

CHAPTER 2.16 – SMALL DONOR ELECTIONS PROGRAM

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2.16.005 Short Title.

Chapter 2.16 of the Portland City Code ~~shall~~will be known as the Small Donor Elections Program.

2.16.010 Definitions.

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

- A. **“Allowable Contribution”** is a contribution of no more than ~~\$350~~\$250 that will be further defined by the Portland Elections Commission and the definition will be published in administrative rules.
- B. **“Campaign Finance Entity”** means a principal campaign committee registered with the Oregon Secretary of State.
- C. **“Candidate”** means:
 - 1. An individual whose name is printed on a ballot, for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is expected to be or has been presented, with the individual's consent, for nomination or election to public office;

2. An individual who has solicited or received and accepted a contribution, made an expenditure, or given consent to an individual, organization, political party or political committee to solicit or receive and accept a contribution or make an expenditure on the individual's behalf to secure nomination or election to any public office at any time, whether or not the office for which the individual will seek nomination or election is known when the solicitation is made, the contribution is received and retained or the expenditure is made, and whether or not the name of the individual is printed on a ballot.
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- D. “Candidate’s Campaign Account”** means a campaign finance account established by a ~~C~~candidate for the exclusive purpose of receiving ~~A~~allowable ~~C~~ontributions, ~~M~~matchable ~~C~~ontributions, City ~~M~~atching ~~F~~unds and ~~S~~eed ~~M~~oney ~~C~~ontributions and spending funds in accordance with this Chapter.
- E. “Certified Candidate”** means a ~~C~~candidate running for a ~~C~~overed ~~O~~ffice who is certified as eligible to receive City ~~M~~atching ~~F~~unds.
- F. “City Matching Funds”** means money disbursed from the Fund to a ~~C~~ertified ~~C~~candidate.
- G. “Commission”** means the Portland Elections Commission.
- H. “Contested Election”** means, if for the Mayor or Auditor, two or more candidates, and, if for a Councilor, there are more candidates than there are seats to fill~~an election in which there are at least two Candidates for a Covered Office who have a Campaign Finance Entity. Contested Election includes a special election held to fill a vacancy in a Covered Office.~~
- I. “Contribution”** has the meaning set forth in ORS 260.005 and 260.007.
- J. “Covered Office”** means the office of Mayor, Councilor, ~~Commissioner~~ or Auditor.
- K. “Director”** means the Small Donor Elections Director.
- L. “Election Cycle”** means the period beginning on the 45th day after the preceding biennial election and ending at 8 p.m. on the day of the biennial election. ~~means the Primary Election Period and the General Election Period for the same term of a Covered Office. Until January 1, 2025, Ffor an special election held on any date other than the biennial election date, it 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 at 8 p.m. the day of that election. the Special Nominating Election Period and the Special Runoff Election Period.~~
- M. “Expenditure”** has the meaning set forth in ORS 260.005 and 260.007.
- N. “Fund”** means the Small Donor Elections Fund.

- O.** ~~“General Election Period” means the period beginning the day after the biennial primary election and ending the day of the biennial general Election.~~
- Q. P.** **“Independent Expenditure”** means an expenditure by a person for a communication in support of or in opposition to a clearly identified Candidate for City office that is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a Candidate or any agent or authorized committee of the Candidate. The terms “expenditure”, “clearly identified” and “agent” and the phrases “communication in support of or in opposition to a clearly identified Candidate or measure” and “made with the cooperation or with the prior consent of, or in consultation with or at the request or suggestion of, a Candidate or any agent or authorized committee of the Candidate” ~~shall~~will have the meanings set forth in ORS 260.005 and 260.007.
- P. Q.** **“Individual”** means a natural person.
- Q. R.** **“In-Kind Contribution”** will be defined by the ~~Portland Elections~~ Commission and the definition will be published in administrative rules.
- R. S.** **“Matchable Contribution”** is a contribution made by a ~~M~~matchable ~~D~~donor and will be further defined by the ~~Portland Elections~~ Commission and published in administrative rules.
- S. T.** **“Matchable Donor”** means an individual 18 years of age or older who resides within the City limits of the City of Portland, whose residency is verified pursuant to criteria established by the Director, and who can legally contribute to campaigns under state and federal law. The Director may use voter registration as the sole means of verifying residency if the Director determines other methods are not reliable or expedient. The ~~Portland Elections~~ Commission will determine which ~~M~~matchable Contributions from the same ~~M~~matchable ~~D~~donor to two or more Candidates running for the same seat will be matched, and this determination will be published in administrative rules.
- T. U.** **“Non-Participating Candidate”** means a person who is running for a Covered Office who chooses not to file a ~~N~~notice of Intent or, after the certification deadline passes, who did file a ~~N~~notice of Intent but was not certified.
- U. V.** **“Notice of Intent”** means a notice filed with the Director on the form prescribed by the program that a Candidate intends to seek qualification as a Certified Candidate.
- V. W.** **“Participating Candidate”** means a person who is a Candidate for a Covered Office and who seeks to be a Certified Candidate in an primary election ~~or general election~~. Limitations imposed on a ~~P~~participating Candidate apply during the entire election cycle, both before and after filing a ~~N~~notice of Intent to participate, whether or not the Candidate has announced an intention to seek City ~~M~~matching Funds, and continue to apply once the Candidate becomes a Certified Candidate, unless the Candidate is not certified, in which case the

limitations cease to apply once the certification deadline has passed. A ~~P~~participating ~~C~~candidate may become a ~~N~~non-~~P~~participating ~~C~~candidate by withdrawing from the program or withdrawing their ~~N~~notice of ~~I~~intent.

~~X.~~ **~~“Primary Election Period”~~** means the period beginning on the 45th day after the preceding biennial general election and ending at 8 p.m. on the day of the biennial primary election.

W. **“Program”** means the Small Donor Elections Program.

~~X. Y.~~ **“Seed Money Contribution”** will be defined by the ~~Portland Elections~~ Commission and the definition will be published in administrative rules.

