described in Section 2.10.070 because the contributor is not a City Elector, the Candidate shall, prior to certification, and in accordance with administrative rules adopted by the Auditor:
  - a. Apply the five dollar Contribution to the Candidate's allowable Seed Money as described in Section 2.10.050;
  - b. Return the five dollar Contribution to the contributor; or

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c. Place the five dollar Contribution in the Campaign Finance Fund.

2. A Non-Qualifying Five Dollar Contributions that is returned to the contributor or placed in the Campaign Finance Fund shall not count against the spending limit in Section 2.10.110, either as a Contribution or an Expenditure.

**D. Public Review.**

1. Contributor information will be posted on the internet for public review.

2. Members of the public may file an objection to a Qualifying Contribution with the Auditor up to 5 business days after Qualifying Contribution forms have been submitted to the Auditor.

**E. Determination.** The Auditor shall issue a Determination Letter to the Candidate no later than ten business days after the Candidate has filed the completed forms and required information with the Auditor under this section.

1. If the Candidate has complied with the requirements of Sections 2.10.050, 2.10.060, 2.10.070 and 2.10.080, the Determination Letter shall certify the Candidate as eligible to participate in the Campaign Finance Fund.

2. If the Candidate has not complied with the requirements of Sections 2.10.050, 2.10.060, 2.10.070, and 2.10.080, the Determination Letter shall state the reasons the Candidate has not been certified and list the actions, if any, the Candidate may take to become certified.

3. After the Auditor has determined that the Candidate has received at least the minimum number of valid Qualifying Contributions described in Section 2.10.070 D.1. during the applicable Qualifying Period, the Auditor will stop verifying the Candidate's Contributions intended to be Qualifying Contributions.

a. Any Contribution intended to be a Qualifying Contribution that the Auditor has not verified as a Qualifying Contribution shall be classified as an Unverified Five-Dollar Contribution. The Candidate shall dispose of any Unverified Five-Dollar Contributions as follows:

(1) Apply to the Candidate's allowable Seed Money as described in Section 2.10.050; or

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- (2) Return to the contributor; or
- (3) Place in the Campaign Finance Fund.

**b.** An Unverified Five Dollar Contributions that is returned to the contributor or placed in the Campaign Finance Fund shall not be considered a Contribution or Expenditure and shall not count against the spending limit in Section 2.10.110.

- F.** A Certified Candidate shall comply with all requirements of Chapter 2.10 after certification and throughout the Primary, General Election, Special Nominating, and Special Runoff Periods.
- G.** Certification determinations may be challenged under Section 2.10.230.

**2.10.090 Limitations on Use of Qualifying Contributions, Seed Money Contributions, and Campaign Finance Fund Revenues.**

(Amended by Ordinance Nos. 181054, 181656 and 182852, effective June 26, 2009.)

- A.** After becoming a Certified Candidate, a Candidate shall limit the Candidate's Expenditures to the revenues distributed to the Candidate from the Campaign Finance Fund and to remaining Qualifying and Seed Money Contributions. A Certified Candidate may not accept any other Contributions, except for Contributions described in Sections 2.10.090 E. and F.
- B.** Notwithstanding ORS 260.407, all Qualifying Contributions, Seed Money Contributions and Campaign Finance Fund revenues distributed to Certified Candidates from the Fund shall be used only for direct allowed campaign purposes related to the Candidate's campaign for nomination or election to the City Office for which they have qualified as a Candidate. The Auditor shall establish guidelines regarding direct allowed campaign expenditures by administrative rule.
- C. Prohibited Uses.** Revenues distributed to a Certified Candidate from the Campaign Finance Fund may not be:
  - 1.** Used to make any Expenditures for personal use prohibited by ORS Chapter 260 and Oregon Administrative Rules, including but not limited to:
    - a.** Salary or payment to a Person, unless the Person is providing bona fide services to the campaign and is compensated at fair market value;

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- b.** Admission to a sporting event, concert, theater, or other form of entertainment unless part of a specific campaign activity;
  - c.** Dues, fees, or gratuities at a country club, health club or other recreational facility unless part of the costs of a specific fundraising event;
  - d.** Mortgage, rent or household utility payments for any part of a personal residence;
  - e.** Purchases of household food items or supplies; or
  - f.** Purchase of clothing, other than items of de minimis value used in the campaign (such as t-shirts).
- 2.** Contributed to 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 Certified Candidate to any office or at any election except to the office or election for which the revenues were originally distributed;
- 5.** Used to repay any loans, debts or penalties;
- 6.** Used to pay for consulting services to a Person, unless the Person is providing bona fide services to the campaign and is compensated at fair market value;
- 7.** Used for out-of-state travel;
- 8.** Certain vehicle-related expenses, including vehicle purchases, leases, rentals, 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.** Election night and post-election parties.
- 11.** Used for salary or payment, other than reimbursable expenses, to a Family Member.

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- D.** Contributions to civic and non-profit organizations from Campaign Finance Fund revenues are permitted only if the payment is for the purpose of attending a specific campaign event open to the public.
- E.** In addition to revenues distributed to the Candidate from the Campaign Finance Fund, a Certified Candidate may accept In-Kind Contributions subject to the following limitations:

  - 1.** During the Primary Election or Special Nominating Election Period, including the Exploratory and Qualifying Periods, the aggregate amount of In-Kind Contributions received by a Certified Candidate shall not exceed an amount equal to six percent of the applicable spending limit described in Section 2.10.110 A.1.;
  - 2.** During the General Election Period, the aggregate amount of In-Kind Contributions received by a Certified Candidate shall not exceed an amount equal to six percent of the applicable spending limit described in Section 2.10.110 A.2.
  - 3.** During the Special Runoff Election Period, the aggregate amount of In-Kind Contributions received by a Certified Candidate shall not exceed an amount equal to six percent of the applicable spending limit described in Section 2.10.110 A.3.
- F.** Volunteer personal services to a committee are non-reportable other receipts and shall not count against the applicable limit on In-Kind Contributions described in Section 2.10.090 E. An individual may volunteer personal services to a Candidate or Political Committee without making a Contribution as long as the volunteer is not compensated by anyone for the services. However, if an individual provides services to a Candidate or Political Committee during working hours paid by a third-party employer or the Candidate, the employer thereby makes an In-Kind Contribution to the Candidate or Political Committee.
- G.** The Auditor will develop rules for the reimbursement of automobile use strictly for campaign purposes.

