



**Independent Expenditures:**  
Supplemental Report of the  
Citizen Campaign Commission  
to the City Council  
and Citizens of Portland

February 15, 2008

*Includes corrected scenarios (February 26, 2008)*



# Summary

Portland City Council directed the Citizen Campaign Commission to undertake a detailed review of independent expenditures and produce a proposal for revisions to the City Code related to public campaign financing.

Portland's Campaign Finance Fund is intended to reduce the impact of large special interest dollars on the campaigns for City offices. However, independent expenditures by special interests are occurring more frequently in national and state campaigns, and the Commission anticipates that City races could be affected in the future.

Portland's public campaign finance system is intended to "level the playing field" for candidates and provide a means to adjust spending levels through matching funds. However, the current code does not address independent expenditures on behalf of candidates who participate in public campaign financing.

The Commission researched other campaign finance systems for guidance in addressing independent expenditures. In addition, the Auditor and Commission developed and analyzed 14 different scenarios of independent expenditures as a means of crafting a more comprehensive set of rules.

The scenarios, proposed City Code revisions, and additional recommendations are included in this report. The Commission recommends that City Council review and adopt the proposed changes to the code regarding independent expenditures before the campaign season gets fully underway.

### **City Council Direction**

The Citizen Campaign Commission presented its first Biennial Report to City Council in May 2007. During discussions of that report, City Council members raised questions about independent expenditures and adjustments to the threshold for non-participating candidates.

City Council directed the CCC to review current City Code regarding those two topics in order to address various situations that could occur in the course of the coming campaign season. This report was prepared in response to that directive.

### **Background**

Portland's Campaign Finance Fund is intended to reduce the impact of large special interest dollars on the campaigns for City offices. Because of Oregon's Constitution, there are no limits on political contributions in the state, which makes it even more difficult to devise an equitable system of public campaign financing. Independent expenditures by special interests are occurring more frequently in the national and state campaigns, and the Commission anticipates that City races could be affected in the future.

Portland has been successful in reducing campaign spending while attracting new candidates for City offices with its Campaign Finance Fund. Even non-participating candidates have been willing to limit their spending to the levels provided by the Fund (e.g. \$150,000 for a commissioner primary race). Portland's system is intended to "level the playing field" for candidates and provides a means to adjust spending levels.

Independent expenditures add a complexity to campaign financing that can disrupt this tacit balance among candidates. Additional matching funds are made available to participating candidates if a nonparticipating candidate gathers contributions beyond the funding levels. Matching funds can also be triggered if independent expenditures on behalf of a candidate push total campaign spending for that candidate above the funding levels of participating candidates. Current City Code requires Political Action Committees to register and report expenditures on behalf of City candidates.

Commissioner Saltzman raised the possibility of independent expenditures being used to benefit a participating candidate. In this case the "threshold" for nonparticipating candidate should be raised, allowing contributions to be gathered up to the independent expenditure amount without triggering matching funds. Current City Code does not address this possibility, and a more comprehensive analysis was requested to address other possible inequities that could arise in campaign financing.

### **Citizen Campaign Commission Actions**

The Commission researched other campaign finance systems for guidance in addressing independent expenditures. Specifically, Maine and Arizona laws were reviewed and discussed but they lacked the more comprehensive framework that the Commission was seeking.

In proposing any rule changes, the Commission's goal was to provide an even playing field among participating and non-participating candidates in a variety of plausible independent expenditure scenarios, while assuring that public funds are spent prudently and effectively.

Auditor's Office staff suggested a scenario-based approach to gain an understanding of the Commission's judgment and reasoning about matching funds and threshold adjustments. The Commission reviewed 14 different scenarios that represented situations that might be encountered in a campaign period. These scenarios represent different combinations of participating and non-participating candidates, with differing amounts of candidate and independent expenditures.

Each scenario was discussed and the Commission agreed on the appropriate response, whether it was an authorization of matching funds, an adjustment in the threshold, or a combination. Members of the Commission also agreed that some unusual scenarios may arise that were not anticipated and discussed a method for addressing them in a timely manner.

With those scenarios and Commission responses, the Auditor worked with the City Attorney to draft City Code revisions. The Commission reviewed the code language and made recommendations. In addition, the Commission requested the Auditor prepare a first draft of a report for Council which they edited and adopted.