~~Z.~~ **~~“Special Nominating Election”~~** means a Nominating Election for a Covered Office held on any date other than the biennial primary election date when the Primary Election for that office would normally be held pursuant to City Charter Section 3-102.

~~AA.~~ **~~“Special Nominating Election Period”~~** means the period beginning on the day a vacancy exists or a Notice of Intent to resign from office is filed with the Auditor and ending the day of the Special Nominating Election.

~~BB.~~ **~~“Special Runoff Election”~~** means a runoff election for a Covered Office held on any date other than the biennial general election date when the General Election for that office would normally be held pursuant to City Charter Section 3-103.

~~CC.~~ **~~“Special Runoff Election Period”~~** means the period beginning on the day after the Special Nominating Election and ending the day of the Special Runoff Election.

2.16.020 Small Donor Elections Fund Established.

A. The Small Donor Elections Fund is established, separate from the ~~G~~general ~~F~~fund. All monies described in Subsection 2.16.020 E. ~~shall~~will be paid and credited to the Fund. Monies in the Fund ~~shall~~will be invested in the same manner as other City monies, and any interest earned ~~shall~~will be credited to the Fund.

B. The Director ~~shall~~will keep a record of all monies deposited into the Fund and the activity or program against which any withdrawal is charged.

C. If monies credited to the Fund are withdrawn, transferred, or otherwise used for purposes other than the program or activity for which the Fund is established, interest ~~shall~~will accrue on the amount withdrawn from the date of withdrawal and until the monies are restored.

D. Monies in the Fund ~~shall~~will provide, and are continuously appropriated for, ~~the~~ financing of election campaigns of ~~C~~certified ~~C~~candidates for nomination or election to City ~~O~~office, and ~~the~~ paying ~~payment~~ of administrative, enforcement, and other expenses ~~incurred~~of the Director in carrying out the Director's functions and

duties under this Chapter. The ~~Portland Elections~~ Commission may approve the use of funds of no more than \$10,000 per ~~Election Cycle~~ for increasing accessibility of debates and forums, provided that the funds are available and that the City ~~M~~atching ~~F~~unds are not reduced for any ~~C~~ertified ~~C~~andidate.

E. The following will be deposited in the Fund:

1. All amounts appropriated to it by the City Council. The annual impact of the appropriation on the City general fund is limited to two-tenths of one percent of the general fund without raising any new taxes or fees;
2. Any funds returned to the Fund;
3. All interest earned on money in the Fund;
4. Civil penalties and other monies collected under Sections 2.16.160 and .170; and
5. Voluntary donations made directly to the Fund.

2.16.030 Administrative Rules, ~~Director's~~Commission's Duties and Authority.

A. The Commission may adopt, amend, and repeal administrative rules relating to matters within the scope of this Chapter, subject to City Attorney review and approval for compliance with City Code and other relevant regulations. The authority to adopt, amend, and repeal such administrative rules will remain in effect until a City Administrator is hired, at which point the City Administrator will have the authority to adopt, amend, and repeal administrative rules or delegate such authority to a bureau director.

1. Before adopting, amending, or repealing a rule, the Commission must notify interested parties and hold a public comment period. Such notice, which may be provided by mail or electronic means, such as posting on the Commission's website, must be published at least 4 weeks before the close of the public comment period. The notice must include instructions on how an interested party may comment on the proposed rule, a brief description of the subjects covered by the proposed rule, and how to access the full text of the proposed rule.
2. During the public comment period, the Commission will receive written comments concerning the proposed rule. At the conclusion of the public comment period, the Commission will either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received. If the Commission makes a substantial modification, it will hold an additional public comment period. Unless otherwise stated, all rules are effective upon adoption by the Commission. All rules adopted by the Commission will be filed with the Commission and the City Auditor's Office. Copies of all

current rules will be posted on the Commission's website and included on the Auditor's website under the Portland Policy Documents.

3. Notwithstanding Subsections 1. and 2. above, the Commission may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not more than 180 calendar days. The Commission may extend the interim rule past the 180 calendar days for good cause, as determined in the Commission's sole discretion.

B. The rules proposed by the ~~Director~~Commission must specify:

- A1. How and when information about and documentation for contributions and expenditures must be submitted to the Director;
- B2. The process for applying for certification;
- C3. Other policies necessary to implement this Chapter, including but not limited to:
- 1a. Reporting requirements for ~~P~~participating and ~~N~~non-~~P~~participating ~~C~~candidates;
- 2b. Additional spending prohibitions;
- 3c. A process by which ~~P~~participating ~~C~~candidates can change which ~~C~~covered ~~O~~office they are running for;
- 4d. Collection of revenues for the ~~Small Donor Elections~~ Fund;
- 5e. Distribution of Fund revenues to ~~C~~certified ~~C~~candidates;
- 6f. Penalty matrix detailing penalties for potential violations of this Chapter;
- 7g. Inspection of reports and documents for compliance with this Chapter; and
- 8h. Investigation and enforcement of alleged violations of this Chapter ~~2.16~~.

2.16.040 Contribution and Expenditure Requirements for Participating and Certified Candidates.

- A. Before accepting any ~~A~~allowable, ~~M~~matchable, ~~S~~seed ~~M~~money or ~~I~~in-~~K~~kind ~~C~~contributions governed by this Chapter, a ~~P~~participating ~~C~~candidate must

establish a ~~C~~candidate's ~~C~~ampaign ~~A~~ccount for the ~~C~~candidate for the purpose of receiving contributions and making expenditures in accordance with this Chapter.

