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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND
AGENDA REPORT
SUPPLEMENTAL

10 FEB -9 PM 4:37

TO: City Council
FROM: Office of the City Attorney
DATE: February 16, 2010

RE: **AN ORDINANCE DELETING MUNICIPAL CODE (OMC) SECTION 3.08.140 (ELECTION OF CANDIDATES), AMENDING SECTION 3.08.150 (ORDER OF CANDIDATES NAMES); DELETING SECTION 3.12.210 (TIME PERIODS FOR EXPENDITURES); AMENDING 3.12.040 (INTERPRETATION OF THIS ACT), TO MAKE THE OMC CONSISTENT WITH RANKED CHOICE VOTING SOMETIMES REFERRED TO AS INSTANT RUNOFF VOTING**
Answers to Questions Raised During Rules and Legislation Committee Meeting

At the February 4, 2010, the Rules and Legislation Committee, Council President Brunner asked when a candidate can begin fundraising for a particular City electoral race.

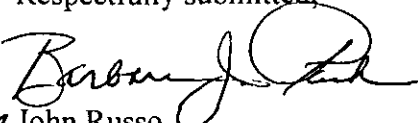
A candidate may begin fundraising for an electoral race at any time. Neither the Ranked Choice Voting Charter amendment nor the pending proposed changes to the Oakland Municipal Code address this issue. State law only requires that a candidate open a campaign account if he/she collects contributions of more than \$1,000 or makes expenditures toward an election for a particular office. (California Government Code sections 84103; 84102(d), (f).) Neither state nor local law limits when a candidate may collect or spend contributions. All that is required is that the candidate file a Statement of Organization indicating what office the candidate is seeking and the creation of a separate bank account for that race.

Also, the Committee asked that staff attach the entire chapters of the Oakland Municipal Code that these changes would amend. They are attached to this supplemental report.

Finally, a member of the public asked that the Committee also examine OMC sections 3.08.020, 3.08.080, and 3.14.040 to determine whether those sections also need to be changed. We agreed to review those and other sections of the OMC to determine whether additional changes are necessary. Because of Oakland's Sunshine Ordinance constraints and City Council

Rule of Procedure 5, we will present any such changes to the Rules and Legislation Committee before they are forwarded to the City Council.

Respectfully submitted,


for John Russo
City Attorney

Attorney Assigned:
Mark Morodomi

3.12.010 - Title.

This chapter shall be known as the city of Oakland Campaign Reform Act, hereinafter "the Act."

(Ord. 12158 (part), 1999)

3.12.020 - Findings and declarations.

The Oakland City Council finds and declares each of the following:

A.

Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

B.

The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by city government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.

C.

Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.

D.

High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

E.

Officeholders are responding to high campaign costs by raising larger amounts of money. This fundraising distracts them from important public matters, encourages contributions, which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.

F.

The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

(Ord. 12158 (part), 1999)

3.12.030 - Purpose of this Act.

The purpose of this Act is to accomplish the following:

- A.
To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.
- B.
To reduce the influence of large contributors with a specific financial stake in matters under consideration by the city, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- C.
To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- D.
To reduce the advantage of incumbents and thus encourage competition for elective office.
- E.
To allow candidates and officeholders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.
- F.
To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.
- G.
To help restore public trust in governmental and electoral institutions.

(Ord. 12158 (part

3.12.040 - Interpretation of this Act.

3.12.040 - Interpretation of this Act.

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code Sections 81000 et seq., as they appear in 1998 shall govern the interpretation of this Act.

"Broad-based political committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred (100) or more persons, and acting in concert makes contributions to five or more candidates.

"City offices" for the purposes of this Act include: Mayor, City Attorney, City Auditor, City Councilmembers and School Board Directors.

"Election" means any primary or general election held in the city of Oakland for city office. Primary and general elections are separate elections for purposes of this Act. The primary election period shall extend from January 1st of the first year of an election cycle up to and including March 30th of the fourth year of the election cycle, and the general election period shall extend from April 1st of the fourth year of the election cycle up to and including December 31st of the fourth year of the election cycle.

"Election cycle" means a four-year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1st, and ending on December 31st of the fourth year thereafter.

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

Qualified Campaign Expenditure.

1.

"Qualified campaign expenditure" for candidates means and includes all of the following:

a.