**2.10.100 Timely Distribution of Funds.**

(Amended by Ordinance Nos. 181054, 181656 and 182852, effective June 26, 2009.)

- A.** The Auditor shall distribute revenues in the Campaign Finance Fund to Certified Candidates for nomination to a City Office in amounts determined under Section 2.10.110, minus the total amount of Qualifying Contributions and Seed Money received by the Candidate, in the following manner:

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1. Within 10 business days after certification, an amount equal to 30 percent of the amount available to the Candidate for the Primary Election Period under Section 2.10.110;
  2. Within 5 business days after the 90<sup>th</sup> day immediately preceding the biennial Primary Election, an amount equal to 70 percent of the amount available to the Candidate for the Primary Election Period under Section 2.10.110;
  3. Within 30 days after the biennial Primary Election, an amount equal to 30 percent of the amount available to the Candidate for the General Election Period under Section 2.10.110; and
  4. Within 5 business days after the 120<sup>th</sup> day immediately preceding the General Election, an amount equal to 70 percent of the amount available to the Candidate for the General Election Period under Section 2.10.110.
  5. In the case of Special Nominating and Runoff Elections to fill a vacancy in office, the Auditor shall establish a similar schedule by rule.
- B.** In the case of Candidates described in Section 2.10.100 A. who qualify as Certified Candidates on or after the 90<sup>th</sup> day immediately preceding the biennial Primary Election, the Auditor shall distribute revenues from the Campaign Finance Fund to the Candidate in an amount equal to 100 percent of the amount available to the Candidate for the election under Section 2.10.110, minus the total amount of Qualifying Contributions and Seed Money received by the Candidate. The revenues shall be distributed within 10 business days after certification.
- C.** The Auditor shall provide for distribution of Campaign Finance Fund revenues to Certified Candidates by any mechanism that is expeditious, ensures accountability, and safeguards the integrity of the Fund.
- D.** Except as provided in Section 2.10.100 E., the Auditor may extend the deadline for distributing revenues under this section in the case of a recount or other circumstance that makes distribution of revenues by a deadline specified in this section impracticable.
- E.** If the revenues are to be distributed to a Certified Candidate for Auditor and the Auditor is running for re-election, the Citizen Campaign Commission may extend the deadline for distributing revenues under this section in the case of a recount or other circumstance that makes distribution of revenues by a deadline specified in this section impracticable.

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- F.** The Auditor shall not distribute revenues from the Campaign Finance Fund to Certified Candidates in excess of the total amount of monies available in the Fund.

**2.10.110 Campaign Spending Limits for Certified Candidates.**

(Amended by Ordinance Nos. 181054 and 182852, effective June 26, 2009.)

- A.** Subject to Section 2.10.100 F., Section 2.10.160 B., and Section 2.10.110 C., and except as provided in Section 2.10.110 B., the amount of revenues to be distributed to Certified Candidates as described in Section 2.10.100 shall be:
- 1.** For contested Primary and Special Nominating Elections:
    - a.** \$200,000 for each Candidate for nomination to the office of Mayor;
    - b.** \$150,000 for each Candidate for nomination to the office of Commissioner; and
    - c.** \$150,000 for each Candidate for nomination to the office of Auditor.
  - 2.** For General Elections:
    - a.** \$250,000 for each Candidate for election to the office of Mayor;
    - b.** \$200,000 for each Candidate for election to the office of Commissioner; and
    - c.** \$200,000 for each Candidate for election to the office of Auditor.
  - 3.** For Special Runoff Elections:
    - a.** \$137,500 for each Candidate for election to the office of Mayor;
    - b.** \$110,000 for each Candidate for election to the office of Commissioner; and
    - c.** \$110,000 for each Candidate for election to the office of Auditor.
- B.** For each contested Primary or Special Nominating Election, the amount of revenues to be distributed to a Certified Candidate under this section shall be reduced by an amount equal to the aggregate amount of:



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1. Seed Money Contributions received by the Candidate during the applicable Exploratory and Qualifying Periods; and
  2. Qualifying Contributions received by the Candidate during the applicable Qualifying Period.
- C. For uncontested Primary and Special Nominating Elections where there is only one Candidate appearing on the ballot for a particular office at the Primary nominating election:
1. No revenues shall be distributed to that Candidate.
  2. A Certified Candidate who is the only Candidate appearing on the ballot for a particular office and has received revenues from the Fund per Section 2.10.100 shall deliver to the Auditor an amount of money equal to the revenues distributed to the Candidate from the Campaign Finance Fund no later than the 42<sup>nd</sup> day before the Primary or Special Nominating Election. This money shall be deposited by the Auditor in the Campaign Finance Fund.

**2.10.120 Full Disclosure of Campaign Expenditures and Contributions, Including Seed Money, Qualifying Contributions and In-Kind Contributions.**

(Amended by Ordinance Nos. 181054, 181656, 182852 and 183143, effective August 26, 2009.)

- A. The Oregon Secretary of State is the filing officer for all Oregon candidates and committees, ORS 260.057. All Candidates are required to file Contributions and Expenditures electronically via the Secretary of State's electronic reporting system. All Candidates will follow the schedule prescribed by the Secretary of State, but Certified Candidates and Candidates that have filed, and not withdrawn, a declaration of intent described in Section 2.10.060 will report at the following shorter intervals:
1. The following will be reported within 14 days:
    - a. All Seed Money Contributions, Qualifying Contributions, In-Kind Contributions, Campaign Finance Fund revenues received, and all Expenditures made by a Candidate prior to the 42<sup>nd</sup> day before the biennial Primary Election or Special Nominating Election.
    - b. All In-Kind Contributions, Campaign Finance Fund revenues received, and all expenditures made by a Candidate from the Campaign Finance Fund after the biennial Primary Election but

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prior to the 42nd day before the biennial General Election or Special Runoff Election.