- B.** Before accepting any allowable contribution or matchable contribution governed by this Chapter on which a ~~P~~participating ~~C~~candidate intends to rely for certification under Section 2.16.050 and seek City ~~M~~atching ~~F~~funds, a ~~P~~participating ~~C~~candidate must:
1. File a notice of intent using the form prescribed by the program with the Director before the deadline, which can be no earlier than June 1 the calendar year before the election; and
 2. Attend mandatory training provided by the City. The ~~C~~candidate's treasurer must also attend the training.
- C.** A ~~P~~participating ~~C~~candidate may accept up to \$5,000 total in ~~S~~eed ~~M~~oney ~~C~~ontributions. Certified ~~C~~candidates may not accept ~~S~~eed ~~M~~oney ~~C~~ontributions. The ~~Portland Elections~~ Commission will establish a deadline for accepting ~~S~~eed ~~M~~oney ~~C~~ontributions and the deadline will be published in administrative rules.
- D.** Participating and ~~C~~ertified ~~C~~candidates may accept ~~I~~n-~~K~~kind ~~C~~ontributions in an amount determined by the ~~Portland Elections~~ Commission and published in administrative rules.
- E.** During an ~~E~~lection ~~C~~ycle, ~~P~~participating and ~~C~~ertified ~~C~~candidates may only accept ~~A~~llowable ~~C~~ontributions, ~~M~~atchable ~~C~~ontributions, City ~~M~~atching ~~F~~funds, and ~~S~~eed ~~M~~oney ~~C~~ontributions, and ~~I~~n-~~K~~kind ~~C~~ontributions allowed by this Chapter, and other types of ~~C~~ontributions as determined by the ~~Portland Elections~~ Commission.
- F.** Participating and ~~C~~ertified ~~C~~candidates may not accept ~~A~~llowable ~~C~~ontributions or ~~M~~atchable ~~C~~ontributions from any one individual totaling more than ~~\$250~~\$350 in the ~~Primary Election Period and \$250 in the General Election Period~~ election cycle, except as ~~S~~eed ~~M~~oney ~~C~~ontributions.
- G.** From the date the ~~election cycle~~Primary Election Period begins until filing a ~~N~~notice of ~~I~~ntent, a ~~P~~participating ~~C~~candidate may not collect any contributions other than ~~A~~llowable, ~~S~~eed ~~M~~oney and ~~I~~n-~~K~~kind ~~C~~ontributions allowed by this Chapter and may only make expenditures from such contributions. After filing a notice of intent, participating and certified candidates may not make expenditures from funds other than City ~~M~~atching ~~F~~funds and ~~A~~llowable, ~~M~~atchable ~~C~~ontributions, ~~S~~eed ~~M~~oney or ~~I~~n-~~K~~kind ~~C~~ontributions, as allowed by this Chapter.
- H.** Participating and certified candidates must deposit all ~~A~~llowable ~~C~~ontributions, ~~M~~atchable ~~C~~ontributions, City ~~M~~atching ~~F~~funds, and ~~S~~eed ~~M~~oney

Contributions received into the candidate's campaign account. Participating and certified candidates must deliver to the Director documentation, as specified by administrative rule, for each allowable contribution, matchable contribution, seed money contribution, and in-kind contribution.

- I. A participating or certified candidate may retain a preexisting campaign committee or political activities committee as long as the campaign committee or political activities committee does not accept contributions or make expenditures during the election cycle for which the candidate is seeking a covered office, other than a transfer of seed money contributions to the candidate, consistent with Subsection 2.16.040 C. The ~~Portland Elections~~ Commission will determine whether preexisting committees may make certain transactions not related to promoting the candidate in the current election cycle, and its determination will be published in administrative rules.
- J. The ~~Portland Elections~~ Commission will determine how loans are repaid and its determination will be published in administrative rules.
- K. The ~~Portland Elections~~ Commission will set total contributions limits, if any, and these limits will be published in administrative rules.
- L. The ~~Portland Elections~~ Commission may set the amount of loans or debt a campaign may accept.

2.16.050 Requirements for Certification.

- A. In addition to the requirements of Section 2.16.040 and the limitations in Section 2.16.120, to qualify as a certified candidate:
 - 1. After filing a notice of intent, a candidate for Mayor must collect an aggregate total determined by the ~~Portland Elections~~ Commission, if any, from at least 750 matchable donors.
 - 2. After filing a notice of intent, a candidate for ~~Councilor~~Commissioner or Auditor must collect an aggregate total determined by the ~~Portland Elections~~ Commission, if any, from at least 250 matchable donors.

The ~~Portland Elections~~ Commission may establish additional requirements for certification relating to the contributions collected from matchable donors and filing methods, and any such requirements will be published in administrative rules.
- B. The Director may change the number of contributions required to be eligible as a certified candidate in an special election held on any date other than the biennial election date through January 1, 2025.
- C. A participating candidate must apply to the Director for certification by the application deadline, which ~~shall~~will be no later than the candidate filing deadline.

2.16.060 Director Determination.

- A. The Director must certify a ~~P~~participating ~~C~~candidate if the Director finds that the ~~C~~candidate has met the requirements of Sections 2.16.040, .050 and .120, the ~~C~~candidate has received the required ~~M~~matchable ~~C~~contributions from the required number of ~~M~~matchable ~~D~~donors for the office and the ~~C~~candidate has submitted all information required by this Code or by administrative rule, and the ~~C~~candidate has not violated any requirements in the administrative rules, which could result in denial of certification or decertification.
- B. Before certification, the ~~P~~participating ~~C~~candidate must submit a certification application on the form prescribed by the program to the Director, along with other information as may be required by administrative rule.
- C. The Director must make a certification determination no later than 10 business days after receiving the required information and application from the ~~P~~participating ~~C~~candidate~~-. The Director may take an additional 10 business days to make a certification determination, provided the ~~P~~participating ~~C~~candidate is given notice by the Director that additional time is needed.~~
- D. A candidate may submit one application for certification for any election. However, the Director may consider a second application from the candidate if the first application was denied, provided that the initial application was not denied for having submitted falsified documents or fraudulent information to the program.
- E. If the Director certifies a ~~C~~candidate, the Director will authorize an initial disbursement of a City ~~M~~matching ~~F~~funds to the ~~C~~candidate's ~~C~~campaign ~~A~~account.