## Threshold and Matching Scenarios

The following 14 narratives help explain the calculations on the spreadsheet that follows. Several assumptions were added in the course of discussion among members of the Citizen Campaign Commission. Foremost is that equity of campaign financing is not always possible - a generally level playing field is sometimes the best that can be achieved.

Non-Participating Candidates	Participating Candidates
E.M. Heimo (1913 candidate) Walter Snearly (1926 candidate) Seth Nordling (1934 candidate)	A.W. Gust (1936 candidate) Floyd Ramp (1911 candidate)

*Note: Each scenario is a distinct situation.*

1. The Prohibition League spends \$10,000 on billboards against A.W. Gust (p-1), while Walter Snearly (np-1) had limited his fundraising to \$150,000.

Proposal: Make \$10,000 in matching funds available to Gust, if requested.

2. The Silver Society produces and airs \$10,000 worth of radio advertising against A.W. Gust (p-1).

Proposal: Make \$10,000 in matching funds available to Gust, if requested.

3. The Anti-Beef Council prints and distributes \$10,000 worth of mailers supporting A.W. Gust (p-1).

Proposal: Increase Snearly's Increment Threshold to \$160,000.

4. The Kite Society spends \$10,000 on television ads denouncing Walter Snearly (np-1).

Proposal: Increase Snearly's Increment Threshold to \$160,000.

5. The Alder Committee spends \$10,000 for printing and distributing door-hangers in support of Walter Snearly (np-1). A few days later, the Order of the Otter spends \$5,000 on billboards in support of Seth Nordling (np-2).

Proposal: Make \$10,000 in matching funds available to Gust (p-1), if requested, and increase Snearly's and Nordling's Increment Thresholds to \$160,000.

6. The Emerald Guild spends \$10,000 for lawn signs to support A.W. Gust (p-1), while the other two candidates (both non-participating) have stayed at the \$150,000 threshold.

Proposal: Increase Snearly's and Nordling's Increment Thresholds to \$160,000.

7. The Espresso Brigade spends \$7,000 on coffee cup sleeve holders with printed ads supporting A.W. Gust (p-1). The Caldera Forum spends \$20,000 on printing and distributing postcards advocating the election of Walter Snearly (np-1).

Proposal: Increase Snearling's (np-1) and Nordling's (np-2) Increment thresholds to \$170,000; make \$13,000 in matching funds available to A.W. Gust (p-1).

8. The Caldera Forum spends \$20,000 on printing and distributing postcards advocating the election of Walter Snearly (np-1). The Espresso Brigade later spends \$7,000 on coffee cup sleeve holders with printed ads supporting A.W. Gust (p-1). (Same as Scenario 7 except change in sequence of IEs.)

Proposal: Increase Snearly's and Nordling's (np-2) Increment thresholds to \$170,000; make \$20,000 in matching funds available to A.W. Gust.

9. The Willamette Electric Car Society spends \$30,000 on producing and airing a television ad supporting Walter Snearly (np-1). The Columbia Smelters Association spends \$20,000 on a targeted broadcast email in support of Seth Nordling (np-2).

Proposal: Raise the Increment Threshold for Nordling and Snearly to \$180,000; make \$30,000 in matching funds available to both A.W. Gust (p-1) and Floyd Ramp (p-2).

10. The Mahonia League spends \$30,000 in newspaper advertisements against A.W. Gust (p-1). Portlanders for Respect spends \$9,000 in radio advertisements expressly advocating the election of Walter Snearly (np-1).

Proposal: Raise the Increment Threshold of Snearly and Nordling to \$159,000. Make \$39,000 in matching funds available to A.W. Gust; make \$9,000 in matching funds available to Floyd Ramp (p-2).

11. Steel Builders United spends \$20,000 in newspaper advertisements against A.W. Gust (p-1). Gust obtains \$20,000 in matching funds. Subsequently, the Confederation of Aluminum Smelters spends \$12,000 in radio advertisements expressly advocating the election of A.W. Gust (p-1).

Proposal: Raise Increment Thresholds for both Walter Snearly (np-1) and Seth Nordling (np-2) to \$162,000 because only the leading fundraiser and all non-participating candidates within 50% of that amount are eligible for an increase in threshold. E.M. Heimo (np-3), with only \$600 in expenditures, was ineligible for a Threshold increase. Make \$20,000 in matching funds available to A.W. Gust (p-1); make \$12,000 in matching funds available to Floyd Ramp (p-2).