Any expenditure made by a candidate, officeholder or committee controlled by the candidate or officeholder, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate for city office.

b.

A nonmonetary contribution provided at the request of or with the approval of the candidate, officeholder or committee controlled by the candidate or officeholder.

2.

"Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

"Redevelopment Agency" means the Oakland Redevelopment Agency.

(Ord. 12158 (part), 1999)

3.12.050 - Limitations on contributions from persons.

A.

No person shall make to any candidate for city office and the controlled committee of such a candidate, and no such candidate for city office and the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than one hundred dollars (\$100.00) for each election except as stated in subsection B of this section.

B.

For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no person shall make to a candidate for city office and the controlled committee of such candidate, and no such candidate for city office and the controlled committee of such candidate shall accept contributions totaling more than five hundred dollars (\$500.00) from any person for each election.

C.

Any person who makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution for the purpose of influencing elections for city office in excess of the amounts stated in subsections A.

D.

This section is not intended to prohibit or regulate contributions to persons or broad based political committees for the purpose of influencing elections for offices other than city offices.

E.

Upon the effective date of the ordinance codified in this section, persons making independent expenditures supporting or opposing a candidate for city office shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for city office. Where a person has separately accounted for such contributions and expenditures for such elections for city office, contributors to that person may contribute more than the amount set forth in subsection A of this section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for city office.

F.

Candidates for city office shall not be held responsible for violations of this provision by any person.

G.

Beginning January 1, 2001, the City Clerk shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The City Clerk shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. 12260 § 1 (part), 2000; Ord. 12207 § 2, 2000; Ord. 12197 (part), 1999; Ord. 12158 (part), 1999)

3.12.060 - Limitations on contributions from broad-based political committees.

A.

No broad-based political committee shall make to any candidate for city office and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee accept from a broad-based political committee, a contribution or contributions totaling more than two hundred fifty dollars (\$250.00) for each election except as stated in subsection B of this section.

B.

For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no broad-based political committee shall make to any candidate for city office and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee accept from a broad-based political committee, a contribution or contributions totaling more than one thousand dollars (\$1,000.00) for each election.

C.

Any broad-based political committee that makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution for the purpose of influencing elections for city office in excess of the amounts stated in subsection A of this section.

D.

This section is not intended to prohibit or regulate contributions to persons or broad-based political committees for the purpose of influencing elections for offices other than city offices.

E.

Upon the effective date of the ordinance codified in this section, a broad-based political committee making independent expenditures supporting or opposing a candidate for city office shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for city office. Where a broad-based political committee has separately accounted for such contributions and expenditures for such elections for city office, contributors to that broad-based political committee may contribute more than the amounts set forth in subsection A of this section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for city office.

F.

Candidates for city office shall not be held responsible for violations of this provision by any broad-based political committee.

G.

Beginning January 1, 2001, the City Clerk shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The City Clerk shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. 12260 § 1 (part), 2000; Ord. 12207 § 2, 2000; Ord. 12197 (part), 1999; Ord. 12158 (part), 1999)

3.12.070 - Return of contributions.

A contribution shall not be considered received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor before the closing date of the campaign statement on which the contribution would otherwise be reported. In the case of a late contribution as defined in Government Code Section 82036, it shall not be deemed received if it is returned to the contributor within forty-eight (48) hours of receipt.

(Ord. 12158 (part), 1999)

3.12.080 - Aggregation of payments.

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

A.

All payments made by a person, committee or broad-based political committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person, committee or broad based political committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or broad based political committee.

B.

Two or more entities shall be treated as one person when any of the following circumstances apply:

1.

The entities share the majority of members of their boards of directors.

2.

The entities share two or more officers.

3.

The entities are owned or controlled by the same majority shareholder or shareholders.

4.

The entities are in a parent-subsidiary relationship.

C.

An individual and any general or limited partnership in which the individual has more than a fifty (50) percent share, or an individual and any corporation in which the individual owns a controlling interest (more than fifty (50) percent), shall be treated as one person.

D.

No committee and no broad-based political committee which supports or opposes a candidate for office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad-based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad-based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

(Ord. 12158 (part), 1999)

3.12.090 - Loans.

A.

A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Act.

B.

Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee campaign statement on which the loan is first reported.

C.

The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.

D.

Other than loans pursuant to subsection C of this section, extensions of credit in excess of one thousand five hundred dollars (\$1,500.00) for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good

faith evidence of an intent to repay through a set payment schedule which is being adhered to through repayment of the extension of credit on a regular basis.

(Ord. 12158 (part), 1999)

3.12.100 - Family contributions.

A.

Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

B.

Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

(Ord. 12158 (part), 1999)

3.12.110 - One campaign committee and one checking account per candidate for city office.

A candidate for city office shall have no more than one campaign committee and one checking account for the city office being sought, out of which all expenditures for that office shall be made. This section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

(Ord. 12158 (part), 1999)

3.12.120 - Money received by city officials and candidates treated as contributions, income or gifts.

Any funds received by any elected city official or candidate running in the jurisdiction or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the Political Reform Act, Government Code Sections 87100 et seq.

(Ord. 12158 (part), 1999)

3.12.130 - Identification of contributor required.

No contribution of one hundred dollars (\$100.00) or more shall be deposited into a campaign checking account of a candidate for city office unless the name, address, occupation, and employer of the contributor is on file in the records of the recipient of the contribution.

(Ord. 12158 (part), 1999)

3.12.140 - Contractors doing business with the city of Oakland, the Oakland Redevelopment Agency or the Oakland Unified School District prohibited from making contributions.

A.

No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the city for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the city or for selling any land or building to the city or for purchasing any land or building from the city whenever the value of such transaction would require approval by the City Council shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either one hundred eighty (180) days after the completion of, or the termination of, negotiations for such contract.

B.

No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Redevelopment Agency for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the Redevelopment Agency or for selling any land or building to the Redevelopment Agency or for purchasing any land or building from the Redevelopment Agency, whenever the value of such transaction would require approval by the Redevelopment Agency, shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either one hundred eighty (180) days after the completion of, or the termination of, negotiations for such contract.

C.

No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District or for selling any land or building to the School District or for purchasing any land or building from the School District whenever the value of such transaction would require approval the School Board, shall

make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either one hundred eighty (180) days after the completion of, or the termination of, negotiations for such contract.

D.

"Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.

E.

For contributions to city officers other than School Board Directors, transactions that require approval by the City Council or Redevelopment Agency include but are not limited to:

1.

Contracts for the procurement of services that are professional or consulting services exceeding fifteen thousand dollars (\$15,000.00).

2.

Contracts for the procurement of services exceeding fifty thousand dollars (\$50,000.00), other than contracts for professional or consulting services.

3.

Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding fifty thousand dollars (\$50,000.00).

4.

Contracts for the sale of any building or land to or from the city or the Redevelopment Agency.

5.

Amendments to contracts described in subsections (E)(1), (2), (3), and (4) of this section.

F.

For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:

1.

Professional services and consulting contracts exceeding twenty-five thousand dollars (\$25,000.00), including personal service agreements.

2.

Contracts requiring School Board approval under Public Contract Code Section 20111.

3.

Construction contracts exceeding twenty-five thousand dollars (\$25,000.00) whether or not they are subject to the provisions of the Public Contract Code.

4.

Contracts for the sale of any building or land to or from the School District.

5.

Amendments to contracts described in subsections (F)(1), (2), (3), and (4) of this section.

G.

"Commencement of negotiations" for city contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed city officer or employee or when any elected or appointed city officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

H.

"Commencement of negotiations" for Redevelopment Agency contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed Redevelopment Agency officer or employee or when any elected or appointed Redevelopment Agency officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

I.

"Commencement of negotiations" for Oakland School District contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed School District officer or employee or when any elected or appointed School District officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

J.

"Commencement of negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.

K.

"Completion of negotiations" occurs when the city, the Redevelopment Agency or the School District executes the contract or amendment.

L.

"Termination of negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by an appointed or elected City officer, Redevelopment Agency officer, City employee or Redevelopment Agency employee or an appointed or elected School District officer or employee.

M.

The Oakland City Manager shall be responsible for implementing procedures for City of Oakland and Redevelopment Agency contracts to ensure contractor compliance with the Oakland Campaign Reform Act. A proposed or current contractor must sign and date the following

statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland, the Oakland Redevelopment Agency or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name

Date

Signature

The signed and dated statement must be received and filed by the City Clerk at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The City Clerk shall keep an updated list of current contractors available for inspection.