2.16.070 Distribution of City Matching Funds.

- A. City ~~M~~matching ~~F~~funds from the Fund will be distributed only in a ~~C~~contested ~~E~~election. The Director must distribute City ~~M~~matching ~~F~~funds from the Fund to each ~~C~~certified ~~C~~candidate in a ~~C~~contested ~~E~~election as follows:
 - 1. For a ~~C~~certified ~~C~~candidate for a ~~C~~covered ~~O~~office the City ~~M~~matching ~~F~~funds will be distributed according to a formula and system established by the ~~Portland Elections~~ Commission and published in administrative rules.
 - 2. The total City ~~M~~matching ~~F~~funds payable to a ~~C~~certified ~~C~~candidate for an ~~a Primary Election or Special Nominating Election~~election cycle may not exceed:
 - a. \$750,000 ~~\$300,000~~ for a ~~C~~candidate for Mayor;
 - b. and \$200,000 ~~\$100,000~~ for a ~~C~~candidate for ~~Commissioner or Auditor;~~ and

c. for a candidate for Councilor:

- (1) \$100,000 for a candidate who has collected at least \$5 from at least 250 matchable donors;
- (2) an additional \$100,000, for a total of \$200,000, for a candidate who has met the collection threshold in Subsection 2.16.070 A.2.c.(1) and collected at least \$5 from at least 500 new matchable donors; and
- (3) a final \$100,000, for a total of \$300,000, for a candidate who has met the collection threshold in Subsection 2.16.070 A.2.c.(2) and collected at least \$5 from at least 500 new matchable donors.

~~The total City Matching Funds payable to a Certified Candidate for a General Election or Special Runoff Election may not exceed \$450,000 for a Candidate for Mayor and \$240,000 for a Candidate for Commissioner or Auditor.~~

- B.** The Director must not distribute City ~~M~~atching ~~F~~unds from the Fund to a ~~C~~ertified ~~C~~andidate for:
1. Seed money ~~C~~ontributions;
 2. In-kind ~~C~~ontributions;
 3. Matchable ~~C~~ontributions from ~~M~~atchable ~~D~~onors made before the candidate files a ~~N~~otice of ~~I~~ntent;
 4. Allowable ~~C~~ontributions; or
 5. The ~~Portland Elections~~ Commission may determine how to distribute public funds when ~~C~~ontributions to more than one ~~C~~andidate running for the same seat is made by a ~~M~~atchable ~~D~~onor. This determination will be published in administrative rules.
- C.** City ~~M~~atching ~~F~~unds will be distributed on a schedule determined by the ~~Portland Elections~~ Commission. The schedule will be published in administrative rules.
- D.** ~~Matchable contributions from Matchable Donors collected 10 or fewer calendar days prior to a Primary Election or Special Nominating Election will only be eligible for City Matching Funds for the General Election or Special Runoff Election if the candidate qualifies for the General Election or Special Runoff Election, as provided in Subsection 2.16.070 E.~~ Matchable contributions collected 10 or fewer calendar days prior to an General Election or Special Runoff Election will not be eligible for City ~~M~~atching ~~F~~unds.

~~E. Certified Candidates in the Primary Election or Special Nominating Election who are nominated to the General Election or Special Runoff Election ballot in the same Election Cycle are eligible for City Matching Funds as provided in this Section.~~

~~1. Certified Candidates who reasonably expect to qualify for the General Election or Special Runoff Election ballot may begin collecting Allowable or Matchable Contributions for the General Election or Special Runoff Election 10 calendar days prior to the Primary Election or Special Nominating Election.~~

~~2. After certification of the results of the primary or special nominating election, a certified candidate who qualifies for the general or special runoff ballot may use unspent funds in their publicly funded campaign account and seek public contribution matching for allowable contributions collected from matchable donors beginning 10 calendar days prior to the primary or special nominating election.~~

2.16.080 Use of Contributions.

A. A ~~P~~participating or ~~C~~ertified ~~C~~candidate may only use funds in the ~~C~~candidate's ~~C~~ampaign ~~A~~ccount for direct allowed campaign purposes related to the ~~C~~candidate's campaign for nomination or election to the ~~C~~overed ~~O~~ffice for which they are eligible to be or have qualified as a ~~C~~candidate. Guidelines regarding direct allowed campaign ~~E~~xpenditures may be established by administrative rule.

B. Candidates in ~~special~~ elections held on any date other than the biennial election date through January 1, 2025, may use any funds other than City ~~M~~atching ~~F~~unds to settle campaign expenses from a prior campaign during the first 45 calendar days of ~~that~~the Special Nominating Election Cycle.

C. City ~~M~~atching ~~F~~unds distributed to a ~~P~~participating ~~C~~candidate may not be:

1. Used to make any ~~E~~xpenditures prohibited by ORS Chapter 260 and Oregon Administrative Rules;
2. Contributed to, or for the purpose of supporting or opposing, any other ~~C~~candidate, political committee or measure;
3. Used to make independent expenditures supporting or opposing any ~~C~~candidate, political committee or measure;
4. Used in connection with the nomination or election of a ~~P~~participating ~~C~~candidate to any office or at any election other than the office or election for which the ~~C~~ontributions were given;