2. The following will be reported within 7 days:
  - a. All In-Kind Contributions, Campaign Finance Fund revenues received, and all Expenditures made by a Certified Candidate during 42 days before and including the biennial Primary Election or Special Nominating Election day.
  - b. All In-Kind Contributions, Campaign Finance Fund revenues received, and all Expenditures made by a Certified Candidate during 42 days before and including the biennial General Election or Special Runoff Election day.
- B. Notices filed under Sections 2.10.120, 2.10.130 and 2.10.140 shall be inspected by the Auditor for sufficiency.
  1. The Auditor shall immediately notify a Person required to file a notice under these Sections if:
    - a. Upon examination of relevant materials, it appears to the Auditor that the Person has failed to file a required notice or that a notice filed with the Auditor is insufficient; or
    - b. A complaint is filed with the filing officer under Section 2.10.120 B.2.
  2. A City Elector may file a complaint with the Auditor that a notice filed with the Auditor is insufficient or that a Person has failed to file a required statement. The complaint shall be in writing, shall state in detail the reasons for complaint and shall be filed with the Auditor no later than the 90<sup>th</sup> day after the date the notice about which it complains is filed or should have been filed.
- C. Disclosure reports for Nonparticipating Candidates shall be filed under Section 2.10.130.
- D. Disclosure reports for Independent Expenditures shall be filed under Section 2.10.140.

**2.10.130 Disclosure Requirements for Nonparticipating Candidates.**  
(Amended by Ordinance Nos. 181054, 181656 and 182852, effective June 26, 2009.)

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- A.** A Nonparticipating Candidate for nomination or election to City Office shall report Contribution and Expenditure transactions electronically with the Secretary of State as provided in this Section when the Nonparticipating Candidate has received Contributions or made Expenditures during the Primary Election, the Special Nominating Election Period, the General Election Period, or the Special Runoff Election Period in an aggregate amount that exceeds the Initial Financial Threshold.
- B.**
1. Except as provided in Section 2.10.130 B.2., Contribution and Expenditure transactions shall be reported to the Secretary of State no later than 5:00 p.m. of the second business day after the amount of Contributions received or Expenditures made first exceeds the Initial Financial Threshold.
  2. During the period beginning on the 42nd day before the election and ending on the date of the election, the Contribution and Expenditure transactions shall be reported to the Secretary of State no later than 5:00 p.m. of the next business day after the amount of Contributions received or Expenditures made exceeds the Initial Financial Threshold.
  3. During the period described in Section 2.10.130 B.2., the Saturday and Sunday immediately prior to the date of the election will be considered "business days".
- C.** In addition to any requirements of State law, once a Nonparticipating Candidate's Contributions or Expenditures exceed the Initial Financial Threshold, the Candidate shall file an ORESTAR report each time the Candidate receives Contributions or makes Expenditures in an aggregate amount of:
1. \$7,500 or more in the case of a Candidate for nomination or election to the office of Mayor;
  2. \$5,000 or more in the case of a Candidate for nomination or election to the office of Commissioner; and
  3. \$5,000 or more in the case of a Candidate for nomination or election to the office of Auditor.
- D.** All Contribution and Expenditure transaction filings required by this Section shall provide full and timely disclosure of all Contributions and Expenditures required to be reported.

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- E.** For purposes of this Section, an Expenditure is obligated when the Expenditure is made or an agreement to make the Expenditure is made.
- F.** The notice shall be inspected by the Auditor for sufficiency as described in Section 2.10.120.
- G.** Reporting and Reserving Funds for General or Special Runoff Election.  
During the Primary or Special Nominating Election Period, Nonparticipating Candidates may reserve Contributions for the General or Special Runoff Election Period that may not be used by the Auditor to adjust the Financial Threshold or determine if a Nonparticipating Candidate has exceeded the Financial Threshold during the Primary or Special Nominating Election Period.

  - 1.** Eligibility for and reporting of reserved contribution funds shall be defined and described by the Auditor in an administrative rule.
  - 2.** A Nonparticipating Candidate must file with the Auditor an intent to reserve funds prior to reporting reserved funds. A Nonparticipating Candidate may withdraw an intent to reserve funds prior to the 42nd day before the Primary or Special Nominating Election date.
  - 3.** Violations and Penalties.

    - a.** A Nonparticipating Candidate shall be in violation of the Code and liable for civil penalties if:

      - (1)** A Nonparticipating Candidate uses reserved funds previously reported as reserved as described in this Section, during the Primary or Special Nominating Election Period;
      - (2)** The use of reserved funds contributed to the Nonparticipating Candidate exceeding the Financial Threshold; and
      - (3)** The Nonparticipating Candidate has not withdrawn an intent to reserve funds.
    - b.** As described in Subsection 2.10.220 A.3., the Auditor may impose a civil penalty on the Nonparticipating Candidate for failure to file a Nonparticipating Candidate report or include information required by Section 2.10.130.

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- c. Per Subsection 2.10.020 E.7., penalties for violations of this section shall be described in the penalty matrix by an administrative rule.

**2.10.140 Independent Expenditure Disclosure Requirements.**

(Amended by Ordinance Nos. 181656 and 182852, effective June 26, 2009.)