12. The Douglas Fir Freedom Project spends \$20,000 on printing and distribution of a slate mailer supporting 4 candidates for various offices, including one Portland participating candidate: A.W. Gust (p-1).

Proposal: Raise Increment Thresholds to \$155,000 for Walter Snearly (np-1) and Seth Nordling (np-2). Again, E.M. Heimo (np-3), who had only \$600 in expenditures at the time, was ineligible for a Threshold increase. Make \$5,000 in matching funds available to Floyd Ramp(p-2).

13. The Anti-Speed Bump Coalition purchases \$25,000 of bus benches in support of Walter Snearly (np-1). Combined with the \$135,000 he had raised, this independent expenditure brought total campaign spending on his behalf to \$160,000.

Proposal: A.W. Gust (p-1) receives \$10,000 in matching funds and the Increment Threshold is raised to \$160,000 for Seth Nordling (np-2) as well as Walter Snearly.

14. The Red Rhododendron Society spends \$20,000 on radio ads to support Walter Snearly (np-1). About the same time, the White Rose Group spends \$5,000 on billboards for their candidate Seth Nordling (np-2). Matching funds are obtained and increment thresholds are raised. A month later, the Azalea Crowd buys bus benches for A.W. Gust (p-1) totaling \$7,000.

Proposal: A.W. Gust (p-1) receives \$20,000 in matching funds and the Increment Threshold is raised to \$170,000 for Seth Nordling (np-2) as well as Walter Snearly. However, the subsequent \$7,000 on behalf of Gust does not require him to return of \$7,000 of the \$20,000 he already received. Instead, the Increment Threshold is raised to \$177,000, allowing the two non-participating candidates to gather additional contributions to reach equity with the campaign funding on behalf of Gust.