5. Used to pay any loans, debts, fines or penalties, except for penalties permitted or required by administrative rule to be paid from the ~~C~~candidate's ~~C~~campaign ~~A~~account;
 6. Used to pay for consulting services to an individual, unless the individual is providing bona fide services to the ~~C~~candidate and is compensated no more than fair market value;
 7. Used for out of state travel except as permitted by the ~~Portland Elections~~ Commission and published in administrative rules;
 8. Used for certain vehicle-related expenses, as determined by the ~~Portland Elections~~ Commission and published in administrative rules;
 9. Attorney, accountant and other professional service fees in conjunction with appealing penalties or decertification, unless permitted by the ~~Portland Elections~~ Commission and published in administrative rules;
 10. Used for salary or payment, other than reimbursable expenses, to a family member;
 11. Used for gifts, not including campaign brochures, buttons, signs or other printed campaign material;
 12. Used to make payments in cash; or
 13. Used in a manner inconsistent with administrative rules.
- D. Public contributions may not be used for penalties or election night and post-election parties, unless permitted by the ~~Portland Elections~~ Commission and published in administrative rules; however, allowable contributions, seed money and in-kind contributions may be used for such events.
- E. Contributions to civic and non-profit organizations are permitted as determined by the ~~Portland Elections~~ Commission and published in administrative rules.
- F. A complaint alleging an impermissible receipt or use of funds by a ~~P~~participating ~~C~~candidate must be filed with the Director on the form prescribed by the program. Complaints ~~shall~~will be handled in accordance with a process defined in administrative rules.
- G. A ~~P~~participating ~~C~~candidate must provide the Director with reasonable access to the financial records of the ~~C~~candidate's ~~C~~campaign ~~A~~account, upon request.

2.16.090 Adequate Funds.

- A. If either the Director or the Portland Elections Commission determines that the amount deposited in the Fund will be insufficient at any point during the ~~E~~election

cycle, the Director ~~shall~~will request the additional amount the Director or the Commission estimates will be necessary from the City Council, subject to the annual appropriation limit detailed in Section 2.16.020.

- B. If the total amount available for distribution in the Fund is insufficient to meet the allocations required by this Chapter, the ~~Director~~Commission must reduce City ~~M~~matching ~~F~~funds to a certified candidate by the same percentage of the total City ~~M~~matching ~~F~~funds or the total City ~~M~~matching ~~F~~funds cap. The ~~Portland Elections Commission~~ may determine ~~whether the Director may~~to reduce the match rate or City ~~M~~matching ~~F~~funds cap in different amounts for different ~~C~~covered ~~O~~offices in order to minimize the impact of the reduction on ~~P~~participating ~~C~~candidates who are facing ~~N~~non-~~P~~participating ~~C~~candidates.
- C. If the match rate or the City ~~M~~matching ~~F~~funds cap is reduced, the ~~Director~~Commission may increase the amount each donor may give each ~~C~~candidate each election cycle in the primary election, general election, special nominating election, or special runoff election from ~~\$250~~\$350 to up to \$500.

2.16.100 Return of City Matching Funds.

- ~~A. Within 15 calendar days after the results of the primary election or special nominating election are certified, a Certified Candidate who is elected or is not certified to be on the ballot for the general election or special runoff election must return unspent money in the Candidate's Campaign Account to the Fund in proportion to the percentage of public to private contributions collected by the Candidate, excluding In-Kind Contributions.~~
- ~~B. Within 15 calendar days after the results of the general election or special runoff election are certified, all Pparticipating Ccandidates must return unspent money in the Ccandidates' Ccampaign Aaccounts to the Fund in proportion to the percentage of public to private contributions collected by the Ccandidate, excluding In-Kind Ccontributions.~~

2.16.110 Withdrawal.

- A. A ~~P~~participating ~~C~~candidate may withdraw an application for City ~~M~~matching ~~F~~funds any time before the City ~~M~~matching ~~F~~funds are received by the ~~C~~candidate's ~~C~~campaign ~~A~~account.
- B. A ~~C~~certified ~~C~~candidate may withdraw from participation if the ~~C~~candidate:
 - 1. Files a statement of withdrawal with the Director on the form prescribed by the program; and
 - 2. Repays to the Fund any remaining funds in their account up to the full amount of the City ~~M~~matching ~~F~~funds received.

2.16.120 Participating and Certified Candidate Restrictions.

A ~~P~~articipating or ~~C~~ertified ~~C~~andidate must not:

- A. Accept a ~~C~~ontribution, other than ~~A~~allowable ~~C~~ontributions, ~~S~~eed ~~M~~oney or ~~I~~n-~~K~~ind ~~C~~ontributions as permitted by this Chapter, from any group or organization, including a political action committee, a corporation, a labor organization, or a State or local central committee of a political party;
- B. Accept one or more contributions from an individual totaling more than ~~\$350~~~~\$250~~ during the ~~election cycle~~~~Primary Election or Special Nominating Election Period~~ and ~~\$250 during the General Election or Special Runoff Election Period~~, other than ~~S~~eed ~~M~~oney or ~~I~~n-~~K~~ind ~~C~~ontributions as permitted by this Chapter;
- C. Make an allowable contribution from the candidate's personal funds to the candidate's principal campaign committee, except as permitted by the ~~Portland Elections~~ Commission and published in administrative rules.
- D. Accept ~~S~~eed ~~M~~oney or ~~I~~n-~~K~~ind ~~C~~ontributions in excess of the amounts established in Section 2.16.040.
- E. Expend funds to benefit or advocate for another ~~C~~andidate;
- F. Accept a loan from anyone for campaign purposes, other than a loan from the candidate or candidate's spouse within seed money limitations or a loan permitted by the ~~Portland Elections~~ Commission and published in administrative rules; or
- G. Transfer funds:
 - 1. To the ~~C~~andidate's ~~C~~ampaign ~~A~~ccount from any other ~~C~~ampaign ~~F~~inance ~~E~~ntity established for the candidate, except as permitted by the ~~Portland Elections~~ Commission and published in administrative rules; and
 - 2. From the ~~C~~andidate's ~~C~~ampaign ~~A~~ccount to any other ~~C~~ampaign ~~F~~inance ~~E~~ntity, except as permitted by the ~~Portland Elections~~ Commission and published in administrative rules.
- H. Solicit for or direct contributions to other ~~C~~ampaign ~~F~~inance ~~E~~ntities to support their own election.

2.16.130 Portland Elections Commission.

- A. **Duties.** The ~~Portland Elections~~ Commission is hereby created. The Commission ~~shall~~will:
 - 1. ~~Provide assistance to~~Assist the Director and Council in ~~the development~~and implementation of the ~~Small Donor Elections Fund~~. The Commission may ~~make recommendations to the Director regarding~~approve administrative rules necessary to the effective administration of the code as set forth in Section 2.16.030, until a City Administrator is hired, after which

point the Commission may make recommendations to the Director regarding such administrative rules.