- A. A Person or Political Committee making an Independent Expenditure in an amount of \$1,000 or more, or Independent Expenditures in an aggregate amount of \$1,000 or more, supporting or opposing a Candidate or Candidates for nomination or election to City Office shall file notice with the Auditor as provided in this Section.
- B. The notice shall be filed with the Auditor no later than 5:00 p.m. of the next business day after the funds for the Independent Expenditure or Expenditures are obligated. The notice shall:
  - 1. Describe the amount and purpose of the Independent Expenditure or Expenditures;
  - 2. State the name of the Candidate or Candidates the Independent Expenditure or Expenditures are intended to support or oppose; and
  - 3. Be in the format prescribed by the Auditor.
- C. The Auditor shall on the same business day that the notice is received:
  - 1. Publish a copy of the notice on the Internet; and
  - 2. Notify each Candidate at the same election for the nomination or office described in Section 2.10.140 A. for whom a nominating petition, a declaration of candidacy or a certificate of nomination has been filed.
- D. Each separate Independent Expenditure or aggregate amount of Independent Expenditures described in Section 2.10.140 A. shall require compliance with the provisions of this Section.
- E. For purposes of this Section, an Independent Expenditure is obligated when the Expenditure is made or an agreement to make the Expenditure is made.
- F. The notice shall be inspected by the Auditor for sufficiency as described in Section 2.10.120.
- G. The provisions of Section 2.10.140 apply during the periods:

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1. Beginning on the first day to file as a Candidate for the Primary or Special Nominating Election and ending on the date of the Primary or Special Runoff Election; and
2. Beginning on the day 1<sup>st</sup> day after the Primary or Special Nominating Election and ending on the date of the General or Special Runoff Election.

**2.10.145 Adjusting the Financial Threshold.**

(Added by Ordinance Nos. 181656 and 182852, effective June 26, 2009.)

- A. The Initial Financial Threshold and subsequent Adjusted Financial Thresholds will be adjusted by the Auditor to ensure fair and equitable distribution of Matching Funds. The Auditor shall adjust the Financial Threshold for each election and office in accordance with provisions in Section 2.10.145. Each such adjustment will result in an Adjusted Financial Threshold for a particular City Office and election.
- B. If a Nonparticipating Candidate gathers Contributions or makes Expenditures in an amount that exceeds the Financial Threshold, the Auditor shall:
  1. Adjust the Financial Threshold of that election and City Office to the higher level of that Candidate's Contributions or Expenditures;
  2. Notify all Certified Candidates of eligibility for Matching Funds in the amount of the adjustment.
- C. If a Nonparticipating Candidate's Contributions or Expenditures, when combined with Independent Expenditures made in support of that Candidate, exceed the Financial Threshold, the Auditor shall:
  1. Adjust the Financial Threshold of that election and City Office to the aggregate of the higher level of that Candidate's Contributions or Expenditures plus the Independent Expenditures made in support of that Candidate;
  2. Notify Certified Candidates of eligibility for Matching Funds in the amount of the adjustment.
- D. If an Independent Expenditure is made in support of a Certified Candidate, the Auditor shall:
  1. Adjust the Financial Threshold of that election and City Office to the aggregate of the Financial Threshold plus the Independent Expenditures;

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2. Notify any other Certified Candidates of eligibility for Matching Funds in the amount of the adjustment.
  
- E.** If an Independent Expenditure is made in opposition to a Certified Candidate, and the Independent Expenditure, combined with the highest level of Contributions or Expenditures for any Nonparticipating Candidate plus any other Independent Expenditures made in support of the Nonparticipating Candidate, exceeds the Financial Threshold, the Auditor shall:
  1. Adjust the Financial Threshold of that election and City Office to the aggregate of the highest level of Contributions or Expenditures for a Nonparticipating Candidate plus Independent Expenditures for that Nonparticipating Candidate plus Independent Expenditures against the Certified Candidate; and
  2. Notify the Certified Candidate against whom the Independent Expenditure was made of eligibility for Matching Funds in the amount of the adjustment.
  
- F.** If an Independent Expenditure is made in opposition to a Nonparticipating Candidate, the Auditor shall:
  1. Adjust the Financial Threshold of that election and City Office to the aggregate of the Financial Threshold plus the Independent Expenditure.
  2. No Matching Funds will be distributed to Certified Candidates as a result of the adjustment.
  
- G.** If there are multiple Independent Expenditures that in combination with Candidate Contributions or Expenditures exceed the Financial Threshold, the Auditor shall adjust the Financial Threshold to the highest among the combinations.
  
- H.** If an Independent Expenditure is made in support of multiple Candidates, the Auditor shall determine the portion of the expenditure that benefits the participating or Nonparticipating Candidates in order to adjust the Financial Threshold.
  
- I.** In calculating the Adjusted Financial Threshold, the Auditor shall not include In-Kind Contributions made to Nonparticipating Candidates that are equal to or less than the following amounts:

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1. \$12,000 for Mayor Candidates and \$9,000 for Commissioner and Auditor Candidates in aggregate for the Primary Election or Special Nominating Election Period.
  2. \$15,000 for Mayor Candidates and \$12,000 for Commissioner and Auditor Candidates in aggregate for the General Election or Special Runoff Election Period.
- J.** In situations not clearly addressed by these provisions, the Auditor may confer with the Citizen Campaign Commission and shall make a decision that furthers the goal of bringing greater equity and fairness to campaign financing. The Auditor may thereafter adopt an administrative rule to govern adjustments to an Initial or Adjusted Financial Threshold or determination of Matching Funds.
- K.** If a Candidate disagrees with the Auditor's determination on adjusting the Financial Threshold based on whether an Independent Expenditure is in support of or opposition to a Candidate, the Candidate may request that the Auditor confer with the Citizen Campaign Commission or a subcommittee of its members. The Auditor is not required to confer with the Citizen's Campaign Commission. Such request must be made within 5 business days of the determination. The Auditor may issue a revised determination as a result of such request. All determinations of the Auditor on adjustments to Financial Thresholds are final. No appeals of Financial Threshold determinations to the Hearings Officer are permitted.