N.

The Oakland Superintendent of Schools shall be responsible for implementing procedures for Oakland School District contracts to ensure contractor compliance with the Oakland Campaign Reform Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland, the Oakland Redevelopment Agency or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name

Date

Signature

The signed and dated statement must be received and filed with the School District at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The School District shall keep an updated list of current contractors available for inspection.

O.

A person who contracts with the City, the Redevelopment Agency or the School District for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City, the Redevelopment Agency or the School District, or for selling any land or building to the City, the Redevelopment Agency or the School District or for purchasing any land or building from the Redevelopment Agency or the School District, whenever the value of such transaction would require approval by the City Council, the Redevelopment Agency or the School Board, and who violates subsection A of this section, shall be subject to the enforcement provisions of Article VII of this Act.

P.

Elected city officeholders, candidates for city office and their controlled committees shall include a notice on all campaign fundraising materials equivalent to eight point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

The Oakland Campaign Reform Act limits campaign contributions by all persons (OMC §§ 3.12.050 and 3.12.060) and prohibits contributions during specified time periods from contractors doing business with the City of Oakland, the Oakland Redevelopment Agency or the Oakland Unified School District (OMC § 3.12.140, paragraphs A., B., and C.).

(Ord. 12158 (part), 1999)

3.12.150 - Officeholder fund.

A.

Every elected city officeholder shall be permitted to establish one officeholder expense fund. All contributions deposited into the officeholder expense fund shall be deemed to be held in trust for expenses associated with holding the office currently held by the elected city officer. Contributions to the officeholder fund must be made by a separate check or other separate written instrument. Single contributions may not be divided between the officeholder fund and any other candidate committee. For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder fund shall not exceed twenty-five thousand dollars (\$25,000.00) per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder fund shall not exceed thirty thousand dollars (\$30,000.00) per year in office. For the office of the Mayor, total contributions to an officeholder fund shall not exceed fifty thousand dollars (\$50,000.00) per year in office.

B.

Expenditures from an officeholder fund may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in subsection (C)(1)

through (5) of this section. Such allowable expenditures shall include, but are not limited to the following categories:

1.

Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund;

2.

Expenditures for office equipment, furnishings and office supplies;

3.

Expenditures for office rent;

4.

Expenditures for salaries of part-time or full-time staff employed by the officeholder for officeholder activities;

5.

Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;

6.

Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the officeholder (2) a member of the officeholder's staff; or (3) such other person designated by the officeholder who is authorized to perform such government duties;

7.

Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the officeholder, (2) a member of the officeholder's staff, (3) such other person designated by the officeholder who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel;

8.

Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity;

9.

Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will have a material financial effect on the elected officer, any member of his or her immediate family, or his or her committee treasurer;

10.

Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;

11.

Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the officeholder or a member of the officeholder's staff in the performance of his or her governmental responsibilities;

12.

Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for city, county, regional, state or federal elective office;

13.

Expenditures for mailing to persons within the city which provide information related to city-sponsored events, school district-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board;

14.

Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in his or her official capacity;

15.

Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions;

16.

Expenditures for accounting, professional and administrative services provided to the officeholder fund;

17.

Expenditures for ballot measures.

C.

Officeholder expense funds shall not be used for the following:

1.

Expenditures in connection with a future election for any city, county, regional, state or federal elective office;

2.

Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;

3.

Membership in any athletic, social, fraternal, veteran or religious organization;

4.

Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a city official or employee;

5.

Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519.

D.

No funds may be transferred from the officeholder fund of an elected city officeholder to any other candidate committee.

E.

Annual contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.

F.

Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

(Ord. 12158 (part), 1999)

3.12.160 - Allowance for donation of office space.

A.

Donation of office space for use by city officeholders in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:

1.

The donation is made to the City and accepted pursuant to Oakland City Charter Section 1203 for use by the Mayor, City Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and

2.

The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the City Clerk.

B.

Use of office space donated pursuant to this section by a city officeholder shall not be considered a "qualified campaign expenditure" pursuant to Section 3.12.040 of this Act.

(Ord. 12158 (part), 1999)

3.12.170 - Legal expense funds.

A.