2. ~~Make adjustments to~~Adjust matching ratios, ~~adjustments to~~ and contribution limits and ~~other~~modify regulations to improve operation of public campaign finance, ~~if necessary to improve the program's ability to~~and achieve program goals.
3. ~~At the request of the Director a~~Advise the Director on administrative judgments, recommended policy changes, administrative rule development, and operation of the ~~Small Donor Elections~~ Fund.
4. ~~Recommend to the Director for appointment~~ hearings officers or an entity to the Director for appointment to review cases and make determinations under Sections 2.16.160 and 2.16.170.
5. Adopt such operating policies and procedures as necessary to carry out its duties.
6. Prepare and submit to the Council a biennial report which ~~shall~~will contain an overview and evaluation of the ~~Small Donor Elections~~ Fund during the previous election period.

B. Membership. The ~~Portland Elections~~ Commission ~~shall~~will consist of nine members who have demonstrated an interest in campaign finance funding and, insofar as possible, represent diverse interests and diverse communities. The Director ~~shall~~will solicit applications from the general public in order to recommend nominees to Council for appointment. Any member of the Council may make nominations to the ~~Portland Elections~~ Commission.

C. Appointments and Terms.

1. ~~Portland Elections~~ Commission members ~~shall~~will be appointed by Council and serve 4 year terms starting May 1 of odd-numbered years, except that the initial appointments ~~shall~~will be as follows.
 - a. Four of the initial appointees will serve terms from January 1, 2019 to April 30, 2021; and
 - b. Five of the initial appointees will serve terms from January 1, 2019 to April 30, 2023.
2. Members of the Commission are limited to a maximum of two full terms, except that members serving an initial term of less than 4 years may serve two subsequent 4 year terms. If a position is vacated during a term, it ~~shall~~will be filled for the unexpired term. Council may replace any member of the Commission for due cause, including but not limited to malfeasance, incapacity, conflict of interest or neglect of duties.

D. Meetings, Officers and Subcommittees.

1. The ~~Portland Elections~~ Commission ~~shall~~will meet at least four times per year and may meet more often as otherwise necessary to conduct its business. Meetings ~~shall~~will be conducted in accordance with rules of procedure adopted by the Commission. Five members ~~shall~~will constitute a quorum. A quorum ~~shall~~will be necessary to make decisions that represent the position of the Commission and to conduct any other Commission responsibilities. The election of officers ~~shall~~will take place at the first meeting of each calendar year.
2. The officers of the Commission ~~shall~~will consist of a chairperson and a vice-chairperson. The chairperson ~~shall~~will be responsible for conducting the meetings of the committee. The vice-chairperson ~~shall~~will 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 ~~Portland Elections~~ Commission are expected to attend each meeting of the Commission. Council may replace any member who accrues unexcused absences from three or more consecutive meetings or more than 50 percent of the meetings in any year.

F. Compensation. ~~Portland Elections~~ Commission members ~~shall~~will serve without compensation.

2.16.140 Additional Reporting.

- A. All candidates and political committees, including ~~Non-Participating~~ ~~C~~candidates, must report ~~C~~contribution and ~~E~~xpenditure transactions electronically in the ORESTAR unless the ~~C~~candidate is not required to create a candidate committee, because ~~C~~ontributions and ~~E~~xpenditures remain under the state law threshold ~~provided by state law~~.
- B. Participating and ~~C~~ertified ~~C~~candidates must file additional ~~C~~ontribution and ~~E~~xpenditure reports to the Director as the Director deems necessary to make certification and City ~~M~~atching ~~F~~funds decisions in a timely manner, as established by administrative rule. For the purposes of ~~Subsection 2.16.140-B~~, the Director is the City's election officer.
- C. Participating ~~C~~candidates ~~shall~~must report ~~C~~ontribution and ~~E~~xpenditure transactions to the Director using the same timeline the candidates are required to report their ~~C~~ontributions and ~~E~~xpenditures to the Oregon Secretary of State's office. ~~Non-Participating~~ ~~C~~candidates ~~shall~~must report ~~C~~ontribution and ~~E~~xpenditure transactions to the Director using the timeline and in a manner prescribed by administrative rule.

2.16.150 Removal of Certain Contribution Limits.

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

- A. Exceed the total contribution amounts in Subsection 2.16.040 K. or L. for the election ~~cycle~~period in which the non-participating candidate exceeds those amounts; and
- B. Accept up to \$500 in aggregate in allowable contributions from an individual during the relevant election ~~cycle~~period, notwithstanding the ~~\$350~~\$250 limit in Subsections 2.16.010 A., 2.16.040 F. and 2.16.120 B.

2.16.160 Penalties, Revocation of Certification and Repayment of Funds.

A. Civil Penalties.

- 1. The ~~Director~~Commission ~~shall~~will establish in administrative rules a timeline by which ~~C~~candidates may cure failures to comply with this Chapter.
- 2. The Director may impose a civil penalty as provided in this Section, in addition to any other remedies that are provided by this Code or other law, for:
 - a. Uncured violation of any provision of this ~~e~~Chapter by a ~~P~~participating or C~~ertified~~ ~~C~~andidate; or
 - b. Failure to timely file a ~~P~~participating or N~~on-P~~articipating ~~C~~andidate report or to include information required by Section 2.16.140.
- 3. The City may establish a penalty matrix by administrative rule detailing civil penalties for potential violations of this ~~e~~Chapter. A civil penalty imposed under this ~~s~~Section ~~shall~~will not exceed \$10,000 for any violation except as otherwise provided in this Section or as permitted by the ~~Portland Elections~~ Commission and published in administrative rules. Limits on penalties imposed under this Section do not include interest. Penalties are subject to interest at a rate determined by the ~~Portland Elections~~ Commission and published in administrative rules.
- 4. The Director ~~shall~~will send a notice of proposed penalty to any ~~C~~andidate, person or political committee against whom the Director is imposing a civil penalty.