**2.10.150 Limited Matching Funds.**

(Amended by Ordinance Nos. 179535, 181656 and 182852, effective June 26, 2009.) In addition to the revenues distributed to Certified Candidates under Section 2.10.100, Certified Candidates may be eligible to apply for limited Matching Funds as follows:

- A. Matching Funds Available.** The Auditor shall authorize matching funds in an effort to bring greater equity and fairness to campaign financing. Subject to Sections 2.10.100 F. and 2.10.150 B., Matching Funds under this Section shall be distributed from the Campaign Finance Fund:
1. If the Financial Threshold is adjusted pursuant to Sections 2.10.145 B. and C., Matching Funds will be distributed upon request to each Certified Candidate in the amount of the adjustment to the Financial Threshold.
  2. If the Financial Threshold is adjusted pursuant to Section 2.10.145 D., Matching Funds will be distributed upon request in the amount of the adjustment to each Certified Candidate other than the Certified Candidate in whose support the Independent Expenditure was made.



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3. If the Financial Threshold is adjusted pursuant to Section 2.10.145 E., Matching Funds will be distributed upon request in the amount of the adjustment to the Certified Candidate against whom the Independent Expenditure was made. No other Certified Candidate shall receive Matching Funds as a result of the adjustment.
  4. If the Financial Threshold is adjusted pursuant to Section 2.10.145 F., no Matching Funds will be distributed to Certified Candidates.
  5. If a Certified Candidate receives Matching Funds, the Candidate is not required to return those funds if Independent Expenditures that benefit that Candidate are made subsequent to distribution of Matching Funds. However, if a Certified Candidate benefits from such an Independent Expenditure, that amount of the Independent Expenditure will be subtracted to determine any share of subsequent Matching Funds, as provided in Sections 2.10.145 D. and F.
  6. If the Auditor adjusts the Financial Threshold and determines that one or more Certified Candidates may be eligible for Matching Funds, the Auditor shall reserve the amount of Matching Funds for which the Certified Candidate or Candidates may be eligible throughout the relevant Primary Election Period or General Election Period, whether or not the Certified Candidate requests such funds pursuant to Section 2.10.150. Such reserved Matching Funds are not available for distribution to other Certified Candidates as Matching Funds and will be included in the calculation of maximum Matching Funds available under Section 2.10.150 B.
- B. Maximum Matching Funds Available.** The amount of Matching Funds distributed under this Section shall not exceed:
1. In the case of nominating Primary or Special Nominating Elections where there is only one Certified Candidate for a particular office, 100 percent of Initial Financial Threshold for the election and City Office;
  2. In the case of nominating Primary or Special Nominating Elections where there are more than two Candidates appearing on the ballot and one or more Nonparticipating Candidates for the same office, 100 percent of the amount available under Section 2.10.110 will be divided and available to all eligible Certified Candidates;
  3. In the case of General or Special Runoff Elections where one Certified Candidate and one Nonparticipating Candidate will appear on the ballot for the same election and City Office, up to an additional 150 percent of

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the amount available under Section 2.10.110 to be distributed to the eligible Certified Candidate.

**C. Request for Matching Funds.** To be eligible to receive Matching Funds, a Certified Candidate shall file a written request with the Auditor. The request shall be filed pursuant to forms and procedures adopted by the Auditor by rule.

**D. Matching Funds Determination and Distribution.**

1. Except as provided in Section 2.10.150 D.2., the Auditor shall issue a Determination Letter detailing the Matching Fund decisions under this Section within one business day after receiving a written request from a Certified Candidate.
2. If the request for Matching Funds is from a Certified Candidate for Auditor and the Auditor is running for re-election, the Citizen Campaign Commission shall issue a Determination Letter within one business day after receiving a written request from a Certified Candidate.
3. The Auditor shall distribute Matching Funds within two business days after issuing the Determination Letter if the letter states that a Certified Candidate qualifies for Matching Funds. The Auditor may use any distribution mechanism that is expeditious, ensures accountability and safeguards the integrity of the Fund to allow for prompt distribution of Matching Funds to Certified Candidates.
4. If the Determination Letter states that the Certified Candidate does not qualify for Matching Funds, the letter shall detail the reasons for this decision.
5. Matching Fund determinations may be challenged under Section 2.10.230.

**2.10.160 Return of Unspent Funds to Campaign Finance Fund.**

(Amended by Ordinance Nos. 181054 and 182852, effective June 26, 2009.)

**A.** If the Certified Candidate's campaign finance account balance with the Secretary of State for the nominating Primary or Special Nominating Election shows unspent revenues received from the Campaign Finance Fund 30 days after the election, and the Candidate was not nominated at the Primary or Special Nominating Election, the Candidate shall return an amount of money equal to the amount of the unspent revenues to the Auditor no later than 30 days after the election.

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- B.** If the Certified Candidate's campaign finance account balance with the Secretary of State for the nominating Primary or Special Nominating Election shows unspent revenues received from the Campaign Finance Fund 30 days after the election, and the Candidate was nominated at the nominating Primary or Special Nominating Election, the amount of revenues to be distributed to the Certified Candidate under Section 2.10.110 at the General Election shall be reduced by an amount equal to the aggregate amount of unspent revenues received from the Campaign Finance Fund.
- C.** If the Certified Candidate's campaign finance account balance with the Secretary of State for the Primary or Special Nominating Election shows unspent revenues received from the Campaign Finance Fund 30 days after the election, and the Candidate wins a majority of votes cast, the Candidate shall return an amount of money equal to the amount of the unspent revenues to the Auditor not later than 30 days after the election.
- D.** If the Certified Candidate's campaign finance account balance with the Secretary of State for the General or Special Runoff Election shows unspent revenues received from the Campaign Finance Fund, 30 days after the election, the Candidate shall return an amount of money equal to the amount of the unspent revenues to the Auditor not later than 30 days after the election.
- E.** If the Certified Candidate has outstanding Accounts Payable and Receivable on the date for returning unspent money, the Auditor may arrange for an estimated payment with final payment due no later than 30 days after the election.
- F.** Unspent Campaign Finance Funds in excess of open Accounts Payable and Accounts Receivable shall be returned to the Auditor not more than 30 days after the election.
- G.** A payment plan for open accounts must be filed with the Auditor and a payment plan for these open accounts must be settled no later than 60 days after the election.
- H.** The Auditor shall deposit monies received under this Section in the Campaign Finance Fund.
- I.** Unused or returned campaign-specific promotional items that the Auditor determines have value only to a Certified Candidate or a future campaign of the Certified Candidate, such as lawn signs and banners, may be kept by the Certified Candidate's principal campaign committee after the Primary, General, or Special Election described in Sections 2.10.160 A., 2.10.160 C., and 2.10.160 D. If the Certified Candidate uses these items in a future City election, these items shall be

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reported by the Candidate as In-Kind contributions to the Candidate, with valuations of 100% of the original purchase prices.