Independent Expenditure Scenarios with proposed actions

Scenario 1	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1			
	IE against P-1 (10,000)	150,000	150,000			
	<b>Net Expenditures Benefitted From</b>	-10,000				
	Matching Funds	150,000	150,000			
		10,000				
				Participating candidate gets funds to match IE spending against him/her.		
Scenario 2	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1			
	IE in favor of NP-1 (10,000)	150,000	150,000			
	<b>Net Expenditures Benefitted From</b>	150,000	160,000			
	Matching Funds	10,000				
				Participating candidate gets funds to match IE money spent to support non-participating candidate.		
Scenario 3	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1			
	IE in favor of P-1 (10,000)	150,000	150,000			
	<b>Net Expenditures Benefitted From</b>	10,000				
	Revised Increment Threshold	160,000				
				Raise non-participating candidate threshold.		
Scenario 4	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1			
	IE against NP-1 (10,000)	150,000	150,000			
	<b>Net Expenditures Benefitted From</b>	-10,000				
	Matching Funds	160,000	150,000			
				Threshold for non-participating is raised by amount spent supporting the participating candidate.		
				Revised Increment Threshold		
				160,000		
Scenario 5	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2		
	IE in favor of NP-1 (10,000)	150,000	150,000	150,000		
	IE in favor of NP-2 (5,000)		10,000			
	<b>Net Expenditures Benefitted From</b>	10,000	5,000			
	Matching Funds	150,000	160,000	155,000		
				Revised Increment Threshold		
				10,000		
				160,000		
				160,000		
				Participating candidate receives funds to match "higher amount" of independent spending over the threshold. NP thresholds are raised by higher amount also.		
Scenario 6	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2		
	IE in favor of P-1 (10,000)	150,000	150,000	150,000		
	<b>Net Expenditures Benefitted From</b>	10,000				
	Matching Funds	160,000	150,000	150,000		
				Revised Increment Threshold		
				160,000		
				160,000		
				Threshold for each non-participating candidate is raised by amount spent supporting the participating candidate.		
Scenario 7	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2		
	IE in favor of P-1 (7,000)	150,000	150,000	150,000		
	IE in favor of NP-1 (20,000)	7,000				
	<b>Net Expenditures Benefitted From</b>	20,000				
	Matching Funds	157,000	170,000	150,000		
				Revised Increment Threshold		
				13,000		
				170,000		
				170,000		
				IE spending that benefits participating candidates will be netted against IE spending that benefits other candidates.		
Scenario 8	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2		
	IE in favor of NP-1 (20,000)	150,000	150,000	150,000		
	IE in favor of P-1 (7,000)	7,000	20,000			
	<b>Net Expenditures Benefitted From</b>	157,000	170,000	150,000		
	Matching Funds	20,000				
				Revised Increment Threshold		
				170,000		
				170,000		
				Timing issue: same as Scenario 7 except change in order - matching funds for participating candidates can't be withdrawn later if IE occurs on their behalf.		
Scenario 9	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Ramp</i> P-2	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2	
	IE in favor of NP-1 (30,000)	150,000	150,000	150,000	150,000	
	IE in favor of NP-2 (20,000)			30,000		
	<b>Net Expenditures Benefitted From</b>			20,000		
	Matching Funds	150,000	150,000	180,000	170,000	
				Revised Increment Threshold		
				30,000		
				30,000		
				180,000		
				180,000		
				Participating candidates receive apportioned funds to match "higher amount" of IE spending over the threshold. Thresholds also increased by higher IE.		
Scenario 10	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Ramp</i> P-2	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2	
	IE against P-1 (30,000)	150,000	150,000	150,000	150,000	
	IE in favor of NP-1 (9,000)	-30,000		9,000		
	<b>Net Expenditures Benefitted From</b>	150,000	150,000	159,000	150,000	
	Matching Funds	39,000	9,000			
				Revised Increment Threshold		
				159,000		
				159,000		
				NP-2 gets threshold increased because of apportioned IE spending, and matching funds are available to participating candidates.		
Scenario 11	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Ramp</i> P-2	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2	<i>Heimo</i> NP-3
	IE against P-1 (20,000)	150,000	150,000	150,000	112,000	600
	IE in favor of P-1 (12,000)	-20,000				
	<b>Net Expenditures Benefitted From</b>	12,000				
	Matching Funds	162,000	150,000	150,000	112,000	600
						Revised Increment Threshold
				20,000	12,000	
				162,000	162,000	162,000
				Threshold increases equally among non-participating candidates regardless of funds raised.		
Scenario 12	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Ramp</i> P-2	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2	<i>Heimo</i> NP-3
	IE in favor of P-1 in slate-of-4 (20,000)	150,000	150,000	150,000	112,000	600
	<b>Net Expenditures Benefitted From</b>	5,000				
	Matching Funds	155,000	150,000	150,000	112,000	600
						Revised Increment Threshold
				5,000		
				155,000	155,000	155,000
				Slates: Divide expenditure by number on slate to increase match/threshold among P and NP candidates.		
Scenario 13	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2		
	IE in favor of NP-1(25,000)	150,000	135,000	112,000		
	<b>Net Expenditures Benefitted From</b>	25,000				
	Matching Funds	150,000	160,000	112,000		
				Revised Increment Threshold		
				10,000		
				160,000		
				160,000		
				IE that puts NP candidate over limit triggers matching for the excess amount.		
Scenario 14	<b>Starting Expenditures</b>	<i>Gust</i> P-1	<i>Snearly</i> NP-1	<i>Nordling</i> NP-2		
	IE in favor of NP-1 (20,000)	150,000	150,000	150,000		
	IE in favor of NP-1 (5,000)		20,000			
	IE in favor of P-1 (7,000)	7,000		5,000		
	<b>Net Expenditures Benefitted From</b>	157,000	170,000	170,000		
				Matching Funds		
				20,000		
				177,000		
				177,000		
				If timing causes P candidate to be overpaid, thresholds are increased by amount of overpayment.		

## **Additional Issues**

To assist candidates in understanding the independent expenditure rules, the Citizen Campaign Commission recommends that the Auditor include the 14 scenarios and their explanations in the Administrative Rules.

When situations arise that fall outside the adopted rules, the Commission recommends a provision in the Code allowing the Auditor to confer with the Commission, make an interpretation and create an administrative rule for the future. Some of these rules might be appropriate for later adoption into the code as well.

The Commission also recognized that the extent that some independent expenditure benefit a candidate could be difficult to determine, for purposes of applying the City Code or scenarios. The Commission recommends a quick appeal process. The Code should provide that an affected candidate can appeal the determination of whether an independent expenditure is in support or opposition to a candidate to the auditor who will make a determination after conferring with the Citizen Campaign Commission or a subcommittee of its members.