- a. The notice ~~shall~~will describe the proposed penalty and outline the procedures for requesting a penalty hearing.
 - b. The notice ~~shall~~will be sent by both certified and regular mail.
 - c. If a penalty hearing is not requested, the proposed penalty ~~shall~~will become final on the date specified in the notice, which date ~~shall~~will be the first day following the last day to file a request for a hearing.
5. If a civil penalty has been imposed under this Section against a ~~C~~candidate or the principal campaign committee of a ~~C~~candidate, the ~~C~~candidate ~~shall~~will be personally liable for the amount to be paid under this Section.
 6. 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~~will be jointly and severally liable for any amount to be paid under this Section.
 7. Penalties may be paid from any private source and must be reported as an ~~in-kind~~ ~~C~~contribution unless paid by the ~~C~~candidate or the ~~C~~candidate's ~~C~~campaign ~~A~~account. A penalty may not be paid from a ~~C~~candidate's ~~C~~campaign ~~A~~account unless permitted by the administrative rules. Penalties for violating reporting requirements may be paid in excess of contribution limits in this Chapter only if paid by the ~~C~~candidate's treasurer.
 8. 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.
 9. Penalties imposed under this Section are subject to interest at a rate set by the ~~Portland Elections~~ Commission and published in administrative rules.
 10. All moneys received under this Section for violations of any provision of this Chapter ~~shall~~will be paid and credited to the Fund.
 11. At the request of the Director, the City Attorney may seek civil penalties and enforcement of any provision of this Chapter, in addition to any other remedies provided by this Code or other law, in Circuit Court or other appropriate venue.

B. Denial and Revocation of Certification.

1. The Director may deny or revoke certification of a ~~P~~participating or ~~C~~certified ~~C~~candidate for violation of this Chapter. Which violations are subject to denial or revocation of certification ~~shall~~will be determined by the ~~Portland Elections~~ Commission and published in administrative rules. A candidate whose certification was denied or revoked ~~shall~~will not be eligible to receive City ~~M~~atching ~~F~~unds from the Fund during the

~~election cycle~~Primary and General Election Periods, or Special Nominating and Special Runoff Election Period during which the denial or revocation of certification took place.

2. If it is determined that a participating candidate violated any other provision of this Chapter during the ~~election cycle~~primary election period or after certification, the Director has the authority to revoke the candidate's certification. The ~~Portland Elections~~Commission may determine a cure period for violations and this determination will be published in administrative rules.

C. Repayment of Funds.

1. A ~~P~~participating ~~C~~candidate against whom a civil penalty has been imposed for violation of Section 2.16.080 ~~shall~~will return to the Director an amount of money equal to all revenues distributed to the ~~C~~candidate from the Fund after the date the ~~C~~candidate was certified, plus interest on the total amount of revenues received at a rate set by the ~~Portland Elections~~Commission, if any.
2. The Director ~~shall~~will seek immediate recovery of City ~~M~~matching ~~F~~funds for any violation of this Chapter.

2.16.170 Hearings.

- A. Purpose. The purpose of this Section is to provide persons or political committees adversely affected by administrative determinations made under this Chapter with a timely, effective, and impartial appeal and review of the determination by a Hearings Officer or entity, to be recommended by the ~~Portland Elections~~Commission and appointed by the Director.
- B. The Director may contract with an entity, including but not limited to a vendor or a government body, to conduct hearings on behalf of the ~~P~~program.
- C. The Hearings Officer or entity conducting hearings may delay a hearing to 21 business days after the request for the hearing is filed or 3 weeks prior to the relevant election, whichever is sooner.
- D. Types of Hearings.
 1. Certification Hearings. A ~~C~~candidate who has received a determination denying certification or an opponent of a candidate who has been granted certification may challenge a certification decision with a written request for reconsideration as outlined in Subsection 2.16.170 F. and, if still dissatisfied, a written request for a hearing as outlined in Subsection 2.16.170 E.

2. Matching Fund Hearings. A ~~C~~andidate who has received a determination granting or denying City ~~M~~atching ~~F~~unds or an opponent of a ~~C~~andidate who has been granted City ~~M~~atching ~~F~~unds may challenge the City ~~M~~atching ~~F~~unds decision by filing a written request for reconsideration as outlined in Subsection 2.16.170 F. and, if still dissatisfied, a written request for a hearing as outlined in Subsection 2.16.170 E.
3. Penalty Hearings. A ~~C~~andidate, person or political committee who has received a notice of proposed penalty from the Director may challenge the proposed penalty by filing a written request for reconsideration as outlined in Subsection 2.16.170 F. and, if still dissatisfied, a written request for a hearing as outlined in Subsection 2.16.170 E.

E. Requests for Hearings.

1. The written request for a hearing ~~shall~~must be filed not later than:
 - a. 7 calendar days after the mailing of the certification reconsideration decision;~~or~~
 - b. 7 calendar days after the mailing of the proposed penalty reconsideration decision;~~or~~ or
 - c. 7 calendar days after the mailing of the notification of the matching reconsideration decision:
 - (1) For an opponent of the ~~C~~andidate who requested the ~~-City~~ ~~M~~atching ~~F~~unds, 7 calendar days after the mailing of the notification of the reconsideration decision.
 - (2) For an opponent of the ~~C~~andidate who requested the ~~-City~~ ~~M~~atching ~~F~~unds, 7 calendar days after the mailing information about the matching determination from the Director, which will be provided upon request.
2. The request ~~shall~~must be filed pursuant to forms and procedures published on the ~~P~~rogram website. The written request ~~shall~~must contain either a copy of, or a full and complete description of, the decision or determination appealed and a statement of grounds upon which it is contended that the decision or determination is invalid, unauthorized, or otherwise improper, together with such other information as the Director may require by rule.
3. No person or political committee other than those described in Subsection 2.16.170 D. may be a party to any hearing conducted under this Section.