- J.** Fixed Assets. Fixed Assets purchased by a Certified Candidate must either be returned to the Auditor as unspent funds 30 days after the election or be sold for fair market value; the sale proceeds may be used for direct campaign purposes subject to the following:
1. Fixed Assets purchased during the Primary Election or Special Nominating Election Period may be used during the General or Special Runoff Election Period.
  2. Fixed Assets purchased during the Primary Election or Special Nominating Election Period may be sold, and the sale proceeds used for campaign purposes, only during the Primary Election or Special Nominating Election Period.
  3. Fixed Assets purchased during the General Election or Special Runoff Election Period may be sold, and the sale proceeds used for campaign purposes during the General Election or Special Runoff Election Period.
  4. Fixed Assets purchased during the Primary or Special Nominating Election Period and then sold during the General or Special Runoff Election Period shall not be used for campaign purposes during the General or Special Runoff Election Period. Such proceeds shall be considered unspent funds and shall be returned to the Auditor.

The Auditor may further describe how Fixed Assets purchased by a Certified Candidate may be disposed of by administrative rule.

**2.10.170 Adequate Funding.**

(Amended by Ordinance Nos. 181054 and 182852, effective June 26, 2009.)  
Notwithstanding any provisions of Section 2.10.040:

- A.** Not later than the 10<sup>th</sup> business day following the end of the Qualifying Period before the Primary Election, the Auditor shall determine whether the amount deposited in the Campaign Finance Fund under Section 2.10.040 will be sufficient to provide the amount the Auditor estimates will be necessary to make payments to Certified Candidates under Chapter 2.10 at the Primary, General, Special Nominating and Special Runoff Elections, and to cover administrative, enforcement and other expenses of the Auditor in carrying out the Auditor's functions and duties under this Chapter. The Auditor's expenses to administer the system should generally not exceed ten percent of the total funds deposited in the

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Campaign Finance Fund for the applicable combined Primary and General Election Periods, or combined Special Nominating and Special Runoff Periods.

- B.** If the Auditor determines that the amount deposited in the Campaign Finance Fund will be insufficient, the Auditor shall request the additional amount the Auditor estimates will be necessary from the City Council subject to the annual appropriation limit detailed in Section 2.10.040 A.

**2.10.180 Adjustments for Inflation and Population Growth.**

The dollar amounts specified in Section 2.10.110 and number of Qualifying Contributions required in Section 2.10.070 shall be reviewed periodically by the Citizen Campaign Commission. The Commission shall recommend any necessary adjustments to reflect inflation or population change to the City Auditor for approval by the City Council.

**2.10.190 Political Advertisement Disclosure Requirements for Certified Candidates.**

(Amended by Ordinance Nos. 181656 and 182852, effective June 26, 2009.)

- A.** As part of the declaration of intent described in Section 2.10.060, a Candidate shall agree to include the information described in Sections 2.10.190 B. - D. in any advertisement advocating the nomination, election or defeat of a Certified Candidate and paid for by the Certified Candidate or the Certified Candidate's principal campaign committee.
- B.** A printed advertisement described in Section 2.10.190 A. shall include the phrase "Paid for by" followed by the name of the Certified Candidate or principal campaign committee of the Certified Candidate. The advertisement shall also include the following statement: "As a Certified Campaign Finance Fund Candidate, I take personal responsibility for the content of this campaign ad." The statement shall be followed by the legibly printed name of the Candidate. As used in this Section, "printed advertisement" means a brochure, pamphlet, flyer, newspaper or magazine advertisement or similar advertisement designated by the Auditor by rule. "Printed advertisement" does not include any button, sign or other similar advertisement designated by the Auditor by rule.
- C.** A radio advertisement described in Section 2.10.190 A. of this Section shall include the phrase "Paid for by" followed by the name of the Certified Candidate or principal campaign committee of the Certified Candidate. The advertisement shall also include the following statement by the Certified Candidate: "As a Certified Campaign Finance Fund Candidate, I take personal responsibility for the content of this campaign ad."
- D.** A television, internet, or video advertisement described in Section 2.10.190 A. of this Section shall include the phrase "Paid for by" followed by the name of the

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Certified Candidate or principal campaign committee of the Certified Candidate. The phrase shall occur visually or audibly. The advertisement shall also include the following statement made by the Certified Candidate: "As a Certified Campaign Finance Fund Candidate, I take personal responsibility for the content of this campaign ad." The statement shall be made by the Certified Candidate while in front of the camera or while a photograph of the Certified Candidate is displayed. If the advertisement is an internet advertisement without an audio component, the advertisement shall be treated as a printed advertisement described in Section 2.10.190 B.

**2.10.200 Communication of Participation Status to Voters.**

If a Candidate for nomination or election to City Office has been certified under Section 2.10.080, the Auditor shall publish to the Internet a statement that the Candidate is a Certified Campaign Finance Fund Candidate and has agreed to the terms and conditions of Chapter 2.10, including limitations on campaign Contributions.

**2.10.210 Withdrawal of Certified Candidate, Repayment of Funds.**

(Amended by Ordinance No. 182852, effective June 26, 2009.)