An elected city officeholder or candidate for city office may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or officeholder's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or officeholder's governmental activities and duties. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. All funds contributed to an officeholder or candidate for legal expense fund must be deposited into the officeholder's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.

B.

Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article III of this Act.

C.

Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

(Ord. 12158 (part), 1999)

3.12.180 - Volunteer services exemption.

Volunteer personal services, and payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

(Ord. 12158 (part), 1999)

Article IV. - Expenditure Ceilings

3.12.190 - Expenditure ceilings.

3.12.200 - Amount of expenditure ceilings.

3.12.210 - Time periods for expenditures.

3.12.220 - Expenditure ceilings lifted.

3.12.190 - Expenditure ceilings.

All candidates for city office who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Sections 3.12.050C and 3.12.060C of this Act. Before accepting any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the City Clerk on a form approved for such purpose indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

(Ord. 12158 (part), 1999)

3.12.200 - Amount of expenditure ceilings.

A candidate for office of Mayor who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding seventy cents (\$.70) per resident for each election in which the candidate is seeking elective office. A candidate for other citywide offices who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding fifty cents (\$.50) per resident for each election in which the candidate is seeking office. A candidate for District City Councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding one dollar and fifty cents (\$1.50) per resident in the electoral district for each election in which the candidate is seeking elective office. A candidate for School Board Director who voluntarily agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding one dollar (\$1.00) per resident for each election in the electoral district for each election for which the candidate is seeking office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district.

Beginning in 1999, the City Clerk shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceiling amounts shall not exceed the CPI increase, using 1998 as the index year. The increase shall be rounded to the nearest thousand. The City Clerk shall publish the expenditure ceiling amounts no later than February 1st of each year.

(Ord. 12197 (part), 1999: Ord. 12158 (part), 1999)

3.12.210 - Time periods for expenditures.

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time on or before March 31st of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from April 1st until December 31st of the election year shall be considered general election expenditures. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which they are used. Payments for goods or services used in both time periods shall be prorated.

(Ord. 12158 (part), 1999)

3.12.220 - Expenditure ceilings lifted.

If a candidate declines to accept expenditure ceilings and receives contributions or make qualified campaign expenditures equal to fifty (50) percent or more of the expenditure ceiling, or if an independent expenditure committee in the aggregate spends more than fifteen thousand dollars (\$15,000.00) on a District City Council or School Board election or seventy thousand dollars (\$70,000.00) in a City Attorney, Auditor, Councilmember-at-Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in Sections 3.12.050C and 3.12.060C of this Act. The independent expenditure committee amounts of fifteen thousand dollars (\$15,000.00) and seventy thousand dollars (\$70,000.00) respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by Section 3.12.180 of this chapter.

(Ord. 12158 (part), 1999)

3.12.230 - Independent expenditures for mass mailings, state mailings or other campaign materials.

Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate for city office shall place the following statement on the mailing in typeface of no smaller than fourteen points:

Notice to Voters

(Required by the City of Oakland)

This mailing is not authorized or approved by any City candidate or election official.

It is paid for

by (name)

(address, city, state)

Total cost of this mailing is: (amount)

(Ord. 12158 (part), 1999)

Oakland, California, Code of Ordinances >> Title 3 - MUNICIPAL ELECTIONS >> Chapter 3.08 - ELECTIONS >> Article II. - Elections for Elective Office >>

Article II. - Elections for Elective Office

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3.08.040 - Nomination petitions.

The City Clerk shall prepare and issue nomination petitions to all candidates for municipal office. Nomination petitions shall be obtained from and issued by the City Clerk or his or her authorized representative.

The period for the filing of nomination documents by candidates in municipal elections consolidated with the regularly scheduled state elections shall commence on the one hundred thirteenth day prior to the election. The nomination document for municipal elections consolidated with regularly scheduled state elections shall be filed in the Office of the City Clerk not later than five p.m. on the eighty-eighth day prior to the election.

The City Clerk shall issue forty (40) nomination petitions to each candidate containing adequate space for five signatures per page, for a total of two hundred (200) signatures and no additional nomination petitions will be issued to any candidate(s). The City Clerk shall accept up to forty (40) nomination petitions from each candidate for verification. Nomination petitions shall be issued to and returned by the candidate(s) only, in person, or by an authorized representative in possession of a written request of authorization to receive or return the nomination petitions, signed and dated by the candidate(s).