The Commission believes that the proposed changes in the Code represent the most comprehensive set of rules on independent expenditures to be set forth in local or state public campaign financing. Thus far, independent expenditures have not played a significant role in City elections but, if they occur, these rules will help maintain some equity for candidates who participate in public campaign financing, as well as those candidates who privately finance their campaign.

## 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.
- 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 and 181054, effective July 13, 2007.)

- 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
  - 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



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)(**ab**) and (**de**). An Independent Expenditure is made "in support of", "supporting", "in opposition to" or "opposing" a Candidate when:
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, or 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, organization, or other combination of individuals having collective capacity as defined in ORS 260.005 ~~(14)~~.
- 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" means the period beginning on the first business day of July of the Primary Election Period and ending on the last business day of January of the Primary Election Period. For the 2008 Primary Election Period, the Qualifying Period will begin on July 13, 2007.
- 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.

**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.

**2.10.020 Management and Administration of Campaign Finance Fund.**

(Amended by Ordinance No. 181054, effective July 13, 2007.)

- 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 monies credited to the Fund are withdrawn, transferred, or otherwise used for purposes other than the program or activity for which the Fund is established, interest shall accrue on the amount withdrawn from the date of withdrawal and until the monies are restored.
- D.** Monies in the Fund shall provide, and are continuously appropriated for, the financing of election campaigns of Certified Candidates for nomination or election to City Office, and the payment of administrative, enforcement, and other expenses of the 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.

**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 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;

**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 No. 181054, effective July 13, 2007.)

- 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.
  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** 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 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.1. during the General 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 No. 181054, effective July 13, 2007.)

**A.** A Candidate shall file a declaration of intent to seek certification as a Certified Candidate and to comply with the requirements of Chapter 2.10.

1. The declaration of intent shall be filed with the Auditor during the applicable Qualifying Period pursuant to forms and procedures adopted by the Auditor by rule.
2. A Candidate shall submit a declaration of intent prior to collecting Qualifying Contributions.
3. A Candidate shall submit a declaration of intent prior to collecting Seed Money Contributions.
4. 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.

**B.** The declaration of intent 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 Candidate in compliance with the provisions of Section 2.10.090, Limitations on Use of Campaign Fund Revenues;
5. That after filing a declaration of intent and before becoming a Certified Candidate, a Candidate may not:
  - a. Accept Contributions, except for Qualifying Contributions as described in Section 2.10.070, or Seed Money Contributions and In-Kind Contributions as described in Section 2.10.050; or
  - b. Make campaign Expenditures from funds other than Qualifying Contributions and Seed Money Contributions. A Candidate who has filed a declaration of intent may not make Expenditures from funds received prior to filing the declaration; or
  - c. Incur Accounts Payable that exceed the total amount of available Seed Money or Qualifying Contributions.

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

(Amended by Ordinance No. 181054, effective July 13, 2007.)

- A. To be eligible to become a Certified Candidate, a Candidate may receive and spend only Qualifying Contributions and Seed Money Contributions after filing a declaration of intent to seek certification throughout the applicable Qualifying Period. A Candidate may incur Accounts Payable only as provided in Section 2.10.070 G.2.
- B. To be eligible to become a Certified Candidate, a Candidate shall not make a Qualifying Contribution of more than \$5 from the Candidate's personal funds to the Candidate's principal campaign committee.
- C. A Candidate who has filed for certification 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 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:
    - (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, 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, 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 and Seed Money Contributions as described in Section 2.10.050 during the applicable Qualifying Period.
  2. A Candidate shall not incur Accounts Payable during the Qualifying Period unless the Candidate has sufficient Qualifying Contributions and Seed Money Contributions to repay the Accounts Payable.
- H.** To be eligible to become a Certified Candidate, a Candidate must participate in mandatory Campaign Finance Fund-related training established by the Auditor:
1. A Candidate who has filed a Declaration of Intent will attend training or designate a campaign staff member to attend training;
  2. Training will cover Campaign Finance Fund code and rules;
  3. The Auditor or Auditor's designee will conduct training.
- 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 No. 181054, effective July 13, 2007.)