F. Request for reconsideration.

1. The written request for reconsideration must be filed with the Director not

later than:

- a. For certification determination, within 7 calendar days after the date of determination by the Director.
- b. For a proposed penalty, within 7 calendar days after the date the Director imposes the penalty.
- c. For a matching determination,
 - (1) For the ~~C~~andidate who requested the ~~City M~~atching ~~F~~unds, within 7 calendar days of the determination by the Director.
 - (2) For the opponent of the ~~C~~andidate who requested the City ~~M~~atching ~~F~~unds or a member of the public, within 7 calendar days after the date of the determination, which is available upon written request filed with the Director.
- d. The Director must provide a final response to the request for reconsideration within 10 business days of receiving the request.

G. Conduct of Hearings.

- 1. As provided in Section 2.16.130, the ~~Portland Elections Commission~~ shall will recommend to the Director for appointment a panel of hearings officers, or an outside entity to perform the hearings function, to review cases and make determinations under this Section.
- 2. The Director shall will designate and appoint hearings officers or an entity, including but not limited to a vendor or another government body, based upon the recommendations of the ~~Portland Elections Commission~~.
- 3. Written requests for hearings ~~shall must~~ be filed within the deadlines established in Subsection 2.16.170 E. A hearing must be held within the timelines established in Subsection 2.16.170 C.
- 4. The date set for hearings under this Section shall will be:
 - a. Not later than 7 calendar days after the request for a certification or City ~~M~~atching ~~F~~unds hearing is filed as outlined in Subsections 2.16.170 E.; or
 - b. Not more than 14 calendar days after the request for a penalty hearing is filed as outlined in Subsection 2.16.170 E.
- 5. Notice.

a. In the case of certification hearings requested under Subsection 2.16.170 E.:

- (1) Notice of receipt of a request for a hearing, together with a copy of the request, ~~shall~~will be given to all other candidates for the same office. The notice ~~shall~~will be sent not later than one business day after the request is filed.
- (2) Notice of the hearing, together with a copy of the request for a hearing, ~~shall~~will be given to the ~~P~~person who requested the hearing and all other candidates for the same office. The notice ~~shall~~will be sent not later than one business day after the date is set for the hearing. The notice ~~shall~~will specify the time, date, and place set for the hearing.
- (3) The notices required in Subsections 2.16.170 G.5.a.(1) and (2) may be combined.

b. In the case of penalty hearings requested under Subsection 2.16.170 E.1.b., notice ~~shall~~will be given of the hearing to the person or political committee who requested the hearing. The notice ~~shall~~will be sent not later than one business day after the date is set for the hearing under Subsection 2.16.170 C. The notice ~~shall~~will specify the time, date, and place set for the hearing.

c. Notices may be given by any method or combination of methods which, under the circumstances, is reasonably likely to apprise the parties of the hearing. Notice may be given by United States mail, phone, e-mail or other method authorized by rule. If notice is given by mail, such notice ~~shall~~will be deemed given and received 3 calendar days (Sundays and holidays not included) after the notice is deposited in the United States mail. The failure of any ~~P~~person to receive actual notice of the proceeding ~~shall~~will not invalidate the hearing or any determination, decision, or order of the hearings officer.

6. The hearings ~~shall~~will be conducted in accordance with the provisions of Chapter 22.10, except as otherwise provided in this Section.

H. Order of the Hearings Officer.

1. The hearings officer ~~shall~~will issue an order not later than 5 business days after a certification City ~~M~~matching ~~F~~unds 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 City ~~M~~atching ~~F~~unds hearing, the hearings officer may uphold or revoke City ~~M~~atching ~~F~~unds, or modify a City ~~M~~atching ~~F~~unds decision by revoking some or all City ~~M~~atching ~~F~~unds or granting additional City ~~M~~atching ~~F~~unds.
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~~will be as provided in Title 22.

I. Return of Funds and Payment of Cost of Hearing.

1. If the certification of a ~~C~~candidate is revoked following a hearing under this Section, the candidate ~~shall~~will return to the Director an amount of money equal to all revenues distributed to the ~~C~~candidate from the ~~Small Donor Elections~~-Fund after the date the candidate was certified the Director may also charge interest on the total amount of revenues received at a rate set by the ~~Portland Elections~~-Commission.
2. If City ~~M~~atching ~~F~~unds is revoked, the ~~C~~candidate ~~shall~~will return to the Director an amount of money equal to the amount of revoked City ~~M~~atching ~~F~~unds distributed to the ~~C~~candidate from the ~~Small Donor Elections~~-Fund, plus interest on the total amount of City ~~M~~atching ~~F~~unds received.
3. If the hearings officer or a court finds that a request for a hearing under this Section was made frivolously or to cause delay or hardship, the hearings officer or the court may require the person who filed the request for a hearing to pay costs of the hearings officer, court and opposing parties, and attorney fees of the opposing parties, if any.

2.16.180 Implementation.

This Chapter applies to elections after November 1, 2019.

2.16.190 Program ~~Management~~ Oversight.

- A. ~~The Commissioner of Public Utilities shall provide oversight to the Small Donor Elections Program until December 31, 2022. The City Council will, by a 3/5 majority vote, appoint the Director. The Director may be terminated for cause by a 4/5 majority vote of the City Council. The authority of the City Council to hire and terminate the Director will remain in effect until a City Administrator is hired, at which point the City Administrator will provide program oversight and have the authority to hire and terminate the Director.~~

B. Elected officials, including their staff and the City Administrator, may not:

- 1.** Interfere with or exert influence over program determinations including certification, match eligibility, investigations, and penalties.
- 2.** Share program information with a campaign, unless the information has previously been released to the campaign or the public.

C. Nothing in this Section prevents the City Elections Officer from referring matters to the program for investigation or communicating with the program about a matter also under investigation by the City Elections Office.