For district offices, nomination petitions shall bear the signatures of not less than fifty (50) nor more than one hundred (100) registered voters of the city who are residents of the district of the office for which the candidate seeks nomination.

For city-wide offices, nomination petitions shall bear the signatures of not less than fifty (50) nor more than one hundred (100) registered voters who are residents of the city.

Candidates must file original nomination petitions issued by the City Clerk, no copies will be accepted by the City Clerk.

(Prior code § 11-2.01)

3.08.050 - Affidavit of circulator.

The circulators of nomination petitions for candidates for district office shall be registered voters who are residents of the district of the office for which the candidate seeks nomination. Circulators of nomination petitions for city-wide offices shall be registered voters of the city. The affidavit of circulator must be completed on the bottom of each nomination petition indicating the circulator's name and residence address at which he or she is registered to vote.

(Prior code § 11-2.02)

3.08.060 - Filing fee.

Every candidate shall at the time he or she receives nomination petitions from the Office of the City Clerk, pay a deposit of fifty dollars (\$50.00) toward the total filing fee of three hundred dollars (\$300.00) to be paid by each candidate. Each candidate may pay the total a filing fee of three hundred dollars (\$300.00) at the time his or her nomination petitions are issued. However, no portion of that filing fee is refundable. Every candidate shall at the time his or her nomination petitions are filed, pay to the City Clerk the balance, if any is due, with credit given for the deposit paid at the time the nomination petitions were issued. A refund is not available regardless of whether the nomination petitions are found sufficient or insufficient.

(Prior code § 11-2.03)

3.08.070 - Candidate's affidavit of inability to pay filing fee.

The Clerk shall accept nomination petitions without payment from any candidate who certifies under penalty of perjury on a form provided by the Clerk that he or she is unable to pay the filing fee; but the obligation to pay the filing fee shall remain a debt owing to the city for a period of two years. Any person who files nomination petitions with an affidavit of inability to pay the filing fee, but who has at the time of filing the nomination petitions, or within two years thereafter, income, compensation, assets, or real property, including the income, compensation, assets or real property of a spouse, shall be liable for the unpaid fees, and interest, in an action by the City Clerk in the name of the city in any court of competent jurisdiction. If a candidate files an affidavit of inability to pay the filing fee, that affidavit applies to the deposit and any remaining balance. An action to collect these unpaid fees must be commenced within two years of the date of filing of the nomination petitions, whether his or her nomination petitions are found sufficient or insufficient.

(Prior code § 11-2.04)

3.08.080 - Qualifications statement.

At the time his or her nomination petitions are filed, every candidate shall file with the City Clerk a verified statement of his or her qualifications on a form provided by the City Clerk, setting forth her or his name, the office for which he or she is a candidate, his or her place of residency for the past five years, his or her occupation for the past five years, public offices he or she has held, if any, and a brief description not to exceed one hundred fifty (150) words describing his or her qualifications for the office, including, for example, education and experience. The City Clerk shall reject any statement which includes any of the matters prohibited by general law or which contains any reference whatsoever to any partisan political party or organization including membership or activity therein, or endorsement thereby. Such statement shall also contain the signatures and addresses of not less than ten nor more than twenty (20) residents of the city sponsoring such candidate, who need not have signed such

candidate's nomination petition. Such candidate may also file with his or her qualifications statement a true and accurate portrait photograph of such candidate taken within two years prior thereto and suitable for newsprint. The photograph must be at least four by six inches in size. A copy of such qualifications statement and a reproduction of the photograph, if furnished, shall be mailed by the City Clerk to each qualified elector with the sample ballot for said election. The qualifications statement mailed by the City Clerk with the sample ballot shall be printed and distributed without the inclusion of the addresses of the candidate and his or her sponsors. No qualifications statement shall be filed by candidates at a second or general municipal election following the nominating municipal election or shall any qualifications statement or photograph be distributed to the voters by the City Clerk prior to such second election.

(Prior code § 11-2.05)

3.08.090 - Write-in candidate's filing requirements.

Every person who desires to be a write-in candidate and have his or her name as written on the ballot of a municipal election counted for a particular office shall file:

A.