**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;
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 or Seed Money and In-Kind Contributions as described in Section 2.10.050 during the applicable Qualifying Period. If a Contribution intended to be a Qualifying Contribution is determined to not have been made by a City Elector, the Candidate has complied with **Section** 2.10.080 C.;
6. Made no Expenditures, except for Qualifying Contributions, Seed Money Contributions and In-Kind Contributions during the applicable Qualifying Period. A Candidate may incur Accounts Payable 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.**

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:

1. Apply the five dollar Contribution to the Candidate's allowable Seed Money as described in Section 2.10.050;
2. Return the five dollar Contribution to the contributor; or
3. Place the five dollar Contribution in the Campaign Finance Fund.

**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.

**F.** A Certified Candidate shall comply with all requirements of Chapter 2.10 after certification and throughout the Primary and General Election 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 181054, effective July 13, 2007.)

**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;
    - 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.
- 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 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 **five 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 **fivesix** percent of the applicable spending limit described in **Section** 2.10.110 A.2.
- 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 No. 181054, effective July 13, 2007.)

- 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:
  - 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 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.
- 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 No. 181054, effective July 13, 2007.)

- 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.
- 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:

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 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 No. 181054, effective July 13, 2007.)

- A. The Oregon Secretary of State became the filing officer for all Oregon candidates and committees, with the exception of local chief petitioner committees, on January 1, 2007, ORS 260.057. Certified Candidates and Nonparticipating 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 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 Certified Candidate prior to the 42nd day before the biennial Primary Election.
    - b. All In-Kind Contributions, Campaign Finance Fund revenues received, and all expenditures made by a Certified Candidate from the Campaign Finance Fund after the biennial Primary Election but prior to the 42nd day before the biennial General 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 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 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 EB.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 No. 181054, effective July 13, 2007.)

**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 if when the Nonparticipating Candidate has receivesreceived Contributions or makesmade Expenditures during the Primary Election Period or the General Election Period in an aggregate amount that exceeds the amount of revenues to be distributed to opposing Certified Candidates for the same nomination or office as specified in Section 2.10.110Initial 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 **amount described in Section 2.10.130 A 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 **amount described in Section 2.10.130 A Initial Financial Threshold**.
3. During the period described in **Section** 2.10.130 **CB.2.**, the Saturday and Sunday immediately prior to the date of the election will be considered "business days".

**C.** ~~Following the requirement described in 2.10.130 A., Contribution and Expenditure transactions are required to be reported to the Secretary of State each time a Nonparticipating Candidate first~~ 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.

**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 ~~E.~~

**2.10.140 Independent Expenditure Disclosure Requirements.**

- 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-~~E~~.
- G. The provisions of Section 2.10.140 apply during the periods:
  - 1. Beginning on the first day to file as a Candidate for the ~~p~~Primary ~~e~~Election and ending on the date of the ~~p~~Primary ~~e~~Election; and
  - 2. Beginning on the day 1<sup>st</sup> day after the ~~p~~Primary ~~e~~Election and ending on the date of the ~~g~~General ~~e~~Election.

### **2.10.145 Adjusting the Financial Threshold.**

**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;**

**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:**

**1. \$12,000 for Mayor Candidates and \$9,000 for Commissioner and Auditor Candidates in aggregate for the Primary Election Period.**

**2. \$15,000 for Mayor Candidates and \$12,000 for Commissioner and Auditor Candidates in aggregate for the General 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 No. 179535, effective August 24, 2005.) 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. **Nonparticipating Candidate Matching Funds.** If a statement filed under ORS 260.058 (1) or 260.068 (1) or a notice filed under Section 2.10.130 shows that a Nonparticipating Candidate for nomination or election to City Office has received Contributions or made Expenditures in an aggregate amount that exceeds the amount of revenues to be distributed to opposing Certified Candidates for the same nomination or office as specified in 2.10.110, any opposing Certified Candidate for the same nomination or office shall be eligible to receive an additional amount of Matching Funds as described in 2.10.150 D.~~

~~B. **Independent Expenditure Matching Funds.**~~

~~1. If a statement filed under ORS 260.044 or notice filed under 2.10.140 during a period described in 2.10.150 B.2. shows that the aggregate amount of Independent Expenditures made in support of or in opposition to a Candidate for nomination or election to City Office exceeds the amount of revenues to be distributed to a Certified Candidate for nomination or election to the same office as specified in Section 2.10.110, then:~~

~~a. If the Independent Expenditures are made in support of one or more Candidates, any opposing Certified Candidate for the same nomination or office shall be eligible to receive an additional amount of Matching Funds as described in Section 2.10.150 D.; and~~