- A.** A Certified Candidate may withdraw as a Certified Candidate by filing a written statement of withdrawal with the Auditor. At the time the statement of withdrawal is filed, the Candidate shall also deliver to the Auditor an amount of money equal to all monies distributed to the Candidate from the Campaign Finance Fund after the date the Candidate was certified, plus interest of the total amount of monies received at a rate of 12 percent per annum.
- B.** A Certified Candidate who withdraws as a Candidate for nomination or election as provided in Section 2.08.150 shall comply with the requirements of Section 2.10.210 A. at the time the Candidate files a statement of withdrawal.
- C.** A Certified Candidate who withdraws as a Certified Candidate or as a Candidate shall be personally liable for any amounts to be paid to the Auditor under this Section. A Candidate who withdraws as a result of a valid emergency, such as a serious personal illness or death in the immediate family of the Candidate, may request a repayment exemption.
- D.** If a Certified Candidate withdraws as a Certified Candidate or as a Candidate, or if a Certified Candidate is required to deliver money to the Fund under Section 2.10.220, the Auditor shall disseminate public notice on the Internet to that effect within one business day of the withdrawal or determination made under Section 2.10.220.
- E.** If a Certified Candidate is nominated at the Primary Election or Special Nominating Election and then withdraws as a Candidate for the General Election

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or Special Runoff Election, the Candidate shall not be required to repay the Campaign Finance Fund for any Campaign Finance Fund revenues the Candidate received for the Primary Election or Special Nominating Election.

- F.** If the Certified Candidate withdraws as a Candidate after receiving any Campaign Finance Fund revenues for the General Election Period or Special Runoff Election Period, the Candidate shall repay the Auditor all Campaign Finance Fund revenues received for the General Election Period or Special Runoff Period.
- G.** The Auditor shall deposit monies received under this Section in the Campaign Finance Fund.

**2.10.220 Civil Penalties, Revocation of Certification and Repayment of Funds.**

(Amended by Ordinance Nos. 181054, 181656 and 182852, effective June 26, 2009.)

**A. Civil Penalties.**

- 1.** The Auditor 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 Certified Candidate; or
  - b.** Violation of any provision of this Chapter during the Qualification Period; or
  - c.** Failure to file a Nonparticipating Candidate report or include information required by Section 2.10.130; or
  - d.** Failure to file a report of Independent Expenditures or include information required by Section 2.10.140.
- 2.** The Auditor shall establish a penalty matrix by administrative rule detailing civil penalties for potential violations of this chapter.
  - a.** A civil penalty imposed under this section shall not exceed \$10,000 for any violation except as otherwise provided in this Section.
  - b.** A civil penalty imposed for violation of Section 2.10.190 shall equal the cost of any advertisement made in violation of Section 2.10.190.

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- c. Limits on penalties imposed under this Section do not include interest. Penalties are subject to interest at a rate of 12 percent of the total amount per annum.
- 3. The Auditor shall send a Notice of Proposed Penalty to any Person, Candidate or Political Committee against whom the Auditor is imposing a civil penalty.
  - a. The notice shall describe the proposed penalty and outline the procedures for requesting a penalty hearing under Section 2.10.230.
  - b. The notice shall be sent by both certified and regular mail.
  - c. If a penalty hearing is not requested under Section 2.10.230, 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 be paid from committee funds and reported as an Expenditure on the committee's appropriate Contribution and Expenditure report. A penalty may not be paid from Campaign Finance Fund revenues.
- 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 Campaign Finance Fund.



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10. At the request of the Auditor, 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 Candidate against whom a civil penalty has been imposed for violation of Section 2.10.090 shall be revoked by the Auditor and the Candidate shall not be eligible to receive revenues from the Campaign Finance Fund during the Primary and General Election Period, or Special Nominating and Special Runoff Period during which the penalty is imposed.
2. The certification of a Candidate against whom a penalty has been imposed three or more times for violation of any provision of Section 2.10.190 shall be revoked by the Auditor and the Candidate shall not be eligible to receive revenues from the Campaign Finance Fund during the Primary and General Election Period, or Special Nominating and Special Runoff Period during which the violation occurred.
3. If it is determined that a Certified Candidate violated any provision of this Chapter during the Qualification Period or after Certification, the Auditor has the authority to revoke a Candidate's certification.

**C. Repayment of Funds.**

1. A Certified Candidate against whom a civil penalty has been imposed for violation of Section 2.10.090 shall return to the Auditor an amount of money equal to all revenues distributed to the Candidate from the Campaign Finance 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. However, a Candidate's certification shall not be revoked if all of the following conditions are met:
  - a. The Candidate has been found to have committed only one violation of Section 2.10.090; and
  - b. It is the Candidate's first violation of Section 2.10.090; and
2. A Certified Candidate against whom a penalty has been imposed three or more times for violation of any provision of Section 2.10.190 shall return to the Auditor an amount of money equal to all revenues distributed to the

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Candidate from the Campaign Finance 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.

3. The Auditor shall seek immediate recovery of Campaign Finance Funds for any violation of this Chapter.

**2.10.230 Hearings.**

(Amended by Ordinance Nos. 181054 and 181656, effective March 5, 2008.)

**A. Purpose.** The purpose of this Section is to provide Persons or Political Committees adversely affected by administrative determinations and decisions made under this Chapter with a timely, effective, and impartial appeal and review of the determination. Hearings will be heard by a member of the outside panel of Hearings Officers recommended by the Citizen Campaign Commission and appointed by the City's Code Hearings Officer.

**B. Types of Hearings.**

1. **Certification Hearings.** A Candidate who has received a Determination Letter refusing certification or an opponent of a Candidate who has been granted certification under Section 2.10.080 may challenge a certification decision by filing a written request for a hearing as outlined in Section 2.10.230 C.
2. **Matching Fund Hearings.** A Candidate who has received a Determination Letter granting or refusing Matching Funds under Section 2.10.150, or an opponent of a Candidate who has been granted Matching Funds under Section 2.10.150, may challenge the Matching Funds decision by filing a written request for a hearing as outlined in Section 2.10.230 C.
3. **Penalty Hearings.** A Candidate, Person or Political Committee who has received a Notice of Proposed Penalty from the Auditor under Section 2.10.220 may challenge the proposed penalty by filing a written request for a hearing as outlined in Section 2.10.230 C.