A statement of write-in candidacy which shall contain the following information:

1.

Candidate's name,

2.

Residence address,

3.

A declaration stating that he or she is a write-in candidate,

4.

The title of the office for which he or she is running, and

5.

The date of the election;

B.

The requisite number of signatures on the nomination petitions required pursuant to Section 3.08.040.

(Prior code § 11-2.06)

3.08.100 - Delivery of qualifications statement and nomination petitions to the City Clerk.

The qualifications statement and nomination petitions of write-in candidates shall be filed with the City Clerk no later than the fourteenth day prior to the election.

(Prior code § 11-2.07)

3.08.110 - Nomination petitions—Form.

The nomination petitions for a write-in candidate and the document in which circulators are appointed by the write-in candidates shall be in the same form as those petitions and documents used for candidates who are not write-in candidates.

(Prior code § 11-2.08)

3.08.120 - Signers of nomination petitions—Requirements.

Signers of nomination petitions for district write-in candidates shall be registered voters who are residents of the district of the office for which the candidate seeks nomination. Signers of nomination petitions for city-wide write-in candidates shall be registered voters of the city.

(Prior code § 11-2.09)

3.08.130 - Write-in candidate's filing fees.

Every write-in candidate shall at the time his or her nomination petitions are filed, pay to the City Clerk a filing fee of twenty-five dollars (\$25.00). The City Clerk shall accept nomination petitions without payment from any write-in candidate who certifies under penalty of perjury, on an affidavit of inability to pay the filing fee provided by the City Clerk, that he or she is unable to pay the filing fee; but the obligation to pay the filing fee shall remain a debt owing to the city, for a period of two years.

(Prior code § 11-2.10)

3.08.140 - Election of candidates.

Any candidate receiving a majority of the vote cast for all candidates for that office at the municipal nominating election shall be declared elected. If at any such election there is any office to which no person was elected, then the two candidates for such office receiving the

highest number of votes for such office shall be the candidates, and the only candidates, for such office whose names shall be printed upon ballots to be issued at the second or general municipal election; provided that, in any event, all persons receiving a number of votes equal to the highest number of votes received by any candidate shall also be candidates at such second election. The candidate receiving the highest number of votes cast for all candidates for that office at the second or general municipal election shall be declared elected.

(Prior code § 11-2.11)

3.08.150 - Order of candidates' names.

A.

Within ten days following the last day on which nominating petitions may be filed for the municipal nominating election or another Oakland municipal election in which nominating petitions are accepted, the City Clerk shall hold a public drawing to determine the order in which the names of qualifying candidates for each office shall appear on the ballot.

The City Clerk shall write the name of each candidate for an office on a slip of paper, fold the slip so as to conceal the name and place the slip in a box. The City Clerk shall then draw the slips of paper from the box until all the slips are withdrawn. The names of candidates shall be printed on the ballot in the order in which the slips of paper containing the names of candidates are drawn.

B.

Following the municipal nominating election, the City Clerk shall conduct a drawing to determine the order in which the names of candidates qualifying for the general municipal election shall appear on the ballot. The drawing shall be conducted in the manner specified in subsection A of this section.

C.

At least five days prior to the date on which any drawing is conducted pursuant to this Section, the City Clerk shall place a notice on the official bulletin board, City Hall, specifying the time, date, and location of the drawing.

(Prior code § 11-2.12)

3.08.160 - Election rosters.

A.

At all municipal elections, the roster kept by each precinct shall be in the form of an index to the affidavits of registration for that precinct. The index shall provide space of sufficient size to allow each voter to sign his or her name and address.

B.

At all precincts in the city, the roster referred to in subsection A of this section shall be used in place of, and shall be deemed the equivalent of, the original affidavits of registration on file with the Registrar of Voters.

(Prior code § 11-2.13)

3.08.170 - Order of elective offices.

A.

For Oakland municipal election purposes, the city offices shall consist of Mayor, Councilmembers, City Auditor and School Directors.

B.

At all Oakland municipal elections, the order of precedence for city offices on the ballot shall be as listed below for those offices which apply to the election for which this ballot is provided:

1.

Mayor;

2.

Councilmembers, by numerical order of districts;

3.

City Auditor; and

4.

School Directors, by numerical order of districts.

(Prior code § 11-2.14)