~~b. If the Independent Expenditures are made in opposition to one or more Certified Candidates, each Certified Candidate against whom the Expenditures are made shall be eligible to receive an additional amount of Matching Funds as described in Section 2.10.150 D.~~

~~2. The provisions of Section 2.10.150 B. apply during the periods:~~

~~a. Beginning on the first day to file as a Candidate for the primary election and ending on the date of the primary election; and~~

~~b. Beginning on the day 1<sup>st</sup> day after the primary election and ending on the date of the general election.~~

~~C. **Combination Matching Funds.** A Certified Candidate shall also be eligible to receive an additional amount of Matching Funds as described in Section 2.10.150 D. and E. if the statements or notices referred to in Sections 2.10.150 A. and B. show that any combination of the following exceeds in aggregate the amount of revenues to be distributed to the Certified Candidate under Section 2.10.110.~~

- ~~1. Contributions received or Expenditures made as described in Section 2.10.150 A.~~
- ~~2. Independent Expenditures made as described in Section 2.10.150 B. in support of an opposing Candidate.~~
- ~~3. Independent Expenditures made as described in Section 2.10.150 B. opposing a Certified Candidate.~~

~~No Independent Expenditures shall be counted more than once in calculating the combination described in this Subsection.~~

**DA.** **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 ~~EB.~~, Matching Funds under this Section shall be distributed from the Campaign Finance Fund on the basis of a determination by the Auditor:

- ~~1. In an amount equal to the amount of Contributions or Expenditures by or on behalf of the Nonparticipating Candidate that exceeds the amount of revenues to be distributed to the Certified Candidate under Section 2.10.110;~~
- ~~2. In the case of Independent Expenditures made in support of a single Candidate or in opposition to a single Certified Candidate, in an amount equal to the amount of Independent Expenditures that exceeds the amount of revenues to be distributed to the Certified Candidate under Section 2.10.110; and~~
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.
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. In the case of Independent Expenditures made in support of more than one Candidate or in opposition

~~to more than one Certified Candidate, in an amount equivalent to the amount of Independent Expenditures that exceeds the amount of revenues to be distributed to the Certified Candidate under Section 2.10.110. If the Independent Expenditure is made in support of or opposition to Candidates for various offices, the amount of the expenditure eligible for Matching Funds shall only be that portion expended in support of or opposition to Candidates for the same office.~~

4. ~~In an amount equal to the amount that the combination calculated under Section 2.10.150 C. exceeds the amount of revenues to be distributed to the Certified Candidate under Section 2.10.110. 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.~~

**EB.** **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 elections where there is only one Certified Candidate for a particular office, 100 percent of ~~the amount available to be distributed to an eligible Certified Candidate under Section 2.10.110~~ Initial Financial Threshold for the election and City Office;
2. In the case of nominating primary or special 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 ~~equally~~ to all eligible Certified Candidates;

3. In the case of general elections where one Certified Candidate and one Nonparticipating Candidate will appear on the ballot for the same **election and City eOffice**, up to an additional **200150** percent of the amount available under Section 2.10.110 to be distributed to the eligible Certified Candidate.

**FC. 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.

**GD. Matching Funds Determination and Distribution.**

1. Except as provided in **Section 2.10.150 GD.2.**, the Auditor shall issue a Determination Letter detailing the Matching **fFund** 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 **five 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 **fFund** determinations may be challenged under Section 2.10.230.

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

(Amended by Ordinance No. 181054, effective July 13, 2007.)

- A. If the Certified Candidate's campaign finance account balance with the Secretary of State for the nominating Primary or special 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 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.

- B.** If the Certified Candidate's campaign finance account balance with the Secretary of State for the nominating Primary or special 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 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 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 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.

**2.10.170 Adequate Funding.**

(Amended by Ordinance No. 181054, effective July 13, 2007.) 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 and General 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 Campaign Finance Fund for the applicable combined Primary and General Election 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.**

- 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 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

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.

**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.**

- 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.** 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 No. 181054, effective July 13, 2007.)

- 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.
  - 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 determined to be in violation of this Chapter.
  - 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.
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 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 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
  - c. The Candidate has not been found to have committed a violation of any other provision of this Chapter.
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 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 No. 181054, effective July 13, 2007.)

**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:
  - 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 Sections 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.

  - 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.**

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.