**C. Requests for Hearings.**

1. The written request for a hearing shall be filed with the Auditor not later than:

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- a.** 7 days after the mailing of the Determination Letter for a certification or Matching Funds hearing; or
- b.** 7 days after the mailing of the Notice of Proposed Penalty for a penalty hearing.

The request shall be filed pursuant to forms and procedures recommended by the Commission and adopted by the Auditor 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 Auditor may by require by rule.

- 2.** No Person or Political Committee other than those described in Section 2.10.230 B. may be a party to any hearing conducted under this Section.

**D. Conduct of Hearings.**

- 1.** As provided in Section 2.10.030 A.4., the Citizen Campaign Commission shall recommend to the Code Hearings Officer for appointment Hearings Officers to review cases and make determinations under this Section.
- 2.** The City's Code Hearings Officer shall designate and appoint the Hearings Officers based upon the recommendations of the Citizen Campaign Commission.
- 3.** Written requests for hearings shall be filed with the Auditor within the deadlines established in Section 2.10.230 C. The Citizen Campaign 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 Section 2.10.230 D.4.
- 4.** The date set for hearings under this Section shall be:
  - a.** Not later than 7 days after the request for a certification or Matching Funds hearing is filed as outlined in Section 2.10.230 C.1.a; or
  - b.** Not more than 14 days after the request for a penalty hearing is filed as outlined in Section 2.10.230 C.1.b.
- 5.** Notice.

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- a.** In the case of certification or Matching Fund hearings requested under Section 2.10.230 C.1.a.:

    - (1)** The Auditor 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 Auditor.
    - (2)** The Auditor 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 under Section 2.10.230 D.4. The notice shall specify the time, date, and place set for the hearing.
    - (3)** The notices required in Sections 2.10.230 D.5.a.(1) and (2) may be combined.
  - b.** In the case of penalty hearings requested under Section 2.10.230 C.1.b., the Auditor 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 Section 2.10.230 D.4. The notice shall specify the time, date, and place set for the hearing.
  - c.** Notices may be given by any method or combination of methods which, under the circumstances, is reasonably likely to apprise the parties of the hearing. Notice may be given by United States mail, phone, e-mail or other method authorized by the Auditor by rule. If notice is given by mail, such notice shall be deemed given and received three days (Sundays and holidays not included) after the notice is deposited in the United States mail. The failure of any Person to receive actual notice of the proceeding shall not invalidate the hearing or any determination, decision, or order of the Hearings Officer.
- 6.** The hearings shall be conducted in accordance with the provisions of Chapter 22.10, except as otherwise provided in this Section.

**E. Order of the Hearings Officer.**

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1. The Hearings Officer shall issue an order not later than three business days after a certification Matching Funds 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 Matching Fund hearing, the Hearings Officer may uphold or revoke Matching Funds, or modify a Matching Funds decision by revoking some or all Matching Funds or granting additional Matching Funds.
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 Auditor an amount of money equal to all revenues distributed to the Candidate from the Campaign Finance 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 Matching Funds distributed under Section 2.10.150 are revoked, the Candidate shall return to the Auditor an amount of money equal to the amount of revoked Matching Funds distributed to the Candidate from the Campaign Finance Fund, plus interest on the total amount of Matching Funds 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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**Chapter 2.12**

**REGULATION OF LOBBYING ENTITIES**

(New 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 to Prescribe Forms, Accept Voluntary Filings and Provide Public Access to Filed Information.
- 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 and 182671, effective May 15, 2009.) 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 Neighborhood Involvement, the Bureau of Planning and Sustainability, the Office of Cable Communications

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and Franchise Management, the Portland Office 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 Bureau of Housing and Community Development, the Bureau of Revenue, 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 Portland Planning 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

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or potential ordinances that are unrelated to the collective bargaining process, or implementation or application of any collective bargaining agreement provision.

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 and 181204, effective September 7, 2007.)

- 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 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:



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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;
  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.
  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 and 181204, effective September 7, 2007.)

- 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 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

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- 2.** A good faith estimate of total moneys, if the total exceeds \$1000.00, 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 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 \$25.00 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 and secretarial assistance, 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(3).
- 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 do not anticipate spending over \$1,000 per calendar quarter 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 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 and 181204, effective September 7, 2007.) 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.** Lobbying entities that spent fewer than 8 hours lobbying during every calendar quarter in a calendar year.
- C.** 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 Neighborhood Involvement 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.

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**2.12.070 Reporting Requirements for City Officials**

(Amended by Ordinance Nos. 180205 and 180620, effective December 22, 2006.)

- A.** City officials shall file written reports documenting any gifts, meals or entertainment in excess of \$25.00 received from a lobbying entity 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;
  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 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 \$25.00 or if no gifts or donations have been requested in the calendar quarter.
- D.** Elected officials and City directors shall post their calendars of activities related to official City business to the lobbyist website designated by the City Auditor 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.
- 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.**

- A.** No former City elected official, City director or other employee shall, for a period of one year after the termination of the employee's term of office or employment, lobby for money or other consideration a City official, regarding any subject matter on which the employee participated personally and substantially during the employee's term of office or employment; provided, that if the employee exercised contract management authority with respect to a contract, this prohibition shall be permanent as to that contract.
- B.** 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.
- 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.

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

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.

**2.12.110 Auditor's Duties.**

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. Is authorized to adopt administrative rules to carry out the duties and to administer the provisions of this Chapter.

**2.12.120 Penalties.**

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 \$500.00 per violation. At the request of the Auditor, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter in Multnomah County Circuit Court or other appropriate venue.

**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.